

EPPING FOREST DISTRICT COUNCIL COUNCIL MINUTES

Committee: Council **Date:** 13 December 2005

Place: Civic Offices, Epping **Time:** 7.30 - 9.47 pm

Members Present: Councillors B Sandler (Chairman), Mrs A Haigh (Vice-Chairman), K Angold-Stephens, D Bateman, Mrs D Borton, Mrs P Brooks, R Chidley, M Cohen, M Colling, Mrs D Collins, Mrs J Davis, J Demetriou, R D'Souza, K Faulkner, Mrs R Gadsby, R Glozier, P Gode, R Goold, A Green, Mrs A Grigg, R Haines, Mrs H Harding, M Heavens, D Jacobs, D Kelly, J Knapman, Mrs J Lea, A Lee, F Maclaine, J Markham, L Martin, Mrs M McEwen, P McMillan, S Metcalfe, R Morgan, S Murray, Mrs S Perry, Mrs C Pond, Mrs P Richardson, T Richardson, Mrs M Sartin, Mrs P Smith, D Spinks, D Stallan, Ms S Stavrou, G Stollar, C Whitbread, Mrs J H Whitehouse, J M Whitehouse, M Woollard and K Wright

Apologies: Councillors S Barnes, Mrs M Boatman, Mrs P K Rush and B Scrutton

Officers Present: P Haywood (Joint Chief Executive), J Scott (Joint Chief Executive), I Willett (Head of Research and Democratic Services), M Shorten (Principal Valuer/Surveyor), R Barwell (Public Relations and Internet Officer) and A Hendry (Democratic Services Officer)

53. WELCOME

The Chairman welcomed back Councillor Doug Kelly after his period of absence. Councillor Kelly expressed his appreciation and thanks to all the members for their support over the recent months.

54. MINUTES

RESOLVED:

(1) That the minutes of the Council meeting held on 27 September 2005 be taken as read and signed by the Chairman as a correct record.

(2) That the Minutes of the Council Meeting held on 27 October 2005 be taken as read and signed by the Chairman as a correct record subject to:

- a) Councillor Mrs Harding's name being deleted from apologies and added to members present; and
- b) Councillor Stallan's declaration of interest as set out in minute 48 (c) be altered to read:
"Pursuant to the Council's Code of Members Conduct, Councillor D Stallan declared a personal interest in item 3(a) (Local Plans Alterations Redeposit) by virtue of being a respondent to the consultation in a personal capacity. He declared that this interest was not prejudicial and that he would remain in the meeting for the duration of the consideration of the item and voting thereon."
- c) And that Councillor Grigg's declaration remained unaffected.

55. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Code of Member Conduct, Councillor Stallan declared a personal interest in agenda item 9 (Members Remuneration Scheme - Review for 2006-07 (recommendation 2)) by virtue of being employed by HM Revenue and Customs. He declared that his interest was not prejudicial and that he would remain in the meeting for the duration of the consideration of the item and voting thereon.

(b) Pursuant to the Council's Code of Member Conduct, Councillor Cohen declared a personal interest in agenda item 9 (Members Remuneration Scheme - Review for 2006-07 (recommendation 3)) by virtue of being the Chairman of the Licensing Committee. He declared that his interest was not prejudicial and that he would remain in the meeting for the duration of the consideration of the item but he would not be voting thereon.

(c) Pursuant to the Council's Code of Member Conduct, Councillors Mrs Davis, Mrs Pond, Angold-Stephens and T Richardson declared personal interests in agenda item 16 (Britannia Sports Ground, Langston Road, Loughton – Submission of Tender Bid) by virtue of being member's of Loughton Town Council. They declared that their interests were not prejudicial and that they would remain in the meeting for the duration of the consideration of the item and voting thereon.

56. ANNOUNCEMENTS**1. Chairman's announcements.****(a) Chairman's Quiz Night – 24 February 2006**

The Chairman reminded the meeting that his quiz night was being held on Friday 24 February 2006 at Theydon Bois Village Hall.

(b) Christmas Raffle.

Tickets for the Christmas raffle were now on sale, proceeds were to go to this years' Chairman's chosen charities.

(c) Flowers

The Chairman announced that the flowers from tonight's meeting would be sent to the recently widowed wife of the Superintendent of Epping Forest, Jeremy Wisenfeld. The meeting expressed sadness at the news of his loss and offered its condolences to his family.

2. Leisure Facilities – Charter Mark Re-accreditation.

The Council's five leisure centres, Epping Sports Centre, Loughton Leisure Centre, Ongar Leisure Centre, Waltham Abbey Pool and Waltham Abbey Sports Centre had pioneered the way in being awarded Charter Mark over three years ago and have now been successful in re-applying for this prestigious award.

The award of Charter Mark reflects that the centres consistently provide a high-quality customer focused service. To meet the standard, organisations must demonstrate that they listen to their customers, learn what aspects of their service are most important to them, deliver a service that is tailored to customers' needs and continuously improve.

This award now completes a trio of prestigious service awards alongside ISO 9001:2000 and Investors in People.

Kath Hallé, Deputy Manager at Waltham Abbey Pool, who was responsible for submitting the application on behalf of all the centres, was presented with the award from the Chairman of the Council.

57. PUBLIC QUESTIONS

No questions from the public had been submitted.

58. REPORTS OF THE CABINET

(a) Supplementary Estimates 2005-06.

(Mover: Councillor Knapman – Portfolio Holder for Finance and Performance Management)

The Portfolio Holder for Finance and Performance Management presented a report recommending:

a) Supplementary revenue estimate of £68,000 to cover the additional costs of the scheme with Transport for London to allow pass holders to travel free on buses based on the assumption that the number of passes issued would not increase substantially.

(b) CSB supplementary estimate of £2,000 be approved to fund the budget shortfall over the current cost of refuse collection and disposal for the year.

Report as first moved **ADOPTED**.

RESOLVED:

(1) That a supplementary revenue estimate of £68,000 be approved to cover the additional costs of the scheme with Transport for London incurred as a result of higher than anticipated demand for concessionary fares in 2005/06; and

(2) That a CSB supplementary estimate of £2,000 be approved to fund the budget shortfall over the current cost of refuse collection and disposal for the year.

(b) Capital Strategy 2005-09.

(Mover: Councillor Knapman – Portfolio Holder for Finance and Performance Management)

The Strategy presented to Council took into account the decision taken by the Cabinet at its' meeting on 14 November 2005 to bring forward the 2007/08 allocation of £200,000 to 2006/07 to enable work on parking reviews to be expedited.

The draft strategy had also been considered by the Finance and Performance Management Committee who recommended that the fifth 'bullet' point in paragraph 10.1 regarding the Council's street cleansing, recycling and refuse contract be deleted.

Report as first moved **ADOPTED**.

RESOLVED:

That the Council adopt the Capital Strategy (attached at page 15) subject to the deletion proposed by the Finance and Performance Management Cabinet Committee.

59. REPORT OF OVERVIEW AND SCRUTINY COMMITTEE - EXTERNAL ORGANISATIONS AND PARTNERSHIPS

The Chairman of the Overview and Scrutiny Committee presented a report to the Council on a draft protocol for regulating the Council's links with external organisations and partnerships.

Report as first moved **ADOPTED**.

RESOLVED:

That the draft Protocol for the Council's relations with Partnerships and External Organisations (attached at page 33) covering member and officer liabilities, indemnities, reporting back to the Council, annual reports and training be approved.

60. REPORT OF OVERVIEW AND SCRUTINY COMMITTEE - REVIEW OF CONTRACT STANDING ORDERS

The Chairman of the Overview and Scrutiny Committee presented a report to the Council following a review of Contract Standing Orders. This review did not seek to achieve a wholesale re-writing of current contract requirements but merely to bring the document up to date and clarify certain points.

Report as first moved **ADOPTED**.

RESOLVED:

That the proposed changes to Contract Standing Orders set out in the report (attached at page 51) be approved and published as part of the Council's Constitution.

61. REPORT OF THE STANDARDS COMMITTEE

The Head of Research and Democratic Services presented a report on behalf of Dr Hawes who unfortunately, could not attend the meeting. The Standards Committee reviewed the Planning Protocol in the light of further advice issued by the Standards

Board for England on the subject of lobbying of Councillors and the declaration of interests by members who serve on more than one tier of local Government.

Report as first moved **ADOPTED**.

RESOLVED:

That the draft amendments to the Planning Protocol (attached at page 81) be approved.

(Recorded in accordance with Council Procedure Rule 15.5 that Councillor R Chidley voted against the adoption of the draft Planning Protocol.)

62. REPORT OF THE INDEPENDENT REMUNERATION PANEL

The Head of Research and Democratic Services presented a report of the Independent Remuneration Panel on the Members Connectivity Scheme and a review of the Remuneration Scheme for 2006/07. He introduced Mike Donn a member of the panel who attended the meeting to answer any questions on the report.

First amendment moved by Councillor S Metcalfe and seconded by Councillor M Woollard.

“That recommendation 1(b) be removed and that the review mentioned in recommendation 1(c) be changed to read March 2007.”

Carried.

Second amendment moved by Councillor M Heavens and seconded by Councillor Mrs J Whitehouse.

“That ways of paying a special responsibility allowance to Chairmen of the Task and Finish Panels be reviewed by the Independent Remuneration Panel.”

Carried.

Report as amended **ADOPTED**.

RESOLVED:

Members' Connectivity Scheme

(1) That the proposal of the Council to pay a grant of £500 per member per annum as a supplement to the basic allowance to assist members in receiving electronic notification of and Internet access to papers for Council meetings and associated information be supported, subject to:

(a) the member signing an agreement to undertake to meet the terms and conditions set out in the Members' Connectivity Scheme;

(b) the payment of the grant after March 2007 being reviewed, as by that time it is considered that all members of the Council will have their own computer with Internet access capacity and broadband access to the Internet via a provider;

- (2) That an approach be made to the HM Revenue and Customs seeking a dispensation for income tax liability in respect of the grant.

Licensing Committee

- (3) That no change be made to the amount of the special responsibility allowance for the Chairman of the Licensing Committee;
- (4) That no special responsibility allowances be made for the roles undertaken by other members of the Licensing Committee; and
- (5) That these issues be reviewed by the Remuneration Panel in 2006/07.

Overview and Scrutiny

- (6) That no change be made to the amount of the special responsibility allowance for the Chairman of the Overview and Scrutiny Committee;
- (7) That special responsibility allowances be made to the Chairmen of the Overview and Scrutiny Standing Panels (at a full rate of £1575 per annum) with effect from the municipal year 2006/07;
- (8) That ways of paying a special responsibility allowance to Chairmen of the Task and Finish Panels be reviewed by the Independent Remuneration Panel; and
- (9) That appropriate provision be made in the draft budget for 2006/07 to cover the cost of special responsibility allowances for the Chairmen of the Overview and Scrutiny Standing Panels (currently 5 x 40% (£630) of the full amount = £3150).

Cabinet

- (10) That no change be made to the amounts of the special responsibility allowance for Portfolio Holders for the 2006/07 municipal year; and
- (11) That the views of Group Leaders be sought on the Panel reviewing special responsibility allowances for Portfolio Holders for the 2007/08 municipal year including the possibility of ranking portfolios into tiers having regard to workload, budgets, staff responsibilities and perception.

Travelling Expenses

- (12) That with effect from the municipal year 2006/07, the mileage rates paid to members equate to the rates paid to employees as set by the Employers' Organisation.

63. MOTIONS

- (a) **Countrycare.**

The Council considered the following motion moved by Councillor S Murray and seconded by Councillor Mrs J Davis.

“Following receipt of the Epping Forest Countrycare 19th Annual Report 2004-05, this Council:

- a) notes the contents of the report; and
- b) congratulates the Countrycare Team on its outstanding environmental achievements across the District.”

Motion as first moved **ADOPTED**.

RESOLVED:

That following receipt of the Epping Forest Countrycare 19th Annual Report 2004-05, this Council:

- a) notes the contents of the report; and
- b) congratulates the Countrycare Team on its outstanding environmental achievements across the District.

(b) Parking - Waltham Abbey.

The Council considered the following motion moved by Councillor Mrs R Gadsby and seconded by Councillor Ms S Stavrou.

“That allocation of 24 parking spaces within the Quaker Lane car park in Waltham Abbey be taken out of the District Pay and Display scheme and that those 24 spaces be designated as free parking for 2 hours with no return within 3 hours.”

Motion as first moved **ADOPTED**.

RESOLVED:

That allocation of 24 parking spaces within the Quaker Lane car park in Waltham Abbey be taken out of the District Pay and Display scheme and that those 24 spaces be designated as free parking for 2 hours with no return within 3 hours.

64. QUESTIONS BY MEMBERS

(a) Roads and Pavements - Gritting

By Councillor S Murray to Councillor R Glozier, acting Portfolio Holder for Civil Engineering and Maintenance

“Could the Portfolio Holder say what steps have the Cabinet and appropriate officers taken to ensure that Essex County Council makes arrangements for the roads and pavements of Epping Forest District to be adequately gritted this coming winter (bearing in mind the severity of the winter expected)?”

Response by Councillor R Glozier, acting Portfolio Holder for Civil Engineering and Maintenance

“Following notice of the question, advice was sought from the Essex County Council’s Highways Office at Harlow. The County Highway Manager advises that all the County gritting routes have been set in the normal way and all roads which meet the relevant criteria will be gritted. The principles are set out in the leaflet produced by the County Council, a copy of which has been placed in the Chamber for members’ information. It can be seen that the main roads take priority for gritting and snow clearance, and those roads serving institutions such as hospitals and other emergency services.

The County Council has officers on standby throughout the winter period, and those officers take decisions on whether or not to grit based upon the meteorological circumstances (e.g. temperature and moisture).

The overall policy towards gritting and snow clearance has not changed, and this Council has no influence over the decisions made by the County Council in this regard.”

(b) Loughton Leisure Centre - Boilers

By Councillor J Markham to Councillor C Whirbread, Portfolio Holder for Leisure.

“Will the Portfolio Holder advise whether the faulty boilers at Loughton Leisure Centre (to which I drew attention at an earlier Council meeting) have been included on a defects or latent defects list: and

- (a) if so, would he confirm that the Council will not be responsible for their replacement; and
- (b) if not, can he explain why this has not been possible”.

Response by Councillor C Whitbread, Portfolio Holder for Leisure.

“As Councillor Markham has highlighted there have been intermittent problems with the function of the boilers at Loughton Leisure Centre, particularly in the first year of opening. These were attributable mainly to scaling, caused by hard water.

Remedial works have been undertaken by the installation of a water softener. Since this was fitted the boilers have been functioning effectively and do not feature, therefore, on any latent defects list.”

As a supplementary question Councillor Markham asked:

“Could I clarify whether the Portfolio Holder indicated that the cost of the ‘water softener’ equipment would not come back to the Council as extra costs?”

Reply by Councillor Whitbread:

“I will arrange for the Head of Leisure Services to give you a full answer on this point.”

(C) Commercial Waste – Loughton High Road

By Councillor J Markham to Councillor D Jacobs, Portfolio Holder for Environmental Protection.

“Will the Portfolio Holder advise what action he proposes to take to overcome the problems, including anti-social behaviour and danger to those with poor sight, resulting from commercial waste being put out overnight in Loughton High Road for collection on the following day”.

Response by Councillor D Jacobs, Portfolio Holder for Environmental Protection

“The problem of trade waste collections is not unique to Loughton. Unfortunately, many traders do not understand their responsibilities for the waste they produce and the law relating to it. Their inconsiderate behaviour, as the question sets out, makes our town centres look untidy and present a hazard to all those who use the footways.

There are a number of companies providing trade waste services within the District, including the Council’s own contractor. Trade waste should only be put out for collection on the day of collection, and given that the traders have a contract for collection, they should be fully aware of when a collection is due. All traders have a legal responsibility or “Duty of Care” under the Environmental Protection Act 1990. This makes them responsible for ensuring that the waste is properly contained and only put out when due for collection. Officers do investigate complaints of this type including searching the contents of sacks to determine ownership. Letters have been sent to traders reminding them of the law and their personal responsibilities. This issue has also been raised by officers at meetings of Town Centre Partnerships.

The new powers available under the Clean Neighbourhoods and Environment Act 2005 will strengthen the Council’s ability to take action, including the possible use of fixed penalty notices for offences. Cabinet approved the appointment of additional Waste Management Officers and these are now all in post. One of their key tasks was to undertake higher levels of enforcement of this type, but recent events have regrettably required them to be diverted to the management of the waste contract generally. It is to be hoped that these difficulties will soon be overcome and more attention can be given to this very important issue.”

As a supplementary question Councillor Markham asked:

“Did the Environmental Protection Portfolio Holder say that he will write to all shops not to put their rubbish out overnight?”

Reply by Councillor Jacobs:

“I will be happy to do so.”

(d) Parking Review and Residents’ Parking Permits.**By Councillor K Faulkner to Councillor R Glozier, acting Portfolio Holder for Civil Engineering and Maintenance**

“At a recent O&S committee meeting Paul Hardy of Essex County Councils highway department confirmed that he will honour this council’s decisions prior to the highways agency reverting back to County Council. The Portfolio Holder will be aware that these include a parking review for Loughton and the introduction of residents parking permits for the District. Can he therefore advise what action he is

taking to ensure that these matters are quickly dealt with and whether he can instruct his officers to institute some form of progress chasing to ensure there is no further delay in their implementation.”

Response by Councillor R Glozier, acting Portfolio Holder for Civil Engineering and Maintenance

“At the recent meeting of the Cabinet on 14 November 2005, I presented a report on the future programme for parking and traffic management reviews. The report recommended that given the transfer of the highways functions back to the County Council, this Council should concentrate its resources on undertaking parking reviews and any highway alterations associated with those reviews. I also informed the Cabinet that resources were limited and recommended that in order to expedite the future reviews of Loughton and Waltham Abbey Town Centre (these being the next schemes on the agreed priority list) capital resources be brought forward from 2007/08 to 2006/07.

The above recommendations were accepted by the Cabinet and, therefore, works on the two reviews mentioned should commence in the next financial year. A decision on how best to procure those reviews will need to be discussed with the County Council, the options being that the work be handed to the County Council to undertake or the County agrees to this Council procuring the reviews as it has done in the past.”

As a supplementary question Councillor Faulkner asked:

“Could the portfolio please clarify his statement in relation to the policy of Essex Council?”

Reply by Councillor Glozier:

“I repeat the Council is not the highways authority but we will work with the County Council next year to progress parking schemes.”

(e) Roding Valley Meadows

By Councillor K Faulkner to Councillor J Knapman, Portfolio Holder for Finance and Performance Management.

“The Roding Valley Meadows were due to be transferred to the new Parish Councils under a scheme agreed by the relevant District Council committees in 1996; despite some initial problems the way forward for the transfer was agreed in around 2001, however the situation has not yet been resolved; Loughton Town Council is currently paying out £100,000 a year for maintenance with no tenure, a situation, it is not prepared to allow to continue for the future without some resolution of the matter;

I now believe that all outstanding problems have been resolved, so could the Finance and Performance Management Portfolio Holder please advise when this transfer will take place, giving definite dates so Loughton Town Council can prepare its budgets for next year”.

Response by Councillor J Knapman, Portfolio Holder for Finance and Performance Management

“On 2 February 2004, the District Council decided to grant Loughton Town Council a 125-year lease in respect of part of the Roding Valley Recreation Ground.

The Leisure Portfolio Holder in consultation with the Finance and Performance Portfolio Holder was authorised to agree final terms.

A draft lease had been submitted to the Town Council prior to that date and discussions had taken place. The Town Council appointed a solicitor who wrote to the Council on 11 May 2004. He raised a number of enquiries as to the terms of the lease and the title to the land. The Town Council's title to the lease must be registered at HM Land Registry and it is necessary for the Town Council's solicitor to be satisfied that the District Council owns the freehold of the land and be aware of any conditions on the freehold title that may affect the leasehold title.

The title to this property was complex. Most of the site was unregistered and questions were raised. It was necessary to arrange for the various titles to be plotted onto a plan that showed the positions of the boundaries between titles and the various leases and easements over the land. This process revealed that the District Council did not have a paper title to the access way adjoining the Oakwood Hill Estate.

The District Council applied for possessory title to that land. However, the Land Registry wanted the District Council to register voluntarily the title to the whole of the recreation area as part of its wider registration programme. We were happy to do so as this would make the title easier to work with and this process is usually quick. Unfortunately in this case, the complex nature of the title led to delays.

The Land Registry has now registered the majority of the title but one area has been omitted. To start registration of that area would be unnecessary as the unregistered title is good and registration would result in further delaying matters.

The lease has been amended to take account of the changes due to registration and the amended documents have been submitted to the Town Council's solicitors.

