

Scrutiny Panel Agenda



Constitution and Members Services Scrutiny Panel Thursday, 27th November, 2014

You are invited to attend the next meeting of **Constitution and Members Services Scrutiny Panel**, which will be held at:

Committee Room 1
on **Thursday, 27th November, 2014**
at **7.00 pm** .

Glen Chipp
Chief Executive

**Democratic Services
Officer**

M Jenkins - The Office of the Chief Executive
Tel: 01992 564607
Email: democraticservices@eppingforestdc.gov.uk

Members:

Councillors Mrs M Sartin (Chairman), A Watts (Vice-Chairman), Mrs J Lea, Mrs M McEwen, J Philip, Mrs C P Pond, D Stallan, Mrs J H Whitehouse, G Waller and S Weston

SUBSTITUTE NOMINATION DEADLINE:

18:00

1. APOLOGIES FOR ABSENCE

2. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

(Assistant to the Chief Executive) To report the appointment of any substitute members for the meeting.

3. NOTES OF THE LAST MEETING (Pages 3 - 6)

To agree the notes of the last Panel meeting held on 23 September 2014 (attached).

4. DECLARATION OF INTERESTS

(Assistant to the Chief Executive). To declare interests in any items on the agenda.

In considering whether to declare a personal or a prejudicial interest under the Code of Conduct, Overview & Scrutiny members are asked pay particular attention to paragraph 11 of the Code in addition to the more familiar requirements.

This requires the declaration of a personal and prejudicial interest in any matter before an OS Committee which relates to a decision of or action by another Committee or Sub Committee of the Council, a Joint Committee or Joint Sub Committee in which the Council is involved and of which the Councillor is also a member.

Paragraph 11 does not refer to Cabinet decisions or attendance at an OS meeting purely for the purpose of answering questions or providing information on such a matter.

5. TERMS OF REFERENCE / WORK PROGRAMME (Pages 7 - 10)

(Chairman/Lead Officer) The Overview and Scrutiny Committee has agreed the Terms of Reference of this Panel and associated Work Programme. This is attached. The Panel are asked at each meeting to review both documents.

The OSC is about to formulate next years OS work plan incorporating a programme for this Panel. In view of this, the Panel may wish to bring forward suggestions/ideas on topics for inclusion in its work programme for next year.

6. JOINT CONSULTATIVE COMMITTEE - REVIEW OF TERMS OF REFERENCE (Pages 11 - 16)

(Director of Resources) To consider the attached report and appendix.

7. CONSTITUTION REVIEW - ARTICLES (Pages 17 - 78)

(Assistant Director Governance and Performance Management) To consider the attached report and appendix.

8. CONSTITUTION REVIEW - COUNCIL PROCEDURAL RULES (Pages 79 - 166)

(Assistant Director – Governance and Performance Management) To consider the attached report and appendix.

9. REPORTS TO BE MADE TO THE NEXT MEETING OF THE OVERVIEW AND SCRUTINY COMMITTEE

To consider which reports are ready to be submitted to the Overview and Scrutiny Committee at its next meeting.

10. FUTURE MEETINGS

The remaining scheduled meetings of the Panel will be at 7.00p.m. in Committee Room 1 on Tuesday 13 January and on Tuesday 17 March 2015. At the last Panel meeting, Members asked for a date to be booked in February 2015 as an extraordinary meeting. Officers have booked Monday 16 February as a provisional date to be confirmed.

**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF CONSTITUTION AND MEMBERS SERVICES SCRUTINY
PANEL
HELD ON TUESDAY, 23 SEPTEMBER 2014
IN COMMITTEE ROOM 1
AT 7.05 - 7.55 PM**

Members Present: Mrs M Sartin (Chairman), A Watts (Vice-Chairman), D Dorrell, Mrs M McEwen, J Philip, Mrs C P Pond, C C Pond, D Stallan, Mrs J H Whitehouse and G Waller

Other members present:

Apologies for Absence: S Weston

Officers Present S G Hill (Assistant Director (Governance & Performance Management)), S Tautz (Democratic Services Manager) and M Jenkins (Democratic Services Assistant)

9. NOTES OF THE LAST MEETING

RESOLVED:

That the notes of the last meeting of the Panel held on 28 July 2014 be agreed subject to the following amendment regarding Minute Item 5 Local Elections 22 May 2014 whereby "at no extra cost to the Council" be added after "refreshments be provided at the count for visitors and guests with more space for them."

10. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

It was noted that Councillor C C Pond was substituting for Councillor S Weston.

11. DECLARATION OF INTERESTS

No declarations of interests were made pursuant to the Member Code of Conduct.

12. TERMS OF REFERENCE / WORK PROGRAMME

(a) Terms of Reference

The Panel's Terms of Reference were noted.

(b) Work Programme

It was noted that Item 3 of the work programme regarding the Joint Consultative Committee was being removed as it would be processed through the Cabinet.

The panel were advised that the Constitution review programme would be amended in the light of discussions at this meeting.

13. CONSTITUTION REVIEW - INITIAL SCOPING REPORT

The Panel received a scoping report regarding the Review of the Constitution from the Assistant Director Governance and Performance Management.

The requirement for a Constitution stemmed from the Local Government Act 2000 which had also given options for governance which saw the establishment of Leader and Cabinet arrangements. Section 38 of the Act required the Council to have and maintain a constitution that contained:

- (a) Information required by the Secretary of State;
- (b) The authority's Standing Orders;
- (c) The code of Conduct; and
- (d) Such other information that the authority considered appropriate.

The Council adopted a new constitution, based on a government model, in 2000. However in order to reflect changing circumstances, the constitution had grown to over 650 pages with no overriding review having been undertaken since its adoption.

The agreed Business Plan for the Governance Directorate included the aim of completing a review of the Constitution by March 2016. Although this Panel had undertaken a number of reviews of sections of the Constitution, the proposed review sought to ensure consistency of wording and rules across the piece and rationalise procedures to avoid duplication or repetition.

The Panel supported the following specific areas for further examination:

- (i) Articles of the Constitution;
- (ii) Minority references;
- (iii) Thresholds for leases and licenses within delegations and contract standing orders;
- (iv) Council Procedure Rules; and
- (v) Use of the Chairman's Casting vote

Officers had undertaken work to produce a commentary on each section of the constitution identifying recent reviews which formed a checklist. It was not intended to duplicate recent reviews. For each area recent reviews have been flagged up together with a commentary by officers. A work programme would be compiled based on the existing schedule of Panel meetings for approval by the main Overview and Scrutiny Committee, once the full programme was completed the new constitution document would be reaffirmed at full Council.

The Panel requested the following processes to support their review:

- At each meeting Members would have sections of the Constitution they were reviewing at that meeting with a short commentary of suggested changes made by officers

- Once an area of work had been concluded, consultation with other parties should take place through the Members Bulletin or via specific targeted consultation.
- Members felt that sub-groups from the Panel should be created for scrutinising sections of the Constitution and make subsequent reports if required later in the process.
- An invitation should be extended to Committee/Panel Chairmen when Constitutional review issues relevant to their areas arose.
- All Constitution documents should be submitted with any track changes being displayed.

RESOLVED:

- (1) That the Panel, within this Council year, review the following specific aspects of the Constitution:
 - (a) Articles of the Constitution;
 - (b) Minority references;
 - (c) Thresholds for leases and licenses within delegations and contract standing orders;
 - (d) Council Procedure Rules;
 - (e) Use of the Chairman's Casting vote; and
 - (f) That an updated Panel work programme be submitted to the forthcoming Overview and Scrutiny Committee reflecting these priorities.
- (2) That the Panel adopt the measures outlined in this minute during the review:
 - (a) That the Panel create sub-groups to scrutinise sections of the Constitution and report back to the Panel; and
 - (b) That an invitation be extended to Committee/Panel Chairmen when Constitutional review issues relevant to their areas arose.

14. REPORTS TO BE MADE TO THE NEXT MEETING OF THE OVERVIEW AND SCRUTINY COMMITTEE

It was advised that the Overview and Scrutiny Committee would receive an update on the work programme.

15. FUTURE MEETINGS

The next scheduled meeting of the Panel would be on Thursday 27 November 2014 at 7.00p.m. in Committee Room 1 and then on:

(a) Tuesday 13 January 2015; and

(b) Tuesday 17 March.

The Panel agreed that an extra meeting should be scheduled for the Panel in February 2015.

TERMS OF REFERENCE - STANDING PANEL

Title: Constitution and Member Services
Status: Standing Panel
Terms of Reference: 1. To undertake reviews of constitutional, civic, electoral and governance matters and services for members on behalf of the Overview and Scrutiny Committee. 2. To report to the Overview and Scrutiny Committee, the Council and the Cabinet with recommendations on matters allocated to the Panel as appropriate.
Chairman: Councillor M Sartin

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Constitution and Member Services Standing Panel (Chairman – Cllr M Sartin)

Item	Report Deadline / Priority	Progress / Comments	Programme of Future Meetings
(1) Review of Polling Stations	28 July 2014	COMPLETED	28 July 2014; 23 September; 18 November Changed to 27 November 2014 13 January 2015; February ?; and 17 March
(2) Review of Elections	28 July 2014	COMPLETED	
(3) Joint Consultative Committee – Terms of Reference and Constitution regarding representation for non-union staff	27 November 2014		
(4) Review of the Council's Constitution		Scoping report received 23 September 2014 To be completed by March 2016	
(5) Articles of the Constitution	Starting 27 November 2014		
(6) Constitution – Minority References	13 January 2015		
(7) Constitution – Thresholds for Leases and Licences	13 January 2015		
(8) Constitution – Council Procedure Rules	Starting 27 November 2014		
(9) Constitution – Use of Chairman's Casting Vote	13 January 2015		

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Report to Constitution and Member Services Standing Scrutiny Panel

Date of meeting: 27 November 2014

Portfolio: Technology and Support Services

Subject: Review of the Terms of Reference - Joint Consultative Committee

Officer contact for further information: Paula Maginnis (01992564536)

Committee Secretary: Mark Jenkins (01992564607)



Recommendations/Decisions Required:

- (1) The Panel recommends to Council the proposed amended Terms of Reference for the Joint Consultative Committee, subject to any comments or amendments.

Report:

Background

1. Following a report to Management Board in December 2012 'Existing Arrangements for Employee Engagement', by the Performance Improvement Unit (PIU) it was acknowledged that the Terms of Reference for the Joint Consultative Committee (JCC) had not been reviewed for a considerable period of time. Management Board agreed that a review of the JCC should take place.

2. In local government it is usual to have a forum whereby the Council formally discusses issues with the recognised trade unions in line with the representation at a regional level. In the Council's case this relates to the East of England Local Government Association Regional Council.

3. The JCC is the Council's forum whereby these discussions take place between the trade unions and the members. The Committee is consulted with, informed about and has discussions on a range of employee matters. However, employment matters concerning an individual are not within the scope of the Committee.

Representation

4. One of the main issues identified within the PIU report was the perception that non-union members were not represented by the attendees at the JCC. Whilst this is technically correct as the trade unions are not required to represent non trade union members, it is worth noting that;

- the trade union representatives who attend the Committee have to be employees of the Council;
- there are 9 trade union representatives from a range of service areas who between them are likely to hold a range of views similar to employees who are not trade union representatives; and
- all representatives whether staff or member representatives are permitted to share their views with the Committee and do so.

5. Other work is progressing outside the review of the JCC Terms of Reference, regarding internal staff communications. There will be an opportunity to consider staff participation in a range of policy development areas or Council initiatives across the Council which may not relate to employment matters.

6. The Council has been successful in appointing a graduate under the National Graduate Development Programme and the Council's Management Board has agreed that they carry out a review of staff communications/engagement. As part of the review they will draft and develop an Employee Engagement Strategy. This will include the issues raised in the PIU report.

7. Currently, the Lead Officer (currently the Assistant Director (HR)) for the JCC is in a position to be able to take forward the views of employees, (either trade union members or non-members) and present them to the Committee. In addition, there has been a specific responsibility added to the Terms of Reference for them to inform staff of the outcome of the Committee meetings via District Lines (or other staff newsletter).

8. Members may wish to note that staff do have access to the JCC agenda in advance of the meeting through the 'modern gov.' system. If staff wish to comment on any issue raised they can do so through their line manager or the Lead Officer for the Committee.

Process

9. As the Committee is not a public meeting the rules regarding notice periods for meetings and any other business do not apply. However, the proposed Terms are consistent with the Council's usual processes and give at least 5 working days' notice of a meeting. As long as any item for any other business is agreed by all the parties, it can be accepted.

Joint Consultative Committee

10. This report was submitted to the JCC at its meeting in July 2014 who agreed to recommend the proposed amendments. The proposed Terms of Reference for the JCC are at Appendix 1.

Reason for decision:

Following a report to Management Board in December 2012 'Existing Arrangements for Employee Engagement', it was acknowledged that the Terms of Reference for the JCC had not been reviewed for a considerable period of time. Management Board agreed that a review of the JCC should take place.

Options considered and rejected:

The current Terms of Reference could be retained, however, they have become dated and do not include the correct information regarding current processes.

Consultation undertaken:

The Joint Consultative Committee was consulted at its meeting in July 2014.

Resource implications:

There are no resource implications.

JOINT CONSULTATIVE COMMITTEE – TERMS OF REFERENCE

(1) The Committee shall be called the Joint Consultative Committee

(2) Objectives

The purpose of the Joint Consultative Committee is;

- (a) To bring together the Council and the recognised trade union representatives to provide a regular forum for consultation and negotiation on matters relevant to industrial relations, productivity, work arrangements and those terms and conditions of employment which the employer and/or trade unions deem appropriate.
- (b) To ensure that the views of the recognised trade union representatives are sought on existing practices and on proposed changes which will affect staff.
- (c) To discuss, in relation to local conditions, the implementation of matters which have been prescribed or recommended at a national, provincial or other agreed level.
- (d) To conduct employee consultation between the employer and trade unions on any potential points of disagreement.
- (e) To consider any relevant matter referred to it by another Committee of the Council, by the trade unions or by an officer of the Council. Relevant matters may include new ways of working, policies, procedures, reorganisations, conditions of service, staff welfare, learning and development, working conditions or safety issues.
- (f) To discharge any other functions from time to time specifically referred to the Committee by the Cabinet.
- (g) Any matters concerning an individual including, (but not exhaustive) pay, conduct, capability, job evaluation or promotion are not within the scope of the Committee.

(3) Membership

- (a) The Joint Consultative Committee shall comprise of 18 persons.
- (b) The Joint Consultative Committee shall include 9 councillors (to be known as the 'Council Representatives') to be appointed annually by the Council at its annual meeting based on pro rata allocations between the political groups in accordance with the Local Government and Housing Act 1989 (as amended).
- (c) Nine trade union representatives employed by the Council (to be known as the 'Staff Representatives') shall be appointed by the trade unions represented on the East of England Local Government Association Regional Council in proportion to the number of such employees in membership of each trade union, subject to each trade union represented having a minimum of one representative each. All representatives must be employees of the Council.
- (d) All members of the Committee shall retire annually and shall be eligible for re-appointment. If a member of the Committee ceases to be either a member or officer of the Council, they shall cease to be a member of the Joint Consultative Committee. Any vacancies shall be filled as soon as practicable.

- (e) Each political group or trade union represented on the Committee shall be entitled to nominate one substitute members provided that the Committee Secretary is given notice not later than 60 minutes before the commencement of the meeting.

(4) Chairman and Vice-Chairman

- (a) A Chairman and a Vice-Chairman shall be appointed by the Committee at their first meeting in each Council year. The offices to alternate each year between the Council and Staff Representatives. If the Chairman appointed is a Council Representative, the Vice-Chairman shall be appointed from the Staff Representatives, and vice-versa. The member appointed from the Council Representatives to be Chairman or Vice-Chairman shall be a member of the Cabinet.
- (b) The Chairman of the meeting shall not have a casting vote.
- (c) It shall be competent for either side to waive its right under (a) above to nominate a Chairman at the first meeting of each Council year, in which case the Committee may proceed to elect a Chairman and appoint a Vice-Chairman on that basis.

(5) Officers

- (a) The Assistant Director (HR) shall be the Lead Officer for the purpose of formal and informal liaison between meetings. They shall ensure that the considerations and recommendations of the Committee are reported to all staff via the next available staff newsletter or equivalent.

(6) Advisors

- (a) Either side shall have the right to co-opt, in a consultative capacity, representatives of particular Directorates or Service Areas affected by an item under discussion, but only for a period during which the matter is under consideration. The co-opted representative will attend the Committee as required.
- (b) Either side may arrange for the attendance in an advisory capacity of an officer or trade union official at a Committee meeting where it would be helpful to the business under discussion.
- (c) Such attendances under (a) and (b) above shall be notified to the Committee Secretary at least two working days of the meeting, who will inform the Chairman and Vice-Chairman of the Committee.

(7) Meeting – Procedure and Protocol

- (a) The Committee shall meet at least 4 times a year as set out in the annual Calendar of Meetings document. The Chairman or Vice-Chairman may call a meeting at any time giving at least 5 working days' notice.
- (b) A meeting can be called within seven days following the receipt by the Chief Executive of a requisition signed by not less than one-third of the members of either side.
- (c) The matters to be discussed at any meeting of the Committee shall be stated upon the notice summoning the meeting; provided that any other business may be considered if admitted by a majority vote of those present on each side at the meeting.

- (d) The agenda for meetings will be despatched to each member of the Committee at least 5 working days before the meeting.
- (e) The quorum of the Committee shall be 3 representatives of each side.
- (f) No recommendation shall be regarded as carried unless it has been approved by a majority of the members present on each side of the Committee. In the event that the Committee is unable to arrive at a consensus, the Cabinet will make the final decision taking the views of both sides into consideration.
- (g) The Committee will only act in an advisory role, making its recommendations to the relevant Portfolio Holder or the Cabinet for final decision.
- (h) The Committee shall have the authority to appoint or to arrange for the appointment of Sub-Committees or working parties where necessary.
- (i) The minutes of proceedings of the Committee shall be kept by the Director of Governance and shall be signed by the Chairman and the Vice-Chairman.
- (j) The meetings will usually be held outside normal working hours. The Staff Representatives on the Committee shall be eligible to claim an Evening Meeting Payment in accordance with the Council's policy.
- (k) In the event of a meeting being held during normal working hours, the Staff Representatives shall be granted paid leave of absence in respect of their attendance.
- (l) Either side may request the revision of the Terms of Reference. The Committee at their next meeting will then consider the matter.

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Report to the Constitution and Member Services Standing Scrutiny Panel



Date of meeting: 27 November 2014

Subject: Constitution Review – The Articles of the Constitution

Officer Contact for further Information: Simon Hill (01992 56 4249)

Democratic Services Officer: Mark Jenkins (01992 56 4607)

Recommendations:

- (1) To consider proposed changes and commentary on a review of the Articles of the Council's constitution; and**
- (2) To agree the basis of amended articles for consultation at the appropriate point in the review process.**

Report:

1. (Assistant Director Governance and Performance Management) As agreed at the last meeting the first element of the Constitution review is brought to members for consideration. Officers have made suggested amendments for members to consider. A short commentary is provided below on each Article.

Article 1 – The Constitution

Suggested amendments commentary:

- Much of this article is pulled straight from the government model.
- Could it be replaced/amended with an easy read summary of the Constitution?

Article 2 – Members of the Council

Suggested amendments commentary:

- Eligibility altered to reflect base legislation.
- Other minor alterations and flagging for cross checking references at end of process

Article 3 – Citizens and the Council

Suggested amendments commentary:

- Clarification of which meetings of the Executive the public can attend;
- Clarifying route of complaints about members;
- Linking citizens responsibilities to our policy (set elsewhere).
- Could this be deleted and form part of an amended article 1?

Article 4 – The Full Council

Suggested amendments commentary:

- Council tax base now delegated decision to Director of Finance (Council decision - Council Minute 127 – 23.4.13 – Delegation EX 69 refers)
- Policy Framework Plans – BVPP taken out, Corporate Plan added, former cultural strategy renamed, LA21 removed.
- Could the policy framework form part of the ToR of Council and set out in the responsibility section?
- Appointments and ToR of Committees – tidying up exercise. Subject to the previous comment
- Section (p) – this is an example of duplication that is reproduced in Part 4
- Could the Article on Chairing the Council be amalgamated into this article?

Article 5 – Chairing the Council

Suggested amendments commentary:

- Admission of Business (e) (i) – tidying up to reflect procedure for urgent business.
- Use of casting vote – part of the casting vote is in the Council procedure rules except section (b) and (c) – Is this still relevant? Should the Chairman of Council not be free to determine the manner of his second vote? Do members want any alternative? Casting vote is not a given right in common law.
- Civic Ceremonial Role section 5.06 (d) – deletion as this protocol no longer exists
- Otherwise this article has been reviewed recently and is thought not to require any radical overhaul.

Article 6 – Overview and Scrutiny

Suggested amendments commentary:

- Section 6.02 – this comes from the original model and adds nothing to the terms of reference set out within the OS rules. The Committee in any event are not constrained to the scope set out. It is suggested that the section is deleted.
- Could the sections that reflect non rule matters be pulled from the Overview and Scrutiny Rules section – eg ToR, Panels and makeup etc. and put together into this article?
- Rules that apply to OS would then be pulled into a general rules section?

Article 7 – The Executive

Suggested amendments commentary:

- Could the non-rule sections of the Executive procedure rules be amalgamated into this section including any terms of reference etc?
- This Article should include the Terms of Reference of the Cabinet and the Cabinet Subcommittees – rewrite required.

Article 8 – Regulatory and other Committees

Suggested amendments commentary:

- Generally speaking do members wish to have an article for each Committee rather than ToR spread across the constitution?

Article 9 – Standards Committee

Suggested amendments commentary:

- 9.04 suggests that the Committee **shall** appoint a subcommittee to hear complaints. No subcommittee has been appointed since 2012 and para 9.05 suggests this is a matter reserved to Council?
- It may be worth asking the Standards Committee to undertake a review of their processes before 2016. Document reads like a public facing document rather than a constitutional procedure.
- May be effected by Task and Finish Panel recommendations

Article 10 – Area Committees and Forums

Suggested amendments commentary:

- Title should reflect that we only have Area Planning Subcommittees and amended accordingly.
- It is suggested that this Article should be rewritten to combine the current information together with the Terms of reference that appear elsewhere in the constitution. Delegation arrangements would remain in part 3. The Article could also include the rules of participation. This would need to come back to Panel at a subsequent meeting.
- This work should take input from the Planning Scrutiny Panel and their consideration of the Terms of Reference of these committees scheduled for their meeting in December 2014.
- 10.03 – Conflicts of interest. – this should be deleted as scrutiny has no role in looking at live applications.

Article 11 – Audit and Governance Committee

Suggested amendments commentary:

- May be effected by Task and Finish Panel recommendations
- If remaining unchanged the ToR would need to reflect the requirements of the Audit and Accountability Act 2014

Article 12 – Constitution – Joint Arrangements

Suggested amendments commentary:

- None

Article 13 – Officers

Suggested amendments commentary:

- Duplicates part 7 Management Structure – Should be amalgamated.
- The Chief Financial Officer and Monitoring Officer should be consulted on the continuing correctness of this article. Action required.

Article 14 – Decision making

Suggested amendments commentary:

- The application and understanding of Key Decisions in 14.04 is confused and requires redrafting

Article 15 – Finance, Contracts and Legal Matters

Suggested amendments commentary:

- Section 15.03 duplicates a delegation in the council scheme
- 15.04 duplicates what is in Contract SO's
- 15.05 is wrong and duplicates delegation.

Article 16/17 – Review and Revision of the Constitution

Suggested amendments commentary:

- Suggest that sections (b) to (d) are removed and joined to article 17
- Rules for suspension to be taken into rules section.
- Section 17.03 to be amended to take into account current practices.

Members are asked to consider the proposals and make comment/changes or seek further work as may be necessary.

