

## **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;

- (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><b>Appointed by:</b></p> <p>The Council, in accordance with the provisions of S101 &amp; S102 Local Government Act 1972 and Regulations made thereunder.</p> <p>Appointment of a Standards Committee shall be by full Council.</p>	<p><b>Number of Members:</b></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><b>Chairman and Vice-Chairman appointed by:</b></p> <ol style="list-style-type: none"> <li>1. The Chairman will be elected by the Committee.</li> <li>2. There will be one Vice- Chairman, who shall be elected by the Committee.</li> <li>3. The Vice-Chairman shall deputise for the Chairman in his or her absence.</li> </ol>	<p><b>Political Proportionality:</b></p> <p>Rules of political proportionality apply.</p> <p><b>Substitutes:</b></p> <p>Substitutes are permitted for the Standards Committee.</p> <p><b>Frequency:</b></p> <p>At least quarterly.</p> <p><b>Venue:</b></p> <p>As set out in the approved Calendar of Meetings.</p>
<p><b>Independent Persons:</b></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><b>The Independent Persons:</b></p> <p>The Independent Persons to be invited to attend the meetings of the Standards Committee.</p>
<p><b>Quorum:</b></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><b>Appointed by:</b></p> <p>The Council, for the purposes of section 28(6) and (7) of the Localism Act 2011.</p>	<p><b>Number of Elected Members:</b></p> <p>5 Members appointed from Members of the Standards Committee.</p>
<p><b>Chairman and Vice-Chairman appointed by:</b></p> <p>The Chairman shall be elected by the Sub-Committee at each meeting.</p>	<p><b>Political Proportionality:</b></p> <p>Rules of political proportionality apply.</p> <p><b>Substitutes:</b></p> <p>None.</p> <p><b>Frequency:</b></p> <p>As and when required.</p> <p><b>Venue:</b></p> <p>To be determined by the Monitoring Officer.</p>
<p><b>Quorum:</b></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><b>Independent Persons:</b></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><b>The Independent Persons:</b></p> <p>The Independent Person(s) to attend the meetings of the Standards Committee dealing with hearings into allegations of misconduct.</p>
<p><b>Terms of Reference</b></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"> <li>(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;</li> <li>(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;</li> <li>(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.</li> </ul>	

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**

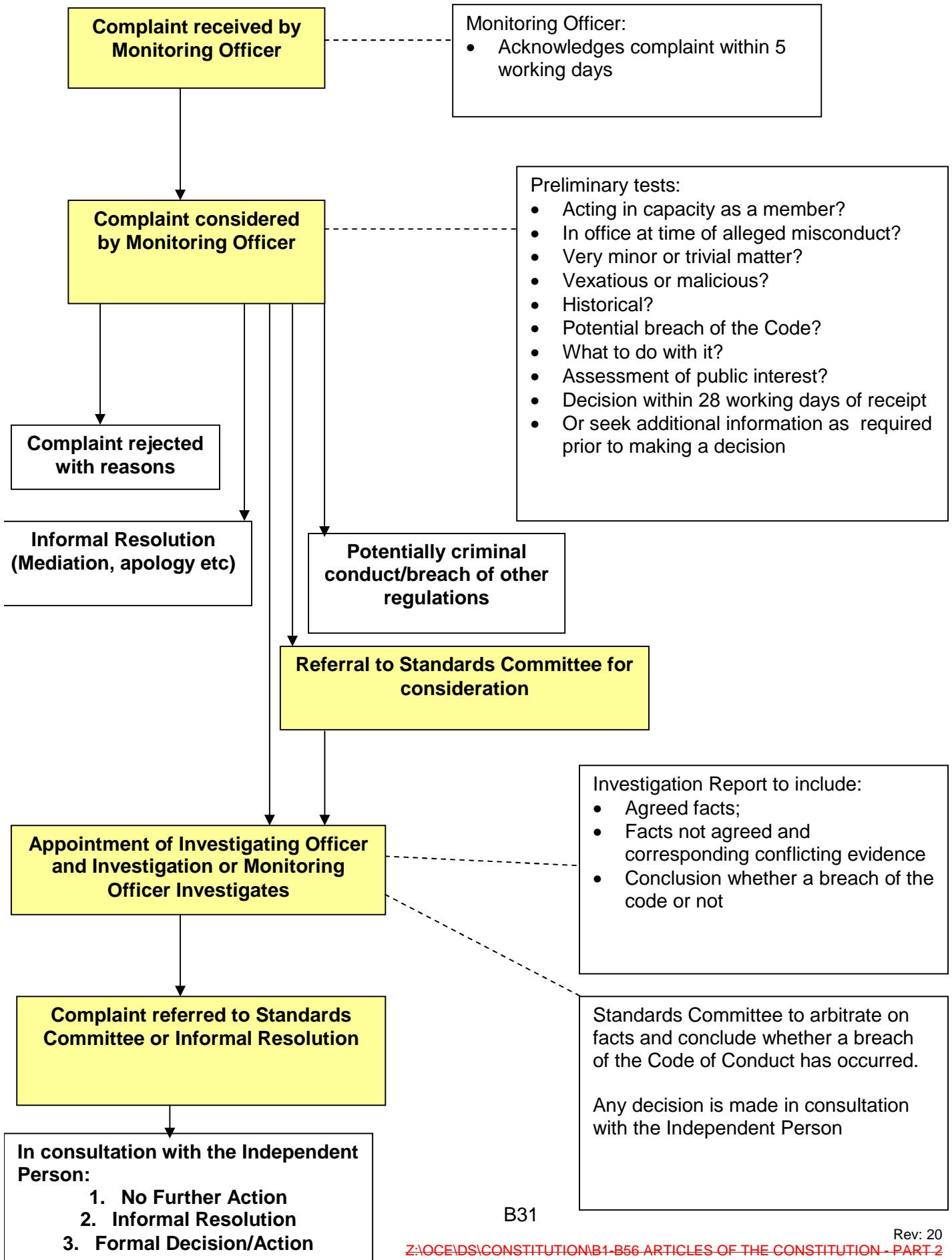
The District Council may by resolution agree to amend these arrangements, and has delegated to the Chairman of the Sub-Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## **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**

