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## Chapter 1 – The Constitution

### Part 1 – Summary

#### 1. What is the purpose of the Constitution?

- 1.1 This Constitution provides a single point of reference as to how Thurrock Council operates.
- 1.2 Thurrock Council became a unitary borough in 1998 and is a local authority established under the Local Government Acts 1972 and 1992. The contents of this Constitution therefore derive from:
  - (a) Statute – Acts of Parliament and Regulations
  - (b) Decisions of the Council
  - (c) Decisions of the authority's Cabinet
- 1.3 The Constitution is divided into 12 Chapters which set out the basic Rules governing the Council's business.

#### 2. How the Council Operates

- 2.1 The Council is composed of 49 Councillors. In each of three years out of four, one third of the seats on the Council are up for election, and Councillors are each elected for a four-year term of office. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
- 2.2 The Council has adopted a Code of Conduct for Members, and all Councillors have to agree to comply with this Code to ensure high standards in the way they undertake their duties. The Standards Committee is responsible for overseeing training and advising Members on the Code of Conduct and for dealing with complaints of breach of the Code.
- 2.3 All Councillors meet together as the Council. Meetings of the Council are normally open to the public unless they are discussing matters which are confidential. Here Councillors decide the Council's overall policies and set the Budget each year. The Council appoints the Leader who in turn appoints Members of the Executive / Cabinet.

#### 3. How decisions are made

- 3.1 The Council is responsible for setting the authority's Budget and principal policies, for regulatory functions and for appointing very senior staff. The Council also elects a Councillor to be the Executive Leader ("the Leader") who then appoints a number of other Councillors to make up the Executive ("the Cabinet").
- 3.2 The Leader / Cabinet are responsible for most day-to-day decisions. All major ("Key") decisions to be made by the Cabinet or by Members of the Cabinet will be published in advance in the Cabinet's Forward Plan in so far as they can be anticipated. Decision making meetings of the Cabinet will generally be open for the public to attend except where confidential or exempt matters are being discussed.
- 3.3 The Leader / Cabinet must make decisions in line with the Council's overall policies and Budget. If the Cabinet wishes to make a decision which is not in line with the Budget or Policy Framework, this must be referred to the Council as a whole to decide.

#### 4. Executive Arrangements

- 4.1 The Executive, which is called the Cabinet in Thurrock Council, is the part of the Council which is responsible for most day-to-day decisions. The Cabinet is made up of the Leader and Councillors whom the Leader appoints. When major decisions (known as 'Key Decisions'

which are defined in Article 1 of the Constitution) are to be discussed or made, these are published in the Executive / Cabinet's forward plan in so far as they can be anticipated. If these major decisions are to be discussed with Council Officers at a meeting of the Cabinet, this will generally be open for the public to attend except where exempt / personal or confidential matters are being discussed.

4.2 The Council's executive arrangements are described in Chapter 3 of the Constitution.

## **5. Overview and Scrutiny**

5.1 The Council appoints Overview and Scrutiny Committees, which have three roles.

5.2 The first role of Overview and Scrutiny Committees is to support the work of the Cabinet and the Council as a whole by considering and making recommendations on policy.

5.3 Secondly, the Committees are the main bodies scrutinising decisions made by the Cabinet and for holding it to account. They have the power to consider decisions made by the Cabinet but not yet implemented and can ask the Cabinet to reconsider those decisions or, if they consider that a decision may be contrary to the Policy Framework and/or contrary to or not wholly in accordance with the Budgetary Framework, they may refer the matter on to full Council.

5.4 Finally, they are also responsible for reviewing matters relating to a wide range of partner organisations, including those relating to health, to education and to law and order, to ensure that the public authorities that operate in Thurrock are acting in an effective and co-ordinated manner, in the public interest.

## **6. The Council's Staff**

6.1 The Council has people working for it (called 'Officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationship between Officers and Members of the Council. The Protocol for Member / Officer Relations is contained in Chapter 7.

## **7. Resident's Rights**

7.1 For the purposes of this Constitution, the term residents includes (where appropriate) those people who live, study, work or have businesses in the borough or who receive services for which the Council is responsible.

7.2 Thurrock's residents have a number of rights in their dealings with the authority. These are set out in more detail in Article 3, later in this chapter. Some of these are legal rights, whilst others depend on the authority's own processes. Where members of the public use specific Council services, for example as a parent of a school pupil or as a Council tenant, they have additional rights. These are not covered in this Constitution.

7.3 The authority welcomes participation by residents in its work. The Constitution sets out the public's rights of access to the Council's agendas, to reports that are to be considered at meetings and to background papers relating to those reports. The Access to Information Procedure Rules governing these are contained in Chapter 8.

7.4 Residents also have separate rights of access to documents held by the Council under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

7.5 Residents have the right to:

- (a) vote at local elections if they are registered
- (b) contact their local Councillor about any matters of concern to them
- (c) obtain a copy of the Constitution for a reasonable fee

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- (d) attend meetings of the Council and its Committees except where, for example, personal / exempt or confidential matters are being discussed
  - (e) petition to request a referendum on a mayoral form of executive
  - (f) participate in the Council's question time, speak on planning applications, present petitions and contribute to investigations by the Overview and Scrutiny Committees
  - (g) find out, from the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet Members or Officers, and when
  - (h) attend meetings of the Cabinet where key decisions are being discussed or decided;
  - (i) complain to the Thurrock Council about its services and receive a timely response
  - (j) complain to the Ombudsman if they think that Thurrock Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process
  - (k) complain to the Council's Standards Committee if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct, and
  - (l) inspect the Council's accounts and make their views known to the external auditor.

7.6 Residents' rights to present petitions to the Council, to ask questions at meetings of the Council, to speak on planning applications and to be involved in the Scrutiny process, are set out in more detail in Article 3, later in this chapter.

## Part 2 – The Articles of The Constitution

### Article 1 – The Constitution

#### 1. Powers of the Authority

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

#### 2. The Constitution

- 2.1 This Constitution, and all its appendices, is the Constitution of Thurrock Council.

#### 3. Purpose of the Constitution

- 3.1 The Constitution is based on the following principles:

Principle	What it means in this Constitution
Enhancing service performance	Making sure that decision-making leads to improvements in the quality of services to local people
Accountability	Ensuring mechanisms for those responsible for decisions to be held to account for them
Transparency	Having streamlined and simplified clear decision-making and accountabilities
Community representation	Enabling Councillors to represent local communities effectively
Increasing community involvement and engagement	Including and involving the public in the decisions that affect their lives and enabling the development of effective partnership working with other public, private and voluntary bodies
Corporate working	Encouraging a partnership approach between the Cabinet and Overview and Scrutiny Committees, Officers and Members and better corporate working on cross cutting issues

- 3.2 It provides a single point of reference for the operating Rules of the authority.

#### 4. Monitor and review of the Constitution

- 4.1 The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

#### 5. Amendment of the Constitution

- 5.1 Subject to Article 15, the Constitution may only be amended by a resolution of the Council.

#### 6. Interpretation of the Constitution

- 6.1 In this Constitution, the following words and phrases have the following meanings, unless the context dictates otherwise:

“The Authority”	means the legal entity of Thurrock Council
“The Budget”	means the authority’s Budget set out in Chapter 3, Part 3, or set by Council.