PART 2

ARTICLES OF THE CONSTITUTION

ARTICLE 1 - THE CONSTITUTION

1.01 Powers of the Council

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

1.02 The Constitution

This Constitution, and all its appendices, is the Constitution of the Epping Forest District Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of citizens in the process of local authority decision-making;
- (c) help councillors represent their constituents more effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) create a powerful and effective means of holding decision-makers to public account;
- (f) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (h) provide a means of improving the delivery of services to the community.

1.04 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option it thinks is closest to the purposes stated above. The Council will monitor and evaluate the operation of the Constitution as set out in [Article 15](#). [\(Check reference\)](#)

ARTICLE 2 - MEMBERS OF THE COUNCIL

2.01 Composition and eligibility

- (a) **Composition.** The Council will comprise ~~59-58~~ members ~~(58 from May 2002)~~ otherwise called councillors. One or more councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission for England and approved by the Secretary of State.
- (b) **Eligibility.** ~~Any person over 18 who meets the eligibility requirements under Section 79 of the Local Government Act 1972 may stand for election as a Councillor. Only registered voters of the district or those living or working there will be eligible to hold the office of councillor.~~

2.02 Election and Terms of Office for Councillors

Election and Terms. Ordinary elections of the whole Council (58 Councillors) will be held in May 2002. Subject to the transitional electoral arrangements prescribed in the relevant Government regulations, the ordinary election of a third (or as near as may be) of all councillors will be held on the first Thursday in May in each year beginning in 2003 except that in 2005 and every fourth year after there will be no regular election. The terms of office of councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later. This order of retirement is subject to the transition provision specified in the relevant Government Order.

2.03 Roles and Functions of all Councillors

- (a) **Key Roles.** All councillors will:
- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
 - (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
 - (iii) develop effective systems for communication, liaison and consultation with the local community and individuals within it;
 - (iv) assist constituents with matters concerning services provided by the Council;
 - (v) act as the Council's appointees on outside bodies to ensure that the needs of the community are considered and to provide links with the Council;
 - (vi) maintain, develop and build upon good relationships between political and managerial processes;
 - (vii) provide a point of contact to media on appropriate ward issues to provide a clear well-informed response as required;
 - (viii) provide the link with the officers on constituency matters;

- (ix) participate in Overview and Scrutiny ~~Committees~~ and other Boards, Panels and Committees as appointed and be eligible for appointment by the Council to the Executive; and
- (x) maintain the highest standards of conduct and ethics.

(b) Rights and Duties

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law ~~and such other rights as are afforded to them by the Council's Charter for Members.~~
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in **Part 4** of this Constitution.

2.04 Conduct

Councillors will at all times observe the Members' Code of Conduct, Members' Charter and the Protocol on Member/Officer Relations set out in **Part 5** of this Constitution.

2.05 Allowances

Councillors will be entitled to receive allowances in accordance with the ~~interim~~ Members' Allowances Scheme set out in **Part 6** of this Constitution.

ARTICLE 3 - CITIZENS AND THE COUNCIL

3.01 Citizens' Rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in **Part 4** of this Constitution:

(a) Voting and Petitions

Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.

(b) Information

Citizens have the right to:

- (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) attend meetings of the Executive (**Cabinet or Cabinet Committee meetings**) except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (iii) find out from the forward plan what key decisions will be taken by the executive and when;
- (iv) see reports and background papers, and any records of decisions made by the Council and the executive; and
- (v) inspect the Council's accounts and make their views known to the external auditor.

(c) Participation

Citizens have the right to participate in the Council's and the Cabinet's question time and contribute to investigations when invited by Overview and Scrutiny committees via the Authority's consultation policy and the scrutiny rules set out in **Part 4** of this Constitution.

Citizens will also have the right to attend and address meetings of the Complaints and the Housing Appeals and Review Panels (on matters personal to them) and as applicant (or as an objector in accordance with the Council's policy) for planning consent at an Area Plans Sub-Committee, the District Development Committee or for any purpose agreed by the Council at a meeting of the full Council.

(d) Complaints

Citizens have the right to complain to:

- (i) the Council itself under its complaints scheme;
- (ii) the Ombudsman after using the Council's own complaints scheme; and
- (iii) the ~~Epping Forest District Standards Committee~~ **Council's Monitoring Officer** about a breach of the Councillors' Code of Conduct.

3.02 Citizens' Responsibilities

Citizens must not be violent, abusive or threatening to councillors or officers and must not wilfully damage property owned by the Council, councillors or officers. Any such behaviour may result in the applications of sanctions in accordance with its complainants policy or legal proceedings, ~~which might include termination of correspondence or telephone contacts, or, in appropriate cases, institution of legal proceedings or the reference of the matter to the Police.~~

ARTICLE 4 - THE FULL COUNCIL

4.01 Terms of Reference

The Council, and only the Council, will exercise the following functions:

- (a) Adoption of and changes to the Constitution;
- (b) Approval of, adoption of and revisions to the policy framework and the budget. (The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, ~~the Council Tax base~~, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits);

- (c) Adoption of the following:

Asset Management Plan

~~Best Value Performance Plan~~

Capital Strategy

Community Plan/Strategy

Corporate Plan

Crime and Disorder Reduction Strategy

Leisure and Cultural Strategy

Development Local Plan and plans and strategies which comprise the Plan

~~Plans and Strategies which comprise the Development Plan~~

Economic Development Strategy

Housing Investment Programme

~~Local Agenda 21 Strategy~~

Local Transport Plan

Social Inclusion Strategy

Other plans which it decides, as a matter of local choice, should be the responsibility of the Council to adopt;

- (d) Approval of any application to the Secretary of State in respect of any Housing Land transfer. i.e. the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under Sections 32 or 43 of the Housing Act 1985;

- (e) Adoption of the District Council's Codes of Conduct;

- (f) Subject to the urgency procedure, contained in the Access to Information Procedure Rules in Part 4 of the Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (g) Election/Appointment of the Chairman and Vice-Chairman of Council;
- (h) Appointing the Leader;
- (i) Appointments to Committees and Sub Committees except those relating to Executive functions which are the responsibility of the Leader of Council and those delegated to Overview and Scrutiny ;
- (j) Agreeing and amending the terms of reference for Committees, except those relating to Executive functions which are the responsibility of the Executive and those delegated to Overview and Scrutiny ~~deciding on their composition and making appointments to them~~;
- (k) Appointing representatives to outside bodies except those relating to executive functions which are the responsibility of the Leader of Council;
- (l) Adopting an allowances scheme under Article 2.05 as set out in Part 6 of this Constitution and setting the allowances of the Chairman and Vice Chairman of Council.;
- (m) Confirming the appointment or dismissal of the Head of Paid Service;
- (n) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (o) All local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the executive;
- (p) All matters that fall to the Council as set out in the Council procedure rules in Part 4 of this Constitution. Inviting contributions from relevant community groups or representatives;
- ~~(q) Agreeing and supporting the community engagement activities including the following:~~
- ~~————— working with external partners;~~
 - ~~————— offering opportunities for 'public interaction sessions' community spokespersons etc.;~~
 - ~~————— recognising Council achievements;~~
- ~~(r) Delegations from community groups may be invited;~~
- ~~(s) State of the District debate;~~
- ~~(t) Single issue debates;~~

~~(u) — Receipt of written reports from the Leader, Chairman of Overview and Scrutiny Committee and each of the Portfolio Holders outlining progress on on-going issues within their areas of responsibility;~~

~~(v) — Receipt of questions from Members on matters falling within the responsibility of the Overview and Scrutiny Committee and each of the Portfolio Holders; and~~

~~(x) — Receipt of questions from the public and consideration of responses.~~

~~(xi) — Petitions which are referred to the Council under the Council's petition scheme.~~

4.02 Council Meetings

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings; and
- (c) extraordinary meetings.

4.03 Responsibility for Functions

The Council will keep up-to-date the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive.

ARTICLE 5 - CHAIRING THE COUNCIL

5.01 Introduction

This article sets out the role, responsibilities and duties of the Chairman of Council. The role, responsibilities and duties fall to the Vice-Chairman in the absence of the Chairman.

5.02 Election of Chairman of the Council

The individual elected to the office of Chairman of Epping Forest District Council shall be elected on merit by the Council at its Annual meeting.

5.03 Appointment of Vice Chairman of Council

The appointment of the Vice Chairman of the Council shall be undertaken by the Council on the basis of merit in accordance with the following provisions:

- (a) nominees for the office of Vice-Chairman of the Council are required to submit a nomination form supported and signed by no fewer than 15 serving District Councillors on the date when the Appointments Panel holds its first meeting in any municipal year;
- (b) nominees for Vice Chairman of the Council may be a Councillor from any political group on the Council or any independent or unaffiliated Councillor;
- (c) the nomination of candidates for the position of Vice-Chairman and the expression of support for any nomination may be notified to the co-ordinating member by electronic mail;
- (d) all nominations shall be considered by the Appointments Panel for onward recommendation to the Annual Council meeting;
- (e) it is expected that the person appointed by the Council as Vice Chairman of the Council shall normally be elected as the Chairman of the Council for the following Council year;
- (f) If for any reason, a Vice Chairman is unable to be elected as Chairman of the Council following their year as Vice Chairman, the procedure outlined in (a) to (c) above shall also apply to the election of a new Chairman;
- (g) the Council may suspend the operation of the appointment process set out above at an Annual Council meeting. A motion to that effect and giving reasons as to why this would be in the best interests of the Council may only be adopted if the equivalent of 65% of Council members present at the meeting vote in favour

5.04 Chairing the Council Meeting

The Chairman shall undertake the following duties:

- (a) to determine that meetings of the Council are properly constituted and that a quorum of members is present;
- (b) to be informed as to the business and objects of meetings;
- (c) to preserve order in the conduct of those present;

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- (d) to confine discussion within the limits required by the business to be determined and within a reasonable period of time;
- (e) to rule on:
 - (i) the admission of any business raised as urgent business in accordance with Section 100B(4) of the Local Government Act 1972; and
 - ~~(ii)~~ the admissibility of motions and amendments put in debate by the Members' of the Council;
- (f) to formulate summaries of those issues arising in debate for the consideration of the meeting;
- (g) to adjudicate on points of order and personal explanation raised at meetings and other incidental issues;
- (h) to determine the proper and most appropriate method of voting on any question before the Council;
- (i) to put relevant questions to the meeting, secure orderly votes thereon and declare the result;
- (j) to inform the Council whether he or she will vote on any matter to be determined;
- (k) to give, if appropriate, a second vote or a casting vote in order to deal with an equality of votes in the circumstances set out in this Article;
- (l) to adjourn any meeting of the Council should the circumstances justify or require it, having first of all taken such steps to establish that Members' of the Council support such action;
- (m) to read out any motion to exclude the press and public from meetings and to seek the consent of the Council; and
- (n) to sign the minutes of Council meetings as a correct record, following approval by the Council.

In carrying out these duties, the Chairman shall at all times act in accordance with legal requirements as advised by the Chief Executive, shall take care to ensure that the rights of individual members shall at all times be protected and, in the conduct of meetings shall disregard considerations arising from political affiliation and shall always have regard to the civic dignity of the Council and the office of Chairman.

5.05 Use of Casting Vote – Note this is also in the Council procedure rules except the section that determines how the Chairman needs to apply it – should it be here as well?

The Chairman of the Council shall, at all times, have due regard to the requirements of the Constitution and statute law concerning the use of a "second" or "casting" vote. The Chairman shall:

- (a) give a "second" vote (after voting previously on the issue) or a "casting" vote (having not voted previously) on any issue on which there is equality of voting;

(b) shall issue a "second" or "casting" vote in favour of the status quo unless there is a legal requirement to vote otherwise than for the status quo;

(c) may decline to give a second or casting vote if an affirmative vote is not required on grounds of urgency or otherwise and an opportunity will arise to consider the matter again, within a reasonable period; and

(d) shall, in the circumstances outlined in (c) above, explain such a decision to the Council.

5.06 Civic/Ceremonial Role

(a) In the carrying out of civic duties on behalf of the Council, the Chairman shall at all times act in a way consistent with the dignity of the office of Chairman and the policies of the Council.

(b) The Chairman of Council as first citizen in the district and the representative of the Queen will take precedence in the absence of firstly the Lord Lieutenant of Essex and secondly the Chairman of Essex County Council. If the Chairman is invited to a function organised by or within the District he/she is always the Guest of Honour.

(c) When the Chairman of Council is invited to carry out duties at an official Council function (e.g. naming of a street or opening of Council buildings), the following people should be invited to attend:

(i) the Chairman of the Committee or member of the Executive responsible for the function;

(ii) the Leader of the Council or a member of Cabinet nominated by him;

(iii) the Chairman of the Committee, ~~is if~~ unavailable, the Vice-Chairman of the Committee shall deputise;

(iv) district members for the ward in question;

(v) the ~~Service~~ Director responsible for the function;

(vi) Parish Chairman or Town Mayor;

(vii) other members and officers agreed by the Chairman of Council, the Chairman of Committee, the Leader of the Council and the ~~Head of Service~~ Director; and

(viii) the Public Relations ~~and Marketing Officer~~ Manager or nominated officer will attend appropriate functions when the press are invited.

~~(d) — Separate protocols are included in Part 5 of the Constitution regarding election of Vice-Chairman and the role of the Chairman and Vice-Chairman generally. Document recently deleted by Council~~

5.07 Absence of Chairman and Vice-Chairman at functions

There may be occasions when the Chairman of the Council and Vice-Chairman of the Council cannot attend functions. In these circumstances, the Chairman of the Council

shall nominate a past Chairman of the Council or other appropriate member to act on his/her behalf at any such event.

ARTICLE 6 - OVERVIEW AND SCRUTINY COMMITTEE

6.01 Terms of Reference

(a) The Council will appoint one Overview and Scrutiny Committee to discharge the functions conferred by Section 21 of the Local Government Act 2000 or regulations under Section 32 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table.

(b) The Terms of Reference for the Committee are as set out within the Overview and Scrutiny Rules in Part x of this constitution as changed from time to time by the Council.

~~6.02 Committee Scope~~

~~The work of the Overview and Scrutiny Committee shall cover the following range of services, insofar as they relate to this Council or other public bodies providing services within the District:~~

~~(a) Lifelong Learning and Culture~~

~~The provision, planning and management of training, arts and culture in the Epping Forest District.~~

~~(b) Regeneration and Housing~~

~~The physical, social and economic environment and regeneration of the district, the provision, planning and management of its housing and built environment.~~

~~(c) Social Inclusion~~

~~Policies and strategies of the Council and other bodies which affect the economic, social and political resources available to individuals to enable them to participate fully in society, especially in the context of the national strategy for neighbourhood renewal.~~

~~(d) Public Accounts~~

~~The Council's budget, the management of its budget, capital expenditure, revenue borrowing, assets and its audit arrangements.~~

~~(e) Services~~

~~The provision, planning, management and performance of Council Services, including support services, best value, the community plan and any other Council function not otherwise addressed by any other committee.~~

~~(f) Social Care and Health~~

~~The review of health authority activities.~~

~~(g) Democracy and Governance~~

~~Local democracy and the achievement of effective, transparent and accountable decision making by the Council.~~

~~6.0203 General Role~~

Within its terms of reference, the Overview and Scrutiny Committee will:

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) make reports and/or recommendations to the full Council and/or the executive and/or any policy, joint or area committee in connection with the discharge of any functions;
- (iii) consider any matter affecting the area or its inhabitants; and
- (iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the executive and/or any policy or area committees; and
- ~~(v) conduct best value service reviews and report on outcomes to the Executive.~~

6.04 Specific Functions

(a) Policy Development and Review

The Overview and Scrutiny Committee may:

- (i) assist the Council and the executive, in the development of its budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research, community and other consultation in the analysis of the policy issues and policy options;
- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) question members of the Executive, committees and chief officers about their views on issues and proposals affecting the area; and
- (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

(b) Scrutiny

The Overview and Scrutiny Committee may:

- (i) review and scrutinise the decisions made by and performance of the Executive and Committees and Council officers both in relation to individual decisions and over-time;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question members of the Executive and Committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

- (iv) make recommendations to the Executive and appropriate Committees and the Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance; and
- (vi) question and gather evidence from any person (with their consent).

(c) Methods

For the purposes of their general, policy development and review and scrutiny roles, the Overview and Scrutiny Committee may:

- (i) undertake such work itself;
- (ii) refer matters to an appropriate Standing Scrutiny Panel or to "Task and Finish" Scrutiny Panel; and
- (iii) devise an annual programme of work to achieve their objectives.

(d) Finance

The Overview and Scrutiny Committee may exercise overall responsibility for its finances made available by the Council.

(e) Officers

The Overview and Scrutiny Committees may exercise overall responsibility for the work programme of the officers employed to support their work.

6.05 Proceedings of the Overview and Scrutiny Committees

The Overview and Scrutiny Committee will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

ARTICLE 7 - THE EXECUTIVE

7.01 Role

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

7.02 Form and Composition

The Executive will consist of between three and 10 Councillors and will include the Leader of the Council appointed by the Council. The other members of the Executive will be appointed by the Leader of the Council including a Deputy Leader. ~~The Chairman and Vice Chairman of the Council shall not be members of the Executive.~~ LGA2000 section 11(7) prohibits this.

7.03 Leader

The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office until:

- (a) he/she resigns from the office or as a Councillor; or
- (b) he/she is disqualified from being a Councillor; or
- (c) the next Annual Council meeting after completing his/her term of office as a Councillor or until such other date as the Council may specify; and
- (d) he/she is removed from office by resolution of the Council.
- (e) if removed from office by virtue of any regulations made pursuant to the Local Government Act 2000 or the Localism Act 2011 (NB the regulations referred to had not been made as at 3.13).

NB: The person who is elected as Leader of the Council remains a member of the Council during the period that he or she is appointed as Leader of Council, except where the person ceases to be Councillor by virtue of resignation or disqualification.

7.04 Deputy Leader

The Leader will appoint a Deputy Leader of the Council from among those Councillors appointed to the Executive. The person appointed as Deputy Leader shall, unless they resign as Deputy Leader, hold office until the end of any term of office of the Leader of the Council specified by the Council.

The Deputy Leader may be removed from office by the Leader of the Council if the latter thinks fit and the Leader must then appoint another person to be Deputy Leader.

7.05 Deputy Leader – Powers to Act

If, for any reason, the Leader of Council is unable to act or that office is vacant, the Deputy Leader must act in the Leader of Council's place.

7.06 Leader and Deputy Leader – Unable to Act

If, for any reason, the Leader of the Council is unable to act or the office of Leader is vacant and the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the Executive must act in the Leader's place or must arrange for a member of the Executive to act in the Leader's place until such time that the Council appoints a new Leader of Council.

7.07 Other Executive Members

Other executive members shall hold office until:

- (a) they resign from office or as a Councillor; or
- (b) they are disqualified as Councillors;
- (c) the next Annual Council meeting but may be re-appointed the Leader of the Council for further terms of office; and
- (d) they are removed from office, either individually or collectively, by the Leader of the Council.

7.08 Portfolio Holder Assistants

The Leader of the Council shall also, at his or her discretion, appoint Portfolio Holder Assistants on an annual basis in accordance with the Executive Procedure Rules contained in the Constitution.

7.09 Proceedings of the Executive

Proceedings of the executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

7.10 Responsibility for Functions

The Leader will maintain a list in Part 3 of this Constitution setting out which individual members of the Executive, committees of the Executive, officers or joint arrangements are responsible for the exercise of particular Executive functions.

Any function which is the responsibility of the Executive may not be discharged by the Council.

7.11 Portfolio Holder Advisory Groups

... For the purposes of carrying out any Executive function any member of the Executive may convene a Portfolio Holder Advisory Group. Details of the arrangements for such groups are set out in the Appendix to this Article.

7.12 Executive Committees

The Leader of the Council may appoint, from time to time, Committees of the Executive comprising solely members of the Cabinet. The membership and terms of reference are set out in Part 3 of this Constitution (Responsibility for Functions).

**ARTICLE 7
(THE EXECUTIVE)
APPENDIX**

PORTFOLIO HOLDER ADVISORY GROUPS

1. Purpose of this Protocol

To set out the arrangements for advisory groups to be established for the purpose of advising members of the Executive on executive functions.

2. Details of the Protocol

(a) It shall be competent for a member of the Executive, whether acting on a personal basis under the terms of the scheme of delegation approved by the Cabinet or in any other connection, to establish advisory groups to assist in the carrying out of executive functions;

(b) Such groups may comprise members of the Executive, other members of the Council, representatives of other organisations, officers of this or other Councils or individual members of the community;

(c) Each political group represented on the Council shall be invited to submit a representative to serve on any such group;

(d) Advisory Groups may be established to carry out the following tasks:

(i) to advise a member of the Cabinet on the exercise of executive functions, including decision-making;

(ii) to act as a means of consultation on executive functions between the Cabinet member and the Council and the local community; and

(iii) to assist the Executive in developing or reviewing services or policy.

3. Limitations on the Operation of Advisory Groups

(a) Advisory Groups shall be advisory only and may not exercise any decision-making powers, these being vested in the Executive in accordance with the Constitution;

(b) The Executive will, through the appropriate member of the Cabinet, ensure that Overview and Scrutiny Committees are advised of the establishment of such a group and of the outcome of its discussions;

(c) Advisory Groups shall be reviewed annually and disbanded once their allotted tasks are completed; and

(d) The Executive will record the advice of the Advisory Group and indicate its response to views expressed in the recording of its decisions.

4. Review of Protocol

This protocol shall be subject to regular review as part of the monitoring of the Council's Constitution.

ARTICLE 8 - REGULATORY AND OTHER COMMITTEES

The Council will appoint the committees set out in the left hand column of the table entitled "Responsibility for Council Functions" in Part 3 of this Constitution to discharge the functions described in column 3 of that table. The terms of reference for those committees, which are not reproduced elsewhere, are listed in the Appendices to Section (2) of that Part.

ARTICLE 9 - THE STANDARDS COMMITTEE

9.01 Standards Committee

The Council will establish a Standards Committee, to be known as the Epping Forest District Council Standards Committee.

9.02 Membership

<p>Appointed by:</p> <p>The Council, in accordance with the provisions of S101 & S102 Local Government Act 1972 and Regulations made thereunder.</p> <p>Appointment of a Standards Committee shall be by full Council.</p>	<p>Number of Members:</p> <p>9 elected Members appointed proportionally (of whom 1 member may be a member of the Executive nominated by the Leader of the Council)</p> <p>Parish/Town Councils affiliated to the Committee to be invited to nominate one Parish/Town Councillor to be co-opted as a non-voting member.</p>
<p>Chairman and Vice-Chairman appointed by:</p> <ol style="list-style-type: none"> 1. The Chairman will be elected by the Committee. 2. There will be one Vice- Chairman, who shall be elected by the Committee. 3. The Vice-Chairman shall deputise for the Chairman in his or her absence. 	<p>Political Proportionality:</p> <p>Rules of political proportionality apply.</p> <p>Substitutes:</p> <p>Substitutes are permitted for the Standards Committee.</p> <p>Frequency:</p> <p>At least quarterly.</p> <p>Venue:</p> <p>As set out in the approved Calendar of Meetings.</p>
<p>Independent Persons:</p> <p>Appointment approved by full Council in accordance with the provisions of Section 28(6) and (7) of the Localism Act 2011.</p>	<p>The Independent Persons:</p> <p>The Independent Persons to be invited to attend the meetings of the Standards Committee.</p>
<p>Quorum:</p> <p>At least 3 voting Members of the Committee.</p>	

9.03 Terms of Reference

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by Members and Co-opted Members of the Authority;
- (b) advising and assisting Parish/Town Councils and Councillors to maintain high standards of conduct and to make recommendation to Parish/Town Councils on improving standards or actions following a finding of a failure by a Parish/Town Councillor to comply with the Code of Conduct;
- (c) conducting hearings on behalf of the Parish/Town Councils;
- (d) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (e) receiving referrals from the Monitoring Officer into allegations of misconduct in accordance with the Authority's assessment criteria;
- (f) receiving reports from the Monitoring Officer and assessing the operation and effectiveness of the Members' Code of Conduct;
- (g) advising, training or arranging to train Members and Co-Opted Members on matters relating to the Members' Code of Conduct;
- (h) assisting Councillors and Co-opted Members to observe the Members' Code of Conduct;
- (i) hearing and determining complaints about Members and Co-opted Members referred to it by the Monitoring Officer;
- (j) advising the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council;
- (k) maintaining oversight of the Council's arrangements for dealing with complaints;
- (l) informing Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints;
- (m) appointing a Sub-Committee;
- (n) granting dispensations after consultation with the Independent Person(s) pursuant to S33(2)(b), (c) and (e) of the Localism Act 2011;
- (o) hearing and determining appeals against refusal to grant dispensations by the Monitoring Officer pursuant to S33(2)(a) and (d) of the Localism Act 2011

9.04 Sub Committees

The Committee shall appoint a Sub Committee to be known as the "Complaints Sub Committee". The Committee may appoint other Sub Committees for the purpose of carrying out its functions.