Once the Town Council finally agree the lease, I will arrange for it to be sealed.

A definite date cannot be given for completion, as it depends, not only the District Council but also the Town Council and its representatives."

(f) Recycling Bags

By Councillor D Stallan to Councillor D Jacobs, Portfolio Holder for Environmental Protection.

"Would the Portfolio Holder please say –

- (a) how often replacement clear plastic recycling bags are issued to residents, bearing in mind the Council's commitment to increasing the volume of recycled materials collected in the District?
- (b) bearing in mind that shops in North Weald (and possibly elsewhere in the District) seem to run out of stocks very quickly, whether he is prepared to change the policy of issuing only one roll of sacks per person at the Council's Information Centres?"

Response by Councillor D Jacobs, Portfolio Holder for Environmental Protection

“Over the past six months or so, the demand for both white garden recycling and clear dry recycling sacks has been unprecedented. While the Information Centre enquiry statistics do not show a detailed breakdown between requests for sacks and other refuse related enquiries, it is fair to say that the vast majority of enquiries in this category were sack requests.

The table in the written copy of this answer compares the three month periods July, August and September for 2004 and 2005, illustrating the increased demand at Information Centres.

2004	July	August	September
Loughton	364	399	374
Epping	264	300	256
W'Abbey	321	316	425
Ongar	23	19	15
Buckhurst Hill	90	120	
	1062	1154	1151
2005			
Loughton	504	755	812
Epping	485	808	1073
W'Abbey	450	918	1137
Ongar	92	145	128
Buckhurst Hill	149	592	549
	1680	3218	3699

Demand was such that Environmental Services and South Herts Waste Management have struggled at times to keep the Information Centres adequately supplied. There have been occasions when supplies to the Centres have been exhausted. In order to ensure that, as far as possible, the Council was able to provide bags to all customers on request, it was necessary to restrict the number to one roll each of garden and clear recycling sacks per visitor. To have issued more rolls per visitor would have led to many more people being turned away empty handed.

As this trend became apparent, large quantities of additional sacks were purchased by Environmental Services. Due to lead-in times these sacks were not immediately available but have now improved the situation considerably. However, were the Council to instruct its Information Centres to increase the number of rolls per visitor, further supply issues and budgetary considerations would inevitably arise.

Members may wish to note that during the period of highest demand for recycling sacks, the Council's Information Centre Assistants have been subjected to intense pressure and frequent expressions of frustration by members of the public. Throughout, they have tried to explain the Council's policies, objectives and difficulties as calmly and diplomatically as possible”.

Supplementary question by Councillor Stellan:

“Did the Portfolio Holder say that he would advise officers of the current policy of providing only one sack to avoid any misunderstanding?”

Reply by Councillor Jacobs:

"They already know the policies as I have regular meetings with them, but I shall remind them."

65. REGULATORY SERVICES - MEMBER CHAMPION

The Council was asked to consider a request from the Local Authorities Co-ordinators of Regulatory Service and the Local Government association for the Council to nominate a champion for Regulatory Services.

Councillor Mrs D Collins nominated Councillor Mrs P Smith for this position, and this was agreed by the meeting.

RESOLVED:

That Councillor Mrs P Smith be approved as the Council's Champion for regulatory Services.

66. COMPLAINTS PANEL - MEMBERSHIP AND CHAIRMAN

RESOLVED:

(1) That Councillor Mrs P Richardson be appointed as a member of the Complaints Panel in place of Councillor T Farr for the remainder of the current municipal year; and

(2) That Councillor Mrs P Richardson be appointed Chairman of the Complaints Panel for the remainder of the current municipal year.

67. PETITION - COUNCILLOR T FARR

Council noted the receipt of a petition signed by 354 members of the public from the Epping Forest District and elsewhere concerning the reinstatement of Councillor T Farr.

68. EXCLUSION OF PUBLIC AND PRESS

RESOLVED:

That the public and press be excluded from the meeting for the item of business set out below on the grounds that it will involve the likely disclosure of exempt information as defined in the paragraph of part 1 of Schedule 12A of the Local Government Act 1972.

Agenda Item No.	Subject	Exempt Information and Paragraph Number.
16	Britannia Sports Ground, Langston Rd, Loughton - Submission of Tender Bid	8 & 9

69. BRITANNIA SPORTS GROUND, LANGSTON ROAD, LOUGHTON - SUBMISSION OF TENDER BID

(Mover: Councillor Knapman – Portfolio Holder for Finance and Performance Management)

The Finance and Performance Management Portfolio Holder introduced this report to the Council to consider whether to submit a bid to purchase the Britannia Sports Ground at Langston Road, Loughton and make appropriate financial provision to cover the possibility that the bid is successful.

It was noted that:

- The Bank of England had decided, following a review, to close the facility and to offer it for sale on the open market;
- The facilities are used by current employees, Bank of England pensioners and various local sports clubs. Currently the Bank provides a subsidy of approximately £200,000 per annum to maintain the facilities. It was indicated that the fees and charges are below commercial rates;
- The site was being offered for sale as three lots, namely:
 - a) the Car park and bowling green (zoned as employment development land);
 - b) the sports ground and clubhouse (allocated as Green Belt); and
 - c) the entire site.

The Council debated the merits of submitting a bid for any of the three options but were deterred by the lack of detailed information and the apparent subsidy of £200,000 per annum needed to meet running costs.

RESOLVED:

(1) That the Council determines not to submit a bid to purchase the Britannia Sports Ground, Langston Road, Loughton.

(2) That the Bank of England be advised of the decision under (1) above and further informed:

- (a) that the Council continues to be concerned to ensure that irrespective of the future ownership of the property, it should be preserved as a Leisure facility;
- (b) that the Council is prepared to discuss the future of the property if approached by the Bank of England following the completion of the bidding process;
- (c) that the Leader of the Council, the Portfolio Holder for Leisure and the Portfolio Holder for Planning and Economic Development be authorised to discuss the property with the Bank of England in the event that the Council is approached;
- (d) that the members authorised under (c) above report to the cabinet on the outcome of any discussions.

(3) That a supplementary estimate of £3,750 be approved in respect of fees payable to Humbert's for the report and valuation.

Following further debate, the Leader of the Council received leave from the Council to add a further recommendation to the report to inform the vendor of the Council's interest in retaining the sports facilities and willingness to discuss the site further if approached.

CHAIRMAN

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Capital Strategy 2005/2008



INVESTOR IN PEOPLE

October 2005

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1. Introduction

1.1 The Council is a multi-million pound business, facilitating and providing services to its community. One-off projects invariably involve the need for capital investment and, in view of the increased availability of capital resources, it is essential that a strategic approach is taken, having regard to the Council's aims, and formulated in consultation with the community. Opportunities for income generation to fund those projects must be maximised, and projects must be properly planned, managed and reviewed to ensure that best value is achieved. This Capital Strategy has been produced to accord with the latest guidance on capital accounting arrangements for local government.

1.2 The Council's Capital Strategy has previously been assessed by the Government Office as "Good" (the highest assessment), which means that it no longer needs to be submitted to the Government Office for further assessments. Although not required by the ODPM, this Capital Strategy is reviewed and revised annually, to ensure that it continues to be up to date and purposeful.

2. The Council's Medium Term Aims and Priorities

2.1 The Council has clear aims and priorities for the District. These are embraced in the Council Plan, which was approved in Summer 2003 and linked with a four-year Financial Plan, which sets out the Council's strategic approach, including its approach to delivering its Local Agenda 21 objectives. Detailed annual plans are set out in the Council's annual Best Value Performance Plan 2005/06. These plans must be read in conjunction with this Capital Strategy, since they form the agenda on which this Strategy will deliver. The Council's medium term aims and priorities are as follows:

A safe, healthy and attractive place:

- (a) Maintain the special character and advantage of the District, and address local environmental issues
- (b) Address key housing need
- (c) Create safer communities
- (d) Encourage sustainable economic development
- (e) Address leisure need

An organisation that listens and leads, to resolve local issues:

- (a) Political leaders give clear direction
- (b) Communicate with the public about service delivery
- (c) Prioritise objectives and services
- (d) Co-operate and plan with partners

Affordable improving services:

- (a) Identify and target resources: realise capacity and manage performance
- (b) Procure services in the most beneficial and cost effective way
- (c) Develop services, staff and the working environment

2.2 The Local Government Act 2000 created an over-arching role for local government of community leadership, and required local authorities to prepare a Community Strategy. The Council has embraced this opportunity by forming a Local Strategic Partnership (LSP), comprising representatives of the main stakeholders within the District. Following extensive consultation, in 2003, the LSP produced its first Community Strategy, which is a long-term strategy for the District until 2021. The Community Strategy has seven cross-cutting themes relevant to the District.

2.3 This Capital Strategy is a key "high level" strategic document that is linked to, and complements, other key corporate and service strategies, which are summarised at Appendix 1. An important supporting document is the Council's Asset Management Plan (AMP). Epping Forest District Council received a "Good" for its AMP when last assessed in 2003 and, as a consequence, there is no requirement to make further submissions for assessment. Nevertheless, the Council has continued to update the core data and national performance indicators each year, and these have been forwarded to the Institute of Public Finance Asset Management Plan Network for comparison with other member authorities. The Council will ensure that the Capital Strategy complements, influences and is influenced by other key strategic documents produced by the Council and the Council's partners, and in particular, the Asset Management Plan.

3. Previous Capital Investment Achievements

3.1 The Council has a good track record of successfully delivering capital schemes, recent examples include:

- The completion of a major town centre enhancement scheme at Buckhurst Hill, which revitalised the economic development of the town
- An ongoing programme of capital repairs and improvements to the Council's housing stock that have enabled the Council to achieve a reduction of a third in the number of non-decent homes between 2000 and 2003, one year earlier than the Government's target, and providing a sound base on which to meet the Government's additional target of ensuring that all the Council's homes are decent by 2010
- The construction of a new leisure centre in Loughton, which has greatly improved the leisure provision within the District
- Ongoing heating and rewiring contracts and kitchen and bathroom renewals as part of the Council's commitment to its Decent Homes programme
- An extensive capital programme of Disabled Adaptations for tenants in council accommodation and grants to residents in private housing
- The successful implementation of new ICT Systems such as the Finance Management System, Revenues and Benefits System and the Committee Management System
- The smooth transfer of Robert Daniels Court, a sheltered housing scheme in Theydon Bois, to Warden Housing Association in order for the bed-sit accommodation to be converted into self contained flats

4. Formulating the Council's Key Capital Priorities – The Corporate Framework

4.1 Section 2 sets out the Council's Medium Term Aims and Priorities. Each year, the Council re-assesses its key capital priorities on a corporate basis, having regard to:

- The Council's aims and priorities
- The Council's financial position
- The capital priorities of the Council's key partners
- The Council's ability to influence other partners' plans through the use of its capital resources
- Service Development and Improvement Plans, formulated following the outcome of best value reviews

4.2 This annual re-assessment is undertaken in a methodical way. In the first instance, the Council's Management Board formulates its draft Capital Strategy, having regard to the above factors and the views of the Council's Heads of Service. The draft Strategy is then considered by the Portfolio Holder for Finance and Performance Management, who has lead responsibility for its formulation and delivery, and presents a final draft to the Cabinet. In recognition of its importance, this Capital Strategy is approved each year at a meeting of the full Council.

4.3 It is essential that potential capital schemes that advance the Council's key capital and strategic priorities are prioritised, having regard to the capital resources available. Therefore, project appraisals are undertaken for all capital schemes in excess of £2,000,000 (and appropriate schemes of lesser amounts) that;

- Assess how the project will meet the Council's Strategic Aims
- Provide estimates of expenditure
- Examine appropriate options
- Set out any relevant consultation arrangements
- Identify the most appropriate method of procurement
- Explain the proposed method of project monitoring and review.

4.4 Capital projects that meet the Council's Aims are then selected and prioritised through detailed discussion and evaluation by the Council's Cabinet, having regard to project appraisals and other relevant information.

Best Value Reviews and Service Development and Improvement Plans

4.5 Under the best value regime, the Council has undertaken comprehensive service reviews of some of its services. Following these reviews, detailed Service Development and Improvement Plans are formulated to ensure continuous improvement in service delivery. A number of these plans include capital schemes, which the Council

takes into account when formulating its Capital Strategy. Best value reviews carried out over the last few years that have such implications include:

- Housing Needs and Homelessness (in relation to existing and future hostel accommodation)
- Housing Services (in relation to the repair and maintenance of the Council's housing stock)
- Leisure Management (in relation to the future management of the Council's leisure centres)
- Environmental Control (in relation to waste management and the environmental infrastructure)

Revenue Implications

4.6 When appraising potential capital schemes, it is essential that the associated revenue implications are assessed, since these can be an important factor in deciding whether a scheme should be undertaken and, indeed, its relative priority compared with other projects. The project appraisals therefore require the associated revenue implications to be identified. Once identified and approved, the Council's Head of Finance incorporates the revenue implications within the Council's revenue budget and monitors expenditure accordingly.

5 The Council's Key Capital Priorities – 2005-2008

5.1 Following the process outlined in Section 4 above, the Council has identified the following Key Capital Priorities, which are ranked, as shown below, in order of strategic importance to the District, having regard to the Council's aims and priorities. The abbreviations in italics cross-reference with the key capital schemes in Section 6. The priorities in brackets relate to last year's Capital Strategy:

Priority	Key Capital Priority	Abb	Main Link to Aims & Priorities
1 (1)	Improving the Council's housing stock	(ICS)	<ul style="list-style-type: none"> • Address key housing need • Procure services in the most beneficial and cost effective way
2(2)	Delivering quality public services through e-government	(QPS)	<ul style="list-style-type: none"> • Develop services, staff and the working environment
3 (4)	Promoting economic development	(PED)	<ul style="list-style-type: none"> • Encourage sustainable economic development
4 (3)	Regenerating areas in need	(R)	<ul style="list-style-type: none"> • Address key housing need • Create safer communities • Encourage sustainable economic development • Co-operate and plan with partners
5 (5)	Protecting the environment	(PE)	<ul style="list-style-type: none"> • Maintain the special character and advantage of the District, and address local environmental issues
6 (6)	Improving quality of life	(IQL)	<ul style="list-style-type: none"> • Maintain the special character and advantage of the District, and address local environmental issues • Address key housing need • Address leisure need
7 (8)	Meeting housing need	(MHN)	<ul style="list-style-type: none"> • Address key housing need
8 (7)	Improving private sector housing stock	(IPS)	<ul style="list-style-type: none"> • Address key housing need

5.2 Due to the amount of capital receipts that are currently being held by the Council, significant levels of interest are being obtained from their investment. This is beneficial to the Council's General Fund, since they provide additional revenue income. However, the use of these capital receipts to fund capital projects will reduce the amount of interest received, with a consequential detrimental effect on General Fund income. Therefore, in addition to the Key Capital Priorities set out above, the Council has also adopted a policy of actively seeking the investment of capital resources in revenue-generating assets, in order to minimise the detrimental effect of capital receipt usage on the Council's General Fund.

6. Key Capital Schemes: 2005- 2008

6.1 Having considered various options for capital investment, the Council has formulated its Capital Programme that meet its Key Capital Priorities. The committed and proposed schemes are set out below. The *proposed* schemes are ranked in a priority order, to assist with varying the future programme if future funding is different from anticipated, or if other schemes with higher priority are identified. The abbreviations in brackets cross-reference with Section 6 above. Schemes funded by the Housing Revenue Account are marked (*).

6.2 The Council will undertake the following *committed* capital projects between 2005-2008 including slippage from 2004/05:

- Continue to renovate and improve the Council's housing stock, through the capital investment of £7,557,000 for committed schemes in 2005/06 (ICS/IQL) (*)
- Progress work on Town Centre Enhancement Schemes at The Broadway, Loughton and The High Road, Loughton at a cost of £3,581,000 in 2005/06 and 2006/07((PED)
- Invest £1,379,000 in information communications technology (ICT) in 2005/06 and 2006/07, including the capital costs of installing an electronic records/ document management system, completing the installation of a new planning system and creating a second computer suite at the civic offices (QPS)
- Invest £1,240,000 (subsequently reduced to £1,052,000) in providing equipment for refuse collection in an effort to increase recycling targets over the next two years (PE)
- Invest £1,052,000 in developing a number of under-utilised and vacant sites within the Council's ownership (e.g. difficult-to-let garage blocks) to increase the amount of affordable housing in the District in partnership with housing associations (IPS)
- Continue remedial works at Bobbingworth Tip, costing a total of £1,007,000 over a three year period which commenced in 2004/05 (PE)
- Provide £300,000 for private sector disabled facilities grants and £500,000(*) for adaptations to Council properties in 2005/06 (IQL)
- Make a contribution of £453,000 towards the extension and improvement of Ongar Leisure Centre in partnership with SLM starting in 2005/06 (IQL)
- Invest £272,000 in traffic calming schemes and £139,000 in housing estate off street parking schemes throughout the district in 2005/06 (* £81,000 of the latter to be funded from HRA) (PE)
- Provide £200,000 for private sector renovation grants in 2005/06 (IPS)
- Invest £186,000 in asbestos removal and reinstatement works in the Council's civic offices during 2005/06 (PE)
- Provide £107,000 on improvements to HRA shopping areas in 2005/06 (PED)(R) (*)
- Provide contributions of up to £300,000 towards the cost of Youth Sports Facilities at various locations throughout the district between 2005/06 and 2007/08(IQL)
- Undertake improvements to the infrastructure at North Weald Airfield in 2005/06, at a cost of £89,000, to facilitate major outdoor events, including the Saturday and Bank Holiday Market (PED)
- Invest £83,000 in health and safety works on flood alleviation schemes and watercourses throughout the district over a two year period starting in 2005/06(PE)
- Invest £53,000 in the replacement of Housing DLO vehicles to ensure an effective and efficient service in 2005/06(ICS) (*)
- Invest £50,000 in the upgrade of Buckhurst Hill car park in 2005/06 (PE)
- Invest £40,000 in security works at North Weald Airfield in 2005/06 (R)
- Complete river bank strengthening works in 2005/06 at a total scheme cost of £25,000 (PE)
- Spend £193,000 on contractual commitments for completed schemes and fund small capital items

6.3 The Council will undertake the following *proposed* capital projects, ranked in priority order, between 2005-2008:

- (1) Invest £300,000 in information communications technology (ICT) in 2007/08 to meet the Government's targets for e-government and commit to finalise the implementation of the Customer Contact Centre which may cost up to £4,000,000 subject to a future Cabinet report. This will be affordable from the Council's Capital Receipts balances and, according to current forecasts, will result in an estimated balance of £6,638,000 Usable Capital Receipts as at 31 March 2009. (QPS)
- (2) Continue to renovate/improve the Council's housing stock, through the capital investment of £11,096,000 between 2006/07 and 2007/08 (ICS/IQL) (*)
- (3) Transfer the ownership and tenants of the Council's sheltered housing scheme at Wickfields , Chigwell, to a registered social landlord by March 2006, at a cost of £1,200,000, in order to facilitate a £1,670,000 extension and conversion scheme (ICS/IQL) (*)
- (4) Complete the investment programme on improvements to HRA shopping areas with a sum of £162,000 in 2006/07 (PED)(R) (*)
- (5) Continue annual improvements to North Weald Market in 2006/07 and 2007/08, at a cost of £50,000 per annum (PED)
- (6) Undertake flood alleviation schemes in 2005/06 and 2006/07, at a cost of £451,000 (PE)(IQL)
- (7) Provide £300,000 per annum for private sector disabled facilities grants and £350,000 per annum (*) for adaptations to Council properties from 2006/07 (IQL)
- (8) Continue to invest in traffic management from 2006/07, at an annual cost of £200,000 (IQL)
- (9) Construct off street parking schemes on housing estates from 2006/07, at a cost of £80,000 per annum (*£43,000 from HRA funds) (IQL)
- (10) Continue to provide £200,000 per annum from 2006/07 for private sector renovation grants (IPS)
- (11) Continue to invest up to £50,000 per year in Housing DLO vehicles from 2006/07 (ICS) (*)
- (12) Provide investment of £75,000 to complete other small capital scheme by 2007/08

7. The Council's Capital Programme Forecast: 2005-2009

7.1 Having regard to the Council's Strategic Aims, the Council has formulated its four-year Capital Programme Forecast for General Fund and HRA capital projects, which totals £40,369,000 between 2005/06 and 2008/09, and is summarised below. The detailed Capital Programme is reproduced at Appendix 2 (a – c).