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“The Cabinet”	means the Leader and Cabinet Members meeting as a body
“Cabinet Member”	means the Leader or another Councillor appointed by the Leader to be a Cabinet Member
“The Chief Executive”	means the Officer appointed by Council to that post and the Head of Paid Service
“The Chief Finance Officer”	means the Officer appointed by the Council to be responsible for the proper administration of the authority’s financial affairs in accordance with section 151 of the Local Government Act 1972
“Chief Officer/Director”	means the Chief Executive / Head of the Paid Service, Statutory Chief Officer/Directors, Directors and any other Officer designated by the Chief Executive / Head of the Paid Service to be a Chief Officer/Director.
“Directors”	means those Officers who report directly to the Chief Executive / Head of Paid Service and are designated by him/her as Directors
“The Council”	means the Members of the Council meeting as a body
“Councillor”	means an elected Member of the Council
“Decision-Taker”	means the body or person, whether a Member or an Officer, who would be responsible for taking the proposed decision.
“Departure Decision”	means a decision which is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the authority’s approved Budget, and is not an Urgent Decision or a Very Urgent Decision.
“The Deputy Leader”	means the Cabinet Member notified by the Leader to the Chief Executive in writing to hold that office.
“Disciplinary Action”	means any action in relation to an Officer occasioned by misconduct which, if proved, would according to the usual practices of the authority, be recorded on the Officer’s personal file, and includes any proposal for the dismissal of an Officer for any reason other than redundancy, permanent ill health or infirmity of mind or body but does not include a failure to renew a fixed term contract unless the authority has undertaken to renew such a contract.
“The Executive”	means any part of the authority which is discharging Executive Functions
“Executive Function”	means any function of the authority which is to be discharged by the Executive by virtue of section 13 of the Local Government 2000, the Local Authority (Functions and Responsibilities) (England) Regulations 2000 as amended, or any resolution of Council

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	[From May 2011 “Executive Leader”, will mean the Member of the authority who is elected by the Council under sections 44A or 44B, or as may be under section 44C(2), of the Local Government Act 2000].
“The Forward Plan”	is the statement of proposed executive key decisions prepared by the Executive in accordance with Regulation 18 of the Local Authorities (Access to Information) (England) Regulations 2000 as amended.
“The Head of Paid Service”	means the Officer appointed by the Council to be the authority’s Head of Paid Service in accordance with section 4 of the Local Government and Housing Act 1989 and in Thurrock it is the Chief Executive
“Head of Service”	means an Officer who reports directly to the Chief Executive / Head of Paid Service or to a Director and is designated by them to be a Head of Service
“Urgent Decision”	means an executive decision the implementation of which, in the opinion of the Decision-Taker, cannot reasonably be deferred to allow for Call-In
“Key Decision”	means an executive decision which is likely: <ul style="list-style-type: none"> <li>(a) to result in the Council incurring expenditure which is, or the making of savings which are, significant (namely £500,000 or above per annum), having regard to the Council’s Budget for the service or function to which the decision relates; or</li> <li>(b) to be significant in terms of its effect on communities living or working in an area comprising two or more electoral wards in the area of the Council.</li> </ul> <p>A decision maker may only make a key decision in accordance with the requirements of the Executive / Cabinet Procedure Rules set out in Chapter 3 of this Constitution.</p>
“The Leader”	means the Councillor for the time being elected by the Council to be the Executive Leader
“The Leader of the Opposition”	means the Leader of the largest political group on the Council, no member of which group is a Member of the Cabinet
“The Monitoring Officer”	means the Officer designated by Council to be the authority’s Monitoring Officer in accordance with section 5 of the Local Government and Housing Act 1989 and in Thurrock it is the Head of Legal Services
“Non-Executive Function”	means any function of the authority which is to be discharged by any part of the authority other than the Executive by virtue of section 13 of the Local Government Act 2000, the Local Authority (Functions and Responsibilities) (England) Regulations 2000 as amended, and any resolution of Council

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“Officer”	means all employees engaged by the authority to carry out its functions. This covers those engaged under short term, agency, contract or other non-employed situations to carry out such functions, to the extent that the Council has included conditions to that effect in any contractual arrangements under which they are working, as well as those employed by the Council on a permanent basis.
“The Policy Framework”	means the high level plans and strategies to be decided by Council, as set out in Chapter 2, Article 4 Paragraph 5.
“The Proper Officer”	means an Officer appointed by the Council to discharge a particular function as set out in section 270(3) of the Local Government Act 1972.
“Statutory Chief Officer”	means the Chief Executive / Head of the Paid Service, the Section 151 Officer and the Monitoring Officer.
“Urgent Decision”	means an executive decision, which, in the opinion of the decision-taker is so urgent that it cannot reasonably await the publication of the next Forward Plan before it is taken.
“Very Urgent Decision”	means an executive decision, which in the opinion of the decision-taker is so urgent that it cannot reasonably await the giving of five clear days’ notice to the Chair of the relevant Overview and Scrutiny Committee before it is taken.

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## Article 2 – Members of the Council

### 1. Composition and eligibility

#### Composition

- 1.1 The Council comprises 49 directly elected Members, (known as “Councillors”). The area of the Council is divided into wards in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State. Elections are then held on the basis of those wards.

#### Eligibility

- 1.2 Any person may stand for election and be elected as a Councillor if he/she is on the electoral register or if he/she has lived, worked or occupied property in the borough for 12 months prior to the election. There are legal Rules preventing a person from becoming or continuing as a Councillor (for instance if they are an employee of the Council or have been adjudged bankrupt, have been sentenced to a custodial sentence or have been disqualified from being a Councillor under the Local Government Act 2000).

### 2. Election and terms of office of Councillors

- 2.1 Elections for one third of the seats on the Council are held in each of three years out of every four. The regular election of Councillors will normally be held on the first Thursday in May each such year. But they can be deferred by an order of the Secretary of State, for example where appropriate to coincide with European Parliament elections. By-elections are held when a casual vacancy arises for any seat, unless the vacancy arises within 6 months of the ordinary elections for that seat. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### 3. Roles and functions of all Councillors

- 3.1 Councillors have five main roles. They perform one or more of the following duties (subject to the proviso that there is no overlap between them and those Members who perform Executive and Scrutiny functions):
- (a) community leadership and representation
  - (b) executive decision-making
  - (c) policy development and review
  - (d) overview and scrutiny
  - (e) quasi-judicial and regulatory
- 3.2 Taken together these roles enable Councillors to:
- (a) collectively, in meetings of the Council, be the ultimate policy makers and carry out a number of strategic and corporate management functions
  - (b) represent the communities of their electoral division, bring their views into the Council’s decision-making process and represent the Council to those communities – ie become an advocate of, and for, their communities
  - (c) respond to constituents’ enquiries and representations fairly and impartially, deal with individual casework and otherwise effectively represent the interests of their electoral division and of individual constituents

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- (d) balance the different interests identified within the electoral division, represent the division as a whole and act as a point of mediation between the Council and the communities of their division
  - (e) be involved in decision-making in any of the five roles set out above
  - (f) represent the Council on other bodies
  - (g) adopt and maintain the highest standards of conduct

#### **4. Rights and Duties**

- 4.1 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, however, this may not include certain confidential or exempt information.
- 4.2 Councillors will not make public any 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.
- 4.3 For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Chapter 8 of this Constitution.

#### **5. Conduct**

- 5.1 Councillors will at all times observe the Members’ Code of Conduct set out in Chapter 7 of the Constitution and the Protocol on Member/Officer Relations likewise set out in Chapter 7 of the Constitution.

#### **6. Allowances**

- 6.1 Councillors are entitled to receive allowances in accordance with the Members’ Allowance Scheme set out in Chapter 11 of this Constitution.

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## Article 3 – Residents and the Council

### 1. Residents' rights

- 1.1 Residents have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Chapter 8 of this Constitution.

### 2. Voting and petitions

- 2.1 Residents on the electoral roll for the area have the right to vote and sign petitions as provided by law, for example in respect of executive arrangements.
- 2.2 Residents may also bring petitions in accordance with the Petition Scheme adopted by Council and implemented under the provisions of the Local Democracy Economic Development and Construction Act 2009.