9.05 Complaints Sub Committee

<p>Appointed by:</p> <p>The Council, for the purposes of section 28(6) and (7) of the Localism Act 2011.</p>	<p>Number of Elected Members:</p> <p>5 Members appointed from Members of the Standards Committee.</p>
<p>Chairman and Vice-Chairman appointed by:</p> <p>The Chairman shall be elected by the Sub-Committee at each meeting.</p>	<p>Political Proportionality:</p> <p>Rules of political proportionality apply.</p> <p>Substitutes:</p> <p>None.</p> <p>Frequency:</p> <p>As and when required.</p> <p>Venue:</p> <p>To be determined by the Monitoring Officer.</p>
<p>Quorum:</p> <p>At least 3 voting Members.</p>	<p>Parish Councillor to be invited to be co-opted as non-voting member in dealing with a complaint against a Parish Councillor.</p>
<p>Independent Persons:</p> <p>Appointment approved by full Council in accordance with the provisions of Section 28(6) and (7) of the Localism Act 2011.</p>	<p>The Independent Persons:</p> <p>The Independent Person(s) to attend the meetings of the Standards Committee dealing with hearings into allegations of misconduct.</p>
<p>Terms of Reference</p> <p>To conduct a Hearing into an allegation that a Member or Co-opted Member has breached the Authority's Code of Conduct.</p> <p>Following a Hearing, make one of the following findings:</p> <ul style="list-style-type: none"> (f) That the Member has not failed to comply with the Code of Conduct and no further action needs to be taken in respect of the matters considered at the Hearing; (g) That the Member has failed to comply with the Code of Conduct but that no further action needs to be taken in respect of the matters considered at the Hearing; (h) That the Member has failed to comply with the Code of Conduct and that a sanction and/or an informal resolution should be imposed. 	

The Sub-Committee may impose any action or combination of actions available to it, or impose any informal resolution or combination of informal resolutions as are available to it by law or policy.

After making a finding the Sub-Committee shall, as soon as reasonably practicable provide written notice of its findings and the reasons for its decision to the Member and complainant.

9.06 Complaints and Sub Committee Hearings Procedures, Complaints Assessment Criteria and Investigation Procedure

The conduct of complaint processes by the Sub Committee shall be in accordance with Appendices 1-4 to this Article.

Complaints Procedure

Introduction

1.1 These “Arrangements” set out how you may make a complaint that an elected or co-opted member of Epping Forest District Council or of a parish council or town council (referred to as a parish council in this document) within the District of Epping Forest has failed to comply with the Councillors’ Code of Conduct, and sets out how the District Council will deal with allegations of a failure to comply with the Councillors’ Code of Conduct.

1.2 Under Section 28(6) and (7) of the Localism Act 2011, the District Council must have in place “Arrangements” under which allegations that a member or co-opted member of the District Council (or of a parish council within the District of Epping Forest), or of a Committee or Sub-Committee of the District Council, has failed to comply with Code of Conduct can be investigated and decisions made on such allegations.

1.3 Such arrangements must provide for the District Council to appoint at least one Independent Person, whose views must be sought by the District Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the District Council at any other stage, or by a member (or a member or co-opted member of a parish council) against whom an allegation has been made.

2. The Code of Conduct

2.1 The District Council has adopted a Code of Conduct for Councillors, which is available for inspection on the District Council’s website and on request from Reception at the District Council Civic Offices.

2.2 Each Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council’s Code of Conduct, you should inspect any website operated by the Parish Council or request the parish clerk to allow you to inspect the Parish Council’s Code of Conduct.

3. Making a complaint

3.1 If you wish to make a complaint, please write to:

The Monitoring Officer
c/o The Local Assessment Officer
Epping Forest District Council
Office of the Chief Executive
Civic Offices, High Street
Epping
CM16 4BZ

3.2 The Monitoring Officer is a senior officer of the District Council who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of councillor misconduct.

3.3 In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the District Council's website, next to the Code of Conduct, and is available on request from Reception at the District Council Civic Offices.

3.4 Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the member against whom you make the complaint, without your prior consent.

3.5 The District Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

3.6 The Local Assessment Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

3.7 The Complaints Procedure Flowchart is attached at Appendix 1 for your assistance.

4. Will your complaint be investigated?

4.1 The Monitoring Officer will review every complaint received and, may consult with the Independent Person before taking a decision as to whether it:

- (a) merits no further investigation; or
- (b) merits further investigation; or
- (c) should be referred to the Standards Committee,

4.2 This decision will normally be taken within 28 working days of receipt of your complaint. Your complaint will be considered in accordance with the District Council's Assessment Criteria contained at Appendix 2. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision. Where the Monitoring Officer requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed.

4.3 Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.

4.4 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits further investigation.

4.5 If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police or other regulatory agencies.

5. How is the investigation conducted?

5.1 The District Council has adopted a procedure for the investigation of misconduct complaints, which is attached as Appendix 3 to these arrangements.

5.2 If the Monitoring Officer decides that a complaint merits further investigation, he/she may appoint an Investigating Officer, who may be another senior officer of the District Council, an officer of another authority or an external investigator. The Investigating Officer or Monitoring Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen, and who needs to be interviewed.

5.3 The Investigating Officer or Monitoring Officer will normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

5.4 At the end of his/her investigation, the Investigating Officer or Monitoring Officer will produce a draft report (“the Investigation Report”) and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

5.5 Having received and taken account of any comments which you may make on the draft Investigation Report. Where an Investigating Officer has been appointed the Investigating Officer will send his/her final report to the Monitoring Officer.

6. What happens if the Investigating Officer or Monitoring Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

6.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer’s report and, if he/she is satisfied that the Investigating Officer’s report is sufficient, the Monitoring Officer will write to you and to the member concerned and to the Parish Council, where your complaint relates to a Parish Councillor, notifying you that he/she is satisfied that no further action is required, and give you both a copy of the Investigation Final Report.

(6.2) If an Investigating Officer has been appointed and if the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report.

7. What happens if the Investigating Officer or Monitoring Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

7.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer’s report and will then either send the matter for a hearing before the Standards Sub-Committee or in consultation with the Independent Person seek an informal resolution.

(a) Informal Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the District Council's Standards Committee (and the Parish Council) for information, but will take no further action.

(b) Hearing

If the Monitoring Officer considers that informal resolution is not appropriate, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigation Report to the Standards Sub-Committee which will conduct a hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The District Council has agreed a procedure for hearing complaints, which is attached as Appendix 4 to these arrangements.

At the hearing, the Investigating Officer or the Monitoring Officer will present her/his report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer or Monitoring Officer may ask you as the complainant to attend and give evidence to the Sub-Committee. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and dismiss the complaint. If the Sub-Committee concludes that the councillor did fail to comply with the Code of Conduct, the Chairman will inform the member of this finding and the Sub-Committee will then consider what action, if any, the Sub-Committee should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Sub-Committee will give the member an opportunity to make representations to the Sub-Committee and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

8. What action can the Standards Sub-Committee take where a member has failed to comply with the Code of Conduct?

8.1 The District Council has delegated to the Sub-Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Sub-Committee may:-

- (a) Publish its findings in respect of the member's conduct;
- (b) Report its findings to Council (or to the Parish Council) for information;
- (c) Recommend to Council (or to the Parish Council) that the member be issued with a formal censure or be reprimanded

- (d) Recommend to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that the member be removed from any or all Committees or Sub-Committees of the Council;
- (e) Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- (f) Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the member;
- (g) Recommend to Council to remove (or recommend to the Parish Council that the member be removed) from all outside appointments to which he/she has been appointed or nominated by the District Council (or by the Parish Council);
- (h) Recommend to Council to withdraw (or recommend to the Parish Council that it withdraws) facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or
- (i) Recommend to Council to exclude (or recommend that the Parish Council exclude) the member from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Panel meetings.

8.2 The Sub-Committee has no power to suspend or disqualify the councillor or to withdraw the councillor's basic allowance or any special responsibility allowances.

9 What happens at the end of the hearing?

9.1 At the end of the hearing, the Chairman will state the decision of the Standards Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to take.

9.2 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the Sub-Committee, and send a copy to you, to the member (and to the Parish Council), make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

10 Who are the Standards Sub-Committee?

10.1 It is a Sub-Committee comprising of Councillors sitting on the Council's Standards Committee.

10.2 The Standards Committee has decided that it will comprise a maximum of five Councillors of the Council, including not more than one member of the Council's Executive and comprising councillors drawn from all political groups. Subject to those requirements, it is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council. If the member complained about is a member of a Parish Council, a parish councillor who is a co-opted member of the Standards Committee will also be invited to attend the Sub-Committee.

10.3 The Independent Person is invited to attend all meetings of the Sub-Committee and their views are sought and taken into consideration before the Sub-Committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11 Who is the Independent Person?

11.1 The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of the District Council.

11.2 A person cannot be “independent” if he/she:

(a) is, or has been within the past 5 years, a member, co-opted member or officer of the District Council;

(b) is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the District of Epping Forest), or

(c) is a relative or close friend, of a person within paragraph (a) or (b) above. For this purpose, a “relative” means:

(i) spouse or civil partner;

(ii) living with the other person as husband and wife or as if they were civil partners;

(iii) grandparent of the other person;

(iv) a lineal descendent of a grandparent of the other person;

(v) a parent, sibling or child of a person within paragraphs (a) or (b) above

(vi) a spouse or civil partner of a person within paragraphs (iii), (iv) or (v) above; or

(vii) living with a person within paragraphs (iii), (iv) or (v) above as husband and wife or as if they were civil partners.

12. Revision of these arrangements

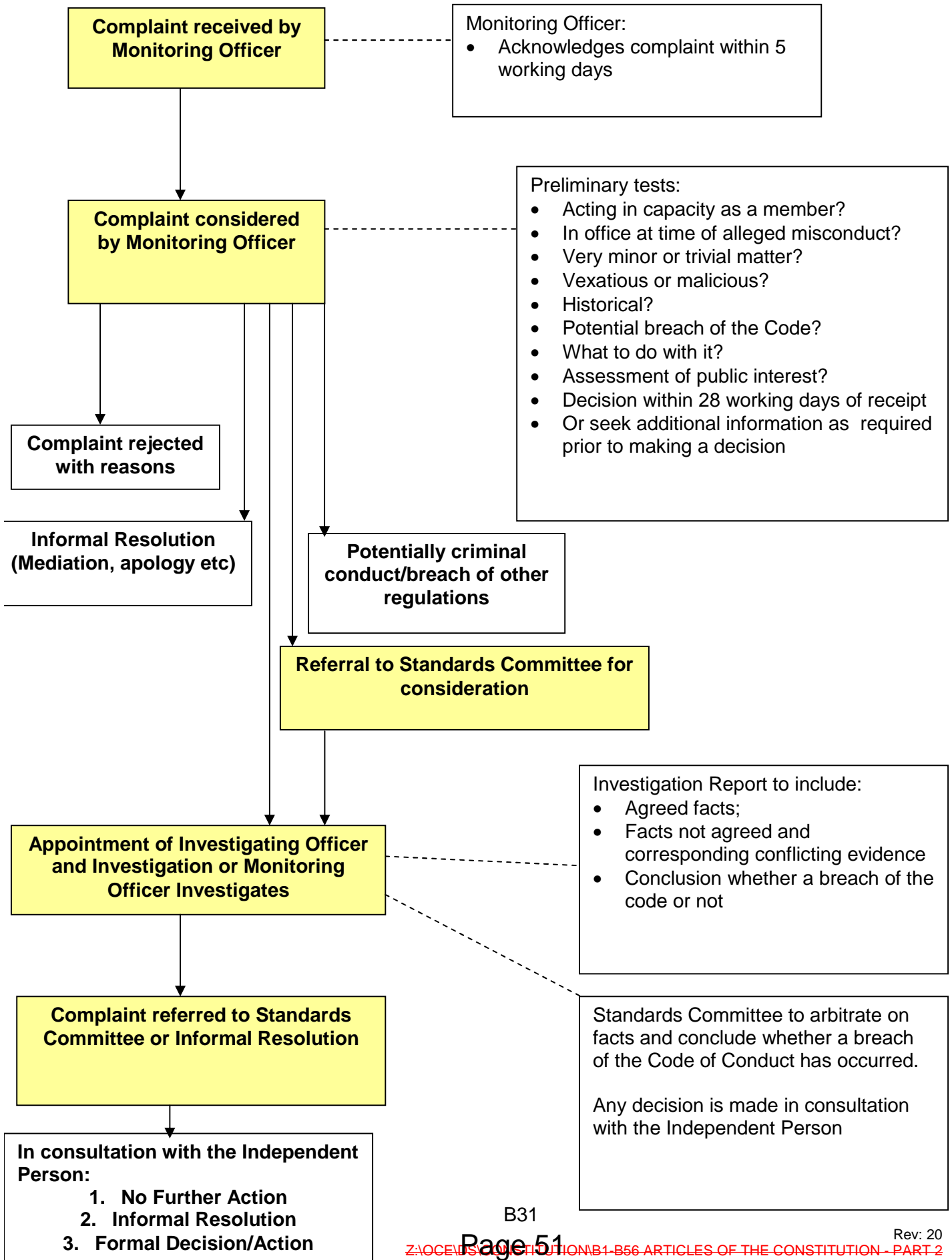
The District Council may by resolution agree to amend these arrangements, and has delegated to the Chairman of the Sub-Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13. Appeals

13.1 There is no right of appeal for you as complainant or for the councillor against a decision of the Monitoring Officer or of the Sub-Committee.

13.2 If you feel that the District Council has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

Complaints Procedure Flowchart



COMPLAINTS SUB-COMMITTEE HEARING PROCEDURE

<u>Item No.</u>	<u>Procedure</u>
1	<u>Quorum</u>
	<p>1.1. Three Members must be present throughout the hearing to form a quorum.</p> <p>1.2. Where the complaint refers to a Parish Councillor a non voting Parish member of the Standards committee may be present</p> <p>1.3. The Sub-Committee shall nominate a Chairman for the meeting</p>
2	<u>Opening</u>
	<p>2.1. The Chairman explains the procedure for the hearing and reminds all parties to turn off mobile phones, audible alarms and pagers etc.</p> <p>2.2. The Chairman asks all present to introduce themselves</p> <p>2.3. The Councillor will be asked whether they wish to briefly outline their position</p>
3	<u>The Complaint</u>
	<p>3.1. The Investigating Officer shall be invited to present their report including any documentary evidence or other material (and to call witnesses as required by the Investigating Officer). This report and documentary evidence must be based on the complaint made to the Council – no new points will be allowed.</p> <p>3.2. The Councillor against whom the complaint has been made (or their representative) may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer. (This is the Councillor’s opportunity to ask questions rising from the Investigators report and not to make a statement)</p> <p>3.3. Members of the Sub-Committee may question the Investigating Officer upon the content of their report and/or any witnesses called by the Investigating Officer</p>
4	<u>The Councillor’s case</u>
	<p>4.1. The Councillor against whom the complaint has been made (or their representative) may present their case (and call any witnesses as required by the Councillor or their representative)</p>

	<p>4.2 The Investigating Officer may question the Councillor and/or any witnesses</p> <p>4.3 Members of the Sub-Committee may question the Member and/or any witnesses</p>
5	<p style="text-align: center;"><u>Summing Up</u></p> <p>5.1 The Investigating Officer may sum up the Complaint</p> <p>5.2 The Member (or their representative) may sum up their case.</p>
6	<p style="text-align: center;"><u>Decision</u></p> <p>6.1 Members of the Sub-Committee will deliberate in private to consider the complaint in consultation with the Independent Person prior to reaching a decision</p> <p>6.2 Upon the Sub-Committee's return the Chairman will announce the Sub-Committee's decision in the following terms:-</p> <p>6.2.1 The Sub-Committee decides that the Member has failed to follow the Code of Conduct or</p> <p>6.2.2 The Sub-Committee decides that the Member has not failed to follow the Code of Conduct</p> <p>6.2.3 The Sub-Committee will give reasons for their decision</p> <p>6.3 If the Sub-Committee decides that the Member has failed to follow the Code of Conduct the Panel will consider any representations from the Investigator and/or the Member as to:</p> <p>6.3.1 Whether any action should be taken and</p> <p>6.3.2 What form any action should take</p> <p>6.4 The Sub-Committee will then deliberate in private to consider what action if any should be taken in consultation with the Independent Person</p> <p>6.5 On the Sub-Committee's return the Chairman will announce the Sub-Committee's decision (in relation to a Parish Councillor a recommendation to the Parish Council)</p> <p>6.6 The Sub-Committee will consider whether it should make any recommendations to the Council or in relation to a Parish Councillor to the Parish Council with a view to promoting high standards of conduct among Members</p> <p>6.7 The Chairman will confirm that a full written decision shall be issued within 7 working days following the hearing and that the Sub-Committee's findings to be published.</p>

STANDARDS COMPLAINTS ASSESSMENT CRITERIA

Complaints which would not normally be referred for investigation

1. The complaint is not considered sufficiently serious to warrant investigation; or
2. The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
3. The complaint appears to be politically motivated; or
4. It appears that there can be no breach of the Code of Conduct; for example, that it relates to the Councillor’s private life or is about dissatisfaction with a Council decision; or
5. It is about someone who is no longer a Councillor; or
6. There is insufficient information available for a referral; or
7. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances eg. allegation of bullying, harassment etc; or
8. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
9. The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Standards Committee; or
10. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct; or
11. Where the member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction

Complaints which may be referred to the Standards Committee

1. It is serious enough, if proven, to justify the range of actions available to the Standards Committee; or
2. There are individual acts of minor misconduct which appear to be a part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation; or
3. When the complaint comes from a senior officer of the Council, such as the Chief Executive or the Monitoring Officer and it would be difficult for the Monitoring Officer to investigate; or
4. The complaint is about a high profile Member such as the Leader of the Council and it would be difficult for the Monitoring Officer to investigate

5. Such other complaints as the Monitoring Officer considers it would not be appropriate for him to investigate

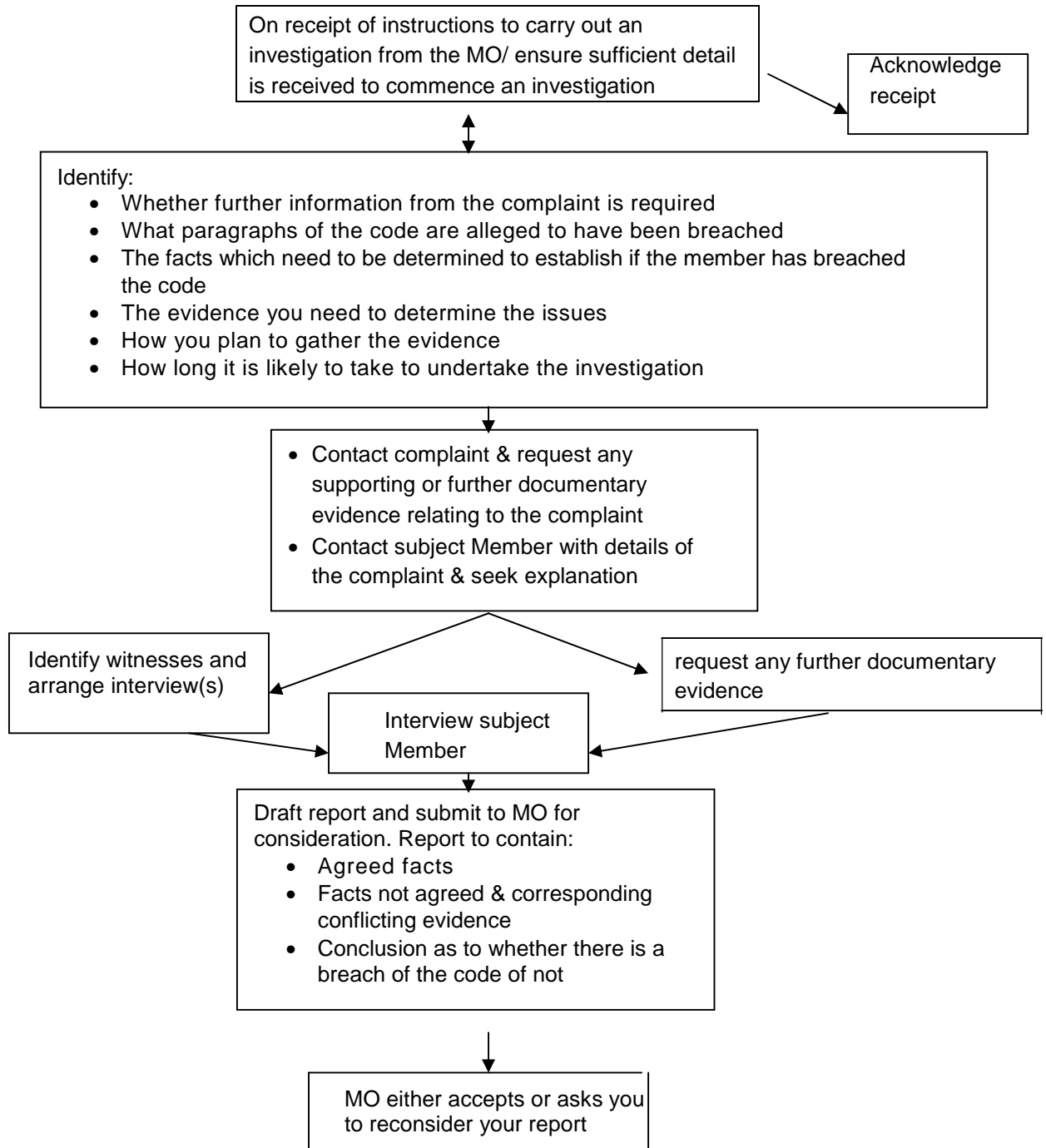
Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and members' time. This is an important consideration where the complaint is relatively minor.

STANDARDS COMPLAINTS INVESTIGATION PROCEDURE

Investigation Procedure

You should maintain a written record to demonstrate what was considered at the start of each investigation and plan how you intend to carry out the investigation, the paragraphs of the code that may have been breached, the facts you need to determine to establish, the evidence you will need, how you plan to gather the evidence and how long it will take to conclude your investigation. Remember there is no provision in the Localism Act 2011 compelling Members or witnesses to co-operate with your investigation.

A written Investigation Report will need to be prepared for consideration by the Council's Monitoring Officer.



ARTICLE 10 - AREA PLANS SUBCOMMITTEES AND FORUMS

Complete rewrite suggested.

10.01 ~~Area Committees~~

~~The Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making. The Council will consult with relevant parish and town councils on any proposals to change the way Area Committees operate and the chairmen of relevant parish meetings if these exist.~~

~~10.02~~ Form, Composition and Function

(a) Table of Area Committees. The Council will appoint the area committees as set out in the first column of the table below, composed as set out in the second column of that table and with the terms of reference set out in the third column.

(b) Delegations. The Council and the Executive will include details of the delegations to area committees in Part 3 of this Constitution, showing those which are the responsibility of the Executive and those which are not Executive functions, the composition and membership of the committees, budgets and any limitations on delegation.