	2005/06	2006/07	2007/08	2008/09	Total
	£000	£000	£000	£000	£000
General Fund	7,157	4,775	1,232	1,327	14,491
Housing Revenue A/c	8,298	8,092	5,252	4,236	25,878
Total	15,455	12,867	6,484	5,563	40,369

8. Housing Stock Options Appraisal

8.1 The Council completed a Housing Stock Options Appraisal in November 2002 which identified the options for the future ownership and management of the Council's housing stock and the possible separation of its strategic and management functions. It was concluded that further consultation should be undertaken with tenants before a decision could be made. Further consultation was undertaken during 2003, which clearly established that the vast majority of tenants were in favour of the Council retaining the stock. Since there was also a good business case for stock retention, the Council's Cabinet selected the stock retention option, and agreed to review the position in at least 5 years time. The Options Appraisal was formally signed off by the Government Office in September 2004.

9. Working in Partnership

9.1 The Council's Aims and Priorities and the proposals within this Capital Strategy will not be achieved by the Council working in isolation. The Council is therefore committed to work in partnership with other councils and organisations to meet objectives that cut across organisations' individual responsibilities. Partners have three main, and important, roles:

- To provide information, views and feedback on Council proposals as part of the consultation process set out in the Council's Consultation Strategy.
- To provide required services identified and facilitated by the Council, where best value can be obtained through the provision by the partner. This may involve the provision of funding by the Council.
- To work in partnership with the Council to jointly deliver the Council's aims and priorities, where both the Council and the partner provide funding.

9.2 The Council will continue to identify and secure opportunities for best value being obtained through either an external partner undertaking capital projects or jointly funding/undertaking projects in a partnership arrangement. The Council will also consult key partners on appropriate capital projects, in accordance with the Council's Consultation Strategy, to obtain views and feedback on proposals.

Cross-Cutting Themes

9.3 The Council has an excellent record of working in partnership with other organisations to achieve our mutual objectives and to obtain best value. The main partners with whom the Council works on capital schemes are listed at Appendix 4. Examples of cross-cutting partnership working include:

- Working with Sainsburys to secure a contribution from the company towards economic regeneration in Waltham Abbey and the development of a second phase of "start up" business units in the town
- Working with Marks and Spencer to develop a temporary car park in Loughton for retail use and to secure a contribution towards the Loughton Town Centre Enhancement Scheme
- Working with Sainsburys to meet the cost of a public transport interchange and highways improvements in Loughton as part of a proposed development of a new superstore, as well as a contributing towards the Loughton Town Centre Enhancement Scheme
- Forming Town Centre Partnerships for the six main towns in the District to improve and enhance the town centres and to facilitate economic growth
- Working with registered social landlords for the provision of new affordable housing
- Creating and working with Town Centre Focus Groups, comprising local councils, town centre partnerships, traders associations, and voluntary organisations in the design of the town centre enhancement schemes
- Working with the Primary Care Trust and Parish Council to dispose of Council-owned land in North Weald to provide housing and a health centre
- Working with Parish Councils to provide improved outdoor youth facilities by means of jointly funded schemes
- As part of the externalisation of leisure management, the Council's partner Sports and Leisure Management Ltd (SLM) will invest £1,500,000 in improvements to leisure facilities in addition to the Council's contribution of £453,000 in the next few years

Cross-border working

9.4 In order to meet its Aims and Priorities and deliver its Capital Strategy effectively, not only must the Council work in partnership with other agencies, it must also work across traditional geographical boundaries. Such cross-border working brings a more cohesive approach to achieving objectives and also benefits from economies of scale and shared expertise. Some of the initiatives relevant to this Capital Strategy are listed below:

- The Council is working in partnership with Uttlesford, Harlow and East Herts District Councils and the Essex Economic Partnership to develop a West Essex and East Herts Economic Strategy
- A partnership exists with Brentwood BC, Uttlesford DC, the three Primary Care Trusts and Essex Social Care to develop a Young Parent Scheme, whereby young parents from across West Essex can be accommodated in a building together and receive support with parenting skills, and receive mutual support from each other. By working together, we are endeavouring to meet an important need across all three areas when the need arises, but which would be unviable for each local authority district to try to meet, because of insufficient need in each individual area. Capital funding is being sought from the Housing Corporation.

10. Procurement and Use of Private Sector Initiatives

10.1 In many cases, the Council will undertake capital projects itself, procuring the works through competition. However, opportunities for delivering and procuring capital schemes through the private sector will be identified and appraised. Particular emphasis will be placed on adopting the Egan principles as part of the procurement of large schemes. The Council has already adopted these principles to obtain benefits in the following ways:

- The Council has worked with a number of Registered Social Landlords and has adopted a partnering approach with developers for the procurement and provision of new affordable housing schemes
- A partnering contract was entered into with Sainsburys to enable phase 1 of the Loughton High Road Town Centre Enhancement to go ahead
- A partnering agreement has successfully been adopted for the use of consultants to deliver the Council's increased maintenance and improvements programme, with effect from 1 April 2003.
- The Council has also entered into partnering agreements with maintenance contractors to undertake the Council's Kitchen and Bathroom Replacement Programme and Heating Improvement Programme, in order to ensure that the Government's "decent home" target is met.
- The Council's street cleansing, recycling and refuse contract was re-tendered in 2002/03, on the basis of a partnering contract
- The Council's new financial management system was installed and implemented under a partnering contract
- A partnering contract has been used for the leisure management contract with SLM
- A long term partnering agreement has been entered into with two contractors for the servicing and repair and testing of gas appliances in Council properties

10.2 The Council will continue to consider the use of the Private Finance Initiative (PFI) and Public Private Partnerships (PPP) for appropriate capital schemes. It will also continue to adopt, and encourage partners undertaking capital projects to adopt, the principles relating to sustainability and the reduction of construction costs set out in Sir John Egan's Report on "Rethinking Construction" wherever possible.

11. Income Generation and Funding the Programme

11.1 There are various sources of funding for capital projects, and it is important that opportunities to maximise such funding are taken. In most cases, the ability to undertake capital projects depends on the funding available; however, in some cases, action can be taken to increase funding for key projects. It is essential that the Council accurately forecasts the likely funding to become available over the period of the Four -Year Forecast, and regularly reviews those forecasts, making appropriate adjustments in the Programme. The funding forecast is detailed in Appendix 2a. As part of this process the Council will:

- Generate capital receipts from the sale of Council-owned land at Merlin Way, North Weald.
- Identify and maximise any opportunities for "windfall" capital receipts (eg through the release of restrictive covenants) and planning gain, having due regard to the effects on the local community of obtaining such windfalls and planning gains.
- Forecast the amount of usable capital receipts available to the Council over the next four-year period and estimated usage in a planned way as detailed in this Capital Strategy (see Appendix 3a)
- Plan and monitor the use of the Major Repairs Fund for HRA capital investment (see Appendix 3b)
- Undertake an assessment, at least quarterly, of the likely level of capital receipts and other income that will be available to fund capital expenditure over the period of the Four -Year Forecast.

11.2 From April 2004, the Government requires 75% of capital receipts from Right to Buy sales and 50% from other HRA capital receipts (i.e. not from Right to Buy sales) to be "pooled". However, the Council is a "debt free" authority and as such is eligible for "transitional relief", which allows authorities to retain up to 75% of the receipts that should be pooled in the first year, reducing to 50% and 25% in subsequent years. Retained receipts through transitional relief must be ring-fenced for housing and improvements to HRA assets. The transitional arrangements cease in 2007/08. The amount of capital receipts to be retained by the Council through transitional relief was £3,195,000 in 2004/05 and is estimated to be in the order of £1,300,000 during 2005/06 and 2006/07. The Council will utilise the majority of this funding to invest in its own housing stock, to ensure that all its properties meet the Government's Decent Home Standard by 2010. However, an estimated £1,100,000 of the transitional relief funding will be utilised to fund the contributions towards affordable housing and the shortfall of Government funding on the Disabled Facilities Grants.

11.3 Under the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003, if HRA capital receipts that are not received from Right to Buy Sales are used to finance expenditure on affordable housing or regeneration, there is no requirement for them to be pooled. The Council has therefore agreed that such capital receipts should be used to help fund the required expenditure on repairs and improvements for the Council's own housing stock.

11.4 The Four Year Capital Programme 2005/06-2008/09 will be funded as follows, subject to required annual variations to reflect actual funding availability:

	<u>£'000</u>
Grants	1,758
Revenue Contributions	6,000
Capital Receipts	14,075
Major Repairs Allow.	<u>18,536</u>
Total	<u>40,369</u>

12. Performance Measurement and Monitoring

12.1 As part of its performance management to deliver capital schemes, the Council sets appropriate targets. Progress and performance is then monitored, on an ongoing basis, from conception to completion of the project, with a formal review undertaken after completion. There are a number of targets that are applied to all capital schemes, including the following:

- Total actual out-turns for works, fees and other expenditure should amount to no more than 105%, and no less than 95%, of the project estimate formulated on receipt of tenders or confirmation of works costs.
- Works should commence no later than 3 months after the receipt of tenders.
- Final accounts should be approved no later than 9 months after practical completion.

12.2 Once capital projects have been implemented, progress against key milestones, and actual expenditure compared to budget, are monitored on a regular basis. Capital projects are also reviewed to ensure that any problems or difficulties are identified, and action taken to minimise similar problems occurring on other projects. This is undertaken through officer project teams that are established for capital projects, in excess of £2,000,000. Project teams :

- Plan, manage and review projects and ensure effective financial management.
- Monitor expenditure, estimated out-turn, variances to budget, potential claims and overspends, levels of contingencies, and implications of deviations from critical paths.

12.3 On completion of schemes, post-contract evaluation is undertaken using the methodology recommended by the Audit Commission in its "Guidance on Capital Programmes and Construction Projects" .

12.4 Progress monitoring and review is not only undertaken by officers, but also by members at a strategic level. Capital projects are included within Service Business Plans, which are monitored by portfolio holders and the Overview and Scrutiny Committees. Regular monitoring reports are also provided to the appropriate "client" portfolio holder for contracts in excess of £2,000,000, comprising information on progress, identified problems and the latest financial position. Portfolio holders are required to report to the Cabinet on any anticipated overspends in excess of 5%, giving the reasons and any available options for savings.

**Key Strategic Council Documents that Complement and link
with the Capital Strategy**

Council Plan (2003-2007): Sets out the Council's aims and medium term priorities, together with more detailed strategies for meeting the aims and priorities

Community Strategy: Produced by the Local Strategic Partnership, sets out a long term Vision and objectives for the Epping Forest District.

Best Value Performance Plan: Reports on performance in the previous year, and sets out the Council's plans for the following year, together with performance targets.

Asset Management Plan: Sets out, annually, how the Council will manage its assets.

Housing Strategy: Sets out the Council's main housing strategies for meeting housing need, new housing provision, associated planning policies, private sector housing, community care, housing benefits and the management and maintenance of the Council's own stock. Separate detailed Housing Service Strategies provide more detailed information in key areas

HRA Business Plan: Produced annually, provides medium and long term financial forecasts for the Housing Revenue Account (HRA), a comprehensive stock valuation broken down into asset groups, option appraisals (where relevant) and an Asset Management Plan for the HRA, incorporating the Council's Repairs and Maintenance Business Plan.

Adopted Local Plan: Sets out the Council's policies for the control of development, makes proposals for the development and use of land, and allocates land for specific purposes. It also influences the infrastructure and economic development of the District to meet the needs of the community.

Cultural Strategy: Provides a strategic approach to the way in which the Council will provide and facilitate leisure activities in order to improve the health and quality of life of residents, and how tourism will be promoted to raise the profile of the District and assist economic development.

Transport Strategy: Sets out the Council's local highway and transport policies within the overall context of the County Council's (Highway's Authority's) strategic Transport Plan and bid submission to the ODPM.

Consultation Strategy: Sets out how the Council will consult local residents and other stakeholders on relevant issues relating to the formulation of strategies, setting of targets, delivery of services and review of performance.

Information Technology Strategy: Sets out the Council's strategies, standards and targets for the planning, procurement and management of information technology.

E-Government Statement: Sets out the Council's approach to implementing the delivery of all Council services through electronic means (eg the internet, public access points) by 2006

Feasibility Studies: Produced for individual capital projects to ensure that all options are properly appraised.

Service Strategies/Plans: Provide detailed objectives, policies, targets, financial and human resourcing requirements and performance reviews for individual services.

Crime & Disorder Strategy: Sets out the Council's approach to reducing crime and disorder within the District.

Appendix 2(a)

CAPITAL PROGRAMME 2005/06 to 2008/09 FORECAST

	2005/06 Original £000	2005/06 Revised £000	2006/07 Forecast £000	2007/08 Forecast £000	2008/09 Forecast £000	4 Year Total £000
EXPENDITURE						
Finance & Performance Management	478	465	100	100	0	665
Corporate Support Services & IT	501	1,282	305	320	515	2,422
Community Wellbeing	0	0	0	0	0	0
Leisure	1,303	709	50	50	50	859
Environmental Protection	871	2,154	4	0	0	2,158
Civil Engineering & Maintenance	1,342	1,393	3,608	62	262	5,325
Total Non-Housing	4,495	6,003	4,067	532	827	11,429
Housing GF	1,052	1,062	1,000	500	500	3,062
HRA	8,809	8,245	8,042	5,202	4,186	25,675
Housing DLO	50	53	50	50	50	203
Total Housing	9,911	9,360	9,092	5,752	4,736	28,940
TOTAL	14,406	15,363	13,159	6,284	5,563	40,369
FUNDING						
ODPM Grant	130	130	130	130	130	520
IEG Grant	150	436	0	0	0	436
Market Funding	50	50	50	50	50	200
Leaseholder Funding	30	30	30	30	30	120
Private Funding	52	52	0	0	0	52
ECC Contribution	430	430	0	0	0	430
Total Grants	842	1,128	210	210	210	1,758
HRA (Use of Transitional Relief)	2,052	845	377	0	0	1,222
Housing GF (Use of Trans. Relief)	50	550	550	0	0	1,100
Housing GF (Other Capital Receipts)	820	330	320	370	370	1,390
Non Housing (Other Capital Receipts)	3,770	5,087	4,017	482	777	10,363
Total Capital Receipts	6,692	6,812	5,264	852	1,147	14,075
HRA - RCCO	1,200	2,300	2,300	700	700	6,000
HRA - MRR	5,613	5,123	5,385	4,522	3,506	18,536
Total Revenue Contributions	6,813	7,423	7,685	5,222	4,206	24,536
Unfinanced Creditors B/F	(1,075)	0	0	0	0	0
Unfinanced Creditors C/F	1,134	0	0	0	0	0
TOTAL	14,406	15,363	13,159	6,284	5,563	40,369

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**CAPITAL PROGRAMME
2005/06 to 2008/09 FORECAST**

	2005/06 Original £000	2005/06 Revised £000	2006/07 Forecast £000	2007/08 Forecast £000	2008/09 Forecast £000	5 Year Total £000
Finance & Performance Management						
Youth Sports Facilities	100	100	100	100	0	300
General Capital Contingency	378	365	0	0	0	365
Total	478	465	100	100		665
Corporate Support Services & IT						
IEG : Customer Contact Centre	0	261	0	0	0	261
IEG : ERDMS	150	150	0	0	0	150
IEG : Legal Case Man. System	0	16	0	0	0	16
IEG : Committee Man. System	0	9	0	0	0	9
Total IEG	150	436	0	0		436
Revenues & Benefits System	0	28	0	0	0	28
General IT	150	171	300	300	300	1,071
Civic Offices Computer Suite No.2	150	241	0	0	0	241
Planning System	34	203	0	0	0	203
Total IT	484	1,079	300	300	300	1,979
Civic Office Works	0	186	5	20	215	426
Franking Machine	17	17	0	0	0	17
Total	501	1,282	305	320	515	2,422
Leisure						
Loughton Leisure Centre	800	101	0	0	0	101
Ongar Leisure Centre : Extention	453	453	0	0	0	453
W.Abbey S.C Heating Works (50%)	0	15	0	0	0	15
N W Airfield Market Improvements	50	89	50	50	50	239
N.W.Airfield Security Works	0	40	0	0	0	40
River Bank Strengthening	0	11	0	0	0	11
Total	1,303	709	50	50	50	859
Environmental Protection						
Bobbingworth Tip	871	908	4	0	0	912
Smarts Lane Discontinuance	0	6	0	0	0	6
Environ. Protection Equipment	0	1,240	0	0	0	1,240
Total	871	2,154	4	0	0	2,158
Civil Engineering & Maintenance						
Town Centre Enhancement						
Loughton High Street Works	786	817	264	0	0	1,081
Loughton Broadway Works	100	100	2,400	0	0	2,500
Total T C Enhancement	886	917	2,664	0	0	3,581
Traffic Calming	200	180	492	0	200	872
Housing Estate Car Parking	37	58	37	37	37	169
Car Park Upgrade Buckhurst Hill	50	50	0	0	0	50
Flood Alleviation Schemes	144	145	390	0	0	535
Grounds Maint Plant & Equipt	25	43	25	25	25	118
Total	1,342	1,393	3,608	62	262	5,325
TOTAL NON-HOUSING PROGRAMME	4,495	6,003	4,067	532	827	11,429

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CAPITAL RECEIPTS
2005/06 to 2008/09 FORECAST

	2005/06 Forecast £000	2006/07 Forecast £000	2007/08 Forecast £000	2008/09 Forecast £000	4 Year Total £000
Receipts Generation					
Housing Revenue Account	2,530	2,425	2,390	2,300	9,645
General Fund	0	0	0	0	0
Total Receipts	2,530	2,425	2,390	2,300	9,645
Receipts Analysis					
Usable Receipts	740	718	713	690	2,861
Payment to Govt Pool	1,790	1,707	1,677	1,610	6,784
Total Receipts	2,530	2,425	2,390	2,300	9,645
Usable Capital Receipt Balances					
Opening Balance	21,348	15,901	11,556	11,202	21,348
Usable Receipts Arising	740	718	713	690	2,861
Release of Set Aside (Regulation 33)	0	0	0	0	0
Transitional Payment from Pool (which must be used on Housing assets)	895	427	0	0	1,322
Commutation Adjustment	(270)	(226)	(215)	0	(711)
Use of Transitional Relief Receipts	(1,395)	(927)	0	0	(2,322)
Use of Other Capital Receipts	(5,417)	(4,337)	(852)	(1,147)	(11,753)
Closing Balance	15,901	11,556	11,202	10,745	10,745

Appendix 3(b)

MAJOR REPAIRS RESERVE
2005/06 to 2008/09 FORECAST

	2005/06 Forecast £000	2006/07 Forecast £000	2007/08 Forecast £000	2008/09 Forecast £000	4 Year Total £000
Opening Balance	1,414	880	42	97	1,414
Major Repairs Allowance	4,589	4,547	4,577	4,600	18,313
Use of MRR	(5,123)	(5,385)	(4,522)	(3,506)	(18,536)
Closing Balance	880	42	97	1,191	1,191

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Key Partners in Delivering the Capital Strategy

General	Town and parish councils Contractors Consultants Primary Care Trust Local Strategic Partnership
Loughton, Ongar, Epping Leisure Centres And Waltham Abbey Swimming Pool	SLM
Town Centre Enhancements	Loughton Town Centre Partnership Loughton Broadway Town Centre Partnership Buckhurst Hill Town Centre Partnership Loughton Town Council Buckhurst Hill Parish Council Essex County Council East of England Development Agency Business Development Board Chambers of Commerce Local traders and businesses Essex Police Disabled access groups Sainsburys Marks and Spencer
Social Housing	Housing Corporation GO-East Registered social landlords
Improvements to the Council's Housing Stock	Epping Forest District Tenants and Leaseholders Federation
Disabled Facilities Grants / Renovation Grants	Caring And Repairing in Epping Forest (CARE) Essex County Council ODPM GO-East Epping Forest Primary Care Trust
Waltham Abbey Sports Centre	King Harold School
Traffic Calming	Essex County Council Town and parish councils Essex Police
Economic Strategy Schemes	East Herts DC Uttlesford DC Harlow DC Essex Economic Partnership



**Epping Forest
District Council**

**Civic Offices, High Street
Epping, Essex CM16 4BZ
Telephone: 01992 464000**

ANNEX

(Report of Overview
& Scrutiny Committee –
6.10.05)

PROTOCOL ON PARTNERSHIPS AND OTHER EXTERNAL ORGANISATIONS

PROTOCOL - PARTNERSHIPS AND EXTERNAL ORGANISATIONS

1. Purpose of Protocol

- 1.1 To provide a framework of advice for the conduct of members and officers when representing the Council on external partnerships and other organisations.
- 1.2 To provide specific guidelines on questions relating to:
 - (a) member and officer liabilities;
 - (b) indemnities;
 - (c) reporting back to the Council;
 - (d) annual reports; and
 - (e) training.
- 1.3 This protocol is limited to appointments made in connection with the Council's powers, duties and general activities. It does not apply to membership of outside organisations held on a personal basis (i.e., independently of the Council). In such cases the member or officer concerned has a personal responsibility to consider issues such as indemnities, potential conflicts of interest and declarations of interest (see paragraphs 6.4 and 6.5 of this protocol).