### 3. Information

- 3.1 Residents have the right to:
- (a) attend meetings of the Council and its Committees except where confidential or exempt / personal information is likely to be disclosed, and the meeting is therefore held in private
  - (b) attend meetings of the Cabinet when key decisions and other matters are being considered (except where confidential or exempt information is likely to be disclosed and part of the meeting is therefore held in private)
  - (c) find out from the forward plan what key decisions will be taken by the Cabinet and when
  - (d) see reports and background papers, and any records of decisions made by the Council and the Cabinet
  - (e) inspect the Council's accounts and make their views known to the external auditor
  - (f) receive information held by the Council subject to the Freedom of Information Act 2000

### 4. Participation

- 4.1 Residents have the right to:
- (a) participate in the Council's question time and present a petition at a meeting of the Council, in accordance with Appendix A, (Annex 1) and the Council's Petition Scheme (Annex 3).
  - (b) present a petition to a meeting of the Cabinet, in accordance with the Council's Petition Scheme at Appendix A (Annex 3).
  - (c) present a petition to other committee meetings in accordance with the Council's Petition Scheme at Appendix A (Annex 3).
  - (d) ask questions, present petitions and participate in and contribute to investigations by Overview and Scrutiny Committees in accordance with Appendix A (Annex 1), the Council's Petition Scheme (Annex 3) and Chapter 4, Part 3, Rule 14 of this Constitution.
  - (e) speak on planning applications, in accordance with the Scheme of Public Participation at a Meeting of the Planning Committee at Appendix A (Annex 2).
  - (f) contact their local Councillor about any matters of concern to them

**5. Complaints**

5.1 Residents have the right to complain to:

- (a) the Council itself under its complaints procedure and receive a timely response
- (b) the Council's Standards Committee about a breach of the Councillors' Code of Conduct and receive a timely response
- (c) the Ombudsman after using the Council's own complaints procedure.

**6. Residents' responsibilities**

6.1 In return for these rights, residents must observe the law in their dealings with Councillors and Officers.

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## Appendix A

### PUBLIC PARTICIPATION PROCEDURE

#### 1. When Public Participation will operate

1.1 Members of the public will be able to participate at meetings of:

- (a) The Full Council
- (b) The Cabinet
- (c) Overview and Scrutiny Committees
- (d) The Licensing Committee and Licensing Sub-Committee <sup>1</sup>;
- (e) The Planning Committee<sup>2</sup>
- (f) The Audit Committee
- (g) The General Services Committee
- (h) The Standards Committee
- (i) The Corporate Parenting Committee

1.2 Participation at the meetings detailed at 1.1 above can be through either asking questions, making statements or presenting petitions at a designated part of the meeting. For more information about which provisions apply to particular meetings, please see the footnotes below and Annex 1, 2 and 3.

1.3 At other council meetings that are open to the public but not referred to in 1.1 above, formal or informal means of public participation may be permitted at the discretion of the Chair of the Committee.

1.4 The arrangements for public participation at the meetings will be as follows:-

- (a) Annex 1 Procedure for Public Questions at Meetings
- (b) Annex 2 Procedure for Public Participation in Planning Committee Meetings
- (c) Annex 3 Thurrock Council's Petitions Scheme

#### 2. Authority of the Chair

2.1 The Chair will have the right to stop persons from speaking at any time if he/she considers any speech to be defamatory, improper or outside the responsibilities of the Council.

2.2 The Chair may vary or suspend the operation of public participation in advance of or during a meeting, if he/she considers:

- (a) that it is necessary to do so for the purpose of maintaining order at the meeting; or
- (b) that it is convenient and conducive to the despatch of business to do so.

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<sup>1</sup> where a public hearing is being conducted by the Licensing Sub-Committee, public participation shall be considered only in accordance with the separate procedure applying to such hearings. Please see Chapter 5, Part 4(b) for further information.

<sup>2</sup> a separate public participation procedure operates where the Planning Committee is determining planning or other applications, as set out in Annex 3 of this procedure.

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**Annex 1****Procedure for Public Questions at Meetings****1. Introduction**

1.1 Members of the public can submit a question to the following meetings:

- (a) Full Council
- (b) Overview & Scrutiny committees

**2. Questions to Full Council**

2.1 Any resident of the authority's area may submit a question to Full Council addressed to

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

2.2 The question should be delivered in writing to the Monitoring Officer, to be received by Democratic Services at least six working days prior to a meeting of Council (for example, as the Council usually meets on a Wednesday, the deadline for receipt of a question will be 5.00 p.m. on the Monday the week before the meeting is due to be held). The question must relate to a matter which affects the authority or residents of the authority's area and in relation to which the authority has powers, and must name the individual to whom it is addressed. A question must be concise and clearly worded and must not extend into a statement. The question must relate to a single proposition and may not contain more than one part. No member of the public may submit more than one question in total for any one meeting of the Council.

2.3 The Monitoring Officer shall copy the question to the person to whom it is addressed and place it on the agenda for the next meeting of Council unless, in his/her opinion:

- (a) the request does not comply with the requirements of Rule 2.2 above
- (b) the question is defamatory of an individual, offensive, discloses confidential or exempt information, names or clearly identifies an employee of the authority, or otherwise infringes the proper conduct of local government
- (c) the question is substantially the same as a question which has been previously been received and answered within the past year, and there has been no significant and relevant change of circumstances since the previous question was answered; or
- (d) the question discloses, or the reply is likely to disclose, confidential or exempt information.

2.4 The Monitoring Officer shall put the questions on the agenda, grouped as to the person to whom the question is to be put and, in relation to each such person, in the order that they have been received.

2.5 Where the questioner is present, the person to whom the question was addressed shall then provide a verbal answer to the question (which may include a more detailed answer in writing). Where the person who submitted the question is not present, the person to whom the question was addressed may provide a written response as an alternative to a verbal response.

2.6 Where the person who submitted the question is present, after the initial answer, they may ask one supplementary question arising directly out of the initial question or answer, without notice, and the person who answered the initial question shall respond to the supplementary question.

- 2.7 The time limit for all questions under this Rule (at any meeting) shall be 30 minutes. Where a question is not dealt with at the meeting, the person to whom the question is addressed shall provide a written answer as soon as practicable after the meeting.

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### 3. Questions or Statements to Overview & Scrutiny committees

- 3.1 Any resident of the authority's area may submit a question or make a statement to a meeting of an Overview and Scrutiny Committee.

### 4. Questions

- 4.1 Questions should be delivered in writing to the Monitoring Officer, to be received by Democratic Services by 5.00 p.m. at least three working days prior to a meeting. The question must relate to an item that appears on the Agenda for a meeting and must be concise and clearly worded. The question must relate to a single proposition and may not contain more than one part. No member of the public may submit more than one question in total for any one meeting of an Overview and Scrutiny Committee.
- 4.2 The Monitoring Officer shall accept questions for meetings of Overview and Scrutiny Committees unless, in his/her opinion:
- (a) the request does not comply with the requirements of Rule 3.2 above;
  - (b) the question is defamatory of an individual, offensive, discloses confidential or exempt information, names or clearly identifies an employee of the authority, or otherwise infringes the proper conduct of local government;
  - (c) the question is substantially the same as a question which has been previously been received and answered within the past year, and there has been no significant and relevant change of circumstances since the previous question was answered; or
  - (d) the question discloses, or the reply is likely to disclose, confidential or exempt information.
- 4.3 All questions shall be taken directly before the Agenda item to which they relate.
- 4.4 Where the questioner is present, the Chair shall then provide a verbal answer to the question (which may include a more detailed answer in writing). Where the person who submitted the question is not present, the Chair may provide a written response as an alternative to a verbal response.
- 4.5 Where the person who submitted the question is present, after the initial answer, they may ask one supplementary question arising directly out of the initial question or answer, without notice, and the Chair shall respond to the supplementary question.