Name of Committee	Composition	Terms of Reference
(i) Area Plans Sub-Committee (South)	Up to 25 members representing wards in the area	(1) Notwithstanding the provisions of Standing Order A15, no business shall be transacted by an Area Plans Sub-Committee unless at least five members of that Sub-Committee are present.
(ii) Area Plans Sub-Committee (East)	All members representing wards in the area (19)	(2) Each Area Plans Sub-Committee shall be responsible for considering matters which fall within the terms of reference set out in this Article insofar as they relate to the parts of the Epping Forest District prescribed below:
(iii) Area Plans Sub-Committee (West)	All members representing wards in the area (14)	Area Plans Sub-Committee South – All District Wards in the Parishes of Buckhurst Hill, Chigwell and Loughton. Area Plans Sub-Committee East – District Wards of Epping Hemnall, Epping Lindsey and Thornwood Common, North Weald Bassett, Theydon Bois and Lambourne, Passingford, Chipping Ongar, Greensted and Marden Ash, Shelley, High Ongar, Willingale and The Rodings, Hastingwood, Matching and Sheering Village, Lower Sheering, Moreton and Fyfield. Area Plans Sub-Committee West - All District Wards in the Parish of Waltham Abbey together with the District Wards of Lower Nazeing, Broadley Common, Epping Upland & Nazeing and Roydon.
		(3) To consider all applications (except as may be delegated to the Head of Planning and Economic Development) received for development within the parts of the District indicated under (2) (including the Council's own proposals and plans for its own

development) and, except in regard to applications referred to in item (4) below, to make decisions on behalf of the district planning authority thereon and to consider informal proposals for development and to give advice to prospective developers thereon.

(4) To consider and make recommendations to the District Development Committee on:

(i) any matter which is contrary to policy or which relates to potential decisions liable to give rise to cost or compensation claims, these matters to include development control matters and enforcement of planning requirements (the latter to include recommendations of no action).

(ii) the District Development Control Committee or Council have so directed; or

(iii) the Sub-Committee wish for any reason to refer the application to the District Development Control Committee for decision.

(5) To consider and make recommendations to the county planning authority on applications for development within the District which are county matters and applications in respect of which the county planning authority directs that the decision be made by them. Provided that where an application falls within the provisions of paragraph (3) above, the recommendation be first submitted to the District Development Control Committee.

(6) To consider any planning applications referred to the Council by other local authorities for comment.

(7) To consider applications for planning consent initiated by the Council within the meaning of Regulation 3 of the Town and Country Planning General Regulations 1992 and associated legislation and applications affecting land in the Council's ownership and to determine such applications or make recommendations thereon to the District Development Control Committee (See Appendix 1).

(8) To consider the protection of any trees and to authorise the making of tree preservation orders in appropriate cases and to determine the confirmation of such orders where they are opposed.

(9) To consider the need for enforcement action including legal proceedings under the Town and Country Planning Acts and the Civic Amenities Act, and to take such action thereon as may appear necessary.

10.03 Conflicts of Interest - Membership of Area Committees and Scrutiny Committees

~~(a) — Conflict of Interest. If a scrutiny committee is scrutinising specific decisions or proposals in relation to the business of the area committee of which the Councillor concerned is a member, then the Councillor may not speak or vote at the Overview and Scrutiny Committee meeting unless a dispensation to do so is given by the Standards Committee.~~

~~(b) — **General Policy Reviews.** Where the Overview and Scrutiny Committee is reviewing policy generally the member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.~~

10.04 Area Committees - Access to Information

Area Plans Sub-Committees will comply with the Access to Information Rules in Part 4 of this Constitution.

10.05 Executive Members on Area Plans Sub-Committees

A member of the executive may serve on an Area Plans Sub-Committee if otherwise eligible to do so as a Councillor.

10.06 Operational Standing Orders

Operational Standing Orders for Area Plans Sub-Committees are set out in Part 4 of the Constitution (Rules of Procedure).

ARTICLE 11 - AUDIT AND GOVERNANCE COMMITTEE

11.1 Title

The Committee should be entitled "Audit and Governance Committee" of Epping Forest District Council.

11.2 Purpose

The purpose of the Audit and Governance Committee is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment, and to oversee the financial reporting process.

11.3 Authority

The Committee is authorised by the Council to:

- (a) investigate, or cause to be investigated, any activity within its terms of reference;
- (b) seek any information that it requires from any Member or employee of the Council, and require all Members and employees to co-operate with any request made by the Committee;
- (c) meet for despatch of its business, adjourn and otherwise regulate its business as it shall see fit, including approving items of business by the written resolution procedure set out in the Council's Constitution.

11.4 Role and Responsibilities

The Audit and Governance Committee will have the following roles and functions:-

- (a) To consider the effectiveness of the Council's Risk Management arrangements, the control environmental and associated anti-fraud and anti-corruption arrangements.
- (b) To seek assurances that action is being taken on risk related issues, identified by Auditors and Inspectors.
- (c) To be satisfied that the Council's Assurance Statements, including the Statement on Internal Control, properly reflect the risk environment and any actions required to improve it.
- (d) To agree the Council's Internal Audit Strategy Plan, Annual Audit Plan and monitor performance against all associated plans.
- (e) To review summary Internal Audit reports and the main issues arising and seek assurance that action has been taken where necessary.
- (f) To receive an Annual Report from the Chief Internal Auditor.

- (g) To ensure that there are effective relationships between External and Internal Audit, Inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
- (h) To review financial statements, including the Council's Statement of Accounts, External Auditor's opinion and reports to Members, and monitor management action in response to the issues raised by External Audit.
- (i) Review, and challenge where necessary, the actions and judgements of Management, in relation to the Council's Statement of Accounts, paying particular attention to:
 - (i) critical accounting policies and practices, and any changes to them;
 - (ii) decisions requiring a major element of judgement;
 - (iii) the extent to which the financial statements are affected by any unusual transactions in the year and how they are disclosed;
 - (iv) significant adjustments resulting from the audit; and
 - (v) any material weakness in internal control reported by the Internal or External Auditor.
- (j) Consider other reports of External Audit and inspection agencies, which are relevant to the functions of the Committee.
- (k) Briefing meetings for members of the Committee will be held as and when necessary separately and at least once a year with the External Auditor and Chief Internal Auditor.
- (l) To consider performance and best value issues to the extent that they relate to the audit and control environment and risk management issues of the Council.
- (m) To be responsible for the scrutiny of the Council's Treasury Management Strategy, including consideration of mid financial year and outturn reports.

11.5 Membership

- (a) The Committee shall comprise 5 members, including 3 Councillors and 2 co-opted persons.
- (b) Councillors serving as members of the Committee shall be appointed at the Annual Council meeting of Epping Forest District Council for a term of office of one year and shall be eligible for re-appointment for further terms of office.
- (c) That the seats should be allocated so they are not all drawn from one political group and are also open to councillors who are not affiliated to any political group.
- (d) Co-opted members shall serve for a period of 3 years from appointment. Such three year appointments shall be overlapping in terms of their expiry dates. A co-opted member may serve for a total of two such terms as of right but may be considered for two further three year terms, provided he or she is successful after open competition following public advertisement. Re-appointment for further terms shall be subject to satisfactory attendance.

(e) Casual vacancies for members of the Committee who are Councillors which occur shall be filled at the next ordinary Council meeting (but not an extraordinary meeting) with a term of office expiring on the date of the next Annual Council meeting.

11.6 Eligibility for membership

(a) Councillor members

Councillors appointed to the Audit and Governance Committee may not also be members of the Cabinet, any Cabinet Committee, or any panel appointed by the Overview and Scrutiny Committee with responsibility for reviewing the Council's finances or financial procedures.

A Portfolio Holder Assistant (other than any Assistant involved in any portfolio dealing primarily with the Council's finances) appointed by the Leader of the Council shall be eligible for appointment to the Committee.

Appointment of Councillors shall be made on the basis of evidence of the aptitude, experience or interest and for this purpose the normal rules for pro rata appointments shall not apply.

Formal attendance standards be operated in respect of the three councillor members when reappointment is under consideration by the Council's Appointments Panel and the Chairman and co-opted members of the Audit and Governance Committee be consulted informally about the appointment or reappointment of councillors at the appropriate time.

(b) Co-opted members

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

11.7 Chairman and Vice Chairman

(a) The Chairman and Vice Chairman of the Audit and Governance Committee shall be appointed at the first meeting of the Committee in each Council year for a term of one year expiring on the date of the first meeting of the Committee of the next Council year.

(b) Casual vacancies in the position of Chairman and Vice Chairman shall be filled in the same way as required in respect of members of the Committee (see paragraph 11.5 (d) above).

(c) Both Councillors and co-opted members serving on the Committee shall be eligible for appointment to the office of Chairman and Vice Chairman.

(d) Where the Chairman of the Committee is a Councillor, the Vice Chairman will be appointed from among the Co-opted members. Where the Chairman is one of the Co-opted members, the Vice Chairman shall be a Councillor.

(e) The Chairman and Vice Chairman shall be eligible for re-appointment.

11.8 Meetings of the Committee

- (a) The Committee shall meet at least four times each year.
- (b) All meetings shall be open to the press and public except where the Committee resolves that exempt or confidential business must be considered in private session.
- (c) The Committee shall be entitled to require any Member, Heads of Service, their representatives or any other officer to attend their meetings in order to discuss any matters under discussion including the annual audit programme.

11.9 Quorum

No business may be transacted at a meeting of the Committee unless there are two Councillor members and one co-opted member present.

11.10 Decision Making

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

11.11 Other Requirements

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

ARTICLE 12 - CONSTITUTION - JOINT ARRANGEMENTS

12.01 Arrangements to Promote Well Being

The Council or the Executive in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

12.02 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives or exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee or equivalent with these other local authorities;
- (b) The Executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities;
- (c) Except as set out below, the Executive may only appoint executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole;
- (d) The Executive may appoint members to a joint committee from outside the Executive in the circumstances where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area. The political balance requirements do not need to apply to such appointments; and
- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

12.03 Access to Information

- (a) The Access of Information Rules in **Part 4 check reference** of this Constitution apply to joint committees;
- (b) If all the members of a joint committee are members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the Executive; and
- (c) If the joint committee contains members who are not on the Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

12.04 Delegation to and from other local authorities

- (a) The Council may delegate non-executive functions to another local authority;
- (b) The Executive may make proposals to the Council for the delegation of executive functions to another local authority or the executive of another local authority in certain circumstances; and
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

12.05 Contracting Out

The Council for functions which are not executive functions and the executive for executive functions may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

ARTICLE 13 - OFFICERS

13.01 Management Structure

(a) General

The full Council may engage such staff (referred to as 'officers') as it considers necessary to carry out its functions.

(b) Chief Officers

The Council will engage persons subject to the Officer Employment Procedure Rules for the following posts, who will be designated chief officers:

Post	Functions and areas of responsibility
Chief Executive 3 year appointment	Head of Paid Service to provide leadership of the Council's workforce.
Deputy Chief Executive	<p>Member of Management Board. Responsible for general corporate management issues and management advice to Heads of Service. Lead role for Parish Council liaison, health, Community Care and Social Services.</p> <p>Member of Management Board. Provides mutual cover for Chief Executive. Responsible for general corporate management issues and management advice to Service Directors. Lead role for Performance Management, Customer Complaints/Compliments. North Weald Airfield (Strategy). Sports, Arts, Museum Development. Youth Council.</p>
Director of Finance	<p>Chief Financial Officer The operation and management of Financial Services, Accountancy, Budget Strategy, Insurance, Debtors, Creditors and Cashiers, Housing Benefits, Council Tax/Community Charge, ICT Data Protection.</p>
Director of Environment and Street Scene	<p>Operation and management of Environmental Services: Architectural Services, Building Services, Highways, Client Drainage, Street Lighting, Footpaths, Car Parks, Environmental Health, Refuse Collection/Recycling/Street Cleaning, Grounds maintenance, playground maintenance, Roding Valley Nature Reserve, North Weald Airfield (Operations), management of Sports and Leisure Centres.</p>
Director of Corporate Support Services	<p>The operation and management of Legal and Administrative Services, Legal Services, Civic Offices Building Management, Burials Administration, Licensing, Local Land Charges, Reprographics, Office Services, Estates and Valuation.</p> <p>Oversight of the recruitment and selection process, including the setting and monitoring of corporate standards.</p>

Post	Functions and areas of responsibility
	Responsibility for the management of the Council's employee relations machinery, i.e. Joint Consultative Committee, plus all terms and condition/local agreements/policy frameworks for human resources. Delivering a corporate training plan and framework for identifying training need across the Council. Payroll.
Director of Housing	Housing strategy and policy Housing association partnerships and developments Housing register and transfer list Homelessness Allocation of Council accommodation Nominations to housing associations Council garage waiting lists, allocations and management Management of the Council's homeless persons hostel Housing mobility schemes Housing finance Housing rents HRA house and land sales Leasehold services Housing information Tenant participation Housing repairs and Maintenance Disabled adaptations to Council properties Gas servicing of Council properties Housing management Sheltered housing Careline Emergency planning – Housing Private Sector Housing
Director of Planning and Economic Development	Forward Planning/District Wide Plan. Urban and Rural Regeneration: Land Use, Transport, Economic Development and Environmental Issues. Development Control: Planning Applications and Enforcement. Conservation: Listed Buildings, Conservation Areas, Trees, Landscape Design Advice. Countryside Management. Building Control/Dangerous Structures.

(c) Head of Paid Service, Monitoring Officer and Chief Financial Officer

The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Director of Corporate Support Services	Monitoring Officer
Assistant to the Chief Executive <u>Director Governance and Performance Management</u>	Deputy Monitoring Officer
Director of Finance and ICT	Chief Finance Officer <u>(Section 151 Officer)</u>

Such posts will have the functions described in Article ~~12~~13.02 - ~~12~~13.04 below.

(d) Structure

The Head of Paid Service will determine and publicise a description of the overall organisational structure of the Council showing the management structure and deployment of officers. This is set out in ~~Part 7~~the Appendix to this article.

13.02 Functions of the Head of Paid Service

(a) Discharge of Functions by the Council

The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

(b) Restrictions on Functions

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

13.03 Functions of the Monitoring Officer

(a) Maintaining the Constitution

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.

(b) Ensuring Lawfulness and Fairness of Decision-Making

After consulting with the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to the full Council or to the Executive in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) Supporting the Standards Committee

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

(d) Receiving Reports

The Monitoring Officer will receive and act on reports made by ethical Standards Officers and decisions of the case tribunals.

(e) Conducting Investigations

The Monitoring Officer will conduct investigations into matters ~~referred by ethical Standards Officers~~subject to complaint under the Councils Code of Conduct and make reports or recommendations in respect of them to the Standards Committee.

(f) Proper Officer for Access to Information

The Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

(g) Advising whether Executive Decisions are within the Budget and Policy Framework

The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.

(h) Providing Advice

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.

(i) Restrictions on Posts

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

13.04 Functions of the Chief Finance Officer

(a) Ensuring Lawfulness and Financial Prudence of Decision-making

After consulting with the Head of Paid Service and the Monitoring officer, the Chief Financial Officer will report to the full Council or to the Executive in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully. Such a report will have the effect of stopping the proposal, decision or course of action being implemented until the first business day after the report has been considered.

(b) Proper Administration of Financial Affairs

The Chief Financial Officer will have responsibility for the proper administration of the financial affairs of the Council.

(c) Contributing to Corporate Management

The Chief Financial Officer will contribute to the corporate management of the Council, in particular, through the provision of professional financial advice.

(d) Providing Advice

The Chief Financial Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and the Elected Mayor and will support and advise Councillors and Officers in their respective roles.

(e) Provision of Financial Information

The Chief Financial Officer will provide financial information to the media, members of the public and the community.

13.05 Duty to provide sufficient resources to the Monitoring Officer and Chief Financial Officer

The Council will provide the Monitoring Officer and Chief Financial Officer with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed. To assist the Monitoring Officer, the Council will designate a Deputy Monitoring Officer to assist with the Monitoring Officer's responsibilities.

13.06 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

13.07 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of the Constitution.

ARTICLE 14 - DECISION-MAKING

Introduction

14.01 Responsibility for Decision-Making

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

14.02 Principles of Decision-Making

All decisions of the Council (whether they are the responsibility of the Cabinet or not) will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) that relevant human and equality rights have been considered, given due regard and respected in the formulation of options and in the making of any relevant decision;
- (d) there is a presumption in favour of openness; and
- (e) there is a clarity of aims and desired outcomes.

In addition the decision-maker will be required to demonstrate:

- (f) that all relevant matters were fully taken into account in reaching decisions and are for example consistent with the agreed policy framework of the Council;
- (g) that Standing Orders and Financial Regulations were complied with;
- (h) that the member concerned considered whether he or she had any declarable interest in the particular item and if necessary made a declaration of interest;
- (i) that the Scheme of Delegation had been complied with;
- (j) that the decision was properly recorded and published within the appropriate timescale, together with declarations of interest and background papers; and
- (k) that there will be an explanation of the options considered before a decision was made and an explanation of the decision itself in accordance with the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000.

14.03 Forward Plan

In accordance with the 2000 Act, the Council will prepare a Forward Plan, which will list all Key Decisions which the Cabinet anticipate that they will take during the next 4 months, together with any particularly significant Key Decisions which they anticipate that they will take within the next 4 to 12 months. The Council may also include in the Forward Plan reference to significant decisions which are to be taken by the Council or

any of its Committees or Sub Committees. This Plan will be updated on a monthly rolling programme.

14.04 Types of Decision

(a) Decisions reserved to the full Council relating to the functions listed in Article 4.01 will be made by the full Council and not delegated.

(b) Key Decisions

The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 define a key decision as:

“An Executive decision which is likely:

- (i) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates; or
- (ii) to be significant in terms of its effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.”

(c) Key Decisions - Definition of "Significance" – Redraft required

The Epping Forest District Council has agreed, the following definition of significance as any decision which would, if implemented, fall within any of the following descriptions:

- (i) a significant decision under (b)(i) above shall be defined as follows:
 - 1. any decision within budget and policy which involves expenditure or savings of £250,000 or over;
 - 2. any decision not within budget and policy which involves expenditure or savings of £100,000 or over in the current Council year;
 - 3. a decision which raises new issues of policy;
 - 4. a decision which increases financial commitments (i.e. revenue and/or capital) in future years over and above existing budgetary approval;
- (ii) a significant decision under (b)(ii) above shall be defined as follows:
 - 1. any decision which comprises and includes the publication of draft or final schemes which may require either directly or in relation to objections to the approval of a Government Minister.
 - 2. any decision which involves the passage of local legislation;
 - 3. any decision which affects two or more wards and is one which would have a discernible effect on the quantity or quality of services provided to people living or working in that area;
- (iii) any definition of a key decision shall exclude borrowing or lending decisions by the Head of Finance under delegated authority;

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(d) Key Decisions - Further Requirements

The following additional requirements in relation to key decisions have been applied by the Council:

- (i) a decision-taker may only make a Key Decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution;
- (ii) key decisions may not be made by Heads of Service;
- (iii) key decisions under (b)(i) above shall be made by the Cabinet if they involve amounts of £1m or more;
- (v) key decisions under (b)(i) involving amounts of between £250,000 and up to £1m may be made by the appropriate Portfolio Holder; and
- (iv) Portfolio Holders may only make decisions under (c) above on matters affecting their own wards if recommended by Head of Service or as one of a range of options recommended by a Head of Service.

14.05 Decision-Making by the Full Council

Subject to Article 13.09, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution.

14.06 Decision-Making by the Executive

Subject to Article 13.09, the Executive will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

14.07 Decision-Making by Overview and Scrutiny

Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

14.08 Decision-Making by Other Committees, Sub-Committees, Panels and Boards

Subject to article 13.09, other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

14.09 Decision-Making by Council Bodies acting as Tribunals

The Council, a councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights. For the purposes of this, the licensing and enforcement functions of any body shall be subject to this Article. Likewise the provisions of Article 6 of the European Convention relating to natural justice and a fair trial will be applied to the proceedings of the Standards Committee of the Authority.

ARTICLE 15 - FINANCE, CONTRACTS AND LEGAL MATTERS

This article refers on to the authority's Financial and Contract Rules, which are contained in Part 5 of this Constitution and to Sections 135, 151, 223 & 234, Local Government Act 1972 Part VIII, Local Government Finance Act 1988.

15.01 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

15.02 Contracts

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.

15.03 Legal Proceedings – this is a duplication with the delegation arrangements

The Director of ~~Corporate Support Services~~Governance is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Director of ~~Corporate Support Services~~Governance considers that such action is necessary to protect the Council's interests.

15.04 Authentication of Documents

(a) Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Director of ~~Corporate Support Services~~Governance or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Does this section need to be in here? It is contained within contract SO's referred to and reference in 15.02 above

(b) Any contract with a value not exceeding £20,000 may be dealt with by way of an official order except in circumstances where the Director of ~~Corporate Support Services~~Governance considers that a written contract is in the Council's best interests.

(c) All contracts with a value exceeding £20,000 shall be in writing. Contracts of up to £50,000 in value or amount shall be signed by at least two officers of the Authority. Contracts valued in excess of £50,000 shall be made under the Common Seal of the Council, attested by at least one officer.

15.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the ~~Head of Legal and Administration Services~~Director of Governance. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Director of Corporate Support Services should be sealed. The affixing of the Common Seal will be attested by the Chief Executive, Deputy Chief Executive, the Assistant Director (Legal) and Assistant to the Chief Executive or some other person authorised by the appropriate member of the Cabinet.

ARTICLE 16 - REVIEW AND REVISION OF THE CONSTITUTION

16.01 Duty to Monitor and Review the Constitution

The Monitoring Officer in consultation with the Head of Paid Service, the Chief Financial Officer and the Leader of the Council will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

Protocol for Monitoring and Review of Constitution

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations to the Council for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:

1. observe meetings of different parts of the member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised by members, officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

Changes to the Constitution

(a) Approval

Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Monitoring Officer.

(b) Change within a Mayoral Form of Executive

Unless the change relates only to the operation of Overview and Scrutiny Committees, any resolution of the full Council to approve a change will have no effect without the written consent of the mayor.

~~(c) Change from a Mayoral Form of Executive to another Form of Executive or to alternative arrangements, or from alternative arrangements to a Mayoral Form of Executive~~

~~The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum. The change will not take effect until the end of the mayor's term of office.~~

~~(d) Change from a Leader and Cabinet Form of Executive to alternative arrangements or vice versa~~

~~The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.~~

ARTICLE 17 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

17.01 Suspension of the Constitution

(a) Limit to Suspension

The Articles of this Constitution may not be suspended. The Rules ~~specified below~~ set out in Part XX may be suspended by the full Council to the extent permitted within those Rules and the law.

(b) Procedure to Suspend

The procedure for suspension is set out in the rules in Part XX of this constitution

Note take into rules section.

A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1. It shall be competent for the Head of Paid Service, after consultation with the Monitoring Officer, to seek a decision from relevant members on the suspension of any rule on grounds of public interest. Such suspension shall be recorded as a decision of the executive and notified to all Councillors.

17.02 Interpretation

The ruling of the Chairman of Council as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

17.0~~2~~³ Publication

(a) The Monitoring Officer will ~~give offer~~ provide a printed copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.

(b) The Monitoring Officer will ensure that ~~a copy is available~~ copies are available for inspection at ~~the council offices, libraries and other appropriate locations,~~ the council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee. A copy shall also be made available on the Council's website

~~(c) — The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.~~

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Report to the Constitution and Member Services Standing Scrutiny Panel



Date of meeting: **November 2014**

Subject: Constitution Review – Council Procedural Rules

Officer Contact for further Information: Simon Hill (01992 56 4249)

Democratic Services Officer: Mark Jenkins (01992 56 4607)

Recommendations:

- (1) To consider proposals for the amalgamation of all current procedural rules within one Section of the future constitution; and**
- (2) To consider initial ideas of how such a rules section might appear based upon the Council procedural rules.**

Report:

1. (Assistant Director Governance and Performance Management) Initial review of the Constitution reveals that procedural rules are spread across a number of different parts. Indeed some of the non-executive bodies have rules that spread across the Council procedure rules and operational standing orders.