2. Council involvement with External Partnerships and Organisations

- 2.1 The Council is routinely invited to appoint representatives to external bodies. Such invitations usually arise in one of the following ways:
 - (a) by virtue of a statutory duty or other legal requirement;
 - (b) by virtue of a specific decision or policy adopted by the Council;
 - (c) by virtue of invitations deriving from the Council's community leadership/consultative role; and
 - (d) by virtue of professional contacts among officers or through liaison arrangements delegated to them.
- 2.2 This protocol is intended to regularise the arrangements operating in any such case.

3. Appointments - Members of the Council

- 3.1 Member appointments are usually consolidated in May each year at the Annual Council meeting. Other Council meetings sometimes deal with appointments, usually in relation to casual vacancies or new bodies. All bodies will be reviewed annually.
- 3.2 Member appointments are subject to separate protocols in the Council's Constitution covering:
 - (a) allocation of places between the political groups; and
 - (b) allocation of places on outside organisations to Portfolio Holders where Cabinet functions are directly involved.
- 3.3 Reference to those separate rules is necessary on all questions of appointment procedure. No appointment of a member to an outside body or partnership can be

made without a Council decision. In deciding to make any appointments, the Council will satisfy itself that this involvement is relevant for the power and duties of the Council or is otherwise desirable.

4. Appointments - Officers of the Council

4.1 Officers serve on outside bodies in 3 main capacities:

- (a) when appointed by the Council, in lieu of a member representative or where both a member and an officer is desirable;

These appointments under 4.1 (a) above are subject to the same rules as applied to members.

- (b) by virtue of the post occupied or professional background/development requirements;

These are agreed by Heads of Service. For more junior positions, Heads of Service give approval, except where consultation with members or Management Board is desirable.

- (c) by virtue of a special invitation outside the normal terms of an officer's employment.

These appointments require approval by the Management Board and the Council in the case of Senior Officers. Junior staff are dealt with by Heads of Service. The Council's staffing policies stipulate the correct method of making these appointments.

5. Representatives on Outside Partnerships and Organisations - Policy Aspects

5.1 Where any external organisations are involved in any matter which directly or indirectly affects the policies, responsibilities and powers of the Council, representatives must be aware at all times that the Council's policy is paramount. No undertakings should be given which in any way compromise the legal requirements applying to Council operations or which compromise the policy of the Authority.

5.2 Representatives should report back to the Council on any matters affecting the Council and seek information with which to advise an external organisation or partnership. In reporting back, a representative may wish to request the relevant decision maker (e.g. the Cabinet or a Portfolio Holder) to consider any recommendations from the organisation concerned. No undertakings should be given on the outcome.

5.3 Some external partnerships have a basis in statutory powers whereby a number of partner bodies work together to achieve joint objectives. Although representatives are already able to participate in the proceedings of such partnerships, they should bear in mind at all times:

- (a) that the Council may have established policies and procedures which may be affected by those decisions; and
- (b) that implementation of partnership objectives may still require decisions by the Council in terms of staffing, finance and other resourcing matters.

6. Representatives on Outside Organisations and Partnerships - Insurance and Indemnities

- 6.1 Local Authorities are unable to provide all embracing indemnities or incur costs for all activities on all outside bodies. The Council's insurers can provide an indemnity to individual members and employees in limited circumstances only.
- 6.2 The circumstances in which the Council's insurers (currently Zurich) advise an indemnity can be provided are:
- (a) where an individual acts solely on behalf of his or her authority, within the terms of reference laid down by the authority, and solely in pursuance of the local authority's statutory powers;
 - (b) where the individual acts solely in an advisory capacity in connection with the local authority's functions;
 - (c) where the individual occupies an observer role on the board or committee of an outside organisation, representing the local authority's interests (rather than in a decision-making capacity);
 - (d) where the individual acts on behalf of a joint committee established by two or more local authorities.
- 6.3 The authority is not able to provide an indemnity in respect of those activities where the individual acts:
- (a) solely on behalf of an outside body; or
 - (b) outside his or her delegated powers; or
 - (c) outside the authority's statutory powers.
- 6.4 Members and officers of the Council can therefore participate on outside organisations as observers or facilitators in the exchange of views or information as an extension of their position as local authority Councillors, but they may not make any decisions which are binding on the local authority.
- 6.5 Members are also not indemnified if they serve in an executive capacity on an outside body. A Member's status as a local authority councillor does not prevent the Member serving on an outside body in a personal capacity (i.e. not as a Council representative), provided that this does not create a conflict with his or her duties as a local authority member. Outside bodies must provide cover in either of these situations and local authority Members and employees should ensure that adequate cover for them is in place before agreeing to being appointed.
- 6.6 The same principles apply to officers as are set out in paragraph 6.4 above.

7. Written Agreements

- 7.1 The Local Government Association, in conjunction with the National Council for Voluntary Organisations, has produced a Code of Practice, a key recommendation of which is a formal written agreement between external organisations and the Council. This protocol therefore requires such an agreement to be compiled in each case covering the following:

- (a) the relationship between the local authority and the organisation e.g. funder, partner;
- (b) the formal role and responsibilities of the authority, employee or Member, e.g. director, trustee, adviser, observer;
- (c) a general statement regarding what is expected from the local authority Member or employee;
- (d) the responsibilities and liabilities of members where board membership of the outside organisation is involved in terms of legislation, regulation and accounting standards;
- (e) confirmation that, where the outside organisation is a charity, a Member or employee who is acting as a trustee must act in the interests of the charity rather than the authority when serving in that capacity;
- (f) the role of observers, including receipt or withholding of confidential papers, attendance or exclusion from meetings and any speaking or voting rights;
- (g) the arrangements made by the outside organisation to indemnify their members against the risk of personal liability where board or trustee membership is involved; and
- (h) the arrangements made by the authority to cover their Members and employees whilst serving on outside organisations.

7.2 The Council will maintain up-to-date records of the approved involvement of the authority and its members and employees who serve on outside organisations including:

- (a) regular reviews of all placements and categorisations;
- (b) the establishment of a register to be used as the basis for central record;
- (c) specific terms of reference being given to each individual involved with an outside body;
- (d) confirmation of the extent to which the authority's indemnity does apply, emphasising the consequences for the individual if his or her terms of reference are exceeded;
- (e) a clear statement that the authority's indemnity will not be available where the individual is:
 - a director on the board of a limited company; or
 - a trustee of a trust or charity; or
 - a voting member of the management committee of an unincorporated association;

and is not exercising a local authority function;

- (f) the position of an individual member on the Board or Committee of a grant-aided organisation to be amended to observer only; and
- (g) written confirmation to all Members and employees that personal or social memberships (i.e. those not connected with the Council) are not covered by the authority's indemnity.

7.3 A form of agreement document is attached as Appendix 2.

8. Representatives on External Organisations/Partnerships - Directorships

8.1 Memberships of some organisations confer executive responsibilities on Council representatives. Cases in point are trustees of charities, directorships and membership of other statutory authorities.

8.2 There is a general presumption against such positions being held by representatives of this Council. This reflects conflicts of interest which can arise between the aims and objectives of the Council and those of the organisation concerned.

8.3 In cases where representatives hold such positions they must ensure:

- (a) that they have been duly appointed by the Council (in the case of members) or the Management Board (in the case of officers);
- (b) that their duties on behalf of the organisation do not conflict with their role as Councillor or officer; and
- (c) that they maintain a clear distinction of responsibilities by declaring interests and not participating in Council meetings or discussions where there is a direct conflict of interest.

8.4 Representatives must seek timely advice on their position under the Code of Conduct for Members and Officers and any advice issued by the Standards Board for England and the Epping Forest District Standards Committee.

9. Reporting Arrangements - Members of the Council

9.1 A prime responsibility for members and officers who serve on outside organisations and partnerships is to keep the Authority informed of the work of those bodies. Such reports can also provide useful information by which the Council can judge whether continued involvement is of benefit to the Council. The Council will seek to receive copies of minutes of organisations but the reports by the representative may still be required.

9.2 Such reports should cover:

- (a) reports to the Cabinet on specific matters actually or potentially affecting the Council or on urgent matters; and
- (b) annual reports (even if these are produced separately by the organisation concerned).

9.3 Reports under 9.2(b) should be made in cases where an organisation does not produce its own annual report. A prescribed format (attached Appendix 3) will be

used. A relevant timescale will be prescribed for this leading to the Annual Council meeting each year.

10. Reporting Arrangements - Officers of the Council

- 10.1 Officers serving on outside organisations or partnerships as representatives of the Council shall keep their line manager(s) or Head of Service informed about the work of the body concerned. Heads of Service shall determine whether any information should be referred to the Management Board/Portfolio Holder.

11. Review of Protocol

- 11.1 The protocol shall be subject to review on a regular basis or according to specific circumstances.

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LIST OF APPENDICES

- Appendix 1 - Statement of Indemnities/Insurance in respect of outside bodies**
- Appendix 2 - Agreement Document**
- Appendix 3 - Annual Report Format**

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**PROTOCOL ON PARTNERSHIPS
AND OTHER EXTERNAL ORGANISATIONS**

APPENDIX 1

INSURANCE AND INDEMNITY STATEMENT

1. Circumstances in which indemnities that can be provided by the Council's Insurers in respect of member or officer involvement in external partnerships and organisations:

- (a) Where an individual acts solely on behalf of his or her authority, within the terms of reference laid down by the authority, and solely in pursuance of the local authority's statutory powers;
- (b) Where the individual acts solely in an advisory capacity in connection with the local authority's functions;
- (c) Where the individual occupies an observer role on the board or committee of an outside organisation, representing the local authority's interests (rather than in a decision-making capacity);
- (d) Where the individual acts on behalf of a joint committee established by two or more local authorities.

2. Activities for which the Council is unable to provide indemnities

Activities where the individual member or officer acts:

- (a) solely on behalf of an outside body; or
- (b) outside his or her delegated powers; or
- (c) outside the authority's statutory powers.

Notes:

- 1. This statement derives from the indemnity provisions and exclusions from the Council's Public Liability Policy held with Zurich Municipal.
- 2. This statement will be reproduced as part of the agreement with each outside organisation. (See Appendix 2)

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**PROTOCOL ON PARTNERSHIPS
AND OTHER EXTERNAL ORGANISATIONS**

APPENDIX 2

**STANDARD FORM OF AGREEMENT
BETWEEN EPPING FOREST DISTRICT COUNCIL AND _____**

A. STATEMENT OF PARTICULARS _____

NAME OF ORGANISATION/ PARTNERSHIP (1)	
ADDRESS FOR CORRESPONDENCE (2)	
E-Mail (3)	
Telephone No (4)	
Fax No (5)	
AIMS AND OBJECTIVES OF ORGANISATION (Supply copy of Constitution, governing instrument or trust deed) (6)	
MEETING/AGENDA ARRANGEMENTS (Please describe) (7)	
WHAT STATUS/ROLE WILL THE COUNCIL REPRESENTATIVE FULFIL? (viz observer, voting committee member, trustee, director etc) (Please state any restrictions including any on confidential information) (8)	

<p>DOES PUBLIC LIABILITY INSURANCE EXIST FOR THE WORK OF THE ORGANISATION? (Give name of insurer and policy number) (9)</p>	
<p>IS THE ORGANISATION A REGISTERED CHARITY? (Give registration number) (10)</p>	

B. FINANCIAL INFORMATION

<p>Does this organisation receive grant aid or similar financial support from Epping Forest District Council? (Give details) (11)</p>	
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C. STATEMENT OF PARTICULARS - EPPING FOREST DISTRICT COUNCIL

<p>REPRESENTATIVES OF EPPING FOREST DISTRICT COUNCIL</p>	
<p>STATUS (OFFICER/MEMBER) (12)</p>	
<p>TERM OF APPOINTMENT (13)</p>	
<p>CONTACT DETAILS (Address, telephone, fax, e-mail) (14)</p>	

D. TERMS OF AGREEMENT - [Organisation]

The _____ agrees to:

- (a) provide details of all relevant documentation and access to all meetings to the representatives of Epping Forest District Council;
- (b) provide details of meeting venues, times of meetings;
- (c) acknowledge that no Council representative may make decisions or give commitment on behalf of the Council in respect of any matter affecting the organisation;
- (d) acknowledge that no Council representative may commit the Council to any action or policy affecting the organisation;
- (e) acknowledge that a Council representative may be required to declare a personal interest in terms of his or her representation on the organisation and in some circumstances, may have a prejudicial interest which will require withdrawal from any District Council body considering a matter concerning that organisation;
- (f) note that Council representatives will only be indemnified as set out in the enclosed statement;
- (g) assist the Council representative in submitting regular reports to Epping Forest District Council on matters affecting the organisation;
- (h) agrees to provide separate copies of agenda, minutes, reports, statements of accounts, annual reports to Epping Forest District Council in addition to those provided under 1(a) above;
- (i) where appropriate, agrees to the attendance at meetings of nominated deputies when the representative is absent.

E. TERMS OF AGREEMENT - EPPING FOREST DISTRICT COUNCIL

The Epping Forest District Council agrees as follows:

- (a) to appoint representatives and deputy representatives in accordance with the organisation's requirements;
- (b) to keep the organisation informed of relevant Council decisions via its representative(s);
- (c) to indemnify its representatives but only in accordance with the statement attached;
- (d) that it expects Council representatives to attend meetings and participate in any training deemed necessary by the organisation;
- (e) to advise representatives on any matters relating to interests as they arise.

F. SIGNATURES

- (a) For _____ [Organisation]

On behalf of the above-named organisation, I agree to the conditions attaching to the appointment of representative(s) by Epping Forest District Council

Signed _____

Name _____

Position _____

Date _____

(b) For Epping Forest District Council

On behalf of Epping Forest District Council, I confirm the conditions and undertakings attaching to Council representation on the above-named organisation.

Signed _____

Name _____

Position _____

Date _____

**PROTOCOL ON PARTNERSHIPS
AND OTHER EXTERNAL ORGANISATIONS**

APPENDIX 3

FORM OF ANNUAL REPORT

Name of Organisation (1)	
Name of Representative (2)	
Meetings Attended (3)	
Comments/Annual Report (Include work undertaken, grant aid issues, current issues) (4)	
If the organisation is a recipient of Council financial support please comment on value for money and whether the objectives of providing that support are being realised (5)	

Representation - is it beneficial to Epping Forest District Council to maintain membership? (Comment please) (6)	
Do you wish to continue for a further term? (7)	

Signed _____

Name _____

Date _____

Note:

1. Where there is more than one Council representative they should agree on the content of a single report.
2. Reports should be sent to the Head of Research and Democratic Services by 1 May each year.

CONTRACT STANDING ORDERS

<p>C1 Compliance with Standing Orders</p>	<p>(1) Every contract made by the Council or on behalf of the Council except as hereinafter provided shall comply (where applicable) with:</p> <ul style="list-style-type: none"> • Standing Orders • Financial Regulations • The Local Government Act 1972 • The Local Government Act 1988, Part 2 • The Local Government Planning and Land Act 1989, and supporting documentation • The Public Works Contracts Regulations 1991 • The Public Services Contracts Regulations 1991 • The Public Supply Contracts Regulations 1995 • The Local Government (Contracts) Act 1997 • The EU Regulations • Any relevant European Council Directive and any other current legislation for the time being in force <p>Where there is a conflict between Standing Orders, Financial Regulations and any statutory requirements, the Council must comply with statutory requirements.</p>	<p>Amend table of statutory requirements by adding the following:</p> <p>Local Government Act 1999</p> <p>Local Government Act 2000</p> <p>Local Government Act 2003</p> <p>Asset Management Plan</p> <p>Commonhold and Leasehold Reform Act 2002 and by deleting specific regulations.</p> <p>Reason: updates the list of relevant statutes, and covers the fact that EU Contract Regulations regularly change.</p>
<p>(2)</p>	<p>Before seeking quotations or inviting tenders in respect of any contract, a Chief Officer must establish whether a central contract exists which meets the requirement. If a central contract does exist then it must be used unless the appropriate Chief Officer in consultation with the Cabinet is able to demonstrate that there are specific advantages to be obtained via alternative arrangements. In such circumstances consideration shall be given to whether a new/revised central contract would be advantageous and appropriate.</p>	<p>Amend by the addition of the following words after “Cabinet” in the 5th line.</p> <p>“or Portfolio Holder if authorised under the general scheme of delegation or specific regulation ...”</p> <p>Reason: to reflect the executive constitution.</p>

<p>(3) Where the Council is acting as agent for a Government Department, or for another authority under the terms of an agency agreement, nothing in these Standing Orders shall be taken to authorise or require any departure from the instructions or requirements of those departments or the terms of any Agency Agreement.</p>	
	<p>Add the following after "Council" in the 3rd line: "or the Cabinet or by a Cabinet Committee or Portfolio Holder if duly authorised under the general scheme of delegation or specific resolution ..." Reason: reflects the executive constitution.</p>
<p>(4) No exception from any of the provisions of these Standing Orders other than those provided for within the Standing Orders themselves, shall be made otherwise than by direction of the Council, by the Cabinet where they are satisfied that the exception is of necessity and justified in special circumstances.</p>	<p>Add the following after "Cabinet" in the 1st line: "or the Cabinet or by a Cabinet Committee or Portfolio Holder if duly authorised under the general scheme of delegation or specific resolution ..." Reason: reflects the executive constitution.</p>
<p>(5) The reasons for any exception so made by the Council, or the Cabinet shall be made only pursuant to a report of the relevant Chief Officer and the reasons for such an exception shall be recorded both in the report of the Chief Officer and in the minutes of the appropriate meeting.</p> <p>For the purposes of these Standing Orders, the expression "Chief Officer" means the Chief Executive, the Finance Director, the Corporate Directors and the Heads of Service (See also C15 re: the appointment of consultants</p>	<p>Add the following after "Cabinet" in the 1st line: "or the Cabinet or by a Cabinet Committee or Portfolio Holder if duly authorised under the general scheme of delegation or specific resolution ..." Reason: reflects the executive constitution.</p> <p>Amend paragraph (6): after "the expression" in the first line by adding:</p> <p>(a) "Chief Officer" means a Joint Chief Executive or a Head of Service;</p> <p>(b) "Cabinet" means a duly constituted and convened meeting of those Councillors appointed to serve as Cabinet members;</p> <p>(c) "Cabinet Committee" means a duly constituted and convened meeting of those Councillors appointed by the Council to the Cabinet Committee concerned;</p> <p>(d) "Portfolio Holder" means a Councillor appointed by the Council as a member of the Cabinet and to responsibility for particular portfolio of services.</p> <p>Reason: amendment clarifies authorised bodies or individuals which are referred to in Contract Standing Orders.</p>

New paragraph (7)

Add new paragraph (to be numbered (7)) before existing paragraph (7) as follows:

(7) Unless otherwise specifically provided, where a value or an estimated value is given in these Contract Standing Orders, it means the aggregate payable in pounds sterling exclusive of VAT over the entire contract period.

Heads of Service must ensure that a pre-tender estimate of anticipated costs is prepared and recorded in writing. Where the EU Public Procurement rules apply, Heads of Service must also ascertain the value of a contract in accordance with those rules.

The value of orders which can be combined in one contract must be added together when deciding which tendering or quotation method is to apply. Contracts must not be artificially under or over estimated or divided into two or more separate contracts where the effect is to avoid the application of Contract Standing Orders.

Where the aggregate sum payable to one supplier of goods, works or services in a financial year is likely to exceed the limits of authority referred to in these Contract Standing Orders, the Head of Service must report to the Cabinet and seek a waiver of the Standing Order. It is the responsibility of the Head of Service to ensure that such a report is submitted prior to the limit of authority being breached.

Reason: clarifies definitions of contract values as referred to in Contract Standing Orders. In particular, sets out how combined contracts and recurring contracts should be dealt with.

(7) If any Officer is made aware of or becomes aware of an actual or potential breach of the procedures contained in these Contract Standing Orders or any other statutory requirement, that Officer shall report the breach immediately to the Chief Officer or the Chief Auditor as appropriate. It shall be a further requirement that any instances of serious non-compliance shall be reported by the Chief Officer concerned or the Chief Auditor to the Cabinet at the first available meeting.