### 5. Statements

- 5.1 Where a request is made to make a statement at a meeting of an Overview and Scrutiny Committee, a written summary of the points to be raised should be delivered in writing to the Monitoring Officer, to be received by Democratic Services by 5.00 p.m. at least three working days prior to the meeting. Any statement must relate to an item that appears on the Agenda for a meeting.
- 5.2 The Monitoring Officer shall accept any such statement unless, in his/her opinion:
- (a) the request does not comply with the requirements of Rule 3.7 above
  - (b) the statement is defamatory of an individual, offensive, discloses confidential or exempt information, names or clearly identifies an employee of the authority, or otherwise infringes the proper conduct of local government
  - (c) the statement is substantially the same as a statement that has previously been received within the past year, and there has been no significant and relevant change of circumstances since the previous statement was made; or

(d) the statement discloses, or is likely to disclose, confidential or exempt information.

5.3 All statements shall be taken directly before the Agenda item to which they relate.

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## Annex 2

### Public Participation at a Meeting of the Planning Committee

#### 1. Introduction

- 1.1 Planning applications are usually determined either by Officers acting under delegated authority or by the Planning Committee.
- 1.2 The Council wants to provide the opportunity for the public and for applicants (or their agents) to speak at the meetings of the Planning Committee before Members of the Committee take their decision. Anyone who has written to the Council making representations on a planning application will be contacted by Development Management upon publication of the relevant agenda and will be advised of the relevant process relating to public speaking (see paragraphs 2.4 and 3.1-3.3 below).
- 1.3 Upon receipt of a request to speak at a meeting of the Planning Committee, Democratic Services will organise all such public speaking.

#### 2. Who can speak at a meeting of the Planning Committee?

- 2.1 Only the following may address the Planning Committee:
  - (a) In the case of a planning application:
    - (i) An objector or their representative;
    - (ii) A Ward Councillor;
    - (iii) Any Member of the Committee who has a prejudicial interest, speaking in accordance with paragraph 12(2) of the Members' Code of Conduct.
    - (iv) An applicant or his/her agent or representative;
  - (b) In the case of an enforcement matter:
    - (i) An objector or their representative;
    - (ii) A Ward Councillor
    - (iii) Any Member of the Committee who has a prejudicial interest, speaking in accordance with paragraph 12(2) of the Members' Code of Conduct.
    - (iv) The owner or occupier of premises under enforcement action or his/her agent or representative
- 2.2 Only one person, in addition to a Ward Councillor, will be invited to speak in support of, or in opposition to, any application or enforcement matter appearing on the Agenda for a meeting of the Planning Committee.
- 2.3 Subject to paragraph 2.2, if a person wishes to speak in objection to an application, the applicant must be allowed to speak. An applicant may speak at a meeting even where there are no objectors or Ward Members wishing to speak.
- 2.4 All requests to speak at a meeting of the Planning Committee, including those from Ward Councillors or those notified under paragraph 1.2, must relate to a matter to be considered at the forthcoming meeting of the Committee and be accompanied by a written statement sufficiently setting out the planning matters the speaker wishes to raise at the meeting.

#### 3. How can I speak at a meeting of the Planning Committee?

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- 3.1 All requests to speak, including those from Ward Councillors or those notified under paragraph 1.2, should be received by Democratic Services no later than noon two working days prior to the meeting, excluding the day on which the meeting is to be held, (for example, as the Planning Committee usually meets on a Thursday, the deadline for registration and receipt of a written summary, sufficiently setting out the planning matters the speaker wishes to raise at the meeting, will be 12 Noon on the Tuesday before the day of the meeting) in one of the following ways:
- (a) In writing, addressed to:  
  
Clerk to the Planning Committee,  
Democratic Services,  
Thurrock Council,  
Civic Offices,  
New Road,  
Grays,  
Essex  
RM17 6SL
  - (b) Via a form on the Council's web site at:  
  
[http://www.thurrock.gov.uk/democracy/content.php?page=planning\\_form](http://www.thurrock.gov.uk/democracy/content.php?page=planning_form)
  - (c) By e-mail to  
  
[direct.democracy@thurrock.gov.uk](mailto:direct.democracy@thurrock.gov.uk)
  - (d) By fax to  
  
(01375) 652779
  - (e) If any assistance in registering to speak at a meeting is required, please telephone (01375) 652831.
- 3.2 The Chair of the Planning Committee will not normally allow members of the public to speak if they have failed to notify the Council of their wish to do so in one of the ways described above.
- 3.3 Where there is more than one request to speak on a particular application, the requests made will be entered into a ballot. To ensure transparency, the ballot will be held at 4.00 p.m. two working days prior to the Meeting (excluding the day on which the Meeting is to be held) and applicants/owners and/or their planning agents and objectors will be invited to witness the ballot. All potential speakers will be advised of the outcome.
- 3.4 Where a request is made to speak in opposition to an Application, the applicant or agent shall have the right to reply at the Committee. A copy of the speaker's written objection will be forwarded to the applicant or their agent and, if they wish to speak at the Committee, the applicant or agent must forward their response, in writing, to Democratic Services by noon on the working day before the meeting of the Committee.
- 3.5 Although Democratic Services will make every effort to advise the applicant/agent where any such notice has been received, it is the responsibility of the applicant/agent to check two working days (excluding the day on which the Committee is to be held) before the application is to be considered, whether or not anyone has registered to speak.
- 3.6 The Committee will be provided with copies of the written statements, as referred to at Rule 3.4, from all speakers prior to the meeting and relevant agenda and reports will be published to the Council's web site at least five working days before the meeting, with a limited number of copies being made available to persons attending the Meeting.
- 3.7 The Chair may agree to accept representations made outside these procedures where there are exceptional circumstances, for example where someone can show that they have been

prejudiced by a failure of the Council to follow procedures in this Constitution. The Chair will state the reasons for using his/her discretion in this respect and these will be included in the minutes of the meeting.

#### **4. What happens at the meeting of the Planning Committee?**

- 4.1 Applications will usually be taken in the order that they appear on the published Agenda. However, the Chair may exercise some discretion to allow for those applications subject to public participation to be taken first.
- 4.2 For any applications that are subject to public participation, the order in which registered speakers will be called to address the Committee will be as follows:
- (a) In the case of a planning application:
    - (i) An objector or their representative;
    - (ii) A Ward Councillor;
    - (iii) Any Member of the Committee who has a prejudicial interest, speaking in accordance with paragraph 12(2) of the Members' Code of Conduct.
    - (iv) An applicant or his/her agent or representative;
  - (b) In the case of an enforcement matter:
    - (i) An objector or their representative;
    - (ii) A Ward Councillor
    - (iii) Any Member of the Committee who has a prejudicial interest, speaking in accordance with paragraph 12(2) of the Members' Code of Conduct.
    - (iv) The owner or occupier of premises under enforcement action or his/her agent or representative;
- 4.3 A person who has registered to speak may address the Committee for a period not exceeding 3 minutes. If the time limit is exceeded, the Chair will immediately call for an end to the speech.
- 4.4 If a person who has registered to speak at the meeting does not attend, the application will be dealt with in their absence and will not, for that reason, be deferred.
- 4.5 No documentation may be circulated or audio or visual material presented to Members of the Planning Committee at the meeting.
- 4.6 The Planning Officer or the lawyer advising the Committee, in consultation with the Chair, may disallow any matter which may give offence, deal with confidential or exempt information or otherwise infringe the proper conduct of local government. In such cases, reasons for the disallowance will be given.
- 4.7 If the Committee decides to defer an item to a future meeting, any speakers on that item who have spoken at the time of deferring shall be given first priority to speak when the item is re-considered.
- #### **5. What can you speak about?**
- 5.1 Speakers can speak for themselves or on behalf of others. Any representations made should relate only to material planning considerations and not matters that fall outside the remit of the Committee.
- 5.2 Speakers are asked, where possible, not to repeat points made by other speakers.