2. It is suggested that a single 'rules' section is created that contains all of the rules across the constitution in one place. This will entail the disaggregation of the Terms of Reference and procedures relating to each body. It is suggested elsewhere that the most appropriate place for this information is within reworked Articles.

3. This would leave their rules of operation. In the appendix to this report is a suggested format. Officers have used a table format. For each rule the final column would indicate which of the Council's bodies it applied to. There are columns for Council, the Executive, Overview and Scrutiny and other non-executive bodies. An X or tick in the column would denote whether a rule applied or not.

4. In the appendix the main Council procedure rules have been treated in this way. In addition the Executive procedure rules and have been added in green; applicable Overview and Scrutiny rules in Blue and Non Executive Operational Standing Orders in Red. The 'remaining' elements of those sets of rules is shown in the appendix for completeness. Work on the Articles would be required to ensure that they reflect the remaining procedures fully. The work has highlighted a number of areas where text is duplicated.

5. The proposals are seen as a work in progress. As work progresses on the Constitution further elements may be appropriate for inclusion. Members are asked to comment on the suggested way forward.

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COUNCIL RULES

CONTENTS

To be completed:

DRAFT COUNCIL RULES – DISCUSSION DOCUMENT

Application:

Rules and procedures shown in columns 2 and 3 shall be applicable to those bodies as are in the Application columns 4,5,6 and 7 using the following key:

C – Council

E – Executive

O – Overview and Scrutiny Committee and Panels

NE – Other non Executive and Regulatory Committees, Subcommittees, Panels and Working Groups

No	Rule	Procedure	Application			
			C	E	O	NE
1.	ANNUAL MEETING OF THE COUNCIL - PROCEDURE	<p>In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May June?</p> <p>The annual meeting will:</p> <ul style="list-style-type: none"> (i) elect a person to preside if the Chairman of Council is not present; (ii) elect the Chairman of Council; (iii) elect the Vice-Chairman of Council; (iv) approve the minutes of the last meeting; (v) receive any announcements from the Chairman; 				

No	Rule	Procedure	Application			
			C	E	O	NE
		<p>(vi) elect the leader;</p> <p>?? Receive a report from the Appointments Panel recommending?? NEW</p> <p>(vii) appoint at least one Overview and Scrutiny Committee, a Standards Committee, an Audit and Governance Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions as set out in Part 3, Table 1 of this Constitution;</p> <p>(viii) appoint Chairmen and Vice-Chairmen to those bodies;</p> <p>(ix) agree the scheme of delegation excluding delegation of executive functions which are the responsibility of the Leader of Council;</p> <p>(x) approve a programme of ordinary meetings of the Council for the year;</p> <p>(xi) consider any business set out in the notice convening the meeting;</p> <p>(xii) receive a work programme for the Executive and a joint work programme for Overview and Scrutiny Committees for the ensuing year;</p> <p>(a) The Executive shall submit to the Council at its annual meeting a work programme for the following Council year. The Overview and Scrutiny Committee shall submit an annual report to the Council in April each year on work undertaken during the preceding 12 months.</p> <p>(xiii) be notified of Group Leaders and Deputies and Group representatives on relevant Committees;</p> <p>(xiv) to debate and respond to petitions where the number of signatures meets or exceeds the trigger level contained in the Council's petitions scheme; and</p> <p>(xv) be notified by the Leader of the Council of appointments to the Cabinet, on the establishment of Cabinet Committees, delegation of executive responsibilities to Cabinet members and officers and appointments to outside organisations carrying out executive functions.</p> <p>1.2 Delegation by the Leader</p> <p>At the Annual Meeting of the Council, the Leader will present to the Council a written record of</p>				

No	Rule	Procedure	Application			
			C	E	O	NE
		<p>additional delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the leader will contain the following information about executive functions in relation to the coming year:</p> <ul style="list-style-type: none"> (i) the extent of any authority delegated to executive members individually, including details of the limitation on their authority; (ii) the terms of reference and constitution of such executive committees as the leader appoints and the names of executive members appointed to them; (iii) the nature and extent of any delegation of executive functions to area committees, any other authority or any joint arrangements and the names of those executive members appointed to any joint committee for the coming year; and (iv) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made. <p>1.2 Selection of Councillors on Committees and Outside Bodies</p> <p>At the annual meeting, the Council will:</p> <ul style="list-style-type: none"> (i) decide which committees to establish for the municipal year excluding those committees which are the responsibility of the Leader of Council; (ii) decide the size and terms of reference for those committees; (iii) decide the allocation of seats to political groups in accordance with the political balance rules; (iv) receive nominations of councillors to serve on each committee and outside body excluding those committees and outside bodies which are the responsibility of the Leader of the Council; and 				

No	Rule	Procedure	Application			
			C	E	O	NE
		(v) appoint to those committees and outside bodies except where such appointments are exercisable only by the executive.				
2.	COUNCIL - ORDINARY MEETINGS	<p>Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:</p> <ul style="list-style-type: none"> (i) elect a person to preside if the Chairman and Vice-Chairman are not present; (ii) approve the minutes of the last meeting; (iii) receive any declarations of interest from members; (iv) receive any announcements from the Chairman, Leader of the Council, members of the Executive; (v) receive questions from, and provide answers to, the public and members of the Council in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting; (vi) receive reports from the Leader of the Council on the appointment of a Deputy Leader, the Cabinet, Cabinet Committees, Responsibilities of Cabinet members, appointments to outside organisations which are the responsibility of the Executive and delegation of Cabinet functions to officers; (vii) receive a report from the Leader of the Council on any delegation of executive functions to Joint Committees and local Committees; (viii) receive written reports from the Leader, Chairman of Overview and Scrutiny Committee and each of the Portfolio Holders and receive questions and answers on any of those reports or any matters falling within their area of responsibility; (ix) receive reports about and receive questions and answers on the business of joint arrangements and external organisations; (x) consider motions; (xi) receive questions in the following order: <ul style="list-style-type: none"> 1. Public Questions 2. Questions under Notice by Councillors 				

No	Rule	Procedure	Application			
			C	E	O	NE
		<p>3. Questions by Councillors to the Leader of Council, Cabinet members and the Chairman of the Overview and Scrutiny Committee on written reports submitted under Rule 12.6 and on questions without notice on other matters submitted under Rules 12.8 & 12.9;</p> <p>(xii) consider any other business specified in the summons to the meeting, including consideration of proposals from the executive in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Committees for debate, including annual reports for both Overview and Scrutiny Committees and the Executive on their activities in April of each Council year;</p> <p>(xiii) any matter of public concern allocated to any ordinary Council meeting for the purpose of debate;</p> <p>(xiv) deal with any items of business deemed by the Chairman as urgent business in accordance with Section 100B(4) of the Local Government Act 1972.</p> <p>(b) The Executive shall submit to the Council in April each year a report on its activities in the last Council year.</p>				
2.2	<p>State of the District Debates</p> <p>STILL REQUIRED?</p>	<p>(i) Calling of debate</p> <p>The Leader will call a State of the District debate annually on a date and in a form to be agreed with the Chairman.</p> <p>(ii) Form of debate</p> <p>The Leader will decide the form of debate, with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the State of the District debate.</p> <p>(iii) Results of debate</p>				

No	Rule	Procedure	Application			
			C	E	O	NE
		<p>The results of the debate will be disseminated as widely as possible within the community and to agencies and organisations in the area; and considered by the Leader in proposing the budget and policy framework to the Council for the coming year.</p> <p>2.3 Single Issue Council Meetings</p> <p>The Leader may, from time to time, call for a Council meeting to be held dealing with a single issue of critical importance to the residents of the District. The normal rules of debate will apply in the case of 'single issue' Council meetings.</p>				
3.	EXTRAORDINARY MEETINGS – CALLING OF AND BUSINESS AT	<p>(1) Those listed below may request the Proper Officer to call Council meetings in addition to ordinary meetings:</p> <p>(i) the Council by resolution;</p> <p>(ii) the Chairman of the Council;</p> <p>(iii) the Monitoring Officer; and</p> <p>(iv) any five members of the Council if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.</p> <p>(2) An extraordinary meeting of the Council shall transact the business set out in the agenda but shall exclude motions under Procedure Rule 13..</p> <p>?? CALLING OF EXTRAORDINARY MEETINGS OF OTHER BODIES?</p>				
4.	TIME AND PLACE OF MEETINGS	<p>(1) Meetings of the Council shall be held at the Civic Offices, High Street, Epping at 7.30 p.m. or at such other time or venue as the Chairman of the Council may determine in consultation with</p>				

No	Rule	Procedure	Application			
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		<p>the Chief Executive.</p> <p>(2) All business at Council meetings shall be completed by 10.00 p.m.;</p> <p>(3) The time and place of other meetings of the authority shall be agreed with the Chairman of the meeting concerned and approved by that committee at its next meeting. NEW</p> <p>Executive Meetings - When and Where?</p> <p>The Executive will meet at times to be agreed by the Leader. The executive shall meet at the Civic Offices, High Street, Epping, Essex CM16 4BZ or another location to be agreed by the Leader. Meetings will commence at 7.00 p.m.</p>				
5.	CANCELLATION OF MEETINGS	The decision to cancel any meeting of the Council shall be made by the Chairman in consultation with the Chief Executive (or his representative). In circumstances where a meeting has to be cancelled for reasons which are outside the Council's control at short notice, the decision to cancel shall be made no later than 2 hours before the commencement of the meeting and notified to all Councillors and other interested persons as soon as possible thereafter.				
6.	NOTICE AND SUMMONS TO MEETINGS	The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, one or both of the Joint Chief Executives will send a summons signed by him or them by post to every member of the Council, leave it at their usual place of residence or posted or delivered to some other address that a member may notify in writing. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.				
7.	CHAIRMAN OF MEETING	The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to Committee and Sub-Committee meetings, references to the Chairman also include the Chairman of Committees, Sub-Committees, Boards and Panels.				

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		<p>2.1 Who Presides?</p> <p>If the Leader is present he/she will preside. In his/her absence, then the Deputy Leader will preside. In the event that both the Leader and Deputy Leader are absent, the Executive will appoint a person from among those present to preside at that meeting.</p> <p>The member of the Executive appointed, as Chairman of any Executive Committee will preside at that meeting of that Committee at which he/she is present. If the appointed Chairman is absent, another member from those present shall preside for all or part of the meeting in question.</p>				
8.	QUORUM	<p>The quorum of a meeting will be one quarter of the whole number of members. During any meeting if the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.</p> <p>Add rules for plans subs here</p> <p>1.8 Quorum</p> <p>The quorum for a meeting of the Cabinet, shall be 5 members of the executive. The quorum for a Cabinet Committee shall be three members. Appendix 1 to these rules sets out procedures for safeguarding the Cabinet quorum in exceptional circumstances.</p>				
9.	INTERESTS	<p>(1) Any member of the Council who has registered a disclosable pecuniary interest or has a pending notification of such interest in any items of business to be considered by the authority, must withdraw from the Council Chamber (or other meeting room) including the public gallery during the whole consideration of that item except if he or she is permitted to remain as a result of a dispensation.</p>				

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		<p>(2) Such requirements shall also apply to any Cabinet members with a disclosable pecuniary interest (including a pending notification) who shall be debarred from determining any matter which they would otherwise have dealt with as a portfolio holder under delegated authority.</p> <p>(3) Where a member of the Council has not registered such an interest or does not have a pending notification, they shall declare the existence and nature of that interest and withdraw from the meeting during discussion of any relevant item of business.</p> <p>1.5 Conflicts of Interest</p> <p>(a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.</p> <p>(b) If every member of the executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.</p> <p>(c) If the exercise of an executive function has been delegated to a committee of the executive, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.</p>				
10.	DURATION OF MEETING	<p>(1) All business of the Council requiring to be transacted in the presence of the press and public shall be completed by 10.00 p.m. at the latest.</p> <p>(2) At the time appointed under (1) above, the Chairman shall permit the completion of debate on any item still under consideration, and at his or her discretion, any other remaining business whereupon the Council shall proceed to exclude the public and press.</p>				

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		(3) Any public business remaining to be dealt with shall be deferred until after the completion of the private part of the meeting, including items submitted for report rather than decision.				
11.	QUESTIONS BY THE PUBLIC	<p>11.1 General</p> <p>Members of the public may ask questions of the Leader, Chairman of Overview and Scrutiny Committee or any Portfolio Holder at ordinary meetings of the Council and Cabinet</p> <p>11.2 Order of Questions</p> <p>Questions will be asked in the order in which notice of them was received, except that the Chairman may group together similar questions.</p> <p>11.3 Notice of Questions</p> <p>A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive at least 4 working days before the meeting. Each question must give the name and address of the questioner and must name the member of the Council (or Cabinet) to whom it is to be put.</p> <p>11.4 Number of Questions</p> <p>At any one meeting no person may submit more than two questions and no more than two such questions may be asked on behalf of one organisation.</p> <p>11.5 Scope of Questions</p> <p>The Chief Executive may reject a question if it:</p> <p>(a) is not about a matter for which the local authority has a responsibility or which affects the</p>				

No	Rule	Procedure	Application			
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		<p>District;</p> <p>(b) is defamatory, frivolous or offensive;</p> <p>(c) is substantially the same as a question which has been put at a meeting of the Council or Cabinet in the past six months; or</p> <p>(d) requires the disclosure of confidential or exempt information.</p> <p>11.6 Record of Questions</p> <p>The Chief Executive will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection. Copies of all questions will be circulated to all members on the agenda for the relevant Council meeting, which will be made available to the public attending the meeting.</p> <p>11.7 Asking the Question at the Meeting</p> <p>The Chairman will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chairman to put the question on their behalf. The Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.</p> <p>11.8 Supplemental Question</p> <p>A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply and must be only for purposes of elucidation. The Chairman may reject a supplementary question on any of the grounds in Rule</p>				

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		<p>10.5 above.</p> <p>11.9 Written Answers</p> <p>Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.</p> <p>11.10 Non Attendance of Questioner</p> <p>Where the member of the public who has given notice of a question is not in attendance at the Council meeting at which the question is to be put, a reply will be sent to the questioner in writing or by electronic mail and published in the minutes of the meeting and the Council Bulletin.</p> <p>11.11 Reference of Question to the Executive or a Committee/Sub-Committee</p> <p>Unless the Chairman decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to the Executive or a Committee. Once seconded, such a motion will be voted on without discussion.</p> <p>6. REQUESTS BY THE PUBLIC/OUTSIDE ORGANISATIONS TO ADDRESS THE CABINET</p> <p>6.1 Any member of the public or a representative of an outside organisation may address the Cabinet on any agenda item (except those dealt with in private session as exempt or confidential business) due to be considered at a meeting.</p> <p>6.2 The following rules shall apply to such requests:</p> <p>(i) requests must relate to any existing agenda item;</p> <p>(ii) requests must not raise new business for the meeting concerned;</p>				

No	Rule	Procedure	Application			
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		<p>(iii) all requests must be notified to the Council by 4 pm on the day of the meeting;</p> <p>(iv) requests accompanied by proposals to circulate written material must be received three working days before the meeting in time to be sent to Cabinet members in advance of the meeting;</p> <p>(v) requests need not be in writing;</p> <p>(vi) a maximum of two persons shall be permitted to address the Cabinet on any one agenda item;</p> <p>(vii) a time limit of 3 minutes per speaker shall apply;</p> <p>(viii) the Cabinet shall be able to ask questions on any comments made;</p> <p>(ix) the Leader of the Council shall have discretion as to whether to limit the number of persons wishing to address the Cabinet if it is considered that the number of such speakers will unduly delay the proper despatch of business at any meeting.</p> <p>(x) this procedure shall not apply to Cabinet Committees</p>				
12.	QUESTIONS BY MEMBERS	<p>12.1 On Reports of the Executive or Committees</p> <p>A member of the Council may ask the Leader, or the Chairman of Overview and Scrutiny or a Portfolio Holder any question without notice on an item of the report of the Executive or a Committee when that item is being received or under consideration by the Council.</p> <p>12.2 Questions Following Notice at Full Council</p> <p>Subject to Rule 11.4, a member of the Council may ask:</p>				

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		<p>(a) the Chairman;</p> <p>(b) the Leader;</p> <p>(c) a Portfolio Holder</p> <p>(c) the Chairman of any Committee or Sub-Committee</p> <p>(d) a question on any matter in relation to which the Council has powers or duties or which affects the Epping Forest District.</p> <p>12.3 Notice of Questions</p> <p>A member may only ask a question under Rule 12.2 if either:</p> <p>(a) they have given at least four working days' notice in writing of the question to the Chief Executive; or</p> <p>(b) the question relates to urgent matters, they have the consent of the Chairman to whom the question is to be put and the content of the question is given to the Chief Executive by 10.00 a.m. on the day of the meeting.</p> <p>12.4 Replies to Questions</p> <p>An answer may take the form of:</p> <p>(a) direct oral answer;</p> <p>(b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or</p>				

No	Rule	Procedure	Application			
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		<p>(c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.</p> <p>Answers to questions falling within categories (a) and (b) above shall be made available to the member asking the question one hour before the meeting of the Council at which the question will be put. Answers to questions under (c) above will be circulated to all Councillors.</p> <p>12.5 Supplementary Question</p> <p>A member asking a question under Rule 11.2 may ask one supplementary question without notice of the member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.</p> <p>12.6 Questions without notice at full Council</p> <p>A member of the Council may ask the Leader, Chairman of Overview and Scrutiny or any member of the Cabinet any question without notice on any non-operational matter in relation to which the Council has powers or duties or which affect the administrative area covered by the (Epping Forest District Council) or part of it or the inhabitants of that area or some of them, or which relates to a written response given by the Leader, Chairman of Overview and Scrutiny Committee or a member of the Cabinet.</p> <p>12.7 Response to a question without notice</p> <p>An answer to a question without notice may take the form of:</p> <p>(a) direct oral answer from the Leader or, at the request of the Leader, from another member of the Cabinet;</p> <p>(b) direct oral answer from the Chairman of the Overview and Scrutiny Committee or, at their</p>				

No	Rule	Procedure	Application			
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		<p>request, from another member dealing with that issue as part of an Overview and Scrutiny review;</p> <p>(c) where the desired information is in a publication of the Council or other published work, a reference to that publication;</p> <p>(d) where the reply cannot be conveniently be given orally, a written answer circulated later to the questioner; or</p> <p>(e) where the question relates to an operational matter, the Leader, Chairman of Overview and Scrutiny Committee or a member of the Cabinet will request that a response be given direct to the questioner by the relevant Chief Officer.</p> <p>12.8 Time Limit for Questions without Notice to the Leader of Council & Portfolio Holders on Written Reports and Other Matters</p> <p>(a) A time limit of 30 minutes shall be set for questions under Rule 12.6. Any question which cannot be dealt with within the time available will receive a written reply.</p> <p>(b) Questions without notice on written reports and on other matters will be dealt with by the Chairman of the Council as follows:</p> <p>(i) by extending the period of thirty minutes by up to 10 minutes at his or her discretion; and</p> <p>(ii) by ensuring that questions by members are dealt with in the order in which they are put and that all questions from each political group and from independent members receive a reply.</p> <p>12.9 Time Limit for Questions without Notice to the Chairman of the Overview & Scrutiny Committee on Written Reports and Other Matters</p> <p>(a) questions without notice on reports of the Chairman of the Overview & Scrutiny Committee and on any other matter affecting Overview & Scrutiny will be dealt with at the same time as other</p>				

No	Rule	Procedure	Application			
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		<p>business from that Committee; and</p> <p>(b) the Chairman of the Council shall apply the rules for questions without notice the Leader of the Council and Cabinet members (set out in Rule 12.8 above) to questions to the chairman of the Overview & Scrutiny Committee.</p> <p>12.10 Supplementary Question</p> <p>The will be no supplementary questions permitted in respect questions put under Rules 12.8 and 12.9.</p>				
13	MOTIONS - ON NOTICE	<p>13.1 Notice of Motion</p> <p>Except for motions which can be moved without notice under Rule 13, written notice of every motion, signed by at least the mover and seconder of the proposed motion, must be delivered to one of the Joint Chief Executives not later than seven working days before the date of the meeting. These will be entered in a book open to public inspection.</p> <p>13.2 Motions to be set out in Agenda</p> <p>Motions for which notice has been given will be listed on the agenda in the order in which each notice was received, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it. Any motion involving executive functions shall automatically stand referred to the Cabinet and any motion which deals with the Council's policy or budget frameworks, the Constitution or any matter requiring the consent of the Council, shall be subject to a report back to the next appropriate Council meeting.</p> <p>13.3 Scope of Motions</p> <p>Motions must be about matters for which the Council has a responsibility or which affect the</p>				

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		Epping Forest District.				
14.	MOTIONS - WITHOUT NOTICE	<p>The following motions may be moved without notice:</p> <p>(a) to appoint a Chairman of the meeting at which the motion is moved;</p> <p>(b) in relation to the accuracy of the minutes;</p> <p>(c) to change the order of business in the agenda;</p> <p>(d) to refer something to an appropriate body or individual;</p> <p>(e) to appoint a committee or member arising from an item on the summons for the meeting but excluding those appointments which are the responsibility of the Leader of Council;</p> <p>(f) to receive reports or adoption of recommendations of the Executive, Committees or officers and any resolutions following from them;</p> <p>(g) to withdraw a motion;</p> <p>(h) to amend a motion;</p> <p>(i) to proceed to the next business;</p> <p>(j) closure motion - that the question be now put (see Procedure Rule 14.11);</p> <p>(k) closure motion - to adjourn a debate (see Procedure Rule 14.11);</p> <p>(l) closure motion - to adjourn a meeting (see Procedure Rule 14.11);</p> <p>(m) that Rule 8 (relating to completion of business in public session be waived to permit the public session to continue beyond 10.00 p.m.</p> <p>(n) to suspend a particular council procedure rule;</p> <p>(o) to exclude the public and press in accordance with the Access to Information Rules;</p> <p>(p) not to hear further a member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4;</p> <p>(q) to extend the time allowed for any member's speech under Rule 14.4; and</p> <p>(r) to give the consent of the Council where its consent is required by this Constitution.</p>				
15.	RULES OF DEBATE - MOTIONS	<p>15.1 No Speeches until Motion Seconded</p> <p>No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.</p>				

No	Rule	Procedure	Application			
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		<p>15.2 Right to Require Motion in Writing</p> <p>Unless notice of the motion has already been given, the Chairman may require it to be written down and handed to him/her before it is discussed.</p> <p>15.3 Seconders' Speech</p> <p>When seconding a motion or amendment, a member may reserve their speech until later in the debate.</p> <p>15.4 Content and Length of Speeches</p> <p>Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Council.</p> <p>15.5 When a Member may Speak Again</p> <p>A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:</p> <ul style="list-style-type: none"> (a) to speak once on an amendment moved by another member; (b) to move a further amendment if the motion has been amended since he/she last spoke; (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried); (d) in exercise of a right of reply; (e) on a point of order; and (f) by way of personal explanation. <p>15.6 Amendments to Motions</p>				

No	Rule	Procedure	Application			
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		<p>(a) An amendment to a motion must be relevant to the motion and will either be:</p> <p>(i) to refer the matter to an appropriate body or individual for consideration or reconsideration;</p> <p>(ii) to leave out words;</p> <p>(iii) to leave out words and insert or add others; or</p> <p>(iv) to insert or add words as long as the effect of (ii) to (iv) is not to negate the motion.</p> <p>(b) only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.</p> <p>(c) if an amendment is not carried, other amendments to the original motion may be moved.</p> <p>(d) if an amendment is carried, the motion as amended takes the place of the original motion becoming the substantive motion to which any further amendments may be moved.</p> <p>(e) after an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.</p> <p>15.7 Alteration of Motion</p> <p>(a) A member may alter a motion of which he/she has given notice with the consent of the Council. The Council's consent will be signified without discussion.</p> <p>(b) A member may alter a motion which he/she has moved without notice with the consent of both the Council and the seconder. The Council's consent will be signified without discussion.</p> <p>(c) Only alterations which could be made as an amendment may be made.</p> <p>15.8 Withdrawal of Motion</p> <p>A member may withdraw a motion which he/she has moved with the consent of both the meeting</p>				