<p>(8) The Contract Standing Orders are part of the Constitution of the Council and may only be varied at a Council Meeting on the recommendation of the Cabinet as part of the Constitution.</p>	<p>Renumber existing (7) and (8) to (8) and (9) respectively.</p>
<p>C2 Council's Works Unit and Equivalent Organisations</p>	
<p>(1) The Council's Works Unit shall have authority to sub-contract works up to 20% of their annual turnover. In the main these will be works of a specialist nature outside the normal skills available to the organisation in question, but may also be works of a general nature when necessary to cover peak work flows or staff shortages.</p>	
<p>(2) The Works Unit will have its own list of approved contractors which shall be in addition to the main list. The Works Unit list will be compiled taking into account the requirements of Standing Order C11(4). The contractors on the Works Unit list, which shall be reported to and approved by the Cabinet will, generally speaking, be smaller companies or specialist contractors who would not in the normal course of events be included on Constructionline.</p>	<p>Insert after C11(4) on 4th line "in respect of contracts in excess of £20,000". Reason: to clarify standing orders.</p>
<p>(3) Where works are sub-contracted in accordance with the provisions of these Standing Orders, the Council's Works Unit responsible for appointing the sub-contractor retains full responsibility for the quality, performance and completion of the works as though they had been carried out by direct employees of the Council.</p>	
<p>(4) The Chief Officer must be satisfied that any sub-contractor used is able to meet the requirements specified in Standing Order C11(4).</p>	<p>Delete last line and add: "appointed in accordance with requirements of Standing Order C2(2)". Reason: C11(4) requires constructionline to be used in respect of all contracts over £20,000 but C2(2) relating to all appointments of contractors.</p>
<p>(5) The Chief Officer may in addition seek quotations and tenders for works not subject to a select list in order to enable the Works Unit to respond to any invitations to tender.</p>	

<p>(6) The Chief Officer may enter into contracts following receipt of such quotations and tenders subject to compliance with Standing Order C11(4) and reporting to the next meeting of the Cabinet.</p>	<p>Delete third line of C11(4) and insert C2(2). Reason: C2(2) allows the use of a Works Unit List as well as constructionline but still requires all other provisions of C11(4) to be adhered to in respect of contracts over £20,000.</p>
<p>C3 Selection of Tendering Method</p> <p>(1) A Chief Officer is required, prior to the invitation of tenders or quotations, to determine the correct procurement procedure in accordance with the provisions of Standing Orders, based on the best estimate available at that time of the contract sum.</p> <p>(2) In the event that the value of tenders or quotations received exceeds the upper financial limit prescribed by the relevant Standing Order, the Chief Officer concerned shall report the circumstances to the Cabinet where the acceptance of any such tender or quotation will be considered.</p>	
<p>Contracts Not Exceeding £20,000</p> <p>(1) Each Chief Officer may by the issue of an official order in accordance with Standing Order C21(1) enter into a contract not exceeding £20,000 in value or amount.</p>	<p>Amend (1) (first line) by adding the following after "Chief Officer may" "in respect of the service or services for which they are responsible" Reason: clarifies the services over which Chief Officers may exercise this authority. Add after 1st sentence of (1): "... other than a contract for services. In the case of a contract for services on the Council's human resources website, the intranet must be used." Reason: reflects current practice.</p>

	<p>Add new sentence to (1) as follows:</p> <p>"... Each Chief Officer shall at all times have regard to "best value" requirements in the procurement of services and entering into contracts which are set out in Financial Regulations."</p> <p>Amend C21(1) to C22(1)</p>								
<p>[New paragraph (2) inserted]</p>	<p>Add new paragraph to be numbered (2) as follows:</p> <p>(2) Written quotations must be obtained for contracts which have a value of up to £20,000. The minimum number of quotations needed is:</p> <table border="0"> <tr> <td>Contract Value:</td> <td>Number of Quotations</td> </tr> <tr> <td>Up to £5,000</td> <td>One, unless the price and terms are known in advance</td> </tr> <tr> <td>£5,001-£10,000</td> <td>Two</td> </tr> <tr> <td>£10,001-£20,000</td> <td>Three</td> </tr> </table> <p>Reasons: introduces requirement competitive quotations within contracts let under delegated authority by Heads of Service and requires that these be recorded in writing. Provides better evidence of "best value" considerations are taken into account.</p>	Contract Value:	Number of Quotations	Up to £5,000	One, unless the price and terms are known in advance	£5,001-£10,000	Two	£10,001-£20,000	Three
Contract Value:	Number of Quotations								
Up to £5,000	One, unless the price and terms are known in advance								
£5,001-£10,000	Two								
£10,001-£20,000	Three								
<p>(2) Where the goods and/or services are of a repetitive and regular nature and not covered by a central contract as referred to in Standing Order C1(2) and annual contract or contract for such other period not exceeding four years as the Chief Officer shall consider appropriate shall be entered into for the supply of such goods/services and be in accordance with Standing Orders C12 or C14.</p>	<p>Renumber paragraph (2) to (3) and add "works" after "goods" in first and fifth line.</p> <p>Reasons: clarifies definition of tendered items.</p>								
<p>[New paragraph (4) inserted]</p>	<p>Add new paragraph (4) as follows:</p> <p>"(4) The terms of the delegation set out in (1) - (3) above shall not be applicable if the requirements of Standing Order C11 apply."</p> <p>Reason: sets a framework for the exercise of delegation.</p>								

<p>C5 Contracts Exceeding £20,000 but not exceeding £50,000</p>	<p>Delete: “either” on last line. Reason: to reflect later changes to this Standing Order.</p>
<p>(1) In respect of contracts exceeding £20,000 but not exceeding £50,000 in value or amount the appropriate Chief Officer may, subject to the provisions of Standing Order C16, enter into a contract, provided that either:</p> <p>(a) at least three quotations plus any in-house bid shall have been obtained from those companies included on Constructionline, unless the required trade or profession is not served by Constructionline. In which case quotations shall be obtained from sources considered appropriate by the relevant Chief Officer. Such quotations will have been invited in such a way as to allow sufficient time, as determined by the relevant Chief Officer, to enable the parties quoting to submit competitive quotations, the receipt, custody and opening of such quotations to have been carried out as prescribed by Standing Orders C16, C17 and C18. Chief Officers will maintain a register of the selection criteria employed to obtain a tender list; or</p> <p>the proposed contract forms a continuation of an existing contract which is based on rates and prices obtained in accordance with these Standing Orders.</p> <p>(b) where the required trade or profession is not served by Constructionline, at least three quotations are obtained from sources considered appropriate by the relevant Chief Officer;</p> <p>Re-number existing C5(1)(b), C5(1)(c).</p> <p>(d) all quotations under (a) and (b) above being invited in such a way as to allow sufficient time, as determined by the Chief Officer, to enable those companies to submit competitive quotations or tenders;</p> <p>(e) the receipt, custody and opening of such quotations or tenders being carried out as prescribed in Standing Orders C16, C17 and C18;</p> <p>(f) a register being maintained by Chief Officers of the selection criteria employed to obtain a tender list."</p> <p>Reason: Clarification of wording.</p>	<p>(2) Where the goods and/or services are of a repetitive and regular nature and not covered by a central contract as referred to in Standing Order C1(2) an annual contract or contract for such other period not exceeding 4 years as the Chief Officer shall consider appropriate shall be entered into for the supply of such goods/services and be in accordance with Standing Orders C12 or C14.</p>

<p>(3) To satisfy the Council's Audit Requirements, Chief Officers will notify the Chief Auditor of all purchases and contracts, for goods and services over £20,000.00 in value. Similarly, the Chief Auditor should also be informed of goods and services purchased from one supplier which total over £20,000.00 in value during one financial year.</p>	<p>Delete and substitute the following:</p> <p>C5(3) Chief Officers will notify the Chief Auditor of all individual purchases and contracts for goods, works and services over £20,000 in value whatever the period of the contract. Similarly, the Chief Auditor should be notified of goods, works and services purchased from one supplier which total over £20,000 in value during one financial year.</p>
<p>C6 Contracts Exceeding £50,000</p>	
<p>Where the estimated value or amount of a proposed contract for the supply of goods or services exceeds £50,000 or where the conditions of Standing Orders C4(2) or C5(2) apply, tenders shall be invited in accordance with Standing Orders C7, C8, C9, C10, C11 or C12. Standing Order C5(3) shall also apply.</p>	<p>Amend third line C32 to C33.</p> <p>Reason: to reflect other changes in Contract Standing Orders.</p>
<p>Restricted Tendering: Approved list</p>	
<p>(2) This Standing Order shall apply to projects with an estimated value not exceeding the limits specified in the EU Regulations and mentioned in Standing Order C32. A Chief Officer will resolve that invitation to tender for a contract be limited to those persons or bodies whose names are on Constructionline, the national qualification system, unless the trade or profession is not served by Constructionline.</p>	<p>Amend C32 to C33.</p> <p>Reason: to reflect other changes in Contract Standing Orders.</p>
<p>(2) The system will be administered by the Head of Environmental Services via the Contract Compliance Officer to whom comprehensive details shall be provided in respect of the contractor selection criteria applied, tenders invited and contracts awarded.</p>	<p>Add additional sentence as follows:</p> <p>"All Chief Officers are placed under a duty to provide this information to the designated Contract Compliance Officer".</p> <p>Reason: duty is not clearly stated.</p>

<p>(3) If any Chief Officer considers that any contractor should no longer be considered for any future invitation to tender, a report shall be made to the Cabinet. If approved, following a review of the circumstances by the Cabinet, then a report shall also be made to Constructionline.</p>	<p>Delete references to “Cabinet” and substitute “relevant portfolio holder”.</p> <p>Reason: not a significant change requiring reference to the Cabinet.</p>
<p>(4) Invitations to tender shall be:</p> <p>(a) sent to not less than four Contractors selected from Constructionline;</p> <p>(b) where fewer than four are available, to all such Contractors.</p>	<p>Add Line 2 of (a) “unless the trade or profession is not served by Constructionline when the contractors selected in accordance with Standing Order C7(1) may be invited to tender.”</p> <p>Reason: reflects contractors not included in Constructionline.</p>
<p>C8 Ad Hoc List</p>	
<p>(1) This Standing Order shall apply to projects;</p> <p>(a) with an estimated value in excess of £2 million;</p> <p>(b) where the Council has resolved that invitation to tender be made to persons who have replied to a public notice; and</p> <p>(c) where the EU regulations specified in SO (1) (d) apply.</p>	<p>Amend C8(1) by adding “or” at the end of sub paragraphs (a), (b) and (c).</p> <p>Reason: clarifies that each condition applies individually.</p>
<p>(2) This Standing Order shall apply also to the provision of goods and services of an ad hoc nature that cannot be accommodated by Standing Order C7.</p>	
<p>(3) Where the EU Regulations apply:</p> <p>(a) as soon as possible after the decision to approve any works; and</p> <p>(b) in the case of services and supplies, as soon as possible after the commencement of the Council’s financial year,</p>	

<p>the Chief Officer shall send to the Official Journal of the European Communities (OJEC) a prior information notice in the form prescribed by the appropriate EU Regulations to alert prospective tenderers to the availability of Contracts during the next financial year.</p>	
<p>(4) In order that applicants will have a reasonable opportunity of expressing an interest, at least ten days public notice shall be given in one or more of the local newspapers circulating in the District and in trade journals circulating among persons who undertake such contracts.</p>	
<p>(5) Where required a contract notice must be placed in the OJEC stating the nature and purpose of the contract. The content of European Union Notices shall be agreed in advance with the Head of Legal and Administration Services by the appropriate Chief Officer and shall be published in the official journal at such a date prior to the letting of the contract which complies with EU public procurement legislation.</p>	
<p>After the expiry of the period specified in the public notice and the contract notice invitations to tender for the contract shall be sent to:</p> <ul style="list-style-type: none"> (a) not less than four persons or bodies who have applied for permission to tender and who have been selected as suitable by the appropriate committee; (b) if this is a contract to which the EU regulations apply, to the number specified in the advertisement as the minimum number of tenderers to be invited apply; and (c) where fewer than four have applied, all those applicants considered suitable. 	
<p>C9 Open Tendering</p>	
<p>(1) This Standing Order shall apply where the Council have resolved that tenders for a contract are to be obtained by open competition.</p>	<p>Amend references to “the Council” to “the Council, the Cabinet, a Cabinet Committee or a Portfolio Holder”.</p>

<p>(2) For the purposes of this Standing Order procedures should comply with the requirements of Standing Orders C8(2), (3), (4), and other Standing Orders as appropriate (e.g. C11, C16, C17, C18 etc).</p>	
<p>C10 Negotiated Tendering</p> <p>(1) This Standing Order shall apply where the Council has resolved that tenders need not be invited and that a contract may be negotiated in the following circumstances:</p> <ul style="list-style-type: none"> (a) the subject matter of the contract is urgently required and that loss, injury or damage would result from a delay whilst advertising takes place; (b) the subject matter of the contract is of such a specialised nature that no advantage would accrue by inviting competitive tenders; (c) there is no effective competition for the subject matter of the contract because payment is fixed under statutory authority or because the subject matter is a patented or proprietary article or is available from only one source; (d) other tendering procedures have been used and resulted in: <ul style="list-style-type: none"> (i) unacceptable or irregular tenders; or (ii) no tenders being received; (e) where the tender sought is in respect of a continuation contract and the preceding contract was won in competition, subject to the tenderer's satisfactory performance on the previous phase; and 	<p>Add the following after "Council" in the first line of paragraph (1): "... the Cabinet, a Cabinet Committee or a Portfolio Holder."</p> <p>Reason: reflects executive constitution.</p> <p>Amend references to "the Council" (see C9).</p> <p>Add to (e) the words "and to the approval not resulting in a contract which is for more than a four year period."</p> <p>Reason: to make this requirement the same as that specified in EU Regulations.</p>

<p>(f) where the tender sought is in respect of specialist works or services, and the Council is satisfied that it is fair and reasonable in view of an existing relationship with a contractor to extend that relationship in regard to a new project, the reasons for proceeding by means of a negotiated tender shall be recorded in the minutes of the appropriate meeting.</p>	
<p>(2) If the value of the contract is such that EU regulations apply, then the negotiated tender procedure may only be used in the circumstances permitted by the regulations and public notice shall be given in accordance with EU requirements where applicable.</p>	
<p>C11 Contractor Selection</p>	
<p>(1) Subject to Standing Order C7(4), invitations to tender (other than those in accordance with the EU Regulations) shall be on a strict rotation basis as agreed in consultation with the Head of Environmental Services but shall include the two previous lowest tenderers in the appropriate list and if appropriate the Works Unit, provided that where a contract succeeds in winning more than two successive contracts in the same financial year by virtue of being the lowest tenderer, a report shall be made to the appropriate committee. If the contract is one that exceeds the thresholds mentioned in EU Procurement Regulations, then the invitations to tender will be sent to contractors who comply with those regulations.</p>	<p>Amend wording of C11(1) as follows:</p> <p>(1) Subject to Standing Order C7(4), invitations to tender (other than those in accordance with EU Regulations) shall</p> <p>(a) be on a strict rotation basis as agreed in consultation with the Head of Environmental Services unless the contract is let in accordance with Standing Orders C4, C6, C7, C8, C9, C10 or if no previous contract has been let for this type of work, service or goods;</p> <p>(b) include the lowest and second lowest tenderers in the appropriate list, if any and if appropriate the Council's Works Unit list;</p> <p>(c) be subject to a report to the appropriate Council body if a contractor succeeds in winning more than two successive contracts in the same financial year as lowest tenderer;</p> <p>(d) be subject to the EU Procurement Regulations procedures for letting contracts if the contract exceeds the value thresholds prescribed by those regulations.</p> <p>Reason: simplification.</p>

<p>(2) The results of all tenders received together with details of any contract awarded shall be notified in writing to the Head of Environmental Services and to the Chief Auditor prior to the commencement of the contract.</p>	<p>Add additional sentence as shown under C7(2) Reason: See C7(2).</p>
<p>(3) In respect of a contract to which the EU Regulations apply, a Contract Award Notice must be sent to OJEC in the form prescribed by the EU Regulations within 48 days of the award of the contract.</p>	
<p>(4) For contracts in excess of £20,000, under no circumstances shall an invitation to tender be given to any person or body:</p> <ul style="list-style-type: none"> (a) whose name does not appear on Constructionline unless the trade required is not included on Constructionline; (b) who has given advice to the Council on any matter relating to the proposed contract either in their own right, jointly with another firm or company or as agent, consultant or employee of such company; and (c) who has not met the requirements mentioned in the Contract Notice where the contract is one to which the EU Regulations apply. 	<p>Add "or" at the end of (a). Reason: only one of these conditions needs to be met.</p> <p>Amend (b) to delete "and" and add "or". Reason: only one of these conditions needs to be met.</p>
<p>(5) As part of the tender process, the details regarding the contractor's conference held on Constructionline or obtained from other sources, should be examined to ensure the suitability of the contractor to carry out the contract. This will include:</p> <ul style="list-style-type: none"> (a) that the contractor's background and competence to carry out the task in question is still in accord with the entry on Constructionline; (b) evidence of satisfactory Employers and Public Liability Insurance cover, the amount and terms of which are to the satisfaction of the Finance Director; 	<p>Amend first paragraph and (a) to read as follows: "As part of the tender process, the pre-qualification information held on Constructionline (or obtained from other sources) should be used in conjunction with pre-contract checks on any contractor as follows: (a) the contractor's background and competence to carry out the task in question;" Reason: Details of competency is not included with information held on Constructionline</p>

<p>(c) acceptable Health and Safety and Equal Opportunities policies;</p> <p>(d) details of any registration with a nationally recognised regulating body or its European equivalent as appropriate to the work and any guarantee schemes attached are satisfactory;</p> <p>(e) the qualification of the workforce and supervisors in relation to the proposed works is satisfactory;</p> <p>(f) the contractor's previous work record for the Council is considered satisfactory;</p> <p>(g) obtaining satisfactory banking references, statements of account or similar references by referees of sufficient standing. An entry in Constructionline may count as one reference; and</p> <p>(h) asking the contractor to attend for interview if considered necessary.</p>	<p>(b) delete "Finance Director" and substitute "Head of Finance".</p> <p>Reason: reflects executive constitution.</p>
<p>Chief Officers may reduce any Long List produced by Constructionline to a Short List; using a priority rating system provided documentary justification is held. Priorities should include locality to the District, extent of relevant experience, previous working relationships with the Authority and any other relevant factors at the discretion of Heads of Service (e.g. qualification awards).</p>	
<p>C12 Serial Tenders</p>	
<p>(1) This Standing Order shall apply where the Council has resolved that the proposed contract forms part of a serial programme.</p>	<p>Amend references to "the Council" as in C9 and C10.</p>

<p>(2) The terms of such contract shall be negotiated with the contractor on the basis of the rates and prices contained in an initial contract awarded competitively following an invitation to tender in accordance with the provisions of Standing Orders C7 or C8 and any such serial programme shall continue for a maximum of two years following the end of the financial year in which rates and prices are first obtained.</p>	<p>Amend line 5 as follows: delete "two years" and substitute "four years".</p> <p>Reason: EU regulations do not compel the Council to increase the number of years to four only set a maximum. If changing to 4 years must have another operational reason.</p> <p>E.g.: to make this requirement the same as that specified in EU regulations.</p>
<p>C13 Sub-Contractors and Nominated Suppliers</p>	
<p>(1) Tenders for sub-contracts to be performed or goods or materials to be supplied by nominated sub-contractors or suppliers shall be invited in accordance with the methods prescribed in these Standing Orders.</p>	
<p>(2) The Chief Officer concerned is authorised to nominate to the main contractor the sub-contractor, or supplier whose tender, obtained in accordance with the preceding sub-paragraph is, in his opinion, the most satisfactory; provided that, where the tender is not the lowest received or where the tender it is proposed to accept, exceeds by 10% the prime cost sum included in the main contract sum, the circumstances shall be reported to the next meeting of the appropriate committee.</p>	<p>Delete: "appropriate Committee" in the last line and substitute "the Council, Cabinet, Cabinet Committee or Portfolio Holder as appropriate".</p> <p>Reason: reflects executive constitution.</p>
<p>C14 Exception for Consortia, Public Supply Agencies etc.</p>	
<p>The procedures for invitation of tenders by the Council need not apply where special arrangements have been entered into by any consortium, collaboration or similar body of which the Council is a member or under which the Council is entitled to benefit by virtue of its status as a public authority. Where, however, tenders are invited by an officer of the Council, which includes any consortia or public supply agency as one of those invited to tender, then the delivery, opening and acceptance of tenders shall comply with the provisions of these Standing Orders.</p>	<p>Amend C14 by the addition of the following sentence after "authority" in line 6:</p> <p>"The terms and conditions of any proposed contract must be acceptable to the Head of Finance and the Head of Legal, Estates and Administration".</p> <p>Reason: C-14 should stipulate the consortia etc must be in a legally robust form to protect the Council's interests.</p>

<p>C15 Appointment of Consultants</p>	<p>(1) It shall be a condition of the appointment of any architect, engineer, quantity surveyor or other consultant (not being an officer of the Council) who is to be responsible to the Council for the supervision of a contract on its behalf, that in relation to that contract there shall be compliance with the requirements of these Standing Orders relating to contracts as though the Consultant was a Chief Officer.</p>	<p>Add the following sentence at the end of (1):</p> <p>"The Council's standard form of appointment for consultants shall apply in all cases. This is set out in full in Annex 2 to these contract standing orders".</p> <p>Reason: clarifies current Council practice.</p>
<p>(2) The engagement of consultants shall be in accordance with Standing Orders C4, C5, C6, C7, C8, C9, C10 or C12, dependent on the estimated amount of the fees and disbursements to be paid to them.</p>		
<p>(3) The appointment of any consultant to the Council in respect of duties performed or services rendered on projects with an estimated or potential scheme value in excess of £250,000 shall be under seal. The appropriate Chief Officer may, however, require that any contract of less than £250,000 in value or amount shall be under seal if it is considered that this would be in the Council's best interests.</p>		<p>Add the following after "any contract" in the fourth line of (3):</p> <p>"... in respect of a scheme ..."</p> <p>Reason: clarification</p>
<p>C16 Posting Receipt and Custody of Quotations and Tenders</p>		
<p>(1) New Paragraph</p>		<p>Add new paragraph as follows:</p> <p>"All quotations and tenders invited in accordance with standing orders shall be sent out by Special Delivery. The instruction to the post room shall include 'T&T' or equivalent system so that the progress of the documentation will be traced.</p> <p>Reason: Potential tenderers have in the past stated that they have not received invitations to tender."</p>

(1) Quotations and tenders invited in accordance with these Standing Orders will not be considered unless contained in a plain envelope which shall be securely sealed and shall not bear any distinguishing matter or mark intended to indicate the identity of the sender, such envelope to be marked and returned in one of the following ways:

(a) in respect of contracts with an estimated value up to £50,000 the envelope shall bear the word "Quotation", followed by the subject to which the quotation relates, the closing date for receipt and shall be addressed impersonally to the relevant Chief Officer; or

(b) in respect of contracts with an estimated value in excess of £50,000 the envelope shall bear the word "Tender" followed by the subject to which the tender relates, the closing date for receipt, and shall be addressed impersonally to the Head of the Policy Unit, who shall maintain in a secure location a record of tenders and the dates and times of receipt.

Amend (2) (b) (re-numbered) by changing "Head of Policy Unit" to "Head of Research and Democratic Services".

Reasons: reflects change in post title.

Quotations and tenders submitted in respect of the provision of goods and services or offers for the disposal of any interest in land or property, by means of any electronic transmission system shall be automatically disqualified from consideration and shall be dealt with by the appropriate Chief Officer in accordance with the procedure outlined in the same manner as late tenders in Standing Order C18(b).

Delete C16(3) (re-numbered) and substitute the following to be numbered (3):

"(3) Invitations by the Council of tenders and quotations for the provision of goods or services shall only be permitted by electronic means in accordance with the Essex Marketplace Procurement system. Any tender or quotation submitted to the council by electronic means shall be disqualified from consideration unless submitted in accordance with the Essex Marketplace Procurement system and shall be dealt with by the appropriate Chief Officer in accordance with the procedure prescribed in Standing Order C18(c) for late tenders.

Reason: In the electronic/computer age the existing C16(2) should be amended to permit electronic invitations of tenders and quotations and the receipts of such tenders and quotations. However, it is recommended that this should be facilitated only within the framework of the Essex Marketplace Procurement System to which Essex districts are affiliated. Further work will be undertaken on extending electronic handling to other tendering but these are not considered to have appropriate security at present.

NOTE: This recommended change is subject to consideration at the OS Committee on 8.12.05. The Committee's decision will be reported orally.

	<p>(5) All tenders shall be in the custody of the Head of the Policy Unit and shall be kept in a secure location until required to be opened.</p> <p>(6) The provisions of Standing Orders C16(2) and C16(3) shall not apply in relation to Standing Order C4.</p>	<p>Renumber existing (3) and (4) as (5) and (6)</p>
<p>C17 Opening of Tenders and Quotations</p> <p>Quotations and tenders received in accordance with these Standing Orders shall be opened at one time, as follows:</p> <p>(a) in respect of contracts with an estimated value not exceeding £50,000, the relevant Chief Officer in the presence of at least one of his principal or senior officers, shall open the quotations received, and shall maintain a record of all such quotations;</p> <p>(b) in respect of contracts with an estimated value in excess of £50,000 the Chairman of Committee concerned, together with the Head of the Policy Unit and the relevant Chief Officer, or their representatives who shall be Principal or Senior Officers, shall open the tenders which in the normal course of events will not be less than three working days after the closing date for receipt of those tenders; and</p> <p>(c) the Head of Research and Democratic Services shall maintain and sign a record of all tenders opened which shall also be signed by the relevant Portfolio Holder and the representative of the Head of Service concerned.</p>	<p>Amend reference to "Head of Policy Unit" to "Head of Research and Democratic Services".</p> <p>Amend reference to "Chairman of Committee concerned" to "Portfolio Holder concerned".</p> <p>Reason: reflects new post title and executive constitution.</p>	
<p>C18 Late Receipt of Quotations and Tenders</p> <p>Quotations and tenders invited in accordance with these Standing</p>	<p>Amend references to "Committees" throughout</p>	

<p>Orders which are received after the date stipulated for their return shall be examined unopened by the relevant Chief Officer and shall be dealt with as follows:</p>	
<p>(a) provided that such other quotations or tenders as have been received have not been opened, the relevant Chief Officer shall, if satisfied that there is evidence of posting in time for delivery by the due date in the normal course of post delivery, place the quotation or tender with such others as have been received to await opening in accordance with Standing Order C17 and shall note or cause to have noted the action in the record maintained under that Standing Order and report the situation to the committee concerned; and</p>	<p>Revise sub-paragraph (a) as follows:</p> <p>(a) where other quotations or tenders have been received but not opened and the Chief Officer is satisfied that there is evidence of posting in time for delivery, a late tender shall be noted in the record kept by the Chief Officer and retained for opening in accordance with Standing Order C17 and the circumstances reported to the body or individual responsible for approval;</p> <p>Reason: clarifies wording.</p>
<p>(b) in the event of such other quotations or tenders as have been received having been opened or the quotation or tender clearly being delivered after the due date, the Head of the Policy Unit or the relevant Chief Officer shall open the quotation or tender to ascertain the name and address of the sender, who will promptly be advised in writing of the reason for the disqualification, the records maintained by the Head of the Policy Unit or the relevant Chief Officer under Standing Order C17 shall be annotated to record the action taken, but the value or amount of the quotation or tender shall not be recorded.</p>	<p>Revise sub paragraph (b) as follows:</p> <p>(b) where other tenders have been opened or there is no evidence in the opinion of the Chief Officer of posting of the tender in time to reach the Council by the closing date, the tender will be opened by the Head of Research and Democratic Services or the relevant Chief Officer for the purpose of advising the tenderer or their disqualification from consideration, the record of tenders received being annotated accordingly.</p> <p>Reason: clarifies wording.</p>

<p>C19 Alterations</p>	
<p>(a) Quotations and tenders shall not be altered after the date stipulated for their return, save that the relevant Chief Officer shall permit correction of arithmetical errors if he is satisfied that such errors were made inadvertently.</p> <p>(b) If an error is identified before the closing date for the return of tenders, all the tenderers shall be informed of the error and invited to adjust their tenders.</p> <p>(c) If an error in the specification is identified after the closing date for the return of tenders, all tenderers shall be given details of the error and afforded the opportunity of withdrawing the offer or submitting an amended tender.</p>	
<p>C20</p>	
<p>Acceptance of Quotations and Tenders</p> <p>A Chief Officer may, subject to the provisions of Standing Order C5 accept the lowest quotation received in respect of a contract not exceeding £50,000 in value or amount; a quotation other than the lowest received shall not be accepted until the Council or the Cabinet has considered a report from the appropriate Chief Officer or other person.</p>	<p>Add reference to “Portfolio Holder” in the fourth line.</p> <p>Reason: reflects executive constitution.</p>
<p>(2) In respect of a contract in excess of £50,000 in value or amount no tender shall be accepted until approved by the Council or the appropriate committee. Subject to the requirements of Section 123 of the Local Government Act 1972 and of Contract Standing Orders, nothing in this Standing Order shall prevent the Council or the Cabinet from accepting a tender other than the lowest received provided that such acceptance shall be approved only on the recommendation of the appropriate Chief Officer and that the reasons for such action shall be recorded in the minutes of the appropriate meeting.</p>	<p>Amend (2) to delete “the Council or the appropriate committee” and substitute “the Council or the Cabinet....”</p> <p>Reason: reflects executive constitution.</p>

<p>(3) A certificate of bona fide tendering in terms that the Head of Legal, Estates and Administration Services shall prescribe shall be completed by every tenderer before a tender is accepted.</p>	<p>Replace C20(3) with the following:</p> <p>“Each Head of Service shall ensure that a certificate of bona fide tendering is completed by every tenderer before a tender is accepted. This certificate shall be in a form prescribed by the Head of Legal, Administration and Estates Services.”</p> <p>Reason: to state clearly the responsibilities of Chief Officers.</p>
<p>[Insert C21 Post Tender Negotiation]</p>	<p>C21 Post Tender Negotiation</p> <p>(1) Where a Procurement is conducted through either the open or restricted procedure, and the EU (UK) Regulations apply, no post tender negotiations are permitted. The Council may seek clarification from Suppliers where appropriate and this does not constitute post tender negotiation.</p> <p>(2) Where a Procurement is conducted through the open or restricted procedures and the EU (UK) Regulations do not apply, post tender negotiations are only permitted to the extent indicated in the tender documentation. Any negotiation will be in strict compliance with the tender documentation. Proper and sufficient records of any negotiation shall be maintained.</p> <p>(3) Should negotiations be required because the lowest tender exceeds the budget available, or the Council's requirements have changed since the tenders were invited, all tenderers must be given the opportunity to submit revised tenders based on a revised specification.</p> <p>Reason: complies with EU legislation.</p>

<p>C22 Contract Documentation</p>	<p>(1) Contracts placed in accordance with Standing Order C4 may be dealt with by the use of an official order, providing that the relevant Chief Officer is satisfied there is no need for more extensive terms and conditions in order to protect the interests of the Council. An official order should not be used in respect of any other contract.</p> <p>(2) Contracts for the execution of works placed in accordance with Standing Orders C5 and C6 shall be in writing and be in a standard format such as ICE or JCT as approved by the Head of Legal, Estates and Administration Services.</p> <p>(3) Every contract for the supply of goods, materials or services or for the execution of works for an amount in excess of £50,000 shall be under seal as should any other contract where it is desired that the period of liability for breach of contract should be extended from six to twelve years.</p> <p>(4) Every contract for the execution of works shall contain a provision affording the Chief Executive or his authorised representative access to the site and the relevant documentation for audit purposes during the construction of the works.</p>	<p>Add in 2nd line after the word "order" "in respect of works or goods and in respect of services the contract on the website of Human Resources on the Intranet".</p> <p>Reason: introduction of standard contract for services introduced by H.R.</p> <p>Add "PPC2000" or similar partnering contracts after "ICE" in first line of C22(2)</p> <p>Reason: these forms of contract is currently used by the Council.</p> <p>Amend (second line) by deleting the "Chief Executive" and substitute "a Joint Chief Executive".</p> <p>Reason: reflects current top management structure.</p> <p>Add new paragraph (5) as follows:</p> <p>"(5) All contracts shall include standard contract terms as set out in Annex 2 to these Contract Standing Orders unless the Head of Legal, Administration and Estates agrees an amended clause in substantially the same term or agrees that it would not be relevant to a particular contract."</p> <p>Reason: standard contract terms should be included as a means of reference in this document.</p>
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<p>C23 Retention of Documents</p>	<p>The relevant Chief Officer shall ensure that:</p> <p>(a) all appropriate contract documentation must be retained for a minimum of six years, or if a contract is executed as a deed under seal, twelve years, following the date of the final payment;</p> <p>(b) unsuccessful tenders should be retained in a secure location for a period of two years; and</p> <p>(c) tender opening records should be retained indefinitely in a secure location.</p>	
<p>C24 Liquidated Damages, Performance Bonds and Insurance</p>		<p>Add the following words after "contracts" in the first line.</p> <p>" including contracts under PPC2000 or similar partnering contracts"</p> <p>Reason: these contract types are not referred to at present and are frequently used by the Council.</p>
<p>(2)</p>	<p>The Council shall not require security for the due performance for any contract below £2 million, unless there are special circumstances which in the opinion of the relevant Chief Officer would warrant this provision.</p>	
<p>(3)</p>	<p>For every contract of £2 million and above, a performance bond shall be obtained for its due performance.</p>	
<p>(4)</p>	<p>In exceptional circumstances, a Chief Officer, subject to the agreement of the Finance Director, may require a parent company guarantee or a deposit with the Council, as security. The precise form of any parent company guarantee must be agreed with the Head of Legal and Administration Services.</p>	<p>Delete "Finance Director" in the second line of (4) and "Head of Legal and Administration Services" in the last 2 lines and substitute "Head of Finance" and "Head of Legal, Estates and Administration Services" respectively</p> <p>Reason: reflects current post titles and responsibilities.</p>

<p>(5) Notwithstanding the fact that Constructionline includes insurance details of contractors and consultants, there shall be a requirement to insert in every written contract which places upon the contractor liability to effect insurance in respect not only of the works to be carried out or goods to be supplied but also in respect of its employees and third parties. The insurance shall have the interest of the Council noted and the contractor shall be required to supply evidence of insurance cover effected and premiums paid as and when required for the approval of the Finance Director. The minimum third party insurance cover shall be £5,000,000 or such other sum as may be determined by the Finance Director.</p>	<p>Delete "Finance Director" in lines 8 -10 and substitute "Head of Finance".</p> <p>Reason: reflects current post titles and responsibilities. Add a further sentence of the Standing Order as follows:</p> <p>"The Contractor shall also show evidence of a level of employer liability cover which is considered appropriate by the Head of Finance.</p> <p>Reason: The current Standing Order does not specify a requirement that contractors appointed by the Council should have appropriate employer liability cover.</p>
<p>(6) In contracts for professional services, confirmation of Professional Indemnity Insurance with a minimum cover of £1,000,000 for any one claim or such other sum as may be determined by the Finance Director, shall be additionally provided when required.</p>	<p>Delete: "Finance Director" and substitute "Head of Finance" in third line.</p> <p>Reason: Reflects current management structure.</p>
<p align="center">Page 25 of 76 Retentions</p>	
<p>A contractually - specified retention must be held on all contracts where there is a defects liability of maintenance period. The monies held must not be finally released until the end of these periods. Retention clauses shall also be included in other forms of contract where the Chief Officer considers it appropriate.</p>	
<p>C26 Assignment</p>	
<p>(1) Every written contract shall contain a provision which prohibits the contractor from transferring or assigning directly or indirectly, to any person or persons whatever, any portion of the contract without the written permission of the Council.</p>	<p>Delete (1) and substitute the following:</p> <p>"Every written contract shall include the provision against assignment specified in the annex unless the Head of Legal Administration and Estates agrees an amended clause in substantially the same terms".</p> <p>Reason: reflects legal requirements.</p>

<p>(2) Whenever a contractor is unable to conform to C26(1) and every alternative measure has been evaluated, then the Chief Officer responsible shall request approval to proceed from the relevant Committee.</p>	<p>Amend reference to "relevant Committee" in the final line of (2) and substitute "relevant Portfolio Holder".</p> <p>Reason: reflects current executive constitution.</p>
<p>C27 Cancellation</p> <p>In every written contract, a clause shall be inserted to secure that the Council shall be entitled to cancel the contract, and to recover from the contractor the amount of any loss resulting from such cancellation if the contractor shall have offered or given or agreed to give to any person any gift, or consideration of any kind as an inducement or reward, for doing, or forbearing to do, or for having done, or forborne to do, any action in relation to obtaining the execution of the contract, or any other contract with the Council, or for showing or forbearing to show favour or disfavour to any person in relation to the contract, or any other contract with the Council, or if the like acts shall have been done by any person employed by him or acting on his behalf (whether with or without the knowledge of the contractor), or if in relation to any contract with the Council, the contractor, or any person employed by him or acting on his behalf, shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, or any amendment of them, or shall have given any fee or reward, the receipt of which is an offence under sub-section (2) of section 117 of the Local Government Act 1972.</p>	<p>Delete existing wording and substitute:</p> <p>"Every written contract shall include a provision for cancellation in the terms specified in the annex unless the Head of Legal, Administration and Estates agrees an amended clause in substantially the same terms".</p>
<p>C28 Final Account</p>	
<p>(1) Re-instate wording from draft (1st sentence). This account will include details of the tender sum, contract variations, final account sum, any deducted liquidated damages, any extension of time awarded and any claims agreed with the contractor.</p>	<p>Delete first sentence and substitute the following:</p> <p>"The Chief Officer responsible for every contract for the provision of works, goods and services in excess of £50,000 shall provide at the end of the contract a final account."</p> <p>Reason: this is not a contract term.</p>
<p>(2) The Chief Officer responsible is fully accountable for the agreement of the final account and is authorised to sign off the final payment.</p>	

<p>(3) At the time the final account is agreed, a Final Account Certificate should be completed by the Chief Officer responsible and copied to the Chief Auditor.</p>	
<p>(4) For contracts in excess of £500,000, the Chief Officer responsible should advise the Chief Auditor of all details relating to the contract at the time of practical completion. If considered necessary, any contract could be subject to examination by Internal Audit.</p>	
<p>C29 Contract Monitoring</p>	
<p>(1) All contracts let in accordance with Standing Order C8 (i.e contracts in excess of £2 million in value or amount) shall be the subject of regular monitoring reports to each meeting of the Client Committee, as should any other contract where the relevant Committee so requests.</p>	<p>Delete references in (1) to "Client Committee" and "relevant Committee" and substitute "the Council, the Cabinet, a Cabinet Committee or Portfolio Holder".</p> <p>Reason: current terminology does not reflect the executive constitution.</p>
<p>On completion of the Contract, a review should be carried out and reported to the relevant Client body in order to:</p> <p>(a) provide a means of accountability, in showing how far the authority has done what is set out to do, and how much it cost: and</p> <p>(b) enable the Council to learn from experience; this covers identifying how well projects met client and user requirements, recording issues that might require changes to procedures and transferring lessons between different services and types of project.</p>	<p>Amend (2) (first two lines) to read as follows:</p> <p>"On completion of contracts in excess of £250,000 a review should be carried out and reported to the Council, the Cabinet, a Cabinet Committee or a Portfolio Holder as appropriate, in order to:....."</p>

<p>(3) New paragraph</p>	<p>Add new paragraph (to be numbered (3) as follows:</p> <p>"(3) To prepare and submit reports, jointly with the Head of Finance to the Cabinet, on completion of all contracts where the final expenditure exceeds the approved contract sum by more than the lesser of 10% or £25,000."</p> <p>Reason: Incorporates the existing provisions of Financial Regulations relating to contract overspendings.</p>
<p>C30 Special Market Conditions</p>	
<p>A Chief Officer may (with the approval of the Cabinet) place an order for the purchase or disposal of goods or materials which in his opinion would take advantage of any special conditions in the market or any other special conditions which he considers would be to the benefit of the Council; any case in which this Standing Order is utilised shall be the subject of a written report to the next meeting of the Cabinet.</p>	<p>Amend last line by deleting "the appropriate Committee" and substitute "the Cabinet".</p> <p>Reason: reflects the current constitution.</p>
<p>£31 Acquisition and Disposal of Land</p>	
<p>For the purposes of these Standing Orders any acquisition or disposal of land and property or interest in land and property shall be dealt with as follows:</p>	
<p>(1) The Head of Planning Services may negotiate any lease with a rental or premium not exceeding £20,000 in value or any acquisition or disposal not exceeding £20,000 in value subject to compliance with all requirements of these Contract Standing Orders and no statutory rule having been breached. In either of these two circumstances, the Head of Planning Services shall be required to report to the Cabinet seeking approval of the terms proposed. Standing Order C5(3) shall apply.</p>	<p>Amend (1) to refer to "Head of Legal, Administration and Estates Services" throughout.</p> <p>Reason: Reflects change in service responsibility.</p> <p>Add in line 1, after the word "lease" "assignment, underletting, change of use or alterations to premises leased (irrespective of term)".</p> <p>Amend line 3 by the addition of "..... agree terms and complete" after "negotiate in the first line and "a total consideration of ..." before "£20,000" in the 3rd line.</p>

	<p>Reason: C30(1) deals with transactions which are delegated to the Chief Officer and it should be clear that there is authority to complete contracts within the delegated limits. The amendment also clarifies that the £20,000 limit relates to single transactions, irrespective of the terms of any lease etc.</p> <p>Amend (1) line 3 after the word "disposal" add "of any interest in land".</p> <p>Reason: to clarify what was being referred to. Interest in land means freehold, leasehold, easements and covenants.</p>
<p>(2) The Head of Planning Services is further authorised to negotiate terms for land and property transactions within the categories set out in C31(1) in excess of £20,000 in value but unless otherwise required by statute shall treat such offers as tenders or quotations and shall be subject to the procedures set out in Standing Order C5(1)(A) which apply to tenders and quotations for goods and services. Any Cabinet terms of reference shall be adhered to regarding transactions of £250,000 in value or more, or of one acre of more, or of land or property of strategic importance to the district, and any other terms and conditions shall be subject to confirmation by the Cabinet, including the acquisition and disposal of dwellings within the Housing Revenue Account, which shall be dealt with by the appropriate Cabinet.</p>	<p>Amend by the addition of "and C6" after "C5(1)" and to include "Head of Legal, Estates and Administration Services" as with (1) above.</p> <p>Reason: includes reference to the requirement of C6 for formal tendering of transactions valued in excess of £50,000.</p>
<p>C32 Code of Practice for the Disposal of Surplus Land</p>	
<p>Guidance from the Valuation Liaison Group from the Valuation Office, Inland Revenue, Chief Valuer's Office, shall be used, as appropriate, as a Code of Practice when dealing with the disposal of surplus land.</p>	
<p>C33 EU Procurement Thresholds - 1 January 1999 to 31 December 2001</p> <p>Works Contracts: £3,611,395 Prior information Notice required</p>	<p>Amend heading to delete "from 1 January 2004"</p> <p>Note: these will be amended on 1 January 2006.</p> <p>Delete existing wording and substitute the following.</p>

Supplies Contracts: £144,456
 Prior information Notice required £505,500

Services Contracts: £144,456
 Prior Information Notice required £505,500

These thresholds are subject to reviews. Before using check for the current thresholds.

SUPPLIES	SERVICES	WORKS
£ 99,695	£ 99,695 ²	£3,834,411 ³
£153,376	£153,376 ²	£3,834,411 ³
£485,481	£485,481	£3,834,411
Not applicable	£ 51,785	£ 647,308

These thresholds are regularly updated and the Head of Legal, Administration and Estate Service will amend the table from time to time.

¹ Schedule 1 of the Public Supply Contracts Regulations 1995 lists central government bodies subject to the WTO GPA. These thresholds will also apply to any successor bodies.

² With the exception of the following services, which have a threshold of £129,462 (€200,000) Part B (residual) services Research & Development Services (Category 8) The following Telecommunications services in Category 5.

CPC 7524 - Television and Radio Broadcast services

CPC 7525 - Interconnection services

CPC 7526 - Integrated telecommunications services Subsidised services contracts under regulation 25 of the Public Services Contracts Regulations 1993.

³ For subsidised works contracts under regulation 23 of the Public Works Contracts Regulations 1991 and Works Concessions the threshold is £3,236,542 (€5,000,000).

Reason: clarifies EU legislative requirements.

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REVISED

**PROTOCOL FOR
COUNCILLORS AND OFFICERS
ENGAGED IN THE DETERMINATION OF
PLANNING APPLICATIONS AND OTHER
PLANNING DECISIONS**

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1. Purpose of Protocol

- 1.1 This protocol has been prepared to guide Councillors and officers on the manner in which the Area Plans Sub-Committees, the District Development Control Committee (and where appropriate the full Council) will consider planning applications and related planning matters. It applies whether a Councillor is serving as a member of these bodies, as a substitute or as a non-member in attendance.
- 1.2 The protocol also deals with the involvement of Councillors and officers of the Council in the operation of the planning system outside the formal decision-making process.
- 1.3 This protocol is not part of the Council's Code of Conduct. It is designed to demonstrate how Councillors duties and responsibilities should be met in the field of planning.
- 1.4 Planning decisions may be interpreted as any decision under planning legislation including planning permission, enforcement and related matters whether delegated to officers or reserved to Planning Committees.

2. Summary of Provisions

- 2.1 As soon as possible after they are elected, all Councillors must receive appropriate training in planning requirements if they are members or substitutes on Area Plans Sub-Committees as well as the District Development Control Committee.
- 2.2 All planning decisions should be based only on relevant planning considerations.
- 2.3 Planning officers may give professional advice about any proposal to an applicant or objector subject to the general advice in 2.2 above but must explain that the advice cannot bind the Council in any way.
- 2.4 Councillors and officers should avoid giving a firm indication of the decision on any application during contact with applicants and objectors, especially at site meetings, public meetings and pre-consideration discussions in advance of formal decision.
- 2.5 Councillors should refer at a Planning Committee to significant contact with applicants or objectors (meetings, correspondence or telephone calls which are over and above the normal level of Ward Member contacts) about any planning matter under consideration by a planning body and unless this constitutes a prejudicial interest, shall be disclosed during consideration of that matter.
- 2.6 Prejudicial and personal interests in any matter due to be considered at a planning body shall be declared by members under the standing agenda item for that purpose.
- 2.7 All applications considered by the Planning Committees shall be the subject of full written reports from officers incorporating clear and reasoned recommendations.
- 2.8 The conditions for granting of consent or grounds for refusal by Planning Committees shall be approved by a show of hands for voting purposes set out in the minutes.
- 2.9 Chairmen of Planning Committees shall exercise the casting or second vote in accordance with the Council's constitution.
- 2.10 Councillors who are also members of Parish and Town Councils should declare a personal interest if the Parish or Town Council concerned has submitted representations but are not precluded from consideration of that application at District Council level unless they have another interest which is prejudicial under the Code of Conduct or they have not reserved their position on any application at Parish level.

- 2.11 Councillors must take special care with interests created as a result of being members of lobby or campaign groups.
- 2.12 Planning applications by the Council must be treated in the same way as any other decision.
- 2.13 Special care should be exercised by members and officers of the Council in relation to their own planning applications (or where they are objectors).
- ... 2.14 A summary guide to the operation of this protocol is attached at Appendix 1.

3. Status of Protocol

- 3.1 This protocol is purely advisory and designed to help both Councillors and officers. However, it is based on guidance issued by the Local Government Association which itself is based on the provisions of the Code of Conduct for Councillors (as set out in Part 5 of the Constitution), the Royal Town Planning Institute's Code of Professional Conduct, the findings of various Inquiries, together with advice issued by the Audit Commission, the Commissioners for Local Administration in England (the Ombudsman) and the National Planning Forum. Failure to follow the protocol without good reason could be taken into account in investigations into possible maladministration. Likewise, the conduct of any Member would be measured (for consistency) by the Standards Board for England against the requirements of the Code of Conduct.
- 3.2 The Council has decided that the operation of all codes of practice and protocols (such as this one) should be monitored by the Council's Standards Committee and that, if necessary, the Committee should be able to issue advice or adjudicate on disputes relating to their operation.

4. Training Requirements

- 4.1 It is fundamental that Councillors (including Parish and Town Council members) involved in planning should receive appropriate training, before being involved in making planning decisions. The Standards Committee will facilitate such training which should be regarded as obligatory for all Councillors.
- 4.2 No Councillor should be involved in the planning process (whether at Area Plans Sub-Committees, the District Development Control Committee or the full Council) without having undertaken training in planning procedures; the provisions of this protocol; and attended sessions designed to keep members abreast of new developments, as specified by the Authority. This training will also be required for substitutes at Area Plans Sub-Committee 'A' and the District Development Control Committee meetings.
- 4.3 Even if a Councillor does not serve as a member of an Area Plans Sub-Committee or the District Development Control Committee, this training need should be regarded as a high priority, as it may sometimes be necessary for a planning decision to be taken by the full Council. Likewise, Councillors who are not serving on one of the Planning Committees may wish to attend on occasions as non-members to speak on a particular case.
- 4.4 All relevant planning officers should be trained in the provisions of this protocol as part of their professional training.

5. "Dual Hatted" Councillors

- 5.1 The Code of Conduct does not automatically prevent a Councillor from considering the same matter at more than one tier of local government, including speaking and

voting in both tiers. The reference in paragraph 10(2)(a) of the Code to members of “another relevant authority” reinforces this point.

- 5.2 If an issue is for discussion at both the parish and district level, and a Councillor sits on both authorities, you should:
- (a) at the parish level make it clear that you will reconsider the matter at the district level, taking into account all relevant evidence and representations at the district tier; and
 - (b) at the district level, declare personal (but not prejudicial) interests arising from your membership of the Parish Council which has already expressed a view on the matter and make it clear that the Parish Council's view does not bind you and that you are considering the matter afresh.
- 5.3 These guidelines apply even if a proposal has a direct impact on a particular location. For example, there is no objection, in principle, to a Councillor speaking and voting on issues in the District Council's development plan that particularly affect your parish. However Councillors must still consider if they have a prejudicial interest arising from the impact of the proposals on their personal well-being or financial position. In such circumstances, it would not be appropriate for you to rely on paragraph 10(2).
- 5.4 In some situations, it is unrealistic to expect a member of the public to believe you would disregard the interests of another public body on which you serve. For example, you should not sit on decision-making bodies dealing with planning when they decide applications from an authority on which you also serve. Even though these situations fall within the scope of sub-paragraphs 10(2)(a) and (b), a reasonable member of the public would think that your judgment is likely to be prejudiced. In addition, a legal challenge could be made against the authority's decision-making process if you participate in these circumstances.

6. Fettering a Councillors Discretion

- 6.1 District Councillors (including those who are also members of Town or Parish Councils) should take care to ensure that they are seen to maintain an open mind until they have heard all the evidence and arguments which will be presented at the appropriate Area Plans Sub-Committee, the District Development Control Committee or, if necessary, the Full Council. This is particularly the case where Councillors serve on Parish councils and have spoken and voted on a planning matter and have not reserved their final position. (See section 5 above).
- 6.2 However, if members in advance of the decision-making meeting commit themselves to a firm view on a planning matter and state this publicly, whether in meetings of another body, in the media, in election material, or otherwise, they would be unable to demonstrate that all the relevant facts and arguments had been taken into account. They would have "fettered" their discretion. Were they to participate in a decision in those circumstances, they would have a prejudicial interest and might place the decision made by the Council at risk of judicial review. If, therefore, Councillors comment publicly they must be careful to reserve their final position. An open mind on the issues must be genuine. A mere statement to that effect in the face of actions and comments to the contrary will not suffice.
- 6.3 Any Councillor who has fettered his or her discretion, whether before or after election to the Council, must declare a prejudicial interest under the Code of Conduct and leave the meeting. Even if the member does not have any other interest, they must leave the meeting.

6.4 Any member who is uncertain as to whether his or her actions would be regarded as having fettered his or her discretion should ask the Standards Committee or the Monitoring Officer for advice.

7. Cabinet Members

7.1 Under the Council's executive constitution there is a clear distinction in law between the role of the Cabinet, which deals with planning policy and the determination of planning applications, etc which are not the responsibility of the Cabinet. The principle is that the Cabinet is responsible for formulating and recommending planning policy to the Council, whilst decision-making on individual planning matters must be separate and dealt with by separate bodies.

7.2 Any member of the Cabinet who is responsible for bringing forward planning applications or other proposals which are subsequently considered by an Area Plans Sub-Committee, or the District Development Control Committee needs to be aware of the conflict of interest which exists. They should declare a prejudicial interest and not speak or vote on the planning matters.

7.3 The Housing and Finance and Performance Management Portfolio Holders will often be closely involved in planning proposals. The Planning and Economic Development Portfolio Holder has a less close involvement in planning applications and the conflict of interest is thus less onerous. Furthermore, constituency work could easily blur the policy and decision-making roles. A Cabinet member would therefore need to be careful about approaches from constituents. They should for instance, consider arranging for these:

(a) to be dealt with by other electoral ward councillors; or

(b) to be dealt with by another member of this political group if they serve in a single member Ward; or

(c) to be referred to planning officers.

8. Property Interests

8.1 Councillors who have substantial property interests or involvement with the property market or similar interests need to be very careful about their involvement in planning matters and should make their interests known at every meeting which they attend when planning issues are discussed. In cases of doubt, members should seek the advice of the Council's Monitoring Officer before the meeting.

8.2 Similarly the property interests of other public authorities can impinge on the planning process and conflicts of interests for "dual-hatted" members may arise requiring prejudiced interests to be declared.

9. Gifts and Hospitality

9.1 Councillors should also be very cautious about accepting gifts and hospitality and bear in mind the requirement to register acceptance of gifts under the Code of Conduct.

9.2 Similarly, officers may be offered hospitality from people with an interest in a planning proposal. Such offers should be declined politely. If receipt of hospitality is unavoidable, the recipient should ensure it is of the minimum level and declare this as soon as possible in the register kept by the relevant Head of Service.

9.3 When members and officers involved in planning matters receive approaches from any quarter, it is useful to clarify at the outset whether the person concerned has had, or will have, any dealings with the Council.

9.4 On occasions, third parties may offer gifts or hospitality to the Council or to the Chairman of the Council, sometimes in the context of a charitable appeal. The potential donor should always be asked whether they know of any current or intended dealings with the Council on a planning or property issue. If such matters are under consideration, such offers should be declined.

9.5 Separate advice on this area is available from the Standards Committee.

10. Pre-Application and Post Submission Discussions - Role of Officers and Councillors

10.1 Ward Councillors (particularly if they are members of a planning body) should preserve their impartiality as decision-makers at pre-application or post-submission discussions with developers or other interested parties (including objectors) regarding development proposals.

10.2 Their involvement should be limited to listening to the discussion, asking questions and indicating points of concern. Ward Councillors should not debate the merits of the case or indicate views. Councillors should avoid the possibility that comments made at such meetings might prejudice their ability to bring an open mind to the formal decision on the proposal.

10.3 Post-submission meetings should be arranged so that, wherever possible, representatives of both the applicants and objectors can present their views. This could be either at a single meeting or at separate meetings. Councillors should be accompanied by an officer and a note taken of the meeting for the purpose of reporting to the full Committee. It is recognised that Councillors will be subject to lobbying on specific applications. In such cases, it is essential that care is taken to maintain the Council's its Members' integrity so as to protect the credibility of the planning process.

10.4 Members of the Council should always bear in mind the provisions of Section 5 of this protocol at such meetings.

10.5 Professional planning officers are approached from time to time by applicants, objectors and Ward Councillors in order to discuss a particular case. Often, those officers will be asked to indicate a view on the case. Where this occurs, planning officers must balance the following considerations:

(a) the duty to advise on legitimate concerns regarding proposals and to be helpful to those who come forward explaining the likely recommendations which will go forward;

(b) the need to avoid anticipating the outcome of Planning Committee decisions.

10.6 All advice given and comments made must be designed to provide information to interested parties which is helpful. This must, however, stop short of committing the Council to a decision.

11. Presentations Regarding Development Proposals

11.1 The District Council is approached from time to time about development proposals for sites within the District. Such requests involve:

(a) presentations on schemes which may eventually result in planning applications;

(b) supply of development brief and other written material on the proposals;

- (c) indications of a wish to hear views and answer questions on the scheme.
- 11.2 Such requests need to be treated with caution. Invariably the sponsors of such schemes will be anxious to receive any indications, whether positive or negative, about their proposals and whether planning approval will be forthcoming. Councillors should carefully consider whether it is advisable to agree such requests or whether it is preferable to rely on normal planning processes.
- 11.3 If such a presentation is to be entertained, they should be regarded as the exception rather than the rule. The reasons for and against need to be carefully weighed, both from the point of view of members making themselves better informed and from the public perception particularly among those who may oppose the scheme. Councillors also need to avoid fettering their discretion in relation to any subsequent planning application. They should -
- (a) restrict themselves to listening to the presentation and reading the material provided;
- (b) restrict themselves to clarifying facts and asking questions and not express opinions which without reserving their opinion until all the facts are to hand;
- (c) avoid 'one-to-one' discussions with the developers either at a presentation or separately.
- 11.4 It is important that a planning officer accompanies Councillors at such presentations.

12. Attendance of the Public at Planning Meetings

- 12.1 All planning decisions are taken in public session at meetings except if they are delegated to officers. Planning issues usually attract high levels of public interest and attendances reflect this.
- 12.2 With high levels of public interest and sometimes contentious decisions to be made, confidence in the planning system is under the spotlight. Issues such as conflicts of interest, lobbying, officer advice, the conduct of meetings and focus on planning considerations will colour the public perception positively or negatively. All participants need to keep this in mind.
- 12.3 The Council has a policy of allowing public speaking by applicants, objectors and Parish/Town Councils. The rules are set out in the Council's Constitution (Operational Standing Order 5(2)) and summarised in the public leaflet "Your Voice, Your Choice". This procedure must be respected at all times and the exercise of legitimate discretion by Chairmen accepted in the light of the circumstances which prevail.
- 12.4 Members of Planning Committees are strongly advised to attach equal weight to all representations made on planning grounds.

13. Substitute Councillors and Attendance of Non-Members at Meetings

- 13.1 The Council's policy on these issues is set out in the Council's Constitution (Operational Standing Order 2).
- 13.2 The rules governing substitute Councillors apply to the District Development Control Committee and Area Plans Sub-Committee 'A' providing that Committee members shall, if they wish another member of the political group to which they belong to attend a meeting of that Committee in their place, give notice not later than 10.00 a.m. on the day of the meeting that they are unable to attend and that the substitute Member named will attend in his/her place. Substitutes should only undertake this role if they have received the obligatory training.

- 13.3 The effect of a substitution is that the substitute Councillor shall be a full member of the Committee for the same period.
- 13.4 A substitution may be revoked at any time before the meeting starts. If both Members are at the meeting, the Councillor appointed to the Committee or Sub-Committee will take precedence.

14. Officer Reports to Committees

- 14.1 All applications considered by the Council's Planning Committees and Sub-Committees shall be the subject of full written reports from officers incorporating clear recommendations. These reports will consider national and development plan policies and guidance and representations made by statutory consultees, local residents and other interested parties. Reports will contain all the relevant material known at the time the report is despatched to Councillors and updating information will be provided to Councillors only if there have been any significant developments or changes to the report.
- 14.2 Once the Committee papers for a meeting have been published, any subsequent information received on material planning considerations will be reported orally at the meeting by the Head of Planning Services or his or her representative. With the consent of the Chairman of the District Development Control Committee or Area Plans Sub-Committee concerned this may one occasion involve tabled written material.
- 14.3 The Council's Code of Conduct requires Councillors not to prejudice the impartiality of officers. In their relations with officers therefore, Councillors should avoid placing inappropriate pressure on planning staff to achieve a desired outcome, including attempting to change decisions made under delegated authority by the Head of Planning Services.

15. Determination of Planning Applications

- 15.1 Whilst Councillors should bring to planning decisions a sense of the community's needs and interests, they must balance this with their obligation to remain within the constraints of planning law. They must only take account of relevant matters, e.g. sound land use planning considerations and must have regard to the Development and Local Plans and Government policy. Local feelings may run high but these must be weighed carefully against all material considerations. The officer's report must deal specifically with these matters so that Councillors reach an informed decision.
- 15.2 Section 54A of the Town and Country Planning Act 1990 requires that where, in making any determination under the Planning Acts, regard is to be had to the Development Plan, the determination shall be made in accordance with the Plan unless material considerations indicate otherwise. In cases where an Area Plans Sub-Committee wishes to depart from planning policy following consideration of an application, planning officers will advise that such a decision must be referred to the District Development Control Committee. In some cases the Leader of the Council may determine that a final decision by the full Council is desirable.
- 15.3 The Council recognises that planning decisions are often matters of fine judgement where the balancing of considerations is difficult. Reports of the Head of Planning Services will be based on planning policy but members may wish to exercise their discretion to permit an application as an exception to policy or may not agree with the recommendation. In such cases the procedural requirement is that they should formally move a motion to take the place of the officer's recommendation giving reasons.
- 15.4 Voting on decisions shall be by a show of hands.

- 15.5 When dealing with planning applications Councillors should be careful to avoid even the appearance that they may have been influenced improperly or by considerations which should not be taken into account under the planning legislation and regulations. Similar circumstances must give rise to similar decisions.
- 15.6 Improper decision taking can have financial penalties not only for the Council. The circumstances set out below can lead to expenditure:
- (a) an Ombudsman finding maladministration and injustice giving rise to recommendations for remedial action and financial recompense;
 - (b) costs of litigation and award of costs following application for judicial review in the High Court;
 - (c) costs of local Public Inquiries, including possible award of an applicant's costs following use of Secretary of State's call-in powers;
 - (d) costs of local Public Inquiries, together with landowners' costs and possibly substantial compensation payments following actions by the Secretary of State for revocation, modification or discontinuance.

16. Decisions Contrary to Officer Recommendations

- 16.1 Where a Planning Committee is minded to determine an application contrary to the officer's recommendation (whether for approval or refusal), the onus is upon the Committee to identify its reasons for the decision, which should be based on material planning considerations. The final decision on the application can therefore either:
- (a) normally be dealt with at the meeting with a formal proposal summarised by officers and voted on at that time;
 - (b) in the event of exceptional circumstances, be deferred until the next meeting of the Committee (provided it does not prevent a final decision within a reasonable timescale) to ensure that officers can provide appropriate advice as to the clarity and reasonableness of the reasons put forward for approval or refusal of the application.
- 16.2 There will be a careful record kept of the debate when a resolution is proposed which is contrary to an officer recommendation. In such cases the Chairman will summarise the main reasons for the proposed decision so that these are clearly understood before it is put to the vote.
- 16.3 Under no circumstances is it acceptable for grounds for refusal or granting of consent to be left to planning officers to draft after the meeting. All such grounds shall be discussed at the meeting at which the application is dealt with and adopted following professional advice from planning staff. Chairmen of Planning Committees can assist this process by seeking from movers of proposals the reasons for their proposal based on District Plan requirements.

17. Voting at Planning Committees

- 17.1 In dealing with planning applications, a Committee or Sub-Committee is acting quasi-judicially (i.e. similar to a Court). In doing so, the Committee is balancing the requirements of planning law and planning policy against the needs of the community or individuals.
- 17.2 Votes must be cast according to an honest appraisal of the merits of an application, the planning grounds which apply and the need to act promptly on planning applications. Although there are circumstances where further debate in another

forum might be helpful, such deferrals should be avoided except in the most exceptional cases.

18. Voting by Chairmen

- 18.1 Chairmen must state whether they intend to vote on any item for consideration before votes are cast.

19. Second or Casting Vote of Chairman

- 19.1 The Council's Constitution provides for the Chairman of the District Development Control Committee and the four Area Plans Sub-Committees to exercise a second or casting vote in the event of an equality of votes. The use of the second or casting vote should only be based on an honest appraisal of the planning matter convened.

20. Site Visits

- 20.1 Formal site visits may be requested by any Planning Committee. However, these consume resources and could delay determination of an application. It is good practice to:

- (a) consider site visits only where there is a substantial benefit to the decision-making process, e.g. when the impact of the proposed development is difficult to visualise from prior inspection from a public place, or from the plans and the supporting material; or it is particularly contentious;
- (b) encourage members of the Committee, plus the Chairman or Vice-Chairman, to attend the site visit, together with a senior planning officer, if they have not already done so;
- (c) ensure that the visit is managed by the Chairman, Vice-Chairman or senior officer and that it is made clear to other parties at the outset that the purpose is to gather factual information first hand – **not** to hear arguments for and against, or to enter into a debate about the merits of the case;
- (d) ensure that the application will not be determined at that site visit;
- (e) in the interests of fairness to all parties, consider the desirability of viewing an application site from more than one property when the site visit is arranged.

- 20.2 Any response to questions or statements by interested parties at site visits should follow the good practice summarised above. Councillors should refrain from making comments on the merits or otherwise of the application to any interested party.

- 20.3 All formal site visits should be conducted in a single group.

21. Lobbying

- 21.1 It is vital to distinguish the "quasi-judicial" role as a Councillor on a decision-taking Committee from that of a Ward Councillor approached by a constituent with a particular viewpoint about a planning matter.
- 21.2 The Council's duty when determining planning applications or planning enforcement matters is to attach weight to development plans, proper planning considerations and the advice of professional officers presented at Committee. Reasonable and fair decisions are expected.

Lobbying of Councillors

- 21.3 Lobbying of Councillors is a normal and proper part of the political process. However, unless care and common sense are exercised, the impartiality and integrity of members can be called into question. So far as lobbying is concerned, it is good practice to:
- (a) explain to the lobbyist the quasi-judicial nature of the planning process;
 - (b) listen and ask relevant questions but avoid expressing any opinion which may indicate that the issue is prejudged before debate in Committee; in particular Members should never indicate in advance how they intend to vote;
 - (c) give procedural information or advice as appropriate, including how to speak or write to the relevant officer;
 - (d) stress that any comments made are personal and provisional, pending the rehearsal of all the relevant evidence and arguments at Committee;
 - (e) avoid acceptance of any hospitality at a site visit, (apart from routine courtesies), which could be misinterpreted by third parties;
 - (f) when a relevant item is considered declare cases where contacts with third parties through correspondence, telephone calls or meetings with applicants or objectors are significantly greater than normal Ward Councillor contacts; and
 - (g) consider whether the nature of the contacts referred to in (f) are so significant as to render them in the Councillor's view a personal or prejudicial interest and declare accordingly.
- 21.4 Councillors should carefully consider whether it is wise to accept an invitation from an applicant or objector to make an informal site visit prior to the relevant Committee meeting. In controversial cases only one side of an argument will be heard. It is, of course, perfectly proper for a Councillors to view a site from a public place.

Lobbying by Councillors

- 21.5 Councillors should avoid organising support for, or opposition to, planning applications and should not lobby other Councillors as such actions can easily be misunderstood. Members may have concerns about a planning matter before it comes to Committee. They are entitled to raise these concerns and to ask that they be addressed in any report that may go to Committee but Councillors should not put pressure on officers for a particular recommendation. The Code of Conduct requires Councillors to respect this impartiality.
- 21.6 Councillors should not lobby their colleagues on the Council if they have a prejudicial interest as this precluded by the Council's Code of Conduct. Political Groups should also not seek to instruct their Councillors to vote in a particular way on a planning application.
- 21.7 For the purposes of this protocol, approaches from a Member of Parliament should be treated as lobbying if this is the nature of the approach.

Lobbying and Campaign Groups

- 21.8 Membership of lobby and campaign groups should be included in the register of interests, as these are bodies "whose principle purposes include the influence of public opinion or policy." The Code of Conduct requires members to declare personal interests in any matters that relate to an interest included in the register of interests. Councillors are required to declare a personal interest if they are members of a group that lobbies or campaigns about an issue that comes up for discussion or decision at the Council.

- 21.9 The existence and nature of such an interest should be declared at the meeting so that members of the public are informed about interests that may relate decisions. The member can continue to participate unless the interest is also prejudicial.
- 21.10 Even if the lobby group does not keep a formal membership list the Code of Conduct still applies in the same way. A Councillor acting as a member – perhaps attending meetings or participating in group activities – should still register membership of the group and declare interests.

Prejudicial Interests arising from Membership of Lobby Groups

- 21.11 Sometimes, organisations within the District may have memberships which include Councillors. Where such organisations make representations about planning applications, any Councillor who will be involved in determining such applications must be careful to avoid any conflict of interest. They should be careful to ensure that they take no part in helping the organisation to formulate its representations as they may, in doing so, have fettered their discretion and created a prejudicial interest. Within the organisation they may be best advised not to participate.
- 21.12 Under the Code of Conduct it is only necessary to withdraw from a meeting where there is a personal interest, if that interest is also prejudicial. The points outlined below should be taken into account in each case, to help decide whether or not a personal interest is also prejudicial:

(a) Direct impact on Lobby and Campaign Groups

If the matter to be discussed will have a direct impact on a lobby or campaign group a Councillor who is a member of that group is likely to have a prejudicial interest. This includes anything that directly affects the rights and obligations of a group to which you belong.

(b) Indirect impact on Lobby and Campaign Groups

Matters that relate to the campaign on or to matters on which the group has expressed public opinions but which do not affect the operation of the group directly, have an indirect impact on that group. If the matter to be discussed relates indirectly to a lobby or campaign group a Councillor may have a personal or prejudicial interest in it.

- (c) Councillors should determine whether a prejudicial interest in a matter of indirect impact exists by considering the following factors:

- the nature of the matter to be discussed;
- the nature of your involvement with the lobby or campaign group;
- the publicly expressed views of the lobby or campaign group;
- what you have said or done in relation to the particular issue.

Note: The Standards Board for England has published detailed advice on the situation set out in (c) above and if any Councillor is in doubt about their position, they should contact the Monitoring Officer. A flow chart showing the process recommended by the Standards Board for England is attached as Appendix 2.

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22. Development Proposals Submitted by Councillors and Officers or Where They Are Objectors

- 22.1 Applications to their own Authority by serving and former Councillors and officers and their close friends, partners, employers or business associates (including those of relatives) and relatives themselves can easily give rise to suspicions of impropriety.

- 22.2 It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in a way which gives no grounds for accusations of favouritism. Serving Councillors, Chief Officers and staff of Planning Services together with other Council staff who act as agents for applicants should play no part in the decision-making process in respect of those proposals. The Council's Monitoring Officer should be told by the Councillor or member of staff that an application has been made as soon as it is submitted. Any such applications, whether by Members or officers, cannot be dealt with by the Head of Planning Services under delegated powers. All such cases will stand referred to the Area Plans Sub-Committee concerned.
- 22.3 A Councillor submitting an application will invariably have a personal and prejudicial interest in the application. He or she must declare this interest at the meeting where the application is under discussion and withdraw whilst it is considered.
- 22.4 A Councillor who is an applicant or who otherwise has a prejudicial interest under the Code of Conduct in an application should not 'improperly seek to influence a decision about the matter' (Paragraph 12(1)(c) of the Code of Conduct). 'Improperly' should not imply that a Councillor should have any less rights than a member of the public in seeking to explain and justify their proposal to an officer in advance of consideration by a Committee.
- 22.5 An officer submitting an application has a clear interest in that application. He or she must also declare that interest and leave if present at the meeting at which the application is discussed. They must then leave the meeting. Applications submitted by Councillors or officers will always be determined by an Area Plans Sub-Committee or the District Development Control Committee and not by the Head of Planning Services under delegated powers.
- 22.6 In all such cases, the aim must be to ensure that applications are dealt with in the same way as those by any other person. This will avoid any suggestion of preferential treatment.
- 22.7 Members of the Council and officers will have a clear interest in a planning matter if they are an objector in respect of a proposal being made by another party. In those circumstances, the same procedures shall be followed as outlined above.

23. Application for Planning Consent by the District Council

- 23.1 Planning applications for the Council's own development proposals will be treated in the same way as applications by any other person or body. Such applications will always be referred to a Planning Sub-Committee and will not be dealt with under delegated authority. This requirement extends to applications from other parties in respect of Council-owned land or property, where a land sale is being negotiated.
- 23.2 The Council's role as landowner is completely separate from its role as Planning Authority. The landowner role is a matter reserved to the Cabinet as an executive function. Considerations relating to the landowner role are not relevant planning considerations in respect of the determination of planning applications. Members of planning Sub-Committees should at all times keep this in mind.
- 23.3 Section 7 above deals with conflicts of interest which can arise if Cabinet members are involved in determining applications for which they are responsible.

24. Review of Decisions

- 24.1 Planning and enforcement decisions and Local Plans are subject to review in a number of ways:

- (a) as a result of investigations by the Local Government Ombudsman;
 - (b) at Planning Inquiries;
 - (c) through the Courts;
 - (d) as part of Comprehensive Performance Assessments and Best Value service reviews;
 - (e) through the Council's Compliments and Complaints Procedure; and
 - (f) by means of a six-monthly review of appeal decisions.
- 24.2 By these reviews, the quality of planning decisions will be constantly monitored to ensure that the public can continue to have faith in the appropriateness and probity of the system.

25. Complaints

- 25.1 The Council's compliments and complaints procedure allows any member of the public to complain about any aspect of how the planning system operates.
- 25.2 Opportunities exist to take complaints forward to the Local Government Commissioner for Administration (the Ombudsman) usually if a complainant is not satisfied after the Council's complaints procedure has been completed.
- 25.3 The Standards Board for England will consider complaints by any member of the public (including officers and other Councillors) about the conduct of any Councillor if it is considered that he or she has breached the requirements of the Council's Code of Conduct.
- 25.4 The Standards Committee has a role in reviewing and monitoring this protocol and if necessary offering advice on its operation.

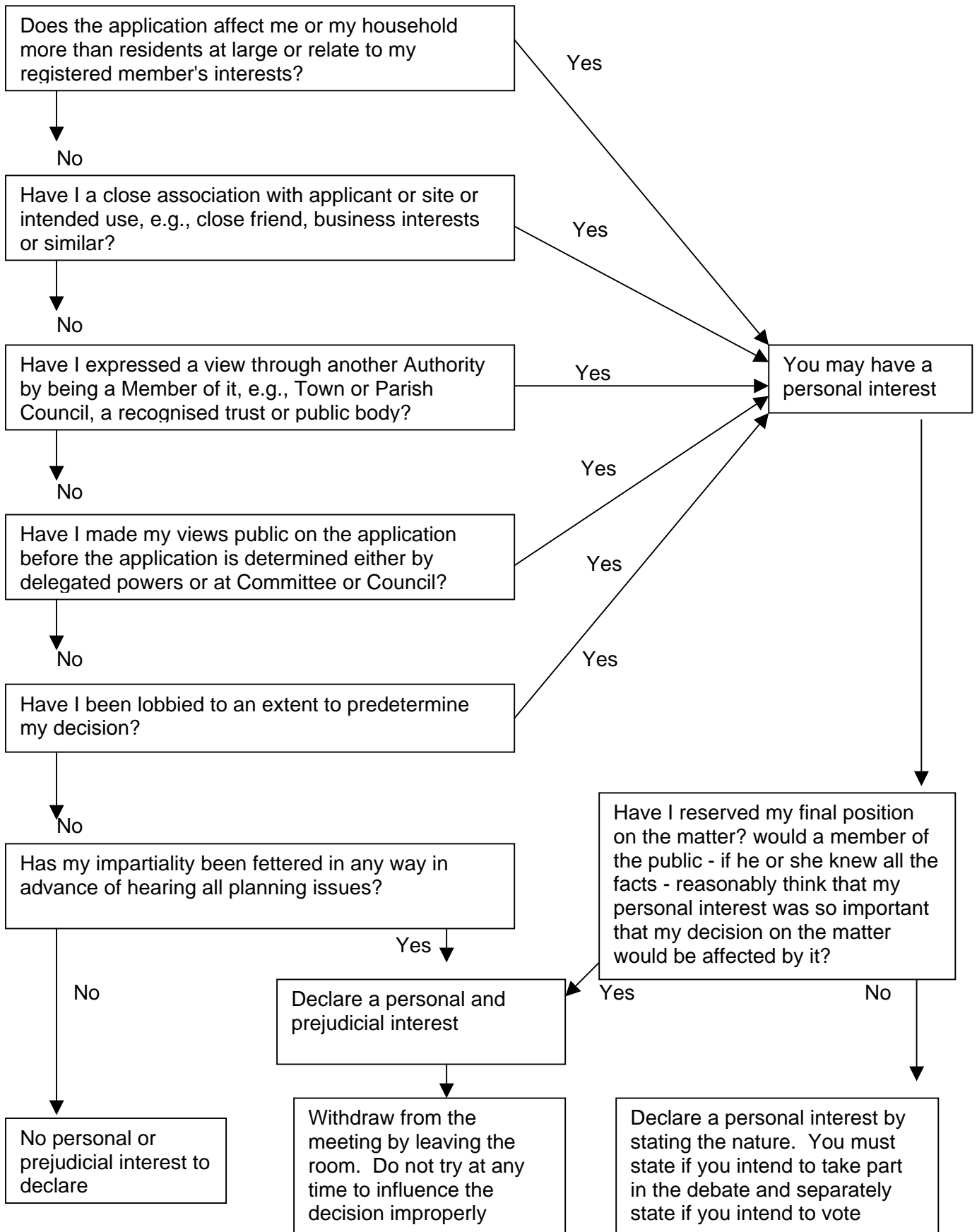
26. Human Rights Act 1998

- 26.1 The provisions of this protocol acknowledge throughout the rights of citizens in the planning process and the duty of the Council to reflect those rights in its procedures.

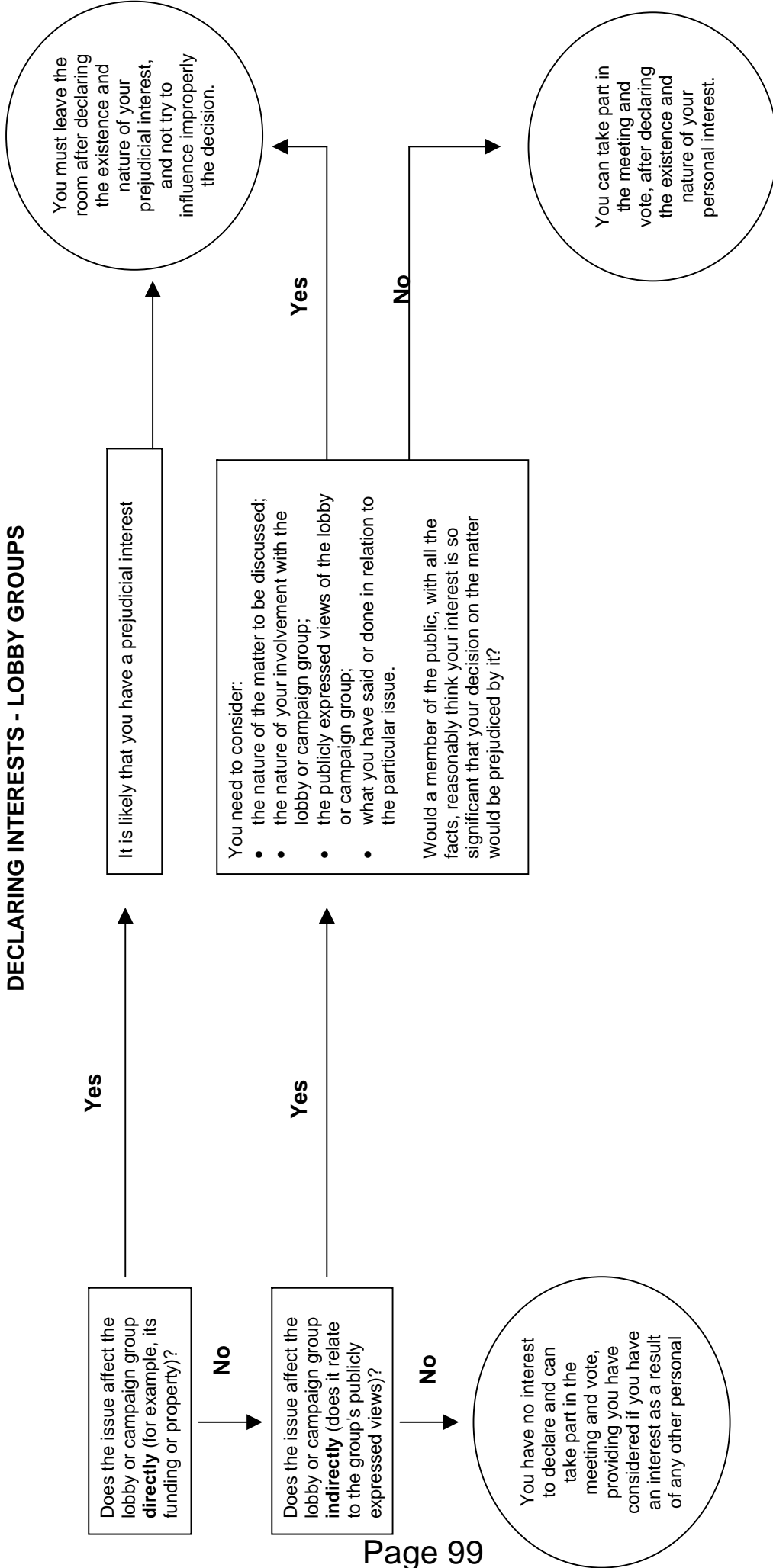
27. Planning Inquiries, Court Proceedings and Public Hearings

- 27.1 Often planning decisions of the Council lead to further proceedings by way of appeals heard at Public Inquiries or hearings or in Court. The question often arises about involvement by Councillors in such circumstances.
- 27.2 Councillors who wish to be involved in such hearings should, as a matter of courtesy, advise the Council in advance that they intend to participate. At the hearing, they should make it clear that the views they express are personal and should not seek to criticise Council officers or Councillors on a personal basis.

FLOW CHART PLANNING PROTOCOL – MEMBERS'/OFFICERS' INTEREST GUIDANCE



DECLARING INTERESTS - LOBBY GROUPS



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