## THURROCK COUNCIL PETITION SCHEME

### 1. Introduction

- 1.1 The Council welcomes petitions and recognises that these are one way in which people can let us know their concerns.
- 1.2 All petitions sent to or presented at a meeting of the Council will receive an acknowledgement within 10 working days of receipt and this will set out what we plan to do with the petition.
- 1.3 We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.
- 1.4 Paper copies of petitions should be sent to:

Democratic Services  
Civic Offices  
New Road  
Grays  
Essex  
RM17 6SL

Petitions can be presented to a meeting of the Full Council. These meetings usually take place each month (except during April (in the year of an election), August and December). Dates and times of meetings of the Council can be found at:

<http://www.thurrock.gov.uk/democracy/content.php?page=committee&ID=2#diary>

- 1.5 In addition, petitions may also be presented to the following meetings:
- (a) The Cabinet
  - (b) Overview and Scrutiny Committees
  - (c) The Licensing Committee and Licensing Sub-Committee;
  - (d) The Public Protection Committee and Public Protection Sub-Committee;
  - (e) The Planning Committee
  - (f) The Audit Committee
  - (g) The General Services Committee
  - (h) The Standards Committee
  - (i) The Corporate Parenting Committee
- 1.6 If you would like to present your petition to a meeting of the Council, the Cabinet or to a meeting of a particular Committee, as detailed in 1.6 above, or would like your Councillor or someone else to present it on your behalf, please contact Democratic Services, on (01375) 652831 **no later than 12.00 noon on the working day before that meeting** and they will talk you through the process.
- 1.7 If your petition has received 1500 signatures or more it will also be scheduled for a debate at a meeting of Council and, if this is the case, we will discuss with the petition organiser when this will take place.

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- 1.8 You can also submit petitions to the Cabinet and other committees (including Overview & Scrutiny). Details of when these meetings take place can also be found on the Council's website.
- 1.9 The Council also offers a facility where a Petition can be created, signed and submitted online and this can be found at:

<http://consult.thurrock.gov.uk/portal/petitions>

## 2. What are the guidelines for submitting a petition?

- 2.1 All Petitions must identify and be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition.
- 2.2 The contact details of the petition organiser will not be placed on the website.
- 2.3 Petitions submitted to the Council must:
- (a) contain the name, a valid address and the signature of at least 10 local government electors for the administrative area of Thurrock who support the petition. If a petition does not contain the signatures of 10 local government electors in Thurrock, proof of residence in the borough may be checked through Council Tax records, as a secondary measure.
  - (b) include a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take
  - (c) relate to a matter for which the authority has responsibility and which affects the authority or its area
  - (d) not, in the opinion of the Monitoring Officer, be trivial, defamatory, offensive, be substantially the same as a petition which has been considered under these Rules within the previous 12 months, name or clearly identify an employee of the authority, or involve the disclosure of confidential or exempt information.
- 2.4 Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum, we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply.
- 2.5 If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.
- 2.6 If your petition does not reach the minimum requirement of 10 signatures (as detailed in paragraph 2.3(a) above), particularly if the issue relates to a small locality, we will seek to advise you of other ways in which your views could be considered.
- 2.7 If you wish to present your petition to a specific meeting of the Council, the Cabinet or any committee meeting (including Overview & Scrutiny), you should provide us with details of the subject of the petition, the number of signatures and your contact details by **no later than 12.00 noon on the working day before that meeting**, to enable it to be submitted.
- Please note that petitions submitted by the petitioner to meetings of the council will not be discussed in detail at that point, unless there is an agenda item specifically relating to that issue. Petitions received in this way will be passed to the appropriate councillor or officer for proper consideration.
- 2.8 Any Member or member of the public presenting a petition shall be entitled to address the Council on the matter which is the subject of the petition for up to two minutes. Unless the

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petition relates to a matter which is to be determined by Council itself, it shall then be referred to the Cabinet, Cabinet Member or Committee, as appropriate, without debate.

### **3. What will the council do when it receives my petition?**

- 3.1 An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. This may also be published on our website.
- 3.2 If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.
- 3.3 Where the Monitoring Officer is of the opinion that the subject matter of the petition relates to a matter which is, or will shortly be, the subject of statutory or non-statutory consultation by the authority or is to be reported to a forthcoming meeting of a Committee of the Council, he/she may elect to include the petition in the responses to that consultation, or, report the petition to the relevant Committee for consideration in the ordinary determination of that matter.
- 3.4 Where a petition is referred to the Cabinet, a Cabinet Member or a Committee, the Monitoring Officer shall advise the petition organiser accordingly. The petition shall be considered by the Cabinet, Cabinet Member or Committee at their next convenient meeting or occasion.
- 3.5 We reserve the right to verify signatures as required. Please ensure you include a valid address and postcode that relates to your home address (if you live or study in Thurrock) or work address (if you work or run a business in Thurrock). These signatures will be taken into account when identifying if there are enough signatures from people who live, work or study in Thurrock to trigger a full council debate or call an officer to account at an Overview and Scrutiny meeting.

### **4. Petitions That Cannot Be Dealt With Through This Scheme (Exempt Petitions)**

- 4.1 In order not to duplicate procedures where established processes already exist for people to voice their opinions, the following matters are excluded from this Scheme:
- (a) Any matter relating to a planning decision, including enforcement action, a development plan document or community infrastructure levy (*a new local levy that authorities can choose to introduce to help fund infrastructure in their area.*). See paragraph 4.2(b) below.
  - (b) Any matter relating to an alcohol, gambling or sex establishment licensing decision. See paragraph 4.2(a) below.
  - (c) Any matter relating to an individual or entity where there is already an existing recourse to a review or right of appeal, such as Council tax banding and non-domestic rates.
  - (d) a statutory petition (for example requesting a referendum on having an elected mayor).

However, a petition that alleges a systematic failure to deliver services in the above areas is within the scope of this Scheme. (e.g. while a petition on an individual planning application would be an exempt petition, a petition about the council's failure to deliver an effective service for planning applications would be within the scope of this scheme).

- 4.2 Petitions in respect of planning and licensing matters should be submitted to the council as follows:

- (a) Petitions relating to **licensing matters** should be sent to Public Protection, Licensing, Civic Offices, New Road, Grays, Essex, RM17 6SL.
- (b) Petitions relating to **planning matters** should be sent to Development Management, Planning & Transportation, Civic Offices, New Road, Grays, Essex, RM17 6SL.

Further information on how to have your say on planning applications is available through following this link:

<http://www.thurrock.gov.uk/planning/development/content.php?page=publicaccess>

- 4.3 We will not take action on any petition, which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.
- 4.4 Any petition that is a duplicate or near duplicate of another petition that the Council has already received will not be able to be considered within a 12 month period. You are advised to check the details of previous petitions on our e-petitions site or contact us for advice at the start of your petition.
- 4.5 To ensure that people know what we are doing in response to the petitions we receive, the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible, we will also publish all correspondence relating to the petition (all personal details will be removed). When you sign an e-petition you can elect to receive this information by email. We will not send you anything which is not relevant to the e-petition you have signed, unless you choose to receive other emails from us.

## 5. How will the council respond to petitions?

- 5.1 Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:
  - (a) taking the action requested in the petition
  - (b) considering the petition at a Council meeting
  - (c) holding an inquiry into the matter
  - (d) undertaking research into the matter
  - (e) holding a public meeting
  - (f) holding a consultation
  - (g) holding a meeting with petitioners
  - (h) referring the petition for consideration by an Overview and Scrutiny committee\*
  - (i) calling a referendum
  - (j) writing to the petition organiser setting out our views about the request in the petition

\*Overview and Scrutiny committees are committees of Councillors who are responsible for scrutinising the work of the Council – in other words, the overview and scrutiny committee has the power to hold the Council's decision makers to account.

- 5.2 In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition. The table below gives some examples.

Petition subject	Appropriate steps
(a) Alcohol related crime and disorder	<p>If your petition is about crime or disorder linked to alcohol consumption, the Council will, among other measures, consider the case for placing restrictions on public drinking in the area by establishing a designated public place order or, as a last resort, imposing an alcohol disorder zone. When an alcohol disorder zone is established, the licensed premises in the area where alcohol related trouble is being caused are required to contribute to the costs of extra policing in that area. The Council's response to your petition will set out the steps we intend to take and the reasons for taking this approach.</p>
(b) Anti-social behaviour (ASB)	<p>As the elected representatives of your local area, as social landlord and licensing authority, the Council plays a significant role to play in tackling anti-social behaviour. The Council, in conjunction with our partners in the local crime and disorder partnership have set out minimum service standards for responding to issues of anti-social behaviour, you can find more details about these standards here:</p> <p><a href="http://www.thurrock.gov.uk/safety/content.php?page=asb">http://www.thurrock.gov.uk/safety/content.php?page=asb</a></p> <p>When responding to petitions on ASB, we will consider in consultation with our local partners, all the options available to us including the wide range of powers and mechanisms we have to intervene as part of our role as social landlord and licensing authority. For example, we will work with the neighbourhood policing team in the affected area to identify what action might be taken including what role CCTV might play, consider identifying a dedicated contact within the Council to liaise with the community and neighbourhood partners on issues of ASB in the area in question and, where appropriate, we will alert the Crime and Disorder Reduction Partnership and relevant Overview and Scrutiny committee to the issues highlighted in the petition.</p>
(c) Under-performing schools	<p>We will consider, in consultation with local partners, all the options available to us when working with schools to secure their improvement. For example, on our behalf, the school improvement partner will play a pivotal role, challenging and brokering support for poorly performing schools. Where a school is under performing, we will consider whether it is appropriate in the circumstances to issue a warning notice outlining expectations and a timeframe for the school to improve its performance standards. Other measures available to us, where schools fail to comply with a warning notice or are in an Ofsted category of Notice to Improve (requiring significant improvement) or special measures including; appointing additional governors, establishing an interim executive board, removal of the school's delegated budgets, requiring the school to enter into a formal contract or partnership or, only if the school is in special measures, closure.</p>

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- (d) Under-performing health services
- We will work with local health partners to consider the matter raised in the petition including, where appropriate, exploring what role the Local Involvement Network (LINK) might have in reviewing and feeding back on the issue (the LINK is run by local individuals and community groups and independently supported – their role to find out what people want in terms of local health services, monitor those services and to use their powers to hold them to account). The Health & Wellbeing Overview and Scrutiny committee will also be alerted to the petition and where the matter is sufficiently or potentially serious, the issue will be referred to them to consider for review.
- 5.3 If your petition is about something over which the Council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body.
- You can find more information on the services for which the Council is responsible at:
- <http://www.thurrock.gov.uk/a2z/content.php?page=services>
- 5.4 If your petition is about something that a different Council is responsible for, we will give consideration as to what the best method might be for responding to it. This might consist of simply forwarding the petition to another body, but could involve other steps. In any event we will always notify you of the action we have taken.
- 5.5 The Council works with a large number of local partners and, where possible, will work with these partners to respond to your petition. If we are not able to do this for any reason (for example, if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you.
- 6. Full council debates:**
- 6.1 If a petition contains more than 1500 signatures it will be debated by the full Council, unless it is a petition asking for a Senior Council Officer to give evidence at a public meeting.
- 6.2 This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend. The Council will endeavour to consider the petition at its next meeting, although, on some occasions, this may not be possible and consideration will then take place at the following meeting.
- 6.3 The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of 15 minutes.
- 6.4 The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee.
- 6.5 Where the issue is one on which the Council Executive is required to make the final decision, the Council will decide whether to make recommendations to inform this. The petition organiser will receive written confirmation of this decision and this confirmation will also be published on our website.
- 7. Officer evidence:**
- 7.1 Your petition may ask for a Senior Council Officer to give evidence at a public meeting about something for which the Officer is responsible as part of their job. For example, your petition
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may ask a Senior Council Officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

- 7.2 If your petition contains at least 750 signatures, the relevant senior officer will give evidence at a public meeting of the appropriate Overview and Scrutiny Committee. A list of the senior staff that can be called to give evidence can be found in Article 12 within this Chapter.
- 7.3 You should be aware that the Overview and Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence, instead of any officer named in the petition – for instance if the named officer has changed jobs. The Committee may also decide to call the relevant Cabinet Member to attend the meeting.
- 7.4 Committee members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the committee by contacting Democratic Services on (01375) 652082, up to three working days before the meeting.

## **8. E-petitions:**

- 8.1 The Council has launched a facility for e-petitions to be created and submitted through our website. This can be accessed via the following link:

<http://consult.thurrock.gov.uk/portal/petitions>

Guidance on how you can use this facility is available on the site itself.

- 8.2 A petition organiser will need to provide us with their name, postal address and email address. You will also need to decide how long you would like your petition to be open for signatures. You can choose a shorter or longer timeframe, up to a maximum of 12 months.
- 8.3 When you create an e-petition, it may take up to five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature.
- 8.4 If, for some reason, we feel that we cannot publish your petition, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.
- 8.5 When an e-petition has closed for signature, it will automatically be submitted to Democratic Services. In the same way as a paper petition, you will receive an acknowledgement within 10 working days.
- 8.6 If you would like to present your e-petition to a meeting of the Council, please contact Democratic Services within 10 working days of receipt of the acknowledgement and they will talk you through the process.
- 8.7 A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on this website.

## **9. How do I 'sign' an e-petition?**

- 9.1 You can see all the e-petitions currently available for signature by following the link below:

<http://consult.thurrock.gov.uk/portal/petitions>

- 9.2 When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. When you have submitted this information, you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete, your 'signature' will be

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added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

#### **10. What can I do if I feel my petition has not been dealt with properly?**

- 10.1 If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the relevant Overview and Scrutiny Committee review the steps that the Council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.
- 10.2 The committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council executive and arranging for the matter to be considered at a meeting of the full Council.
- 10.3 Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.

#### **11. Other Ways To Have Your Say**

- 11.1 Thurrock Council is always interested in receiving your feedback on our services or how we can work together better with our partners to improve things in the borough.
- 11.2 There are a wide range of ways you can get involved and have your say, from submitting individual comments on specific issues, to participating in consultations and in groups that regularly input to shaping our local services.
- 11.3 You can get involved by writing to us, attending meetings and events or participating online.
- 11.4 To find out more visit our website at <http://www.thurrock.gov.uk/>
- 11.5 The Council would also like to hear from you if you have any comments or suggestions to help improve our services or if you are particularly pleased with our work.
- 11.6 For more information about making a complaint or providing comments or suggestions to help improve our services, please see our webpage at:

<http://www.thurrock.gov.uk/content.php?page=complain>

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The Articles listed below are set out in later chapters of the Constitution as shown:

<b>Article 4</b>	<b>The Full Council</b>	<b>See Chapter 2</b>
<b>Article 5</b>	<b>Chairing the Council</b>	<b>See Chapter 2</b>
<b>Article 6</b>	<b>Overview &amp; Scrutiny Arrangements</b>	<b>See Chapter 4</b>
<b>Article 7</b>	<b>The Executive</b>	<b>See Chapter 3</b>
<b>Article 8</b>	<b>Regulatory and Other Committees</b>	<b>See Chapter 5</b>
<b>Article 9</b>	<b>The Standards Committee</b>	<b>See Chapters 7</b>
<b>Article 10</b>	<b>Area Committees and Forums</b>	<b>See Chapter 12</b>
<b>Article 11</b>	<b>Joint Arrangements</b>	<b>See Chapter 12</b>
<b>Article 14</b>	<b>Finance, Contracts and Legal Matters</b>	<b>See Chapter 9</b>

Articles 12 to 13, and 15 to 16, are set out below in this chapter.

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## Article 12 – Officers

### 1. Management structure

#### General

- 1.1 The Council may engage such Officers as it considers necessary to carry out its functions, on such reasonable terms and conditions of employment as it thinks fit.
- 1.2 The Council has determined a staffing structure, and has determined that the following posts shall be established:
- (a) Chief Executive
  - (b) Assistant Chief Executive
  - (c) Director of People Services
  - (d) Director of Finance and Corporate Governance
  - (e) Director of Sustainable Communities
  - (f) Director of Transformation
  - (g) Director of Housing
  - (h) Heads of Service
    - Head of Social Care and Targetted Outcomes
    - Head of Learning and Universal Outcomes
    - Head of Adult Services
    - Head of Commissioning
    - Head of Corporate Finance
    - Head of Legal Services
    - Head of Planning & Transportation
    - Head of Environment
    - Head of Public Protection
    - Head of HR, Organisational Development & Customer Strategy
    - Head of Business Services
    - ICT
    - Procurement
- 1.3 Where the Cabinet has agreed to vary these roles, Council has agreed that the Monitoring Officer shall be authorised to make the necessary consequential amendments to this Article.
- Head of Paid Service, Monitoring Officer and Chief Finance Officer**
- 1.4 The Council will designate the posts of Head of Paid Service, Monitoring Officer and Chief Finance Officer. Currently the following Officers set out below are designated to these posts:

- Head of Paid Service - Chief Executive
- Monitoring Officer - Head of Legal Services
- Chief Finance Officer - Director of Finance and Corporate Governance

### **Structure**

- 1.5 The Chief Executive will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. This is set out in Rule 1.2 of this Chapter of the Constitution.

### **2. Functions of the Chief Executive / Head of Paid Service**

- 2.1 Overall corporate management and operational responsibility (including overall management responsibility for all Officers).
- 2.2 Provision of professional advice to all parties in the decision making process.
- 2.3 Together with the Monitoring Officer responsibility for a system of record-keeping for all the Council's decisions and boards.
- 2.4 Represents the Council on partnership and other external bodies (as required by statute or the Council).
- 2.5 In the absence of the Monitoring Officer to carry out the functions of the qualified person for the purposes of section 36 of the Freedom of Information Act 2000 (prejudice to effective conduct of public affairs).
- 2.6 To act as the Returning Officer for the Local Government Elections.

### **3. Functions of the Monitoring Officer**

#### **Maintaining the Constitution**

- 3.1 The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is available to Members, staff and the public.

#### **Ensuring lawfulness and fairness of decision-making**

- 3.2 After consulting with the Chief Executive and Chief Finance Officer where practicable, the Monitoring Officer will report to the full Council in respect of a non-Executive Function or to the Cabinet in relation to an Executive Function if he or she considers that any proposal, decision or omission has given rise to or would give rise to unlawfulness or if any decision or omission has given rise to maladministration, under sections 5 and 5A of the Local Government and Housing Act 1989. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

#### **Supporting the Standards Committee**

- 3.3 The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee as principal policy adviser and in reporting allegations of failure to comply with the Members' Code of Conduct or a Protocol approved by Council.

#### **Receiving reports**

- 3.4 The Monitoring Officer will receive and act on reports made by Ethical Standards Officers and decisions of case tribunals.

#### **Conducting investigations and taking other actions**

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- 3.5 The Monitoring Officer will arrange the conduct of investigations into matters referred by Ethical Standards Officers or the Standard Committee's Initial Assessment or Review Sub-Committees for investigation, and shall take such other actions as the Initial Assessment or Review Sub-Committees may direct.

#### **Maintaining the Register of Members' Interests**

- 3.6 The Monitoring Officer shall maintain the register of Members' interests and shall report annually to the Standards Committee on the performance of this function.

#### **Proper Officer**

- 3.7 Act as the Proper Officer as required. References to the Proper Officer in this Constitution are defined in Chapter 6.

#### **Advising whether Executive decisions are within the Budget and Policy Framework**

- 3.8 The Monitoring Officer will advise whether decisions of the Executive / Cabinet are in accordance with the Budget and Policy Framework.

#### **Providing advice**

- 3.9 The Monitoring Officer will be responsible for providing advice on the scope of the powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework to all Councillors.

#### **Restrictions on posts**

- 3.10 The Monitoring Officer cannot be the Chief Finance Officer or the Chief Executive.

### **4. Functions of the Chief Finance Officer**

#### **Ensuring lawfulness and financial prudence of decision-making**

- 4.1 After consulting with the Chief Executive and the Monitoring Officer where practicable, the Chief Finance Officer will report to the full Council in respect of a non-Executive Function or to the Cabinet 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.

#### **Administration of financial affairs**

- 4.2 The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council as required by section 151 of the Local Government Act 1972 or (so far as relevant) section 112 of the Local Government Finance Act 1988, including the provision of financial information both internally and externally as required. [Section 112, LGFA 1988 refers to functions of police authorities, combined police authorities and economic prosperity boards].

#### **Advising whether Executive decisions are within the Budget and Policy Framework**

- 4.3 The Chief Finance Officer will advise whether decisions of the Executive are in accordance with the Budget framework.

#### **Providing advice**

- 4.4 The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget issues to all Councillors and will support and advise Councillors and Officers in their respective roles.

### **5. Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

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5.1 The Council will provide the Monitoring Officer and Chief Finance Officer with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

**6. Other statutory officers**

6.1 The Council must employ a Director of Children's Services and a Director of Adult Social Services.

6.2 The Director of Children's Services shall be appointed for the purposes of section 18 of the Children Act 2004. The Council is required to provide adequate staff to assist the Director in the exercise of those functions.

**7. Delegation to Officers**

7.1 The delegation of powers to Chief Officer/Directors is set out in Chapter 6.

**8. Conduct**

8.1 Officers will comply with the Officer Code of Conduct and Member/Officer Relations' Protocol set out in Chapter 7 of this Constitution (Parts 4 and 5 respectively).

**9. Appointment and dismissal of staff**

9.1 The appointment and dismissal of staff shall be governed by the provisions of the Officer Employment Procedure Rules contained in Chapter 10 of this Constitution as supplemented, where appropriate, by the Council's personnel policies and procedures.

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## Article 13 – Decision Making and allocation of functions between the Council and Executive

### 1. Responsibility for decision making

- 1.1 Section 13 of the Local Government Act 2000 provides that all the functions of the Council shall be functions of the Executive (Cabinet) except in so far as they are reserved to the Council by regulations made under the Act (or by subsequent or other legislation). The reservation of functions to the Council is made under The Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- 1.2 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (‘the Regulations’) define those functions:
- (a) which must not be discharged by the Executive
  - (b) which may be the responsibility of the Executive and
  - (c) which may not be the sole responsibility of the Executive and
  - (d) circumstances in which functions which would otherwise be functions of the Executive fall to be discharged other than by the Executive.
- 1.3 The Council therefore only has discretion to define the split of functions between the Council (“Council functions”) and the Executive (“Executive functions”) in respect of those which fall within categories (b) and (c) above.
- 1.4 “Council Functions” shall therefore comprise:
- (a) those functions which are reserved as Council functions by the Act, or by other or subsequent legislation
  - (b) those functions which are reserved as Council functions by Regulation 2 and Schedule 1 of the Regulations or subsequent regulations made under the Act
  - (c) the following functions set out in Regulation 3 and Schedule 2 of the Regulations:
    - (i) under paragraph 2 of that Schedule, any appeal in respect of a decision which is a Council function
    - (ii) under paragraphs 7 and 8 of that Schedule, the making of arrangements for questions on police matters at Council meetings and the appointment of Members to the Police Authority
    - (iii) under paragraph 16 of that Schedule the obtaining of information as to interests in land under section 330 of the Town and Country Planning Act 1990
    - (iv) under paragraph 18 of that Schedule, the making of agreements for the execution of highways works
    - (d) the adoption or approval of plans and strategies (the “Policy Framework”) set out in Schedule 3 of the Regulations together with such other plans and strategies as the Council may identify from time to time for this purpose.
- 1.5 The Council may make arrangements under section 101 of the Local Government Act 1972 for the discharge of any of its functions by:
- (a) a Committee
  - (b) a Sub-Committee
  - (c) a Joint Committee

(d) another local authority

(e) an Officer

1.6 The arrangements for the discharge of functions in relation to Committees are set out in Chapter 5, and in relation to the Scheme of Delegation are set out in Chapter 6 of this Constitution.

1.7 Under section 15 (2) of the Local Government Act 2000, the Council may make provision that specific Executive Functions shall be allocated to, and discharged by:

(a) the Executive / Cabinet (as a body)

(b) an individual Member of the Executive / Cabinet

(c) a Committee of the Executive / Cabinet

(d) an Officer

Note: The law has been amended in England so that an Executive Leader alone will make the initial delegations (which the Executive / Cabinet or Officers, may then develop for those functions allocated to them)..

1.8 The Council has provided that actions in connection with Executive Functions shall be allocated to the Cabinet (except in so far as allocated to an individual Member of the Cabinet) and accordingly under section 14 (3) of the Act the Cabinet can either discharge such functions itself or delegate them to an Officer, unless the Leader has determined otherwise (in the case of a function which he has arranged to be discharged by the Cabinet, a Member of the Cabinet or a Committee of the Cabinet).

## **2. Principles of decision making**

2.1 All decisions of the Council will be made in accordance with the following principles:

(a) Due regard for the individuals and communities served by Thurrock Borough Council

(b) Proportionality (ie the action must be proportionate to the desired outcome)

(c) Due consultation in line with the Council's consultation strategy as agreed from time to time and the taking of professional advice from Officers

(d) Respect for human rights

(e) A presumption in favour of openness

(f) Clarity of aims and desired outcomes (ie link between strategy and implementation)

(g) Consistent with the Council's Budget and Policy Framework

## **3. Types of decision**

### **Decisions reserved to full Council**

3.1 Decisions relating to the functions listed in Article 4 (in Chapter 2) will be made by the full Council and not delegated.

### **Key decisions**

3.2 A key decision means an executive decision which is likely:

- (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant (namely £500,000 or above per annum), having regard to the Council's Budget for the service or function to which the decision relates; or
- (b) to be significant in terms of its effect on communities living or working in an area comprising two or more electoral divisions in the area of the Council.

A decision maker may only make a key decision in accordance with the requirements of the Executive / Cabinet Procedure Rules set out in Chapter 3 of this Constitution.

#### **Other decisions**

- 3.3 The Council has appointed a number of Committees to carry out certain prescribed functions that cannot be undertaken by the Executive / Cabinet. These Committees and their responsibilities are described in Chapter 5 of the Constitution.

#### **4. Rules for Decision making**

- 4.1 The Council, the Executive / Cabinet (including the Cabinet, any Committee of Cabinet and individual Members of the Cabinet), the Overview and Scrutiny Committee and Review Committees and other Committees and Sub-Committees established by the Council will follow the Rules relating to that body set out in this Constitution when considering any matter.

#### **5. Procedure for Decision making by Council bodies acting as tribunals**

- 5.1 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) - civil rights and obligations of any person will follow a proper procedure which accords in so far as is possible with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

#### **6. Scrutiny of Decisions**

- 6.1 The Council has appointed Overview and Scrutiny Committees to scrutinise decisions taken by the Executive / Cabinet. The responsibilities and terms of reference of these Committees are described in Chapter 4 of the Constitution.

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## Article 15 – Review and Revision of the Constitution

### 1. Duty to monitor and review the Constitution

- 1.1 The Council will have responsibility for monitoring and reviewing the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
- 1.2 Subject to the exceptions set out below, changes to the Constitution will only be effective if approved by the full Council.
- 1.3 Amendments to the Constitution will normally only be considered by the Council following a report and recommendation from the Standards Committee, General Services Committee or Constitution Working Group and having received the advice of the Head of Legal Services and Monitoring Officer.

### 2. Change from a Leader and Executive form of Executive

- 2.1 The law recognises three basic structures for principal authorities, being the authority's current Leader and Executive structure, a directly elected Mayor structure or an Alternative Arrangements structure. The Council may choose to move to a directly elected Mayor structure, or may be required to do so where such a move is supported by a local referendum following a petition from local electors. An Alternative Arrangements structure is only available where a local referendum rejects a directly elected Mayor structure. The Local Government and Public Involvement in Health Act 2007 provides for a strong Leader model which gives greater independence to the Leader ("Executive Leader") to appoint the Cabinet and to arrange for the carrying out of Executive Functions, and provides for the Leader to be elected by Council for a 4-year term of office.
- 2.2 On 24 November 2010, the Council resolved to move to a Leader and Executive (England) structure from the date of the Annual Meeting following the local elections in May 2011,.

### 3. Changes to the Constitution

- 3.1 Subject to paragraph 3.3 below, changes to the Constitution may only be approved by the full Council after consideration of the proposal by an appropriate Member body (see paragraph 1.3 above).
- 3.2 The Council has agreed that there should be a Constitution Working Group appointed by and reporting to the Council to undertake a fundamental review the Constitution and recommend changes to the Council.
- 3.3 The Member body recommending changes to the Constitution whether it is the Constitution Working Group, the Standards Committee or the General Services Committee will have regard to advice from the Monitoring Officer on any proposals relating to the Constitution. The Monitoring Officer may submit a report direct to the Council in any case where his/her advice is not accepted by the Member body.
- 3.4 The Monitoring Officer may make changes to the Constitution to give effect to any decisions of the Council and changes in the law and to make minor amendments such as to correct errors and to ensure that the Constitution is maintained up-to-date. Any such changes will be communicated to all Members of the Council.

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## Article 16 – Suspension, Interpretation and Publication of the Constitution

### 1. Suspension of the Constitution

- 1.1 The Articles of this Constitution may not be suspended. Other Rules and protocols may be suspended by the body to which they apply (or if no such body then by the Council) to the extent permitted within those Rules and the law.
- 1.2 A motion to suspend any Rules may not be moved without notice unless at least two thirds of the whole number of Councillors are present. The extent and duration of suspension should be proportionate to the result to be achieved.

### 2. Interpretation

- 2.1 The ruling of the Mayor of the Council as to the construction or application of this Constitution or 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. Before making a ruling the Mayor shall have regard to the advice of the Monitoring Officer.

### 3. Publication

- 3.1 The Monitoring Officer will provide an electronic 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. Printed copies can be provided on request.
- 3.2 The Monitoring Officer will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by Members of the local press and the public on payment of a reasonable fee, which must meet the cost of production.
- 3.3 The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.
- 3.4 The Monitoring Officer shall ensure that a record is kept of any changes to this Constitution which shall be re-issued in up to date form as soon as practicable after any substantial changes have been made to it.
- 3.5 The Monitoring Officer shall ensure that an up-to-date version of the Constitution is available on the Council's website.