No	Rule	Procedure	Application			
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		<p>and the seconder. The Council's consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused by the Council.</p> <p>15.9 Right of Reply</p> <p>(a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.</p> <p>(b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.</p> <p>(c) The mover of the amendment has no right of reply to the debate on his or her amendment.</p> <p>15.10 Motions which may be Moved during Debate</p> <p>When a motion is under debate, no other motion may be moved except the following procedural motions:</p> <p>(a) to withdraw a motion;</p> <p>(b) to amend a motion;</p> <p>(c) to proceed to the next business;</p> <p>(d) that the question be now put;</p> <p>(e) to adjourn a debate;</p> <p>(f) to adjourn a meeting;</p> <p>(g) that Rule 9 (relating to completion of business in public session be waived to permit the public session to continue beyond 10.00 p.m.)</p> <p>(h) to exclude the public and press in accordance with the Access to Information Rules; and</p> <p>(i) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 21.4.</p>				

No	Rule	Procedure	Application			
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		<p>15.11 Closure Motions</p> <p>A member may move, without comment, the following motions at the end of a speech of another member:</p> <p>(i) to proceed to the next business; (ii) that the question be now put; (iii) to adjourn a debate; or (iv) to adjourn a meeting.</p> <p>DUPLICATION HERE</p> <p>(a) If a motion to proceed to next business is seconded and the Chairman rules the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.</p> <p>(b) If a motion that the question be now put is seconded and the Chairman rules the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.</p> <p>(c) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.</p> <p>15.12 Point of Order</p> <p>A member may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he/she considers it has been</p>				

No	Rule	Procedure	Application			
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		<p>broken. The ruling of the Chairman on the matter will be final.</p> <p>15.13 Personal Explanation</p> <p>A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.</p> <p>15.14 Motions referred to Overview and Scrutiny</p> <p>7. Any motion adopted by the Council following due notice from a Member of the Council and which relates to the responsibilities of Overview and Scrutiny shall, on adoption, stand referred to the Overview and Scrutiny Committee for consideration. In determining how to respond to the motion, the Overview and Scrutiny Committee shall consider whether the proposal should be incorporated in the work programme or held for future consideration in accordance with the procedures outlined in Paragraph 4 and 5 above. The Committee shall also advise the Council, via the Members' Information Bulletin, of the action taken on such motions.</p> <p>Mover of Motion may attend Committees</p> <p>When a motion has been referred to the Executive or any Committee from a meeting of the Council, the member of the Council who has moved or given notice of intention to move the motion and his seconder shall have notice of the meeting at which it is proposed to consider the motion. They shall have the right to attend the meeting and the opportunity of explaining the motion. The mover shall also have a right at the meeting to reply to the debate on that motion.</p>				
16.	RECISSION OR REJECTION OF PREVIOUS DECISIONS AND	<p>16.1 Motion to Rescind a Previous Decision</p> <p>A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 15 members.</p>				

No	Rule	Procedure	Application			
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	MOTIONS	<p>16.2 Motion Similar to One Previously Rejected</p> <p>A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 15 members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.</p>				
17.	VOTING	<p>17.1 Majority</p> <p>Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.</p> <p>17.2 Chairman's Casting Vote</p> <p>If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. The exercise of this second or casting vote shall be in accordance with Article 5 (paragraph 5) of the Constitution.</p> <p>17.3 Show of Hands</p> <p>Unless a recorded vote is demanded under Rules 16.4 and 16.5, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.</p> <p>17.4 Recorded Vote</p> <p>If five members present at the meeting require it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.</p> <p>17.5 Right to Require Individual Vote to be Recorded</p>				

No	Rule	Procedure	Application			
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		Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.				
18.	VOTING ON APPOINTMENTS	If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.				
19	MINUTES	<p>19.1 Signing the Minutes</p> <p>The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.</p> <p>19.2 Extraordinary Meetings</p> <p>Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.</p> <p>19.3 Form of Minutes</p> <p>Minutes will contain all motions and amendments in the exact form and order in which the Chairman put them.</p>				

No	Rule	Procedure	Application			
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20.	RECORD OF ATTENDANCE	All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.				
21.	EXCLUSION OF PUBLIC	<p>Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 22 (Disturbance by Public).</p> <p>1.7 Public or Private Meetings of the Executive?</p> <p>All meetings of the Cabinet and Cabinet Committees shall be open to the public, press and all members of the Council, subject to the need to consider any exempt or confidential business in private session. Exempt or confidential business will be dealt with at the conclusion of the public session, subject to the requirements of 1.6 above.</p>				
22.	MEMBERS' CONDUCT	<p>22.1 Standing to Speak</p> <p>When a member speaks at full Council they must stand and address the meeting through the Chairman. If more than one member stands, the Chairman will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.</p> <p>22.2 Chairman Standing</p> <p>When the Chairman stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.</p> <p>22.3 Member not to be Heard Further</p> <p>If a member persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the Chairman may move that the member be not heard further. If seconded, the motion will be voted on without discussion.</p>				

No	Rule	Procedure	Application			
			C	E	O	NE
		<p>22.4 Member to Leave the Meeting</p> <p>If the member continues to behave improperly after such a motion is carried, the Chairman may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.</p> <p>22.5 General Disturbance</p> <p>If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks necessary.</p>				
23.	DISTURBANCE BY PUBLIC	<p>23.1 Removal of Member of the Public</p> <p>If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.</p> <p>23.2 Clearance of Part of Meeting Room</p> <p>If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.</p>				
24.	SUSPENSION OF COUNCIL PROCEDURE RULES	All of these Council Rules of Procedure except Rule 14.5 and 18.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.				
	AMENDMENT OF COUNCIL PROCEDURE RULES	Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.				

No	Rule	Procedure	Application			
			C	E	O	NE
25.	PLANNING APPLICATIONS	Any planning application submitted directly to a Council meeting without prior consideration by the District Development Committee and/or an Area Sub-Committee shall be subject to the procedure for public participation by applicants, objectors and parish/town councils in the same way as those applied to Committees and Sub-Committees by Operational Standing Order 5.				
26.	APPLICATION TO THE EXECUTIVE, COMMITTEES AND SUB-COMMITTEES	<p>26.1 All of the Council Rules of Procedure apply to meetings of full Council. None of the rules (except Rule 8) apply to meetings of the Cabinet or other executive bodies. Only Rules 2(xi), 4-8, 11.10, 13 and 14, 16, (excluding 16.4), 18, 20-21 (excluding 21(1)) apply to meetings of Committees and Sub-Committees. Only rules 4-8 16.1-16.3 and 22.3-22.5 shall apply to working groups.</p> <p>26.2 The requirements of Procedure Rule 5 (Cancellation of Meetings) above shall apply to the Cabinet, Committees, Panels and Sub-Committees and any other meeting convened by the Authority.</p>				
	SUBSTITUTE MEMBERS - APPOINTMENT	<p>(1) A Leader, Deputy Leader or other appointed member of a political group shall be authorised to nominate to the Assistant to the Chief Executive substitute members from that group in respect of any committee, sub-committee, panel, board or working group of the Council, subject to the following conditions:</p> <p>(i) notice being given to the Assistant Director Democratic Services by not later than 60 minutes before the commencement of the meeting concerned;</p> <p>(ii) any political group member so appointed shall be notified to the Assistant Director Democratic Services at the beginning of each Council year;</p> <p>(iii) the substitution notification deadline shall be included on every agenda where substitution is permitted under the Council's Constitution.</p>				

No	Rule	Procedure	Application			
			C	E	O	NE
		<p>(iv) substitutions on Cabinet Committees shall be restricted to other members of the Executive – NEW</p> <p>(v) substitutes on Area Planning Subcommittees are not permitted - NEW</p> <p>(2) It shall be competent for the Chief Executive, in circumstances where a political group notifies that a Councillor from that group will be temporarily unable to attend a Committee for a period of 8 weeks by reason of serious illness or other incapacity, to approve a substitute member and to report to the Council on action taken.</p>				
	POLITICAL GROUP REPRESENTATIVES	<p>(1) The political groups on the Council shall, prior to the commencement of each Council year, nominate one of their members serving on each of the Committees and Sub-Committees specified in (2) below as their representative on those Committees and Sub-Committees.</p> <p>(2) For the purpose of (1) above, the Committees specified shall be as follows: District Development Control Committee and Area Plans Sub-Committees.</p> <p>(3) The nominated representatives of each group shall be reported to the Council at its annual meeting.</p>				
	MINORITY REFERENCES	<p>(1) It shall be competent for at least one quarter (rounded up to the nearest whole number) of the number of Council members of a Committee present at a meeting of that Committee to require at the meeting that no action be taken on a particular matter until it has been considered by the Council. In the case of Sub-Committees acting under delegated authority (except for Plans Sub-Committees) it shall be competent for one quarter (rounded up to the nearest whole number) of the members of that Sub-Committee present at a meeting of that Sub-Committee to require at the meeting that no action be taken on a particular matter until it has been considered by the parent committee.</p> <p>(2) In relation to Area Plans Sub-Committees it shall be competent for at least four</p>				

No	Rule	Procedure	Application			
			C	E	O	NE
		<p>members of that Sub-Committee present at a meeting of that Sub-Committee to require that no action be taken on a particular matter until it has been considered by the District Development Control Committee.</p> <p>(3) This Standing Order shall apply only to items of business at a committee or sub-committee meeting and not to those submitted for information or report.</p>				
	MINORITY REPORTS	<p>If a minority consisting of not less than one quarter (rounded up to the nearest whole number) of the members present at any meeting proposing to report to its parent body and forwards it to the Chief Executive so that it is received by the tenth working day (or such other time as is agreed with the Chief Executive) following the date of the meeting, copies of such minority reports shall be circulated by the Chief Executive with the report of the body concerned.</p>				
	PETITIONS	<p>All petitions received by the Council shall be dealt with in accordance with the Authority's approved procedure shown at Appendix xx to these rules</p>				

EXEC WHATS LEFT?

EXECUTIVE PROCEDURE RULES

CONTENTS

Rule

1. How does the Executive Operate?
2. How are Executive Meetings Conducted?
3. Reports of Cabinet Members
4. Annual Reports and Work Programmes
5. Deputy Portfolio Holders
6. Requests by the Public/Outside Organisations to address the Cabinet
7. Action in Designated Emergencies

Appendices:

- 1 – Cabinet Quorum

2 – Action in Designated Emergencies

EXECUTIVE PROCEDURE RULES

1. How Does the Executive Operate?

1.1 Who may make Executive Decisions?

The arrangements for the discharge of executive functions may be set out in the executive arrangements adopted by the Council. If they are not set out there, then the leader may decide how they are to be exercised. In either case, the arrangements or the leader may provide for executive functions to be discharged by:

- (i) the executive as a whole;
- (ii) a committee of the executive;
- (iii) an individual member of the executive;
- (iv) an officer;
- (iv) an area committee;
- (vi) joint arrangements; or
- (vi) another local authority.

1.3 Sub-Delegation of Executive Functions

(a) Where the executive, a committee of the executive or an individual member of the executive is responsible for an executive function, they may delegate further to an area committee, joint arrangements or an officer.

- (b) Unless the Council directs otherwise, if the leader delegates functions to the executive, then the executive may delegate further to a committee of the executive or to an officer.
- (c) Unless the leader directs otherwise, a committee of the executive to whom functions have been delegated by the leader may delegate further to an officer.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.4 The Council's Scheme of Delegation and Executive Functions

- (a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) Delegation of executive functions is the responsibility of the Leader of the Council who shall report to the Annual Council meeting on delegation agreed. He/she may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the proper officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the executive as a whole. The Leader of the Council will present a report to the next ordinary meeting of the Council setting out the changes made.
- (c) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he/she has served it on its chair.

1.9 How are Decisions to be taken by the Executive?

- (a) Executive decisions which have been delegated to the executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where executive decisions are delegated to a committee of the executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the executive as a whole.
- (c) Where Executive decisions are delegated to individual members of the Executive, these decisions shall, in the unavoidable absence of that person, be exercised by the Executive itself.

2. HOW ARE EXECUTIVE MEETINGS CONDUCTED?

2.2 What Business?

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

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters referred to the executive (whether by an overview and scrutiny committee or by the Council) for reconsideration by the executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (v) consideration of reports from overview and scrutiny committees;
- (vi) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution;
- (vii) budget reports; and
- (viii) reports from Executive Committees and individual members of the Executive.
- (ix) questions from members of the public in accordance with the Council's scheme provided that these are received at least 4 working days before the Cabinet meeting.

2.3 Consultation

All reports to the executive from any member of the executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant overview and scrutiny committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.4 Who can put Items on the Executive Agenda?

- (a) The Leader will decide upon the schedule for the meetings of the executive. He/she may put on the agenda of any executive meeting any matter which he/she wishes, whether or not authority has been delegated to the executive, a committee of it or any member or officer in respect of that matter. The proper officer will comply with the leader's requests in this respect.
- (b) Any member of the Executive may require the Proper Officer to place an item on the agenda of the next available meeting of the executive for consideration. If he/she receives such a request the proper officer will comply.
- (c) There will be a standing item on the agenda for each meeting of the Cabinet for matters referred by the Overview and Scrutiny Committee and at each ordinary meeting of the Cabinet for public questions.
- (d) Any member of the Council may ask the Leader to put an item on the agenda of an executive meeting for consideration, and if the leader agrees the item will be considered at the next available meeting of the Executive. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual may be invited to attend the meeting, if, in the opinion of the Leader this would assist the Executive's consideration of that item. In the event that the Leader is unable to agree the request, the relevant member of the Council shall receive an explanation of that refusal.
- (e) The monitoring officer and/or the chief financial officer may include an item for consideration on the agenda of an executive meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an executive meeting. If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

3. REPORTS OF CABINET MEMBERS

The following rules will apply to the reports submitted to any member of the Executive or the Cabinet, a Cabinet Committee or any other Executive body, namely:

- (a) all reports for Cabinet members will normally be drafted by officers but if drafted by a Cabinet member, they must be submitted at least 5 weeks in advance of the Cabinet meeting in order to allow the advice of officers to be included;

- (b) Cabinet members, once in possession of an officer's report, shall be able to amend reports in relation to minor wording changes or format provided that the factual, legal and financial basis is not compromised;
- (c) where Cabinet members wish to add or change recommendations or add options contained they must ensure that reasons are stated in the report;
- (d) at all times, reports requiring decisions in compliance with statute law or the Council's policy and budget framework, shall not be deferred by Portfolio Holders without the reason being recorded in writing;
- (e) it shall not be open to a Portfolio Holder to change a report submitted by a Chief Officer by omitting relevant facts or by altering the facts as expressed such that the report becomes unclear;
- (f) it shall be open to the Portfolio Holder and the Chief Officer to consult the Monitoring Officer and/or Chief Financial Officer under Article 12.03 or 12.04 of the Constitution on any points under (d) and (e) above on which there is no agreement; and
- (g) in the event that a Chief Officer and Cabinet member fail to agree on the submission of a report, it shall be referred to Monitoring Officer for a ruling on whether the report should proceed.

4. ANNUAL REPORTS AND WORK PROGRAMMES

5. PORTFOLIO HOLDER ASSISTANTS

5.1 The Leader of the Council may appoint up to 10 Portfolio Holder Assistants who shall –

- (a) assist the designated Cabinet Member in shaping and developing the strategic priorities of the Council as it relates to the allocated portfolio.
- (b) assist the designated Cabinet Member in monitoring performance in specified areas relating to the allocated portfolio.
- (c) where appropriate and where permissible under the Council's Constitution, represent the designated Cabinet Member at meetings or visits.

- 5.2 Such appointments shall be at the discretion of the Leader and shall be notified to Council at its Annual Meeting. The term of office of any Portfolio Holder Assistants shall be for one year from the Annual Council meeting concerned but may be varied by the Leader at any time.
- 5.3 Portfolio Holder Assistants shall not be members of the Cabinet, or any Cabinet Committee and may not exercise any executive powers, which shall be reserved to Cabinet members either collectively or individually.
- 5.4 Portfolio Holder Assistants may, however, be invited to speak at Cabinet or Cabinet Committee meetings on matters where they assisted Cabinet members but may not vote.
- 7. ACTION IN DESIGNATED EMERGENCIES**
- 7.1 The procedure governing action required to be taken in emergency situations is set out in Appendix 2 to these rules.

EXECUTIVE PROCEDURE RULES – APPENDIX TO RULE 1.8 (QUORUM)

1. In the event that, for any reason, the Proper Officer perceives that there will not be quorum as a result of Cabinet membership being depleted for any of the reasons set out below:

(a) leave of absence approved by the Council under Section 85 of the Local Government Act 1972;

(b) suspension or partial suspension as a result of an adjudication by the Standards Board for England or the Epping Forest District Standards Committee;

(c) resignation as a Councillor or as a Cabinet member;

(d) ceasing to be a Councillor as a result of an election, by retiring from office or becoming otherwise disqualified; and

(e) by death in office

the Leader of the Council (or the Deputy Leader if absent) will be informed as soon as possible after this becomes apparent.

2. The Proper Officer shall also place an item on the agenda for the next available Cabinet meeting to:

(a) report on the vacancies which have occurred or are likely to occur;

(b) seek decisions from the Cabinet on arrangements for covering the vacant portfolios to be recommended to the Council on:

(i) any portfolios which will be covered by other Cabinet members either on a temporary basis or for the remainder of the Council year concerned; or

(ii) the need to appoint new portfolio holders to those vacancies, the actual appointment being reserved to the Council.

3. The Cabinet shall have delegated authority to make temporary appointments under 2(b)(i) and (ii) above until such time that the Council can make formal appointments.
4. The Leader of the Council (or Deputy Leader if absent) shall have delegated authority to make temporary appointments under 2(b)(i) and (ii) above until the next available Cabinet meeting considers the matter, if it is considered, after consulting the proper officer, that there is an urgent need to secure a quorum.
5. **Exercise of Delegation by the Cabinet or the Leader of the Council**
- 5.1 In the exercise of delegated authority under 3 and 4 above, the Cabinet or the Leader of the Council will:
 - (a) if Cabinet seats are held by a single political group, allocate portfolios only to councillors from that group;
 - (b) if Cabinet seats are allocated to an alliance of two or more parties forming a Council Administration, allocate vacant seats only to councillors from those groups and the Leader of the Council shall be required to consult the Leaders of those other groups in advance on the appointments being made;
 - (c) if Cabinet seats are allocated between all political groups entitled to places under pro rata rules, fill vacancies on the nomination of the political group which held the vacant seat(s), unless all political groups agree on an alternative arrangement which achieves pro rata requirements.

OSC Rules

OVERVIEW AND SCRUTINY PROCEDURE RULES

APPENDIX 2

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Rule

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6. Meetings of the Overview and Scrutiny Committee.
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Appendix 1 Protocol on Consideration and Reporting on Executive Decisions Called in by the Overview and Scrutiny Committee.

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. ARRANGEMENTS FOR OVERVIEW AND SCRUTINY

(a) The Council will, at the Annual Council meeting, appoint an Overview and Scrutiny Committee as set out in Article 6.

(b) Each Overview and Co-ordinating Committee shall comprise 11 members, including a Chairman and Vice-Chairman appointed by the Council.

2. OVERVIEW AND SCRUTINY COMMITTEE - FUNCTIONS

1. The Overview and Scrutiny Committee will discharge the Overview and Scrutiny functions conferred by Section 20 of the Local Government Act 2000 plus those responsibilities allocated by the Council.

3. OVERVIEW AND SCRUTINY COMMITTEE - TERMS OF REFERENCE

1. The functions of the Overview and Scrutiny Committee shall be as follows:

- (a) review of corporate strategies;
- (b) ensuring that the decisions/actions of the Cabinet accord with the Council's policies and budget;
- (c) monitoring and scrutinising the financial performance of the Council and making recommendations to the Cabinet in relation to annual revenue and capital guidelines, bids and submissions;
- (d) when required, questioning members of the Cabinet or other Committees and officers about their decisions and performance whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (e) making recommendations to Cabinet and appropriate Committees and the Council arising from the outcome of the overview and scrutiny process;
- (f) review, scrutiny and monitoring of the performance of other public bodies including the National Health Service (with the agreement of Essex County Council) and of the community safety responsibilities of the Police and Crime Commissioner active in the District, inviting reports from them by requesting them to address the Committee and local people about their activities and performance;

- (g) questioning and gathering evidence from any person (including Councillors, members of Council staff and others) on issues falling within the functions of the Committee;
- (h) determining terms of reference, memberships (including the appointment of Chairman and Vice-Chairman) and reporting for all Standing and 'Task and Finish' Scrutiny Panels;
- (i) scrutinising executive decisions;
- (j) considering and making responses to executive decisions which are called in either as a Committee or through referral to a Standing or 'Task and Finish' Panel;
- (k) monitoring the effectiveness of the call-in procedure, reviewing the number and reasons for call-in and making recommendations to the Council on any changes required to improve operation of the process;
- (l) monitoring and scrutiny of the Forward Plan;
- (m) review of implications of Government Consultation documents where requested by members;
- (n) reports on key performance Indicators referred to the Committee;
- (o) reports on Service Business Plans as requested by members;
- (p) receiving presentations from the Leader of the Council and other Portfolio Holders early in the Council year outlining their plans for the year ahead and reporting performance in the previous Council year;
- (q) consideration of requests from Cabinet for scrutiny involvement in policy development and determining appropriate action;
- (r) to receive evidence from a senior officer relating to a petition where the number of signatures meets or exceeds the trigger level contained in the Council's Petitions Scheme and make recommendations as appropriate;

- (s) to review, when requested by the petition organiser, the Council's response to any petition which they consider has not been dealt with properly including, if appropriate, investigating, making recommendations to the Council or Executive or arranging for the matter to be considered at a meeting of the full Council;
- (t) determining work programmes in accordance with items falling within Committee's ambit in accordance with (a)-(s) above.

4. WHO MAY SIT ON THE OVERVIEW AND SCRUTINY COMMITTEE?

1. All councillors except members of the Executive may be members of the Overview and Scrutiny Committee. However, no member may be involved in scrutinising a decision which he/she has been directly involved.

5. CO-OPTEEES

1. The Overview and Scrutiny Committee shall be entitled to recommend to Council the appointment of appropriate persons as non-voting co-optees.

6. MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEE

1. Meetings of the Overview and Scrutiny Committee will be held in accordance with the Council's calendar of meetings in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chairman, or by the Proper Officer if he/she considers it necessary or appropriate.

7. QUORUM

1. The quorum for the Overview and Scrutiny Committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

8. WHO CHAIRS OVERVIEW AND SCRUTINY COMMITTEE MEETINGS?

1. The Overview and Scrutiny Committee will be chaired by the Councillor appointed as Chairman of the Committee at the Annual Council meeting.

2. A Vice-Chairman will also be appointed by the Council at its Annual Meeting. The Chairman and Vice-Chairman of the Committee will be appointed from those Councillors serving on the Committee. The Chairman and Vice-Chairman will be appointed for a term of one year and will be eligible for re-appointment.

3. The Chairman of the Committee must have experience and understanding of the Overview and scrutiny system.

9. WORK PROGRAMME

Responsibilities

1. The Overview and Scrutiny Committee shall approve an Overview and Scrutiny Work Programme. This programme will be co-ordinated and prepared in draft by the Overview & Scrutiny Agenda Planning Group or equivalent body in consultation with the Chairman of the Committee.
2. The programme shall be compiled over the period February to May each year, with allowance made in the timetable for preparing the programme for the electoral period. A draft programme will be submitted to the first Overview and Scrutiny Committee meeting of each Council year for approval.