<b><u>Item No.</u></b>	<b><u>Procedure</u></b>
1	<b><u>Quorum</u></b>
	<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	<b><u>Opening</u></b>
	<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	<b><u>The Complaint</u></b>
	<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	<b><u>The Councillor’s case</u></b>
	<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;"><b><u>Summing Up</u></b></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;"><b><u>Decision</u></b></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

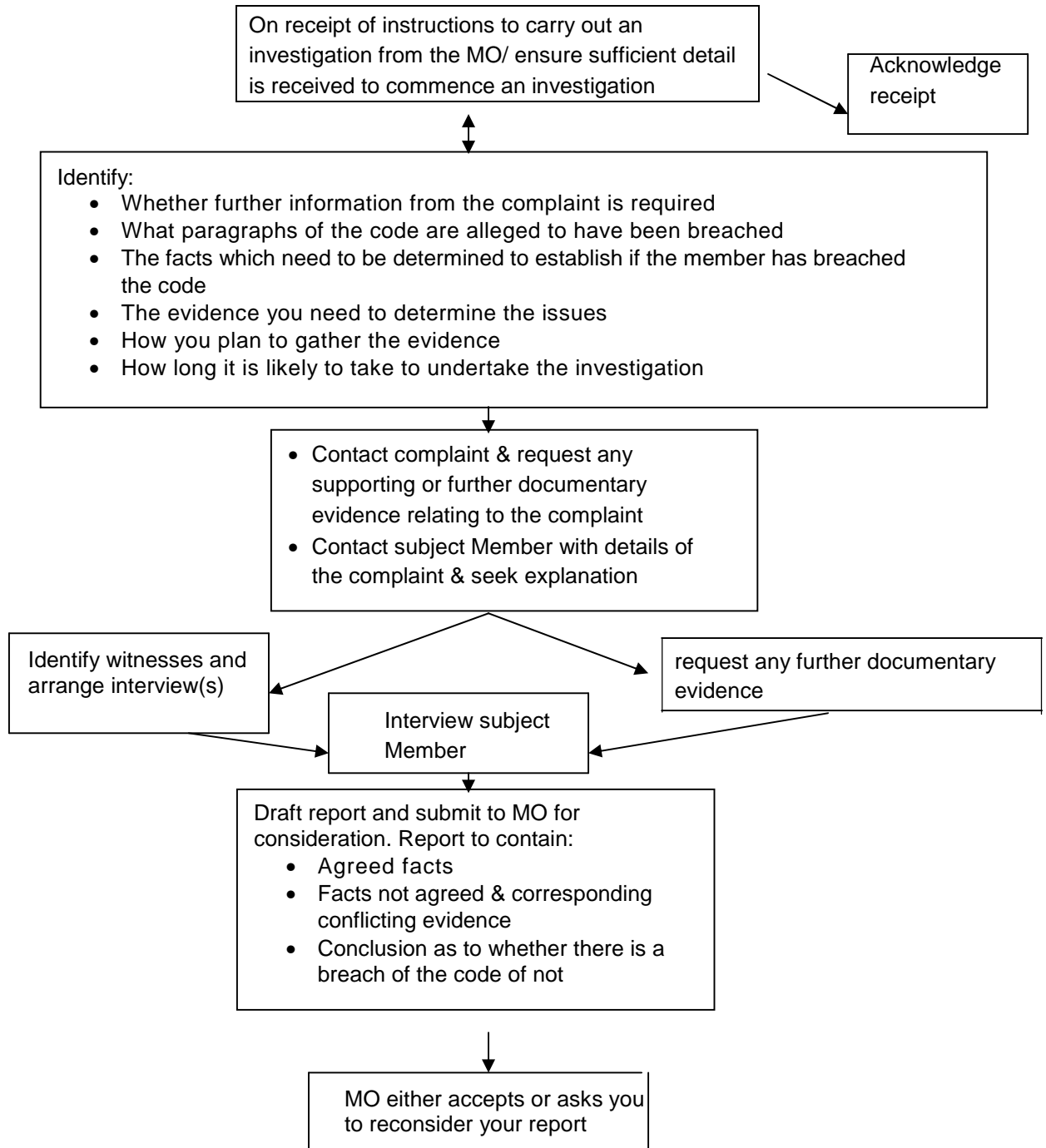
Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and members' time. This is an important consideration where the complaint is relatively minor.

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 <del>to the Chief Executive</del> <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;



#### **(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~~<sup>3</sup> 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 copyies are is~~ a copy is available for inspection at ~~the council offices, libraries and other appropriate locations,~~ the council offices, 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.~~