Compiling the Work Programme

2. In determining the contents of the work programme, the Committee will:
 - (a) seek proposals for inclusion from all Members of the Council through the Council Bulletin and from the public including via the Council's website;
 - (b) invite the Leader of the Council and other Portfolio Holders to attend the first meeting of each Council year to present the forward plan for the Cabinet for the following year in respect of the Council's executive functions, to answer questions on that plan and to indicate where appropriate work on the Cabinet's behalf which could be undertaken by Overview & Scrutiny;
 - (c) arrange for the Leader of the Council and other Portfolio Holders to attend a further meeting six months after the first meeting of the council year to provide a progress report on the forward plan for the year in question;
 - (d) agree with the Leader of the Council and Portfolio Holders on any items for inclusion in the work programme which may be undertaken by Overview and Scrutiny on the Cabinet's behalf;
 - (e) seek proposals from any partnership organisations on any projects which Overview and Scrutiny could undertake on behalf of those partnerships;
 - (f) review the work programme for Overview and Scrutiny in respect of the current year;
 - (g) consider external organisations to be scrutinised during the year in question.

Approving the Work Programme

3. The Overview and Scrutiny Work Programme shall be approved prior to the Annual Council meeting each year and shall be of twelve months' duration. The programme shall be reviewed after six months. **THIS IS AT ODDS WITH THE PRECEEDING RULES ABOUT THE DRAFT WORK PROGRAMME**

4. The Committee will, in determining the work programme for Overview and Scrutiny:
- (a) review all proposals submitted to ensure that they relate to the Council's Policy Framework including the Corporate Plan , the Forward Plan and other appropriate corporate information;
 - (b) ensure the agreed work programme has sufficient member and officer resources to support it;
 - (c) identify in advance any budgetary provision required for specific projects;
 - (d) ensure that the work programme is properly prioritised.
 - (e) allocate time limits for each project;
 - (f) ensure that any projects which do not find a place in the work programme are placed in a reserve programme for further review;
 - (g) ensure that all Members of the Council are informed about the work programme as part of the annual report to the Council in April each year;
 - (h) review the work programme on a regular basis during the year.

Urgent Items and New Proposals

5. Where new proposals or matters of urgency arise during the currency of an annual work programme, the Committee may:
- (a) determine that any new project should be added to the programme and adjust the remainder of the programme accordingly;
 - (b) determine that a new project should be deferred for review when the next work programme is considered;

(c) decline to accept an additional project and give grounds for so doing.

6. All proposals for additional or urgent projects shall be submitted in writing and presented at a convenient meeting of the Overview and Scrutiny Committee by the member or officer so proposing.

Motions at Council Meetings

10. AGENDA ITEMS

1. Any member of the Overview and Scrutiny Committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.

2. Any members of the Council who are not members of the Overview and Scrutiny Committee may give written notice to the Proper Officer that they wish an item to be included on the agenda of that Committee. If the Proper Officer receives such a notification, then he/she will include the item on the first available agenda of the Overview and Scrutiny Committee for consideration.

3. The Overview and Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council or the Executive to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Executive and/or the Council. The Executive shall consider the report of the Overview and Scrutiny Committee within one month of receiving it and the Council within two months of receiving it, or, in either case, as soon as is reasonably possible.

11. POLICY REVIEW AND DEVELOPMENT

1. The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.

2. In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee may make proposals to the Executive in so far as they relate to matters within their terms of reference.

3. The Overview and Scrutiny Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

4. In carrying out any policy review or policy development work within their terms of reference, the Overview and Scrutiny Committee may refer all or part of such matters to a Standing Scrutiny Panel or a 'Task and Finish' Scrutiny Panel for consideration in accordance with the programme approved by the Overview and Scrutiny Committee.

5. The Overview and Scrutiny Committee or relevant Scrutiny Panel shall receive a verbal report from the relevant portfolio holder after three months from completion of any completed scrutiny study indicating whether recommendations from that study have been agreed or modified. After six months the Portfolio Holder will give a report to the Committee or Panel on Progress with implementation of those recommendations.

12. SCRUTINY PANELS - PROCEDURAL REQUIREMENTS

1. Scrutiny Panels may be established on an annual basis by the Overview and Scrutiny Committee.

2. Scrutiny Panel status will be restricted to those activities of a recurring or cyclical character which require a longer term involvement by members.

3. The Overview and Scrutiny Committee shall determine the number and terms of reference of Scrutiny Panels and shall review whether they should continue in being before the end of each Council year.

4. Scrutiny Panels will:

(a) adhere to a work programme agreed by the Overview and Scrutiny Committee;

- (b) have a chairman and vice-chairman appointed by the Overview and Scrutiny Committee;
- (c) have memberships which reflect pro rata requirements and the lowest number of members required to achieve cross-party representation whilst allowing the inclusion of members who are not members of a political group or are not members of the Overview and Scrutiny Committee;
- (d) have memberships which represent the minimum number necessary to adhere to their work programmes;
- (e) be able to make proposals to the Overview and Scrutiny Committee for the variation of their terms of reference or work programme;
- (f) be able to seek delegated authority from the Overview and Scrutiny Committee, to vary their terms of reference and work programme according to circumstances;
- (g) report through the Panel Chairman to meetings of the Overview and Scrutiny Committee on progress with their work programme and on any recommendations for consideration;
- (h) be able, after consideration by the Overview and Scrutiny Committee, to report direct to the Council, the Cabinet Committee a Portfolio Holder, or any other Council body'
- (i) in the circumstances set out in (h), the report shall be submitted in the name of the Panel and presented by its Chairman, unless the work of more than one Scrutiny Panel is involved, in which case any report to another Council body will be in the name of the Overview and Scrutiny Committee and presented by its Chairman;
- (j) in the event that the submission of a Panel report to another Council body is required such that it cannot be considered by the Overview and Scrutiny Committee in accordance with paragraph (h) above, the Panel report may proceed for consideration subject to prior consultation with the Chairman of that Committee as to the reasons for urgency;
- (k) extend a standing invitation to relevant portfolio holder(s) to attend panel meetings to answer questions and provide information on any matters affecting their portfolios which are under consideration; and
- (l) hear questions and presentations by members of the public or external organisations which are relevant to the work of the Panel concerned.

5. Any member of the Council may be a member of a Scrutiny Panel, provided that any Cabinet member may not be a member of a Panel which directly deals with matters within his or her portfolio.
6. Any member of the Council shall be able to attend any meeting of a Scrutiny Panel and be notified of the publication of the agenda.
7. The provisions of Operational Standing Order 14 shall apply to these Scrutiny Panels.

13. 'TASK AND FINISH' SCRUTINY PANELS

1. 'Task and Finish' Scrutiny Panels may be established by the Overview and Scrutiny Committee in order to deal with ad hoc projects or reviews included in the annual work programme for Overview and Scrutiny.
2. 'Task and Finish' Scrutiny Panel status will be restricted to those activities which are issue-based, time limited and non-cyclical in character and have clearly defined objectives.
3. 'Task and Finish' Scrutiny Panels will:
 - (a) have terms of reference, membership and a work programme approved by the Overview and Scrutiny Committee;
 - (b) have a Chairman and Vice-Chairman appointed by the Overview and Scrutiny Committee;
 - (c) have memberships which need not be based on pro rata rules;
 - (d) have memberships which represent the minimum number necessary to adhere to their work programmes;
 - (e) be able to make proposals to the Overview and Scrutiny Committee for the variation of their terms of reference or work programme;
 - (f) be able to seek delegated authority from the Overview and Scrutiny Committee for the variation of their terms of reference and work programmes according to circumstances;

- (g) report through the Panel Chairman at each meeting of the Overview and Scrutiny Committee on progress with their work programme and on any recommendations for consideration;
 - (h) be able, after consideration by the Overview and Scrutiny Committee, to report to the Council, the Cabinet, a Cabinet Committee, a Portfolio Holder or any other Council body;
 - (i) in the circumstances set out in (h), the report shall be submitted in the name of the Panel and presented by its Chairman, unless the work of more than one Scrutiny Panel is involved, in which case any report to another Council body will be in the name of the Overview and Scrutiny Committee and presented by its Chairman;
 - (j) in the event that the submission of a Panel report to another Council body is required such that it cannot be considered by the Overview and Scrutiny Committee in accordance with paragraph (h) above, the Panel report may proceed for consideration subject to prior consultation with the Chairman of that Committee as to the reasons for urgency;
 - (k) extend a standing invitation to relevant portfolio holder(s) to attend Panel meetings to answer questions and provide information on any matters affecting their portfolios which are under consideration; and
 - (l) hear questions and presentations by members of the public or external organisations which are relevant to the work of the Panel concerned.
4. 'Task and Finish' Scrutiny Panels shall be flexible as to the number of Councillors appointed to membership. There will be no restriction on the numbers appointed.
5. Any Councillor may be a member of a 'Task and Finish' Scrutiny Panel, save that a member of the Cabinet may not be a member of any Panel which bears directly on his or her portfolio.
6. No 'Task and Finish' Scrutiny Panel shall be comprised of members of a single group only.
7. Any member of the Council shall be able to attend any meeting of a 'Task and Finish' Scrutiny Panel and to receive copies of agenda.

8. The normal arrangements for substitute members as set out in Operational Standing Order 14 shall not apply to Task and Finish Panels but the Chairman of any such Panel shall have discretion to accept alternate members to cover for existing members for any meeting.

14. NOMINATIONS TO STANDING SCRUTINY AND 'TASK AND FINISH' PANELS

1. The Leader of each political group (and any Councillor who is not a member of a political group) shall be notified before the commencement of each Council year of the number of Standing Scrutiny and 'Task and Finish' Panels to be appointed and the number of members to serve on each Panel, indicating pro rata requirements where applicable. Similar notice will be given through the Members' Bulletin to other members of the Council.

2. The Leader of each political group will also be notified of the number of Chairmen and Vice-Chairmen positions to be filled before the commencement of each Council year.

3. Group Leaders shall ensure that members of all political groups have an opportunity to nominate to any positions referred to under 1 and 2 above. Any nominations may be made up to the day before the meeting in question. Such nominations shall include a case for the position sought.

4. Nominations to these Panels shall be excluded from the calculation required under the Council's protocol regarding allocation of Chairman and Vice-Chairman positions between the political groups.

15. REPORTS FROM THE OVERVIEW AND SCRUTINY COMMITTEE

1. Once recommendations on proposals for policy review or development, the Overview and Scrutiny Committee will prepare a formal report and submit it for consideration by the Executive if the proposals are consistent with the existing budgetary and policy framework, or to the Council if the recommendation would require a departure from, or a change to, the agreed budget and policy framework.

2. If the Overview and Scrutiny Committee cannot agree on a single final report to the Council or Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report.

3. Reports by the Overview and Scrutiny Committee shall normally be presented by the Chairman of that Committee, unless he or she determines that it would be beneficial for a Panel Chairman to undertake this role instead or that a joint presentation is appropriate.

16. ENSURING THAT OVERVIEW AND SCRUTINY REPORTS ARE CONSIDERED BY EXECUTIVE

(a) Executive matters not delegated to the Cabinet, a Cabinet Committee or a Portfolio Holder

1. Once the Overview and Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its final report to the Proper Officer who will allocate it to either or both the Executive and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. If the Proper Officer refers the matter to Council, he/she will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Executive will have 6 weeks or as soon as reasonably practical thereafter in which to respond to the overview and scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from the Overview and Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Executive to the overview and scrutiny proposals.

(b) Executive Matters Delegated to an Executive Committee or Executive Member

2. Where the Overview and Scrutiny Committee prepares a report for consideration by the Executive in relation to a matter where the Executive has delegated decision making powers to another individual member of the executive or to an Executive Committee, then the Overview and Scrutiny Committee will submit a copy of their report to that individual or committee for consideration. At the time of doing so, the Overview and Scrutiny Committee shall serve a copy on the Proper Officer and the Leader. If the member or Executive Committee with delegated decision making powers does not accept the recommendations of the Overview and Scrutiny Committee then the matter will then be referred to the next available meeting of the Executive for debate before exercising his/her decision making power and responding to the report in writing to the Overview and Scrutiny Committee. The Executive member or Committee to whom the decision making power has been delegated will respond to the Overview and Scrutiny Committee within 6 weeks of receiving it. A copy of his/her written response to it shall be sent to the Proper Officer and the Executive Member or Committee Chairmen will attend a future meeting to respond.

(c) Cabinet Business - Work Plan

3. The Overview and Scrutiny Committee will have access to the Executive's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview and Scrutiny Committee

following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the executive's consultation process in relation to any key decision.

17. RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS

1. In addition to their rights as councillors, members of the Overview and Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

2. Nothing in this paragraph prevents more detailed liaison between the Executive and the Overview and Scrutiny Committee (or any Scrutiny Panel) as appropriate depending on the particular matter under consideration. **ADD THIS TO MAIN RULES SET?**

18. MEMBERS AND OFFICERS GIVING ACCOUNT

1. The Overview and Scrutiny Committee or a Standing Scrutiny Panel or 'Task and Finish' Scrutiny Panel may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service, a Director or Assistant Director to attend before it to explain in relation to matters within their remit:

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

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

2. Where any member or officer is required to attend the Overview and Scrutiny Committee or Panel under this provision, the Chairman will inform the Proper Officer. The Proper Officer shall inform the member or officer in writing giving at least 14 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

3. Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee or Panel concerned shall in consultation with the member or officer arrange an alternative date for attendance not less than 14 days from the date of the original attendance.

19. ATTENDANCE BY OTHERS

1. The Overview and Scrutiny Committee or Panel may invite people other than those referred to in paragraph 18 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. Such attendance is optional for those invited.

2. Any member of the public or a representative of an outside organisation may ask a question or address the Overview and Scrutiny Committee, or any Scrutiny Panel on any agenda item (except those dealt with in private session as exempt or confidential business) due to be considered at a meeting. The following rules shall apply to such requests:

- (i) requests must relate to an existing agenda item;
- (ii) requests must not raise new business for the meeting concerned;
- (iii) all requests must be notified to the Council by 4 pm on the day of the meeting;
- (iv) the request to ask a relevant question or address the Committee or a Panel shall only be allowed once and the same question or address may not be repeated subsequently at another scrutiny body in that Council year;
- (iv) requests accompanied by proposals to circulate written material must be received five clear days before the meeting in time to be sent to Overview and Scrutiny Committee members in advance of the meeting;
- (v) requests need not be in writing;
- (vi) a maximum of two persons shall be permitted to address the Committee on any one agenda item;
- (vii) a time limit of 3 minutes per speaker shall apply;
- (viii) the Overview and Scrutiny Committee shall be able to ask questions on any comments made;

(ix) the Chairman of the Overview and Scrutiny Committee shall have discretion as to whether to limit the number of persons wishing to address the Committee if it is considered that the number of such speakers will unduly delay the proper despatch of business at any meeting.

20. CALL-IN

1. When a decision is made by the Executive, an individual member of the executive or a committee of the Executive, or a key decision is made by an officer with delegated authority from the Executive, or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 5 working days of being made. All members of the Council will be sent copies of the written records of all such decisions within the same timescale, by the person responsible for publishing the decision.

2. That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless the required number of members objects to it and calls it in.

3. During that period, the Proper Officer shall call in a decision for scrutiny if so requested in accordance with paragraph (h) below and shall then notify the decision-taker of the call-in. He/she shall consult with the Chairman of the Overview and Scrutiny Committee who will determine that consideration of the call in will be referred to:

- (i) the next Overview and Scrutiny Committee; or
- (ii) an appropriate Panel; or
- (iii) a Task and Finish Panel.

If consideration of any executive decision is likely, under these rules, to be delayed for more than two weeks the Chairman of the Overview and Scrutiny Committee may require an extraordinary meeting to be convened at an earlier date if the circumstances appear to warrant this.

4. If, having considered the decision, the Overview and Scrutiny Committee or delegated Panel is still concerned about it, then it may, subject to the procedures outlined in Rule 16(a) or (b) above, refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further 5 working days, or in the case of a Cabinet decision, as soon as practically possible amending the decision or not, before adopting a final decision.
5. If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no power to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive as a whole or a committee of it, a meeting will be convened to reconsider within 14 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 14 working days of the Council request.
6. If the Council does not meet, or if it does but does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
7. Where an Executive decision has been taken by an area committee, then the right of call-in shall extend to any 3 members of another area committee if they are of the opinion that the decision made but not implemented will have an adverse effect on the area to which their committee relates. In such cases, those 3 members may request the Proper Officer to call-in the decision. He/she shall call a meeting of the Overview and Scrutiny Committee on such a date as he/she may determine, where possible after consultation with the chairman of the committee, and in any case within five days of the decision to call-in. All other provisions relating to call in shall apply as if the call in had been exercised by members of the Overview and Scrutiny Committee.
8. Three members of the Overview and Scrutiny Committee or any five members of the Council have the right to call in an Executive decision. Such a request shall be in writing in the prescribed format and referred in Person to the Proper Officer.
9. Call in arrangements shall not apply to decisions on non-executive functions by Committees, Sub-Committees, Panels or Boards of the Council.

10. In the operation of "call in" arrangements, members of the Council shall also adhere to the terms of the Protocol approved by the Council and set out in Appendix 1 to these rules.

21. CALL-IN AND URGENCY

1. The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay is likely to be caused by the call in process would seriously prejudice the Council's or the public interest. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call in. The Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, a Joint Chief Executive or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

2. The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

22. PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS

1. The Overview and Scrutiny Committee shall consider the following business:

- (a) minutes of the last meeting;
- (b) declarations of interest;
- (c) consideration of any matter referred to the committee for a decision in relation to a call in;
- (d) responses of the executive to reports of the Overview and Scrutiny Committee;
- (e) questions or requests by members of the public to address the Committee on any agenda item provided that these are relevant to the Council or the District and have not been dealt with at a previous meeting of the Committee or of any Scrutiny Panel
- (f) the business otherwise set out on the agenda for the meeting.

23. CONDUCT OF OVERVIEW AND SCRUTINY FUNCTIONS

1. Where the Overview and Scrutiny Committee or a Panel conducts investigations (e.g. with a view to policy development), they may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:

- (a) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- (b) that those assisting the committee by giving evidence be treated with respect and courtesy; and
- (c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

2. Following any investigation or review, the Committee/or Panel concerned shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

24. ANNUAL REPORT

1.

25. PARTY WHIPS

1. To facilitate cross party working, party whips will not be applied to the overview and scrutiny process.

PROTOCOL ON CONSIDERATION AND REPORTING ON EXECUTIVE DECISIONS CALLED IN BY OVERVIEW AND SCRUTINY

1. Purpose of Protocol

- (a) To codify how the Overview and Scrutiny Committee or delegated Panel should deal with "call in" items.
- (b) To codify how the Executive should respond to reports by Overview and Scrutiny on decisions which have been called in.

2. Validation of "Call In"

- 2.1 All "call in" requests shall be made in writing in accordance with the Council's constitution. "Call in" requests shall only be made by members of the Council who are not members of the Executive. The "call in" shall be validated by the Chief Executive and referred to the Overview and Scrutiny Committee for consideration in accordance with the provisions of the constitution.

3. Consideration of "Call In" Items by Overview and Scrutiny Committee

- 3.1 Consideration of Call-ins shall be the responsibility of the Overview and Scrutiny Committee which will decide whether to consider the issue itself or direct a Panel to undertake it and report back to the decision maker. "Call in" items shall be referred to the next available date for the Overview and Scrutiny Committee or delegated Panel. The provisions of the Overview and Scrutiny Rules in the Council's constitution will apply to "call in" requests which need to be dealt with more quickly.
- 3.2 At its meeting, the Overview and Scrutiny Committee or delegated Panel will receive:
 - (a) copies of all documentation submitted to the Executive on which the decision was based;
 - (b) a copy of the written notification of the "call in" including the names of the relevant Councillors who requested the "call in" and their grounds for so doing; and
 - (c) any other relevant documentation.

3.3 The relevant Executive Portfolio Holder and at least one of the members who activated the "Call in" and who shall act as spokesperson for those members, shall attend the Overview and Scrutiny Committee or delegated Panel meeting.

3.4 The "Call in" decision shall be considered in the following manner:

(a) the Lead Signatory to the calling in of the decision shall describe their concerns;

(b) the Portfolio holder responds;

(c) the four remaining signatories shall then speak in support of the "Call in";

(NB if there are more than 5 signatories, the only the lead member and the following 4 Councillors on the call in notification shall be called to speak. Any other Councillor whose name appears on the call in notification shall be able to speak during the general debate on the item – see (d) below.)

(d) the Portfolio holder responds;

(e) the Overview and Scrutiny Committee or delegated Panel will then debate the issues involved;

(f) the Lead signatory will then have an opportunity to respond to the debate;

(g) the portfolio holder shall then have an opportunity to respond to the debate

(NB. The Chairman of the meeting shall have the discretion to vary the way in which evidence is gathered including speakers and public participation if appropriate.)

(h) following the debate, the Overview and Scrutiny Committee or Panel has the following options:

(i) confirm the decision, which may then be implemented immediately, or

- (ii) refer the decision back to the decision taker for further consideration setting out in writing the nature of its concerns, or
- (iii) refer the matter to full Council in the event that the Committee or Panel considers the decision to be contrary to the policy framework of the Council or contrary to, or not wholly in accordance with, the budget.
- (i) If it appears that the review of a decision of the Executive cannot be completed at one meeting, the Executive or decision taker will be informed, indicating any preliminary views the Committee or Panel may have and a proposed timescale for the completion of the review. The Chairman of the Overview and Scrutiny Committee/Panel shall, if necessary, consult with the Leader of the Council regarding the urgency of the proposed decision or any other related matter;
- (j) The Chairman of the Overview and Scrutiny Committee or delegated Panel shall sum up the recommendations to be submitted to the Executive and these shall be incorporated in full in the Minutes or report of the meeting;
- (k) In cases where the Overview and Scrutiny Committee or delegated Panel determines that a review of the decision is not justified or that, having reviewed the decision of the Executive, it has no adverse comment to make, the Committee or Panel shall ensure that its decision is published in the Members' Bulletin;
- (l) In the circumstances outlined in (g) above, the decision of the Executive or Decision Taker may be implemented with effect from the date of that meeting;
- (m) A report detailing any appropriate recommendations of the Overview and Scrutiny Committee or delegated Panel shall be reported to the Decision Taker
- (n) In presenting the recommendations of the Overview and Scrutiny Committee or delegated Panel, the Chairman may make general comments on the Committee's/Panel's recommendations, answer questions and respond to comments or new proposals made by the Executive at that meeting; and
- (o) The report of the Overview and Scrutiny Committee or delegated Panel shall be sent in draft to all its Members for approval prior to their submission to the Decision Taker.
- (p) Minority reports may be made by members of Overview and Scrutiny Committee or delegated Panel in accordance with the Protocol for that purpose.

4. Consideration of Reports on "Call In" Items by the Executive

- 4.1 The report of an Overview and Scrutiny Committee or delegated Panel will be referred in the first instance to the relevant Portfolio Holder(s) for the executive function concerned.
- 4.2 If the Executive decision is one which the Portfolio Holder(s) has delegated powers to make, he or she shall consider the written proposals of the Overview and Scrutiny Committee or delegated Panel, must consult the Overview and Scrutiny Committee and delegated Panel Chairmen if he or she is minded to accept or reject them. In doing so the Portfolio Holder will ensure that, in recording that decision, the reasons for accepting, rejecting or amending those views are set out in the decision notice.
- 4.3 If the Executive decision is one which the Executive itself or a Committee of the Executive (acting under delegated powers) is competent to take, the relevant Portfolio Holder will consider the proposals of the Overview and Scrutiny Committee or delegated Panel and refer them, with his or her written response, to the decision making body concerned.
- 4.4 At a meeting of the Executive or of any Committee of the Executive, the following documentation shall be submitted:
 - (a) the agreed report of the Overview and Scrutiny Committee or delegated Panel and any other supporting documents considered by it;
 - (b) a report of the Portfolio Holder indicating the response to the proposals of the Overview and Scrutiny Committee or delegated Panel, indicating the options available and recommendation for acceptance, rejection or alteration of those proposals with reasons; and
 - (c) any other information.
- 4.5 The Executive or Committee of the Executive shall consider the matter as follows:
 - (a) the Chairman of the Overview and Scrutiny Committee or delegated Panel shall present the views and recommendations of the Committee/Panel based on the report of the relevant OSC meeting and respond to questions, make general comments and respond to new proposals as appropriate;
 - (b) the relevant Portfolio Holder shall then respond by presenting his report and recommendations on the proposals of the Overview and Scrutiny Committee or delegated Panel;

(c) the Executive (or Committee thereof) shall then consider the original decision, the views of the Overview and Scrutiny Committee or delegated Panel and any proposals by the Portfolio Holder; and

(d) the Executive (or Executive Committee) will then make a final decision on whether to re-affirm the original decision, amend the original decision or substitute a new decision. This decision shall be recorded in the minutes of the meeting together with supporting reasons.

4.6 Where a Committee of the Executive is required to report to the full Executive on any matter, it shall submit a recommendation on action proposed to the Executive as part of the minutes of the meeting.

5. Implementation of Decisions When Cabinet Control or Membership Changes

5.1 Notwithstanding the provisions of paragraphs 3.4(g) and (h) above, where political control of the Cabinet or Cabinet membership changes following the Annual Council meeting each year, any decision made by the Executive and supported by the Overview and Scrutiny Committee or delegated Panel following a "call-in" but not implemented before the changes occur, shall stand referred to the Cabinet for further review before action is taken.

6. Consideration of "Call In" Reports of Overview and Scrutiny Committees made to the Full Council

6.1 In some circumstances, the Overview and Scrutiny Committee or delegated Panel may choose to refer the results of their consideration of "call in" items to the full Council, rather than the Executive in those instances set out in paragraph 3.4 (d) (iii) above and 6.2 below. With any necessary modification the "call in" shall be dealt with at the Council meeting in accordance with paragraphs 4.1 - 4.5 above.

6.2 In considering whether to report to the full Council, the Overview and Scrutiny Committee or delegated Panel shall take account of the advice of the proper officer on:

(a) whether the Council may properly determine the matter if the function is delegated to the Executive;

(b) whether the Executive decision affects the policy or budget framework of the Authority and should properly be determined by the Council;

(c) whether the Executive decision relates to a matter which either reserved to the full Council by the constitution or by resolution; and

(d) any other advice which indicates that, for whatever reason, a report to the Executive is more appropriate to the proper despatch of Council business.

7. Restriction on "Call In"

7.1 The Overview and Scrutiny Committee shall at all times be aware that the decisions of the regulatory or non-executive bodies of the Council are not subject to "call in".

7.2 The "call in" procedure shall also not apply to any recommendation by the Cabinet to the full Council.

8. Withdrawal or Modification of a "Call In"

8.1 A valid "Call in" may be withdrawn at any time by the Lead signatory.

8.2 The lead signatory to a validated "Call In" or the relevant Portfolio Holder may request a meeting with the Chairman of the Committee prior to the "Call in" being considered by the Committee in order to discuss the following:

(a) the management of the "Call in" debate at the Committee meeting concerned;

(b) the possibility of reaching agreement on removing any objections to the decision in question which are raised in the call in request; and

(c) the withdrawal of a "Call in".

8.3 Where the lead signatory agrees to withdraw or modify a "Call in", the Councillor concerned shall notify his fellow signatories as soon as practicable and the circumstances shall be reported to the Overview & Scrutiny Committee.

8.4 If a "Call in" is withdrawn, the circumstances will be notified to all members of the Council via the Council Bulletin.

8.5 In cases where a Portfolio Holder has agreed to modify a decision, he or she shall issue a revised decision notice or refer the proposal back to the Cabinet, if the latter made the original decision.

8. Definitions

8.1 For the purpose of this Protocol, the following definitions shall apply:

(a) "Executive"

This term should be interpreted as referring to the Cabinet, a Cabinet Committee or an individual Portfolio Holder acting under delegated powers.

(b) "Decision"

Denotes a decision on an Executive function by the Cabinet, a Committee of the Cabinet or of an individual Portfolio Holder.

(c) "Decision Taker"

This means the Cabinet, a Cabinet Committee or an individual Portfolio Holder who made the original decision.

9. Review of Protocol

9.1 This Protocol will be reviewed by the Council as part of its constitution as and when appropriate.

OPERATIONAL STANDING ORDERS – NON-EXECUTIVE BODIES

1. Membership of Non Executive Committees, Sub Committees, Panels, Boards and Working Groups

(1) The following shall be the non-executive committees of the Council, consisting of the number of members set out below:

Committee or Sub-Committee	Number of Councillors
District Development Control Sub-Committees:	15
Area Plans (South)	25 (Max)
Area Plans (East)	19
Area Plans (West)	14
Overview and Scrutiny Committee	11

(2) The following shall be special committees of the Council, consisting of the number of members set out below:

Audit and Governance Committee	3 Councillors (+ 2 Co-opted Members)
Joint Consultative Committee	9 Councillors 9 Employee members
Staff Appeals Panel	5 Councillors
Complaints Panel	11 Councillors
Member Remuneration Panel	3 Independent Persons
Housing Appeals and Review Panel	5 Councillors

Standards Committee

2 Councillors
3 Independent Persons
1 Parish Representative
(and deputy)

Licensing Committee

15 Councillors

(3) The appointments to the bodies set out in (1) and (2) above together with the Cabinet and any Cabinet Committees and representatives on outside organisations shall be appointed by the Council at the Annual Meeting. Casual vacancies may be filled at ordinary Council meetings.

(4) Appointment of Councillors to all Committees, Sub-Committees, Special Committees, Joint Committees, Working Groups and Standing Scrutiny Panels shall be made in accordance with the provision of the Local Government and Housing Act 1989 and the Local Government Act 2000 and such other regulations or advice as are issued from time to time by the Secretary of State.

(5) Members of the Council appointed to each Area Plans Sub-Committee shall be drawn solely from those representing wards within the area for which the Sub-Committee is responsible. Seats on each Sub-Committee shall be allocated to all Councillors representing electoral wards in the areas concerned. The requirement for the appointment of Sub-Committees from all members of the Council shall not apply to the four Area Plans Sub-Committees.

(6) The Area Plans Sub Committee (South) shall comprise a maximum of 25 Councillors, being the total number representing wards in the area for which the Sub Committee is responsible. At the Annual Council meeting, the Council shall determine the membership of that Sub Committee on the basis of the number of Councillors who sign a written notice stating that they wish to serve on the Area Sub Committee for the ensuing year. Any Councillor who does not sign a notice shall be deemed not to be a member of the Sub Committee for the year in question. Councillors may not retract a signed notice or seek to join the Sub Committee by signing a notice until the next Annual Council meeting.

(7) The quorum for Area Plans Sub Committee (South) shall be determined by applying Council Procedure Rules 7 and 24 to the total number of Councillors who have signed a notice under paragraph 6 above.

2. Election of Leader and Deputy Leader and Chairmen and Vice-Chairmen of the Council Committees, Sub-Committees, Panels and Boards

(1) The Leader of the Council, the Deputy Leader of the Council, Chairman and Vice-Chairman of each of these bodies shall be elected by the Council.

(2) The Chairman of each Sub-Committee shall be elected from those councillors who are also members of the parent committee.

(3) The Vice-Chairman or Deputy Leader of any of these bodies shall, in the absence of the Chairman, have the same power and authority as the Leader or Chairman respectively granted by resolution of the Council or by the Committee or Sub-Committee.

(4) The Chairman of the District Development Control Committee shall be elected from among Councillors who are not Chairmen of Area Plans Sub-Committees.

3. Discharge of Committee Business after Election

In order to ensure the continuous discharge of the ordinary current business of the Council pending the reconstitution of the committees after the retirement of councillors on the fourth day following an election, each committee shall after the retirement of councillors and until reconstituted by the Council, consist of such members of the committee who remain or who have been re-elected members of the Council. Provided that if the committee as thus temporarily constituted shall consist of fewer than one half of the whole number of members thereof the Chairman of the Council shall appoint additional Council members, sufficient in number to make up the deficiency, such additional members to hold office until the reconstitution of the committee.

4. Public Participation at District Development Control Committee and Area Sub-Committees on Planning Matters

(1) There shall be afforded to any applicant, objector and Parish or Town Council representative an opportunity, on request, to make written or oral representations to any Area Plans Sub-Committee (or in appropriate circumstances, the District Development Control Committee) meeting concerning any planning application or related matter before that Sub-Committee for determination.

(2) The procedure for dealing with requests to address an Area Plans Sub-Committee or the District Development Control Committee shall be as prescribed from time to time by the Council and as set out in Appendix 1.

5.

6. Attendance of Non-Members at Meetings

(1) Any member of the Council may attend a meeting of the Cabinet, a Cabinet Committee any other Committee, Sub-Committee, Panel, Board or Working Group of the Council, except a meeting of a special committee. With the permission of the Chairman, a member may take part in discussion but may not vote and may not introduce any new business. Any matter on which consideration is sought by a non-member is admissible only if the support of a member of the body concerned is obtained and raised at the meeting in that Councillor's name with the Chairman's permission and, unless the Chairman determines that it is of an urgent nature, if it is submitted at the latest two weeks before the meeting concerned.

(2) Business raised in respect of the Executive shall be dealt with in accordance with the Executive Procedure Rules.

7. Overview and Scrutiny Panels

(1) The provisions of the Council's Overview and Scrutiny Procedure Rules will apply to the terms of reference, membership and appointment of Scrutiny Panels.

8. Other Working Groups

(1) The Council, any Committee or Sub-Committee may appoint a working group to advise them on any matter within their terms of reference.

(2) The appointing body will determine the terms of reference, Chairman and membership of the Working Group and shall be responsible for making appointments of Councillors in accordance with pro rata rules.

9. Overview and Scrutiny Panels and Other Working Groups – Additional Requirement

(1) Working Groups and Overview and Scrutiny Panels shall act only in an advisory capacity and shall not have executive powers. They shall report as soon as convenient to the body, which established them.

(2) Non members may attend any meeting of a Panel or Working Group.

(3) Notices of all Working Group and Panel meetings shall be forwarded by the Chief Executive to those members appointed by the Council and to all Group Leaders. The Chief Executive shall, however, forward a copy of such notice of the meeting to any other Members of the Council who wish to receive a copy.

(4) One copy of each Working Group agenda shall be deposited in the Members' Room for the information of non-members.

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**RULES FOR PARTICIPATION ON PLANNING MATTERS AT COUNCIL,
AREA PLANS SUB AND DISTRICT DEVELOPMENT CONTROL COMMITTEE MEETINGS**

1. The following persons shall be able, on request, to address the appropriate Area Plans Sub-Committee and District Development Control Committee on any planning application or related matter within its terms of reference and included on any agenda:
 - (a) an applicant (or one nominated agent or representative);
 - (b) one objector (except where, in the light of exceptional circumstances approved by the Chairman of the Sub-Committee, additional speakers are allowed);
 - (c) one representative of the relevant Parish or Town Council (except where in the light of exceptional circumstances approved by the Chairman of the Sub-Committee representations from other Parish or Town Councils are given in person) for the purpose of explaining the views of that Council on the matter in question;
 - (d) in the case of planning applications which the Head of Planning and Economic Development deems to have a District wide significance, it shall be permissible for the Chairman of an Area Plans Sub-Committee or the Development Committee, on the recommendation of the Head of Planning and Economic Development, to allow any Parish or Town Council to comment on such an application.
2. For the purposes of this Standing Order the definition of "planning application or any related matter" shall not include any existing or proposed enforcement act under the Planning Acts.
3. Subject to the proviso under 1(b) above, the number of speakers shall be limited to the three.
4. Notice of at least one working day is required from any person wishing to address an Area Plans Sub-Committee.

5. Persons addressing an Area Plans Sub-Committee shall be allowed no more than three minutes to present their case. At the discretion of the Chairman, speakers may clarify matters relating to their presentation and answer questions from Sub-Committee members.
6. Written submissions and photographic or similar material will not be considered by an Area Plans Sub-Committee unless they have been received by the Chairman of the Sub-Committee, Ward Councillors and Head of Planning and Economic Development before the meeting. Such submissions or other material may, at the discretion of the Chairman be admitted to the meeting if he or she that it is significant.
7. The right to address an Area Plans Sub-Committee shall be extended to the District Development Control Committee (but not to the Council) in the event of any planning matter being referred by an Area Plans Sub-Committee or in respect of any planning matter submitted direct to that Committee.
8. Any matter deferred by an Area Plans Sub-Committee or the District Development Control Committee shall entitle any applicant, objector or parish/town council representative a further right to address the Sub-Committee when the matter is reconsidered.

Petition Scheme – Epping Forest District Council

Proposed new Standing Order

1. Definition

1.1 For the purpose of this procedure a petition is a request to the Council made either (i) in writing; or (ii) through the Council's e-petitions system on its website.

2. Scope of Scheme

2.1 The Council will accept paper based petitions, e-petitions (but only those submitted on through its own petitions system) or a mix of paper and e-petitions. The proper officer for petitions is the Assistant Director of Governance and Performance Management.

3. Acknowledgement

3.1 All petitions sent or presented to the council shall receive an acknowledgement from the council within seven days of receipt. This acknowledgement will set out what the Council plan to do with the petition. The Council shall treat something as a petition if it is identified as being a petition, or if it seems to the Council that it is intended to be a petition.

4. Exceptions to Petitions

4.1 The following petitions do not fall within the scope of this petitions scheme:

(a) Emailed petitions, as email systems are not secure. Petitioners must use either paper or the Council's EPetitions system. The Council will not monitor third party petitions systems.

- (b) Petitions which are considered to be vexatious, abusive, anonymous or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum the Council may need to deal with a petition differently – if this is the case the Council will explain the reasons with the petitioner and discuss the revised timescale which will apply.
- (c) Petitions relating to a planning decision; (as the Planning application process deals with objections to applications), including those about a development plan document or the community infrastructure levy.
- (d) Petitions relating to a licensing decision; (as the Licensing scheme deals with objections to applications)
- (e) Petitions relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal.
- (f) Any matter for which the Standards Committee has powers for determining complaints received under the Local Assessment process.
- (g) Any complaint made against an employee of the District Council.
- (h) Any matter which is substantially the same as a petition submitted in the previous 12 months.
- (i) Where the subject matter is subject to ongoing legal proceedings.
- (j) Petitions made during formal Council consultations related to the subject matter of the consultations (these will be formally referred to that process as appropriate)

4.2 Where a petition submitted relates to one of the categories set out above the Council will write to the lead petitioner and explain why the matter is not covered by the authority's Petitions Scheme. In appropriate circumstances, the Council may advise how the public views can be considered via alternative means.

5. Submission guidelines/Signatory Requirements

5.1 Petitions submitted to the council must include:

- (a) A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take.

(b) The name and address and signature of any person supporting the petition.

(c) Contact details, including an address (and a valid email address if submitted electronically), for the petition organiser

5.2 If the petitioner contacts the Council to start an e-Petition, then the Council and the Lead Petitioner will agree the period over which signatures will be collected and to agree the final wording of the petition. The petition will then be available to sign 'electronically' for the agreed period on the Council's website. On the expiration of that time, the Council will respond in accordance with Section 7 below.

5.3 Anyone who lives, works or studies in Epping Forest District is entitled to sign to support a petition. The supporters Name, Address, a valid email address and/or postcode are required to sign an e-Petition on the Council's website. For paper petitions signatories must provide their, name, address and signature

5.4 E-petitions will run on the Council website for a maximum of 3 months, but the Council and the lead petitioner can choose a shorter timeframe up to the maximum.

6. The procedure when the Council receives a petition

6.1 The Council will send the lead petitioner an acknowledgement of the petition within 7 working days. Local ward councillors will be informed of the receipt of a petition.

6.2 If the Council is able to do what the petition asks for, the acknowledgement may confirm that the Council have taken the action requested and the petition will be closed.

6.3 If the petition needs more investigation, the Council will tell the lead petitioner the steps the Council plan to take.

6.4 If the lead petitioner has created an e-petition, the Council will check that the content of the e-petition is suitable before it is made available for signature. This will take a maximum of ten working days.

6.5 If the Council cannot publish an e-petition for some reason, the Council will contact the lead petitioner within ten working days to explain the reason for not publishing a petition based upon the exceptions in section 4 above.

6.6 A lead petitioner is able to change and resubmit their e-petition within 10 working days, if they fail to do so within that time, a summary of the e-petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.

7. How the Council considers petitions

Petition type	Response
Correspondence with fewer than 20 signatures	This will normally be dealt with by the appropriate Directorate as ordinary correspondence, unless the Service Director concerned is of the opinion that the subject matter is sufficiently important or contentious to warrant referring the matter to the appropriate Portfolio Holder.
Petitions with more than 20 but fewer than 1200 signatures	These will be considered and dealt with by the relevant portfolio holder who may: <ul style="list-style-type: none"> (a) take action if he or she has delegated powers to act alone; (b) prepare a report to the Cabinet or a Sub-Committee of the Cabinet for decision if appropriate.
Petition containing at least 1200 signatures.	The relevant Portfolio Holder will prepare a report to the Cabinet for decision on the matter.
2400 signatures or more	These large petitions will be scheduled for a council debate and if this is the case we will let you know whether this will happen

Petition type	Response
e-petitions	When an e-petition has closed for signature, it will automatically be submitted to the relevant officer, portfolio holder or Council In the same way as a paper petition.

8. Decisions on petitions

The Council's response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by the Cabinet or a Cabinet Committee
- writing to the petition organiser setting out our views about the request in the petition

In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

If a petition is about something over which the council has no direct control (for example healthcare or transport) the responsible body (under section 7 above) will consider making representations on behalf of the community to the relevant body.

If the Council are not able to meet the petitioners requests for any reason (for example if what the petition calls for conflicts with council policy), then the Council will set out the reasons for not taking the action requested in writing to the Lead Petitioner.

Decisions made by the Portfolio Holder will be recorded in writing and notified to the public, the lead petitioner and all members of the Council.

All received petitions will be reported to Council via regular Portfolio Holder reports.

9. Petitions received after a decision is made

In cases where a petition is received after a decision has been made by the Council on any matter, the following steps will be taken by the Director unless the petition meets the threshold for a Council debate:

- (a) a letter of acknowledgement shall be sent to the lead petitioner, including a statement of the action already taken by the Council;
- (b) in consultation with the appropriate Portfolio Holder, Committee or Sub-Committee Chairman a decision will be taken as to whether the petition raises new evidence requiring further consideration by the Portfolio Holder or Committee concerned;
- (c) if it is decided that no new matters are raised by the petition, the lead petitioner shall be advised accordingly;
- (d) if new matters are raised then the petition will be treated as 'new' under this scheme.

10. Full Council and Cabinet debates

If a petition contains more than 2400 signatures it will be debated by the full council at its next ordinary meeting.

If a petition contains more than 1200 signatures it will be subject to report and debate by the cabinet at its next available meeting.

The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors.

The Council or Cabinet will decide how to respond to the petition at this meeting.

The Council or Cabinet may:

- (a) decide to take the action the petition requests, and in the case of a Cabinet debate, report to Council if appropriate (see paragraph 11 below)
- (b) not to take the action requested for reasons put forward in the debate, or

- (c) commission further investigation into the matter, for example by the Cabinet (if the matter was debated at Council) or a relevant Cabinet committee.

11. Council Referrals

Where the issue is one on which the council executive are required to make the final decision (i.e. within the financial and policy framework), the council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

EPPING FOREST DISTRICT COUNCIL

PETITION SCHEME GUIDANCE

Introduction

The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns.

You have a choice in the way you submit petitions. It can be done in the traditional paper way or using our electronic petitions (e-petitions) system.

How to submit a Petition

Paper petitions can be sent to:

Assistant Director of Governance and Performance Management
Epping Forest District Council
Civic Offices
High Street
Epping
Essex CM16 4BZ

e-petitions can be submitted at:

www.eppingforestdc.gov.uk/petitions

Who can submit or sign a petition?

A petition can be submitted or signed by a person who lives, works or studies in Epping Forest District.

What does a Petition need to be valid?

Petitions must relate to matters that directly affect the Council or Epping Forest, and about which the Council has powers to act or lobby. National and foreign issues are not valid subjects for petitions.

Petitions submitted to the Council must include:

- A clear and concise statement covering the subject of the petition and on each page of the petition
- It should state what action the petitioners would like the Council to take
- The full name and contact details and the signature of the person leading the petition, and if submitted online via our e-petition system, a valid email address.

Petition types we don't accept under this scheme

- (a) Emailed petitions or petitions started on third party websites;
- (b) Petitions that are vexatious, abusive, anonymous or otherwise inappropriate or subject to legal proceedings;
- (c) Petitions about a planning application (these will be referred to the planning process)
- (d) Petitions about a proposed licensing decision (these will be referred to the licensing section)
- (e) Petitions made about a decision made about a person or entity where they have a separate right of review or appeal or where another formal consultation is being undertaken at the time (we will refer your petition to that process)
- (f) Petitions that relate to a matter over which the Council's Standards Committee have jurisdiction (for example a complaint about a Councillor).
- (g) Petitions that are a complaint about an employee. (these would be referred to the Council's complaints process)

What happens when I submit a petition?

All petitions sent or presented to the Council will receive an acknowledgement from the Council within 7 working days of receipt. This acknowledgement will set out how the Council will respond to petitions. Details of your petition will also be sent to your local ward councillors.

If you create an e-petition, we will check that the content is suitable and then make it available for electronic signature for a maximum period of three months.

Depending on how many signatures there are to support a petition it will be considered in different ways:

Petition type	Response
Correspondence with fewer than 20 signatures	This will normally be dealt with by the appropriate Directorate as ordinary correspondence, unless the Service Director concerned is of the opinion that the subject matter is sufficiently important or contentious to warrant referring the matter to the appropriate Portfolio Holder.
Petitions with more than 20 but fewer than 1200 signatures	These will be considered and dealt with by the relevant portfolio holder who may: <ul style="list-style-type: none"> (a) take action if he or she has delegated powers to act alone; (b) prepare a report to the Cabinet or a Sub-Committee of the Cabinet for decision if appropriate.
Petition containing at least 1200 signatures.	The relevant Portfolio Holder will prepare a report to the Cabinet for decision on the matter.

Petition type	Response
2400 signatures or more	These large petitions will be scheduled for a council debate and if this is the case we will let you know whether this will happen
e-petitions	When an e-petition has closed for signature, it will automatically be submitted to the relevant officer, portfolio holder or Council In the same way as a paper petition.

How Will the Council Respond to Petitions?

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- Taking the action requested in the petition.
- Not taking the action requested and responding with the reasons why.
- Considering the petition at a council meeting.
- Making enquiries to find out more about the matter.
- Referring the matter for review by a committee of the Council
- Holding a meeting with petitioners.
- Writing to the petition organiser setting out the Council's views about the request in the petition.

If you submit a petition after a decision has been made about the issue we will look to see if you are raising new matters before we decide how to respond to you. The petition organiser will always receive a written decision on their petition request.

What happens if the matter is referred to the Council or Cabinet for debate?

If a petition contains the required number of signatures the issue raised in the petition will be discussed by councillors at the next available ordinary meeting of the Council (if your petition has over 2400 signatures) or Cabinet (if you petition has at least 1200 signatures),

At the meeting the petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors.

The councillors will decide how to respond to the petition at this meeting.

The Council/Cabinet may decide to:

- take the action the petition requests,
- not to take the action requested for reasons put forward in the debate, or
- to commission further investigation into the matter, for example by a relevant committee.

Where the issue is one on which the Council's cabinet is required to make the final decision, the councillors will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision.