

Thurrock: an ambitious and collaborative community which is proud of its heritage and excited by its diverse opportunities and future.

Thurrock Council

Constitution

Version control sheet

Title	Council Constitution
Purpose	The Constitution provides a single point of reference as to how Thurrock Council operates. It lays out the Council's decision-making process and its corporate governance arrangements, including the functions of Full Council, Cabinet, Overview and Scrutiny, Regulatory and other Committees. It also includes direction for Officers and Members in areas such as Member/Officer Relations, Code of Conduct, Scheme of Delegation, Contract and Finance Procedures.
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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 and Audit 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. Residents' 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
 - (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 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 and Audit 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.
"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.
"Clear Days"	means a complete period of 24 hours (including weekends and Bank Holidays) excluding the day when notice is given or deemed to be given and the day for which it is to take effect.
"Clear Working Days"	means a complete period of 24 hours (excluding weekends and Bank Holidays) excluding the day when notice is given or deemed to be given and the day for which it is to take effect.
"Deputy Chief Officer"	means deputy chief officer within the meaning of section 2(8) of the Local Government and Housing Act 1989
"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 [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 as amended].
"The Forward Plan"	is the statement of proposed executive key decisions prepared by the Executive in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 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
"Assistant Director"	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 an assistant director

"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">(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 wards in the area of the Council <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 Assistant Director of Law and Governance
"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
"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 Opposition"	means the largest political group on the Council, no member of which is a member of the Cabinet
"Reporting on meetings"	is defined in The Openness of Local Government Bodies Regulations 2014 as: <ul style="list-style-type: none">(a) Filming, photographing or making an audio recording of proceedings at a meeting(b) Using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later(c) Reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present
"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. This definition also includes the Director of Children's Services, Director of Public Health and the Corporate Director Adults, Housing and Health.
"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.

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.
- 2.2 The Local Government and Public Involvement in Health Act 2007 gave local authorities the power to change the way in which they elect their Councillors so that whole-council elections could be held every four years, subject to certain restrictions as to the years the election could be held in. The Localism Act 2011 now allows the Council to make a decision on the way in which it holds elections outside of the formally predetermined permitted periods.
- 2.3 Should the Council wish to consider a move to whole-council elections, a decision to go out to consultation with "interested parties" is first required. Following consultation, if it is minded to move to all-out elections, an Extraordinary Council Meeting must be called to consider the matter, where two-thirds of the Members present at that Meeting must vote in favour of any recommendation in order to pass a resolution to change to whole-council elections.

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 – that is, 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
- (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.

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) report on meetings, or those parts of meetings, that are open to the public using any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities – "reporting" is defined in The Openness of Local Government Bodies Regulations 2014 as:
 - (i) filming, photographing or making an audio recording of proceedings at a meeting
 - (ii) using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later
 - (iii) reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present
 - (d) find out from the forward plan what key decisions will be taken by the Cabinet and when
 - (e) see reports and background papers, and any records of decisions made by the Council and the Cabinet
 - (f) inspect the Council's accounts and make their views known to the external auditor

- (g) 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 and Audit 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.

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

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.

- (e) The Planning Committee

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.

- (f) The Standards and Audit Committee
- (g) The General Services Committee
- (h) 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 There will be no public participation at meetings of the Health and Wellbeing Board. Members of the public are instead requested to share their views and experience of local health and social care services with HealthWatch who will:

- have the power to enter and view services
- influence how services are set up and commissioned by having a seat on the local health and wellbeing board
- produce reports which influence the way services are designed and delivered
- provide information, advice and support about local services

- pass information and recommendations to HealthWatch England and the Care Quality Commission

1.5 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

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 and 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
- (d) a Member appointed to represent the Council on a Joint 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 5pm 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 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.
- 3. Questions or Statements to Overview and 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 5pm at least two 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 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
- 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 5pm 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 2.2 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.

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 disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance with 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 disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance with 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?

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 midday 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
RM17 6SL

(b) via a form on the Council's website at:

www.thurrock.gov.uk/attending-public-meetings

(c) by email to

direct-democracy@thurrock.gov.uk

(d) if any assistance in registering to speak at a meeting is required, please telephone 01375 652 082

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 4pm 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 disclosable pecuniary interest, after being granted a dispensation to allow him/her to speak in accordance with 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 disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance with 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 may, with the Chair's agreement, be given first priority to speak when the item is re-considered where there are exceptional circumstances, for example, where it can be shown that they would be prejudiced by a failure to allow them to speak again.
- 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.

Annex 3 – 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
Thurrock Council
Civic Offices
New Road
Grays
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:

democracy.thurrock.gov.uk/mgCalendarMonthView.aspx

- 1.5 In addition, petitions may also be presented to the following meetings:
- (a) The Cabinet
 - (b) Overview and Scrutiny Committees
 - (c) The Standards and Audit Committee
 - (d) The General Services Committee
 - (e) 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 1.5 above, or would like your Councillor or someone else to present it on your behalf, please telephone Democratic Services, on 01375 652 082 **no later than midday on the working day before that meeting** and they will talk you through the process.
- 1.7 If your petition has received 1,500 signatures or more it will also be scheduled for a debate at a meeting of Council, unless it is a petition that cannot be dealt with through this Scheme (see paragraphs 4.1 to 4.3). If a petition is scheduled for a debate at a meeting of the Council, we will discuss with the petition organiser when this will take place.

1.8 You can also submit petitions to the Cabinet and other committees (including Overview and 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:

consult.thurrock.gov.uk/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, it will be rejected
- (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 and 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 midday 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 or a relevant committee 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 or relevant committee on the matter which is the subject of the petition for up to three minutes. Unless the 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 (see paragraph 7.1), or a senior officer giving evidence (see paragraph 8), 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 received at a meeting of the Full Council 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 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.

- (b) A statutory petition – for example, requesting a referendum on having an elected mayor
- (c) Petitions from Council staff, which will be dealt with through the Council's Grievance Procedure or other such applicable Human Resources Policy.
- (d) Any petitions relating to the day-to-day operation of a particular school(s), which will be referred to the relevant Governing Body of the school(s) concerned for action and a response.
- (e) Any petitions relating to issues which are outside the Council's direct control – that is, matters governed by national or European legislation, including any contractual matters.
- (f) Any petitions which relate to any matter that is the subject of legal proceedings and/or in which the Council is in some other legal dispute with any party referred to within the body of a petition or party to it.

However, a petition that alleges a systematic failure to deliver services in the above areas is within the scope of this Scheme.

4.2 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.

4.3 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.

5. Petitions relating to Planning or Licensing matters and those received in direct response to consultations undertaken by the Council

5.1 A petition in respect of any matter relating to a planning decision, including enforcement action, a development plan document or community infrastructure levy will be dealt with as part of the decision-making process for the decision in question and will not follow the processes set out within this Scheme. Any petitions relating to planning decisions should be sent to:

Development Management
Thurrock Council
Civic Offices
New Road
Grays
RM17 6SL

Further information on how to have your say on planning applications is available at:

regs.thurrock.gov.uk/online-applications

5.2 A petition in respect of any matter relating to an alcohol, gambling or sex establishment licensing decision will be dealt with as part of the decision-making process for the decision

in question and will not follow the processes set out within this Scheme. Any petitions relating to licensing decisions should be sent to:

Licensing
Thurrock Council
Civic Offices
New Road
Grays
RM17 6SL

- 5.3 A petition in respect of any matter which is subject to public consultation by the Council, for example, those seeking views upon the introduction of highways or parking schemes, should be sent directly to the department undertaking the consultation exercise. Any such petitions received will be dealt with by the department to which the petition has been submitted and will not follow the processes set out within this Scheme.

Any petition falling as described in paragraphs 5.1 and 5.3 may be debated by the Council if the number of signatories is equal to or greater than the threshold set out in paragraph 7.1 of this Scheme.

6. How will the council respond to petitions?

- 6.1 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.

- 6.2 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>www.thurrock.gov.uk/asb</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>

Petition subject	Appropriate steps
(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 HealthWatch might have in reviewing and feeding back on the issue (HealthWatch 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 and 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.

6.3 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:

www.thurrock.gov.uk

6.4 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.

6.5 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.

6.6 To ensure that people know what we are doing in response to the petitions we receive, the details of all the petitions submitted to the Council in a rolling 6-month period will be included as an item of business on the agenda for meetings of the Full Council and published on our website, except in cases where this would be inappropriate.

7. Full council debates

7.1 If a petition contains more than 1,500 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.

7.2 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.

7.3 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.

7.4 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.

7.5 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.

8. Officer evidence

8.1 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 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.

8.2 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.

8.3 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.

8.4 Committee members will ask the questions at this meeting, but you will be able to suggest questions to the Chair of the committee by telephoning Democratic Services on 01375 652 082, up to three working days before the meeting.

9. E-petitions

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

consult.thurrock.gov.uk/petitions

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

9.2 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.

9.3 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.

9.4 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.

- 9.5 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.
- 9.6 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.
- 9.7 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.
- 10. How do I 'sign' an e-petition?**
- 10.1 You can see all the e-petitions currently available for signature by following the link below:
consult.thurrock.gov.uk/petitions
- 10.2 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 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.
- 11. What can I do if I feel my petition has not been dealt with properly?**
- 11.1 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.
- 11.2 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.
- 11.3 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.
- 12. Other ways to have your say**
- 12.1 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.

- 12.2 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.
- 12.3 You can get involved by writing to us, attending meetings and events or participating online.
- 12.4 To find out more visit our website at **www.thurrock.gov.uk**
- 12.5 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.
- 12.6 For more information about making a complaint or providing comments or suggestions to help improve our services, please see our web page at:

www.thurrock.gov.uk/complaints

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

Article 4	The Full Council	see Chapter 2
Article 5	Chairing the Council	see Chapter 2
Article 6	Overview and Scrutiny Arrangements	see Chapter 4
Article 7	The Executive	see Chapter 3
Article 8	Regulatory and Other Committees	see Chapter 5
Article 9	The Standards Functions	see Chapter 7
Article 10	Area Committees and Forums	see Chapter 12
Article 11	Joint Arrangements	see Chapter 12
Article 14	Finance, Contracts and Legal Matters	see Chapter 9

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

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) Corporate Director Adults, Housing and Health
- (c) Corporate Director Children's Services
- (d) Corporate Director Resources and Place Delivery
- (e) Director of Human Resources, Organisational Development and Transformation
- (f) Director of Strategy, Engagement and Growth
- (g) Director of Public Health
- (h) Director of Public Realm

Assistant Directors:

- (a) Assistant Director of Customer Services
- (b) Assistant Director of Housing
- (c) Assistant Director of Law and Governance and Monitoring Officer
- (d) Assistant Director of Regeneration and Place Delivery
- (e) Assistant Director of Learning and Education
- (f) Assistant Director and Consultant in Public Health
- (g) Assistant Director of Finance
- (h) Assistant Director of Street Scene and Leisure
- (i) Assistant Director of Highways, Fleet and Logistics
- (j) Assistant Director of Economic Growth and Partnerships
- (k) Assistant Director of Counter Fraud and Investigations
- (l) Assistant Director of Planning, Transport and Public Protection
- (m) Assistant Director Transformation
- (n) Assistant Director Property and Development
- (o) Assistant Director Children's Social Care and Early Help
- (p) Assistant Director Adult Social Care and Community Development

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 – Assistant Director of Law and Governance
- Chief Finance Officer – Corporate Director Resources and Place Delivery

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 and Audit 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 and Audit 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 and decisions of case tribunals.

Conducting investigations and taking other actions

- 3.5 The Monitoring Officer may arrange the conduct of investigations into matters referred and shall take such other actions as the Standards and Audit Committee may direct within its terms of reference.

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 and Audit 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

- 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, a Director of Adult Social Services and a Director of Public Health.
- 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.
- 6.3 The Director of Public Health shall act as the statutory officer under section 73A of the National Health Service Act 2006, as amended by the Health and Social Care Act 2012, and in particular will act as Lead for the delivery of public health services within Thurrock.

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.

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 as amended ('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 – that is, 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 – that is, 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 wards in the area of the Council

- 3.3 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

- 3.4 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 Committees 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.

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 and Audit Committee, General Services Committee or Constitution Working Group and having received the advice of the Assistant Director of Law and Governance 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. 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 and Audit 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.

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.

Chapter 2 – The Full Council

Part 1 – The Full Council

Article 4 – The Council

1. Composition

1.1 The Council comprises the 49 directly elected Councillors meeting as a body (or as many of those Councillors who are in office at the time concerned).

2. Functions of the Council

2.1 The Council has the following functions:

- (a) Adopting and changing the Constitution, except in so far as this function has been delegated to the Monitoring Officer
- (b) Approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer
- (c) Subject to the urgency procedure contained in the Access to Information Procedure Rules in Chapter 8 of this Constitution, making decisions about the discharge of an Executive Function 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
- (d) Electing or removing the Leader
- (e) Agreeing and/or amending the terms of reference for Committees of Council, deciding on their composition and making appointments to them
- (f) Appointing representatives to outside bodies unless the appointment is an Executive Function or has been delegated by the Council
- (g) Adopting a scheme for Members' allowances
- (h) Changing the name of the area
- (i) Appointing or dismissing the Chief Executive
- (j) Making, amending, revoking, re-enacting or adopting bylaws, or promoting or opposing the making of local legislation or personal Bills
- (k) All other functions which the Council lawfully decides should be undertaken by itself rather than the Leader / Cabinet and which are set out in this chapter of the Constitution
- (l) All other matters which, by law, must be reserved to Council

3. Council meetings

- 3.1 Council meetings will be conducted in accordance with the Council Procedure Rules in Part 2 of this chapter of the Constitution. Council meetings will be Chaired by the Mayor (or Deputy Mayor where appropriate).

4. Responsibility and delegation of functions

- 4.1 The Council may arrange for the discharge of any of its functions by a Committee of the Council, a Sub-Committee of the Council or by an Officer, subject to certain functions such as setting the Budget and Council Tax, decisions that depart from the Budget and Policy Framework or appointing the Chief Executive which are reserved by statute exclusively to Council. Similarly, a Committee may delegate any of its functions to a Sub-Committee or an Officer, and a Sub-Committee may delegate any of its functions to an Officer.
- 4.2 The Council (in respect of its functions) or the Leader (in respect of Executive Functions) may (subject to any restrictions in regulations under section 236 of the Local Government and Public Involvement in Health Act 2007) arrange for any of their functions to be discharged by an individual Councillor in relation to that Councillor's ward. The Council or Leader have not yet made any such arrangements for ward Councillor decision-making.

5. The Policy Framework

- 5.1 "The Policy Framework" means the plans and strategies which have been approved by the Council to comprise the Policy Framework, and includes, at a minimum, the following:
- (a) Crime and Disorder Reduction Strategy
 - (b) Local Transport Plan
 - (c) Licensing Authority Policy Statement under the Licensing Act 2003 and Gambling Act 2005
 - (d) Plans with Development Plan Document Status
 - (e) Corporate Plan Health and Well-Being Plan
 - (f) Vision and Priorities
- 5.2 The Framework also includes the plans and strategies specified later in this Chapter at Part 3, paragraph 1.2 to 1.4.

6. The Budget

- 6.1 "The Budget" means the authority's Budget as approved by a resolution of the Council and 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.

Article 5 – The Mayor and the Chair of the Council

1. Election

1.1 The Council will elect the Mayor annually at its Annual Meeting.

2. Mayor's Term of Office

2.1 The Mayor will remain in office until:

- (a) the election of his/her successor at the next Annual Meeting, notwithstanding that he/she may cease to be a Councillor by reason of non-re-election
- (b) his/her ceasing to be a Councillor by virtue of being disqualified from office, or
- (c) his/her removal from office by a resolution of Council

3. Mayor's Functions and Responsibilities

3.1 The Mayor and in his or her absence the Deputy Mayor will have the following functions and responsibilities:

- (a) To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary
- (b) To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community
- (c) To exercise a second and casting vote at meetings of the Council in the event of a tied vote
- (d) To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not in the Cabinet are able to hold the Leader / Cabinet to account
- (e) To promote public involvement in the authority's activities
- (f) To be the conscience of the authority
- (g) To attend such civic and ceremonial functions as the Council and he/she determines appropriate
- (h) To decide (in the absence of the Chair of the relevant Overview and Scrutiny Committee) whether a matter is so urgent as to allow the Cabinet to take a decision in respect of it even though it is not contained in the Forward Plan and 5 clear days' notice of the decision have not been given; or that decision concerns a plan or strategy forming part of the Budget or Policy Framework and would be contrary to or, in the case of the Budget not wholly in accordance with, that framework.

Part 2 – Council Procedure and Rules

1. Types of Council Meeting

1.1 There may be five types of Council meeting:

- (a) The Annual Meeting
- (b) Ordinary meetings
- (c) Extraordinary meetings
- (d) State of borough debate
- (e) Themed Council meetings

1.2 These meetings will be conducted in accordance with the procedure Rules set out in this part of the Constitution:

2. Annual Meeting of the Council

Time and Place

2.1 In a year when there is an ordinary election of Councillors, the Annual Meeting shall take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in May.

2.2 Subject to Rule 2.1 above, the Annual Meeting shall be held at such date, time and place as the Council may resolve or, in default of such resolution, as may be determined by the Chief Executive and notified in writing to all Members.

2.3 The Annual Meeting of the Council shall take place at 7pm in the Council Offices at Grays unless otherwise determined by Council.

Business

2.4 The Annual Meeting will:

- (a) Elect a person to preside if the Mayor and Deputy Mayor are not present
- (b) Receive any apologies for absence from Members
- (c) Approve correct minutes
- (d) Elect a Mayor for the ensuing municipal year
- (e) Consider urgent business
- (f) Elect a Deputy Mayor for the ensuing municipal year
- (g) Receive any declarations of interest from Members and Officers

- (h) Elect a Leader of the Council in any year in which the Leader's term of office expires [see Note below]
- (i) Receive any announcements from the Mayor or the Leader. An announcement being a formal communication of items of news or matters of public interest to the Council and should not take the form of a political statement.
- (j) Establish the following and their size and terms of reference:
 - (i) at least one Overview and Scrutiny Committee for the purposes of section 21 of the Local Government Act 2000, and determine which Overview and Scrutiny Committee or Committees shall have responsibility for Crime and Disorder, for Education, and for Health
 - (ii) a Committee for the purposes of the Licensing Act 2003
 - (iii) Health and Wellbeing Board
 - (iv) such other Committees as may be necessary for the proper discharge of the functions of the Council
- (k) Note the allocation of seats on Committees and Sub-Committees to members of political groups and those seats to be filled by Members who are not in any political group, appoint Members to those allocated Committee seats in accordance with the nominations of the political group Leaders, and appoint Members to the remaining Committee seats from among those Members who are not in any political group
- (l) Appoint any co-opted Members to the Standards and Audit and to any Overview and Scrutiny Committees, and to other Committees as appropriate
- (m) Determine to which Committees substitute Members may be appointed and appoint substitute Members in accordance with the nominations of political group Leaders
- (n) Appoint such Chairs and Vice-Chairs of Committees as it falls to Council to appoint
- (o) Receive nominations for, and make appointments to, those outside bodies to which the Council is entitled to appoint except where that right of appointment is exercisable only by the Leader / Cabinet
- (p) Agree the date, time and place of ordinary meetings of Council for the coming municipal year
- (q) Consider any business set out in the notice convening the meeting

Note: Rule 2.4 (h) above will apply only at annual meeting following an election, or following the removal or death or incapacity or resignation of the Leader.

Order of Business

- 2.5 The order of business at the Annual Meeting may be varied, except in respect of Rules 2.4 (a) to (g).

3. Ordinary Meetings

Time and Place

- 3.1 Ordinary meetings of the Council will take place at such date time and place as may be determined by Council.
- 3.2 The Mayor or Deputy Mayor (if the Mayor is not available) may cancel or postpone an ordinary meeting prior to the issue of public notice of the meeting where, after consultation with the Chief Executive, the Mayor or Deputy Mayor (if the Mayor is not available) considers that there is insufficient business to transact or where an event occurs which the Mayor or Deputy Mayor (if the Mayor is not available) considers would make it inappropriate to hold the meeting on the intended date. If circumstances make it impossible for a meeting to be held as convened, the Mayor or Deputy Mayor (if the Mayor is not available), after consultation with the Chief Executive, may postpone an ordinary meeting and hold the meeting on a date to be agreed with Group Leaders.
- 3.3 All ordinary meetings of the Council shall take place at 7pm in the Council Offices at Grays unless otherwise determined by Council.

Business

- 3.4 Business at ordinary meetings will be to:
- (a) Appoint a person to preside if neither the Mayor nor the Deputy Mayor is present or able to act
 - (b) Receive any apologies for absence from Members
 - (c) Approve as a correct record the minutes of the last meeting
 - (d) Consider any matter which, by reason of special circumstances to be specified in the minutes of the meeting, the Mayor considers should be considered at the meeting as a matter of urgency
 - (e) Receive any declarations of interest from Members
 - (f) Receive any announcements from or on behalf of the Mayor or the Leader. An announcement being a formal communication of items of news or matters of public interest to the Council.
 - (g) Answer questions from members of the public
 - (h) Receive petitions from Members and from members of the public in accordance with the authority's Petition Scheme and Rule 14 below
 - (i) Make any appointments that fall to be made to Committees, Outside Bodies, Statutory and Other Panels

- (j) Deal with any business deferred from the last Council meeting
- (k) Receive any reports from the Overview and Scrutiny Committees, the Standards and Audit Committee, or other Committees of the Council
- (l) Receive reports from the Statutory Officers
- (m) Receive reports from the Cabinet or from Members of the Cabinet
- (n) Receive any reports from the Chairs of Overview and Scrutiny committees
- (o) Answer questions received from Members in the order in which they were received
- (p) Receive reports from Members and Officers attending as the authority's representatives on outside bodies about the business of joint arrangements, boards and partnership bodies and external organisations
- (q) Receive for information the minutes of Committees
- (r) Consider motions from Members in the order in which they were received

3.5 At the first ordinary meeting of the municipal year, an 'Opening of the Municipal Year' debate will be tabled. This item will last for a maximum of 1 hour and will outline the administration's plans for the upcoming municipal year. The Leader will have 10 minutes to introduce the item. There will be 50 minutes for debate, which will be managed by the Mayor.

Order of Business

- 3.6 Where the Monitoring Officer considers that the report or consideration of any item or items of business is likely to disclose confidential or exempt information, he/she may group any such items together on the agenda for convenience.
- 3.7 The Mayor may vary the above order of business at an ordinary meeting of the Council, except in respect of Rules 3.4 (a) to (e).

External speakers

- 3.8 Should he/she consider it conducive to or likely to facilitate the consideration of any item of Council business, the Mayor may invite such speakers to address the meeting of the Council as he/she considers appropriate. All Members will be given proper notice of the speaker's invitation and where any opportunities arise, and are appropriate, the facility to lodge, with notice, written questions to the speaker.

4. Extraordinary Meetings

Calling extraordinary meetings

- 4.1 Those listed below may require the Proper Officer (who for this purpose shall be the Chief Executive) to call Council meetings in addition to ordinary meetings:
- (a) The Council by resolution

- (b) The Mayor
- (c) A Statutory Officer of the authority
- (d) Any five Members may together call the meeting and the Chief Executive shall make arrangements accordingly provided they have signed a requisition specifying the business to be considered at the meeting and presented the requisition to the Mayor and he/she has refused to call a meeting or has failed within seven days of the presentation of the requisition to call a meeting.

4.2 Upon receipt of such requirement, the Chief Executive shall arrange a meeting of Council to be held within 20 working days of receipt by her/him of the request.

Time and Place

4.3 All Extraordinary Meetings of the Council shall take place at 7pm in the Council Offices at Grays unless otherwise determined by Council.

Business

4.4 Business at extraordinary meetings of the Council shall be restricted to the following:

- (a) To appoint a Member to preside at the meeting if neither the Mayor nor the Deputy Mayor are present and able to preside
- (b) To receive apologies for absence from Members
- (c) To receive any declarations of interest from Members and Officers
- (d) To consider any business set out in the notice convening the meeting
- (e) To consider any matter which, by reason of special circumstances to be specified in the minutes of the meeting, the Mayor considers should be considered at the meeting as a matter of urgency.

Order of Business

4.5 Where the Monitoring Officer considers that the report or consideration of any item or items of business is likely to disclose confidential or exempt information, he/she may group any such items together on the agenda for convenience.

4.6 The Mayor may vary the above order of business at an ordinary meeting of the Council, except in respect of Rule 4.4 (a) to (c).

5. State of Thurrock Debate

5.1 Subject to the Council's approval the Leader may call, in consultation with the Opposition Leader, a state of the borough debate annually on a date and in a form to be agreed with the Mayor.

5.2 The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement. This may include holding workshops and other events prior to or during the state of the borough debate.

5.3 The debate will be chaired by the Mayor.

5.4 The results of the debate will be:

- (a) disseminated as widely as practicable within the community and the agencies and organisations in the area, and
- (b) considered by the Leader in proposing the Budget and Policy Framework to the Council for the coming year

6. Themed Council Meetings

6.1 In addition to approving a programme of ordinary meetings of the Council for the year the Council, at its annual meeting, may consider whether to hold a meeting on a particular topic on a date to be agreed.

6.2 The meeting shall take the form of a debate which may include provision for the Council to establish a Committee of all the Members of the Council for the purposes of the debate and, subject to the Council's agreement, for other individuals/organisations to contribute at the meeting.

6.3 The debate will be chaired by the Mayor.

6.4 The results of any debate by a Committee of the Council consisting of all Members of the Council may, at its conclusion, be considered by the Council at its resumed meeting as a recommendation of a Committee in accordance with the Council Procedure Rules.

7. Notice of Summons and Cancellation of Meetings

7.1 The Chief Executive will give notice to the public of the date, time and place of any meeting in accordance with the Access to Information Rules.

7.2 At least five clear days before a meeting, the Chief Executive will send a summons signed by him or her by post to every Member of the Council or leave it at their usual place of residence or such other address as the Member shall have notified the Chief Executive in writing as the address to which he/she has notified the Chief Executive that he/she wishes summonses to be sent. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available. Where a meeting has been called by Members under Rule 4.1 (d), the notice of the meeting shall be signed by those Members.

NB. The period of "five clear days", excludes any Saturday, Sunday, Bank Holiday, Christmas Day or Good Friday, the day the agenda is sent to the Members and the day of the meeting.

7.3 The Mayor, in consultation with the Chief Executive, may cancel any meeting of Council by written notification to every Member and public notice in accordance with Rule 3.2.

8. Person Presiding

8.1 In this procedure, reference to the Mayor shall include reference to the person presiding at the meeting or part of the meeting where the Mayor, and/or the Deputy Mayor, is absent or

unable to act, and the person presiding shall have all the powers of the Mayor for the purpose of the conduct of the meeting or item of business.

8.2 This Rule applies when neither the Mayor nor the Deputy Mayor are present or able to act in respect of any meeting or particular item of business, and it is necessary to elect a person to preside in their absence.

8.3 The Chief Executive or in his/her absence an Officer on behalf of the Chief Executive shall exercise the powers of the Mayor in respect of the election of a Member to preside (but shall not have a first or casting vote) and shall invite nominations from Members and conduct an election for a person to preside at the meeting or in respect of the particular item, as necessary.

8.4 Where there is an equality of votes on such election, the Chief Executive or his/her representative may adjourn the meeting for up to 15 minutes. If after such adjournment, there is still an equality of votes, the matter shall be determined by the drawing of lots.

9. Quorum

9.1 The quorum of a meeting will be one third of the number of Members of the Council – that is, 17, where there are no vacancies amongst the Members.

9.2 If, once a meeting has started, the Mayor is aware that a quorum may not be present, he/she shall count the number of Members present and, if a quorum is not present, declare there is not a quorum present. The Mayor shall then adjourn the meeting for not more than 15 minutes to secure the attendance of a quorum or adjourn the meeting to a date, time and place determined by the Mayor. If the Mayor does adjourn the meeting for a maximum of 15 minutes, and at the expiry of that time a quorum is still not present, he/she shall adjourn the meeting to a date, time and place determined by the Mayor.

10. Record of Attendance

10.1 All Members present during the whole or any part of a meeting must sign their names on the attendance sheet provided before the conclusion of the meeting.

11. Duration of Meeting

Termination of Meetings

11.1 If the business of the meeting has not been concluded by three hours after its start, the Mayor must interrupt the meeting. The Member speaking must immediately sit down and the Mayor will then immediately and without debate take a vote on the item under discussion (including any amendment) and shall then dispose of the remaining business in accordance with Rule 11.2 below.

Disposal of remaining business

11.2 Subject to Rule 11.3 below, if there are other motions or recommendations on the agenda that have not been dealt with, they are deemed formally moved and seconded and shall be put to the vote by the Mayor without Debate.

- 11.3 Where a notice of motion submitted under Rule 15 falls to be dealt with under Rule 11.2, the Member giving the notice may either:
- (a) speak to the motion for not more than three minutes before the motion is put by the Mayor without Debate; or
 - (b) require that the motion is deferred to the next available meeting and dealt with as business deferred from the previous meeting
- 11.4 During the process set out in Rule 11.2, the only motions which may be moved are:
- (a) that a matter be delegated or referred to an appropriate body or individual for decision or report
 - (b) that a matter be deferred to the next meeting
 - (c) to move a motion that may be moved during debate, under Rule 19.23
- 11.5 Voting shall be in accordance with these Procedure Rules including those relating to recorded votes.
- 11.6 When all the other motions or recommendations have been dealt with, the Mayor may, at his/her absolute discretion, allow a further fifteen minutes to be added to the meeting to discuss the minutes of Committees and take questions from Members on them. This extra period of time may not be used for any other purpose.

Close of the meeting

- 11.7 When all motions and recommendations have been dealt with, the Mayor will declare the meeting closed.

12. Interests of Members and Officers in matters under consideration

Declaration of Interests – Members

- 12.1 Members must declare in accordance with the Members' Code of Conduct any non-pecuniary, non-disclosable pecuniary and any disclosable pecuniary interest which they have in any matter which is included in the agenda for the meeting, in accordance with the Members' Code of Conduct and at the item of business on the agenda relating to the declaration of Members' interests.
- 12.2 When declaring an interest Members must also disclose the nature of that interest.
- 12.3 In addition, if during the consideration of any matter, a Member realises that he/she has an interest which he/she should have declared in the matter under consideration, he/she shall declare that interest immediately. Where a Member arrives after the start of the meeting, the Member must make such declarations of interest as soon as possible after arrival and the Mayor shall permit them to do so at the earliest opportunity.

Withdrawal from the meeting for Disclosable Pecuniary Interests

- 12.4 Where a Member has a disclosable pecuniary interest in any matter, he/she must withdraw from the meeting, including withdrawal from the public gallery, for the duration of

the consideration of the matter except where the Member has been granted a dispensation to speak and / or vote in accordance with the Members Code of Conduct.

13. Minutes

Signing the minutes

- 13.1 The Mayor will, at the next suitable meeting, move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy. If approved by the meeting, the Mayor will then sign the minutes.

No requirement to sign minutes of previous meeting at extraordinary meeting

- 13.2 This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993. Where in relation to any meeting, the next meeting for the purpose of signing the minutes is an extraordinary meeting, then the next following meeting (being a meeting called otherwise than under paragraph 3 of schedule 12 of the Local Government Act 1972) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

Form of Minutes

- 13.3 Minutes of a meeting shall record all motions and amendments in the exact form in which the Mayor put them to the meeting.

14. Petitions and Questions

Petitions

- 14.1 In accordance with the Council's Petition Scheme a petition organiser may request the opportunity to present their petition to the Council.
- 14.2 A petition must:
- (a) identify and be accompanied by contact details, including an address, for the petition organiser
 - (b) contain the name, a valid address and the signature of 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
 - (c) include a clear and concise statement covering the subject of the petition – it should state what action the petitioners wish the Council to take
 - (d) relate to a matter for which the authority has responsibility and which affects the authority or its area
 - (e) 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

- 14.3 A petition may only be presented to Council when notice has been submitted to the Monitoring Officer no later than midday on the working day before that meeting of the Council.
- 14.4 Petitions may be presented to the Council in accordance with the authority's Petition Scheme by the petition organiser, by another signatory of the petition authorised by the petition organiser or by a Member on behalf of the petition organiser.
- 14.5 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 three minutes. Unless the 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.
- 14.6 The relevant Portfolio Holder or Committee Chair will have the opportunity to speak for up to one minute to acknowledge the petition.

Public Questions

- 14.7 Any resident of the authority's area may submit a question addressed to the Leader, a Member of the Cabinet, a Chair of any Committee or Sub-Committee, or a Member appointed to represent the Council on a Joint Committee by delivering it in writing to the Monitoring Officer, to be received by Democratic Services by 5pm 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 5pm 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 Council or ask or submit questions on behalf of another member of the public.
- 14.8 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 14.6 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 received and answered within a 3-month period, 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

- 14.9 The Monitoring Officer shall put the questions on the agenda in the order that they have been received.
- 14.10 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.
- 14.11 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 which must not extend into a statement, without notice, and the person who answered the initial question shall respond to the supplementary question.
- 14.12 The time limit for all questions under this Rule at any meeting shall be up to 45 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, but no later than, the next meeting.

Members' Questions

Questions without notice

- 14.13 Any Member may ask the Leader, a Cabinet Member or the Chair of a Committee any question without notice upon an item of report or recommendation of the Cabinet, Cabinet Member or Committee concerned, immediately following the presentation of that matter.

Questions on Notice

- 14.14 Any Member may submit a maximum of 2 questions (except for the Leader of the Opposition who can ask 2 questions of the Leader and a further 2 in total of other Members) for the next ordinary meeting of Council addressed to the Leader, a Member of the Cabinet, a Chair of any Committee or Sub-Committee, or a Member appointed to represent the Council on a Joint Committee by delivering them in writing to the Monitoring Officer, to be received by Democratic Services by 5pm at least 6 working days prior to a meeting of Council – for example, as the Council usually meets on a Wednesday, the deadline for receipt of questions will be 5pm 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 relate to a single proposition and may not contain more than one part. No Member may ask or submit questions on behalf of another Member.
- 14.15 The Monitoring Officer shall copy the question to the Member 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 14.13 above
 - (b) the question is defamatory of an individual, offensive, discloses confidential or exempt information, or otherwise infringes the proper conduct of local government

- (c) the question is substantially the same as a question which has been previously received and answered within the past three months, and there has been no significant and relevant change of circumstances since the previous question was answered.

- 14.16 The Monitoring Officer shall place the questions on the agenda in the order that they have been received. Where the Monitoring Officer considers that the question or the answer is likely to disclose confidential or exempt information, he/she shall place the question in the exempt part of the agenda. A question may be withdrawn by the Member giving notice provided that such notice is in writing and is submitted to the Monitoring Officer before the agenda is published.
- 14.17 At the meeting, the Mayor shall enquire whether the Member submitting the question is present. Where they are present, the Member to whom the question was addressed shall then provide a verbal answer to the question (which may include a promise to provide a more detailed answer in writing). Where the Member who submitted the question is not present, the Member to whom the question was addressed may provide a written response as an alternative to a verbal response. A question may be withdrawn after the agenda has been published but before the meeting if the Member who submitted the question has given notice in writing to the Monitoring Officer. A question may be withdrawn at the meeting in person by the Member who submitted the question before it is to be put.

Supplementary Questions

- 14.18 Where the Member who submitted the question is present, after the initial answer, they may ask two supplementary questions arising directly out of the initial question or answer which must not extend into a statement, without notice, and the Member who answered the initial question shall respond to the supplementary questions.

Time Limits

- 14.19 The time limit for all questions under this Rule at any meeting shall be up to 45 minutes. Where a question is not dealt with at the meeting, the Member to whom the question is addressed shall provide a written answer as soon as practicable after the meeting.

Answers

- 14.20 An answer may take the form of:
- (a) A direct oral answer
 - (b) Where the desired information is in a publication of the Council or other published work, a reference to that publication
 - (c) Where the reply cannot be conveniently given orally, for example because of the absence of the questioner, a written answer circulated.

15. Motions on Notice

- 15.1 Except for motions which can be moved without notice under Rule 16 below, any Member may submit a notice of motion in writing to the Monitoring Officer for the next ordinary

Council meeting, or extraordinary meeting where the meeting is to be convened to consider the subject matter of the notice of motion, to be received by Democratic Services by 5pm at least six working days before the date of the meeting to which it is addressed – for example, as the Council usually meets on a Wednesday, the deadline for receipt of a Motion will be 5pm on the Monday the week before the meeting is due to be held. A notice of motion may be accompanied by a statement of not more than 200 words setting out the reason for the proposed motion.

- 15.2 A notice of motion must relate to a matter which affects the authority or the authority's area and must relate to a matter in respect of which the authority has a relevant function.
- 15.3 A notice of motion may be in more than one part and contain more than one recommendation, but must all relate to the same subject matter.
- 15.4 The Monitoring Officer may reject a notice of motion if, in his/her opinion:
- (a) it does not comply with the requirements of Rule 15.1 above
 - (b) the notice of motion is defamatory of an individual, offensive, or otherwise infringes the proper conduct of local government
 - (c) the recommendation in the notice of motion would be illegal
 - (d) the notice of motion is substantially the same as a question that has been received previously and answered within the past year, and there has been no significant and relevant change of circumstances since the previous question was answered
- 15.5 Where the Monitoring Officer rejects a notice of motion, he/she shall inform the Member submitting the notice of motion as soon as practicable and shall not include the rejected notice of motion in the public record or agenda.
- 15.6 The Monitoring Officer shall record all such notices of motion (not including a rejected notice) in the order in which they are received and such record shall be open to public inspection on request.
- 15.7 The Monitoring Officer shall include all notices of motion and accompanying statements in the agenda for the next relevant meeting of Council in the order received, save that:
- (a) where two or more notices of motion are received from a particular Member for the same meeting, that Member's second notice of motion shall be included after all other Members' first notices of motion, that Member's third notice of motion shall be included after all other Members' second notices of motion, and so on.
 - (b) where he/she considers that the notice of motion, statement or consideration of the notice of motion is likely to result in the disclosure of confidential or exempt information, in which case he/she may group such notices of motion together with other items of business which are, in his/her opinion, likely to involve the exclusion of press and public during their consideration.

- 15.8 The Council shall not debate any motion which would give rise to a significant change to the income of the Council, to its expenditure or to contract terms, unless it has received a report from the Chief Finance Officer or the Monitoring Officer, as appropriate, setting out the legal or financial effect of the motion.
- 15.9 Where a Member submits a notice of motion which would require an accompanying report under Rule 15.8, he/she shall at the same time provide the Chief Finance Officer and /or the Monitoring Officer with sufficient supporting information to enable them to prepare such accompanying report.
- 15.10 Where a motion which would require an accompanying report under Rule 15.8 falls to be moved without such accompanying report being made available to all Members of Council, the motion shall stand adjourned without debate to the next available meeting of Council.
- 15.11 There will be no time limit for moving and debating motions on notice.
- 15.12 Subject to Rule 15.13, if there are other motions or recommendations on the agenda that have not been dealt with by the close of the meeting, they are deemed formally moved and seconded and shall be put to the vote by the Mayor without Debate.
- 15.13 Where a notice of motion submitted under Rule 15 fails to be dealt with under Rule 15.12, the Member giving the notice (or any Member notified as proposing the motion under Rule 19.2) may either:
- (a) speak to the motion for not more than three minutes before the motion is put by the Mayor without Debate; or
 - (b) require that the motion is deferred to the next available meeting and dealt with as business deferred from the previous meeting
- 15.14 If a motion is not moved and seconded, it will not be considered at the meeting to which it has been submitted. Any such motion may be submitted to a future meeting of the Council in accordance with Rule 15.1.

Automatic reference to the Executive / Cabinet or a Committee

- 15.15 If the subject matter of a motion is within the remit of the Cabinet or a Committee, upon being moved and formally seconded, it shall stand referred without discussion to the Executive / Cabinet or relevant Committee including Overview and Scrutiny Committees as the Council may determine, for consideration and report to the Council as soon as practical. At that time the motion shall be considered with any such report which shall include any appropriate risk assessments.
- 15.16 The Council may permit a motion to be dealt with at the meeting at which it is brought forward, provided that the subject matter is urgent or that it is appropriate to deal with the matter, subject to proper information regarding the matters referred to above.
- 15.17 If the motion has been moved only formally the mover shall be entitled to speak in introducing it when it is considered by the Council either at the same meeting (if agreed as above) or at the next meeting when the report of the Cabinet or a Committee is also submitted.

Motions Affecting Persons Employed by the Council

- 15.18 If any matter arises at a meeting to which the Local Government Act 1972 applies by virtue of section 100 (A) (2) as to the appointment, promotion, dismissal, salary, superannuation, or conditions of service or as to the conduct of any person employed by the Council, such matter shall not be the subject of discussion until the Council or Committee as the case may be, has decided whether or not the power to exclude the public under section 100 (A) (2) of the Local Government Act 1972 shall be exercised.

Motion to rescind a previous decision

- 15.19 A motion or amendment to rescind, or which has the effect of rescinding, a decision made at a meeting of Council within the past six months, may not be moved except upon a recommendation from the Leader or Cabinet for a variation of the approved Budget or Policy Framework, or where the Monitoring Officer confirms that it is appropriate for the Council to reconsider the matter to comply with law, as a result of a change of law or material change of circumstances.

Motion similar to one previously rejected

- 15.20 A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least five Members. Once the motion or amendment is dealt with, no Member can propose a similar motion or amendment for a further six months.

Motion to remove the Leader of the Council from office

- 15.21 The Leader may be removed from office by resolution of the Council, on a notice of motion signed by fifteen Members and approved, without amendment, by the Council. Any such Motion must be delivered to the Monitoring Officer in writing at least ten working days before the date of the meeting to which it is addressed. If the Council passes such a resolution, a new Leader is to be elected:

- (a) At the meeting at which the Leader is removed from office; or
- (b) At a subsequent meeting

- 15.22 In the event that the Leader no longer holds office as described above, the Deputy Leader will carry out the role and duties of the Leader until the new Leader is elected by the Council.

16. Motions without Notice

- 16.1 The following motions may be moved without notice:
- (a) To appoint a person to preside at the meeting or part of the meeting at which the motion is moved
 - (b) In relation to the accuracy of the minutes
 - (c) To change the order of business in the agenda
 - (d) To refer something to an appropriate body or individual

- (e) To elect a Leader or to appoint any other member to a position of authority, i.e., Chair of a Committee, where a vacancy exists in such office [see note below]
- (f) To appoint a Committee or Member arising from an item on the summons for the meeting
- (g) To receive reports or adoption of recommendations of the Executive / Cabinet, the Overview and Scrutiny Committee, Review and other Committees or Officers and to pass any resolutions following from them
- (h) To withdraw a motion
- (i) To amend a motion
- (j) To proceed to the next business
- (k) That the question be now put
- (l) To adjourn a debate
- (m) To adjourn a meeting
- (n) To suspend a particular Council procedure rule for a period not exceeding the duration of that meeting
- (o) To exclude the public and press in accordance with the Access to Information Rules
- (p) To not hear further from a Member named under Rule 22.5 or to exclude them from the meeting under Rule 22.6
- (q) To move an urgent motion where the Mayor has given consent under Rule 16.2

Note: Rule 16.1 (e) above will apply in respect of the Leader only at the annual meeting following an election, or following the removal or death or incapacity or resignation of the Leader.

16.2 The Mayor shall, notwithstanding this Rule, have the absolute discretion in exceptional circumstances to accept urgent written notices of motion that cannot reasonably await the next meeting of the Council save for motions of no confidence.

17. Motions of No Confidence

17.1 Motions of no confidence in any office holder shall require to be carried by a majority of the Members of the whole Council (that is, 25 Members) in order to be approved.

17.2 Motions proposing that a vote of no confidence be taken in respect of any office holder may not be treated as an urgent matter by the Mayor under Rule 16.2.

18. Reports and Recommendations

18.1 The following persons may make a report and recommendations to the Council:

- (a) The Mayor
- (b) The Leader
- (c) Portfolio Holder
- (d) The Chair of Standards and Audit Committee
- (e) The Monitoring Officer
- (f) A Proper Officer
- (g) Any other Officer, reporting in accordance with a statutory obligation
- (h) A Member or Officer reporting as the Council's representative on any statutory body or authority.

18.2 Except in cases of urgency, such person shall report by delivering the report and recommendation to the Monitoring Officer at least 10 clear working days before the meeting.

18.3 Any person having such right to report (or any other person nominated by them) shall have the right to address Council for 3 minutes on the matter of any report and shall answer any questions from Members thereon.

19. Rules of Debate

Requests to change the order in which Motions are considered

19.1 At any meeting of the Council, a Member may request the Mayor to exercise his / her discretion to change the order in which Motions submitted in accordance with Rule 15 are to be considered. The Mayor will exercise their discretion in deciding upon any such request but will take into account the views of any Member who has submitted a Motion that may not be considered in the order in which it was placed on the Agenda for the meeting.

Proposing and seconding motions

19.2 All motions, including amendments, must be proposed and seconded by Members, or deemed to be so under these Rules, before they may be debated and voted upon. Any motion submitted may be proposed by a Member other than the one who submitted it on notice to Democratic Services no later than midday on the day of the meeting, if the Member who submitted is not attending the meeting. The Member who submitted the motion may nominate another Member to move the motion at the meeting, if both Members are present at the meeting.

19.3 A Member seconding a motion shall indicate his/her intention to second the motion immediately following the proposal of the motion, and may then elect to speak immediately following the proposer, or may elect to reserve his/her speech until later in the debate (subject to the prior termination of the meeting or a resolution that the matter be now put).

19.4 Reports and recommendations from Cabinet, Committees, Sub-Committees and Officers shall be deemed to have been proposed and seconded, and the proposer's speech may

be taken (for Cabinet) by the Leader or another Cabinet Member deputed by the Leader or (for Committees and Sub-Committees) by the Chair, or in his/her absence the Vice-Chair, or in both their absence by a Member of the Committee or Sub-Committee chosen by the Mayor.

- 19.5 If the subject matter of the motion is within the remit of the Executive / Cabinet or a Committee, upon being moved and formally seconded, it shall stand referred without discussion to the Executive / Cabinet or relevant Committee including Overview and Scrutiny Committees as the Council may determine, for consideration and report to the Council as soon as practical. At that time the motion shall be considered with any such report which shall include any appropriate risk assessments.

Right to require motion in writing

- 19.6 Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to him/her before it is discussed.

Content and length of speeches

- 19.7 Speeches must be directed to the question under discussion or to a personal explanation or point of order.
- 19.8 No speech may exceed 4 minutes without the consent of the Mayor except:
- (a) the proposer of any motion who shall have 5 minutes to move that motion (except on a motion to amend where the 4-minute time shall apply)
 - (b) The Leader, a Cabinet Member or the Chair or Vice Chair of a Committee who is presenting a report to Council or moving the adoption of minutes or recommendations may speak for 5 minutes
 - (c) At the Meeting of Council at which the authority's Budget is proposed, the Leader shall be allowed 20 minutes to set out his/her priorities or to propose the Budget, and a further 10 minutes to respond to any speech. The Leader of the Opposition shall be allowed 15 minutes to reply to a Leader's speech (but not to the response).
- 19.9 In the event of the absence of the Leader or the Leader of the Opposition, the Mayor shall invite the Deputy Leader or another Cabinet Member (for the Leader) or another Member of the same political group (for the Leader of the Opposition) to exercise the rights of speech of the Leader or the Leader of the Opposition.

When a Member may speak again

- 19.10 A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:
- (a) To second formally a motion or amendment, having reserved the right to speak later
 - (b) To speak once on an amendment moved by another Member

- (c) To move a further amendment if the motion has been amended since he/she last spoke
- (d) If his/her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried)
- (e) In exercise of a right of reply
- (f) On a point of order
- (g) By way of personal explanation.

Amendments to motions

- 19.11 An amendment to a motion must be relevant to the motion and may be in either or both of the following forms:
- (a) To refer the matter to an appropriate body or individual for consideration or reconsideration; or
 - (b) To leave out words and/or add and/or insert words as long as the effect of so doing is not to negate the motion.
- 19.12 Any amendment must be in writing and submitted to the Monitoring Officer by no later than noon on the day of the meeting, except:
- (a) with the consent of the Mayor
 - (b) amendments to motions which have been moved without notice, or
 - (c) amendments to recommendations arising from Officers' reports
- 19.13 Amendments shall be taken in the order in which they have been moved (unless the Mayor determines otherwise for the efficient running of business). Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- 19.14 If an amendment is not carried, other amendments to the original motion may be moved.
- 19.15 If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- 19.16 After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, putting it to the vote.

Alteration of motion

- 19.17 A Member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- 19.18 A Member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. If the seconder is not present, another Member may

second the altered motion on his/her behalf. The meeting's consent will be signified without discussion.

19.19 Only alterations which could be made as an amendment may be made.

Withdrawal of motion

19.20 A motion may be withdrawn by the person giving notice provided that such notice is in writing and is submitted to the Monitoring Officer before the agenda is published. A motion may be withdrawn after the agenda has been published but before the meeting if the Member who submitted the motion has given notice in writing to the Monitoring Officer. A motion may be withdrawn at the meeting in person by the Member who submitted the motion, before it has been moved.

19.21 A Member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. If the seconder is not present, another Member may consent to the withdrawal on his/her behalf. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

Right of reply and order of debate

19.22 The mover of a motion has a right to reply at the end of the debate on a motion immediately before it is put to the vote.

19.23 If an amendment is moved the debate shall proceed in the following manner:

- (a) The mover of the motion shall speak
- (b) The seconder of the motion shall speak unless he or she has reserved their speech
- (c) The mover of the amendment shall speak
- (d) The seconder of the amendment shall speak unless he or she has reserved their speech
- (e) There shall follow such other number of speakers as the Mayor considers appropriate
- (f) If the seconders of the substantive motion and the amendment reserved their speeches, they shall then speak
- (g) The mover of the amendment shall have a right of reply
- (h) The mover of the substantive motion shall have the final right of reply
- (i) A vote shall be taken on the amendment
- (j) A vote shall be taken on the substantive motion, as amended if appropriate, without further debate

Motions which may be moved during debate

- 19.24 When a motion is under debate, no other motion may be moved except the following procedural motions:
- (a) to withdraw that motion
 - (b) to amend that motion
 - (c) to proceed to the next business
 - (d) that the question be now put
 - (e) to adjourn a debate
 - (f) to adjourn a meeting
 - (g) to exclude the public and press in accordance with the Access to Information Rules
 - (h) not to hear further a Member named, or to exclude them from the meeting

Closure motions

- 19.25 A Member may move, without comment, any one of the following motions at the end of a speech of another Member:
- (a) to proceed to the next business
 - (b) that the question be now put
 - (c) to adjourn a debate
 - (d) to adjourn a meeting
- 19.26 If a motion to proceed to next business is seconded and the Mayor considers that the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote. If the procedural motion is carried the meeting will proceed to the next item of business without any further debate.
- 19.27 If a motion that the question be now put is seconded and the Mayor considers that the item has been sufficiently discussed, he/she will put the procedural motion to the vote.
- 19.28 If the procedural motion is passed the Mayor will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- 19.29 If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor considers that the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

Point of Order

- 19.30 A Member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Procedure Rules or the law. In relation to a breach of the law, the Member must indicate the Rule or law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final.

Personal explanation

- 19.31 A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may have been inaccurate or appear to have been misunderstood in the present debate. The ruling of the Mayor on the admissibility of a personal explanation will be final.

20. Voting

Majority

- 20.1 Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.
- 20.2 Votes on a motion of no confidence in any office holder must be passed by a majority of the Members of the whole Council.

Motions in several parts

- 20.3 Where a motion is in several parts, the vote shall be taken on the whole motion, unless the Mayor at his/her discretion determines that each part shall be taken separately, or the meeting so resolves.

Mayor's casting vote

- 20.4 If there are equal numbers of votes for and against, the Mayor will have a second or casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote.

Show of hands or electronic voting

- 20.5 The Mayor may take a vote on a show of hands. In all other cases, he/she shall take a vote by use of such electronic voting system as may be available.

Recorded vote

- 20.6 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 require that immediately after any vote relating to the budget or council tax is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting. A recorded vote will therefore be taken on any decision relating to the budget or council tax and will follow the procedure set out at Rule 20.7 below.

- 20.7 Notwithstanding Rule 20.5, if any five Members present at the meeting demand it by standing to indicate such demand, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. The procedure for a recorded vote shall be as follows:
- (a) The Mayor shall put the motion and the Chief Executive shall call out the names of Members and record their votes or abstentions
 - (b) The Mayor shall declare the result of the vote and the vote of each Member shall be recorded in the minutes

Right to require individual vote to be recorded

- 20.8 This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993 and cannot therefore be waived. Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

Voting on appointments

- 20.9 If there are more people nominated for any position(s) than there are position(s) to be filled and there is not a clear majority of votes in favour of the required number of people, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person. Where there is an equality of votes for a person to continue in the appointment process, a vote shall be taken between those candidates having an equality of votes to determine which candidate shall continue in the appointment process.

Voting on changes to the electoral cycle of the Council

- 20.10 Notwithstanding Rule 20.1, two-thirds of the Members present at an Extraordinary Council Meeting must vote in favour of a recommendation to change to whole-council elections for the resolution to be approved.

21. Exclusion of Public and Press

- 21.1 Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Chapter 8 or Rule 23 below.

22. Members' Conduct

Order of Speeches

- 22.1 Subject to the Rules of debate, the Mayor shall have absolute discretion as to the order in which he/she calls Members to speak.

Standing to Speak

- 22.2 When a Member speaks at a Council meeting, he/she shall, unless physically impaired from so doing or with the Mayor's consent, stand and address the meeting through the Mayor. If more than one Member stands to speak, the Mayor shall call a specific Member to speak and all other Members shall then sit. Other Members must remain seated whilst

any Member is speaking, except a Member who stands to signify his/her intention to make a point of order or a point of personal explanation

Mayor standing

- 22.3 When the Mayor enters or leaves the Council Chamber, all Members shall stand. When the Mayor stands to speak during the course of the meeting, all Members shall cease speaking and shall sit down.

Telephones and electronic equipment

- 22.4 Each Member shall ensure that his/her mobile telephone and other electronic equipment is silent during any meeting and that his/her use of such equipment does not interfere with the proper conduct of the meeting.

Member not to be heard further

- 22.5 If a Member disregards the ruling of the Mayor by behaving improperly or offensively or obstructs the conduct of the meeting, the Mayor may warn the Member as to his/her conduct. If the Member persists in behaving improperly or offensively or deliberately disrupts the conduct of the meeting despite such warning, the Mayor may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

Member to leave the meeting

- 22.6 If the Member continues to behave improperly after such a motion is carried, the Mayor may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

General disturbance

- 22.7 If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he/she thinks necessary.

23. Disturbance by Public

Removal of member of the public

- 23.1 If a member of the public interrupts proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor may order their removal from the meeting room.

Clearance of part of meeting room

- 23.2 If there is a general disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared.

24. Admission to and reporting of meetings

- 24.1 The Openness of Local Government Bodies Regulations 2014, allow any person to attend and report on meetings, or those parts of meetings, that are open to the public using any

communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities. "Reporting" is defined in the Regulations as:

- (a) Filming, photographing or making an audio recording of proceedings at a meeting
- (b) Using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later
- (c) Reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present

24.2 If, at any time during the meeting, the Mayor feels that filming, recording, reporting or photography is disrupting proceedings, the provisions set out in Rules 22.4, 22.7, 23.1 and 23.2 will apply.

24.3 In any instance where the press and public have been excluded from the meeting in accordance with the provisions set out in Chapter 8 of this Constitution, the Council will not allow reporting on the meeting using methods which:

- (a) can be used without that person's presence at the meeting, and
- (b) enable persons not present at the meeting to see or hear the proceedings at the meeting as it takes place or later

25. Suspension and Amendment of Council Procedure Rules

Suspension

25.1 All of these Council Rules of Procedure except Rules 13.2 and 20.8 (which are mandatory) may be suspended by motion on notice or without notice if at least two thirds of the Members of the Council are present. Suspension can only be for the duration of the meeting.

Amendment

25.2 Any motion to add to, vary or revoke these Council Rules of procedure will, when proposed and seconded, stand adjourned without discussion to the appropriate Committee for consideration and report back to Council at the next ordinary meeting of the Council.

26. Interpretation of Rules

26.1 The ruling of the Mayor as to the construction or application of any of these Rules shall not further be challenged at any meeting of the Council.

27. Appointment of Members to Committees

Allocation of seats to Political Groups

- 27.1 Whenever the authority is required to undertake a review of the allocation of seats to political groups, the Chief Executive shall conduct such review and report to Council setting out the number of seats on each Committee and outside body which are allocated to each political group and the number of seats which remain unallocated, in accordance with the requirements of the Local Government and Housing Act 1989, and shall send a copy of such report to the Leader of each political group and to any Members who are not members of any political group.
- 27.2 Following receipt of a copy of such report, each Leader of a political group shall make nomination to Council of Members for appointment to those seats on each Committee which are allocated to his/her political group. Such nomination may be made in writing to the Chief Executive in advance of the meeting or may be made verbally at the meeting at which such appointments are to be made.
- 27.3 The Leader of any political group may notify the Chief Executive in writing at least ten clear working days before any meeting of Council stating his/her intention to move that a named Councillor be removed from a seat on a particular Committee or outside body which has been allocated to his/her political group and to move the appointment of another Member to that seat, and the Chief Executive shall then include an appropriate item of business in the Council agenda for the next appropriate meeting of Council.

Appointment of Members to Committees

- 27.4 At the meeting of Council where an item of business relating to the appointment of Committees is included on the agenda, the Council shall appoint Members to each Committee in accordance with the nominations made by each group Leader.
- 27.5 The Council will then appoint Members to those seats on Committees which have not been allocated to any political group from amongst those Members who are not members of any political group.

Appointment of co-opted Members of Committees

- 27.6 Where Council determines that a Committee shall include one or more co-opted Member, it shall also specify whether such Member shall be a voting or a non-voting Member, the dates and term of office of any such appointment and the procedure for selection of such co-opted Member(s), which may include advertisement and competition or invitation for nomination from specified bodies.
- 27.7 Co-opted Membership of any Committee shall not be subject to proportionality.

28. Appointment of substitute Members

Appointment

- 28.1 In like manner as for the appointment of full Members of Committees, where the Leader of a political group may nominate a number of Members determined by the Chief Executive for appointment by Council as full Members of the Committee, the Leader of a political

group may also nominate an equal number of Members for appointment as substitute Members of the Committee, and Council shall appoint such substitute Members in accordance with the nominations made by the Leader of the political group. No Member shall be appointed as a full Member and a substitute Member of the same Committee.

- 28.2 In like manner as for full Members of Committees, the Leader of a political group may move that a Member of that political group cease to be appointed as a substitute Member of a specified Committee and move that another Member be appointed as a substitute Member of that Committee, and Council shall make such removal and appointment in accordance with the nominations of the Leader of the group.

Substitution

- 28.3 A substitute Member may attend a particular meeting of the Committee to which he/she has been appointed as a substitute Member, in substitution for a full Member of that Committee from the same political group and with the full powers of a full Member where:
- (a) the full Member for whom the substitute Member will substitute will be absent throughout the whole of the particular meeting; and
 - (b) the substitute Member has notified Democratic Services before the start of the meeting that he/she will be acting as substitute for that meeting, and of the name of the full Member for whom he/she will substitute

Powers and duties

- 28.4 A substitute Member shall have none of the rights of a Member of a Committee unless he/she has been substituted in accordance with Rule 28.3 above.
- 28.5 Once substituted in accordance with Rule 28.3 above, the substitute Member shall have all the powers of a full Member at the meeting.

29. Working Groups

- 29.1 From time to time, the Council may wish to establish Working Groups to consider a specific piece of work or look into a particular issue in more detail outside of the formal meeting. Any such Working Group will comprise of members of the Council, working informally with Officers or other Members and reporting their findings back to the Council. A list of Working Groups will be published and maintained on the Council's website which will state the title, date established, membership, and remit of any Working Groups.
- 29.2 A Working Group established by the Council is not required to conduct its proceedings in accordance with the Scrutiny Procedure Rules in Part 2 of this Chapter or the Access to Information Procedure Rules in Chapter 8 of this Constitution.

Part 3 – Responsibility for Council Functions

1. Functions which by Statute are the Responsibility of Council

The following functions are by statute the responsibility of Council, which it will exercise only in full Council meetings:

- 1.1 Approving which plans and strategies shall form the Policy Framework of the authority, requesting the Executive / Cabinet to prepare a draft (or draft amended) plan or strategy, and approving (or approving amendments to) the plans and strategies contained within the Policy Framework.
- 1.2 The Council has resolved that the following plans and strategies shall comprise the Policy Framework (as required by law):
 - (a) Crime and Disorder Reduction Strategy
 - (b) Local Transport Plan
 - (c) Licensing Authority Policy Statement under the Licensing Act 2003 and Gambling Act 2005
 - (d) Plans with Development Plan Document Status
 - (e) Health and Well-Being Plan
 - (f) Vision and Priorities
- 1.3 In addition to the above, the Council has resolved that the following plans and strategies shall comprise the Policy Framework although not required by law:
 - (a) Any Plan or Strategy that must be approved by the authority and submitted to the Secretary of State or a Minister of the Crown for approval
 - (b) Such other plans and strategies as the Council may decide to adopt
- 1.4 Approving the Budget, (except the technical decision of agreeing the Collection Fund Balance and Council Tax base which have been delegated to the Corporate Director Resources and Place Delivery) including:
 - (a) General Fund Budget, Capital Programme and to note the Housing Revenue Accounts Budget
 - (b) Establishing contingency funds
 - (c) Setting the Council Tax
 - (d) Making decisions relating to the control of the Council's borrowing requirement
 - (e) Approving the Annual Investment Strategy / Annual Treasury Management Strategy
 - (f) Approving the annual policy for making a Minimum Revenue Provision (MRP)

- 1.5 Approving and amending the Constitution.
- 1.6 Subject to the urgency procedure contained in the Access to Information Procedure Rules in Chapter 8 of this Constitution, making any Executive decision which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget.
- 1.7 Appointing and removing the Leader of the Council from office. Note: From May 2011, this Rule will apply only at the Annual Council Meeting following an election, or following the removal or death or incapacity or resignation of the Leader.
- 1.8 Agreeing and/or amending the terms of reference for Committees including any Area or Joint Committees discharging non-Executive Functions, deciding on their composition and making appointments to them.
- 1.9 Agreeing and/or amending the terms of the Local Code of Conduct for Members pursuant to the Localism Act 2011.
- 1.10 Appointing Independent Person(s) for the Standards and Audit Committee.
- 1.11 Adopting a Members' Allowances Scheme in accordance with the Local Authorities' (Members' Allowances) (England) Regulations 2003 following advice from an independent remuneration advisory panel comprising up to five non-elected Members.
- 1.12 Confirming the appointment or dismissal of the Head of Paid Service.
- 1.13 Appointing the Returning Officer and Electoral Registration Officer.
- 1.14 Submitting proposals to the Secretary of State under the Representation of the People Act 2000.
- 1.15 Making, amending, revoking, re-enacting or adopting bylaws, or promoting or opposing the making of local legislation or personal Bills.
- 1.16 Changing the name of the area, or conferring the title of Honorary Alderman or the Freedom of the Borough.
- 1.17 Making any decisions in respect of any change to the electoral arrangements for the authority.
- 1.18 Agreeing the cycle of Council meetings.
- 1.19 Exercising any function under a local Act specified or referred to in Regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended.
- 1.20 Making arrangements under section 20 (questions on police matters at Council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a police authority. Similar arrangements in respect of enabling questions to be put on the discharge of the functions of a fire authority.
- 1.21 Making appointments to the Essex Police Authority under paragraphs 2 to 4 (appointment of Members by relevant Councils) of Schedule Two (police authorities established under Section Three) to the Police Act 1996.

2. Functions which the Council has determined shall be discharged by the Council

The following functions are functions, which the Council has discretion to allocate to Council or to the Executive / Cabinet and has determined that they shall be discharged by Council, which it will exercise only in full Council meetings:

- 2.1 Determinations under the Essex Act 1987, Part VI, and any byelaws under the Act
- 2.2 The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land, insofar as it relates to the other functions of the Council
- 2.3 The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976, insofar as it relates to the other functions of the Council
- 2.4 Except insofar as the Council agrees that they are a matter for the Cabinet, the appointment of any individual:
 - (a) to any office other than an office in which he is employed by the Authority;
 - (b) to any body other than the Authority or a Joint Committee of two or more authorities; or
 - (c) to any Committee or Sub-Committee of such a body and the revocation of any such appointment

Chapter 3 – The Leader / Cabinet Executive

Part 1 – The Leader / Cabinet Executive

Article 7 – The Leader / Cabinet Executive

1. Role

1.1 The Council has decided to adopt the Leader and Cabinet form of executive. Chapter 3 sets the rules for how the Leader and Cabinet will operate. These include arrangements for meetings, individual decision-making, and the scheme of delegation and sub-delegation of functions. The Cabinet (meaning the Leader and such other Members of the Council as the Leader may appoint) will carry out all of the Authority's functions which are not the responsibility of any other part of the Authority, whether by law or under the Constitution. The Leader may take decisions on every matter that is not assigned to anyone else by this constitution. The Leader may however, make arrangements to delegate some matters to the Cabinet, a Cabinet Committee, individual Cabinet members, or to employees.

2. Form and composition

2.1 The Cabinet will consist of the Leader together with such other number of Councillors as the Leader may determine (being not more than 9) appointed by the Leader. Such appointment as a Cabinet Member shall be effected by notice in writing from the Leader delivered to the Chief Executive. Only Councillors may be appointed to the Cabinet. Neither the Mayor nor Deputy Mayor of the Council may be appointed to the Cabinet. Cabinet members may not be members of an Overview and Scrutiny Committee. The Leader must appoint one Member of the Cabinet to be his/her deputy.

3. Leader

3.1 The Leader will be a Councillor elected for a term of 4 years (subject to (a) – (c) below) to the position of Leader by the Council and he or she shall not be the Mayor or Deputy Mayor or a member of a Scrutiny Committee:

- (a) He/she resigns from the office; or
- (b) He/she is no longer a Councillor; except where the Leader fails to be returned as a Councillor following an election. Unless the Leader resigns, is disqualified or is otherwise removed from office he/she shall continue as Leader until the day of the Annual Meeting; or until
- (c) He/she is removed from office by a resolution of Council on a notice of motion signed by fifteen Members and approved, without amendment, by the Council. Procedure Rule 15 (Chapter 2, Part 2) relating to Notice of Motion, applied to a notice of motion under this Rule.

4. Other Executive / Cabinet Members

4.1 Cabinet members appointed by the Leader shall hold office until:

- (a) They resign from office
- (b) They are no longer Councillors; or
- (c) They are removed from office by the Leader, by notification of removal made in writing by the Leader to the Chief Executive and to the Cabinet member concerned. The removal will take effect immediately after receipt of the notice by the Chief Executive.

5. Deputy Leader

- 5.1 The Leader shall appoint a Cabinet Member to be Deputy Leader, by notifying the Chief Executive in writing of such appointment.
- 5.2 The Leader shall delegate to the Deputy Leader power to exercise any Executive Function which is exercisable by the Leader, to be exercised by the Deputy Leader when the Leader is unable to act by reason of absence or conflict of interest.
- 5.3 The Deputy Leader, unless he/she resigns as Deputy Leader, is removed by the Leader, is suspended following a standards investigation, or ceases to be a Member of the Council, will hold office until the end of term of office of the Leader.
- 5.4 If for any reason the Leader is unable to act or the office of the Leader is vacant the Deputy Leader must act in his place.
- 5.5 If for any reason the Leader is unable to act, or the office of the Leader is vacant and the Deputy Leader is unable to act, or the office of the Deputy Leader is vacant, the Cabinet must act in the Leader's place or must arrange for a member of the Cabinet to act in his place.

6. Vacancies in the Executive / Cabinet

- 6.1 If at any time a person shall, by virtue of this Article, cease to be a Member of the Cabinet, the responsibilities of that Member shall be carried out by the Leader / Cabinet collectively in so far as permitted by law until such time as the Leader shall have appointed a replacement or, where appropriate, re-appointed the Member concerned.
- 6.2 In the event of there being no Leader, Deputy Leader or Cabinet members, executive functions shall in the interim be carried out by the Chief Executive in so far as is permitted by law.

7. Removal from office

- 7.1 The Leader may be removed from office by resolution of the Council, on a notice of motion signed by fifteen Members and approved, without amendment, by the Council. Procedure Rule 15 (Chapter 2, Part 2) relating to Notice of Motion, will be applied to a notice of motion under this Rule. If the Council passes such a resolution, a new Leader is to be elected:
 - (a) At the meeting at which the Leader is removed from office; or
 - (b) At a subsequent meeting

7.2 In the event that the Leader no longer holds office as described above, the Deputy Leader will carry out the role and duties of the Leader until the new Leader is elected by the Council.

7.3 Cabinet Members may be removed from office and a new Member appointed, either individually or collectively upon the decision of the Leader. Where 50% or more of the Membership of the Cabinet is to be changed, the Leader shall take a report to Full Council.

7.4 The Leader will notify the Chief Executive (the Proper Officer) and the Cabinet Member affected in writing as soon as it is practicable following the implementation of the decision.

8. Proceedings of the Executive / Cabinet

8.1 Proceedings of the Cabinet shall take place in accordance with the Leader / Cabinet Procedure Rules set out in this Chapter.

9. Responsibility and delegation of functions of the Leader / Cabinet

9.1 The Leader may discharge any of the functions of the Leader / Cabinet.

9.2 The Leader may delegate any of the functions of the Leader to the Cabinet, to a Committee of the Cabinet, to an individual Cabinet Member or to an Officer.

9.3 A Cabinet Committee may delegate the discharge of any of its functions to an individual Cabinet Member or to an Officer.

9.4 An individual Cabinet Member may delegate the discharge of any of his/her functions to an Officer.

9.5 Leader / Cabinet functions may also be delegated to an Area Committee, to a Joint Committee with one or more other authorities, or to another authority.

9.6 The Leader or Council may (subject to any regulations made under section 236 of the Local Government and Public Involvement in Health Act 2007) arrange for any Councillor to discharge any of their functions within his/her own ward. Such delegation has not been made.

9.7 Where such delegations have been made, the person who made the delegation or the Council, as the case may be, or any other person or Committee which is permitted by or under an enactment to discharge the function, may still exercise that function, notwithstanding the delegation.

9.8 The delegations made by the Leader are set out in this Chapter.

Part 2 – Leader / Cabinet Procedure Rules

1. Discharge of Executive Functions

1.1 Executive functions may be discharged by:

- (a) The Leader
- (b) The Cabinet as a body
- (c) A Committee of the Cabinet
- (d) An individual Member of the Cabinet
- (e) An Officer
- (f) Joint arrangements, partnership boards and other such bodies
- (g) Another local authority
- (h) Area Committees

Delegation by the Leader / Cabinet portfolios

1.2 At the Annual Meeting of the Council, the Leader once elected will present to the Council a statement comprising:

- (a) the names of the Members whom he/she has appointed as Members of the Cabinet
- (b) the name of the Member whom he/she has appointed as Deputy Leader
- (c) the portfolios or areas of responsibility of each Cabinet Member

Leader / Cabinet Scheme of Delegations

1.3 As soon as possible after the Annual Meeting of Council, the Leader shall deliver to the Chief Executive a Scheme of Executive Delegations, which shall set out:

- (a) the Portfolios or areas of responsibility of the respective Cabinet Members, including the Leader
- (b) those powers which have been reserved for decision of the Cabinet
- (c) the composition and terms of reference, including any delegated powers, of any Cabinet Committee
- (d) those powers which have been delegated to Cabinet Members, either generically or to individual Cabinet Members, including any restrictions on such powers

- (e) the names of any Members who have been appointed by the Leader / Cabinet to any Joint Committees, and those powers which have been delegated to Area Committees and/or Joint Committees
 - (f) those powers which have been delegated to Officers
- 1.4 Upon receipt of this Scheme or Delegations, the Chief Executive shall cause this Scheme of Delegations to be included in the Constitution and shall provide a copy thereof to each Member.
- 1.5 For the avoidance of doubt the Council has adopted the strong leader model and decisions which fall during recess or are required urgently may be made by the Leader subject to compliance with the Access to Information Rules. The Leader has presently delegated functions to Portfolio Holders to the extent necessary to permit collective decision-making by Cabinet. In the event of there being no Leader, Deputy Leader or Cabinet Members, executive functions shall in the interim be carried out by the Chief Executive subject to the Access to Information Rules.
- 1.6 Nothing above in Part 1 or Part 2 shall fetter or restrict the right of the Leader subject to compliance with the notification requirements in rules 2.1, 7.2 and 7.3 of Article 7 of Part 1 Chapter 3 of this constitution to:
- (a) Increase or decrease the size of the Cabinet or to appoint or dismiss members of the Cabinet (subject to a statutory maximum of 9 not including the Leader).
 - (b) To reorganise the portfolios.
 - (c) To reorganise or re-allocate the portfolio theme.
 - (d) To delegate executive functions or withdraw any delegation.
 - (e) To exercise all the executive rights contained in Article 7 of Chapter 3 of this constitution or the Leader / Cabinet Rules.
 - (f) To exercise any other executive rights set out in the constitution.

Sub-delegation of Executive Functions

- 1.7 Where the Leader, Cabinet, a Committee of the Cabinet or an individual Member of the Cabinet is responsible for an Executive function, they may delegate further to joint bodies (in so far as this is permitted by law) or to an Officer.
- 1.8 Unless the Leader / Cabinet directs otherwise, a Committee of the Cabinet or a single Member of the Cabinet to whom functions have been delegated may delegate further to an Officer.
- 1.9 Where Executive functions have been delegated, that does not prevent the discharge of delegated functions by the person or body who delegated them; or the Leader / Cabinet from reviewing decisions made in the discharge of those functions in accordance with the provisions of this Chapter.

- 1.10 All Executive functions not expressed to be within the remit of the Leader / Cabinet, a Committee of the Cabinet or a single Member of the Cabinet is deemed to be delegated to the Chief Executive.
- 1.11 The Leader / Cabinet may appoint such further Committees during the year as they think fit, notifying the Chief Executive as soon as possible.

2. Leader / Cabinet Meetings

Dates, time and place

- 2.1 Ordinary meetings of the Leader / Cabinet will take place in accordance with a programme decided by the Leader. In order to enable the Leader / Cabinet properly to discharge its functions, particularly in relation to service performance and financial monitoring, the Leader / Cabinet shall meet not less than ten times a year.
- 2.2 Meetings of the Leader / Cabinet shall take place at 7pm in the Council Offices at Grays unless the Leader otherwise determines.
- 2.3 The Leader may direct the Chief Executive to call a meeting of the Leader / Cabinet at any time. The summons to that meeting shall set out the business to be considered
- 2.4 Where the Chief Executive, the Chief Finance Officer or the Monitoring Officer is of the opinion that a meeting of the Leader / Cabinet needs to be called to consider a matter that requires a decision for reasons related to the effective discharge of the authority's functions, finance, legality or probity, they may call a meeting of the Leader / Cabinet.
- 2.5 Subject to compliance with Rule 2.1 above the Leader may cancel any meeting of the Leader / Cabinet, other than one convened under Rule 2.4 above.

Summoning of Meetings

- 2.6 Meetings of the Leader / Cabinet shall be summoned by the issue of a summons and agenda by the Chief Executive, which agenda shall be accompanied by such reports as are available at the time of issue of the summons and the minutes of the previous meeting.
- 2.7 The Summons and agenda shall be issued to the Leader / all Members of the Cabinet and be available for public inspection at least 5 clear working days in advance of the meeting, except where, for exceptional reason, the meeting is summoned on less than 5 clear working days' notice.

Public or private meetings of the Leader / Cabinet

- 2.8 All Leader / Cabinet meetings will be held in public except:
- (a) when the Leader / Cabinet has resolved to exclude the press and public from all or part of a meeting in accordance with the Access to Information Rules
 - (b) when the business of the Leader / Cabinet comprises receiving a briefing on a matter and no executive decision is to be taken on the matter within the next 28 days, or

- (c) in circumstances to which Rules 2.38 to 2.40 refer

Order of Business

- 2.9 The order of business for each meeting of Leader / Cabinet shall be set out in the agenda for that meeting and shall be as follows:
- (a) Apologies for absence from Members
 - (b) Declarations of interest by Members and Officers
 - (c) Receive for information the minutes of the previous meeting of Leader / Cabinet and of Cabinet Committees, and decision statements of decisions by individual Cabinet Members
 - (d) Statements by the Leader
 - (e) To receive petitions
 - (f) The Leader and Cabinet Members to respond to questions from Members
 - (g) Matters referred to the Leader / Cabinet for re-consideration by an Overview and Scrutiny Committee
 - (h) Matters referred to the Leader / Cabinet for consideration by Council, a Committee or Sub-Committee of the Council, and Area Committee or Joint Committee
 - (i) Consideration of business set out in the agenda for the meeting, comprising:
 - Reports from the Leader
 - Reports from Cabinet Committees
 - Reports from Cabinet Members
 - Reports from Statutory Chief Officer/Directors
 - Other reports from Officers
 - (j) To receive reports from Cabinet Members and Officers attending as the authority's representatives on outside bodies about the business of joint arrangements, boards and partnership bodies and external organisations
 - (k) Urgent items of business with the consent of the Leader
 - (l) Briefing on policy, Budget and other issues prior to making decisions on them
- 2.10 Any of the persons listed at Rule 2.9 (i) may require the Chief Executive to place an item of business on the agenda for the next convenient meeting of the Leader / Cabinet. Other Officers may request the Chief Executive to place an item of business on the agenda for the next convenient meeting of Cabinet.

- 2.11 No item of business shall be considered under agenda items 2.9 (g) to (k) except upon a written report from the person placing the item on the agenda or an Officer.
- 2.12 The order of business may be varied by the Leader.

Reports to Leader / Cabinet, Cabinet Committees and Individual Cabinet Members

- 2.13 In accordance with these Rules, any written report shall set out:
- (a) who the decision-taker will be
 - (b) the matter to be determined
 - (c) the electoral wards within the authority's area which are particularly affected by the matter
 - (d) whether the report contains confidential or exempt information, or the consideration thereof by the decision-taker is likely to involve the disclosure of confidential or exempt information, and therefore whether the report should be disclosed to press and public, or the decision-taker should exclude press and public before considering the matter
 - (e) a summary of the matter setting out all the material facts upon which the decision will be based
 - (f) any legislative constraints on the decision
 - (g) any relevant provisions from the Policy Framework
 - (h) any relevant policies of partner organisations
 - (i) any relevant national or regional policy
 - (j) the main options available to the decision-taker
 - (k) the staffing and financial implications of any options to be considered
 - (l) any consultations undertaken and a summary of the responses received
 - (m) the implications of the proposed decision on the authority and the authority's services
 - (n) whether that proposed decision is contrary to the Policy Framework or contrary to or not wholly in accordance with the approved Budget
 - (o) a recommendation setting out the proposed decision and the reasons for that recommendation
 - (p) the date, time and place where the decision is to be taken
 - (q) a list of background papers which have informed the writing of the report and their location on the Council's website

- 2.14 A report submitted by or on behalf of Leader / Cabinet Member shall clearly distinguish (where relevant) between the Officer advice upon which the report is based and the policy and political considerations upon which the Leader / Cabinet Member proposes that the decision be based.

Quorum

- 2.15 The quorum for a meeting of the Leader will consist of the Leader, the quorum for a meeting of Cabinet shall be one third of the members currently appointed to Cabinet by the Leader including either the Leader or Deputy Leader. If the Leader / Cabinet appoints a Cabinet Committee, it shall at the same time determine the quorum of that Committee.

Completion of Business

- 2.16 If the business of the meeting has not been concluded by two and a half hours after its start, the person presiding must interrupt the meeting. The person presiding will then and without debate take a vote as to whether to continue with the meeting. Unless a majority of Members vote to continue with the meeting, the meeting shall be adjourned and any remaining business will be considered at the next scheduled Cabinet meeting.

Person presiding

- 2.17 The Leader shall preside at meetings of the Leader / Cabinet. Where the Leader is absent or otherwise unable to act in respect of any meeting or part of a meeting, the Deputy Leader shall preside and shall exercise all the powers of the Leader under these Rules. Executive decisions will be taken at a meeting convened in accordance with the Access to Information Rules.

Voting

- 2.18 Other than set out in Rule 2.19 below, any matter to be determined by Leader / Cabinet shall be determined by a vote of the majority of Cabinet Members present and voting at the meeting. In the event of an equality of votes, the Leader shall have a second or casting vote.
- 2.19 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 require that immediately after any vote relating to the budget or council tax is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting. A recorded vote will therefore be taken on any budget or council tax decision and will follow the procedure set out below.
- (a) The Leader shall put the motion and the Chief Executive shall call out the names of Members and record their votes or abstentions
 - (b) The Leader shall declare the result of the vote and the vote of each Member shall be recorded in the minutes
- 2.20 Any Member of the Leader / Cabinet may request that the votes of each Member of Cabinet, or that their individual vote, be recorded in the minutes thereof.

Rights of Audience

- 2.21 Subject as below, the following persons shall have a right of audience at Leader / Cabinet Meetings:
- (a) All Members of the Cabinet
 - (b) Statutory Chief Officer/Directors
 - (c) Other Officers in presenting reports
 - (d) Other Members
 - (e) Members of the public in presenting petitions
- 2.22 The rights of audience set out under Rule 2.21 shall not apply where the Leader / Cabinet has resolved to exclude press and public from the relevant meeting or part of the meeting.
- 2.23 The Leader shall be responsible for the effective conduct of the business of Leader / Cabinet and shall, at his/her discretion, limit or exclude the time available for any persons or groups of persons to speak on any item of business.

Petitions

- 2.24 A petition organiser may request the opportunity to present a petition to Leader / Cabinet. A petition must:
- (a) contain at least 10 signatures of registered local government electors for the administrative area of Thurrock
 - (b) identify a petition organiser
 - (c) relate to a matter for which the Leader / Cabinet 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
- 2.25 A petition may only be presented to Leader / Cabinet when it has been submitted to the Monitoring Officer at least 10 working days before an ordinary meeting of Leader / Cabinet or an extraordinary meeting of the Leader / Cabinet at which the subject matter of the petition is to be considered.
- 2.26 Petitions may be presented to the Leader / Cabinet in accordance with the authority's Petition Scheme by the petition organiser, by another signatory of the petition authorised by the petition organiser or by a Member on behalf of the petition organiser.
- 2.27 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 the Leader / Cabinet, he/she may elect not to report the petition to Leader / Cabinet directly but to include the

petition in the responses to that consultation for consideration in the ordinary determination of that matter.

- 2.28 Any Member or member of the public presenting a petition shall be entitled to address the Leader / Cabinet on the matter which is the subject of the petition for up to two minutes. Unless the petition relates to a matter which is to be determined by Leader / Cabinet, it shall then be referred to the relevant Cabinet Committee, Cabinet Member or Officer, as appropriate, without debate.
- 2.29 Where a petition is referred to a Cabinet Member or a Committee, the Monitoring Officer shall advise the petition organiser accordingly. The petition shall be considered by the Cabinet Committee, Cabinet Member or Committee at their next convenient meeting or occasion, and the relevant Portfolio Holder shall as soon as possible after such consideration notify the petition organiser in writing of what action the authority has taken or is taking on the petition.

Members' Questions

- 2.30 Any Member may submit a maximum of two questions for the next ordinary meeting of Leader / Cabinet addressed to the Leader or a Member of the Cabinet, by delivering them in writing to the Monitoring Officer, to be received by Democratic Services by midday two working days prior to a meeting of the Leader / Cabinet (for example, as the Cabinet usually meets on a Wednesday, the deadline for receipt of questions will be midday on the Monday before the day of the meeting). The question must relate to an item on the agenda. A question must relate to a single proposition and may not contain more than one part.
- 2.31 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 Leader / Cabinet unless, in his/her opinion:
- (a) the request does not comply with the requirements of Rule 2.30
 - (b) the question is defamatory of an individual, offensive, discloses confidential or exempt information, or otherwise infringes the proper conduct of local government; or
 - (c) the question is substantially the same as a question which has been previously been received and answered within the past twelve months, and there has been no significant and relevant change of circumstances since the previous question was answered.
- 2.32 The Monitoring Officer shall place the questions on the agenda in the order that they have been received. Where the Monitoring Officer considers that the question or the answer is likely to disclose confidential or exempt information, he/she shall place the question on the exempt part of the agenda.
- 2.33 The relevant Cabinet Member shall provide a verbal answer to the question (which may include a promise to provide a more detailed answer in writing). Where the Member who submitted the question is not present, the relevant Cabinet Member may provide a written response as an alternative to a verbal response.

- 2.34 Where the Member who submitted the question is present, 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.
- 2.35 The person who submitted the original question may request clarification of any answer which they have received.
- 2.36 The time limit for each question under this Rule at any meeting (including supplementary question and response, and any clarification) shall be 5 minutes.

Disturbance at meetings by Members

- 2.37 If at any meeting any Member of the Leader / Cabinet, in the opinion of the Leader commits an act of misconduct by persistently disregarding a ruling or behaving improperly or offensively or unreasonably obstructing the business of the Leader / Cabinet, the Leader may move that the Member named be not further heard.
- 2.38 If a Member so named continues the act of misconduct after a motion under the foregoing paragraph has been carried, the Leader shall either:
- (a) move 'that the Member(s) named do leave the meeting', in which case that motion shall be put and determined without seconding or discussion; or
 - (b) adjourn the meeting for such period as the Leader may deem expedient

Disturbance by Public (including Members who are not Cabinet Members)

- 2.39 The Leader shall warn any member of the public who interrupts the proceedings that they may be excluded from the meeting if the interruption continues.
- 2.40 If that person continues the interruption, the Leader may order the removal of that person from the meeting.

General disturbance

- 2.41 In the event of a general disturbance, the Leader may adjourn the meeting for such period or to seek other venue as deemed expedient.

Admission to and reporting of meetings

- 2.42 The Openness of Local Government Bodies Regulations 2014, allow any person to attend and report on meetings, or those parts of meetings, that are open to the public using any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities. "Reporting" is defined in the Regulations as:
- (a) Filming, photographing or making an audio recording of proceedings at a meeting
 - (b) Using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later

- (c) Reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present

2.43 If, at any time during the meeting, the Chair feels that filming, recording, reporting or photography is disrupting proceedings, the provisions of Rules 2.39, 2.40 and 2.41 will apply.

2.44 In any instance where the press and public have been excluded from the meeting in accordance with the provisions set out in Chapter 8 of this Constitution, the Council will not allow reporting on the meeting using methods which:

- (a) can be used without that person's presence at the meeting
- (b) enable persons not present at the meeting to see or hear the proceedings at the meeting as it takes place or later

Minutes

2.45 As soon as practicable after the meeting, the Chief Executive shall produce a minute or record of the proceedings of the Leader / Cabinet, which shall include:

- (a) The names of the Members present at the meeting
- (b) Any declarations of interest by Members and Officers and, in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service
- (c) A statement as to whether any decision was a "Key Decision"
- (d) Confirmation as to whether any proposed Key Decision had been published in the Forward Plan or notified to the Chair of the relevant Overview and Scrutiny Committee, or made with the consent of the Chair of the relevant Overview and Scrutiny Committee in advance of the meeting
- (e) Any options which were considered and rejected at the meeting
- (f) A record of all motions, including amendments, which were put to the meeting
- (g) A record of all decisions taken at the meeting, including the reasons for the decisions taken
- (h) A statement of whether the Leader / Cabinet has determined that the implementation of any decision is urgent, and the reasons for such urgency

2.46 That record shall be signed by the Leader as a correct record as soon as practicable after the meeting, and shall be reported to the next meeting of Leader / Cabinet for information only.

3. Meetings of Cabinet Committees

Application of Leader / Cabinet Procedure Rules

- 3.1 The Rules set out in this part of the Constitution shall apply equally to meetings of Cabinet Committees, save that:
- (a) references to Leader / Cabinet shall be taken as references to the Cabinet Committee
 - (b) References to the Leader shall be taken as references to the Chair of the Committee (save where the context otherwise requires)
 - (c) The order of business for the Committee shall exclude items in Rule 2.9 (e), (f) and (g)

4. Decisions by Individual Cabinet Members

Application of Leader / Cabinet Procedure Rules

- 4.1 The Cabinet Procedure Rules shall apply to decisions of individual Cabinet Members where this option is adopted subject to the following exceptions:
- (a) Except in cases of genuine urgency, individual Cabinet Members shall take decisions only at a date, time and place set out in the summons for a meeting between the Cabinet Member and the Chief Executive, at which meeting the Chief Executive can record the decisions of the Cabinet Member
 - (b) References to the meeting shall be taken as references to that meeting between the Cabinet Member and the Chief Executive
 - (c) In cases of genuine urgency, the Cabinet Member shall seek as far as practicable to consult appropriate Officers before taking the decision, and shall notify the Chief Executive of the decision as soon as possible after taking the decision, providing the Chief Executive with:
 - The date, time and place at which the decision was taken
 - The names of the Members present when the decision was taken
 - Any personal interest which the Cabinet Member had in the decision
 - Any declarations of interest by Members who were present when the decision was taken

Note: a Cabinet Member with a disclosable pecuniary interest should not be present when a Cabinet Member takes a decision except where the Member has been granted a dispensation to speak and or vote in accordance with the Code of Conduct for Members

 - A statement of any Members or Officers whom the Cabinet Member consulted before taking the decision

- A statement as to whether any decision was a "Key Decision"
- Confirmation as to whether any proposed Key Decision had been published in the Forward Plan or notified to the Chair of the relevant Overview and Scrutiny Committee, or made with the consent of the Chair of the relevant Overview and Scrutiny Committee in advance of the meeting
- A copy of any documents which the Cabinet Member relied upon in coming to the decision
- Any options which were considered and rejected at the meeting
- A statement of all decisions taken by the Cabinet Member
- A statement of whether the Cabinet Member has determined that the implementation of any decision is urgent, and the reasons for such urgency

4.2 That record shall be signed by the Chief Executive or by the Cabinet Member as a correct record as soon as practicable after the meeting, and shall be reported to the next meeting of Cabinet for information only.

5. Implementing Executive Decisions

5.1 In order to allow for Call-In, no key decision shall be implemented until 5 working days after the decision has been published, subject to Rule 5.3 below. The Leader's decisions as to the form and composition of Cabinet and the appointment of a Deputy Leader are at his or her discretion and cannot be called in under the Scrutiny Rules.

5.2 Where a request for a Call-In is received within 5 working days of the decision being published, the decision shall not be implemented until the relevant Overview and Scrutiny Committee has resolved not to call the decision in or the Decision-taker has reconsidered the decision in the light of any recommendation from the relevant Overview and Scrutiny Committee.

5.3 This deferment of implementation shall not apply where the decision-taker resolves that the implementation of the decision is urgent, in that delaying such implementation would give rise to an unacceptable risk of damage to the authority or its area or inhabitants, and such reason for urgency is recorded in the minutes of the decision.

6. Conflicts of Interest

6.1 If the exercise of an Executive function has been delegated to an individual Cabinet Member or an Officer, and should that person have a disclosable pecuniary interest in the decision on the matter, then the function may be exercised in the first instance by the person or body by whom the delegation was made, or by such other Cabinet Member as may be appointed for this purpose by the Leader.

6.2 If the Leader and every Member of the Cabinet has a disclosable pecuniary interest in a matter as defined in the Council's Code of Conduct for Members, a decision in relation to that matter will be taken by the Chief Executive.

Part 3 – Budget and Policy Framework Procedure Rules

1. The Framework for Executive Decisions

- 1.1 The Council will be responsible for the adoption of the Budget and of the Policy Framework as set out in Article 4 (The Council). Once the framework is in place, it will be the responsibility of the Leader / Cabinet to implement it.

2. Process for Developing the Policy Framework

- 2.1 The Council shall from time-to-time review which plans and strategies shall comprise the Policy Framework, and may determine that:
- (a) it is minded to remove a plan or strategy from the Policy Framework
 - (b) an existing plan or strategy which forms part of the Policy Framework shall be reviewed
 - (c) an additional plan or strategy shall be included in the Policy Framework
- 2.2 In the case of Rule 2.1 (a) above, unless such resolution arises from a recommendation from the Leader / Cabinet, the Council shall consult the Leader / Cabinet before taking a decision whether to remove the plan or strategy from the Policy Framework.
- 2.3 In the case of Rule 2.1(b) and (c) above, the Council shall instruct the Leader / Cabinet to prepare and recommend a draft policy or strategy, or a draft amended policy or strategy, setting out the issues to be covered by the new policy or strategy, or the broad manner in which the Council wishes to amend the plan or strategy, and any matters which the Council would wish the Leader / Cabinet to take into account in preparing a draft, or draft amended, policy or strategy, including any urgency, and stating whether the draft plan or strategy, or draft amended plan or strategy shall be referred on receipt to a particular Overview and Scrutiny Committee.
- 2.4 Upon receipt of such instruction, the Leader / Cabinet shall prepare a draft plan or strategy, or draft amended plan or strategy in response to such instruction and shall submit it to Council.
- 2.5 In preparing such draft plan or strategy, or draft amended plan or strategy, the Leader / Cabinet may undertake such consultation with partner organisations and with the public as it considers to be appropriate.
- 2.6 Where the Council has resolved that the draft plan or strategy, or draft amended plan or strategy, shall be referred to a particular Overview and Scrutiny Committee, the Chief Executive shall report the draft plan or strategy, or draft amended plan or strategy to that Committee, and that Committee shall then consider the same and prepare a recommendation to Council subject to Rule 2.7 below. In such consideration, the Committee may undertake such consultation as it considers appropriate, having regard to any consultation previously undertaken by the Leader / Cabinet.
- 2.7 Where such recommendation to Council is that the draft plan or strategy, or draft amended plan or strategy, should be adopted as proposed by the Leader / Cabinet, that

recommendation shall proceed directly to Council. Where such recommendation is that the draft plan or strategy, or draft amended plan or strategy should be adopted subject to any amendment, that recommendation shall be reported by the Chief Executive to the Leader / Cabinet and shall be deemed to be a resolution that Council proposes to adopt the draft plan or strategy, or draft amended plan or strategy, subject to an amendment.

- 2.8 Where Council receives a recommendation from an Overview and Scrutiny Committee as set out in Rule 2.7 above, the Chief Executive shall report to Council the Leader / Cabinet's original proposal, the Overview and Scrutiny Committee's recommendation and the Leader / Cabinet's response to that recommendation.
- 2.9 Council shall then consider the draft plan or strategy, or draft amended plan or strategy, together with any recommendation and response. The Council may take one of the following steps:
- (a) If Council wishes to adopt the draft plan or strategy, or draft amended plan or strategy as originally recommended by Leader / Cabinet, without amendment, it may do so forthwith
 - (b) If Council wishes to adopt the draft plan or strategy, or draft amended plan or strategy, subject to any of the amendments recommended by the Overview and Scrutiny Committee, it may do so forthwith after consideration of the Leader / Cabinet's response thereto
 - (c) If Council wishes to adopt the draft plan or strategy, or draft amended plan or strategy, subject to any amendment which was not recommended by the Overview and Scrutiny Committee, it shall resolve accordingly "in principle", and the Chief Executive shall forthwith notify the Leader and all Members of the Cabinet of that resolution together with the legal and financial implications of the resolution. The Leader may submit to the Chief Executive the Leader / Cabinet's response to the proposed amendment and the following options take effect:
 - (i) If such response is received within 5 working days of such notification, or such longer period as Council may resolve, the Chief Executive shall report the response to the next convenient meeting of Council and the "in principle" resolution shall not take effect
 - (ii) Where no such response is received within the set period, the "in principle" resolution shall take full effect at the expiry of that set period, unless there are significant legal and financial implications, in which case the Chief Executive shall make a report including those implications to the Council for its next convenient meeting
- 2.10 Where a particular plan or strategy is required by statute to be subject to consultation, examination in public, or submitted to the Secretary of State for approval, this procedure shall apply in respect of the approval of the plan or strategy at each such stage.
- 3. Process for Setting the Budget**
- 3.1 For each municipal year, the Leader / Cabinet shall prepare a draft Budget for the authority and shall submit it to the Chief Executive for report to Council for approval.

- 3.2 In preparing such draft Budget, the Leader / Cabinet may undertake such consultation with partner organisations and with the public as it considers to be appropriate or required by law.
- 3.3 The Leader / Cabinet shall refer the draft Budget to the relevant Overview and Scrutiny Committee or Committees, in which case the Chief Executive shall report the draft Budget to that Committee or Committees, and that Committee shall then consider the same and prepare a recommendation to Leader / Cabinet. In such consideration, the Committee may undertake such consultation as it considers appropriate, having regard to any consultation previously undertaken by the Leader / Cabinet.
- 3.4 If Council wishes to adopt the draft Budget as recommended by Leader / Cabinet, without amendment, it may do so forthwith.
- 3.5 In reaching a decision, the Council may adopt the Leader / Cabinet's proposals, but if the Council has any objections to the Leader / Cabinet's proposals, then before it amends, approves or adopts any plan, strategy or Budget, it must inform the Leader of those objections and require the Leader / Cabinet to reconsider. The Leader / Cabinet may, within such reasonable period as the Monitoring Officer may determine (but which shall be not less than 5 working days) submit revised proposals or inform the Council of the Leader / Cabinet's disagreement with the Council's objections and the reasons for this. Once that period has expired, the Council in amending, approving or adopting any plan, strategy or Budget, must take into account any revised proposals and the views of the Leader / Cabinet.
- 3.6 In the case of Budget proposals submitted to the Council after 8 February in the preceding financial year, or any Budget proposals submitted following designation or nomination by the Secretary of State, the Council may amend, approve or adopt the Leader / Cabinet's proposals without requiring the Leader / Cabinet to reconsider them.
- 3.7 In approving the Budget and Policy Framework, the Council will also specify the extent of in-year changes to the Policy Framework which may be undertaken by the Leader / Cabinet, in accordance with paragraph 7 of these Rules (in-year adjustments). The extent of virement within the approved Budget is set out in the financial regulations in Chapter 9 of this Constitution. Any other changes to the policy and Budgetary framework are reserved to the Council.

4. Decisions outside the Budget or Policy Framework

- 4.1 Subject to Rule 5 below, the Leader / Cabinet, Committees of the Cabinet, individual Cabinet Members or any Officers, Area Committees or Joint Committees discharging Executive functions may only take Executive decisions to the extent that they are not contrary to the Policy Framework or the Budget. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by the Council, then that decision shall be a "Departure Decision" and may only be taken by the Council. Note that such Departure Decisions must be taken by Council and cannot be delegated to any other person or body.
- 4.2 If the Leader / Cabinet, a Committee of the Cabinet, an individual Member of the Cabinet or any Officer, any Area Committee or Joint Committee wants to make an executive decision and apprehends that it may be contrary to the Policy Framework or contrary to, or

not wholly in accordance with the Budget (and thus to constitute a "Departure Decision"), they shall take advice from the Monitoring Officer and/or the Chief Executive and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget. If the advice of any of those Officers is that the decision would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget, then the decision-taker may take an "in principle" decision but must refer the matter as a recommendation or as an "in principle" decision to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 5 shall apply.

5. Urgent Decisions outside the Budget or Policy Framework

- 5.1 Notwithstanding Rule 4 above, the Leader / Cabinet, a Committee of the Cabinet, an individual Member of the Cabinet, an Officer, an Area Committee or a Joint Committee, who or which is exercising Executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by full Council, if the decision is a matter of urgency. A decision will be urgent if any delay involved in convening a quorate meeting of the full Council within the Access to Information Rules to take the decision would or would be likely to seriously prejudice the Council's or the public interests.
- 5.2 The Chair of the relevant Overview and Scrutiny Committee must agree in writing that the decision be taken as a matter of urgency before it may be taken. In the absence or inability to act of the Chair, the consent of the Mayor, or in his or her absence or inability to act, the Deputy Mayor, shall suffice. The reasons why it is not practical to convene a quorate meeting of Council and the consent to the decision being taken as a matter of urgency must be noted on the record of the decision.
- 5.3 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

6. Financial Regulations and Budget Management

- 6.1 The Council's Financial Regulations are included in Chapter 9 of this Constitution. The Council has approved a Budget management scheme that is included in that Chapter. The Budget management scheme lists the Rules for managing the capital and revenue Budget. This includes limits on virement between capital projects and cash limits.
- 6.2 Steps taken by the Leader / Cabinet, a Committee of the Cabinet, an individual Member of the Cabinet, or Officers discharging Executive Functions to implement Council policy will not exceed those Budgets allocated to each cash limit. However, such bodies or individuals will be entitled to vire across cash limits and capital projects as set out in the Budget management scheme. Exceeding those limits will require the approval of the full Council.

7. In-Year Changes to the Budget and Policy Framework

- 7.1 The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Leader / Cabinet, a Committee of the Cabinet, an individual Member of the Cabinet or Officers discharging Executive Functions must be in line with it. No

changes to any policy and strategy that make up the Budget and Policy Framework may be made by those bodies or individuals except those changes:

- (a) which will result in the closure or discontinuance of a service or part of a service to meet a Budgetary constraint
- (b) which are necessary to ensure compliance with the law, ministerial direction or government guidance
- (c) in relation to the Policy Framework in respect of a policy, when the framework would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

Part 4 – Functions which the Leader has allocated to the Cabinet, Cabinet Committees or Individual Cabinet Members

By the Local Government Act 2000 as amended, the Leader may discharge any Executive Functions in person and may make overall arrangements for the discharge of all Executive Functions, or may make arrangements for the discharge of any of those functions by the Cabinet, by a Committee of the Cabinet, by another Cabinet Member or by an Officer. This Part of the Constitution sets out the arrangements which the Leader has made for the discharge of Executive Functions by the Leader / Cabinet and by individual Cabinet Members.

1. The Leader / Cabinet

1.1 The following functions shall be discharged by the Leader / Cabinet:

- (a) All "Key Decisions"
- (b) All Executive Functions which have not been delegated to a Cabinet Committee, a Cabinet Member, an Officer, an Area Committee, a Joint Committee or another local authority
- (c) Any Executive Function which has been delegated to a Cabinet Committee, and Cabinet Member, or an Officer, where the person or body to whom the decision is delegated refers the matter back to the Cabinet for determination
- (d) To approve all virements between Cost Centres and/or Budget Heads or within the Capital programme where the sum to be vired exceeds £500,000
- (e) "Local Choice Functions" - These are functions where the Council has a discretion as to whether the function should be discharged by the Council or by the Leader / Cabinet and has determined that they shall be discharged by the Leader / Cabinet. The functions concerned are as follows:
 - (i) Any function under a local Act other than:
 - a function specified or referred to in Regulation 2 or Schedule 1 (of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000)
 - Part VI of the Essex Act 1987 and in relation to the making of byelaws under the Act
 - (ii) The appointment of review boards under regulations under subsection (4) of section 34 (determination of claims and reviews) of the Social Security Act 1998
 - (iii) The making of arrangements pursuant to section 52 of the Education Act 2002 and Regulation 6 of the Education (Pupil Exclusion and Appeal) (Maintained Schools) (England) Regulations 2002 (SI 2002/3178)

- (iv) The making of arrangements pursuant to section 94(1) and (4) of the School Standards and Framework Act 1998 (admission appeals) and the Education (Admissions Appeals Arrangements) (England) Regulations 2002 (SI 2002/2899)
- (v) The making of arrangements pursuant to section 95(2) of the School Standards and Framework Act 1998 (children to whom section 87 applies: appeals by governing bodies) and Schedule 2, paragraph 2, Education (Admissions Appeals Arrangements) (England) Regulations 2002 (SI 2002/2189)
- (vi) The making of appointments under paragraphs 2 to 4 (appointment of Members by relevant Councils) of Schedule 2 (police authorities established under section 3) to the Police Act 1996
- (vii) Any function relating to contaminated land
- (viii) The discharge of any function relating to the control of pollution or the management of air quality
- (ix) The service of an abatement notice in respect of a statutory nuisance
- (x) The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area
- (xi) The inspection of the Authority's area to detect any statutory nuisance
- (xii) The investigation of any complaint as to the existence of a statutory nuisance
- (xiii) The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land insofar as it relates to the Cabinet's other functions
- (xiv) The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 insofar as it relates to the Cabinet's other functions
- (xv) The making of agreements for the execution of highways works.
- (xvi) Except insofar as is specifically reserved to the Council by resolution of the Council, the appointment of any individual:
 - to any office other than an office in which he is employed by the Authority
 - to any body other than:
 - the Authority
 - a Joint Committee of two or more authorities

- to any Committee or Sub-Committee of such a body, and the revocation of any such appointment
- (xvii) The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities
- (xviii) Any function of the Authority in its capacity as a harbour authority.
- (f) All functions under the Scrap Metal Dealers Act 2013, insofar as they cannot be undertaken by:
 - (i) The Scrap Metal Dealers Act Panel (comprising the Cabinet Member for Public Protection and two senior officers from Public Protection), which has been established by the Leader to determine any applications referred to them by the Principal Licensing Officer.
 - (ii) The Principal Licensing Officer, who has been delegated authority by the Leader to determine applications where there are no questions about the suitability of an applicant, or, where the suitability of an applicant is in question but they have not given the prescribed notice to the Council that they require the opportunity to make representations.

2. Individual Cabinet Members

- 2.1 Under the Local Government Act 2000 as amended, the Leader has allocated a "Portfolio" to each Cabinet Member and delegated to each "Portfolio Holder" responsibility for the discharge of the functions specified below. The powers delegated to individual Cabinet Members specifically exclude "Key Decisions" and "Local Choice Functions" which have been allocated to the Cabinet.
- 2.2 Enhanced Disclosure and Barring Service (DBS) checks are carried out for all relevant Cabinet Members discharging education or social services functions. These checks will be carried out strictly in line with the Council DBS policy and any current eligibility guidance from a relevant DBS agency.

3. Leader and Cabinet Member for Public Protection and Anti-Social Behaviour

- 3.1 Portfolio:
- (a) Public Protection
 - (b) Anti-social Behaviour Lead
 - (c) Unauthorised Traveller Incursions
 - (d) Environment Enforcement (dog fouling, fly-tipping, littering enforcement)
 - (e) Community Safety Partnership
 - (f) Community Partnership – Police

- (g) Environment Health (noise control, pollution, air quality) cross over with Health and Transport
- (h) Licensing
- (i) Food Safety
- (j) Trading Standards
- (k) Emergency Planning
- (l) Health and Safety

3.2 Delegated Powers:

Urgent Decisions

- (a) By virtue of section 15(9) of the Local Government Act 2000, the Leader may exercise any Executive Function which has been delegated to the Cabinet or to an individual Cabinet Member or to an Officer.
- (b) By convention, the Leader will only exercise such powers where:
 - (i) Deferring the decision until the next meeting of Cabinet would carry such unreasonable risk of damage to the authority or its area that it would be unreasonable to defer the decision until the next meeting of Cabinet
 - (ii) An Officer possessing a delegated power has referred the matter to the Leader for determination
 - (iii) In any case, the Leader has consulted the Deputy Leader and the relevant Cabinet Member(s).

Consultations

- (c) Approving the authority's response to consultation from neighbouring authorities, regulatory agencies, Government Departments and other bodies.

Personnel and Human Resource Policies

- (d) To approve personnel and human resources policies and strategies in so far as they are Executive Functions.
- (e) To determine the staffing requirements for the proper discharge of Executive Functions.

Finance

- (f) To approve the writing off of debts in cases where an Officer has no delegated power to do so.

- (g) To approve virement between Cost Centres and/or Budget Heads or within the Capital Programme (all such virements and transfers in excess of £500,000 by convention being referred to Cabinet for determination).

Land and Property

- (h) Approving minor departures from the authority's Asset Management Plan.
- (i) Approving the acquisition or disposal of land or property up to the value of £200,000, on advice from the Monitoring Officer and the Section 151 Officer, and in consultation with the Corporate Property Officer (who for this purpose is the Corporate Director Resources and Place Delivery), and ward members. Any decision relating to the acquisition or disposal of land or property above £200,000 be taken by the Cabinet.

Communications and the Media

- (j) To approve press releases and statements in relation to his/her Portfolio or which are of particular importance to the authority.

4. Deputy Leader and Cabinet Member for Regeneration and External Affairs

4.1 Portfolio:

- (a) Development Management – Planning
- (b) Strategic Planning
- (c) Local Plans
- (d) Growth Hubs and Place-Making
- (e) Capital Projects
- (f) Economic Development
- (g) Inward Investments
- (h) Assets
- (i) Thurrock Business Board
- (j) Facilities Management
- (k) Building Control
- (l) Major Schemes – for example, infrastructure
- (m) Major Projects – for example, A13 widening
- (n) South Essex Local Enterprise Partnership (SELEP)

- (o) Association South Essex Local Authorities (ASELA)
- (p) South Essex Growth Partnership
- (q) Opportunity South Essex (OSE)
- (r) Thames Freeport
- (s) Thames Estuary

4.2 Delegated Powers:

- (a) To take any decision within this Portfolio where that decision was within powers delegated to an Officer but that Officer has referred the matter to the Portfolio Holder for determination.
- (b) As Deputy Leader, to exercise the Portfolio functions of the Leader when he/she is absent or otherwise unable to act
- (c) To approve press releases and statements in relation to his/her Portfolio.

5. Cabinet Member for Children's Social Care and Education

5.1 Portfolio:

- (a) Grangewaters / Outdoor Education
- (b) Early Offer of Help / Children's Centres
- (c) Children's Social Care
- (d) Educational Attainment and School Improvement
- (e) Children's Commissioning
- (f) Schools and Nurseries
- (g) Lifelong Learning
- (h) Apprenticeships
- (i) Work Readiness
- (j) Youth Offer
- (k) Careers Information Advice and Guidance

5.2 Delegated Powers:

- (a) To take any decision within this Portfolio where that decision was within powers delegated to an Officer but that Officer has referred the matter to the Portfolio Holder for determination except in the case of functions under sections 18 and 19 of the Children's Act 2004.

- (b) To approve press releases and statements in relation to his/her Portfolio.
- (c) To make any appointments on behalf of the authority to governing bodies of schools and educational institutions.

6. Cabinet Member for Adults and Health

6.1 Portfolio:

- (a) Lead for Public Health
- (b) Oversight of Public Health Commissioning responsibilities, including drugs and alcohol, sexual health, children's health, obesity and smoking cessation
- (c) Oversight of development and implementation of the new Integrated Care Model
- (d) Improvements in quality Primary Care
- (e) Liaison with Thurrock HealthWatch
- (f) Development of integration with the NHS
- (g) Liaison with Thurrock Mid and South Essex (MSE) Integrated Care System (ICS)
- (h) Better Care Fund
- (i) Mental Health
- (j) Overall budget responsibility for revenue and capital spend
- (k) Adult Services Performance Framework
- (l) Safeguarding Adults Board
- (m) External placements for Adult Services
- (n) Learning Disabilities
- (o) Older People's Services
- (p) People with physical disabilities
- (q) Adult Services in-house provision
- (r) Oversight of statutory duties under the Care Act 2014
- (s) Welfare Benefit Reforms
- (t) Member of Health and Wellbeing Board

6.2 Delegated Powers:

- (a) To take any decision within this Portfolio where that decision was within powers delegated to an Officer but that Officer has referred the matter to the Portfolio Holder for determination.
- (b) To approve press releases and statements in relation to his/her Portfolio.

7. Cabinet Member for Transformation and Performance

7.1 Portfolio:

- (a) Internal Audit
- (b) Vision and Strategy (including Branding)
- (c) Human Resources (HR), Organisational Development (OD) and Payroll
- (d) Transformation – for example, channel shift, digital agenda
- (e) Customer Services
- (f) Information Governance – for example, Complaints/Member Enquiries
- (g) ICT – not including broadband
- (h) Superfast broadband and hyperfast broadband
- (i) Pay Policy
- (j) Legal, Democratic, Electoral and Member Services
- (k) Elections
- (l) Corporate-wide Performance

7.2 Delegated Powers:

- (a) To take any decision within this Portfolio where that decision was within powers delegated to an Officer but that Officer has referred the matter to the Portfolio Holder for determination.
- (b) To approve press releases and statements in relation to his/her Portfolio.

8. Cabinet Member for Transport and Highways

8.1 Portfolio:

- (a) Highways Development Control – Parking Enforcement, Street Lights, Traffic Management
- (b) Public Transport
- (c) Transportation Development

- (d) Network Management
- (e) Maintenance of Roads – for example, Potholes

8.2 Delegated Powers:

- (a) To take any decision within this Portfolio where that decision was within powers delegated to an Officer but that Officer has referred the matter to the Portfolio Holder for determination.
- (b) To approve press releases and statements in relation to his/her Portfolio
- (c) To promote active, constructive and effective engagement in strategic planning including cooperation across administrative boundaries with meetings, seminars and communications, topic papers research and analysis with proper collaboration coordination, and in association with the Leader the signing of position statements and memorandums of understanding with, and the making of formal representations to, other persons prescribed under Section 33A(1) of the Planning and Compulsory Purchase Act 2004 as amended

9. Cabinet Member for Environment and Air Quality

9.1 Portfolio:

- (a) Street Services – street sweeping, grass cutting, litter pickers, maintenance of borough
- (b) Waste and Recycling – refuse collection
- (c) Sports and Leisure Development – current assets
- (d) Sports and Leisure Development – long-term vision
- (e) Air Quality

9.2 Delegated Powers:

- (a) To take any decision within this Portfolio where that decision was within powers delegated to an Officer but that Officer has referred the matter to the Portfolio Holder for determination.
- (b) To approve press releases and statements in relation to his/her Portfolio

10. Cabinet Member for Housing

10.1 Portfolio:

- (a) Estate Regeneration
- (b) Housing Development
- (c) Thurrock Regeneration Limited (TRL)

- (d) Housing Maintenance
- (e) Transforming Homes Programme
- (f) Repairs and Maintenance Contracts
- (g) Sheltered Housing
- (h) Homelessness
- (i) Private Sector Liaison
- (j) Council-run Traveller Sites

10.2 Delegated Powers:

- (a) To take any decision within this Portfolio where that decision was within powers delegated to an Officer but that Officer has referred the matter to the Portfolio Holder for determination.
- (b) To approve press releases and statements in relation to his/her Portfolio

11. Cabinet Member for Communities

11.1 Portfolio:

- (a) Libraries
- (b) Registrars
- (c) Arts, Culture and Heritage – for example, Thameside
- (d) Community Engagement and Voluntary Sector
- (e) Equality and Diversity

11.2 Delegated Powers:

- (a) To take any decision within this Portfolio where that decision was within powers delegated to an Officer but that Officer has referred the matter to the Portfolio Holder for determination.
- (b) To approve press releases and statements in relation to his/her Portfolio

12. Cabinet Member for Finance and Communications

12.1 Portfolio:

- (a) Accountancy
- (b) Counter-fraud
- (c) Commercial Opportunities

- (d) Insurance and Risk
- (e) Revenues and Benefits
- (f) Exchequer Services
- (g) Internal Audit
- (h) Communications
- (i) Procurement and Contract Management

12.2 Delegated Powers:

- (a) To take any decision within this Portfolio where that decision was within powers delegated to an Officer but that Officer has referred the matter to the Portfolio Holder for determination.
- (b) To approve press releases and statements in relation to his/her Portfolio

Chapter 4 – Overview and Scrutiny

Part 1 – Article 6 – Overview and Scrutiny

1. Overview and Scrutiny Committees

1.1 The Council shall appoint one or more Overview and Scrutiny Committees. These Committees will discharge, in respect of the matters shown in their terms of reference below, the functions conferred by section 21 of the Local Government Act 2000 as amended by section 7 of the Health and Social Care Act 2001, by section 19 of the Police and Justice Act 2006, by Part 5, Chapter 2 of the Local Government and Public Involvement in Health Act 2007, by the Health and Social Care Act 2012 and by any subsequent legislation. The Council shall designate particular Overview and Scrutiny Committees to have responsibility for overview and scrutiny of matters relating, respectively, to Health, Education and Crime and Disorder.

2. Overview and Scrutiny Committees and Scope

2.1 The Council has established the following Overview and Scrutiny Committees:

Committee	Scope
Children's Services (including Education)	The services provided by Children's Services directorate, including the provision, planning, management and performance of child protection, health, welfare, education, youth services, and related matters in Thurrock.
Health and Well-Being Overview and Scrutiny Committee	The review or scrutiny of any matter relating to the planning, provision and operation of the health service in Thurrock in partnership with the other local authorities in accordance with the Health and Social Care Act 2001 and the Health and Social Care Act 2012 and associated Regulations and Guidance and the provision, planning, management and performance of services relating to adult social care, housing, culture, diversity and related matters in Thurrock.
Planning, Transport, Regeneration Overview and Scrutiny Committee	The physical and economic development of Thurrock, including the particular issues that arise from the Sub Regional Strategy and other local and regional plans, the provision of related infrastructure and the provision, planning, management and performance of services provided by the planning and highways services.
Cleaner, Greener and Safer Overview and Scrutiny Committee	The scrutiny of Crime and Disorder Partnerships under the Police and Justice Act 2006, the provision, planning, management and performance of waste and recycling, community safety, trading standards, licensing, environmental protection and related matters in Thurrock.

Committee	Scope
Corporate Overview and Scrutiny Committee	Coordination and leadership of overview and scrutiny including any issues that are not addressed by any other Overview and Scrutiny Committee, as well as the provision, planning, management and performance of the Local Area Agreement, Local Strategic Partnership and other partnerships, corporate or central services including corporate and cross cutting issues, the Budget, value for money and related matters and an overview of the performance of the Council.
Housing Overview and Scrutiny Committee	To oversee the provision, planning, management and performance of all services of the Housing Directorate

2.2 The terms of reference of each Overview and Scrutiny Committee are set out in more detail in Part 2 of this chapter of this Constitution.

3. Membership

3.1 The Membership of each Overview and Scrutiny Committee shall be determined by Council. All Members other than Cabinet Members may be appointed to be Members of Overview and Scrutiny Committees or Sub-Committees.

3.2 The Council may determine that certain Overview and Scrutiny Committee or Committees shall be chaired by a Minority Party Member.

3.3 Council may appoint persons to any Overview and Scrutiny Committee, and an Overview and Scrutiny Committee may appoint persons to any of its Sub-Committees, who are not Members of the authority, but such "co-opted Members" shall be non-voting Members for all purposes, except in so far as Council may provide in a scheme for the purpose of paragraph 12 of Schedule 1 to the Local Government Act 2000.

3.4 The Overview and Scrutiny Committee which has responsibility for matters relating to Education, and any Sub-Committee thereof which has responsibility for matters relating to Education, shall include in its Membership the following voting representatives:

- (a) At least one Church of England diocese representative
- (b) At least one Roman Catholic diocese representative
- (c) Between two and five parent governor representatives

3.5 These representatives will be entitled to vote where the Overview and Scrutiny Committee is considering matters related to the Council's education functions. If the Overview and Scrutiny Committee is dealing with other matters, these representatives shall not vote on those matters though they may stay in the meeting and speak at the discretion of the Chair. The Overview and Scrutiny Committee will attempt to organise its meetings so that relevant education matters are grouped together. For the avoidance of doubt a function is an education function if it relates to a function in respect of which the authority has responsibility under the Education Acts.

- 3.6 Any Overview and Scrutiny Committee with responsibility for crime and disorder may determine that co-opted Members of the Committee may vote on crime and disorder matters.

4. General Role of Overview and Scrutiny Committees

- 4.1 Within their terms of reference the Overview and Scrutiny Committees, which all have equal status, will:
- (a) Review and scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions
 - (b) Make reports and recommendations to the Cabinet and/or full Council and/or any Committee in connection with the discharge of any functions
 - (c) Consider any matter affecting the area of Thurrock or its inhabitants and make reports and recommendations
 - (d) In accordance with the procedures for Call-In, exercise the right to Call-In for reconsideration decisions falling within their remit which have been made but not yet implemented by the Cabinet or on behalf of the Cabinet, and undertake reviews aiming to improve the efficient and effective delivery of services to local people.

5. Specific Functions of Overview and Scrutiny Committees

Policy development and review

- 5.1 Within their terms of reference the Overview and Scrutiny Committees will:
- (a) Assist the Council and the Cabinet in the development of its Budget and Policy Framework by analysis of policy issues or proposed projects
 - (b) Conduct research, community and other consultation in the analysis of policy issues or proposed projects and possible options
 - (c) Consider and implement mechanisms to encourage and enhance community participation in the development of policy or project options
 - (d) Question Members of the Cabinet, Committees and senior Officers of the Council, and representatives of other public, business or voluntary/community sector bodies, about their views on issues and proposals affecting the area, and
 - (e) 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.

Scrutiny

- 5.2 Within their terms of reference the Overview and Scrutiny Committees will:

- (a) Review and scrutinise the decisions made by, and the performance of, the Cabinet, Committees, and Council Officers, both in relation to individual decisions and over time
- (b) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas
- (c) Question Members of the Cabinet, Committees, Chief Officers/Directors and senior 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
- (d) Make reports and recommendations to the full Council and/or the Cabinet and/or any Committee arising from the outcome of the scrutiny process
- (e) Review and scrutinise the performance of other public bodies in the area, including performance against Local Area Agreement targets, in pursuance of the powers outlined in the Local Government and Public Involvement in Health Act 2007, having regard to any government regulations and guidance that may be issued
- (f) Question, call for and gather evidence from any person or organisation (with their consent)
- (g) Review and scrutinise the adequacy of the response of the Council, or Cabinet, or Committee to a petition following a request for such a review by the lead petitioner (under the provisions of the Council's Petition Scheme).

Crime and disorder

5.3 The Cleaner, Greener and Safer Overview and Scrutiny Committee shall, and its Sub-Committees may:

- (a) Act as the crime and disorder Committee within the meaning of section 19 of the Police and Justice Act 2006
- (b) Review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions
- (c) Make reports or recommendations to the local authority with respect to the discharge of those functions
- (d) Make recommendations to the Cabinet and/or Council with respect to any matter which is a local crime and disorder matter in relation to a Member of the authority
- (e) Consider any crime and disorder matters referred by any Member of the Council.

6. Councillor Call for Action

- 6.1 Within their terms of reference the Overview and Scrutiny Committees will also consider Councillor Calls for Action (section 119, Local Government Act 2000), in accordance with the relevant best practice guidance jointly issued by the Centre for Governance and Scrutiny and the Improvement and Development Agency.

7. Annual Report

- 7.1 Each Overview and Scrutiny Committee will report annually to Council on the workings of the overall scrutiny function, and may make recommendations for future work programmes and amended working methods if appropriate.

8. Overview and Scrutiny Task and Finish Groups and Working Groups

- 8.1 Any Overview and Scrutiny Committee may establish such Task and Finish Groups or Working Groups as it considers appropriate for the effective discharge of its functions and may delegate any of its functions to a Task and Finish Group.
- 8.2 A Task and Finish Group may be established by an Overview and Scrutiny Committee to consider a specific piece of work and make recommendations to its parent committee or directly to the Cabinet. The number of Members of the Task and Finish Group and its terms of reference must be specified when it is established.
- 8.3 Group Leaders will make nominations to the number of seats available on any Task and Finish Group, in accordance with the political balance of the Council.
- 8.4 An Overview and Scrutiny Committee may establish Working Groups to consider a specific piece of work or look into a particular issue in more detail outside of the formal meeting of the Committee. Any such Working Group will comprise of members of the Committee, working informally with Officers or other Members and reporting their findings back to the Committee.

9. Proceedings of the Overview and Scrutiny Committees, Task and Finish Groups and Working Groups

- 9.1 The Overview and Scrutiny Committees and Task and Finish Groups will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 3 of this Chapter.
- 9.2 Overview and Scrutiny Committees and Task and Finish Groups will be subject to the Access to Information Procedure Rules in Chapter 8 of this Constitution.
- 9.3 A Working Group established by an Overview and Scrutiny Committee is not required to conduct its proceedings in accordance with the Scrutiny Procedure Rules in Part 3 of this Chapter or the Access to Information Procedure Rules in Chapter 8 of this Constitution.

Part 2 – Terms of Reference of Overview and Scrutiny Committees

Council has determined that the following Overview and Scrutiny Committees shall be constituted and shall have responsibility for overview and scrutiny in relation to the matters set out below.

1.	Corporate Overview and Scrutiny Committee	
Appointed by:	Number of Elected Members:	
The Council under section 21 of the Local Government Act 2000	Six, of whom none may be a Cabinet Member	
Chair and Vice-Chair appointed by:	Political Proportionality:	
The Council	The elected Members shall be appointed in accordance with Political Proportionality	
Quorum:	Co-opted Members to be appointed by Council:	
Three elected Members	None	
Functions determined by Council:		
<ol style="list-style-type: none"> 1. The Council's overall performance 2. The Council's overall Budget and Value for Money 3. Council's strategic risk management 4. Local Strategic Partnership, other partnerships and community forums 5. Community Leadership, Community Engagement and Community Empowerment 6. Ethical governance matters in conjunction with the Standards and Audit Committee 7. Internal and external communications 8. External and European Funding 9. Resources, including human resources and asset management 10. Information and communications technology 11. Procurement 12. Monitor Councillor Call for Actions 13. Monitor and steer the overall direction of the overview and scrutiny function 14. Any other issues not covered by the six Overview and Scrutiny Committees 		
Functions determined by Statute:		
All the powers of an Overview and Scrutiny Committee as set out in section 21 of the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007		

2. Children's Services Overview and Scrutiny Committee	
Appointed by: The Council	Number of Elected Members: Six, of whom none may be Cabinet Members.
Chair and Vice-Chair appointed by: The Council	Political Proportionality: The elected Members shall be appointed in accordance with Political Proportionality
Quorum: Three elected Members or two elected Members and one Co-opted Member with voting rights.	Co-opted Members to be appointed by Council: Four statutory Co-Opted Members to have voting rights in respect of educational matters, and non-voting in respect of all other matters. A further co-opted non-voting Member from Thurrock HealthWatch
Functions determined by Council: <ol style="list-style-type: none"> 1. Universal Services (schools, colleges, settings and services) 2. Targeted Services (SEN, Behaviour and Attendance, narrowing the gap in outcomes) 3. Specialist Services (safeguarding, child protection, children in care, youth offending) 4. Prevent duties 	
Cross-cutting: The manner in which services of the Authority, the Police and the National Health Service address the needs of children and young people in Thurrock. Note: Where a National Health Service issue affects the population generally, including children, the matter shall be referred to the Health and Well-being Overview and Scrutiny Committee unless that Committee or its Chair agrees otherwise.	
Functions determined by Statute: All the powers of an Overview and Scrutiny Committee as set out in section 21 of the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007.	

3.	Health and Well-Being Overview and Scrutiny Committee	
Appointed by:		Number of Elected Members:
The Council under section 21, Local Government Act 2000		Six, of whom none may be Cabinet Members or Members of the Health and Wellbeing Board
Chair and Vice-Chair appointed by:		Political Proportionality:
The Council		The elected Members shall be appointed in accordance with Political Proportionality
Quorum:		Co-opted Members to be appointed by Council:
Three elected Members		Two, non-voting
Functions determined by Council:		
<ol style="list-style-type: none"> 1. Provision, planning, management and performance of adult social services 2. To review and scrutinise the planning, provision and operation of the health service in Thurrock 3. Diversity and equality issues (other than the Authority's human resources policies) 4. Work in partnership and act as a member of regional, sub-regional and local health scrutiny networks 5. Adult training and skills 6. Scrutiny of the Health and Well Being Board 7. Public Health 8. Libraries 		
Functions determined by Statute:		
All the powers of an Overview and Scrutiny Committee as set out in section 21 of the Local Government Act 2000, Local Government and Public Involvement in Health Act 2007, Social Care Act 2001, the Health and Social Care Act 2012 and any subsequent regulations.		

4. Cleaner, Greener and Safer Overview and Scrutiny Committee	
Appointed by: The Council under section 21 of the Local Government Act 2000	Number of Elected Members: Six, of whom none shall be a Cabinet Member
Chair and Vice-Chair appointed by: The Council	Political Proportionality: The elected Members shall be appointed in accordance with Political Proportionality
Quorum: Three elected Members	Co-opted Members to be appointed by Council: None appointed
Functions determined by Council: <ol style="list-style-type: none"> 1. Crime and Disorder Partnerships under the Police and Justice Act 2006 2. Waste and recycling 3. Community safety 4. Environmental protection and management of the environment 5. Consumer protection and trading standards 6. Licensing 7. Animal welfare 8. Prevent duties 9. Parks, open spaces and cemeteries 10. Museums and community facilities 11. Sports development 	
Functions determined by Statute: All the powers of an Overview and Scrutiny Committee as set out in section 21 of the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007. This Committee is also the designated Committee under section 19 Police and Justice Act 2006.	

5.	Planning, Transport, Regeneration Overview and Scrutiny Committee	
Appointed by:		Number of Elected Members:
The Council		Six, of whom none may be Cabinet Members.
Chair and Vice-Chair appointed by:		Political Proportionality:
The Council		The elected Members shall be appointed in accordance with Political Proportionality
Quorum:		Co-opted Members to be appointed by Council:
Three elected Members		None appointed
Functions determined by Council:		
<ol style="list-style-type: none"> 1. Regeneration and economic development 2. Strategic and local development framework 3. Regional and local planning 4. Growth and the provision of related infrastructure 5. Development control 6. Built heritage and the countryside 7. Provision, planning, management and performance of the Planning and Highways service, including transport 8. Effective discharge of planning function including the proper function of the Planning Committee – note: planning decisions cannot be scrutinised 9. Arts development 		
Functions determined by Statute:		
All the powers of an Overview and Scrutiny Committee as set out in section 21 of the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007.		

6. Housing Overview and Scrutiny Committee	
Appointed by: The Council under section 21, Local Government Act 2000	Number of Elected Members: Six, of whom none may be Cabinet Members
Chair and Vice-Chair appointed by: The Council	Political Proportionality: The elected Members shall be appointed in accordance with Political Proportionality
Quorum: Three elected Members	Co-opted Members to be appointed by Council: One, non-voting, Housing Tenant Representative
<p>Functions determined by Council:</p> <p>To review and scrutinise matters relating to:</p> <ol style="list-style-type: none"> 1. the formulation of policies and strategies to govern the Council's housing activities 2. housing needs issues, including allocations, and tenancy reform 3. service issues, including the repairs service, local budgets, customer profiling and personalised services (particularly for older residents) 4. development, including Housing Revenue Account financing, new build and regeneration of the estates 5. the Council's functions in relation to the fitness and improvement of private sector housing, including, the registrations of landlords, standards within the sector and its use as temporary accommodation 6. the Housing Revenue Account budget 7. homelessness and travellers 8. the provision, planning and performance of all housing functions 	
<p>Functions determined by Statute:</p> <p>All the powers of an Overview and Scrutiny Committee as set out in section 21 of the Local Government Act 2000, Local Government and Public Involvement in Health Act 2007 and Social Care Act 2001.</p>	

Part 3 – Scrutiny Procedure Rules

1. Meetings of the Overview and Scrutiny Committees

- 1.1 There shall be up to six ordinary meetings of each of the Overview and Scrutiny Committees each year.
- 1.2 Subject to Rule 1.4 below, the time and place of meetings shall be as set out in the Calendar of Meetings approved by the Council annually although the Chair and Monitoring Officer or a Committee by resolution, may determine that an ordinary meeting shall be held at such other place as they consider appropriate. The Chair and/or Monitoring Officer may determine, having regard to special circumstances, that a particular ordinary meeting be held at such other time as they consider appropriate.
- 1.3 The Chair (or in his/her absence, the Vice Chair) may cancel or postpone an ordinary meeting prior to the issue of an Agenda for the meeting where, after consultation with the Monitoring Officer, the Chair (or in his/her absence, the Vice Chair) considers that there is insufficient business to transact or where an event occurs which the Chair (or in his/her absence, the Vice Chair) considers would make it inappropriate to hold the meeting on the intended date. If circumstances make it impossible for a meeting to be held as convened, the Chair (or in his/her absence, the Vice Chair), after consultation with the Monitoring Officer may postpone an ordinary meeting and hold the meeting on a date to be agreed.
- 1.4 The Chair, or in the Chair's absence the Vice-Chair, may from time to time agree to cancel meetings if there is insufficient business to transact at that time.
- 1.5 In addition, an extraordinary meeting of an Overview and Scrutiny Committee may be called by either:
 - (a) The Chair of the relevant Committee, or in the Chair's absence the Vice-Chair
 - (b) A quorum of the Members of the Committee; or
 - (c) The Monitoring Officer if he/she considers it necessary or appropriate.
- 1.6 Meetings may be held in a location suited to the topic under consideration, at the discretion of the Committee Chair, or in the Chair's absence, the Vice-Chair.

2. Work Programme

- 2.1 Each Overview and Scrutiny Committee shall be responsible for setting its own work programme, taking into account the wishes and preferences of the Members of that Committee, including Members who are not members of the largest political group on the Council or of any political group.
- 2.2 Each Overview and Scrutiny Committee may receive requests from the Cabinet and suggestions from Officers of the Council and co-optees for particular topics to be scrutinised.

3. Agenda Items

- 3.1 Any Member of the Council may, with 7 working days' notice, request the Monitoring Officer to include an item on the agenda of a relevant Overview and Scrutiny Committee. Upon receipt of such a request the Monitoring Officer shall ensure that the item is included on the next available agenda for consideration by the relevant Committee, and advise the Chair accordingly.
- 3.2 There will be a standing item on the agenda of all ordinary meetings of Overview and Scrutiny Committees to allow such requests to be considered.
- 3.3 Any Member who submits a request will have the right to attend the meeting at which the item is to be considered, to explain the reasons for the request and to have the item discussed. The Committee will decide either:
- (a) If the matter is a simple one, to resolve it forthwith
 - (b) To request Officers to prepare a report for the next convenient meeting
 - (c) To set up a task and finish group to investigate and report back to the Committee
 - (d) To make recommendations to the Cabinet or Council, as appropriate
 - (e) To decide to take no further action upon the request, for stated reasons.
- 3.4 The Overview and Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and, if they consider it appropriate, the Cabinet, to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committees shall report their findings and any recommendations back to the Cabinet or Council, as appropriate. The Council and/or the Cabinet shall consider and respond to a report of an Overview and Scrutiny Committee within two months of receiving it unless otherwise agreed by the Chair of the relevant Committee.

Reports of Cabinet Portfolio Holders

- 3.5 Once during the municipal year, the Cabinet Portfolio Holder may be requested to report to the relevant Overview and Scrutiny Committee on the progress or otherwise of their respective roles and responsibilities as follows:
- (a) Each Portfolio Holder will submit written reports to one meeting of the relevant Overview and Scrutiny Committee per year, which should be circulated with the main agenda for the meeting.
 - (b) The time allowed to introduce the report and receive questions on each report shall, unless otherwise agreed by the Committee, not exceed 30 minutes, during which time the Cabinet Member will have up to 5 minutes to introduce the report, all Members will be able to seek to make contributions and ask questions on the report, after which the Portfolio Holder will have up to 2 minutes to sum-up.

4. Policy Review and Development

- 4.1 The role of the Overview and Scrutiny Committees in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules set out in Chapter 3 Part 3.
- 4.2 In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework Budget, an Overview and Scrutiny Committee may:
- (a) Consider and make recommendations to the Cabinet on any matters that are consistent with its terms of reference
 - (b) Hold enquiries and investigate the available options for future direction in policy development and appoint advisers and assessors to assist in this process, within available Budgets
 - (c) Do anything which is reasonable to assist or inform its deliberations, including a general call for evidence, site visits, public surveys, public meetings and commissioning research
 - (d) Ask witnesses to attend to address it on any matter under consideration and pay to any advisers, assessors or witnesses a reasonable fee and expenses for doing so.
- 4.3 The Overview and Scrutiny Committees may also exercise the above tasks through Task and Finish groups.

5. Procedure at Overview and Scrutiny Committee Meetings

- 5.1 Overview and scrutiny Committees shall consider the following business:
- (a) Minutes of the last meeting
 - (b) Receipt of urgent business
 - (c) Declarations of interest (including whipping declarations)
 - (d) The receipt of petitions from members of the public (in accordance with the Public Participation Procedure as set out later in this Chapter.)
 - (e) Public questions, statements or deputations (in accordance with the Public Participation in Scrutiny Procedure as set out in later in this Chapter in Rule 14)
 - (f) Consideration of any matter referred to the Committee by a Member under Rules 3.1 or 3.2 above
 - (g) Responses of the Council or the Cabinet to the Committee's reports or recommendations
 - (h) Any other business specified in the agenda for the meeting, and
 - (i) The Forward Plan and its work programme.

- 5.2 The provisions of the Committee Procedure Rules set out in Chapter 5 will be applied to meetings of the Overview and Scrutiny Committees to the extent they are considered appropriate.
- 5.3 Where the Overview and Scrutiny Committee conducts investigations (for example, with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings, which are to be conducted in accordance with the following principles:
- (a) that the investigation is conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak
 - (b) that those assisting the Committee by giving evidence be treated with respect and courtesy
 - (c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis
- 5.4 Within those principles the Council expects the Overview and Scrutiny Committees to be effective, thorough and incisive and to consider all relevant evidence in their work. It also expects the Committees to strive for continuous improvement in the overview and scrutiny function and to develop further opportunities for public engagement.
- 5.5 Following any investigation or review, the Committee shall prepare a report for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public subject to the Access to Information Rules and provisions relating to confidential and exempt reports or information, and any prohibition, limitation or restriction on disclosure arising from statute, any rule of law, or order of a court.
- 5.6 The Protocol for Member/Officer Relations contained in Chapter 7 of the Constitution shall apply to the attendance of Officers giving evidence to an Overview and Scrutiny Committee or sub-Committee.

6. Reports from Overview and Scrutiny Committees

- 6.1 An Overview and Scrutiny Committee may prepare a formal report, with recommendations, and submit it to the Monitoring Officer with a notice requiring it to be considered by the Cabinet or the Council as appropriate, depending on which body is responsible for the function concerned and whether the proposals are consistent with the Council's Budget and Policy Framework. Where a report is to be made to the Council, the Monitoring Officer shall refer a copy to the Leader with notice that the matter is to be referred to the Council.
- 6.2 If an Overview and Scrutiny Committee cannot agree on one single final report to the Cabinet or Council as appropriate, then one or more minority reports may be prepared and submitted for consideration by the Cabinet or Council at the same time as the majority report. Officers shall support the preparation of any such minority reports.
- 6.3 The Cabinet or Council as appropriate, in compliance with its legal duty to comply with any notice given by an Overview and Scrutiny Committee under Rule 6.1 above, shall:

- (a) consider the report and recommendations of the Overview and Scrutiny Committee at its next available meeting
- (b) respond to any such report within two months of its receipt indicating what action, if any, the authority or the Cabinet proposes to take, and if it decides to take no action, the reasons for that decision

6.4 The agenda for Cabinet meetings shall include a standard item entitled 'Overview and Scrutiny Committee Matters' to facilitate the Cabinet's early consideration of scrutiny reports and recommendations, which shall be included at this point on the agenda unless they have been reported as part of a substantive item elsewhere on the agenda.

6.5 Reports and recommendations of Overview and Scrutiny Committees will normally be presented at Cabinet and Council meetings by the relevant Overview and Scrutiny Committee Chair or Vice-Chair, or by another non-executive Member nominated by that Committee. The Member concerned will be invited to participate in discussion of the report.

Reports on Local Improvement Targets

6.6 Where the Corporate Overview and Scrutiny Committee or any other Overview and Scrutiny Committee makes a report or recommendations on a local improvement target specified in the Local Area Agreement that relates to a relevant partner authority, it may by written notice require the relevant partner authority to have regard to the report or recommendation in question in exercising its functions. This power will be exercised in accordance with such government regulations and statutory guidance as may be issued under section 21C of the Local Government Act 2000 (inserted by section 122 of the Local Government and Public Involvement in Health Act 2007).

Reports on Local Crime and Disorder Matters

6.7 Where the Cleaner Greener and Safer Overview and Scrutiny Committee makes a report or recommendations on a local crime and disorder matter within its terms of reference, it will copy the report to the responsible authorities, notifying them of their duty under section 19 of the Police and Justice Act 2006 (as amended by section 126 of the Local Government and Public Involvement in Health Act 2007) (a) to consider the report or recommendations; (b) to respond to the Committee in writing within 28 days indicating what (if any) action it proposes to take; and (c) to have regard to the report or recommendations in exercising its functions. This power will be exercised in accordance with the Crime and Disorder (Overview and Scrutiny) Regulations 2009. The matters considered by the Committee will be crime and disorder matters to the extent that they fall within the Council's crime and disorder strategy.

Reports on Local Health Service Matters

6.8 Where the Health and Wellbeing Overview and Scrutiny Committee makes a report or recommendations on a local health service matter, it will copy the report to the relevant NHS bodies and request a response in writing within two calendar months.

6.9 Where the Committee (including any joint health Overview and Scrutiny Committee to which the Committee has appointed one or more Members) has been consulted by a local NHS body on any proposal for a substantial variation or development in local NHS

services, and the Committee (having considered the evidence) is not satisfied that consultation has been adequate, or considers that the proposal would not be in the interests of the health service in the area, then it may report in writing to the Secretary of State, under section 244, NHS Act 2006.

7. Rights of Overview and Scrutiny Committee Members to Documents

- 7.1 Overview and Scrutiny Committees will have access to the Forward Plan of key decisions of the Cabinet and timetable for decisions and intentions for consultation.
- 7.2 In addition to their rights as Councillors, Members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules set out in Chapter 8 of the Constitution.
- 7.3 Nothing in this paragraph shall prevent more detailed liaison between the Cabinet and Overview and Scrutiny Committees as appropriate depending on the particular matter under consideration.

8. Members and Officers giving Account

- 8.1 An Overview and Scrutiny Committee (or Task and Finish group) may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function or other matter that is within its terms of reference. As well as reviewing documentation an Overview and Scrutiny Committee (including any task group) may, in fulfilling the scrutiny role, require any Member of the Cabinet, the Chief Executive and/or any Director to attend before it to explain, in relation to matters within their remit:
- (a) Any particular decision or series of decisions
 - (b) The extent to which the actions taken implement Council policy
 - (c) The performance of their areas of responsibility
- 8.2 An Overview and Scrutiny Committee may also require any Council Member who has been granted local ward Member powers (for instance a delegated Budget) under section 236 of the Local Government and Public Involvement in Health Act 2007 to attend before it to answer questions on any function which the Member has power to exercise.
- 8.3 It is the duty of those persons described in Rules 8.1 and 8.2 above to attend if so required.
- 8.4 Where any Cabinet Member, Ward Member or Officer is required to attend an Overview and Scrutiny Committee or a task group under this provision, Democratic Services staff will inform that Member or Officer in writing, giving at least 5 working days' notice of a meeting of the Overview and Scrutiny Committee meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee.
- 8.5 Where the account to be given to the Committee will require the production of a report, then the Member or Officer concerned will be given at least 14 working days' notice to allow for preparation of that documentation.

- 8.6 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then a substitute may be asked to attend or the Overview and Scrutiny Committee may, in consultation with the Member or Officer, arrange an alternative date for attendance, which shall be no later than the next scheduled meeting.

9. Attendance by others

- 9.1 An Overview and Scrutiny Committee may invite people other than those people referred to above to address it, discuss issues of local concern and/or answer questions. It may wish to hear for example from residents, representatives from the local NHS Trust, stakeholders, Members and Officers in other parts of the public sector, or experts, and may invite such people to attend.
- 9.2 Public participation in meetings of the Overview and Scrutiny Committees shall be governed by the provisions set out later in this chapter.
- 9.3 Any Member of the Council shall be entitled to attend meetings of the Overview and Scrutiny Committees and to speak once on any agenda item, with further speaking being at the discretion of the Chair.
- 9.4 Rule 9.3 above is subject to the Rules on non-pecuniary, pecuniary and disclosable pecuniary interests in the Members' Code of Conduct set out in Chapter 7, Part 2 of the Constitution; which would permit a Member with a non-pecuniary or non-disclosable pecuniary interest or disclosable pecuniary interest to attend an Overview and Scrutiny Committee meeting but only for the purpose of answering questions or giving evidence at the request of the Committee relating to the business under discussion; the Member must then withdraw from the meeting. If the Member wishes to make representations to the Committee, he/she may do so after being granted a dispensation
- 9.5 Rule 9.4 above does not prevent an Overview and Scrutiny Committee from requiring Cabinet Members or inviting other persons (including Council Members) to attend before it to answer questions.

10. Call-in

- 10.1 Call-in is the exercise of the Overview and Scrutiny Committees' statutory power in section 21(3) of the Local Government Act 2000 to review an Executive / Cabinet decision that has been made but not yet implemented. Where a decision is called in and the Overview and Scrutiny Committee decides to refer it back to the Cabinet for reconsideration, it cannot be implemented until the Call-In procedure is complete.
- 10.2 Any decision of the Executive / Cabinet, an individual Member of the Cabinet or a Committee of the Cabinet, or a Key Decision made by an Officer under authority delegated by the Cabinet, is subject to Call-In. A decision may be called in only once. An Executive / Cabinet recommendation to full Council may not be called in.
- 10.3 The Call-In procedure and the powers to refer a decision back for reconsideration may be exercised by any of the Overview and Scrutiny Committees, within the remit of their respective terms of reference.

- 10.4 Requests for Call-In can only be made if there is evidence that the decision-maker did not take the decision in accordance with the principles of decision-making as set out in the Constitution (Article 13, paragraph 2.1) and repeated as follows:
- (a) Due regard for the individuals and communities served by Thurrock Borough Council
 - (b) Proportionality – that is, the action must be proportionate to the desired outcome
 - (c) Due consultation
 - (d) Respect for human rights
 - (e) A presumption in favour of openness, and
 - (f) Clarity of aims and desired outcomes – that is, link between strategy and implementation
 - (g) Consistent with the Council's Budget and Policy Framework

10.5 Call-in of decisions which may be contrary to the Budget and Policy Framework shall be governed by the provisions of the Budget and Policy Framework Procedure Rules in Chapter 3 Part 3 of the Constitution.

The Call-In Procedure

- 10.6 Once made, an Executive decision shall be published, in the form of a decisions notice, within two working days at the Council's main offices and on its public website. The decisions notice will be sent to all Members of the Council within the same timescale.
- 10.7 The decisions notice will bear the date on which it is published and will specify that the decision will be effective on the expiry of 5 working days after the publication of the decision and may then be implemented, unless called in under this provision within that 5 clear working day period. The deadline for a Call-In request will be specified in the decisions digest.
- 10.8 Requests for Call-In may be made by either:
- (a) An individual Member where a decision has particular significance for that Member's ward
 - (b) The Chair of the relevant Overview and Scrutiny Committee
 - (c) Any two Members of the relevant Overview and Scrutiny Committee
 - (d) Any three non-executive Members of the Council
 - (e) A voluntary group with an interest in the area
 - (f) A local business situated in the area (except in relation to decisions relating to procurement of goods and services)

- (g) 10 members of the public living, working or studying within Thurrock Council area
- 10.9 A Call-In request must be in the form of a written notice submitted to the Monitoring Officer and received before the published deadline. Either one notice containing all required signatures or separate emails from the persons making the Call-In request will be acceptable.
- 10.10 The notice must set out:
- (a) the resolution or resolutions that the Member(s) wish to call-in
 - (b) the reasons why they wish the Overview and Scrutiny Committee to consider referring it back to the Cabinet, citing one or more of the reasons set out in Rule 10.4 above and the particulars of the reason/s, and
 - (c) the alternative course of action or recommendations that they wish to propose
- 10.11 The Call-In request will be deemed valid unless either:
- (a) The procedures set out in Rules 10.7 to 10.10 have not been properly followed
 - (b) The grounds for call-in as set out in Rule 10.4 above have not been met
 - (c) A similar decision has been called in to the Committee previously within 2 years
 - (d) The decision has been recorded as urgent in accordance with Rules 10.14 to 10.17 below
 - (e) The Chief Executive after consultation with the Chair of the relevant Overview and Scrutiny Committee, considers the Call-In to be frivolous, vexatious or not a proper use of the Call-In provisions taking into account the following factors:
 - (i) Whether the matter has been considered as part of pre-decision scrutiny by any scrutiny Committee, Sub-Committee, task group or panel.
 - (ii) Whether there has been any substantive change in the nature of the decisions being made since any pre-decision scrutiny of the proposals.
 - (iii) Whether the recommendations or alternative course of action or recommendations in the Call-In request have been previously considered and rejected in whole or part as part of pre-decision scrutiny.
 - (iv) Any other relevant factor
 - (f) The Chief Executive in consultation with the Monitoring Officer considers that the Call-In would result in the Council failing to discharge its legal duties

- 10.12 Before deciding on its validity, the Chief Executive may seek clarification of the Call-In request from the Member(s) concerned. In the absence of the Chief Executive, the Monitoring Officer shall exercise the Chief Executive's functions in this respect.
- 10.13 Upon deciding on its validity, the Chief Executive shall forthwith notify the Member(s) concerned, the Leader and Portfolio Holder, the Chair and Vice-Chair of the Overview and Scrutiny Committee, the relevant Director/Assistant Director and Officer responsible for overview and scrutiny.

Decisions not subject to Call-In

- 10.14 The following categories of decision are not subject to Call-In:
- (a) recommendations by the Cabinet on the Budget and Policy Framework, which will be determined by the Council
 - (b) decisions for urgent implementation under the Access to Information Procedure Rules
 - (c) urgent decisions outside the Budget or Policy Framework as set out in Chapter 3, Part 3, Budget and Policy Framework Procedure Rules (Rule 4)
 - (d) decisions to award a contract following a lawful procurement process

Call-In and Urgency

- 10.15 The Call-In procedure set out above shall not apply where the decision being taken is urgent. A decision is urgent if:
- (a) A Call-In would prevent the Council reaching a decision that is required by statute or otherwise within a specified timescale
 - (b) Any delay likely to be caused by the Call-In process would seriously prejudice the Council's or the public's interests and the reasons for urgency are reported to the decision-making body or person before the decision is taken
 - (c) Any delay likely to be caused by the Call-In process would be likely to expose the Council, its Members or its constituents to significant level of risk, loss, damage or significant disadvantage
- 10.16 In the case of (b) above the decisions digest shall state whether the decision is an urgent one, and therefore not subject to Call-In. The consent of the Chair of the relevant Overview and Scrutiny Committee is required to agree to the decision being treated as a matter of urgency before it may be so treated. In the absence of the Chair, the Vice-Chair of the relevant Overview and Scrutiny Committee's consent is required. In the absence of that person, the Mayor's consent is required. In the absence of the Mayor, the Deputy Mayor of the Council's consent is required.
- 10.17 Where the Cabinet has recorded a decision as urgent, an Overview and Scrutiny Committee may retrospectively review actions arising from that decision but cannot delay its implementation.

Consideration by the Overview and Scrutiny Committee

- 10.18 The Monitoring Officer will ensure that any valid Call-In is reported to the next available meeting of the relevant Overview and Scrutiny Committee, or will convene an extraordinary meeting in accordance with Rule 1.5 above.
- 10.19 The Member(s) submitting the request for Call-In will be expected to attend the meeting of the relevant Overview and Scrutiny Committee to explain their reasons for the Call-In and the alternative course of action or recommendations they wish to propose.
- 10.20 Having considered the Call-In and the reasons given, the relevant Overview and Scrutiny Committee may either:
- (a) Refer it back to the decision-making person or body for reconsideration, normally in time for its next scheduled meeting, setting out in writing the nature of its concerns and any alternative recommendations
 - (b) If it considers that the decision is outside the Council's Budget and Policy Framework, refer the matter to full Council after seeking the advice of the Monitoring Officer and/or Chief Finance Officer in accordance with Rule 4 of the Budget and Policy Framework Procedure Rules in Chapter 3, Part 3 of the Constitution
 - (c) Decide to take no further action, in which case the original Cabinet decision will be effective immediately.

Decisions Referred Back to the Decision-Maker

- 10.21 If a decision is referred back to the original decision-maker, that person or body shall then reconsider the matter, taking into account any concerns and recommendations of the Overview and Scrutiny Committee, and make a final decision, amending the decision or not, and give reasons for the decision.
- 10.22 If a decision relates to an Executive function, only the Cabinet can ultimately decide the matter, provided that it is in accordance with the Council's Budget and Policy Framework.

11. Councillor Call for Action

- 11.1 Any Member of the Council may, with 7 working days' notice, request the Monitoring Officer to include a Councillor Call for Action on the agenda of a relevant Overview and Scrutiny Committee. Upon receipt of such a Call for Action the Monitoring Officer shall ensure that the item is included on the next available agenda for consideration by the relevant Committee, and advise the Chair accordingly.
- 11.2 A Councillor Call for Action must be in the form of a written application (the appropriate form is available from the Democratic Services Manager) submitted to the Monitoring Officer and received within the timescale outlined in Rule 11.1 above.
- 11.3 Any Member who submits a Call for Action will have the right to attend the meeting at which the item is to be considered, to explain the reasons for the Call for Action and to have the item discussed. The Committee will decide either:

- (a) If the matter is a simple one, to resolve it forthwith
- (b) To request the Officers to prepare a report for the next meeting
- (c) To request the Member submitting the Call for Action to provide further evidence or information to a future meeting
- (d) To set up a task and finish group to investigate and report back to the Committee
- (e) To make recommendations to the Cabinet or Council, as appropriate
- (f) To decide to take no further action upon the request, for stated reasons

11.4 The Councillor Call for Action will be deemed valid unless either:

- (a) The procedures set out in Rules 11.1 and 11.2 have not been properly followed
- (b) It does not relate to a local government matter (that is, it does not relate to the functions of the Council nor its partners)
- (c) It does not relate to a local crime and disorder matter (including anti-social behaviour, behaviour adversely affecting the local environment and misuse of drugs, alcohol or other substances)
- (d) It does not affect all or part of the ward for which the referring Member is elected, or any person who lives or works in that ward
- (e) It is a matter that has been excluded by Order of the Secretary of State – for example, planning or licensing appeals and other quasi-judicial matters – or
- (f) The Monitoring Officer, in consultation with the Chair of the relevant Overview and Scrutiny Committee, considers the Call for Action to be frivolous, vexatious or clearly outside the Councillor Call for Action provisions; in which case the Monitoring Officer may reject the Call for Action request.

11.5 Before deciding on its validity, the Monitoring Officer may seek clarification of the Call for Action from the Member concerned. In the absence of the Monitoring Officer, the Deputy Monitoring Officer(s) shall exercise the Monitoring Officer's functions in this respect.

11.6 Upon deciding on its validity, the Monitoring Officer shall forthwith notify the Member concerned, the Leader and Portfolio Holder, the Chair and Vice-Chair of the relevant Overview and Scrutiny Committee, the Chief Executive, the relevant Director/Assistant Director and Officer responsible for overview and scrutiny.

12. The Party Whip

12.1 When considering any matter in respect of which a Member of an Overview and Scrutiny Committee is subject to a party whip the Member must declare the existence and nature of the whip before the Committee's deliberations on the matter commence.

12.2 The declaration and the detail of the whipping arrangements shall be recorded in the minutes of the meeting.

13. Matters within the remit of more than one Overview and Scrutiny Committee

- 13.1 Where a matter falls within the remit of more than one Overview and Scrutiny Committee, and their respective remits in relation to it cannot be satisfactorily resolved by the Chairs of those Committees, the Chief Executive will decide which Committee should consider it.
- 13.2 Where an Overview and Scrutiny Committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Overview and Scrutiny Committee, then the Committee conducting the review shall normally either:
- (a) invite the Chair of the other Committee (or his/her nominee) to attend its meetings when the matter is being reviewed, or
 - (b) consult the other Committee on its findings and recommendations, and include that Committee's comments in its own report to the Cabinet and/or Council

14. Public Participation in Scrutiny

- 14.1 Residents of Thurrock Council and those working, studying or with a business interest in the area are able to participate in the scrutiny process by:
- (a) Attending meetings
 - (b) Presenting petitions
 - (c) Asking a question
 - (d) making a statement or forming a deputation to the Scrutiny Committee (see Rule 5.1.(e))
 - (e) Being involved in a scrutiny investigation; or
 - (f) Calling in a Cabinet decision (10 people need to sign a Call-In request)
- 14.2 Rules set out for Petitions and Questions in Chapter 1, Part 2, Article 3 will apply to those presenting a petition or a question to Overview and Scrutiny Committees.
- 14.3 When there is a scrutiny investigation that would benefit from public participation the Officer supporting such investigation will ensure such participation is facilitated.
- 14.4 Members of the public interested in participating in a particular scrutiny investigation can do so by contacting the Democratic Services staff or the relevant Chair directly.

15. Admission to and reporting of meetings

- 15.1 The Openness of Local Government Bodies Regulations 2014, allow any person to attend and report on meetings, or those parts of meetings, that are open to the public using any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities. "Reporting" is defined in the Regulations as:

- (a) Filming, photographing or making an audio recording of proceedings at a meeting
- (b) Using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later
- (c) Reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present.

15.2 If, at any time during the meeting, the Chair feels that filming, recording, reporting or photography is disrupting proceedings, the provisions set out in the Council Procedure Rules at Chapter 2, Part 2 of this Constitution, namely Rules 22.4, 22.7, 23.1 and 23.2, will apply.

15.3 In any instance where the press and public have been excluded from the meeting in accordance with the provisions set out in Chapter 8 of this Constitution, the Council will not allow reporting on the meeting using methods which:

- (a) can be used without that person's presence at the meeting, and
- (b) enable persons not present at the meeting to see or hear the proceedings at the meeting as it takes place or later

Chapter 5 – Committees

Part 1 – Article 8 – Committees and Sub-Committees of Council

1. Committees

1.1 The Council may appoint such Committees as it determines for the effective discharge of its functions. It has determined to appoint the following Committees, each comprising the following number of Councillors:

	Name of Committee	Number of Members	Quorum
(a)	Planning Committee	Nine Councillors, plus two non-voting Members appointed annually by the Council, one to represent the interests of trade and commerce in Thurrock and one to represent the interests of heritage, countryside and conservation	Three voting Members
(b)	Licensing Committee	Fifteen Councillors	Three
(c)	General Services Committee	Seven Councillors	Three
(d)	Standards and Audit Committee	Six Councillors, plus six co-opted non-voting Members appointed by the elected Members of the Committee.	Three voting Members
(e)	Corporate Parenting Committee	Eight Councillors	Three
(f)	Health and Wellbeing Board	Four Councillors, plus the voting Members who are appointed by the Board.	Three voting Members
(g)	Hidden and Extreme Harms Prevention Committee	Six Councillors	Three

2. Functions

2.1 The terms of reference of each Committee are set out in Parts 3, 4 and 5 of this Chapter, and each Committee has delegated authority to discharge those functions within the Budget and Policy Framework of the authority.

3. Sub-Committees

3.1 Each Committee may appoint such Sub-Committees as it considers necessary for the effective discharge of its functions and may arrange for the discharge of any of its functions by such Sub-Committee.

4. Appointment

- 4.1 The Council shall appoint the Members of each Committee at the Annual Meeting of Council, or at the next convenient meeting thereafter, or as and when a vacancy has arisen. Each Committee shall appoint the Members of each of its Sub-Committees at the first meeting of the Committee after the Annual Meeting of Council, or as and when a vacancy has arisen.
- 4.2 Each Member of a Committee or Sub-Committee shall remain in office until:
- (a) he/she resigns as a Member of the Committee or Sub-Committee
 - (b) he/she ceases to be a Councillor or whilst suspended; or
 - (c) the Council appoints another person to act in place of the Member
- 4.3 All appointments of Councillors to Committees or Sub-Committees, other than to the Licensing Sub-Committee and the Health and Wellbeing Board, shall be made in accordance with the requirements of Proportionality.
- 4.4 The Council may appoint persons who are not members of the authority to any Committee as co-opted Members. Any such appointment(s) shall be undertaken in accordance with the Council Procedure Rules at Chapter 2, Part 2, Rule 27.6 of this Constitution.

5. Proceedings

- 5.1 Proceedings of these Committees and Sub-Committees shall take place in accordance with the Committee Procedure Rules in Part 2 of this chapter.

Part 2 – Committee Procedure Rules

1. Time and Place of Meeting

- 1.1 The time and place of any meeting will be determined by the Monitoring Officer and notified in the summons.

2. Meetings

- 2.1 The Monitoring Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. The Agenda for a meeting will give the date, time and place of each meeting, specify the business to be transacted, and will be accompanied by such reports as are available.
- 2.2 The Chair (or in his/her absence, the Vice Chair) may cancel or postpone an ordinary meeting prior to the issue of an Agenda for the meeting where, after consultation with the Monitoring Officer, the Chair (or in his/her absence, the Vice Chair) considers that there is insufficient business to transact or where an event occurs which the Chair (or in his/her absence, the Vice Chair) considers would make it inappropriate to hold the meeting on the intended date. If circumstances make it impossible for a meeting to be held as convened, the Chair (or in his/her absence, the Vice Chair), after consultation with the Monitoring Officer may postpone an ordinary meeting and hold the meeting on a date to be agreed.
- 2.3 The Monitoring Officer may call an extraordinary meeting of a Committee, after giving consideration to a request by either:
- (a) The Chair of the relevant Committee, or in the Chair's absence, the Vice-Chair
 - (b) A quorum of the Members of a Committee

3. Chair of Meeting

- 3.1 The Chair and Vice Chair of each Committee shall be appointed by the Council at its Annual Meeting.
- 3.2 Where both the Chair and Vice Chair are not present or able to act in respect of a particular item of business at a meeting, it is necessary to elect a person to preside over the meeting, or particular item of business, in their absence.
- 3.3 In any such case, the Democratic Services Officer in attendance at the meeting shall invite nominations from those members of the Committee for a person to preside at the meeting or in respect of the particular item, as necessary.
- 3.4 If there is more than one nomination, any vote that may be required can be determined by a simple majority of votes from those members of the Committee.
- 3.5 If there are more than two people nominated and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person. If there is still an equality of votes, the matter shall be determined by the drawing of lots.

3.6 The person presiding at the meeting may exercise any power or duty of the Chair.

4. Quorum

4.1 The quorum of a meeting will be one quarter of the whole number of Members, provided that in no case shall the quorum of a Committee be less than three Members. During the meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn for 15 minutes. If after that time the Chair counts the number of Members present and declares that there is still no quorum the meeting will adjourn. The remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date the remaining business will be considered at the next ordinary meeting.

5. Voting

Majority

5.1 Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present at the time the question was put.

Chair's casting vote

5.2 If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

Show of hands

5.3 Unless a ballot or recorded vote is demanded under Rules 5.4 or 5.5 below, the Chair will take the vote by a show of hands, or if there is no dissent, by the affirmation of the meeting.

Ballots

5.4 The votes will take place by ballot if a majority of the Members present at the meeting demand it. The Chair will announce the numerical result of the ballot immediately the result is known.

Recorded vote

5.5 If no less than one fifth of the Committee's Membership demand it at the meeting, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

Recording of votes at the Planning Committee

5.6 In cases where the Planning Committee votes on an application or enforcement matter to be determined by the Council, the Clerk to the Planning Committee shall record in writing and shall enter into the minutes the names of those Members voting for, against or abstaining from any such vote.

Right to require individual vote to be recorded

- 5.7 Where any Member requests it immediately after a vote is taken, his/her vote will be so recorded in the minutes to show whether he/she voted for or against the motion or abstained from voting.

Voting on appointments

- 5.8 If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

6. Minutes

Signing the minutes

- 6.1 The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as an accurate record. The only part of the minutes that can be discussed is their accuracy.

Form of minutes

- 6.2 Minutes will contain all motions and amendments in the exact form and order as put to the meeting.

7. Exclusion of Public

- 7.1 Members of the public and press may only be excluded either in accordance with the Access to Information Rules or the Council Procedure and Rules.

8. Member's Conduct

Chair Standing

- 8.1 When the Chair stands during a debate, any Member speaking at the time must stop. The meeting must be silent.

Member not to be heard further

- 8.2 If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

Member to leave the meeting

- 8.3 If the Member continues to behave improperly after such a motion is carried, the Chair may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

9. Disturbance

General disturbance

- 9.1 If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as he/she thinks necessary.

Removal of member of the public

- 9.2 If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair may order their removal from the meeting room.

Clearance of part of a meeting room

- 9.3 If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared, and may adjourn the meeting for 15 minutes or other suitable period.

10. Motion affecting persons employed by the Council

- 10.1 If any matter arises at a meeting to which the Local Government Act 1972 applies by virtue of section 100 (A) (2) or (4) as to the appointment, promotion, dismissal, salary, superannuation, or conditions of service or as to the conduct of any person employed by the Council, such matter shall not be the subject of discussion until the Committee has decided whether or not the power to exclude the public under section 100 (A) (2) or (4) of the Local Government Act 1972 shall be exercised.

11. Petitions

- 11.1 Committees may be presented with petitions in accordance with the Council's Petition Scheme.

12. Rules of Debate

- 12.1 The Rules of debate that apply to Council meetings set out in Chapter 2, Part 2, may be applied to meetings of Committees to the extent that the Chair considers appropriate.

13. Participation of Appointed Members

- 13.1 A Committee may make it a requirement of any Member participating as a Member of the Committee or of a Sub-Committee that the Member has undertaken appropriate training in the roles and responsibilities of Members in discharging the functions of the Committee or Sub-Committee, and may arrange for the provision of such training to all, or all new, Members of the Committee or Sub-Committee.
- 13.2 Enhanced DBS checks are carried out for all elected Members and any co-opted Members who are appointed to a committee or board which discharges education or social services functions. These checks will be carried out strictly in line with the Council DBS policy and any current eligibility guidance from a relevant DBS agency.

14. Attendance of other Members of the Council

- 14.1 A Member who is not a Member of the particular Committee or Sub-Committee may attend all meetings of any Committee or Sub-Committee, save that he/she shall withdraw from any part of a meeting from which the Committee or Sub-Committee excludes press and public unless specifically invited to remain by the Chair because of the special contribution which he/she can bring to the issue under consideration.

15. Recording of Meetings

- 15.1 Meetings of Council, the Planning Committee, the General Services Committee and Licensing Sub-Committees are routinely recorded and, on occasion, a recording may be made of any other Committee meeting.
- 15.2 Where a meeting is to be recorded, the Chair will make an announcement to this effect prior to the start of the meeting.
- 15.3 Recordings of meetings will be kept for a period not exceeding 12 months.

16. Admission to and reporting of meetings

- 16.1 The Openness of Local Government Bodies Regulations 2014, allow any person to attend and report on meetings, or those parts of meetings, that are open to the public using any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities. "Reporting" is defined in the Regulations as:
- (a) Filming, photographing or making an audio recording of proceedings at a meeting
 - (b) Using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later
 - (c) Reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present
- 16.2 If, at any time during the meeting, the Chair feels that filming, recording, reporting or photography is disrupting proceedings, the provisions set out in Rules 9.1, 9.2 and 9.3 will apply.
- 16.3 In any instance where the press and public have been excluded from the meeting in accordance with the provisions set out in Chapter 8 of this Constitution, the Council will not allow reporting on the meeting using methods which:
- (a) can be used without that person's presence at the meeting
 - (b) enable persons not present at the meeting to see or hear the proceedings at the meeting as it takes place or later

17. Duration of Meeting

Termination of Meetings

- 17.1 If the business of the meeting has not been concluded by two and a half hours after its start, the Chair must interrupt the meeting. The Chair will then and without debate take a vote as to whether to continue with the meeting. Unless a majority of Members vote to continue with the meeting, the meeting shall be adjourned and any remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next meeting.

Part 3 – Planning Committee

Part 3 (a) – Terms of Reference of the Planning Committee

Council has determined that the Planning Committee shall be constituted and shall have delegated authority for the discharge of the Council's functions as set out below.

1.	Planning Committee	
Appointed by:		Number of Elected Members:
The Council under section 102 of the Local Government Act 1972		Nine
Chair and Vice-Chair appointed by:		Political Proportionality:
The Council		The elected Members shall be appointed according to Political Proportionality.
Quorum:		Co-opted Members to be appointed by Council:
Three		Two non-voting co-opted Members appointed each year by the Council: 1. one to represent the interests of trade and commerce in Thurrock; and 2. one to represent the interests of heritage and/or the countryside and conservation
Code:		
1. The Planning Committee Procedures in Part 3(b) of this Chapter. 2. Code of Practice for Members and Officers – Planning Applications, in Part 3(d) of this Chapter.		
Terms of reference:		
1. To determine planning and similar or related applications for the use or development of land or applications for advertisement control consent, to take enforcement or other action, or generally to control or comment upon the use and development of land, including untidy sites – the Applications to be considered by the Planning Committee are set out at Part 3(b), Rule 2.1. 2. To determine applications for conservation area consent, or to take enforcement or other action in relation to buildings in conservation areas 3. To exercise the Council's powers in relation to tree preservation orders and hedgerow protection 4. To exercise the Council's powers in relation to the creation, diversion and stopping-up of highways, including footpaths and bridleways 5. To exercise the Council's powers in relation to the protection and enjoyment of the highway and to keep the definitive map and statement under review		

6. To keep under review and make minor alterations as necessary to the Committee's procedures.
7. To provide appropriate and timely responses to any statutory NSIP consultation.

Without prejudice to the generality of the foregoing, this delegation includes the functions as set out in column (1), paragraph A of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, and all legislation appertaining to planning contained in the Planning Acts including changes introduced by the Localism Act 2011 and the Growth and Infrastructure Act 2013 including any delegated legislation made pursuant to the Planning Acts and any amendments thereto.

Part 3 (b) – Planning Committee Procedures

1. Interpretation

- 1.1 Subject to paragraphs 1.2 and 1.3 below, these procedures shall be interpreted in accordance with the Council's Constitution.
- 1.2 "Chair" includes, in addition to the Vice-Chair, any Member of the Planning Committee elected to Chair a particular meeting.
- 1.3 "Application" means an application for planning permission, an application under Part 24, Schedule 2 of the General Permitted Development Order 1995 (as amended), the demolition of a building within a conservation area, advertisement control consent, works to trees, a certificate in relation to lawful uses or otherwise within the terms of reference of the Committee.
- 1.4 "Planning Officer" means the Assistant Director for the time being charged with processing planning, and similar or related applications and advising the Planning Committee on them, or someone authorised by him/her to act on his/her behalf.
- 1.5 "Senior Officer" means the Chief Executive / Head of Paid Service, Directors and Assistant Directors employed by Thurrock Council.
- 1.6 Any reference in these procedures to an Application or matter being decided or determined by a body or person includes a reference to commenting upon or responding to a consultation in relation to any Application.

2. Applications to be considered by the Planning Committee

- 2.1 The following Applications will be considered by the Planning Committee:
 - (a) Applications that in the opinion of the Planning Officer have significant policy or strategic implications, including departures from the approved development plan which would require referral to the Secretary of State
 - (b) All Applications by or on behalf of the Authority in accordance with the provisions of the Town and Country Planning General Regulations
 - (c) All Applications by or on behalf of Members, Senior Officers or Officers employed in the Authority's Planning, Transportation and Public Protection Assistant Directorate (including close relatives of such Members or Officers)
 - (d) Any Application where a request is made in writing that it should be considered by the Planning Committee by:
 - (i) A Ward Member and one other Member of the Council with the agreement of the Chair, where the Application is for development within their ward
 - (ii) Any five Members of the Council
 - (e) Any such request must clearly and precisely specify the planning grounds on which the request is being made

- (f) If a Member of the Planning Committee who is party to a request made under 2.1(d) for an application to be considered by the Planning Committee subsequently declares a disclosable pecuniary interest in that application, the item will be withdrawn from the Agenda and dealt with by Officers under delegated authority

3. Planning applications list

The weekly list

- 3.1 The Planning Officer shall prepare weekly a list of Applications ("Applications List") that will indicate which are to be considered by the Planning Committee and which are likely to be determined by Officers under delegated powers. Members will be notified if and when a delegated decision is considered by the Planning Committee under Rule 2.1 (d).
- 3.2 The Planning Applications list will be circulated to all Members of the Council and will be available on the Authority's intranet and website:
regs.thurrock.gov.uk/online-applications

Time limits

- 3.3 In accordance with Rule 2.1(a) above Members must notify the Planning Officer in writing within three weeks of the issue of the weekly Planning Applications List under Rule 3.1 above whether they require any Application to be reported to the Planning Committee. If in any doubt, or more information or clarification on any matter is required, Members are advised to contact the Planning Officer. On receipt of a request from the required number of Members (including the agreement of the Chair where required) the Application will be reported to the Committee.

4. Enforcement functions

- 4.1 The decision on whether or not to pursue or vary enforcement action against any breach of planning control is delegated to the Planning Officer and in consultation with the Assistant Director of Law and Governance.
- 4.2 At least quarterly a list updating on the progress cases where enforcement and other formal action is being taken will be prepared and circulated to all Members of the Council.
- 4.3 Any two Members with the agreement of the Chair, or any five Members, may require a report to Committee on any enforcement matter. Such requests should be made in writing to the Planning Officer at the earliest opportunity, following a discussion with that Officer. Any such request must clearly and precisely specify the planning grounds on which the request is being made.

5. The public addressing the Committee

- 5.1 The Planning Committee may allow objectors and applicants/planning agents, and also owners of premises subject to enforcement action, or their agents, to address the Committee.
- 5.2 The Rules for the conduct of the public in addressing the Committee are set out at Part 3(c) of this Chapter.

6. How decisions are taken at meetings

6.1 The normal procedure is:

- (a) The Chair takes the item in the order listed on the agenda
- (b) The Planning Officer introduces the item, clarifying any issues as necessary
- (c) Speaker in opposition (if any) addresses the Committee in accordance with Part 3(c) – 3 minutes
- (d) Ward Councillor (if any) addresses the Committee in accordance with Part 3(c) – 3 minutes
- (e) The Chair may at his/her absolute discretion invite any Ward Member not falling within Rule 6.1(d) above to briefly address the Committee
- (f) Any Member of the Committee who has a disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance with the Members' Code of Conduct. The Member will withdraw immediately after speaking
- (g) Applicant or agent/representative addresses the Committee in support (if any) in accordance with Part 3(c) – 3 minutes
- (h) The Committee may seek clarification of those who have spoken on any issues raised in their address
- (i) The Planning Officer shall address any issues resulting from the procedure set out in Rule 6.1(a) to (h) above and the Committee may put questions to the Planning Officer
- (j) The Committee then debates the matter and does not hear any additional representations or comments from the public or non-Committee Members, but may seek further clarification from Officers

6.2 When the Chair considers that there has been sufficient debate, he/she will call for a decision. A vote may be taken on the recommendation in the report, once proposed and seconded, or on a motion moved by a Member of the Committee, altering the report's recommendation.

6.3 A motion moved by a Member of the Committee that alters the wording of the recommendation of the report must be seconded and be supported by planning reasons for the alteration and those reasons will be set out in the Minutes of the Meeting.

6.4 If the Chair calls for the application to be determined a vote shall be taken on the recommendation of the Planning Officers. If this fails, an alternative motion may be made by any Member of the Committee.

6.5 If an alternative motion is moved by a Member of the Committee, it must be supported by clear planning reasons and seconded prior to being put to the vote. Those reasons will be set out in the minutes of the meeting.

- 6.6 The Planning Officer and/or the legal adviser shall be afforded the opportunity to advise the Committee during the course of debate or any other stage of the meeting.
- 7. Decisions contrary to Officers recommendations and/or the Development Plan**
- 7.1 The law requires that where regard is to be had to the Development Plan, decisions should be taken in accordance with it, unless material considerations indicate otherwise (section 38(6), Planning and Compensation Act 2004).
- 7.2 If the Planning Committee seeks to make a decision contrary to the Planning Officer's recommendation (whether for approval or refusal), the following will apply:
- (a) The mover of the motion should clearly specify or write down the motion including the reasons for departing from the Officer recommendation. Both the reasons and the motion should be put to the Committee orally and in public even if the reasons are tentative. Any such motion must be seconded
 - (b) The Planning Officer should always be given the opportunity to explain the implications of what has been proposed to the Planning Committee in public before any vote is taken
 - (c) If the Planning Committee's arguments against the Planning Officer's recommendations are very clear and substantiated and no longer tentative on planning grounds the application shall be determined at the meeting. If not, the application should be deferred to enable the Planning Officer to draft a further report for a subsequent meeting of the Committee, outlining the implications of making a decision contrary to the Planning Officer's recommendation. If appropriate, the legal advisor's opinion should be sought as to whether a deferral is necessary. The Committee's reasons must be formally recorded in the minutes.
- 7.3 When a planning application has been referred to a future meeting following a resolution of 'minded to approve' or 'minded to refuse', contrary to the Planning Officer's recommendation, then at a subsequent Committee meeting, the Planning Officer will prepare a further written report that will include the reasons formulated by the Committee for being minded to grant or refuse permission.
- 7.4 If the Committee is still of the same view, then it will again consider its reasons for granting or refusing permission, and a summary of the planning reasons for that decision will be given, which reasons must then be formally recorded in the minutes of the meeting. It is important that the justification for departing from Officer's recommendations that is recorded in the minutes are those reasons given at Committee and in public and that the justification is not subject to later elaboration in the minutes which is more extensive than the oral presentation.
- 7.5 The Courts have expressed the view that reasons should be clear and convincing. Members must satisfy themselves that where they reach a decision contrary to an Officer's recommendation their reasons are substantiated by evidence and that they are able to demonstrate reasonable planning grounds for taking a decision contrary to Officer's advice. Where a decision is taken to refuse an application but the Officer's recommendation is to approve, the Committee must consider whether any conditions

could have allowed the development to have proceeded. In addition, Members should exercise caution in not giving undue weight to any particular consideration.

7.6 In instances where the Planning Committee grants approval of an application against Officer recommendation, the Planning Officer shall draft conditions to be attached to the that approval which shall be agreed in writing with the Chair of the Planning Committee unless the Committee grants delegated authority to the Planning Officer.

7.7 In instances where the Committee refuse an application against the recommendation of the Planning Officer, the detailed reasons for refusal (which shall reflect the minuted reasons provided by the Committee) shall be agreed in writing with the Chair of the Planning Committee, unless the Committee grant delegated authority to the Planning Officer.

8. Site visits by the Planning Committee

8.1 Prior to any meeting of the Planning Committee, the Planning Officer may be of the opinion that a site visit should be arranged to a site that is the subject of an application to be considered by the Committee to enable Members to become familiar with the issues to be considered. Any site visit arranged to take place prior to a meeting of the Planning Committee shall be arranged in accordance with rules 8.6 to 8.10 below.

8.2 Occasionally the Committee may defer taking a decision on an item in order to make a site visit. Reasons for a site visit being made shall be recorded in the minutes.

8.3 The Committee Members who propose and second a site visit should ensure that they attend the visit, or arrange for a substituted Member to attend.

8.4 All Members who attend should ensure that any information gained from the site visit is reported back to the planning Committee so that all Members have the same information.

8.5 Site visits are to be held solely for the purpose of informing the Planning Committee Members by way of visual inspection about the nature of the application. No attempt should be made to make representations or lobby the Committee or individual Members during a site visit.

8.6 The Clerk to the Planning Committee will contact the applicant and/or their planning agent to arrange access to the site or premises. Invitations will be sent to Members of the Committee and Ward Councillors. Applicants and/or their planning agents and any objectors (or a representative or sample of such objectors) shall be informed of the visit. The notification shall contain a brief summary of the procedure to be adopted at the site visit.

8.7 The Planning Committee, along with the Clerk to the Planning Committee and the Planning Officer, shall carry out the inspection in one group. Planning Committee Members and applicants, agents, objectors and Ward Members present shall not engage in individual discussions.

8.8 The Planning Officer and any other Officer present shall draw to the Committee's attention any relevant features of the site.

- 8.9 Members will not take any decision during the site visit but may, through the Planning Officer, ask questions or seek clarification, particularly about the characteristics of the site. Members should refrain from making comments on the merits of the application during the course of the inspection.
- 8.10 The Clerk to the Planning Committee will record the date of the visit, Members present (including non-Members of the Committee) and any other relevant information. A record of the Members present will be included in the minutes of that Meeting.

Part 3 (c) – 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 (or a speaker in support of the application if no objector requests to speak)
 - (ii) A Ward Councillor
 - (iii) Any Member of the Committee who has a disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance with 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 (or a speaker in support of the application if no objector requests to speak)
 - (ii) A Ward Councillor
 - (iii) Any Member of the Committee who has a disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance with 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?

- 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 statement, sufficiently setting out the planning matters the speaker wishes to raise at the meeting, will be midday 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
RM17 6SL**

- (b) Via a form on the Council's web site at:

www.thurrock.gov.uk/attending-public-meetings

- (c) By email to

direct.democracy@thurrock.gov.uk

- (d) If any assistance in registering to speak at a meeting is required, please telephone 01375 652 082.

- 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 4pm 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 as to 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 2.4, from all speakers prior to the meeting and the 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 (or a speaker in support of the application if no objector requests to speak)
 - (ii) A Ward Councillor
 - (iii) Any Member of the Committee who has a disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance 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 (or a speaker in support of the application if no objector requests to speak)
 - (ii) A Ward Councillor
 - (iii) Any Member of the Committee who has a disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance with 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 may, with the Chair's agreement, be given first priority to speak when the item is re-considered where there are exceptional circumstances, for example, where it can be shown that they would be prejudiced by a failure to allow them to speak again.

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.

Part 3 (d) – Planning Code of Good Practice

1. Background

- 1.1 This Planning Code of Good Practice has been prepared in response to the Local Government Association's Guidance Note on the preparation of Local Codes of Good Practice on Planning Matters in the light of the introduction of the new ethical framework and replaces the Council's former local code of conduct on planning matters.
- 1.2 This Code is based on the model adopted by the Association of Council Secretaries and Solicitors (ACSeS) – launched on 14 February 2003 – and has been updated. The drafting of the model code was subject to consultation and comment from a number of other local authorities through the machinery of ACSeS, the former Standards Board for England, the Local Government Ombudsman, Audit Commission and from firms of solicitors or counsel acting on their behalf.

2. Introduction

- 2.1 The aim of this Code of Good Practice is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 2.2 The basis of the planning system is the consideration of private proposals against wider public interests. The key purpose of the planning system is to control development in the public interest.
- 2.3 Your role as a Member of the Planning Authority is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- 2.4 This Code of Good Practice applies to Members at all times when they involve themselves in the planning process. This includes when taking part in the decision-making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings. It applies as equally to planning enforcement matters or site-specific policy issues as it does to planning applications.
- 2.5 This Code is drafted in terms of what you should do and what you should not do. If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.

3. Relationship to the Members' Code of Conduct

- 3.1 Do apply the Rules in the Members' Code of Conduct first, which must always be complied with.
- 3.2 Do then apply the Rules in this Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not abide by this Code of Good Practice, you may put:
 - (a) the Council at risk of proceedings on the legality or maladministration of the related decision; and

- (b) yourself at risk of either being named in a report made to the Standards and Audit Committee or Council or, if the failure is also likely to be a breach of the Code of Conduct, a complaint being made to the Standards and Audit Committee

4. Registration and declaration of interests

- 4.1 Do disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter. (Use the disclosure form provided for disclosing interests.)

Where your interest is a disclosable pecuniary interest:

- 4.2 Don't participate, or give the appearance of trying to participate, in the making of any decision on the matter by the Planning Authority.
- 4.3 Don't try to represent ward views, get another Ward Member to do so instead.
- 4.4 Don't get involved in the processing of the application.
- 4.5 Don't seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include, where you have a disclosable pecuniary interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.
- 4.6 Do notify the Monitoring Officer in writing and note that:
 - (a) you should send the notification no later than submission of that application where you can
 - (b) the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers
 - (c) it is advisable that you employ an agent to act on your behalf on the proposal in dealing with officers and any public speaking at Committee
- 4.7 Do be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a disclosable pecuniary interest to an appropriate officer, in person or in writing, the Code places limitations on you in representing that proposal. You may address the Committee after being granted a dispensation but only to make a presentation in the same manner than would apply to a normal member of the public, after which you must leave the room whilst the meeting considers it (you may not remain to observe the meeting's considerations on it from the public gallery.)

5. Fettering Discretion in the Planning Process: predetermination, predisposition or bias

- 5.1 Don't fetter your discretion and therefore your ability to participate in planning decision-making at this Council by making up your mind, or clearly appearing to have made up your

mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority and of your hearing the officer's presentation and evidence and arguments on both sides.

- 5.2 Fettering your discretion in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- 5.3 Do be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of Membership of both the proposing and planning determination Committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- 5.4 Do consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the Parish Council, for example, or both a District/Borough and County Councillor), provided:
- (a) the proposal does not substantially affect the well-being or financial standing of the consultee body
 - (b) you make it clear to the consultee body that:
 - your views are expressed on the limited information before you only
 - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information, and
 - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
 - (c) you disclose the personal interest regarding your Membership or role when the Committee comes to considers the proposal
- 5.5 Don't speak and vote on a proposal where you have fettered your discretion or you are pre-determined. You do not also have to withdraw, but you may prefer to do so for the sake of appearances.
- 5.6 Do explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.
- 5.7 Do take the opportunity to exercise your separate speaking rights as a Ward/Local Member (this is granted by the planning procedure Rules or by the consent of the Chair

and Committee) where you have represented your views or those of local electors and pre-determined, but do not have a disclosable pecuniary interest. Where you do:

- (a) advise the Monitoring Officer or Chair that you wish to speak in this capacity before commencement of the item
- (b) remove yourself from the Member seating area for the duration of that item
- (c) ensure that your actions are recorded and that you have been granted a dispensation to speak in accordance with the Members' Code of Conduct.

6. Development proposals submitted by Councillors and Officers, and Council Development

- 6.1 Do be aware that proposals to their own authority by serving and former Councillors, Officers and their close associates and relatives can easily give rise to suspicions of impropriety. Therefore, it is vital to ensure that they are handled in such a way that gives no grounds for accusations of favouritism.
- 6.2 Don't play any part in the decision-making process for applications by yourself or your relatives or friends. The consideration of a proposal from a Councillor in such circumstances would be considered as a disclosable pecuniary interest under the code and as such, the Councillor would be required to withdraw from any consideration of the matter.
- 6.3 Don't seek to 'improperly to influence a decision about the matter'. It is important to emphasise here that 'improperly' does not imply that a Councillor should have any fewer rights than a member of the public in seeking to explain and justify their proposal to an Officer in advance of consideration by a Committee.
- 6.4 Do consider whether it would be wise to exercise your right to speak as an applicant at the Committee considering your application in all the circumstances of the case, which could include the nature of the disclosable pecuniary interest and the relationship of the Councillor with the remainder of the Planning Committee.
- 6.5 Do consider your position if you are a Member whose Cabinet / Executive responsibility effectively makes you an advocate for the development in question. In such circumstances, the appropriate approach is likely to be that the Member is able to argue for the development but should not vote on the relevant applications.

7. Contact with Applicants, Developers and Objectors

- 7.1 Do refer those who approach you for planning, procedural or technical advice to officers.
- 7.2 Do report to the Planning Officer or Monitoring Officer any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

Meetings

- 7.3 Don't agree to any meeting with applicants, agents, developers or groups of objectors where you can avoid it.

- 7.4 Do speak to the Planning Officer where you feel that a formal meeting would be useful in clarifying the issues.
- 7.5 Don't seek to arrange that meeting yourself but ask the Planning Officer to organise it. The Officer will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- 7.6 Do otherwise:
- (a) follow the Rules on lobbying (see Paragraph 8 below)
 - (b) consider whether or not it would be prudent in the circumstances to make notes when contacted

Presentations

- 7.7 Don't attend a planning presentation unless an officer is present and/or it has been organised by officers.
- 7.8 Do ask relevant questions at any presentation for the purposes of clarifying your understanding of the proposals.
- 7.9 Do remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the Planning Authority.
- 7.10 Do be aware that a presentation is a form of lobbying and you must not express any strong view or state how you or other Members might vote.

8. Lobbying of Councillors

- 8.1 Do explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the Committee's decision-making to express an intention to vote one way or another or to express such a firm point of view that it amounts to the same thing.
- 8.2 Do remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- 8.3 Don't accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible and remember to register of interests where its value is over £25 (in accordance with the authority's Rules on gifts and hospitality).
- 8.4 Do copy or pass on any lobbying correspondence you receive to the Monitoring Officer at the earliest opportunity.
- 8.5 Do promptly refer to the Planning Officer any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.

- 8.6 Do inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- 8.7 Do note that, unless you have a disclosable pecuniary interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:
- (a) listening or receiving viewpoints from residents or other interested parties
 - (b) making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind
 - (c) seeking information through appropriate channels
 - (d) being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

9. Lobbying by Councillors

- 9.1 Don't become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion and may have a non-pecuniary, pecuniary and / or disclosable pecuniary interest.
- 9.2 Do join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal.
- 9.3 Don't excessively lobby fellow Councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- 9.4 Don't decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political group meetings should never dictate how Members should vote on a planning issue.

10. Site visits

- 10.1 Do try to attend site visits organised by the Council where possible.
- 10.2 Don't request a site visit unless you feel it is strictly necessary because:

- (a) particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection, or
 - (b) there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- 10.3 Do ensure that any information which you gained from the site visit is reported back to the Committee, so that all Members have the same information.
- 10.4 Do ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- 10.5 Do ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- 10.6 Don't hear representations from any other party, with the exception of the Ward Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- 10.7 Don't express opinions or views to anyone.
- 10.8 Don't enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias.

11. Public Speaking at Meetings

- 11.1 Don't allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the procedure for public speaking, as this may give the appearance of bias.
- 11.2 Do ensure that you comply with the Council's procedures in respect of public speaking.

12. Officers

- 12.1 Don't put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Development Management Manager, which may be incorporated into any Committee report).
- 12.2 Do recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with an Assistant Director or those officers who are authorised by their Assistant Director to deal with the proposal at a Member level.
- 12.3 Do recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

13. Decision-making

- 13.1 Do ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your reasons are recorded and repeated in the report to the Committee.
- 13.2 Do come to meetings with an open mind and demonstrate that you are open minded.
- 13.3 Do comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- 13.4 Do come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- 13.5 Don't vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- 13.6 Do have recorded the reasons for Committee's decision to defer any proposal.
- 13.7 Do make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the Development Plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded.
- 13.8 Do follow the Planning Committee Procedure Rules (Rule 7 in Part 3 (b) above) when considering proposing, seconding or supporting a decision contrary to officer recommendations or the Development Plan.
- 13.9 Do be aware that you may have to justify the resulting decision against officer recommendation by giving evidence in the event of any challenge.

14. Training and Review

- 14.1 Don't participate in decision-making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- 14.2 Do endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plan beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- 14.3 Do participate in the annual review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.

Part 4 – Licensing Committee

Part 4 (a) – Terms of Reference of the Licensing Committee

Council has determined that the Licensing Committee shall be constituted and shall have delegated authority for the discharge of the Council's functions as set out below.

1.	Licensing Committee	
Appointed by:	Number of Elected Members:	
The Council under section 6 of the Licensing Act 2003 and section 102 of the Local Government Act 1972	Fifteen	
Chair and Vice-Chair appointed by:	Political Proportionality:	
The Council	The elected Members shall be appointed in accordance with Political Proportionality	
Quorum:	Co-opted Members to be appointed by Council:	
Three	None	
Functions determined by Council:		
1.	To undertake all matters in relation to the Council's licensing, permit and registration function, including Part VI of the Essex Act 1987, other than:	
1.1	Functions specifically delegated to the Cabinet or another Committee	
1.2	The approval of byelaws, or	
1.3	The approval of policy guidelines for any other matter where the Committee considers they should be approved by the Council	
2.	The grant, approval, review, refusal, revocation, renewal, transfer or variation of any licence registration, certificate, consent, permit, approval or permission, except where such function falls within the terms of reference of any other Committee or Sub-Committee or where the function has been delegated to an Officer unless the Officer refers the matter to the Committee for a decision	
3.	To enforce byelaws	
4.	To advise the Council on its byelaws in relation to hackney carriage and private hire vehicles, operators and drivers	
5.	To keep under review and make minor alterations to the Committee's procedures	
6.	The function of determining relevant fees under section 212 of the Gambling Act 2005 be delegated to the Licensing Committee	
In exercising its functions under the Licensing Act 2003 and the Gambling Act 2005, the Committee may regulate its own proceedings and those of its Sub-Committees, subject to any Regulations made under the Acts.		

Without prejudice to the generality of the foregoing, this delegation includes the licensing and registration functions set out in the first column of Part B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000

Functions determined by Statute:

1. To undertake all the functions of a licensing authority under the Licensing Act 2003 except:
 - 1.1 approving the Authority's Licensing Statement under section 5 of the Act, and
 - 1.2 referring licensing matters to another Committee under section 7(5) of the Act

Note that, under section 7(9) of the Act, where the Licensing Committee is unable to discharge its functions because of the number of its Members who are unable to take part in the consideration of any matter or vote, the Committee must refer the matter to the Council which shall discharge it.

2. To undertake all the functions of a licensing authority under Part 8 of the Gambling Act 2005, except:
 - 2.1 approving the Authority's licensing policy under section 349 of the Act, and
 - 2.2 deciding not to issue casino licences under section 166 of the Act

Note that, under section 7(9) of the 2003 Act as applied by the Gambling Act 2005, where the Licensing Committee is unable to discharge its functions because of the number of its Members who are unable to take part in the consideration of any matter or vote, the Committee must refer the matter to the Council which shall discharge it.

The Licensing Committee has established a Licensing Sub-Committee, as follows.

2. Licensing Sub-Committee	
Appointed by: The Licensing Committee under section 10 of the Licensing Act 2003 and section 102 of the Local Government Act 1972	Number of Elected Members: Three Members of the Licensing Committee
Chair and Vice-Chair appointed by: A Member of the Licensing Committee will Chair meetings of the Sub-Committee. They will be elected by the panel at the start of the meeting.	Political Proportionality: There is no requirement for Members to be appointed in accordance with Political Proportionality
Quorum: Three	Co-opted Members to be appointed by Council: None
Functions determined by Council: To hear and determine appeals on matters delegated to the Licensing Committee and to grant, approve, review, refuse, revoke, renew, suspend, transfer or vary any registration, certificate, consent, permit, approval or permission that the Licensing Committee may determine, except where the function has been delegated to an Officer unless the Officer refers the matter to the Committee for a decision. To discharge such functions of the Licensing Committee as may be delegated to the Sub-Committee from time to time.	
Functions determined by Statute: –	

2.1 The Licensing Committee has delegated the following function(s) to the Assistant Director of Planning, Transport and Public Protection:

- (a) Undertaking all functions of the Authority under section 10 of the Licensing Act 2003 and section 154 of the Gambling Act 2005, except where:
 - (i) There is a requirement in the Licensing Act 2003, or regulations made thereunder, or a provision in guidance issued by the Secretary of State under section 182 of the Act that a particular function may only be carried out by the Council, Licensing and Licensing and Appeals Sub-Committee or a sub-Committee of the Licensing and Licensing and Appeals Sub-Committee, or

- (ii) There is a provision elsewhere in this Constitution which requires that a particular function is reserved for the Council or the Appropriate Committee.
- (b) The power to grant or refuse applications for minor variations to Premises Licenses under Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009.

Part 4 (b) – Procedure for Licensing Hearings under the Licensing Act 2003

NB. References below to the "Sub-Committee" shall be taken to refer also to the Licensing Committee.

1. Procedure for Licensing Hearings

- 1.1 At the beginning of the hearing, the Chair will introduce all Members of the Sub-Committee and those Officers present. Members must be present throughout the hearing and must not communicate with any Officer, the applicant or other third party except in accordance with these procedure Rules.
- 1.2 Following the introduction of the Sub-Committee, the Chair shall also introduce any objectors, the presenting Officer for the licensing authority and any other interested parties.
- 1.3 The applicant or their representative will be invited to introduce themselves to the Sub-Committee.
- 1.4 The Sub-Committee will consider any requests from the parties for permission for another person to appear at the hearing.
- 1.5 The Chair will confirm that there is no reason why any of the three Members of the Sub-Committee should not participate in the matter to be considered.
- 1.6 If a party has informed the authority that he/she does not intend to attend or be represented at a hearing, the hearing may proceed in their absence.
- 1.7 If a party who has not so indicated fails to attend or be represented at a hearing the authority may:
 - (a) Where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or
 - (b) Hold the hearing in the party's absence.
- 1.8 Where the authority holds the hearing in the absence of a party, the authority shall consider at the hearing the application, representations or notice made by that party.
- 1.9 Where the authority adjourns the hearing to a specified date it must notify the parties of the date, time and place to which the hearing has been adjourned.
- 1.10 At the beginning of the hearing, the Chair shall explain to all parties present the procedure to be followed. The Chair will confirm that this is a discussion to be led by the authority that any questions should generally be put through the Chair, and that cross-examination shall only be permitted if the Sub-Committee considers that it is necessary.
- 1.11 The Chair will ask all parties present if they have any requests to cross-examine. Any such requests shall be considered by the Sub-Committee. If agreed, the procedure set out below will be followed.
- 1.12 If there are no requests for cross examination, or if such a request is not permitted, the hearing shall be conducted as follows:

- (a) The Officer from the Licensing Section will present his/her factual report on the application.
 - (b) Each party making representations will address the Sub-Committee in turn and will call other persons where permission has been given.
 - (c) The applicant/licence holder will present their case and will call other persons where permission has been given.
 - (d) Members may ask questions of all parties and persons.
 - (e) Questions from the parties must be directed through the Chair unless cross-examination has been permitted.
 - (f) All parties will have the opportunity to make a closing statement, with the applicant/licence holder having the final word.
- 1.13 The Sub-Committee will retire in private to consider the application and will be accompanied by its Legal Advisor and Democratic Services Officer.
- 1.14 Once a decision has been reached, the Sub-Committee will invite all parties back to hear the decision. The Chair of the Sub-Committee should call upon the Legal Advisor to inform all parties of any legal advice that was received during the private session. The Chair of the Sub-Committee or Legal Advisor should read out the decision in full, outlining any additional conditions, for the benefit of all in attendance.
- 1.15 The Sub-Committee may adjourn the hearing to the next reasonably practical working day to continue the hearing or give its decision.
- 1.16 The Chair should advise the Applicant, relevant authorities and interested parties that they will be notified of the decision and reasons for the decision in writing within 5 working days of the hearing.
- 1.17 Such notification shall advise the applicant/licensee of his rights of appeal to the Magistrates' Court or other appropriate body.

2. Cross-Examination Procedure for Licensing Hearings

- 2.1 Should cross-examination be permitted, it will take place in the following order:
- (a) Case on behalf of any Responsible Authorities,
 - The case on behalf of any responsible authorities
 - Questioning of any responsible authorities by the applicant or licensee
 - Questioning of any responsible authorities by any interested parties
 - Questioning of any responsible authorities by Members
 - (b) Case on behalf of Interested Parties
 - The case on behalf of any interested parties.

- Questioning of any interested parties by the applicant or licensee
 - Questioning of any interested parties by any responsible authorities
 - Questioning of any interested parties by Members
- (c) Case on behalf of the applicant
- The case on behalf of the applicant or licensee including the calling of witnesses
 - Questioning of the applicant or licensee and any witnesses by interested parties
 - Questioning of the applicant or licensee and any witnesses by any responsible authorities
 - Questioning of the applicant or licensee and any witnesses by Members
- (d) Summing up (in the following order):
- Responsible authorities
 - Interested parties
 - The applicant/licensee

Part 4 (c) – Licensing Protocol

1. Introduction

- 1.1 The Licensing Protocol relates to the conduct of all Members, including Members of the Licensing Committee established under the Licensing Act 2003 and the Local Government Act 1972.
- 1.2 The Licensing Protocol supplements the Members' Code of Conduct and is intended to assist Members in taking licensing decisions openly with sound judgement and reasons.
- 1.3 For the purposes of this protocol, the term 'Licensing Committee' includes any of its Sub-Committees.

2. Guiding principles for Licensing Committee Members

- 2.1 Do not express personal opinions before a meeting or hearing. To do so would indicate that you had made up your mind before hearing all the evidence and that your decision may not be based on relevant policies and guidance.
- 2.2 Do not take or declare a firm view on the merits of an application, nor organise support or opposition in advance of any meeting or hearing.
- 2.3 Do keep an open mind until after you have considered all the evidence and arguments presented on behalf of all parties as you must demonstrate that you are open minded.
- 2.4 Do seek the advice of the Monitoring Officer or Legal Officer in attendance at the meeting as to whether it is appropriate for you to take part in any meeting when you have been personally involved in an application that is to be considered.
- 2.5 Do not make your decision based on a political party direction given at a party group meeting or otherwise.
- 2.6 Do not have pre-meeting briefings before a Licensing Committee.
- 2.7 Do not expect to represent an individual party at a meeting of the Sub-Committee and remain as a decision-maker.
- 2.8 You must always comply with the general principles set out in Section 1 of the Members' Code of Conduct in Chapter 7.

3. Decision-making – the Rules of natural justice

- 3.1 You must comply with the Rules of natural justice, ensuring that all parties have an opportunity to be heard whilst acting honestly and impartially. You must make an objective and impartial determination of any issues based upon any written and oral evidence and not make or give the appearance of making a biased decision. The legal test of bias is "whether a fair-minded observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased" – Porter v Magill [2002] 2 AC. 357 HL.
- 3.2 Applicants have a right to a fair hearing. For a hearing to be fair a number of conditions must be satisfied including: the right for the individual to know the opposing case;

generally the right to call witnesses; the right to be represented at any meeting or hearing; and, the right to be given detailed reasons for any decision made.

4. Members' interests and licensing applications

- 4.1 Members must comply with Section 2 of the Members' Code of Conduct.
- 4.2 If you have visited licensed premises which are the subject of an application in your personal life do consider whether this might give rise to an appearance of bias. Merely visiting licensed premises (even on a regular basis) will not necessarily give rise to an interest under the Members' Code of Conduct.
- 4.3 Declarations of interests should be made at the beginning of a meeting or hearing.
- 4.4 Where an interest is also a disclosable pecuniary interest, you must not sit as part of the Licensing Sub-Committee for a particular licence application unless a dispensation has been obtained from the Council's Standards and Audit Committee or the Monitoring Officer as appropriate.
- 4.5 If you have a disclosable pecuniary interest in an application, you must not take part in that decision. You may speak at the meeting after being granted a dispensation to allow you to speak in accordance with the Members' Code of Conduct.
- 4.6 If you have been involved in Council meetings which approved any licensing policy of the Council, you will not be excluded for that reason.

5. Gifts and hospitality

- 5.1 You should be aware of public perception when accepting any gift or hospitality from licensed premises and should act with extreme caution when accepting any gift whatsoever, regardless of monetary value.
- 5.2 You should register offers of gifts and hospitality as well as any actual gifts and hospitality you receive.
- 5.3 It is generally acceptable for Members of the Licensing Committee to accept light non-alcoholic refreshment such as tea, coffee, soft drinks and biscuits.
- 5.4 You should add to your register of interests any gift or hospitality where its value is over £25.

6. Applications submitted by the local authority

- 6.1 Where the local authority itself submits any licence application (for example a premises licence for open space or buildings in its ownership under the Licensing Act 2003), the application must be considered in exactly the same manner as any other application. You must give no regard to the interests of the Council itself, aside from receiving relevant representations on the issue.
- 6.2 If you have taken a role in the decision to submit the application, you must not sit on the Licensing Sub-Committee which determines the application.

6.3 You should be cautious when expressing views about an application and be aware of any potential appearance of bias and if in doubt, should seek advice.

7. Lobbying

7.1 If you are approached by persons wishing to lobby you about a licence application, then you must politely explain that whilst you can listen to what is said, you cannot discuss the matter or express a view as this would prejudice impartiality and the ability to take part in the decision-making process. The lobbyist should be referred instead to the Assistant Director of Economic Growth and Partnerships. You should inform the Monitoring Officer if you feel that you have been exposed to undue or excessive lobbying approaches.

7.2 If you receive any written representations, you should pass them to the Assistant Director of Planning, Transport and Public Protection to take whatever action is appropriate.

7.3 Any requests for procedural advice should also be passed to the Assistant Director of Planning, Transport and Public Protection.

7.4 Members of the Council who do not sit on the Licensing Committee should exercise extreme caution before deciding to lobby Members of the Licensing Committee, directly or indirectly, in writing or otherwise, in respect of applications with a view to influencing their decision.

7.5 You can listen to the views of other Members and interested parties but you should avoid making comments that might amount to you prejudging the matter.

8. Recording of reasons

8.1 You must give reasons for all licensing decisions. Such reasons must be based upon relevant considerations and should reflect findings of fact made at a meeting or hearing. These reasons must be recorded in writing and whilst Officers may assist in formulating the exact wording, the reasons must be those of the Members.

9. Site visits

9.1 Prior to any meeting of a Licensing Committee or Sub-Committee, the Licensing Officer may be of the opinion that a site visit should be arranged to premises which are the subject of licence applications to enable Sub Committee Members to become familiar with the issues to be considered. During any such visits, Members will be accompanied by a licensing officer(s), together with an officer from Democratic Services, and they should only enquire about and discuss factual matters, avoiding the temptation to put forward their own opinions. Members attending such a site visit will not, under any circumstances, accept refreshments on the premises or any other gift or offer of hospitality.

9.2 Notwithstanding Rule 9.1 above, site visits are generally unnecessary in respect of licensing applications. They should only be held where particular site factors are significant and cannot be ascertained from plans provided with the application.

9.3 Where a site visit is deemed necessary, it will be part of the formal hearing process so all Members must attend. All other parties should also be given the opportunity to attend.

9.4 No representations from the applicant or those making representations shall be heard or accepted on site.

9.5 No indication of the likely outcome of the application should be given on site.

10. Conduct at hearings

10.1 Members of the Licensing Committee should not communicate directly with the applicant or any parties to an application other than publicly through the Chair.

10.2 Questioning of speakers is to clarify arguments and to test evidence. You should not express a view at that stage, nor intimidate those speaking.

10.3 Any material considered by the Licensing Committee must originate from a relevant party to any application and all relevant procedural regulations must be complied with.

10.4 You must not vote or take part in the decision-making process unless you have been present to hear the entire debate, including the presentation of the licensing Officer's report.

11. Training

11.1 You should not participate in licensing decisions if you have not participated in any mandatory licensing training provided by the Council and should endeavour to attend any other specialised training sessions designed to extend knowledge of licensing law and practice.

Part 5 – Terms of Reference of other Committees

Council has determined that Committees shall be constituted and shall have delegated authority for the discharge of the Council's functions as set out below.

1.	General Services Committee	
Appointed by:		Number of Elected Members:
The Council under section 102 of the Local Government Act 1972		Seven
Chair and Vice-Chair appointed by:		Political Proportionality:
The Council		The elected Members shall be appointed in accordance with Political Proportionality
Quorum:		Co-opted Members to be appointed by Council:
Three		None
Functions determined by Council:		
<ol style="list-style-type: none"> 1. To advise the Council on the appointment or dismissal of, or the arrangements for the appointment or dismissal of, the Head of the Paid Service. 2. Save for the Monitoring Officer and Chief Finance Officer, to appoint or make arrangements for the appointment of Directors and Assistant Directors, whether on a permanent, interim or acting up basis, and to dismiss or make arrangements for the dismissal of Directors. 3. To appoint or to advise the Council on the dismissal of, or the arrangements for the dismissal of the Chief Finance Officer or the Monitoring Officer and before the Committee makes a decision to recommend the dismissal to the Council of the Head of Paid Service or the Monitoring Officer or Chief Financial Officer, the Committee shall appoint an Independent Panel to also advise the Council in relation to the dismissal of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer of at least two Independent Persons appointed under the Localism Act 2011 to take part in the decision, with priority to an Independent Person appointed by the Council and who is a local elector followed by an Independent Person appointed by the Council and finally an Independent Person appointed by another Authority. 4. To deal with any of the functions of the Council in relation to the employment of staff that are not dealt with by Officers under delegated powers, or which may be referred to them by an Officer waiving his/her power to make a decision, including powers to: <ol style="list-style-type: none"> 4.1 designate Officers (other than the Head of Paid Service) for specific statutory purposes 4.2 exercise the Council's power of suspension of a Statutory Officer, after taking appropriate legal advice 4.3 make decisions in respect of disciplinary action, executing dismissal which will be subject to a recommendation to and determination by the Council, in relation to Head of Paid Service, Monitoring Officer and Chief Financial Officer 		

- 4.4 appoint any Sub-Committee or panel or other body to exercise the Committee's powers in relation to staff grading, disciplinary, grievance or any other staffing matter
- 4.5 determine any other staffing matter that it is within the remit of the Council
- 4.6 determine any matter in respect of compromise agreements for Chief Officers or Deputy Chief Officers and superannuation
5. To settle cases of claimed or actual maladministration, etc.
6. To receive, for the purposes of early engagement, notification of proposals for any formal non-minor (1) restructure, permanent or temporary, that impacts on the line management or breadth of responsibility of any Director or Assistant Director, and (2) any role title change to Director or Assistant Director.
7. To advise the Council on major changes to the Constitution.
8. Insofar as is within the remit of the Council, to make casual or urgent appointments to outside bodies.
9. To agree any arrangements for the appointment of a joint Overview and Scrutiny Committee under section 245, National Health Service Act 2006, and any regulations made thereunder.
10. To exercise the functions of the Council in relation to elections, parish and town Councils, vacancies and local bills.
11. To make recommendations to the Council in respect of any change to the electoral arrangements for the authority.
12. Any matter not delegated or referred to or coming under the remit of any other committee.
13. Subject to, and without prejudice to, the generality of the foregoing, to exercise the powers and functions of the Council in relation to the provisions referred to in column (2) of Schedule 1 to the Local Authorities (Functions and Responsibilities Regulations) (England) Regulations 2000 as amended, including the following legislation and any amendment and replacement thereof and any regulations made thereunder.
14. To exercise the Council's functions under any of the "relevant statutory provisions" within the meaning of Part 1 of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as an employer.

Acts of Parliament:

15. European Parliamentary Elections Act 1978, Schedule 1, paras. 4(3) and (4)
16. Health and Social Care Act 2001, section 8
17. Local Government Act 1972, sections 10,11, 75, 86, 87, 91, 101, 112, 151 and 239
18. Local Government Act 2000, section 82
19. Local Government and Housing Act 1989 sections 4(1) and 5(1)
20. Local Government and Rating Act 1997
21. Representation of the People Act 1983, sections 8(2), 18, 31, 35, 39(4), 52(4), 54, 106, 112, 135, 151, 270(3) and Schedule 12, para. 42
22. Representation of the People Act 1985, section 21

23. Representation of the People Act 2000, sections 10 and 93
24. Superannuation Act 1972, sections 7, 12, and 24
25. Localism Act 2011

Subordinate Legislation:

26. Commons Registration (General) Regulations 1966
27. Commons Registration (New Land) Regulations 1969, Reg. 6
28. Local Election (Parishes and Communities) Rules 1986

Local Elections (Principle Areas) Rules 1986

2. Standards and Audit Committee	
<p>Appointed by:</p> <p>The Council, in accordance with the provisions of S101 and S102 Local Government Act 1972 and Regulations made thereunder.</p>	<p>Number of Elected Members:</p> <p>Six elected Members (of whom one member may be a member of the Executive nominated by the Leader of the Council)</p>
<p>Chair and Vice-Chair appointed by:</p> <ol style="list-style-type: none"> 1. The Chair will be appointed by Council. 2. There will be one Vice Chair, who will be appointed by Council 3. The Vice-Chair shall deputise for the Chair in his or her absence. 	<p>Political Proportionality:</p> <p>Rules of political proportionality apply.</p> <p>Substitutes:</p> <p>Substitutes are permitted for the Standards and Audit Committee.</p> <p>Frequency:</p> <p>At least quarterly.</p> <p>Venue:</p> <p>As set out in the approved Calendar of Meetings.</p>
<p>Quorum:</p> <p>At least three voting Members of the Committee</p>	<p>Co-opted Members to be appointed by Council:</p> <p>Up to six non-voting, to be appointed by the Committee</p> <p>Independent Person to be appointed by the Council:</p> <p>Appointment approved by full Council in accordance with the provisions of Section 28(6) and (7) of the Localism Act 2011</p> <p>The Independent Person shall be invited to attend the meetings of the Standards and Audit Committee</p>
<p>Terms of Reference:</p> <p>The Standards and Audit Committee will have the following roles and functions.</p> <p>Standards functions determined by Council:</p> <ol style="list-style-type: none"> 1.1 promoting and maintaining high standards of conduct by Members and Co-Opted Members of the authority 1.2 receiving periodic reports from the Monitoring Officer on dispensations granted / refused, complaints received against Members, complaints resolved informally, complaints resolved 	

after an investigation and a Members Advisory Panel Hearing and assessing the operation and effectiveness of the Members' Code of Conduct

- 1.3 advising on training or arranging to train Members and Co-Opted Members on matters relating to the Members' Code of Conduct
- 1.4 assisting Councillors and co-opted Members to observe the Members' Code of Conduct
- 1.5 to receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the authority's assessment criteria
- 1.6 advising the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council
- 1.7 maintaining oversight of the Council's arrangements for dealing with complaints
- 1.8 informing Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints
- 1.9 appointment of Members' Advisory Panel (a Working Group of the Committee) to hear and make recommendations to the Monitoring Officer concerning complaints about Members and Co-Opted Members referred to it by the Monitoring Officer
- 1.10 on referral by the Monitoring Officer to grant dispensations after consultation with the Independent Person pursuant to S33(2) (b), (c) and (e) of the Localism Act 2011
- 1.11 hear and determine appeals against refusal to grant dispensations by the Monitoring Officer pursuant to S33(2)(a) and (d) of the Localism Act 2011

Audit functions determined by the Council:

- 1.12 providing independent assurance that the Authority's financial and risk management is adequate and effective and that there is a sound system of internal control that facilitates the effective exercise of its functions, including:
 - 1.12.1. keeping under review the Authority's own audit standards and whether they are relevant and represent best practice
 - 1.12.2. considering or reviewing the following and the action taken on them and advising the Council and/or the Cabinet, as appropriate:
 - (a) internal and external audit plans and progress against plans
 - (b) summaries of external and internal audit reports and progress against recommendations made in audit reports
 - (c) the annual report of the internal auditor and the Annual Governance Statement
 - (d) approving the annual statement of accounts and whether appropriate accounting policies have been followed

- (e) reports from inspection agencies, including the external auditor's Annual Management letter and report to those charged with governance issues
- (f) keeping under review the Authority's control environment and anti-fraud and anticorruption arrangements, including compliance with the Financial and Contracts Procedure Rules
- (g) keeping under review the relationships between external and internal audit and other inspection agencies

1.13 reviewing the performance of the Council's appointed Internal Audit provider

Composition and Terms of Reference of Members Advisory Panel (A Working Group).

2A. Members Advisory Panel	
<p>Appointed by:</p> <p>The Committee, for the purposes of section 28(6) and (7) of the Localism Act 2011</p>	<p>Number of Elected Members:</p> <p>Two elected members appointed from Members of the Standards and Audit Committee and two Independent Members</p>
<p>Chair and Vice-Chair appointed by:</p> <p>The Chair shall be an Independent Member elected by the Panel at each meeting.</p>	<p>Political Proportionality:</p> <p>Rules of political proportionality do not apply.</p> <p>Substitutes:</p> <p>None.</p> <p>Frequency:</p> <p>As and when required.</p> <p>Venue:</p> <p>To be determined by the Monitoring Officer.</p>
<p>Quorum:</p> <p>At least two elected Members and two Independent Members</p>	<p>Co-opted Members to be appointed by Council:</p> <p>Appointment approved by full Council in accordance with the provisions of Section 28(6) and (7) of the Localism Act 2011</p> <p>The Independent Person to attend the meetings of the Standards and Audit Members Advisory Panel with hearings into allegations of misconduct.</p>
<p>Terms of Reference:</p> <ol style="list-style-type: none"> 1. To conduct a Hearing into an allegation that a Member or Co-opted Member has breached the Authority's Code of Conduct. 2. Following a Hearing, make one of the following recommendations to the Monitoring Officer: <ol style="list-style-type: none"> 2.1 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 2.2 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 2.3 That the Member has failed to comply with the Code of Conduct and that a sanction and/or an informal resolution should be imposed 	

The Members Advisory Panel may recommend to the Monitoring Officer any action or combination of actions available, or recommend any informal resolution or combination of informal resolutions as are available by law or policy.

After making a finding the Members Advisory Panel shall, as soon as reasonably practicable provide written notice of its recommendations and the reasons for its decision to Monitoring Officer, the Member and complainant.

3. Corporate Parenting Committee	
Appointed by: The Council under section 102 of the Local Government Act 1972	Number of Elected Members: Eight
Chair and Vice-Chair appointed by: The Council	Political Proportionality: The elected Members shall be appointed in accordance with Political Proportionality
Quorum: Three elected Members	Co-opted Members to be appointed by Council: (i) A nominated representative from Open Door (ii) Chair and/or Vice-Chair of the Children in Care Council (iii) Chair of the Foster Carers Association (iv) Vice-Chair of the Foster Carers Association
Functions determined by Council:	
<p>1. Purpose:</p> <p>1.1 The Committee exists to ensure that all elements of the Council work together to ensure that the children looked after by Thurrock get the best possible service that can be offered.</p> <p>1.2 The Committee will serve to aid elected members to drive the improvement of the service forward including by interacting with the looked after children.</p> <p>1.3 The Committee will monitor, review and update the looked after children strategy.</p> <p>1.4 In carrying out this role, the Committee has set as its Mission Statement:</p> <p>1.5 "We want to ensure that all children looked after by Thurrock Council are given the same opportunities, the same level of support and given the same amount of attention as would be given to our own children. We acknowledge that because children looked after have often had very difficult and damaging experiences in their lives, at times they need extra support and resources in order that they can benefit from the same opportunities as other children in our community as well as ensuring that young people have access and knowledge of their elected members who run the authority for the LAC and therefore give them a voice".</p> <p>2. Objectives:</p> <p>2.1 To champion and promote the best interests of all children and young people who are, have been in care or may be at risk of becoming looked after children, particularly in relation to the following –</p> <ul style="list-style-type: none"> • Health and well-being • Ability to stay safe • Ability to enjoy and achieve • Ability and opportunity to make a positive contribution 	

- Achievement of economic well-being

- 2.2 To promote the role of all councillors as corporate parents and provide the robust vehicle for their mandate to be exercised on behalf of young people.
- 2.3 To bring together members/officers/representatives of partner agencies with corporate parenting responsibilities, with the Chair having discretion to extend invitations to attend meetings of the Committee as appropriate.
- 2.4 To routinely examine the performance data relating to looked after children and, as necessary, seek to inquire into those areas where performance is poor or of concern.
- 2.5 To explore the extent to which the Council as a whole is contributing to meeting the needs of looked after children and to identify and pursue areas where there could be improvement.
- 2.6 To receive effective 'preventative' and qualitative information in order to hold senior officers to account in relation to meeting the needs and improving the outcomes of looked after children.
- 2.7 To oversee the strategy for looked after children and ensure that the various elements within it are being delivered in a holistic and comprehensive way by all responsible.
- 2.8 To identify and celebrate the achievements of individual children and young people who are or who have been looked after.
- 2.9 To see the service shaped and influenced by those it serves – that is, young people.
- 2.10 To prepare an annual report on the work of the Committee for consideration by the Council.
- 2.11 To make recommendations to the relevant executive decision-maker where responsibility for that particular function rests with the executive
- 2.12 To report to the relevant scrutiny committee any matter which it believes that committee should give consideration to.
- 2.13 The Corporate Parenting Committee shall be responsible for setting its own work programme, taking into account the wishes and preferences of the members of the Committee, together with any suggestions from Officers of the Council for particular topics to be considered.

Matters reserved for decision:

There are no specific matters reserved to this committee.

The reason for this is that the role and function of the committee is to review and monitor the Council's role as a corporate parent. This involves the participation of members on a cross political group committee. However, any specific actions the committee might identify as necessary would be Executive functions and need to be taken by a Cabinet decision-maker, in accordance with Cabinet responsibility for functions.

Functions determined by Statute:

None.

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Thurrock Health and Wellbeing Board

Revised Terms of Reference

4. Thurrock Health and Wellbeing Board	
Appointed by: The Council under section 102 of the Local Government Act 1972	Number of Elected Members: Five
Chair and Vice-Chair appointed by: The Chair will be appointed by Full Council	Political Proportionality: There is no requirement for elected Members to be appointed in accordance with Political Proportionality
Quorum: One quarter of the whole number of Board Members, provided that in no case shall the quorum of a Committee be less than three.	Co-opted Members to be appointed by Council: None
<p>Membership:</p> <ul style="list-style-type: none"> • Any five Members as appointed by the Leader of the Council • Councillor member of the opposition group • Corporate Director Adults, Housing and Health* • Corporate Director Children's Services* • Director of Public Health* • Director of Public Realm • Chief Executive, Thurrock CVS • Chief Operating Officer, HealthWatch Thurrock • Chair, Thurrock NHS Clinical Commissioning Group • Executive Director of Community Services and Partnerships, Essex Partnership University Trust (EPUT) • Accountable Officer, Mid and South Essex Clinical Commissioning Groups • Executive Member, Basildon and Thurrock University Hospitals NHS Foundation Trust • Director-level Executive, NHS England Midlands and East of England Region • Integrated Care Director Thurrock, North East London Foundation Trust • Executive Member, Basildon and Thurrock Hospitals University Foundation Trust • Deputy Accountable Officer, Thurrock NHS Clinical Commissioning Group • Chair of the Adult Safeguarding Partnership or Senior Representative <p>* denotes mandatory organisational representation</p>	
<p>Our Vision:</p> <ul style="list-style-type: none"> • Adding Years to Life and Life to Years <p>Our Principles:</p>	

- Reducing inequality in health and wellbeing
- Prevention is better than cure
- Empowering people and communities
- Connected services
- Our commitments will be delivered
- Continually improving service delivery
- Continuing to establish clear links between health and education services, improving accessibility for all

Our Goals:

- Opportunity for All
- Healthier Environments
- Better Emotional Health and Wellbeing
- Quality Care Centred Around the Person
- Healthier for Longer

1. Purpose

- 1.1 To improve health and wellbeing and reduce inequalities in health and wellbeing
- 1.2 To develop and facilitate the delivery of transitional arrangements to meet statutory requirements within the emerging health agenda
- 1.3 To determine the health improvement priorities in Thurrock
- 1.4 To oversee the development and implementation of Thurrock's Health and Wellbeing Strategy.

2. Functions

- 2.1 Identify and join up areas of commissioning across the NHS, social care, public health, and other services directly related to health and well-being and reducing health inequalities
- 2.2 Encourage and develop integrated working – for the purpose of advancing the health and well-being of and reducing health inequalities amongst Thurrock people
- 2.3 Oversee the on-going development and refresh of the Joint Strategic Needs Assessment (JSNA)
- 2.4 Oversee the on-going development, refresh, and implementation of Thurrock's Health and Well-Being Strategy (HWS) – ensuring that it provides an overarching framework for commissioning plans related to Health and Well-Being and Health Inequalities
- 2.5 Sign-off key commissioning plans, strategy, and policy related to Health and Well-Being
- 2.6 Oversee the development of the pharmaceutical needs assessment
- 2.7 Performance-manage the achievement of and progress against key outcomes identified within the JHWS and against key commissioning plans.

3. Meeting Frequency

- 3.1 The Board will meet quarterly.

4. Governance and Approach

- 4.1 The Board will function at a strategic level, with priorities being delivered and key issues taken forward through existing partnership arrangements – which may at times include the establishment of task and finish groups.
- 4.2 The Board has delegated operation decisions to the Health and Wellbeing Board Executive Committee, a subgroup of the Board. A standing item will be included at Health and Wellbeing Board meetings which provides for the Executive Committee to inform the Board of decisions that have been taken.
- 4.3 Only a small number of permanent sub-groups will exist to support the work of the Board:
- **Health and Wellbeing Executive Committee**, a strategic group that supports the Health and Wellbeing Board
 - **Integrated Commissioning Executive (ICE)**, a decision-making body responsible overseeing the delivery of the Better Care Fund Plan, and the wider health and wellbeing transformation agenda in Thurrock. The ICE meets monthly and minutes are a standing item at Health and Wellbeing Board meetings.
 - **Housing and Planning Advisory Group (HPAG)**. HPAG supports the Board with influencing plans for the built environment and the potential impact of those plans on health and wellbeing of the population of Thurrock. It does this by looking at significant development plans (major) at the earliest possible stage to enable full consideration to be provided to the potential impact of new developments on people's health and wellbeing. HPAG reports to the HWB on an annual basis.
 - **Thurrock Integrated Care Alliance** comprises different organisations from the health and care system who work together to improve the health of their local population by integrating services and tackling the causes of ill health.
 - **Thurrock Drug and Alcohol Action Team (DAAT)**. Commissioning drug and alcohol treatment and support services for young people, adults, families and carers throughout Thurrock.
 - **The Health and Wellbeing Engagement Advisory Group**. Aims to ensure that the health and care system is responsive to meeting the needs of Thurrock's population and that residents have the opportunity to engage with, influence and shape that system.
- 4.4 Decisions taken and work progressed will be subject to scrutiny by the Health and Wellbeing Overview and Scrutiny Committee – and other Overview and Scrutiny Committees as appropriate (**note**: HealthWatch has a scrutiny function).
- 4.5 The development of the Health and Wellbeing Board and its agenda is a dynamic process. As a result, the Board's Terms of Reference continue to be reviewed at least annually and altered to reflect changes as appropriate.
- 4.6 Elected members will be nominated by the Leader of the Council.
- 4.7 The Local Authority may nominate additional Board members in consultation with the Health and Wellbeing Board.
- 4.8 The Board may appoint additional members as it thinks appropriate.
- 5. Wider Engagement**
- 5.1 The Board will ensure that the decisions it makes and the priorities it sets take account of the needs of all of Thurrock's communities and groups – particularly those most in need.

5.2 The Board will ensure that stakeholders including providers are engaged, with a Health and Well-Being Stakeholder Network established to assist with this purpose.

Functions determined by Statute:

The Health and Wellbeing Board will operate in accordance with the provisions of the Health and Social Care Act 2012 and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

The Health and Wellbeing Board may appoint one or more sub-committees of the Board to advise it with respect of any matter relating to the discharge of functions by the Board.

Functions of the Health and Wellbeing Board may also be discharged by a sub-committee of the Board or by an officer of the authority.

Schedule 2, paragraph 19(5) of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (as amended) **requires** the Health and Wellbeing Board to make representations to NHS England on the effect of the proposed removal of premises from the pharmaceutical list, usually provided through an application to consolidate pharmacies. The Health and Wellbeing Board has delegated authority to respond on its behalf to Public Health.

5. Hidden and Extreme Harms Prevention Committee	
Appointed by: The Council under section 102 of the Local Government Act 1972	Number of Elected Members: Six
Chair and Vice-Chair appointed by: The Council	Political Proportionality: The elected Members shall be appointed in accordance with Political Proportionality
Quorum: Three elected Members	Co-opted Members to be appointed by Council: None
Functions determined by Council:	
<p>1. Purpose:</p> <p>1.1 The Committee exists to ensure that all elements of the Council work together to ensure that the Council is fulfilling its duties regarding:</p> <ul style="list-style-type: none"> (a) Prevent and Counter Extremism (b) Human Trafficking and Modern Day Slavery (c) Unaccompanied Asylum Seeking Children (d) Tackling criminal gang associations <p>1.2 The Committee will serve to aid elected members to drive the improvement of the services involved forward including by interacting with partners and stakeholders.</p> <p>2. Objectives:</p> <p>2.1 To promote the role of all councillors and support the Council to promote Prevent objectives through:</p> <ul style="list-style-type: none"> (a) Ensuring that other elected members are fully briefed on key work in Prevent and how it will affect other portfolio areas (b) Provide a steer on reaching difficult decisions on those issues that involve competing public interests or may prove contentious in an area (c) Encouraging open discussion and transparent decision-making (d) Ensuring prevent priorities are reflected in the work of the Local Authority <p>2.2 To provide scrutiny and challenge of Prevent delivery.</p> <p>2.3 To promote the role of all councillors and support the Council to engage with the national strategy and work in respect of Human Trafficking and Modern Day Slavery and to tackle criminal gang associations.</p> <p>2.4 To support the Corporate Parenting Committee in the Councils management and care of Unaccompanied Asylum Seeking Children (UASC) through:</p> <ul style="list-style-type: none"> (a) Receiving effective 'preventative' and qualitative information in order to hold senior officers to account in relation to meeting the needs and improving the outcomes of UASC. 	

(b) Overseeing the strategy for UASC and ensuring that the various elements within it are being delivered in a holistic and comprehensive way by all responsible.

- 2.5 To bring together members/officers/representatives of partner agencies with relevant responsibilities, with the Chair having discretion to extend invitations to attend meetings of the Committee as appropriate.
- 2.6 To make recommendations to the relevant executive decision-maker where responsibility for that particular function rests with the executive
- 2.7 To report to the relevant scrutiny committee any matter which it believes that committee should give consideration to.
- 2.8 The Committee shall be responsible for setting its own work programme, taking into account the wishes and preferences of the members of the Committee, together with any suggestions from Officers of the Council for particular topics to be considered.

Matters reserved for decision:

There are no specific matters reserved to this committee.

The reason for this is that the role and function of the committee is to review and monitor the council's role in relation to the three areas set out in 1.1. This involves the participation of members on a cross political group committee. However, any specific actions the committee might identify as necessary would be executive functions and need to be taken by a cabinet decision-maker, in accordance with cabinet responsibility for functions.

Functions determined by Statute:

None.

Chapter 6 – Scheme of Delegation to Officers

Part 1 – Functions which are Delegated to Officers

This section sets out those functions which have been delegated to officers.

1. Powers of delegation

- 1.1 Non-Executive Functions are delegated to Officers from Council, Committees and Sub-Committees under section 101 of the Local Government Act 1972. In the case of licensing and gambling, under section 10 of the Licensing Act 2003 or section 154 of the Gambling Act 2005.
- 1.2 Executive functions are delegated to Officers by the Leader or from the Cabinet, Cabinet Committees or individual Cabinet Members under section 14 of the Local Government Act 2000.
- 1.3 Functions are delegated to the Director of Public Health under section 73A of the National Health Service Act 2006, as amended by the Health and Social Care Act 2012.

2. Basis of Delegation

- 2.1 Where the Council, a Committee or Sub-Committee, the Leader, Cabinet, a Cabinet Committee or an individual Cabinet Member has delegated a function to an Officer, the person or body making the delegation may at any time resume responsibility for the function either in respect of a particular matter or generally, and so may exercise the function despite the delegation.
- 2.2 An Officer to whom a power is delegated may refer the matter to the Chief Executive, or to the person or body making the delegation, for their determination. It will be appropriate for the Officer so to refer a matter:
 - (a) To the Chief Executive where the determination of the matter raises issues of corporate priorities or the co-ordination of the discharge of various functions of the authority
 - (b) To the person or body making the delegation where the determination of the matter is likely to be particularly controversial or raises issues of policy which it would be appropriate for Members to determine; or could, by its scale or complexity expose the Council to major corporate risk which cannot be contained within Directorate Budgets
- 2.3 In exercising any delegated powers, Officers should ensure that decisions are consistent with Council policy, within approved spending limits, and in the best interests of residents and the Council as a whole. Elected Members should be informed/consulted as appropriate depending on the nature and sensitivity of the decision.

3. Conflicts of Interest

- 3.1 Every Officer is responsible for identifying whether he/she has any conflict of interest in any matter which is under consideration, actual or perceived, within the authority, and notifying the authority (including under section 117 of the Local Government Act 1972).
- 3.2 Where an Officer has a conflict of interest in any matter, he/she shall not participate in that matter in his/her capacity as an Officer except with the prior approval of his/her line manager, the Monitoring Officer or the Chief Executive.
- 3.3 Where the Chief Executive is unable to act on a matter because of a conflict of interest, the matter shall be discharged by the one of the Directors designated by the Chief Executive, where the designated Director is unable to act the matter shall be discharged by the Directors collectively, or by such Officer as they shall determine for this purpose.
- 3.4 Where a Director is unable to act on a matter because of a conflict of interest, the Chief Executive shall discharge the matter him/herself or allocate the matter to another Officer.
- 3.5 Where the Monitoring Officer is unable to act on a matter in his/her statutory capacity under section 5 of the Local Government and Housing Act 1989, the matter shall be discharged by the Officer designated by the Monitoring Officer as Deputy Monitoring Officer.
- 3.6 Where the Monitoring Officer is unable to act on a matter in relation of Member conduct, the matter shall be discharged by the person appointed by the Monitoring Officer for this purpose under section 82A of the Local Government Act 2000.
- 3.7 Where any other Officer is unable to act on a matter that Officer's line manager or the Chief Executive may arrange for another Officer to discharge the matter.

4. The Context for the Exercise of Functions

- 4.1 The Chief Executive and Chief Officers/Directors are authorised to discharge all the functions of the authority within their areas of responsibility as defined below and subject to the General Conditions and Limitations set out below. Each Chief Officers/Director is required to agree with the Chief Executive an internal scheme of management for their Directorate.

General Conditions and Limitations

- 4.2 In taking any decision, each Officer must ensure that they have acted in a considered, well informed and defensible manner which is in the best interests of the Council and its residents. The more significant the decision, the greater the obligation to demonstrate that appropriate consideration has been given to the way the decision was made.
- 4.3 As a general rule all decisions will need to be made with a full understanding of Council policy relating to the decision, an awareness of relevant legal obligations including equality requirements, and a clear assessment of the impact of the decision on those affected. Decisions will also need to be consistent with the Council's Budget strategy and will need to be effectively risk assessed.

- 4.4 The obligation to ensure that these issues are properly understood rests with decision-makers. Where doubt exists advice must be taken from those officers who are professionally qualified to give advice such as the Council's Monitoring Officer. Officers must not commit the Council to a course of action which will entail financial obligations beyond those approved by the Council.
- 4.5 Where the decision is politically sensitive or likely to affect significant numbers of residents, decision-makers are under a general obligation to consult with those from whom the decision is delegated and ward Members where appropriate. Where realistic choices exist and where good practice would suggest it to be appropriate public consultation should be undertaken after consulting with appropriate Members.
- 4.6 No Officer other than the Assistant Director of Law and Governance shall authorise or institute any legal proceedings or process or instruct legal agents or Counsel without the prior written consent of the Assistant Director of Law and Governance.
- 4.7 The powers delegated to Officers shall not include the power to take a Key Decision, save that the Chief Executive and Chief Officers/Directors may take a Key Decision where the matter is so urgent that it is appropriate, for the protection of the interests of the authority or its area. For the purposes of this scheme, urgent shall mean any situation in which the relevant officer believes that there is a risk of damage to property, a threat to the health or well-being of an individual or that the interests of the Council may be compromised. These powers shall be exercised in accordance with Contract Procedures Rules.
- 4.8 This Scheme of Delegation is set out as far as possible, in terms of broad areas of responsibility rather than in terms of specific statutory powers. The Chief Executive shall be responsible for co-ordinating the discharge of the authority's functions between the various Officers.
- 4.9 The Chief Executive may allocate or re-allocate responsibility for functions between Officers as necessary for the effective discharge of those functions or to cover absence of particular Officers.
- 4.10 Where an Officer is going to be absent for a period of time, he/she or his/her line manager may re-allocate responsibility for that Officer's functions as necessary to ensure the effective discharge of those functions during the Officer's absence. Where the Chief Executive is going to be absent for a period of time then responsibility for the Chief Executive's functions as necessary to ensure the effective discharge of those functions during the Chief Executive's absence shall be allocated to a designated Director by the Chief Executive. Where the designated director is also absent or unable to act the Chief Executive functions shall be discharged by the Directors collectively, or by such Officer as they shall determine for this purpose.
- 4.11 Where a function is delegated to an Assistant Director, it shall also be exercisable by the Chief Executive and Chief Officers/Directors. Where a function is delegated to a Chief Officer/ Director it shall also be exercisable by the Chief Executive, except the functions of Monitoring Officer and Section 151 Officer. Where a function is stated to be specifically delegated to a particular Officer, that function shall not be exercised by any other Officer, except in accordance with this Scheme.

General Delegation to Chief Executive and Chief Officers/Directors

4.12 Without prejudice to the generality of the foregoing the Chief Executive and Chief Officers/Directors shall have the power:

- (a) to take all lawful action consistent with overall Council policy to deliver agreed strategy plans and policy within their area of responsibility and within approved Budgets, service plans, contract and financial procedural Rules, the general obligation to act in the best interests of Residents and the Council and to achieve value for money. This shall include, but not exhaustively:
- (b) to incur expenditure on the Council's behalf within the sums approved by Council and to procure goods and services consistent with the Council's procurement policies
- (c) to deal with invitation and acceptance of tenders within the limits set out in the Contracts Procedure Rules including:
 - (i) submission of bids for funding in consultation with the relevant Cabinet Member where this does not imply an ongoing commitment to the Council when the funding ends, requires match funding that cannot be met within Directorate Budgets or could, by its scale or complexity expose the Council to major corporate risks which cannot be contained within Directorate Budgets
 - (ii) write-off of irrecoverable debts within the limits of the Finance Procedure Rules
 - (iii) virement (within the Budget and Policy Framework) and limits of the Finance Procedure Rules
 - (iv) service or placing of any necessary statutory or other notices (other than those expressly reserved to Council, Committee or Cabinet)
 - (v) after consultation with the Assistant Director of Law and Governance, authorising the institution, defence or appearance in criminal or civil proceedings in relation to any legislation which they are responsible for monitoring, enforcing or otherwise implementing on behalf of the authority
 - (vi) the award of settlements arising from Ombudsman recommendations under £10,000
- (d) to put in place staffing and management arrangements for the delivery of services which are consistent with the Council's strategic management arrangements and staffing policies

Where decisions involve significant ongoing financial commitments, legal obligations, changes to the way services are provided these will require Executive approval.

4.13 The Assistant Director of Law and Governance is authorised:

- (a) to take any action to implement any decision taken by or on behalf of the authority, including the signature or service of statutory and other notices and any document
- (b) to institute, defend, settle or participate in any legal proceedings in any case where such action is necessary, in the view of the Assistant Director of Law and Governance, to give effect to decisions of the authority or in any case where the Assistant Director of Law and Governance considers that such action is necessary to protect the authority's interests
- (c) to instruct counsel, solicitors or other experts for legal proceedings, public inquiries, or other matters involving the authority
- (d) to enter objections to any proposal affecting the authority, the authority's area or the inhabitants of the authority's area
- (e) to act as the authority's Monitoring Officer under sections 5 and 5A, Local Government and Housing Act 1989

4.14 For the avoidance of doubt, anything which is not covered by this scheme, including the appointment of a proper officer for the purpose of any statutory function, will be determined by the Chief Executive.

5. Recording, Implementing and Accounting for Decisions

5.1 The Openness of Local Government Bodies Regulations 2014 require a written record to be made of any decision that has been delegated to an officer under a specific express authorisation, or under a general authorisation where the effect of the decision is to:

- (a) grant a permission or licence
- (b) affect the rights of an individual, or
- (c) award a contract or incur expenditure which, in either case, materially affects the Council's financial position

5.2 The written record referred to in Rule 5.1 above must be produced as soon as reasonably practicable after the decision has been made and must contain the following information:

- (a) the date the decision was taken
- (b) a record of the decision taken, along with the reasons for the decision
- (c) details of alternative options, if any, considered and rejected
- (d) where the decision has been delegated under a specific express authorisation, the names of any Member of the Council who has declared a conflict of interest in relation to the decision

5.3 The written record of the decision, together with any background papers, must be made available for inspection by members of the public as soon as reasonably practicable after the decision has been made:

- (a) at all reasonable hours at the Civic Offices
- (b) on the Council's website
- (c) by such other means that the Council considers appropriate

- 5.4 The written record of the decision must be retained and made available for public inspection for at least 6 years. Any background papers referred to by the decision-maker should be retained and made available for public inspection for at least 4 years. The relevant retention period will begin with the date on which the decision, to which the written record and any background papers relates, was made.
- 5.5 Nothing in the above Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence, or, information that, in the opinion of the Monitoring Officer can be defined as exempt, as set out in Chapter 8 of the Constitution.
- 5.6 Each Officer is responsible for ensuring that any decision which they take is properly recorded in line with the provisions of Rules 5.1 to 5.5 above, and that the record of that decision is available to other Officers, to Members and to the public as required by statute and this Constitution, particularly if the decision relates to a change in policy or practice, or a financial commitment.
- 5.7 The Openness of Local Government Bodies Regulations 2014 state that a person who has custody of a document which is required to be made available for inspection by members of the public will commit an offence if, without reasonable excuse, that person:
- (a) intentionally obstructs any person exercising a right conferred by the Regulations to inspect written records and background papers; or
 - (b) refuses any request made under the Regulations to provide written records or background papers
- 5.8 Every Officer is responsible for ensuring that any decision which he/she takes is implemented in accordance with that decision.
- 5.9 Every Officer is accountable for each decision which he/she takes and may be called to provide an explanation of his/her reasons for the decision and account for its implementation to other Officers, Members and statutory regulators.

6. Areas of Responsibility

- 6.1 All matters not reserved to the Council, to the Executive, or to a Committee for decision are delegated to the appropriate Chief Officer/Director subject to the Conditions and Limitations above and the Contract and Finance Procedure Rules. Each Chief Officer/Director in making decisions under this scheme is required to do so within the internal scheme of management for their own Directorate. This will include appropriate monitoring arrangements and dissemination of information both internally and externally to the Council.
- 6.2 The areas of responsibility of each Chief Officer/Director shall be as follows, and shall include the areas of responsibility of each Officer within his/her Directorate.

7. The Chief Executive

7.1 The Chief Executive shall:

- (a) be Head of Paid Service
- (b) exercise corporate Council functions
- (c) incur expenditure and delegate responsibility to incur expenditure in the event of a civil emergency
- (d) in cases of urgency or emergency, take any decision on behalf of the Council (after consultation with the Leader)
- (e) for the purposes of the Local Government (Contracts) Act 1997, have authority with the Chief Finance Officer, and the Monitoring Officer and Assistant Director of Law and Governance – to sign each certificate given under the Act
- (f) with a nominee of the Director of HR, Organisational Development and Transformation, to make decisions on employee terms and conditions, (including procedures for dismissal), except those relating to:
 - Chief Executive, Chief Officers/Directors or other Senior Officer posts
 - changes to the Council's corporate pay grade structure
 - approving redundancies (other than those which arise purely as a matter of law) and early retirement applications, where there is a cost involved, including access to superannuation benefits and discretionary severance payments where the decision will be taken after advice from the Monitoring Officer and in consultation with the Section 151 Officer and the Leader
 - a settlement agreement for Chief Officers/Deputy Chief Officers where the decision will be taken by the General Services Committee
- (g) be responsible for determining Emergency Planning and Management Services with operational responsibility for the provision of these services being delegated to the Strategic Lead as Deputy to the Chief Executive in relation to this matter
- (h) be responsible for making appropriate management arrangements for the discharge of the following functions:
 - Performance Management arrangements throughout the Council
 - The efficiency programme of the Council
 - Communications, Policy and Performance
 - Overall corporate and commercial management of any external strategic partners of the Council including, Strategic Information and

Communication Technology, Strategic Procurement, Strategic Human Resources / Organisational Development and Customer Services

- Efficient management of the Thurrock Local Strategic Partnership, partnerships governance and the development of the sustainable community strategy

The Chief Executive will also be responsible for setting the strategic management arrangements for the Council and for the allocation of roles to Directors other than those which are statutorily prescribed.

8. Corporate Director Children's Services

8.1 The Director of Children's Services shall act as the statutory officer under section 18(1) of the Children's Act 2004 and will be responsible for all matters relating to the education of children and young people, for the safeguarding of vulnerable children and for promoting the general wellbeing of children and families and services as well as all learning and cultural services. The duties include:

- (a) Children's Social Care, youth offending and brighter futures early intervention.
- (b) Children and Families.
- (c) Learning and Universal Outcomes (school improvement, children with special needs and disabilities and admissions).
- (d) Schools Transport.
- (e) Children's Commissioning and service transformation.

9. Corporate Director Adults, Housing and Health

9.1 The Corporate Director Adults, Housing and Health shall act as the statutory officer for adult social services under the Care Act 2014 and will be responsible for all matters relating to the care and support of vulnerable adults, safeguarding of vulnerable adults. The duties include:

- (a) Adult Social Care Services (commissioning contracts and procurement service).
- (b) Housing Management.
- (c) Public Health.
- (d) Adult Social Care Fieldwork (safeguarding and legal intervention, mental health for older people, complex care, learning disabilities, east and west independence and prevention teams, rapid response and assessment, preparing for adulthood disabled young people 14-25, local area co-ordinators and community led support).
- (e) Adult Social Care Provider Services (carers centre services, Collins House residential care home, extra care, joint reablement team, Thurrock homecare and wellbeing teams).

- (f) Health and Care Transformation.
- (g) Community Development and Equalities Team.
- (h) Housing (business improvement, rents and welfare, tenancy services, travellers' service, estate services, sheltered housing, housing asset management, anti-social behaviour, housing safeguarding, private housing services, housing allocation and registration, housing solutions (housing options and temporary accommodation), concierge and CCTV).

10. Director of Public Realm

10.1 The areas of responsibilities of the Director of Public Realm shall be:

- (a) Street Scene and Leisure (clean and green services, recreation and leisure, waste services, enforcement and community protection).
- (b) Highways, Fleet and Logistics (highways infrastructure, network management, passenger transport unit and fleet management).
- (c) Clean and Green Services (street cleaning, parks and open spaces, burial services and arboriculture).
- (d) Recreation and Leisure.
- (e) Waste Services (waste collection, disposal and commercial waste).
- (f) Household Waste and Recycling Centre.
- (g) Enforcement and Community Protection (enforcement, Thurrock Community Safety Partnership, local community and visibility and counter extremism and terrorism).
- (h) Planning Transport and Public Protection.
- (i) Development Management (planning applications, planning committee, planning enforcement and building control).
- (j) Strategic Planning (local plan and joint strategic plan across South Essex).
- (k) Transport Development (supporting growth agenda, local transport scheme, funding bids).
- (l) Public Protection (environmental health, trading standards, emergency planning, food safety, licensing and health and safety).

11. Director of Public Health

11.1 The Director of Public Health shall act as the statutory officer under section 73A of the National Health Service Act 2006, as amended by the Health and Social Care Act 2012, and in particular will act as Lead for the delivery of public health services within Thurrock.

11.2 The areas of responsibilities of the Director of Public Health shall be:

- (a) Health Improvement (address inequalities, improving wider determinants of ill health, strengthening families and communities, improving lifestyles).
- (b) Healthcare Public Health (improving clinical effectiveness, improving service efficiency, planning new services, audit and evaluation, clinical governance and ensuring equity of provision of and access to services).
- (c) Health Protection (controlling infectious diseases, chemicals and poisons, radiation, emergency response and environmental health hazards).
- (d) Children and Young People's Public Health.
- (e) Health Improvement and Protection.
- (f) Environment, Place and Community based Public Health.
- (g) Health Intelligence, Healthcare and Social Care Public Health.

12. Corporate Director Resources and Place Delivery

12.1 The areas of responsibilities of the Corporate Director Resources and Place Delivery shall be:

- (a) The exercise of corporate Council functions in relation to accountancy, counter fraud and investigation, internal audit, insurance and risk, revenues and housing benefits, essential living fund, exchequer services, information technology, democratic services and elections.
- (b) To be the Council's Chief Financial Officer under section 151 of the Local Government Act 1972.
- (c) Exclusion from the above delegations:
 - The approval of virements, carry forwards and writing off irrecoverable debts above the limits contained within the Financial Procedure Rules
 - Determination of applications for mandatory and discretionary non-domestic rate relief and discretionary housing benefit outside the approved scheme
- (d) Procurement.
- (e) Procure to Pay (P2P).
- (f) Business Development.
- (g) Traded Services.
- (h) Property and Development Teams.
- (i) Lower Thames Crossing.

13. Assistant Director of Law and Governance

- 13.1 The areas of responsibilities of the Assistant Director of Law and Governance shall be:
- (a) Legal Services.
 - (b) Members Services.

14. Director of Human Resources, Organisational Development and Transformation

- 14.1 The areas of responsibilities of the Director of Human Resources, Organisational Development and Transformation shall be:
- (a) Human Resources, Organisational Development and Payroll.
 - (b) Resourcing and Improvement.
 - (c) Information Management.
 - (d) Transformation.

15. Director of Strategy, Engagement and Growth

- 15.1 The areas of responsibility for the Director of Strategy, Engagement and Growth shall be:
- (a) Strategy and Corporate Performance.
 - (b) Communications.
 - (c) Web.
 - (d) Customer Services.
 - (e) Performance, Quality and Business Intelligence (Social Care, Education).
 - (f) Economic Development.

16. Detailed Scheme of Management

- 16.1 Each Chief Officer/Director and/or Assistant Director in making decisions under the above scheme is required to do so within the internal scheme of management for their own Directorate.
- 16.2 This internal scheme of management will be approved by the Chief Executive and reviewed annually.

Part 2 – Statutory Functions which are allocated to Officers

This section sets out those Officers who have been designated by the authority to discharge specified statutory functions

1. Legislation Function Post

Legislation	Function	Proper Officer
Section 4 Local Government and Housing Act 1989	Chief Executive	The Chief Executive
Sections 5 and 5A Local Government and Housing Act 1989	Monitoring Officer	Monitoring Officer and Assistant Director of Law and Governance
Section 151 LGA 1972	Chief Finance Officer	Corporate Director Resources and Place Delivery
Section 35(1) Representation of the People Act 1983	Returning Officer	The Chief Executive
Section 8 Representation of the People Act 1983	Electoral Registration Officer	The Chief Executive
Care Act 2014	Corporate Director Adult Social Services	Corporate Director Adults, Housing and Health
Section 18 Children Act 2004	Corporate Director Children's Services	Corporate Director Children's Services
Section 72(1)(a) Weights and Measures Act 1985	Chief Inspector of Weights and Measures	Assistant Director of Planning, Transport and Public Protection
Section 73A of the National Health Service Act 2006, as amended by the Health and Social Care Act 2012	Director of Public Health	Director of Public Health

2. The Council employs the following Proper or appropriate Officers

Legislation	Function	Proper Officer
Local Government Act 1972		
Section 83(1) to (4)	Witness and receipt of Declaration of Acceptance of Office	The Chief Executive
Section 84(1)	Receipt of notice of resignation of elected Member	The Chief Executive

Legislation	Function	Proper Officer
Section 88(2)	Convening a meeting of Council to fill a casual vacancy in the office of Chair	The Chief Executive
Section 89(1)	Notice of casual vacancy	The Chief Executive
Section 100A – 100H (except 100(D))	Admission of public (including press) to meetings	The Chief Executive
Section 100(D)	Compile list of background papers for reports and make copies available for public inspection	The Chief Executive
Section 115(2)	Receipt of money due from officers	The Chief Executive
Section 146(1)(a) and (b)	Declarations and certificates with regard to transfer of securities	Corporate Director Resources and Place Delivery
Section 191	Officer to whom an application under S.1 of the Ordnance Survey Act 1841 will be sent	Director of Public Realm
Section 225	Deposit of documents	The Chief Executive
Section 228(3)	Accounts for inspection by any Member of the Council	Corporate Director Resources and Place Delivery
Section 229(5)	Certification of photographic copies of documents	Monitoring Officer
Section 234	Authentication of documents	Monitoring Officer
Section 238	Certification of byelaws	Monitoring Officer
Section 248	Officer who will keep the Roll of Freemen	The Chief Executive
Schedule 12		
Para 4(2)(b)	Signing of summons to Council meeting	The Chief Executive
Para 4(3)	Receipt of notice about address to which summons to meeting is to be sent	The Chief Executive
Schedule 14		
Para 25	Certification of resolution concerning the Public Health Acts 1875 to 1925	Director of Public Realm
Local Government Act 1974		
Section 30(5)	To give notice that copies of an Ombudsman's report are available	The Chief Executive

Legislation	Function	Proper Officer
Local Government (Miscellaneous Provisions) Act 1976		
Section 41(1)	The officer who will certify copies of evidence of resolutions and minutes of proceedings	The Chief Executive
Local Authorities Cemeteries Order 1977		
Regulation 10	To sign exclusive rights of burial	Director of Public Realm
Planning and Compulsory Purchase Act 2004 (introduced by Section 110 of the Localism Act 2011)		
Section 33A(1) Planning and Compulsory Purchase Act 2004	Duty to cooperate	Director of Public Realm
Representations of the People Act 1983		
Sections 82 and 89	Receipt of election expense declarations and returns and the holding of those documents for public inspection	The Chief Executive
Local Elections (Principal Areas) (England) Rules 2006		
Schedule 2, Rule 53	Retention and public inspection of documents after an election	The Chief Executive
Local Government and Housing Act 1989		
Section 2(4)	Recipient of the list of politically restricted posts	Monitoring Officer and Assistant Director of Law and Governance
Local Government (Committees and Political Groups) Regulations 1990		
Regulation 8	For the purposes of the composition of Committees and nominations to political groups	Monitoring Officer
Local Authorities (Members' Interests) Regulations 1992		
Regulations 3,4,5 and 6	Functions relating to keeping a record of Members' interests	Monitoring Officer
Local Authorities (Standing Orders)(England) Regulations 2001		
Schedule 1 Part 2	Notification of appointment or dismissal of officers	The Chief Executive
The Local Authorities (Executive Arrangements) Access to Information (England) Regulations 2000		
Regulation 3	Recording of Executive decisions made at meetings of the Executive Board	Monitoring Officer

Legislation	Function	Proper Officer
Regulation 5	Inspection of documents following Executive decisions	Monitoring Officer
Regulation 6	Inspection of background papers	Monitoring Officer
Regulation 9	Individual Executive decisions	Monitoring Officer
Regulation 11	Access to agenda and connected reports	Monitoring Officer
Regulation 12	Publicity in connection with key decisions	Monitoring Officer
Regulation 15	General exception relating to the Forward Plan	Monitoring Officer
Regulation 17	Members' rights of access to documents	Monitoring Officer
Regulation 21	Confidential/exempt information and exclusion of public from meetings	Monitoring Officer
Building Act 1984		
Section 93	Authentication of documents	Director of Public Realm
Food Safety Act 1990		
Section 49(3)(a)	Authentication of documents	Assistant Director of Planning, Transport and Public Protection
Public Health (Control of Disease) Act 1984		
Note: Repeal of sections 31-32 due to be brought into effect under s 130, Health and Social Care Act 2008.		
Section 31	Certification by officer of need for disinfection of premises	Assistant Director of Planning, Transport and Public Protection
Section 32	Certification by officer of need to remove person from infected house	Assistant Director of Planning, Transport and Public Protection
Public Health Act 1936		
Section 85(2)	To serve notice requiring remedial action where there are verminous persons or articles	Assistant Director of Planning, Transport and Public Protection
Public Health Act 1961		
Section 37	Control of any verminous article	Assistant Director of Planning, Transport and Public Protection

Legislation	Function	Proper Officer
Public Health (Control of Disease) Act 1984		
As above repeal due to be brought into effect under s 130, Health and Social Care Act 2008 – save for sections 48 and 59 below.		
Section 11	Receiving and dealing with notifications about cases of notifiable diseases and food poisoning	Assistant Director of Planning, Transport and Public Protection
Section 18	Obtaining information about cases of notifiable disease or food poisoning	Assistant Director of Planning, Transport and Public Protection
Section 20	Stopping of work to prevent spread of disease	Assistant Director of Planning, Transport and Public Protection
Section 21	Exclusion from school of a child liable to convey a notifiable disease	Assistant Director of Planning, Transport and Public Protection
Section 22	Requesting names and addresses of pupils attending a school or department of a school	Assistant Director of Planning, Transport and Public Protection
Section 36	Issuing certificates to obtain an order for and carrying out a medical examination of persons believed to be carrying a notifiable disease	Assistant Director of Planning, Transport and Public Protection
Section 40	Obtain a warrant to and carry out a medical examination of inmates of a common lodging house	Assistant Director of Planning, Transport and Public Protection
Section 42	Certifying a common lodging house to be free from infection	Assistant Director of Planning, Transport and Public Protection
Section 43	Certifying that the body of a person who dies in hospital from a notifiable disease shall not be moved except to be taken to a mortuary or immediately buried or cremated	Assistant Director of Planning, Transport and Public Protection
Section 48	Certifying that the retention of a body in a building would endanger health	Assistant Director of Planning, Transport and Public Protection
Section 59	Authentication of documents relating to matters within his/her responsibility	Assistant Director of Planning, Transport and Public Protection

Legislation	Function	Proper Officer
National Assistance Act 1948		
Section 47	Removal to suitable premises of people in need of care and attention	Corporate Director Adults, Housing and Health
National Assistance (Amendment) Act 1951		
Section 1	Certification of the need for immediate action	Corporate Director Adults, Housing and Health
National Health Service Act 2006, as amended by the Health and Social Care Act 2012		
Section 73A (1) (a)	the exercise by the authority of its functions under section 2B, 111 or 249 or Schedule 1	Director of Public Health
Section 73A (1) (b)	the exercise by the authority of its functions by virtue of section 6C(1) or (3),	Director of Public Health
Section 73A (1) (c)	anything done by the authority in pursuance of arrangements under section 7A	Director of Public Health
Section 73A (1) (d)	the exercise by the authority of any of its functions that relate to planning for, or responding to, emergencies involving a risk to public health,	Director of Public Health
Section 73A (1) (e)	the functions of the authority under section 325 of the Criminal Justice Act 2003	Director of Public Health
Section 73A (1) (f)	such other functions relating to public health as may be prescribed	Director of Public Health

Chapter 7 – Ethical Governance

Part 1 – Article 9 – The Standards Functions

1. Standards Functions

1.1 The Council is required by Section 27 of the Localism Act 2011 to promote and maintain high standards of conduct by members and co-opted members of the authority and in discharging this duty to adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity. By Section 28 of the Localism Act 2011 the Council is required to have arrangements under which allegations can be investigated, and arrangements under which decisions on allegations can be made.

2. Joint Standards and Audit Committee

2.1 The Council has established a Joint Standards and Audit Committee whose terms of reference are set out in Chapter 5 Part 5 of this Constitution.

2.2 The Committee has 6 elected Members appointed by Council, of whom 1 member may be a member of Cabinet nominated by the Leader of the Council.

2.3 The Chair and Vice Chair are elected by the Committee and the rules of politically proportionality apply with substitutes being permitted.

2.4 The Committee may appoint up to 6 non-voting Co-opted Members and the quorum will be at least 3 voting Members.

2.5 Council shall appoint an Independent Person(s) in accordance with the provisions of Section 28(6) and (7) of the Localism Act 2011 and the Independent(s) shall be invited to attend meetings of the Standards and Audit Committee.

2.6 In relation to Standards Functions, the role and functions of the Standards and Audit Committee shall be:

- (a) promoting and maintaining high standards of conduct by Members and Co-opted Members of the authority
- (b) receiving periodic reports from the Monitoring Officer on dispensations granted / refused, complaints received against Members, complaints resolved informally, complaints resolved after an investigation and a Members Advisory Panel Hearing and assessing the operation and effectiveness of the Members' Code of Conduct
- (c) advising on training or arranging to train Members and Co-opted Members on matters relating to the Members' Code of Conduct
- (d) assisting Councillors and Co-opted Members to observe the Members' Code of Conduct

- (e) to receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the authority assessment criteria
- (f) advising the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council
- (g) maintaining oversight of the Council's arrangements for dealing with complaints
- (h) informing Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints
- (i) appointment of Members' Advisory Panel (a Working Group of the Committee) to hear and make recommendations to the Monitoring Officer concerning complaints about Members and Co-opted Members referred to it by the Monitoring Officer
- (j) on referral by the Monitoring Officer to grant dispensations after consultation with the Independent Person pursuant to S33 (2) (b), (c) and (e) of the Localism Act 2011
- (k) hear and determine appeals against refusal to grant dispensations by the Monitoring Officer pursuant to S33 (2) (a) and (d) of the Localism Act 2011

2.7 Members' Advisory Panel

- 2.8 The hearing of an allegation that an Elected Member or Co-opted Member has breached the Council's Code of Conduct when referred to the Committee by the Monitoring Officer shall be undertaken by the Members' Advisory Panel.
- 2.9 The terms of reference of the Panel are set out in Chapter 5 Part 5 of this Constitution.
- 2.10 The Members' Advisory Panel has 2 elected members appointed from Members of the Standards and Audit Committee and 2 Independent Members.
- 2.11 The Chair of the Panel shall be elected by the Panel at each meeting and the rules of political proportionality do not apply with no substitutes being permitted and quorum of at least 2 elected Members and 2 Independent Members. The Independent(s) Person is to attend the meetings of the Members' Advisory Panel.
- 2.12 Role and functions of the Members' Advisory Panel shall be:
- (a) To conduct a Hearing into an allegation that a Member or Co-opted Member has breached the Authority's Code of Conduct.
 - (b) Following a Hearing, make one of the following recommendations to the Monitoring Officer:
 - (i) 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

- (ii) 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
 - (iii) That the Member has failed to comply with the Code of Conduct and that a sanction and/or an informal resolution should be imposed
- (c) The Members Advisory Panel may recommend to the Monitoring Officer any action or combination of actions available, or recommend any informal resolution or combination of informal resolutions as are available by law or policy.
- (d) After making a finding the Members Advisory Panel shall, as soon as reasonably practicable provide written notice of its recommendations and the reasons for its decision to Monitoring Officer, the Member and complainant.

Part 2 – Procedure for making Complaints against a Councillor for breach of the Code of Conduct

1 Introduction

- 1.1 This Procedure provides for the receipt, initial assessment, investigation and determination of complaints made under the Code of Conduct for Members
- 1.2 The following terms used in this Procedure are defined as follows.

Complainant	the person making the complaint
Member	the elected councillor or co-opted member subject to the complaint
Investigator	either an officer of the Council and / or an independent Investigator whom the Monitoring Officer has asked to investigate a complaint
Monitoring Officer	the Council officer with statutory responsibilities under section 5 of the Local Government and Housing Act 1989 and as set out below in this Code – in Thurrock Council, the Monitoring Officer is currently the Assistant Director of Law and Governance
Independent Person	a person or persons appointed by the Council to advise it or the Member on the determination of complaints
Members Advisory Panel	the Members' Advisory Panel is a Working Group of the Council's Standards and Audit Committee which will conduct a local hearing to consider whether the Member has failed to comply with the Code of Conduct and, if so, whether to recommend actions in respect of the Member to the Monitoring Officer
Appellant	the person appealing a decision under this Procedure
Respondent	the person responding to an appeal

2 How to make a complaint

- 2.1 Any person may make a complaint under the Code of Conduct. Complaints must:
- 2.1.1 Be made in writing – that is, by email or letter – addressed to the:

**Monitoring Officer
Legal Services
Civic Offices
New Road
Grays
RM17 6SL**

or to the contact email address on the Council's website

- 2.1.2 Include the full name and address of the Complainant
 - 2.1.3 Identify the Member complained of
 - 2.1.4 Set out the nature and substance of the alleged breach of the Code of Conduct for Members. It is recommended that complaints include or attach evidence to support the allegation.
- 2.2 Upon receipt of a complaint complying with 2.1 above, the Monitoring Officer will send a copy of the Complaint to the Member and the Independent Person.

3 Initial assessment

- 3.1 The Council's Monitoring Officer will receive and assess all complaints to determine whether the complaint should be investigated. If the Monitoring Officer considers that s/he can resolve the complaint through informal mediation or discussion, s/he may take this step before determining whether a complaint should be investigated.
- 3.2 The following complaints are normally not suitable for investigation, save where the Monitoring Officer accepts there are exceptional circumstances:
- 3.2.1 Complaints that are really about Council services, its policies or performance. Such complaints will be referred to the relevant service area in accordance with the Council's Complaints Policy.
 - 3.2.2 Complaints that are really about the political policies or performance of a councillor in their role. Such complaints will be referred to the councillor and / or their political group for response.
 - 3.2.3 Complaints that relate to another authority or an alleged breach of another authority or body's Code of Conduct.
 - 3.2.4 Vexatious or frivolous complaints or complaints which are intended to insult individuals.
 - 3.2.5 Minor or "tit-for-tat" complaints that do not justify the time and resources of an investigation.
 - 3.2.6 Complaints which relate to matters or events more than 3 months before the date when the complainant first became aware of the matters or events.
 - 3.2.7 Complaints by a member against another member will not normally be investigated until the Monitoring Officer considers that other processes – for example, informal mediation or political group processes have been exhausted.
 - 3.2.8 Complaints by officers should be first made under the Member / Officer Protocol
 - 3.2.9 Complaints that are already subject to other internal or external processes will not be investigated until those other processes have completed to enable the complaint to be resolved by other means. Determination of such complaints will be suspended until the other process is finalised.

- 3.3 In making decisions at 3.1 and 3.2, the Monitoring Officer will consult the Council's independent person (or where it has more than one independent person, one of the independent persons).
- 3.4 The Monitoring Officer may request further evidence or information from the Complainant. The Monitoring Officer may request an initial response from the Councillor complained of (or any other person) or take any other steps s/he considers reasonable to assist her determination.
- 3.5 The Monitoring Officer will inform the complainant and member in writing of their decision within 30 days of receipt of the complaint. Where the Monitoring Officer is not able to respond within this time, s/he will inform the complainant and member of the date by which a decision will be made.
- 3.6 The Complainant will have 7 days from the date of the Monitoring Officer's letter to ask for a review of a decision not to investigate a complaint. The application for review must be submitted in writing to the Monitoring Officer setting out the reasons for the review. The review will be determined by the Council's Chief Executive. If the Chief Executive considers the review should be upheld, the complaint will be investigated in accordance with Section 4.

4 Investigation

- 4.1 The Monitoring Officer will arrange for the complaint to be investigated by either an officer of the Council and / or an independent investigator. The Monitoring Officer may provide terms of reference for the investigation, which will focus on investigation of the factual evidence in support or against the allegation. The Member concerned has a duty to co-operate with the investigation.
- 4.2 The Investigation will follow its terms of reference and will include but is not limited to:
- 4.2.1 An opportunity for the Complainant to provide further evidence to support their allegation and / or the names of witnesses that they consider may provide relevant evidence.
 - 4.2.2 An opportunity for the Member to provide further evidence to support their allegation and / or the names of witnesses that they consider may provide relevant evidence.
 - 4.2.3 Taking evidence from any witnesses (or considering any documents) the Investigator considers may be relevant to the investigation.
- 4.3 If the Investigator considers that the terms of reference of the investigation may require amendment – for example, there is evidence of an additional potential breach of the Code of Conduct – he/she will raise this with the Monitoring Officer who will determine the appropriate course of action.
- 4.4 The Investigation will take no longer than 2 months from the date of the appointment of the investigator, unless the Monitoring Officer agrees that the investigation period should be extended.

4.5 The Investigator will provide a written report to the Monitoring Officer in respect of the allegations.

5 Members' Advisory Panel hearing

5.1 The Monitoring Officer will report the matter to the Members' Advisory Panel (Panel) which will conduct a local hearing to consider whether the Member has failed to comply with the Code of Conduct and if so, whether to recommend action in respect of the Member to the Monitoring Officer. The Members' Advisory Panel (a Working Group of the Standards and Audit Committee) will be held within 30 days of receipt by the Monitoring Officer of the investigation report to determine recommendations on the complaint. The Independent Person will be present at the Panel's Hearing and may advise both the Panel and the Member.

5.2 The Panel Hearing will normally take the following order:

- **Investigation Report**

The Investigator will present their report and evidence (and may call witnesses). The Complainant and Member may question the investigator and any witnesses

- **The Complainant's Case**

The Complainant presents their evidence and calls any witnesses. The Member may then question the Complainant and any witnesses.

- **The Member's Case**

The Member presents their evidence and calls any witnesses. The Complainant may then question the Member and any witnesses.

- **Final Submissions**

The Complainant and Member will present their final submissions in this order.

5.3 The Panel may ask questions of any person at any time.

5.4 After hearing final submissions, the Panel will withdraw to consider its decision and may consult with the Independent Person when doing so.

5.5 After reaching its decision, the Panel will either announce its recommendation at the hearing or inform the parties that the decision will be provided in writing to them within 7 days. Any verbal decision must be followed by written confirmation of the decision and its reasons within 7 days.

6 Sanction

6.1 Where a member is found in breach of the Code of Conduct, there is no statutory power to sanction the Member. The Panel may decide to recommend to the Monitoring Officer:

6.1.1 That no further action is necessary

- 6.1.2 To impose one or more of the following sanctions (or any other lawful sanction as advised by the Monitoring Officer)
 - 6.1.3 Censure or reprimand the member
 - 6.1.4 Publish its findings in respect of the member's conduct
 - 6.1.5 Report its findings to Council for information
 - 6.1.6 Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council
 - 6.1.7 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities
 - 6.1.8 Recommend to Council that the member be replaced as Executive Leader
 - 6.1.9 Instruct the Monitoring Officer to arrange training for the member
 - 6.1.10 Remove from all outside appointments to which he/she has been appointed or nominated by the authority
 - 6.1.11 Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
 - 6.1.12 Exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings
- 6.2 Before reaching its decision, the Complainant and Member have the right to make submissions as to the appropriate sanction (if any). Where the decision is communicated in writing, the Council will re-convene the Panel Hearing to consider the question of sanction and the above procedure will apply. In such situations, either party may submit its representations in writing to the Monitoring Officer in advance of the re-convened hearing.

7 Appeals against a determination hearing decision

- 7.1 There is no right of appeal by either party against a decision of the Monitoring Officer or of the recommendations of the Member's Advisory Panel.
- 7.2 If you feel that the authority has failed to deal with the complaint properly, a complaint may be made to the Local Government Ombudsman.

8 Governance

- 8.1 The Panel Hearings are not subject to the Council's Procedure Rules as they apply to Committees save as required by law or as set out below.
- 8.2 The Council's Access to Information Rules will apply to Panel Hearings and so will normally be held in public.

- 8.3 The quorum for the Panel shall be two elected Members of the Council drawn from at least two different political parties and two Independent Members.
- 8.4 The Panel has power to postpone the hearing and / or adjourn a part heard hearing to a later if, in either case, it considers this is necessary to allow it to hold a fair hearing but taking into account the need to determine all complaints in a prompt manner.
- 8.5 The Chair of the Panel shall have a second and casting vote.
- 8.6 The Panel may determine the length of the hearing and any individual stages – for example, the length of final submissions – taking into account the nature and complexity of the complaint and evidence and ensuring that both parties have a reasonable opportunity to present their case. The Panel will inform the parties of any time limits at the start of the meeting.
- 8.7 The Panel will take advice from the Monitoring Officer or any legal advisor appointed by the Monitoring Officer to advise the Panel in her/his absence at any time during the hearing or while they are considering the outcome.
- 8.8 Decisions will be made by simple majority and the standard of proof to be applied is the balance of probabilities in any findings against the member. Abstentions are not permitted.

Part 3 – Members' Code of Conduct

1. Introduction

- 1.1. The role of Councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as Councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual Councillor affects the reputation of all Councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become Councillors.
- 1.2. As Councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.
- 1.3. Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.
- 1.4. This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

2. Definitions

- 2.1. For the purposes of this Code of Conduct: A "Councillor" means a member or co-opted member of a local authority or directed elected mayor. A "co-opted member" is defined in section 27(4) of the Localism Act 2011 as "a person who is not a member of the authority but who:
 - a) is a member of any committee sub-committee the authority; or
 - b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

A "local authority" includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

3. Purpose of the Code of Conduct

- 3.1. The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your

specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of Councillor and local government.

4. General principles of Councillor Conduct

- 4.1. Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles. These seven principles are set out in full in Appendix A.
- 4.2. Building on these principles, the following general principles have been developed specifically for the role of Councillor.
- 4.3. In accordance with the public trust placed in me, on all occasions:
 - I act with integrity and honesty
 - I act lawfully
 - I treat all persons fairly and with respect
 - I lead by example and act in a way that secures public confidence in the role of councillor
 - In undertaking my role:
 - I impartially exercise my responsibilities in the interests of the local community
 - I do not improperly seek to confer an advantage, or disadvantage, on any person
 - I avoid conflicts of interest
 - I exercise reasonable care and diligence
 - I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest

5. Application of the Code of Conduct

- 5.1. This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Councillor.
- 5.2. This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:
 - you misuse your position as a councillor
 - your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor
- 5.3. The Code applies to all forms of communication and interaction, including:
 - at face-to-face meetings
 - at online or telephone meetings
 - in written communication
 - in verbal communication
 - in non-verbal communication
 - in electronic and social media communication, posts, statements and comments

- 5.4. You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.
- 5.5. Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct.

6. Standards of Councillor Conduct

- 6.1. This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.
- 6.2. Guidance is included to help explain the reasons for the obligations and how they should be followed.

7. General Conduct

1. Respect

As a councillor:

- 1.1. I treat other councillors and members of the public with respect.**
- 1.2. I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack. In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors. In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Members' Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Protocol for Member / Officer Relations.

2. Bullying, harassment and discrimination

As a councillor:

- 2.1. I do not bully any person.**
- 2.2. I do not harass any person.**
- 2.3. I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a councillor:

3.1. I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a councillor:

4.1. I do not disclose information:

- a) given to me in confidence by anyone**
- b) acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless:**
 - i. I have received the consent of a person authorised to give it**
 - ii. I am required by law to do so**
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**

iv. the disclosure is:

- I. reasonable and in the public interest**
 - II. made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - III. I have consulted the Monitoring Officer prior to its release.**
- 4.2. I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**
- 4.3. I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor:

- 5.1. I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a councillor:

- 6.1. I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1. I do not misuse council resources.

7.2. I will, when using the resources of the local authority or authorising their use by others:

- a) act in accordance with the local authority's requirements; and**
- b) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

8.1. I undertake Code of Conduct training provided by my local authority.

8.2. I cooperate with any Code of Conduct investigation and/or determination.

8.3. I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4. I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

9. Protecting your reputation and the reputation of the local authority interests

As a councillor:

9.1. I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority. You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained. You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011. **Appendix B** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a councillor:

10.1. I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

10.2. I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

10.3. I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness, in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendix A – The Seven Principles of Public Life

The principles are as follows.

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B – Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"**Disclosable Pecuniary Interest**" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"**Partner**" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non-participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests as set out in **Table 2**, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8. Where a matter arises at a meeting which **affects**:

- a. your own financial interest or well-being
- b. a financial interest or well-being of a relative or close associate; or
- c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision; and
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest.

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive Function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Interest	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992).</p>
Contracts	<p>Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partner (or a firm in which such a person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities* of) and the council:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>"Land" excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licences	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.

Interest	Prescribed description
Corporate tenancies	Any tenancy where (to the councillor's knowledge): (a) the landlord is the council (b) the tenant is a body that the councillor, his/her spouse/civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of
Securities	Any beneficial interest in securities* of a body where: (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either: (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class

For this purpose:

* "director" includes a member of the committee of management of an industrial and provident society.

* "securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registrable Interests

You must register as an Other Registerable Interest:

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body:
 - (i) exercising functions of a public nature
 - (ii) directed to charitable purposes; or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management

Declaring interests flowchart – questions to ask yourself

Breaching those parts identified as a pecuniary interest is potentially a criminal offence.

Helpful reminders for members:

- is your register of interests up to date?
- in particular, have you declared to the Monitoring Officer all disclosable pecuniary interests?
- have you checked the register to ensure they have been recorded correctly?

When should you declare an interest at a meeting?

- **what matters are being discussed at the meeting?** including Council, Cabinet, committees, subs, joint committees and job subs; or
- if you are a Cabinet member making decisions other than in Cabinet, **what matter is before you for single member decision?**



Is the business to be transacted at the meeting:

- **related to; or**
- **likely to affect**

any of your registered interests and in particular any of your disclosable pecuniary interests?

Disclosable pecuniary interests shall include your interests or those of:

- your spouse or civil partner
- a person you are living with as husband/wife
- a person you are living with as if you were civil partners

where you are aware that person has the interest.

A detailed description of a disclosable pecuniary interest is included in the Members Code of Conduct at Chapter 7 of the Constitution. **Please seek advice from the Monitoring Officer about disclosable pecuniary interests.**

What is a non-pecuniary interest? This is an interest which is not pecuniary (as defined) but is nonetheless so significant that a member of the public with knowledge of the relevant facts, would reasonably regard to be so significant that it would materially impact upon your judgement of the public interest.

Pecuniary

If the interest is not already in the register you must (unless the interest has been agreed by the Monitoring Officer to the sensitive) disclose the existence and the nature of the interest to the meeting.

If the interest is not entered in the register and is not the subject of a pending notification you must within 28 days notify the Monitoring Officer of the interest for inclusion in the register.

Unless you have received dispensation upon previous application from the Monitoring Officer, you must:

- not participate or participate further in any discussion of the matter of the meeting
- not participate in any vote or further vote taken at the meeting
- leave the room while the item is being considered / voted upon

If you are a Cabinet member, you may make arrangements for the matter to be dealt with by a third person but take no further steps.

Non-pecuniary

Declare the nature and extent of your interest, including enough detail to allow a member of the public to understand its nature.

You may participate and vote in the usual way but you should seek advice on Predetermination and Bias from the Monitoring Officer.

Social Media Guidelines for Councillors

1. Introduction

- 1.1. This policy aims to ensure appropriate use of social media by Councillors' and Co-opted Members. Users must ensure that they use social media sensibly, responsibly, lawfully, and that Council information remains secure and is not compromised. Also, that use will not expose the Council, its business to security risks, reputational damage, breach of Data Protection laws or legal claims.
- 1.2. This social media policy is to be read in conjunction with the Member Code of Conduct.

2. Purpose

- 2.1. This Policy provides support and guidelines on how to use social media, how to effectively manage social media usage. It also provides guidance on some of the risks and pitfalls that specifically apply to Councillors and Co-opted Members and how to avoid these. This guidance is not exhaustive and if you have any queries, you should seek further guidance from the Monitoring Officer.

3. Responsibilities of Councillors and Co-opted Members

- 3.1. You are personally responsible for any content that you publish on social media or allow to be published in the form of a comment. Your posts are in the public domain and are subject to both the Council's Member Code of Conduct and relevant Law.
- 3.2. You will need to monitor and, where appropriate, censor or remove the contributions made by others to your site. Make sure you are confident of the validity and nature of the information you publish. Allowing defamatory, untrue, or offensive statements to remain on a site could give rise to a libel action for which you may be personally liable to pay damages, no indemnity from the Council will be available. Abusive, bullying, or racist posts may amount to a criminal offence. Also, Code of Conduct issues could arise where you allow comments to remain on your site, as this could be seen as condoning or endorsing them.
- 3.3. Also 'liking,' 'sharing' or 're-tweeting' posts could appear to be an endorsement of them and can be a separate instance of publication by you, to which all the legal and Code of Conduct considerations would apply.
- 3.4. Bear in mind that publishing information and images that are not yours, without permission, may also result in an award of damages against you. Seek permission from the copyright holder in advance.
- 3.5. Always ensure the security of your devices to prevent unauthorised access by third parties who may make inappropriate use of the device.
- 3.6. Make use of privacy settings if you do not want the press or public to access your social media platform. Read the terms of service of any social media site accessed and make sure you understand their confidentiality/privacy settings.

4. Principles for using social media

4.1. You should follow these guiding principles for any social media activities:

- Keep your posts professional, respectful, and polite – especially when corresponding with others who are discourteous, as you are still governed by the Code of Conduct and rules of confidentiality during online exchanges.
- Make sure that you respect people's confidentiality – do not disclose non-public information from Council meetings, discussions or documents or the personal information of others, including photographs, without their express permission to do so.
- Be credible and consistent – be accurate, fair, thorough, and transparent. Encourage constructive criticism and deliberation. Make sure that what you say online is consistent with your other communications.
- Be honest about who you are – it is important that any accounts or profiles that you set up are clearly and easily identifiable. As you are personally responsible for the content you publish on any form of social media, it is important to clarify between your professional and private life, possibly having separate accounts. It is recommended that you have separate social media profiles for your role as a Councillor or Co-opted Member and for your private life. Do not use the Council's logo, or any other Council related material on a personal account or website.
- Do not enter unhelpful online arguments, as everyone online will be witnessing this. Ignore people or block them if they persist in vexatious comments.
- If you make a mistake - admit it. Mistakes happen so do not try to cover it up as there will always be a record of what you have said.
- Be responsive – share what you know and answer any questions in a in a timely manner. Put people in touch with someone who can help if you cannot.
- Think carefully about who to 'follow' or 'befriend' online. It is inadvisable unless you have good reason for doing so. Online 'friendships' with council officers should be avoided as they may compromise the appearance of impartial advice. Following or befriending contractors who have been procured to provide services to the council, a company or member of the public making a planning application or pressure groups, might be construed as having a close personal association with them and therefore a personal interest.

Bias and pre-determination

If you sit on regulatory committees such as planning or licensing, you can have a particular view on an application, but must not go as far as to have predetermined your position on a matter. Bear in mind that any relevant views you might have aired on social media about certain issues could be used as evidence of you making a decision in advance of hearing all relevant information. The Council's decision is then open to challenge and could be set aside. Also, provisions of the Code of Conduct for Members could be engaged.

Elections

You must not use social media on Council mobile devices or IT equipment, for political/campaign purposes.

Use of social media during Committee Meetings

It is important to consider that use of mobile devices at meetings may give the impression to others that you are not giving sufficient attention to discussions at committee meetings. Bear in mind that this could lead to the relevant decision coming under challenge if you are perceived to have made a decision without having properly listened to the debate. It could also result in Code of Conduct complaints.

5. Inappropriate Use of Social Media by Others

- 5.1. Be aware of your own safety when placing information on the internet and do not publish information which could leave you vulnerable.
- 5.2. Anyone receiving threats, abuse, or harassment via their use of social media should report it to their group leader, the Monitoring Officer and /or the police. Other inappropriate content can be reported to the social media site directly to ask for it to be removed. It is suggested that you that save a screenshot of any inappropriate post as evidence in the circumstances.
- 5.3. Safeguarding is everyone's business, if you have any concerns about other site users, you have a responsibility to report these.

Part 4 – Officers' Code of Conduct

1. Introduction

- 1.1 The public is entitled to expect the highest standards of conduct from all Officers of Thurrock Council, who must act at all times in accordance with that trust.
- 1.2 This code therefore aims to describe what is and isn't acceptable behaviour so that standards are maintained. In particular, all Council employees are required to adhere to the seven 'principles of public life' identified by the Nolan Committee and endorsed by the Committee on Standards in Public Life:

Selflessness: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership: Holders of public office should promote and support these principles by leadership and example.

- 1.3 Where employees show particular commitment to upholding these standards, they should receive due recognition and praise from their manager. Where they show a disregard for them, appropriate corrective or punitive action should be taken.
- 1.4 Employees are also required to act in accordance with the Council's scheme of delegation, legislation, the constitution and all relevant codes, protocols and standing orders; they should be familiar with and abide by Thurrock's policies and procedures.
- 1.5 Employees are expected to undertake all compulsory training and relevant training related to their roles and responsibilities.
- 1.6 This Code of Conduct is not an exhaustive list as it is impossible to provide a definitive list of what is or is not acceptable behaviour.

1.7 The following sections of this code describe how the above principles can be demonstrated by Council employees during their day-to-day work, and how they can be enforced by management.

1.8 If there are any doubts or queries about what is acceptable conduct, or about anything else in this Code, employees should raise them with their manager.

2. Scope

2.1 This code applies to all employees of Thurrock Council; workers engaged at the Council as part of a strategic partnership agreement; interim and agency workers. It does not apply to schools unless they have specifically chosen to adopt it.

3. Protocol for Reporting Concerns

3.1 Employees are expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate manager, any significant shortcomings in the provision of an agreed service, or any impropriety, fraud or breach of procedure.

3.2 The Authority has a Whistleblowing Policy and Procedure which also enables staff to report confidentially any improper behaviour or action taken by an officer or manager.

3.3 Staff must not treat another officer of the authority less favourably than others because they have, intend to, or are suspected of doing anything in relation to reporting inappropriate behaviour.

4. Attendance and Timekeeping

4.1 Employees are expected to adhere to their contractual hours. They are required to know and comply with start and finish times (or adhere to flexible working arrangements, including Home Working) and operate time recording as required.

4.2 If employees are unable to attend work for any reason, they must adhere to the procedure for reporting absence as detailed in the Managing Sickness Absence Policy. Employees on sickness absence must not undertake any other work, or carry out activities that could hinder their return to work, without prior authorisation from their Assistant Director.

4.3 Employees are expected to adhere to the requirements of the Managing Sickness Absence Procedure and to attend occupational health appointments as required.

5. Appearance and Personal Hygiene

5.1 The manner in which employees present themselves at work directly affects the Council's image, colleagues and the service. Employees' appearance should reflect this responsibility and emphasise their respect for the people they work with and the service they are providing.

5.2 Managers will determine the appropriateness of their employees' appearance in relation to local service requirements. If employees are unsure about the appropriateness of their appearance, they should seek the advice of their manager. Staff are required to:

- comply with any uniform or dress code requirements

- be clean, tidy, and presentable and maintain personal hygiene at all times
- refrain from dressing in any way which could intimidate, cause offence or cause embarrassment to others, and which could undermine the image and reputation of the Council
- always wear uniform or protective clothing if these have been issued, or made available for particular tasks, and make sure that they are clean and in a good state of repair
- always have regard for the health and safety implications of what they wear – for example, the need for safe footwear, the risk of dangling jewellery or long fingernails
- dress in a way which is appropriate to the work they have to do

5.3 In relation to appearance, the Council is happy for employees to follow the traditions of their ethnic /cultural /religious background where this is safe, healthy and appropriate to the job.

6. Integrity

- 6.1 Employees must behave with honesty and integrity at all times and refrain from pursuing personal matters or private business/voluntary sector interests during their working hours.
- 6.2 Employees are expected to behave politely and reasonably to colleagues and to members of the public and to conduct themselves in a manner that reflects well on the Council. Unreasonable language, acts of violence, threatening behaviour or verbal abuse to colleagues, managers, service users, the public or elected members will not be tolerated.
- 6.3 Employees must perform their duties to the best of their ability, and understand that carelessness, negligence and lack of attention to service requirements is not acceptable.
- 6.4 Employees must comply with reasonable management instructions and work priorities.
- 6.5 Employees must not deceive the Council by withholding information, giving false information, or destroying, damaging or altering any records or documents without prior authorisation.
- 6.6 Employees who are in debt to Thurrock Council – for example, those who have council tax arrears are required to disclose details of their debt to their manager. Employees are required to adhere to any agreements reached for the repayment of such debts.

7. Disclosure of Information

- 7.1 Employees should, whenever appropriate, adopt an 'open government' approach by sharing information about how they do their work and how the Council operates.
- 7.2 It should be noted that the law requires that certain types of information should be available to elected members, auditors, government departments, service users and the public. Employees must not prevent others from gaining access to such information.
- 7.3 Employees should check, with their manager, what sort of information can and cannot be given openly and without specific authority.

8. Confidentiality

- 8.1 Employees must treat all information about employees, customers and service users with the utmost confidentiality and in accordance with the Data Protection Act 1998. This information must not be passed to anyone who is not authorised to receive it unless proper authority has been sought and granted.
- 8.2 Employees must take all reasonable steps to protect and safeguard confidential documents, particularly if they need to be taken outside the usual workplace.
- 8.3 Employees must not communicate directly with the media about their work, or matters concerning the Council, unless specifically authorised to do so by a chief officer.
- 8.4 Employees must seek the agreement of the appropriate Assistant Director before any information concerning tendering/procurement or best value exercises is released.

9. Use of Council Property

- 9.1 Council property should only be used for Council business and according to instructions. It must not be misused in any way that could undermine public confidence.
- 9.2 Employees should only remove Council property from Council premises if they are authorised to do so in accordance with any local procedure in operation – for example, seeking prior permission, logging items out, signing for them.
- 9.3 Council property must be safeguarded while it is in employees' care, with any theft, loss or damage reported immediately.
- 9.4 Employees must adhere to the Information Security Policy and other policies covering the standards expected of computer users. Some examples of misuse are:
- installing or downloading unauthorised software, including screensavers
 - attaching any item or equipment without authorisation from ICT
 - surfing the internet for prolonged periods of time for non-work related items
 - accessing internet sites which could bring the Council into disrepute – this could lead to both disciplinary and criminal action
- 9.5 Staff must not make frequent or lengthy private telephone calls using either Council or private telephones. It is recognised that sometimes it is necessary to make occasional private telephone calls at work, but it is expected that this should normally be in exceptional situations.

10. Use of Financial Resources

- 10.1 This covers anyone with access to, or responsibility for, the Council's finances, and includes responsibilities such as the authorisation of payments to staff (timesheets, overtime, allowances, etc), the award for contracts for equipment and services and the payment of benefits.
- 10.2 Officers must ensure that they use the public funds entrusted to them in a responsible and lawful manner. They must strive to ensure value for money to the local community and avoid legal challenge to the Council.

10.3 Employees must be conversant with the Council's financial regulations and financial standing orders. They must ensure that the financial procedures and practices for which they are responsible conform to the Council's regulations and are secure against theft and fraud.

11. Corruption and Proceeds of Crime

11.1 It is a criminal offence for an officer to corruptly receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour.

11.2 If an allegation is made, it is for the officer to demonstrate that any such reward was not corruptly obtained.

11.3 Officers must not show favouritism or give preferential treatment to friends, partners or relations in the allocation of Council services or benefits.

11.4 Officers must report to the Assistant Director of Law and Governance any dealings they become aware of where they suspect that the money involved may have been acquired through illegal practices, whether or not that money relates to a client's funds or those of any contractor or third-party with whom the Council may be involved.

12. Criminal Convictions and misconduct outside work

12.1 When applying to work at Thurrock Council prospective employees must declare any criminal convictions they have which are not exempt from the Rehabilitation of Offenders Act. See the Recruitment Procedure for further details.

12.2 If an individual is arrested or convicted of a criminal offence while employed at the Council this may or may not have a bearing on their employment status, depending on the nature and circumstances of the incident and the type of work they do.

12.3 Employees must notify their manager or Human Resources of any criminal action being taken against them, regardless of whether the alleged act took place during or outside working hours.

12.4 Employees must notify their manager or Human Resources if their conduct or activities outside work:

- may make them unsuitable for the job they are employed to do
- is of such a nature to cause potential damage to Thurrock Council's reputation
- could put other employees, service users or the community, at risk

13. Recruitment and other employment issues

13.1 Officers involved in recruitment must ensure that appointments are made on the basis of merit.

13.2 In order to avoid any possible accusation of bias, an officer must not be involved in making an appointment if they are related to, or have a close personal relationship with an applicant, in accordance with the Employment Rules in the Authority's Constitution.

13.3 Recruiting officers should be solely concerned with selecting the applicant who can best serve the Council. Political or personal preferences should not influence an officers' judgement. Officers must not canvass the support of colleagues for the appointment of a candidate, and should resist any attempt by others to canvass themselves.

13.4 Similarly, an officer must not be involved in decisions relating to discipline, promotion or pay adjustments which affect someone with whom they have a close personal relationship.

14. Hospitality

14.1 Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the Council at a particular event.

14.2 Offers to attend purely social or sporting functions must be accepted only when they are for the benefit of the Council or in connection with a civic or courtesy visit.

14.3 All gifts and hospitality offered, whether accepted or not, must be recorded in a register of gifts and hospitality. For officers at or above the level of Assistant Director, a register is maintained by the monitoring officer. For all other officers a register is kept by the relevant Director.

14.4 When hospitality has to be declined, those making the offer must be courteously but firmly informed of the procedures and standards operating within the Council.

14.5 Employees must not solicit or accept personal gifts, other than ones of a token value such as pens and diaries. Any firm or individual who wishes to make a gesture of goodwill to the Council or its officers should be redirected to the Mayor's Charity Fund.

14.6 When receiving authorised gifts or hospitality employees must be particularly sensitive to timing in relation to any decisions which the Authority may be taking in connection with those providing the gift or hospitality. Hospitality which may compromise an officer's impartiality or have the perception of doing so must be declined.

14.7 Acceptance of hospitality at conferences and courses is acceptable where (i) it is clear that the hospitality is corporate rather than personal, (ii) the employee's manager gives consent in advance and (iii) the employee's manager is satisfied that any purchasing decisions are not compromised.

14.8 Where authorised visits are required to inspect equipment, meet with prospective service providers etc, officers must ensure that Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

14.9 Subsistence expenditure may be claimed in accordance with Council limits (see Travel and Subsistence Policy) when an officer is required to work away from their normal place of work or home at meal times.

14.10 These rates may only be exceeded with the prior approval of the Chief Finance Officer or the Chief Executive. In the case of approved overnight stays, reasonable accommodation expenses will be paid by the Authority.

15. Sponsorship

- 15.1 Where an outside organisation wishes to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 15.2 Where the Council wishes to sponsor an event or service neither an officer nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest.
- 15.3 Similarly, where the Council, through sponsorship, grant aid, financial or other means, gives support in the community, officers must ensure that impartial advice is given and that there is no conflict of interest.

16. Political Neutrality

- 16.1 You serve the Authority as a whole. It follows you must serve all Members and not just those of the Majority Group, and must ensure that the individual rights of all Members are respected.
- 16.2 Staff may be required to advise Political Groups. They must do so in ways which do not compromise their political neutrality. Information communicated to a member of staff by a Political Group in confidence should not be communicated to other Political Groups.
- 16.3 Staff must follow every lawful expressed policy of the Authority and must not allow their own personal or political opinions to interfere with their work.
- 16.4 Staff must not use their workplace to promote/further personal political issues.
- 16.5 Staff must not raise personal matters concerning their employment directly with councillors or make claims or allegations about other employees directly with councillors.
- 16.6 Employees must be aware of the political restrictions imposed by the Local Government and Housing Act 1989 on certain posts, and how the Council's constitution might affect their work. More information on this is at Chapter 7 Part 6 of the Council's Constitution.
- 16.7 The Council has a Code on member/employee relationships for which staff who regularly come into contact with members should familiarise themselves with.

17. Other Employment

- 17.1 The Authority encourages voluntary work, public duties and activities in support of local community groups, and officer involvement in these areas is welcomed.
- 17.2 However, conditions of service require officers to obtain written consent from their manager before undertaking additional work with other employers. Employees may not:
- undertake such work if it conflicts with the Council's interests
 - use Council equipment, property or contacts in any such work
 - do any private work during your working hours with Thurrock Council

- undertake any private commitments or activities which may bring the Council into disrepute

17.3 Any goods or services of value which are produced as a result of an individual's employment with Thurrock will remain the property of the Council.

17.4 Employees may not make private gain from any work which may be associated with their employment with Thurrock without authorisation from their Assistant Director, in consultation with the Council's legal adviser.

18. Conflicts of Interest

18.1 Officers at or above the level of Assistant Director must provide written notification of any personal and financial interests which could bring them into conflict with the Council's interests. This should be submitted to the Council's monitoring officer annually, within 28 days of becoming aware of any new personal or financial interest or change to any personal or financial interest. The monitoring officer maintains a register for this purpose.

18.2 All other officers must declare to their director any personal or financial interest which could bring them into conflict with the Council's interests, either when they become aware of such interests but, in any event, within 28 days of becoming aware.

18.3 Officers are regarded as having a personal interest in a matter if it affects the wellbeing or financial position of themselves, their relatives or their friends more than it would affect other people in Thurrock. Such an interest may be either financial or non-financial, examples being:

- acting as a school governor within Thurrock
- membership or involvement with an organisation receiving grant aid from Thurrock Council
- membership or involvement with an organisation or pressure group which may seek to influence the Council's policies
- any financial interests which could conflict with the Council's interests
- membership of any organisation not open to the public without formal membership and with a commitment of allegiance which has secrecy about rules of membership or conduct
- membership of any organisation which is involved with the Council in any formal way such as through any decision-making process
- involvement with a corporate body involved in commercial dealings with the Council

18.4 Any disclosure of interest will be recorded by the employee's manager and reviewed by their Assistant Director at least annually.

18.5 Officers who are present at a meeting of the Council, such as a Cabinet or committee meeting, when a matter in which they have a conflict of interest arises, should declare their interest and leave the meeting, unless the members specifically ask the employee to stay.

- 18.6 Any manager who receives a declaration of interest from an officer should seek advice from one of the following senior managers if they are at all uncertain about what action they should take:
- Chief Executive
 - Director
 - Corporate Director
 - Chief Finance Officer
 - Monitoring Officer
 - Director of Human Resources, Organisational Development and Transformation

19. Officers and Members

- 19.1 Mutual respect between colleagues is essential to good local government. Close personal familiarity between colleagues can damage working relationships and prove embarrassing to others and must therefore be avoided.
- 19.2 Close personal relationships between officers working together or between elected members and officers may cause a perception of bias or favouritism. To avoid this problem, officers must declare to their manager:
- any close personal relationship with another officer in the same section or area of work
 - any close personal relationship with an elected member
- 19.3 It is not possible to define exactly the range of relationships that would be considered as close or personal. Examples, however, would include a family or sexual relationship and/or regular social contact such as holidays or evening meals together.
- 19.4 The Council has adopted a protocol for member/officer relations, which can be found at Chapter 7, Part 5 of the Council's Constitution. Officers who have regular contact with members should read and understand this protocol.

20. The Local Community and Service users

- 20.1 Employees must ensure that service users and people in Council care are:
- given a courteous and efficient service in line with Council policies and standards
 - not put at risk
 - not used as a means for private gain for officers or others by, for example, the soliciting or accepting of bribes

21. Contractors

- 21.1 Any relationship of a business or private nature with external contractors, or potential contractors, must be made known to the appropriate manager. Orders and contracts must be awarded on merit in accordance with the Council's Financial and Contracts Rules and Best Value and no special favour must be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community must be discriminated against.

- 21.2 If you engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with the contractors, you must declare that relationship at the earliest opportunity to your manager.

22. Separation of roles during tendering

- 22.1 If you are involved in the tendering process and are dealing with contractors you must be clear about the separation of client and contractor roles within the Authority. Senior officers who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 22.2 If you are employed in contractor or client units you must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 22.3 If you are privy to confidential matters on tenders or costs for either internal or external contractors you must not disclose those matters to any unauthorised party or organisation.
- 22.4 If you are contemplating a management buyout you must, as soon as you have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding processes.
- 22.5 You must ensure that no special favour is shown to current or recent former officers or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or managerial capacity.

23. Equality Issues

- 23.1 All staff have a duty to ensure that policies relating to equality issues, as agreed by the Council, are complied with in addition to the requirements of the law. All members of the local community, service users and colleagues have a right to be treated with respect, fairness and equality. The Council's Equal Opportunities Policy and Procedure provides further information.

24. Health and Safety

- 24.1 The Council has a legal duty of care for the health, safety and welfare of its employees. In addition, all employees must take reasonable steps to protect their own health and safety and that of other people who may be affected by their actions or omissions at work. If employees are not sure what the safety procedures are or where to get protective clothing and equipment, they should talk to their manager, their service safety coordinator, or the corporate health and safety team. Further, detailed information can be found in the Council's Health and Safety Policy.

25. Smoking, Alcohol and Drugs

- 25.1 Employees must adhere to the Council's Smoke Free Policy. This policy covers all Council work – for example in clients' homes, rest and common areas and Council vehicles. The Council provides assistance and support in giving up smoking. Please contact Human Resources for more information.

25.2 Employees must not present themselves for work under the effects of, or recovering from alcohol, drugs or other substances, whether prescribed or otherwise. They should consult their manager if they feel that they, or a colleague, are unable to perform their duties for this reason.

26. Breach of the Code

26.1 A breach of this code of conduct by an officer may be regarded as a disciplinary offence and will be handled under the Disciplinary Policy and Procedure.

27. Gross Misconduct

27.1 Gross misconduct includes any conduct which amounts to a fundamental breach of the contract of employment and which destroys the trust and confidence the Council has in the employee and makes any further working relationship impossible. If substantiated following an investigation and a disciplinary hearing the employee would normally be summarily dismissed from the Council's service. Summarily dismissed is dismissal without notice or prior warnings.

Gross misconduct could be a serious breach of one of the standards listed above and some examples of Gross misconduct may be:

- i. serious insubordination to a member of management including refusing to carry out reasonable instructions
- ii. theft, fraud and deliberate falsification of records – for example, non-attendance at day release, use of Council time for non-Council activities, falsification of overtime or expenses
- iii. fighting, assault on another person or threats of physical violence
- iv. serious incapability while on duty due to drugs, alcohol or any other intoxicant, furthermore, trafficking in or the distribution of drugs or the possession or consumption of non - prescribed drugs or alcohol
- v. abusive and/or indecent behaviour
- vi. serious or consistent infringement of health and safety rules and instructions
- vii. serious breach of confidentiality or trust – note, the appropriate use of the whistleblowing procedure would not be a serious breach of confidentiality
- viii. serious negligence or carelessness, which causes or might cause unacceptable loss, damage or injury
- ix. discrimination, harassment or victimisation against another person on the grounds of a 'protected characteristic'
- x. bullying
- xi. failure to disclose changes to personal circumstances which affect an employee's capacity to carry out the requirements of their job
- xii. serious and deliberate contravention of the Council' Constitution
- xiii. behaviour which is likely to damage seriously the image and/or reputation of the Council, either inside or outside of work
- xiv. loss, damage, misuse of equipment, property, assets or funds, through wilfulness or negligence
- xv. serious acts of dishonesty or abuse of position, such as improper use of an official position for private gain or the private gain of some other person, including soliciting or accepting bribes.
- xvi. conduct at work likely to seriously offend decency

- xvii. canvassing elected members of the Council for appointment, promotion or other personal advantage
- xviii. committing a criminal offence or undertaking criminal activity, whether at or outside work, which is incompatible with an individual's continued employment with the Council
- xix. serious breach of the Council's ICT Users Policy
- xx. wilful unauthorised disclosure of information that is treated as exempt, or confidential under the Local Government Act 1972, or which may not be disclosed under the Data Protection Act
- xxi. engaging in other work without prior management agreement during a period of sickness or unauthorised absence
- xxii. engaging in activities which are inconsistent with a reason for absence and/or prejudicial to recovery while on sick leave from the Council
- xxiii. maltreatment or serious failure to abide by practice standards in respect of people in the councils care or service users

This list is neither exclusive nor exhaustive and there may be other offences of similar gravity which would also constitute gross misconduct. Therefore, the list can only be regarded as illustrative.

Part 5 – Protocol for Member / Officer Relations

1. Purpose of this Protocol

- 1.1 The aim of this protocol is to describe the relationships, roles and behaviours which should exist between elected Councillors (Members) and employees (Officers) in a modern, well run local Council. The protocol provides guidance on how the complementary, but very different roles of Officers and Members should work.
- 1.2 This protocol is not intended to be definitive and should be read alongside other relevant documents such as the national Code of Conduct for Members, the Code of Conduct for Officers, conditions of service and the whistle blowing procedures. These Codes have direct relevance to many of the issues covered in the Protocol. Copies of the Codes of Conduct can be found in Parts 3 and 4 of this Chapter of this Constitution. The Local Code of Practice for Councillors and Officers dealing with Planning Matters is also important and this too can be found in the Constitution (Chapter 5, Part 3(d)).
- 1.3 The protocol sets out the principles which should influence behaviour which both Members and Officers should comply with. The protocol has a serious objective which may have significant consequences for those who might choose not to follow these principles.
- 1.4 This protocol is adopted Council policy and all Members and Officers are expected to understand and follow its principles and the spirit of those principles. It also applies to Members, co-opted Members, Members' caseworkers and all employees of the Council, agency staff, volunteers and those individuals working with the Council as contractors.

2. Roles of Officers and Members

- 2.1 The primary role of both Members and Officers is to serve the public to the best of their abilities.
- 2.2 To do this most effectively, Members and Officers need to work together in a manner which combines their essential skills, knowledge and experience in a way which produces the best outcomes for individuals and communities and which is fair, sustainable and responsive.
- 2.3 Council Members provide a democratic mandate for the people of Thurrock and advocacy for individuals and communities. They are also responsible for policy making and the scrutiny of the Council's actions and those of public sector partners. Officers provide independent impartial professional advice and expertise and are required to conscientiously implement Council policy and decisions of Council and those matters properly delegated to them.
- 2.4 Whilst the roles of elected Members and Council Officers are complementary they are also distinct. Elected Members are responsible to the electorate for the period that they are elected. Employees are responsible to the Council as a whole but work under the direction of the Cabinet, the Council and its Committees.

3. Principles of Member / Officer Relationships

3.1 The underlying principles which determine relationships between Members and Officers in Thurrock are:

- (a) The commitment to the common aim of providing Thurrock residents with the best possible quality of life through the provision of excellent services, leadership and advocacy
- (b) The acceptance of and overt demonstration of mutual courtesy and respect
- (c) The awareness and acceptance of their different roles duties and responsibilities
- (d) The acceptance for the need to ask for Officer advice and for that advice to be timely, accurate and impartial
- (e) The acceptance of the principles of fairness, consistency and transparency in the conduct of business
- (f) The need to comply with the laws and regulations relating to the conduct of Council business
- (g) The need to demonstrate ethical decision-making and implementation
- (h) The need to avoid actual or perceived personal conflict of interest
- (i) The need to maintain appropriate confidentiality
- (j) A commitment to non-adversarial working and dispute resolution

4. Expectations

4.1 Members and Officers can expect from each other:

- (a) Mutual respect and courtesy at all times. There will be no inappropriate or public criticism, intimidating or threatening behaviour of any kind.
- (b) A working partnership. There will be an understanding of and support for each other's roles, workloads and pressures.
- (c) Appropriate relationships. Members and Officers will not use their relationship to advance their personal interests or those of others or to influence decisions improperly.

4.2 These obligations rest with both Members and Officers. In addition to these Members and Officers have specific roles as follows:

4.3 Members **will**:

- (a) provide political leadership and direction
- (b) maintain appropriate confidentiality

- (c) comply with the Members' Code of Conduct
- (d) ensure that they take proper advice on the law, Code of Conduct, declaration of interests, procedure Rules in the Constitution, conflicts of interests and general propriety

4.4 Members **will not**:

- (a) get involved in day-to-day management of staff or services
- (b) seek to give unreasonable advantage on individual cases or matters or seek to substitute their judgment for the professional judgment of an Officer
- (c) engage in personal criticism of Officers in a public meeting
- (d) use equipment, facilities or Officer support for any political purpose

4.5 Officers **will**:

- (a) be responsible for the management of the authority and ensuring the implementation of agreed policy
- (b) treat all Members with respect, fairness and impartiality
- (c) provide timely response to Member enquiries and complaints
- (d) seek to assist all Members in the conduct of their role as Ward Member and various other roles within the Council
- (e) have awareness of and sensitivity to the political environment
- (f) give professional advice which is politically neutral
- (g) comply with the Officer Code of Conduct

4.6 Officers **will not**:

- (a) form close relationships with a Member so as to call into question the Officer's political impartiality
- (b) raise personal issues (as an employee) with Members
- (c) withhold information that Members are entitled to have
- (d) allow their own personal or political opinions to interfere with their work

4.7 The above lists are not meant to be exhaustive and Members and Officers should seek advice from the Monitoring Officer if they have any queries about the provisions of the Protocol or their application in certain circumstances.

5. Personal Relationships

- 5.1 Members and Officers work together on a regular basis in meetings, Committees and less formal settings. It is inevitable that relationships will form and to ensure the principles of Member / Officer relations are upheld, the following guidance applies.
- 5.2 If a friendship or closer relationship (including relatives/partners) exists or forms between any Member and any Officer, this needs to be addressed openly. Friendship is likely to be something closer than an acquaintance or work colleague and include some social interaction. In such situations:
- (a) Members should seek advice from the Monitoring Officer and, if in doubt, must declare their interest at formal and informal meetings
 - (b) Officers must raise the matter with their Assistant Director or Director to discuss appropriate action and must make a declaration in the Register of Officers' Interests

6. Appointment or Dismissal of Officers

- 6.1 Members will take no part in the appointment or dismissal of an Officer nor should they seek to influence in any way the appointment or dismissal of a particular person to a post other than the recruitment of the Chief Executive or Head of Paid Service, Directors, Monitoring Officer and Chief Finance Officer.
- 6.2 Members must not take part in the appointment or dismissal of the Chief Executive or Head of Paid Service, Directors, Monitoring Officer and Chief Finance Officer if they are in any way related to or associated with the person concerned.

7. Political Groups and Officers

- 7.1 A service or facility available to one political group should be available to all other political groups and an Officer providing that service should provide it equally and impartially. Such services may include briefings prior to meetings or discussions with a group on a particular topic. Where this type of arrangement occurs the following principles should be observed by Members and Officers:
- (a) Officer support extends only to the provision of information and advice on Council business. It does not include advice on party or personal matters. To this end, Officers should not be present at any part of a group meeting which discusses party political business
 - (b) any advice given to one party group at such meetings should be made available to the other groups, prior to or at formal decision-making meetings
 - (c) the confidentiality of party group meetings should be respected
 - (d) decisions taken at party group meetings are not formal decisions of the Council and should not be treated as such by Officers
 - (e) party group meetings to which Officers are invited should only include Council Members

7.2 Where Officers have particular difficulties involving advice to party groups these should be raised with the Chief Executive.

8. Members' Enquiries

8.1 Members' enquiries may be made by any means. Officers will respond to Member's enquiries promptly and in any event within the corporate timescales for responding to queries. Directors are responsible for ensuring that Member enquiries are dealt with promptly and accurately in his or her Directorate.

8.2 Where an enquiry imposes a disproportionate burden on Officers' work, this should be explained and discussed with the Member concerned and senior management should agree an alternative deadline and/or response.

8.3 This Members' enquiry procedure supplements and does not replace Members' statutory and common law rights to information as set out below.

9. Councillor access to documents and information

9.1 Information and documents should be made available on request by Officers to Members unless:

- (a) there is a clearly and properly justifiable reason for declining access, and
- (b) the Member in question cannot establish a legal right to the information or documentation

9.2 Members are entitled on a "need to know" basis to receive documents and information on request where it is clear that the Member concerned requires the documentation or information because of their position within the Council or by virtue of their Membership of a Committee or Sub-Committee.

9.3 However, if information is requested which is not readily available, or will require significant resources to produce, Officers are advised to seek guidance from their respective Director, before providing the information.

9.4 Access to information will not be granted if the information is prepared as part of a briefing or is in draft or is deliberative, for example, for the Cabinet or at the request of an opposition group.

9.5 In addition, all Members of the Council have a separate statutory right to inspect documents relating to matters which are to be the subject of a decision by the Council, the Cabinet, a Cabinet Member or a Committee or Sub-Committee, provided that the documents are within the possession of the Council.

9.6 Members of the Council will only be entitled to receive such information and documents under their statutory right if it is not exempt or confidential in accordance with the provisions of the Access to Information legislation. However, they may nevertheless be entitled under their common law "need to know" rights.

9.7 More details of Members' rights of access to information can be found in the Access to Information Procedure Rules in Chapter 8 of the Constitution.

10. Confidentiality

- 10.1 Any Council information provided to a Member must only be used by the Member for the purposes for which it was provided, that is in connection with the proper performance of the Member's duties as Councillor.
- 10.2 Members must not divulge confidential information to anyone unless in accordance (the reason for its disclosure falls within the limited categories set out in paragraph 4(a)) with the principles referred to in paragraph 2.8 of the Members' Code of Conduct. The Council requires Members to take appropriate legal advice from the Monitoring Officer, before disclosing information that they believe or ought reasonably to believe was given to them in confidence.
- 10.3 A Member may be referred to the Council's Standards and Audit Committee for breach of the Code if he or she discloses confidential information without justification under the Code and without legal advice. If Officers breach confidentiality, then they may face disciplinary action.

11. Media Relations and Publicity

- 11.1 The provision of information by the Council to the media (or directly to the public) is governed by the Local Government Act 1986, and the Code of Practice on Local Authority Publicity, and in particular:
- (a) must have the principal purpose of explaining or commenting upon the Council's policy
 - (b) must not include material whose main effect is party political – that is, designed to affect public support for a political party
 - (c) must relate to a function of the Council, and
 - (d) must not contain material which is disparaging of parties or members of parties
- 11.2 The Council's Media Protocol was revised in 2009. The Protocol is based on the Code of Recommended Practice on Local Authority Publicity, which is binding on all Members and Officers. The Corporate Communications team lead on all media and publicity events. The following principles are relevant to Member / Officer relations and the media:
- (a) Members and Officers will comply with the Council's Media Protocol when speaking for or on behalf of the Council.
 - (b) Members are free to speak to the media on any matter on behalf of a political party or as an individual but should make it clear in which capacity they are speaking in any statement made. This is particularly important when Members are representing other organisations.
 - (c) Officers must also act in accordance with the Code of Conduct for Officers when speaking about the Council in public.

- 11.3 The Code of Practice on Local Authority Publicity requires particular care about publicity issued in an election period. This applies to any election or by-election affecting the area. At such times the Monitoring Officer will issue guidelines for Members and senior Officers.

Managing and Enhancing the Reputation of the Council

- 11.4 The first principle of Member / Officer relations is the commitment to the common aim of providing Thurrock residents with the best possible quality of life through the provision of excellent services, leadership and advocacy. An essential element of providing leadership is inspiring and increasing the confidence of local people in the Council as an organisation, its services and its Members and Officers.
- 11.5 Members and Officers, therefore, must work in partnership and behave in a manner that does not diminish the reputation of the Council and thereby decrease public confidence in the organisation, its Members and Officers.

12. When Things go Wrong – Dispute Resolution

- 12.1 The Council's experience is that Members and Officers work well together in the main. However, it is still necessary to have a clear process to deal with matters when they are not going well.
- 12.2 The key principle for dispute resolution is that both Members and Officers are committed to informal, non-adversarial solutions. Where a dispute arises, the first step should be for both parties to seek to resolve any differences informally between themselves or, where necessary, with the assistance of a manager.
- 12.3 When an informal resolution is not possible, the following processes will apply.

13. Complaints about Officers

- 13.1 Members should make any formal complaints about Officers to the relevant Director or the Chief Executive, copied to the Monitoring Officer. The matter will be investigated and the Member will be informed of its progress and outcome.
- 13.2 In appropriate cases, breaches of this Protocol may also constitute offences under the Code of Conduct for Officers and in such cases, disciplinary action may be taken.
- 13.3 Members must remember that the decision to take formal action against an Officer and the action taken is the sole responsibility of management. A Member's evidence will be considered but Members must:
- (a) respect the confidentiality of the investigation and disciplinary process
 - (b) not seek to improperly influence the action taken against an employee
 - (c) accept the management decision

14. Complaints about Members

- 14.1 An Officer's complaint about a Member should be reported to the Chief Executive and copied to the Monitoring Officer and the Officer's Director. This is provided that the Officer

does not wish to make a formal complaint to the Council's Standards and Audit Committee.

- 14.2 The Monitoring Officer will, where necessary, investigate the complaint and report the outcome to the Chief Executive, the Member, the Officer and Officer's Director. In appropriate cases, the Monitoring Officer or the Chief Executive will notify the relevant political group leader of the complaint and his or her findings.
- 14.3 The Monitoring Officer and the Chief Executive will seek to resolve the issues with solutions that are mutually acceptable to the Member and Officer. If this is not possible then the Monitoring Officer or the Chief Executive will recommend necessary actions.
- 14.4 If the Monitoring Officer finds that in breaching the terms of this protocol the Member has also breached the Code of Conduct for Members, then a referral may be made to the Council's Standards and Audit Committee.

15. Interaction with the Members' Code of Conduct and the Whistleblowing Policy

- 15.1 A complaint against a Member may disclose evidence of a breach of the Code of Conduct. The Protocol's aim is, in part, to provide guidance and resolve disputes informally and thereby dispense with the need to resort to Code of Conduct complaints to the Standards and Audit Committee. A Member or an Officer is under no obligation to take part in the process under this Protocol. The use of the dispute resolution procedure in this Protocol does not prohibit an Officer from making a complaint under the Code of Conduct about the same matter, if the matter has not been resolved under the Protocol.
- 15.2 Equally, Officers and Members are not prevented by this Protocol from using the Council's Whistleblowing Policy, particularly for matters involving potential fraud, deception or other criminality.

16. Monitoring and Review

- 16.1 The Protocol will be monitored and reviewed by the Council's Standards and Audit Committee on an annual basis.

Part 6 – Politically Restricted Posts

1. Introduction

- 1.1 This guidance/procedural note applies to employees who occupy or are appointed to politically restricted posts and sets out the application process for exemption from or inclusion on the lists of politically restricted posts maintained by the Council, and the process of appeal for a direction on whether a post is politically sensitive.
- 1.2 The main provisions regarding politically restricted posts are set out in Part I of the Local Government and Housing Act 1989 (the LGHA 1989) as amended by the Local Democracy, Economic Development and Construction Act 2009. The law aims at ensuring the political impartiality of local government staff.
- 1.3 Posts will now only be considered to be politically restricted if they fall into the following two broad categories:
 - Specified Posts
 - Sensitive Posts

Specified Posts

- 1.4 Specified posts are automatically subject to restrictions on public political activity and as such, there is no right of appeal. These posts are listed as follows:
 - The Head of Paid Service
 - The statutory Chief Officers
 - Non-statutory Chief Officers
 - Deputy Chief Officers
 - The Monitoring Officer
 - The Chief Finance Officer
 - Officers exercising delegated powers – that is, persons whose posts are for the time being specified by the Council in a list maintained in accordance with S 100G(2) of the Local Government Act 1972
 - Assistants to political groups

Sensitive Posts

- 1.5 A sensitive post is one which meets one or both of the following duties-related criteria:
 - Giving advice on a regular basis to the authority itself, to any committee or sub-committee of the authority or to any joint committee on which the authority is represented; or where the authority is operating Executive arrangements, to the Executive of the authority; or any committee of that Executive; or to any member of that Executive who is also a member of the authority; and/or
 - Speaking on behalf of the authority on a regular basis to journalists or broadcasters.

- 1.6 Teachers, head teachers and lecturers are all exempt from political restrictions under Section 2 (10) of the Local Government and Housing Act 1989 and will not be regarded as holding politically restricted posts, whatever their role.
- 1.7 The effect of including a Council employee on the list of politically restricted posts, debars that individual from having any active political role either in or outside the workplace, in particular:
- (a) standing for candidature for public elected office, unless the employee resigns prior to announcing his/her candidature in accordance with paragraph 4 below
 - (b) acting as an election agent or sub-agent for any candidate for election
 - (c) holding office in a political party
 - (d) canvassing at elections (not restricted to the Borough of Thurrock)
 - (e) speaking or writing publicly (other than in an official capacity) with the intention of affecting public support for a political party (does not include the display of a poster or other document at the post holder's home or in their car or other personal possessions)
- 1.8 The cumulative effect of these restrictions is to limit the incumbents of politically restricted posts to bare Membership of political parties, with no active participation within the party permitted.

2. Categories of politically restricted posts requiring political neutrality

- 2.1 The Council is required to maintain an up-to-date list of its politically restricted posts which fall into the following categories. The list is open to public inspection:
- (a) posts individually identified in the legislation, either by name or by their relationship to other senior officers
 - (b) Posts where the duties of the post include giving advice on a regular basis to the authority themselves, to the executive, to any committee or sub-committee of the Council or any joint committee on which the Council is represented and/or speaking on behalf of the Council on a regular basis to journalists or broadcasters.
 - (c) Posts to which duties have been delegated under the Scheme of Delegations to Officers
- 2.2 In practical terms, the best way for the Council to maintain clarity in respect of politically restricted posts is to annotate a full staff list to show those posts restricted. The benefit of a list of this type is that it greatly facilitates the role of the Standards and Audit Committee in the adjudication process.
- 2.3 Secretarial, clerical and support staff, even if they report to the Chief Executive or to Directors, are not regarded as Chief or deputy Chief Officers for the purposes of political restriction. They may, however, be deemed to be in politically restricted posts if their duties fall within the definition referred to in the table at paragraph 2.4 below.

Description of post in the Local Government and Housing Act 1989	Council's Designated Post
The Head of Paid Service	Chief Executive
Statutory Chief Officers	Corporate Director Children's Services Corporate Director Adults, Housing and Health Director Public Health Monitoring Officer Corporate Director Resources and Place Delivery (Section 151 Officer)
Non-Statutory Chief Officers	Director of Public Realm Director of Human Resources, Organisational Development and Transformation Assistant Director of Law and Governance
Monitoring Officer	Monitoring Officer, Assistant Director of Law and Governance
Chief Finance Officer (Section 151 Officer)	Corporate Director Resources and Place Delivery
Deputy Chief Officers	Assistant Directors
Posts with functions delegated to them under the Scheme of Delegation to Officers	Posts with functions delegated to them under the Scheme of Delegation to Officers set out in Chapter 6 of the Constitution, or, that may be set out in the individual schemes of delegation of each Director

2.4 Posts set out in the following table must be recorded on the list of politically restricted posts and the post holder may apply for exemption from political restriction if they can demonstrate that the criteria set out in the Table do not apply to their posts.

Description of post in the Local Government and Housing Act 1989	Council's Designated Post
Posts whose duties include giving advice on a regular basis to the authority themselves, to the executive to any committee of that executive, or to any member of that executive who is also a member of the authority, to any committee or sub-committee of the authority or any joint committee on which the authority is represented and/or speaking on behalf of the authority on a regular basis to journalists or broadcasters	Posts whose duties include giving advice on a regular basis to the Council, to Cabinet, to the Leader or any portfolio holder, to any committee or sub-committee of the Council, to any local committee or any joint committee on which the Council is represented and/or speaking on behalf of the Council on a regular basis to journalists or broadcasters

3. Terms and Conditions of Employment

- 3.1 Section 1(5) LGHA 1989 states that 'the terms of appointment or conditions of employment of every person holding a politically restricted post under a local authority (including persons appointed to such posts before the coming into force of this section) shall be deemed to incorporate such requirements for restricting his political activities as may be prescribed for the purposes of this subsection by regulations made by the Secretary of State.'

4. Employees standing for election

- 4.1 Notwithstanding the period of notice referred to in contracts of employment, prior to announcing their candidature for election as a Member of the House of Commons, the European Parliament, the Scottish Parliament, Welsh Assembly or any Local Authority (excluding parish/town Councils), holders of politically restricted posts must, by notice in writing, addressed to their Manager and the Head of Paid Service / Chief Executive, resign with immediate effect. It is left to the discretion of the Head of Paid Service / Chief Executive whether or not to reinstate an employee who resigns his/her post, and then consequently fights and loses an election.
- 4.2 If standing for election, it is in the interests of those applying to the Committee for exemption from political restriction or appealing for a direction as to whether their post is politically sensitive, to ensure that they make an application for a Certificate of Opinion (Appendix A) and then to submit their application/appeal to the Standards and Audit Committee, at least two months before they intend to stand for election.

5. Role of the Head of Paid Service

- 5.1 Pursuant to the Local Authorities (Exemption from Political Restrictions) (Designation) Regulations 2012, the Head of Paid Service, in consultation with the Monitoring Officer, will consider applications from employees for exemption from political restriction or appeals for a direction as to whether a post is politically sensitive, provided that the post is included in the list of politically restricted posts maintained by the Council or the Council proposes to specify the post as being politically restricted.

- 5.2 It is the post to which the exemption is granted, not the post holder (although in the majority of cases, the application will be made by a post holder who wants to carry out political activities).
- 5.3 If the Head of Paid Service determines that the duties of the post do not fall within the remit of section 2(3) of the LGHA 1989, (refer to paragraph 2.4 above), they will direct that, for a specified period, the post is not to be regarded as politically restricted and be removed from the list of politically restricted posts maintained by the Council.
- 5.4 The Head of Paid Service may, on application from any person, review any post not included in the list of politically restricted posts. If the Head of Paid Service considers that the duties of the post fall within section 2(3) of LGHA 1989 and that the post is not currently included in either the list of politically restricted posts or in the Scheme of Delegations to Officers, then the Head of Paid Service may issue a directive that it be included in the list of politically restricted posts.
- 5.5 The Head of Paid Service will give priority to any application for removal from the list of politically restricted posts by an employee who certifies that it is for the purpose of enabling him/her to be a candidate in a forthcoming election.
- 5.6 Subject to paragraph 6 below, the Monitoring Officer will give general advice, following consultation with the Head of Paid Service / Chief Executive, on the application of criteria for designation of a politically restricted post.

6. The Head of Paid Service's discretion

- 6.1 The only area over which the Head of Paid Service has discretion is whether or not a post falls within the parameters set out in section 2(3) LGHA 1989. Otherwise, the Head of Paid Service is entirely guided by legislation in determining whether applications for exemptions made to it should be granted – there is no scope for discretionary approvals, or for exemptions to be granted conditionally.

7. Section 2(3) of LGHA 1989 guidance

- 7.1 Although adjudication of matters arising as a result of differing interpretations of section 2(3) LGHA 1989 remains the prerogative of the Head of Paid Service, the following guidance aims to assist the Head of Paid Service in their decision as to whether or not a post is politically restricted. The guidance is not binding on the Head of Paid Service and is intended to offer assistance in decision-making without fettering their discretion.
- 7.2 Section 2(3) of LGHA 1989, states:

'The duties of a post under a local authority fall within this subsection if they consist in or involve one or both of the following, that is to say –

- (a) giving advice on a regular basis to the authority themselves, to any Committee or Sub-Committee of the authority or to any Joint Committee on which the authority is represented, or, where the authority are operating executive arrangements, to the executive of the authority, to any Committee of that executive, or to any Member of that executive who is also a Member of the authority

- (b) speaking on behalf of the authority on a regular basis to journalists or broadcasters'

7.3 There are several questions raised by the wording of section 2(3) LGHA 1989:

- (a) Is a 'post under a local authority' limited to a post held by an employee of the Council?
- (b) What do the words 'consist in or involve' imply?
- (c) What constitutes 'advice'?
- (d) What constitutes 'on a regular basis'?
- (e) Does advice have to be proffered to the whole authority, executive, Committee, Sub-Committee or Joint Committee or to any one Member of such a body?
- (f) Does speaking mean giving formal presentations or does it include answering telephone queries? Would distributing a written press release constitute speaking to journalists and broadcasters?

7.4 In interpreting the provisions of section 2(3) LGHA 1989, the following may be taken into account:

- (a) 'Post under a local authority' - in this context, may be taken to mean any post established by the Council, whether the incumbent is a permanent full or part time employee, a temporary employee, a person seconded to the Council from another body or a consultant under contract to the Council.
- (b) 'Consist in or involve' - in this context, may be taken to mean that either giving advice to the Council/Cabinet etc or speaking to the media, or both, constitute a recognised part of the post holder's activities.
- (c) 'Advice' - in this context, may be taken to mean information provided with the intention that it should influence:
 - (i) the policy adopted by the Council in respect of any matter properly before it
 - (ii) any strategic decisions made by or on behalf of the Council
- (d) 'Regular basis' - in this context, may be taken to mean that the activity to which it refers is:
 - (i) incorporated in the job profile for the post; or
 - (ii) undertaken as an expected part of the post holder's normal duties (example post holder is required to draft reports containing advice and/or recommendations; post holder is required to attend Committee meetings; post holder is required to speak at meetings);
 - (iii) undertaken on more than an occasional basis, though not necessarily frequently

- (e) 'The body to whom the advice is offered' – may in this context, consist of any number of Members from one upwards, as long as the Member or Members concerned, are acting in their official capacity as Members of the Council/Cabinet or any of its Committees, Sub-Committees or Joint Committees.
- (f) 'Speaking' - in this context, may be taken to mean the passing of any information, whether verbally or through the written word, to a journalist or broadcaster when it is reasonable to assume that the post holder knows that the information so provided is likely to be disseminated to the public at large.

8. Procedure to be followed by the Head of Paid Service

- 8.1 The Head of Paid Service will hear applications for exemption or inclusion. The issue before the Head of Paid Service is whether it is appropriate to list the post as politically restricted because of its sensitivity (refer to paragraph 2.4 above).
- 8.2 A brief report will be provided together with all relevant documentation – for example, post holder's application for exemption, job profile for the post etc, at least 14 working days in advance of a meeting.
- 8.3 The post holder will be entitled to attend the meeting to make representations in support of their application and may be accompanied by an accredited trade union representative or work colleague. The post holder's representations will be heard first.
- 8.4 Legal Services will present the case on behalf of the Head of Paid Service / Chief Executive.
- 8.5 The Head of Paid Service / Chief Executive will make the terms of any decision for inclusion of a post in or exclusion of a post from the list of politically restricted posts known to the incumbent of that post.
- 8.6 The decision of the Head of Paid Service is final. There is no right of appeal.

9. How to apply for an exemption

- 9.1 Incumbents of sensitive posts (paragraph 2.4 above) may apply to the Head of Paid Service to be exempted from the list on the grounds that one or more of the tests referred to in section 2(3) LGHA 1989 do not apply to their post.
- 9.2 All applications require a letter from the post holder addressed to the Head of Paid Service / Chief Executive. The application will state the title of the post, the basis upon which the post is currently deemed to be politically restricted and the reason why the applicant considers that political restriction is no longer appropriate. The application will be accompanied by a certified job profile of the post.
- 9.3 The post holder's application will be considered by the Head of Paid Service for a decision on whether the post should be exempted from political restriction.
- 9.4 If the Head of Paid Service determines that the duties of the post do not fall within the remit of section 2(3) of the LGHA 1989, (refer to paragraph 2.4 above), they will direct

that, for a specified period, the post will not be regarded as politically restricted and should be removed from the list of politically restricted posts maintained by the Council.

9.5 Legal Services will remove the post from the relevant politically restricted posts list and keep the post under review.

10. Directions to include a post in the list of politically restricted posts

10.1 An application may be made by any person to the Head of Paid Service for a direction that a post be included in the list of politically restricted posts. This would apply in a case where the Council had not designated a post as politically restricted and may be unwilling to do so.

10.2 The procedure detailed in paragraph 9 above will apply. The Head of Paid Service may only give a direction where he/she determines that the post satisfies the test referred to in section 2(3) LGHA 1989 **and** the post is neither referred to in the Scheme of Delegations to Officers nor listed as a politically restricted post.

11. Applications from persons not yet in post

11.1 The Head of Paid Service will only consider applications for exemption from persons who have received formal job offers from the Council. The Head of Paid Service will not consider applications from persons who are only considering applying for a Council post, but who have not received a job offer.

12. New employee appointments

12.1 Where new appointments are made to sensitive posts (paragraph 2.4 above), the Council's letter of appointment must refer to the fact that the post is politically restricted.

13. Transferring exemptions to another local authority or post

13.1 The LGHA 1989 requires an application for exemption to be made by the post holder in respect of a particular post and accompanied by a Certificate of Opinion relating to the duties of the post at the time of the application for exemption. An original exemption cannot therefore be transferred to another local authority or to another post.

14. Amendments to this Procedure

14.1 The Head of Paid Service / Chief Executive has delegated authority to amend this Procedure.

Appendix A – Politically Restricted Posts – Certificate of Opinion

Thurrock Borough Council

Local Government and Housing Act 1989

Section 2(3) of the Local Government and Housing Act 1989 states that political restriction applies where the post holder:

- (a) gives advice on a regular basis to the authority themselves, to any Committee or Sub-Committee of the authority or to any Joint Committee on which the authority is represented, or, where the authority are operating executive arrangements, to the executive of the authority, to any Committee of that executive, or to any Member of that executive who is also a Member of the authority
- (b) speaks on behalf of the authority on a regular basis to journalists or broadcasters

Chief Executive's Statement

This is to certify that it is Thurrock Borough Council's opinion that the duties of the under mentioned post:

(*Please tick appropriate box)

do fall within section 2(3) of the Local Government and Housing Act 1989*

do not fall within section 2(3) of the Local Government and Housing Act 1989*

Post Title:

Full Name of Current Post holder:

Post holder's salary: £..... Grade:

Job Profile (please attach)

It is a requirement that the job profile contains adequate information. For filled posts, the information provided needs to show to what extent, over the past twelve months, the post holder has advised the General Assembly of the Council/Cabinet, its Committees or Sub-Committees, or Joint Committees or a Cabinet Member and/or spoken regularly for Thurrock Borough Council, to journalists and broadcasters.

For new posts, it will be necessary to state to what degree it is anticipated the post holder will be carrying out the duties as outlined above.

Chief Executive:

Name: Signature:

Date:

Chapter 8 – Access to Information Procedure Rules

Procedure Rules

1. Scope

- 1.1 These Rules apply to all meetings of the Council, Committees and Sub-Committees (including Overview and Scrutiny and the Standards and Audit Committee and Sub-Committees, except as specifically stated), Area Committees and Joint Committees, public meetings of the Cabinet and Cabinet Committees, and meetings called for the purposes of individual Member decision-making (all referred to as "meetings" in these Rules).

2. Additional Rights to Information

- 2.1 These Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law, including the Data Protection Act, Freedom of Information Act or the Environmental Information Regulations.

3. Rights to Attend Meetings

- 3.1 Members of the public (including Members who are not members of the particular body) may attend all meetings subject only to the exceptions in these Rules.

4. Notice of Meetings

- 4.1 The Monitoring Officer will give at least five working days' notice of any meeting by posting details of the meeting at the Council Offices and on the Council website. For the purposes of calculating the notice period, the day on which notice is given and the day of the meeting shall be disregarded.

Notice of Key Decisions

- 4.2 Where the decision-maker intends to make a Key Decision, that decision must not be made until a document has been published which states:
- (a) that a key decision is to be made on behalf of the Council
 - (b) the matter in respect of which the decision is to be made
 - (c) where the decision-maker is an individual, that individual's name, and title if any and, where the decision-maker is a decision-making body, its name and a list of its members
 - (d) the date on which, or the period within which, the decision is to be made
 - (e) a list of the documents submitted to the decision-maker for consideration in relation to the matter in respect of which the key decision is to be made

- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available
- (g) that other documents relevant to those matters may be submitted to the decision-maker, and
- (h) the procedure for requesting details of those documents (if any) as they become available.

4.3 At least 28 clear days before a key decision is made, the document referred to in Rule 4.2 above, known as the Forward Plan, must be made available for public inspection at the Civic Offices and on the Council's website.

Notice of private meetings of the Cabinet

4.4 Where the Cabinet is likely to consider an item that contains confidential or exempt information and will require the public to be excluded from the meeting to prevent the disclosure of this information, it must publish a notice 28 clear days in advance of the meeting that includes a statement of reasons for the meeting being held in private for that item (either for the whole item or for part of it). The notice should also include details of how representations can be made.

4.5 At least 5 clear days before the meeting, a further notice will be published setting out the reasons for holding any part of the meeting in private, together with the details of any representations received about why the meeting should be held in public and the response to those representations.

4.6 If the date of the meeting and the urgency of the decision makes compliance with the requirement of Rule 4.2, the meeting may only be held in private with the agreement of the Chair of the relevant Overview and Scrutiny Committee, or if there is no such person, the Mayor or Deputy Mayor. As soon as reasonably practicable after this permission has been obtained, a notice will be published setting out the reasons why the matter is urgent and cannot reasonably be obtained.

5. Access to Agenda and Reports before the Meeting

5.1 Subject to Rule 5.4 below, no decision shall be taken at a meeting unless it is included on the agenda for that meeting and is accompanied by a report from the appropriate Officer or, in the case of meetings of the Cabinet, a Cabinet Committee or a Cabinet Member, from either the appropriate Officer or Cabinet Member. Where the report is from a Cabinet Member, it must state any advice received from Officers.

5.2 All agendas and reports will be published at least five working days before the meeting.

5.3 Rule 5.2 above shall not apply to extraordinary meetings called at short notice outside the normal programme of meetings.

5.4 If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Monitoring Officer shall make each such report available to the public as soon as the report is completed and sent to Members.

- 5.5 If a report is not published five working days before a meeting in accordance with these requirements, the item to which it relates may not be considered at that meeting unless the Chair of meeting agrees that by reason of special circumstances the item should be considered as a matter of urgency. Where this is the case, the special circumstances requiring the item to be considered urgently shall be specified in the minutes.

6. Supply of Copies

- 6.1 The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda

- 6.2 Copies of any other documents supplied to Members in connection with an item, if the Monitoring Officer thinks fit, may be supplied to any person on payment of a charge for postage and any other costs.

- 6.3 Where copies of documents where the Council is copyright holder are supplied to members of the public, they may reproduce or provide commentary on any of these documents in any publicly available medium.

7. Access to Minutes and other documents after the Meeting

- 7.1 The authority will make available copies of the draft minute of a meeting of Council, a Committee, Sub-Committee, Area Committee or Joint Committee, once it has been cleared by the Monitoring Officer but before it has been approved by the body at its next meeting as a correct record, but on the clear understanding that it is not an approved record of the proceedings and decisions of the authority.

- 7.2 The authority will make available copies of the following for six years after a meeting:

- (a) The minutes of the meetings of Council, a Committee, Sub-Committee, Area Committee or Joint Committee, once approved as a correct record thereof, and excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information
- (b) The minutes of any meeting of Cabinet or a Cabinet Committee, and the record of decisions of a Cabinet Member or key decisions of an Officer, once approved by the Monitoring Officer as a correct record thereof
- (c) A summary of any such proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record
- (d) The agenda for the meeting, and
- (e) Reports relating to items when the meeting was open to the public

- 7.3 Any minute of a decision shall include:

- (a) the identity of the body or person taking the decision

- (b) the date, time and place at which the decision was taken
- (c) the names of all members of the decision-taking body present at the meeting, or of the decision-taker
- (d) the names of any other Members present at any part of the meeting
- (e) any apologies for absence from members of the decision-taking body
- (f) any declarations of interest from any Members present at any part of the meeting, together with any dispensations reported by such Members and any Member withdrawal for the meeting or any part thereof in consequence of such interests
- (g) any declarations of interest and withdrawals by Officers
- (h) a summary of any matters considered at the meeting, including any options considered, any motions or amendments put forward, and any decisions taken. For meetings of the Cabinet or any record of a decision taken by a Cabinet Member, the Minutes must also record details of any alternative options considered and rejected by the decision-taker, together with the reasons for their decision.
- (i) a summary of any advice provided by Officers, including any advice provided by a Statutory Chief Officer/Director
- (j) where the press and public were excluded for the consideration of any matter, and whether any Members who were not part of the decision-taker remained during the consideration of such matter

8. Background Papers

List of background papers

- 8.1 The Monitoring Officer will ensure that every report contains a list of those documents (called background papers) which:
- (a) disclose any facts or matters on which the report or an important part of the report is based, and
 - (b) have been relied on to a material extent in preparing the report but not including published works or those which disclose exempt or confidential information; or, in respect of Cabinet reports, the advice of a political adviser (if any)
- 8.2 Copies of background papers for meetings where executive decisions are made, or where they may be taken by individual Cabinet Members or officers will be made available on the Council's website when a copy of the report to which the decision relates is also made available.
- 8.3 Where such background documents are available on the Council's website, the report shall, where possible, state their locations on the Council's website.

Public inspection of background papers

- 8.4 The Council will make available for public inspection for four years after the date of the meeting, one copy of each of the documents on the list of background papers.

9. Summary of Public Rights

- 9.1 A written summary of the public's rights to attend meetings and to inspect and copy documents shall be kept at and made available to the public at the Council's main offices and published on the Council's website.

10. Exclusion of Access by the Public to Meetings

Confidential information – requirement to exclude public

- 10.1 The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed. At meetings of the Cabinet and of Cabinet Committees and of individual Cabinet Members, Members other than the decision-takers shall only remain where the Monitoring Officer advises that this would be appropriate.

Exempt information – discretion to exclude public

- 10.2 The decision-taking body may by resolution exclude the press and public from any meeting or part of a meeting when they are of the opinion that it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed, and that the public interest in maintaining confidentiality over-rides the public interest in disclosure of that information (see rule 10.4 for the application of this to meetings of the Cabinet). Any Member who is not a member of the decision-taking body may only remain by invitation of the decision-taking body and where the Monitoring Officer advises that this would be appropriate.

Application to meetings of the Cabinet

- 10.3 For meetings of the Cabinet, or where a such a decision is to be taken by an individual Cabinet Member, at least 28 clear days' notice must be given of the intention to exclude the public from a meeting when confidential or exempt information may be disclosed, as set out in Rule 4.4 above, unless where the date by which the meeting must be held makes compliance with this Rule impracticable. The meeting may only be held in private where the decision-making body has obtained agreement from:
- (a) the chairman of the relevant overview and scrutiny committee, or
 - (b) if there is no such person, or if the chairman of the relevant overview and scrutiny committee is unable to act, the Mayor, or
 - (c) where there is no chairman of either the relevant overview and scrutiny committee or of the relevant local authority, the Deputy Mayor, that the meeting is urgent and cannot reasonably be deferred
- 10.4 The public must be excluded from a meeting during an item of business whenever:

- (a) It is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item, confidential information would be disclosed to them in breach of the obligations of confidence.
- (b) The decision-making body concerned passes a resolution to exclude the public during that item where it is likely, in view of the nature of the item of business, that if members of the public were present during that item, exempt information would be disclosed to them.

Meaning of confidential information

10.5 Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order or by law.

Meaning of exempt information

10.6 Exempt information means information falling within schedule 12A of the Local Government Act 1972 and which is summarised below.

Category	Condition
Information relating to any individual	Information is exempt if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
Information that is likely to reveal the identity of an individual	Information is exempt if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
Information relating to the financial or business affairs of any particular person (including the authority holding that information)	<ol style="list-style-type: none"> 1. Information is exempt if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information 2. Information is not exempt if it is required to be registered under: <ul style="list-style-type: none"> • Companies Act 1985 • Friendly Societies Acts 1974 and 1992 • Industrial and Provident Societies Acts 1965 to 1978 • Building Societies Act 1986 • Charities Act 1993 3. The rights of access by Members are contained in section 100A to K of the 1972 Act

Category	Condition
Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Authority or a Minister of the Crown and employees of, or Officer-holders under the Authority	Information is exempt if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	Information is exempt if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
Information that reveals that the authority proposes: (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person, or (b) to make an order or direction under any enactment	Information is exempt if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	Information is exempt if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

10.7 Information falling within the above paragraphs is not exempt by virtue of that paragraph if it relates to a proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

10.8 The words and expressions above have the meaning given to them by the Local Government (Access to Information) (Variation) Order 2006.

11. Exclusion of Access by the Public to Reports

11.1 If the Monitoring Officer thinks fit, he/she may exclude access by the public to reports which in his or her opinion relate to items during which the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

12. Procedure before taking Key Decisions

12.1 Subject as below, a key decision may not be taken by the Cabinet unless:

- (a) It has been published in the Forward Plan

- (b) At least 28 clear days' notice has been provided, or if this is impracticable, the decision has complied with the provisions set out in Rules 14 or 15 as they may apply, and
- (c) Notice of the meeting has been given in accordance with the Cabinet Procedure Rules in Chapter 3, Part 2 of this Constitution.

13. The Forward Plan

Period of Forward Plan

- 13.1 The Forward Plan will be prepared by the Leader in consultation with the Chief Executive and published by the Monitoring Officer to cover a period of four months, beginning with the first day of any month. It will be updated on a monthly basis, and shall be published at least 28 clear days before the date of the Cabinet meeting to which it refers.

Contents of Forward Plan

- 13.2 The Forward Plan will contain matters which the Cabinet has reason to believe will be the subject of a key decision to be taken by the Cabinet, a Cabinet Committee, a Cabinet Member, an Officer, an Area Committee or a Joint Committee when discharging Executive Functions during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:
- (a) The matter in respect of which a decision is to be made
 - (b) Where the decision taker is an individual, his/her name and title, if any, and, where the decision taker is a body, its name and details of Membership
 - (c) The date on which, or the period within which, the decision will be taken
 - (d) The identity of the principal groups whom the decision taker proposes to consult formally or seek the views of before taking the decision
 - (e) The means by which any such consultation (both formal and informal) is proposed to be undertaken
 - (f) The steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken, and
 - (g) A list of the documents submitted to the decision taker for consideration in relation to the matter
 - (h) Whether the decision proposed to be taken will include confidential or exempt information and require the meeting to be private to consider the item, either in full or in part, and the relevant exemption category.
- 13.3 The Forward Plan will be published at least 28 clear days before the date of the Cabinet meeting to which it refers and will be published on the Council's website.
- 13.4 Where any matter involves the consideration of exempt information (as defined in Rule 10.2 above), confidential information (as defined by Rule 10.1 above) or the advice of a

political adviser or assistant, a summary of the matter shall be included in the Forward Plan but the exempt or confidential information or the advice, as the case may be, need not be included.

14. Urgent Decisions

14.1 If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to Rule 13.2, the decision may still be taken if:

- (a) The decision is so urgent that it is impracticable to defer the decision to ensure that notice has been published (in the Forward Plan or any supplement to it) within 28 clear days of the proposed meeting, and
- (b) The Monitoring Officer has given the Chair of the Overview and Scrutiny Committee (or if there is no such person, each Member of the Overview and Scrutiny Committee) written notice of the matter to which the decision is to be made, including reasons why compliance with the requirement to provide at least 28 clear days' notice was not practical in that case, and
- (c) The Monitoring Officer has made copies of that notice available to the public at the offices of the Council, and
- (d) At least five clear days have elapsed since the Monitoring Officer complied with sub-Rules (b) and (c) above.

14.2 Any such decision taken by the Cabinet must be taken in public unless it relates to a matter which is confidential or exempt.

15. Very Urgent Decisions

15.1 If by virtue of the date by which a decision must be taken Rule 14 cannot be followed, then the decision can only be taken if the Chair of the relevant Overview and Scrutiny Committee has given his/her agreement that the taking of the decision is very urgent and cannot be reasonably deferred. If there is no such person or the Chair of the Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor shall be obtained. If there is no Mayor, or the Mayor is unable to act, the agreement of the Deputy Mayor will suffice.

15.2 As soon as reasonably practicable after agreement has been obtained, a notice must be published, available to the public at the Civic Offices and on the Council's website, setting out the reasons for urgency and why the decision could not reasonably be deferred.

16. Report to Council

16.1 The Overview and Scrutiny Committee can require a report:

- (a) If the Overview and Scrutiny Committee thinks that a Key Decision has been taken by the Cabinet or a Key Decision has been taken by an Officer which was not:
 - (i) included in the Forward Plan and subject to the requirement to provide at least 28 clear days' notice

- (ii) the subject of the general exception procedure under Rule 14
 - (iii) the subject of prior agreement of the Chair of the relevant Overview and Scrutiny Committee, or the Mayor or Deputy Mayor as required
- (b) The Committee may require the decision-taker to submit a report to the Council within such reasonable time as the Committee specifies.

Decision-taker report to Council

- 16.2 The decision-taker will then prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the resolution of the Committee, then the report may be submitted to the meeting after that.
- 16.3 The report to Council will set out:
- (a) particulars of the decision (including the reasons for it)
 - (b) the identity of the decision taker, and
 - (c) if the decision-taker is of the opinion that it was not a key decision the reasons for that opinion

17. Record of Decisions

- 17.1 After any meeting of the Cabinet or any of its Committees at which decisions are taken, the Monitoring Officer will produce a record of every decision taken at that meeting as soon as practicable. This shall include:
- (a) The name of the decision-making body and a date of the decision
 - (b) A record of every decision taken and the reasons for those decisions
 - (c) Details of any alternative options considered and rejected
 - (d) A record of any conflict of interest or Disclosable Pecuniary Interest declared by any member of the decision-making body
 - (e) In respect of any declared conflict of interest or Disclosable Pecuniary Interest, a note of any dispensation granted by the Standards and Audit Committee.
- 17.2 After any executive decision taken by an individual member of the Cabinet, the Monitoring Officer will produce a record of each decision as soon as practicable. This shall include:
- (a) The title of the individual member and a date of the decision
 - (b) A record of the decision and the reasons for it
 - (c) Details of any alternative options considered and rejected
 - (d) A record of any conflict of interest declared by any executive member who is consulted by the member who made the decision, and any dispensations granted to the member being consulted

- (e) In respect of any declared conflict of interest, a note of the dispensation granted by the Standards and Audit Committee.

18. Access to Documents for Overview and Scrutiny Committees

Rights to copies

18.1 Subject to Rule 18.2 below, Members of any Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet which contains material relating to:

- (a) Any business which has been transacted at a meeting of the Cabinet or a Cabinet Committee
- (b) Any decision which has been taken by an individual Member of the Cabinet
- (c) Any key decision which has been made by an Officer.

The documents must be provided as soon as practicable but no later than 10 clear days after the request is received.

Limit on rights

18.2 No Member will be entitled to:

- (a) Any document that is in draft form
- (b) Any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise
- (c) The advice of a political adviser, if any

18.3 With regard to sub-Rule 18.2(b) above, the Member will need to demonstrate to the Monitoring Officer that the information requested is relevant and the Monitoring Officer shall take a decision as to whether the information should be made available, supplying reasons as appropriate.

18.4 Where the Executive determines that a member of an overview and scrutiny committee is not entitled to a copy of a document or part of a document for a reason set out in Rule 18.2 above, it must provide the overview and scrutiny committee with a written statement setting out its reasons for that decision.

19. Additional Rights of Access to Documents for Members

Material relating to business at public meetings

19.1 All Members will be entitled to inspect any document which is in the possession or under the control of the Cabinet and contains material relating to any business to be transacted at a public meeting of the Cabinet or a Cabinet Committee unless:

- (a) It contains exempt information falling within these Rules (to the extent that the information relates to terms proposed or to be proposed by or to the Council in

the course of negotiations for a contract) of the categories of exempt information at Rule 10.5

- (b) It contains the advice of a political adviser, if any, or
- (c) The document is in draft form.

Material relating to private meetings

19.2 Subject to 19.4 below all Members will be entitled to inspect any document in the possession or under the control of the Cabinet which contains material relating to:

- (a) any business which has been transacted at a private meeting of the Cabinet or a Cabinet Committee
- (b) any decision which has been made by an individual Member
- (c) any key decision which has been made by an Officer

19.3 The right contained in Rule 19.2 arises when the decision-taker takes or proposes to take a decision within 28 days of the meeting.

19.4 Members will not be entitled under this Rule to:

- (a) Any document that is in draft form
- (b) Any part of a document that contains exempt information falling within paragraphs 1, 2, 4, 5, 7 or 3 (in the latter case, to the extent that the information relates to terms proposed or to be proposed by or to the Council in the course of negotiations for a contract) of Rule 10.6, setting out certain categories of exempt information
- (c) The advice of a political adviser or any person acting in that capacity, if any.

Nature of rights

19.5 These rights of a Member are additional to any other right he/she may have.

Chapter 9 – Rules, Codes and Protocols

Part 1

Article 14 – Finance, Contracts and Legal Matters

1. Financial management

- 1.1 The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in this Chapter and any guidance issued by the Chief Finance Officer.

2. Contracts

- 2.1 Every contract made by the Council will comply with the Contract Standing Orders set out in this Chapter.

3. Legal proceedings

- 3.1 The Assistant Director of Law and 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 Assistant Director of Law and Governance and/or the Chief Executive considers that such action is necessary to protect the Council's interests.

4. Authentication of documents

- 4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Assistant Director of Law and Governance or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council or Cabinet has given requisite authority to some other person.

5. Common Seal / Electronic Seal of the Council

- 5.1 The Common Seal of the Council will be kept in a safe place in the custody of the Assistant Director of Law and Governance. A decision of the Council or Cabinet, of a Committee or Sub-Committee, a Committee of Cabinet or a Cabinet Member, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be added to those documents which in the opinion of the Assistant Director of Law and Governance should be sealed or are required by the provisions of the Procurement Code to be sealed. The adding of the Common Seal will be witnessed by the Chief Executive or Assistant Director of Law and Governance or some other person authorised by him/her.

Part 2 – Contract Procedure Rules

1. Introduction and Definitions – Purpose of the Contract Procedure Rules

- 1.1 Purchasing decisions and processes are important because the money involved is public money. The purpose of these Contract Procedure Rules is to provide a structure within which purchasing decisions are made and implemented and which ensure that the Council:
- (a) Furthers its corporate objectives
 - (b) Uses its resources efficiently
 - (c) Purchases quality goods, services and works, consistent with the priorities of the Council and which provide value for money
 - (d) Safeguards its reputation from any implication of dishonesty or corruption.
- 1.2 Purchasing by the Council, from planning to delivery, shall incorporate (where appropriate) principles of sustainability, efficiency, whole life costings and cost savings.
- 1.3 These Contract Procedure Rules are made in accordance with the requirements of section 135 of the Local Government Act 1972.
- 1.4 These Contract Procedure Rules do not provide guidelines on what is the best way to purchase works, supplies (goods) and services. They set out minimum requirements to be followed. Further information and guidelines are set out in the Council's Procurement Guide.
- 1.5 In these Contract Procedure Rules the following words and phrases have the following meaning:
- (a) PCR – means the Public Contracts Regulations 2015
 - (b) PCR Threshold – means the financial threshold above which PCR apply, as set out in Rule 7.4 below
 - (c) Finance Procedure Rules – means the Finance Procedure Rules set out in the Council's Constitution as updated from time to time
 - (d) Find a Tender – means the advertising platform for notices above the PCR Threshold
 - (e) LTR services (Light Touch Regime services) – means services as defined under Schedule 3 of the Public Contracts Regulations 2015 being services to which the Light Touch Regime applies
 - (f) Procurement Guide – means the Council's Procurement Guide as updated by the Head of Procurement Service from time to time

- (g) Responsible Officer – means an officer with responsibility for conducting purchasing processes for the purchase of works, supplies (goods) or services on behalf of the Council
- (h) Scheme of Delegation – means the Scheme of Delegation set out in the Council's Constitution as updated from time to time
- (i) E-tendering System – means the web-based system which enables the electronic despatch and receipt of Tender documents

2. General Principles – Application and Compliance with Contract Procedure Rules

- 2.1 These Contract Procedure Rules apply to the purchase by or on behalf of the Council of works, supplies (goods) and services.
- 2.2 These Contract Procedure Rules apply to all contracts including all purchase orders, concessions and contractual arrangements entered into by or on behalf of the Council, except for the specific types of contracts and purchasing methods which are listed in Rule 2.3.
- 2.3 These Contract Procedure Rules do not apply to:
 - (a) Employment contracts
 - (b) Contracts relating solely to interests in land
 - (c) Contracts for retention of legal counsel, legal services or the appointment of expert witnesses in legal proceedings
 - (d) Service level agreements setting out the conditions which the Council applies to its funding of particular voluntary sector bodies

3. General Principles Applying to All Contracts

- 3.1 All purchases however small shall be made or evidenced in writing.
- 3.2 Standard contract clauses shall be used in all contracts of a value of £25,000 or more. The standard contract clauses are issued by Legal Services and can be found on the intranet.
- 3.3 As a minimum, all contracts of a value of £25,000 or more shall include clauses which set out:
 - (a) The works, supplies (goods), services, material, matters or things to be carried out or supplied
 - (b) The time within which the contract is to be performed
 - (c) Quality requirements and/or standards which must be met
 - (d) Requirements on the contractor to hold and maintain appropriate insurance

- (e) What happens in the event that the contractor fails to comply with its contractual obligations (in whole or in part)
- (f) Requirements on the contractor to comply with all relevant equalities and health and safety legislation

3.4 That the Council shall be entitled to terminate the contract and recover its losses in the event that the contractor, its employees or anyone acting on its behalf does anything improper to seek to influence the Council to give the contract to any person, or as to the circumstances in which a contract may be given, or any contract or commits an offence under the Bribery Act 2010 or section 117(2) Local Government Act 1972, or commits any fraud in connection with any Council contract. All contracts shall include relevant specifications and/or briefs/technical requirements which are prepared taking into account the need for effectiveness of delivery, quality, sustainability and efficiency (as appropriate) and the information set out in the Council's Procurement Guide.

3.5 All contracts of a value of £25,000 or more or which involve a substantial risk to the Council must be subject to a written risk assessment, which should be kept on the contract file.

4. Regulatory Context

4.1 All purchasing shall be conducted in accordance with Regulatory Provisions which are:

- (a) All relevant statutory provisions
- (b) The relevant PCR principles, which are defined in the Council's Procurement Guide
- (c) The Council's Constitution including these Contract Procedure Rules, the Council's Finance Procedure Rules and Scheme of Delegation
- (d) The Council's Procurement Guide and other policies and procedures of the Council as appropriate.

4.2 In the event of conflict between the above, the PCR will take precedence, followed by other applicable UK legislation, then the Council's Constitution, the Council's Procurement Guide and guidelines, policies and procedures.

5. Responsibilities of Directors, Assistant Directors and Responsible Officers

5.1 Each Director shall:

- (a) be responsible for the purchasing undertaken by his/her Directorate
- (b) be accountable to the Cabinet for the performance of his/her duties in relation to purchasing
- (c) comply with the Council's decision-making processes including, where appropriate, implementing and operating a Scheme of Delegation

- (d) appoint in writing an Assistant Director who shall be an authorised signatory in respect of commissioning related to that Service, subject to Rule 8 below, and who will be responsible for ensuring the correct carrying out of purchasing duties (Rule 5.3 below) of Responsible Officers within that Service
 - (e) take immediate action in the event of breach of these Contract Procedure Rules, by reporting this breach to the Corporate Director Resources and Place Delivery who will review the breach and if it is serious will report this to the Standards and Audit Committee
- 5.2 A Responsible Officer is an Officer with responsibility for conducting purchasing processes for the purchase of works, supplies (goods) or services on behalf of the Council.
- 5.3 A Responsible Officer's duties in respect of purchasing are to ensure:
- (a) compliance with all Regulatory Provisions and integrity of the tender process
 - (b) compliance with the relevant statutory provisions and the Council's requirements relating to declarations of interest (including gifts and hospitality) affecting any purchasing process
 - (c) that there is an appropriate analysis of the requirement, timescales, procedure and documentation to be used
 - (d) that the purchasing process, from planning to delivery incorporates (where appropriate) principles of sustainability, efficiency, whole life costings and cost savings
 - (e) compliance with the Council's decision-making processes
 - (f) that all contracts of a value of £25,000 or more are included on the Council's Contract Register which is maintained by Procurement Services
 - (g) that that proper records of all contract award procedure, waivers/exemptions and extensions are maintained, with separate files for each purchase of a value of £25,000 or more
 - (h) that value for money is achieved
 - (i) that advice is sought from the Corporate Director Resources and Place Delivery as to whether adequate and appropriate security (such as a bond or guarantee), is to be taken to protect the Council in the event of non-performance, and in the case of tenders, such security to be required as part of the tender process
 - (j) that appropriate advice is sought and followed from Legal Services, Finance and Procurement Services
 - (k) that the Council's Document Retention Policy is complied with
 - (l) that for tenders above £75,000 a financial evaluation is or has been made of the financial standing of tenderers as advised by the Corporate Director Resources and Place Delivery

- (m) that all reports seeking Cabinet approval to award a contract shall include a statement from the Responsible Officer that in their opinion, the tender process has been fair and transparent and in compliance with the relevant PCR Rules, UK legislation and these Contract Procedure Rules, or alternatively shall include a statement from the Responsible Officer which clearly sets out any anomalies that have occurred. In respect of contracts for which Cabinet approval is not required (for example, contracts under £500,000) the Responsible Officer will ensure that a similar statement is included on the relevant file

- 5.4 In considering how best to procure works, supplies and services Directors, Assistant Directors and/or Responsible Officers (as appropriate in the context), shall take into account wider contractual delivery opportunities and purchasing methods including the use of Purchasing Schemes and eprocurement / purchasing methods, and the availability of local authority charging and trading powers under the Local Government Act 2003.
- 5.5 It is a disciplinary offence to fail to comply with these Contract Procedure Rules and the Council's Procurement Guide. All employees have a duty to report breaches of Contract Procedure Rules to their Director.
- 5.6 Any Officer or Member who suspects any misconduct or corruption in relation to the purchase by or on behalf of the Council of works, supplies (goods) and services must immediately report that suspicion to the relevant Director.

6. Scheme of Delegation

- 6.1 Council purchasing may only be undertaken by Officers with the appropriate delegated authority to carry out such tasks as set out in the Council's Scheme of Delegation. Officers with delegated authority may only delegate to other Officers if expressly allowed to do so in the Scheme of Delegation. If allowed then the delegation should only be to Officers who have the appropriate skills and knowledge for the task and such delegation shall be recorded in writing by the Officer delegating the task and notified to the relevant Director.
- 6.2 Officers shall, where appropriate, be informed by their Director of the extent of any delegated authority and the financial thresholds set out in the Finance Procedure Rules and Contract Procedure Rules and Scheme of Delegation will apply.

7. Financial Thresholds and Procedures

- 7.1 The table below sets out the general Rules applying to the choice of purchasing procedure for contracts at the stated threshold values.
- 7.2 There is a general presumption in favour of competition. Wherever possible, contract opportunities should be advertised by way of a public notice.
- 7.3 The public notice referred to at Rule 7.2 may take the form of a notice or advertisement in an electronic format, on an easily accessible website or other electronic media and/or in the press, trade journals or Find a Tender (the latter being required where the PCR Threshold applies). The Responsible Officer may choose to place one or more public notices in different media.
- 7.4 Table setting out financial thresholds and procedures

Total value	Type of contract	Procedure to be used
Under £25,000	supplies and services	At least one written quote in advance
£25,000 to £74,999	supplies and services	At least three written quotes in advance
£75,000 to £213,477**	supplies and services	Competitively advertised tender, in accordance with advice from Procurement Services, Legal Services and Finance
Over £213,477**	supplies and services	<p>PCR Rules apply – full competitive process following advertisement in Find a Tender for supplies and non-LTR services*.</p> <p>For contracts relating to LTR services above the £663,540 (inclusive of VAT) threshold, certain mandatory requirements will apply under PCR. For contracts falling below £663,540 (inclusive of VAT) there is a presumption in favour of advertising and a competitive process</p> <p>Either of the above are to be carried out in accordance with advice from Procurement Services, Legal Services and Finance</p>

* For the purposes of PCR, LTR services are defined separately and PCR apply to a different degree

** The PCR Threshold for supplies and services or relevant threshold in force at the time under the regulations. When calculating the estimated value of the contract to determine whether the PCR regulations apply, the contract value estimation shall be inclusive of VAT.

Total value	Type of contract	Procedure to be used
Under £25,000	works	At least one written quote in advance
£25,000 to £499,999	works	At least three written quotes in advance
£500,000 to £5,336,937**	works	Competitively advertised tender in accordance with advice from Procurement Services, Legal Services and Finance

Total value	Type of contract	Procedure to be used
Over £5,336,937**	works	PCR apply – full competitive process with tenders following Find a Tender advertisement, and in accordance with advice from Procurement Services, Legal Services and Finance
** PCR Threshold for works or relevant threshold in force at the time under the regulations. When calculating the estimated value of the contract to determine whether the PCR regulations apply, the contract value estimation shall be inclusive of VAT.		

Responsible Officers should act cautiously and seek advice when considering the procedure to be used and application of the PCR to services contracts.

The relevant Chief Officer/Director shall define the level of advice and service which Responsible Officers will be required to seek from the Procurement Service or other third party, having reference to specified financial thresholds, and will publish this in a scheme which he or she will update from time to time.

7.5 Where contracts are of a type and value which means that they are subject to the PCR Rules then there are six types of PCR procedures available. These are the open, restricted, competitive procedure with negotiation, competitive dialogue, innovation partnership and negotiated procedure without prior publication. Care must be taken to ensure that the correct and most appropriate procedure is used and assistance on the choice and use of PCR procedure must be sought in the first instance from Procurement Services and if required from Legal Services

7.6 For contracts of £25,000 and above there are requirements to publish notices on Contracts Finder. Officers will ensure advice is obtained from Procurement Services.

8. Financial Thresholds and Processes for Approval and Execution of Contracts

8.1 Subject to the Finance Procedure Rules and provisions within the Council's Constitution regarding key decisions, Officers must obtain approval to proceed to tender, approval to award a contract, and approval in respect of any waivers or extension, in writing from:

- (a) Cabinet or a Cabinet Member having the delegated power (referred to below as the Delegated Cabinet Member) to do so, for contracts at or above a value of £500,000
- (b) a Director acting in conjunction with the Cabinet Member who holds the relevant portfolio, up to a contract value of £500,000, the power to be exercised personally by the Director and Cabinet Member and not his/her delegate where the value exceeds £350,000
- (c) a Director up to a contract value of £500,000 the power to be exercised personally by the Director and not his/her delegate where the value exceeds £350,000

- (d) An Assistant Director up to a value of £350,000 the power to be exercised personally by the Assistant Director and not his/her delegate
- (e) a Director or Assistant Director where:
 - (i) the Delegated Cabinet Member has been consulted by means of a written report; and
 - (ii) the written report sets down the nature of the contract, the tenders received and a recommendation as to the course of action proposed; and
 - (iii) the Delegated Cabinet Member has signified in writing his/her approval to the course of action proposed

8.2 All applications for approvals to proceed to tender must be:

- (a) Fully documented
- (b) Append a commissioning report (a "Stage 1" report) in an approved format to be submitted in advance to either the Cabinet, Cabinet Member or to the relevant Director or Assistant Director in accordance with Rule 8.1 above and which shall set out the following:
 - (i) an appropriate and proportionate business case setting out the commissioning need and costings
 - (ii) a draft specification detailing the quality required that is proportionate to the priorities of the Council
 - (iii) appropriate project management arrangements including user and stakeholder involvement and communication plans, risk assessments, an approved form of risk register, contingency plans (including requirements under the Civil Contingencies Act 2004) and proposed project management record keeping procedures (including compliance with the Council's Document Retention Policy) during the term of the proposed procurement
 - (iv) appropriate contract management arrangements including user and stakeholder involvement and communication plans, risk assessments, an approved form of risk register, contingency plans (including requirements under the Civil Contingencies Act 2004), arrangements for post-contract evaluation, and proposed contract management record keeping procedures (including compliance with the Council's Document Retention Policy) during the term of the proposed contract
 - (v) confirmation from Legal Services, Procurement Services and Finance that they have been consulted and agree with the commissioning report in so far as it relates to those respective fields

- (vi) confirmation that the requirements of Rule 5 above has been or will be met
 - (c) In addition to the above, where the application is for the approval to seek a tender from a single source, or to obtain a single tender from the one tenderer only, the application must also include written authorisation from the Corporate Director Resources and Place Delivery, provided that such authorisation is compliant with the requirements of the Public Contract Regulations 2015, and which will set out one of the following grounds for the authorisation:
 - (i) it is known (not assumed) that only one supplier can meet the requirement
 - (ii) Continuity of knowledge or synergy with previous work is an overriding consideration
 - (iii) The Council has received an unsolicited proposal that contains ideas or concepts in respect of which the intellectual property is owned exclusively by the proposed single tenderer, that the Council wishes to use because it meets immediate needs
 - (iv) The Council urgently needs to meet its statutory obligations
 - (d) In addition to the above, in cases where an officer preparing a Cabinet Report seeking approval to proceed to tender also makes a recommendation that Cabinet delegated the authority to make the subsequent decision to award a contract, the rationale for this should be made clear to Cabinet to allow them to make an informed decision to so delegate. Officers should word any request for a delegation of authority such that Cabinet members are "asked to consider" whether the delegation should be given, so that Cabinet may actively decide whether or not to grant it having regard to the rationale provided.
- 8.3 When a decision is made to award a contract then the Responsible Officer must, in addition to complying with his/her general obligations under these Contract Procedure Rules ensure, in particular, that:
- (a) the appropriate approvals, including approval to proceed to tender and approval to award the contract, have been obtained to authorise that decision; and
 - (b) where appropriate, a standstill period complying with PCR is incorporated into the final award process
- 8.4 Any contracts valued at £150,000 or above shall be executed as a deed. All other contracts may be signed by Officers with appropriate delegated authority.
- 8.5 Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 provided the sufficiency of security arrangements has been approved by the appropriate Director or his delegate.
- 8.6 In the case of major projects and complex procurements – for example, involving the procurement of frameworks or use of the competitive dialogue, innovation partnership or the competitive procedure with negotiation, the relevant Director and Assistant Director

should follow advice from Procurement Services, Legal Services and Finance as to whether:

- (a) a project specific scheme of delegation should be sought and approved by Cabinet – for example, delegating powers of approval to a Delegated Cabinet Member – at the beginning of the commissioning process in order to ensure timely approvals at key stages of the procurement process
- (b) a proportionate gateway review process should be utilised

8.7 In conjunction with Finance Procedure Rules, in the case of a civil emergency brought about by events unforeseeable by, and not attributable to the Council, and requiring an immediate response in order to protect the Council or its residents, the relevant Director may, upon receiving the consent of the Chief Executive and upon notifying the Corporate Director Resources and Place Delivery, where it is strictly necessary:

- (a) authorise the entry into contracts above £750,000 on an immediate basis, receiving if possible one written quote in advance from the proposed contractor, with a full report (following where relevant the format set out in Rule 8.2 above) to be submitted by the Director or the relevant Assistant Director to Cabinet at either the next available Cabinet meeting or the Cabinet meeting following, and
- (b) authorise the entry into contracts up to £750,000 on an immediate basis, receiving if possible one written quote in advance from the proposed contractor, with a full report (following where relevant the format set out in Rule 8.2 above) to be submitted by the relevant Assistant Director or Responsible Officer to the Director as soon as practicable.

9. Calculating the Contract Value

9.1 The starting point for calculating the contract value for the purposes of these Contract Procedure Rules is that the contract value shall be the genuine pre-estimate of the value of the entire contract excluding Value Added Tax. This includes all payments to be made, or potentially to be made, under the entirety of the contract and for the whole of the predicted contract period (including proposed extensions and options).

9.2 There shall be no artificial splitting of a contract to avoid the application of the provisions of PCR and/or these Contract Procedure Rules.

9.3 The PCR cover contracts which, individually, are below the stated PDR threshold but which constitute repeat purchases and/or purchases of a similar type in a specified period. Responsible Officers should therefore seek advice on the application of the PCR where they envisage that they may require repeat purchases and/or purchases of a similar type.

10. Principles Underlying Tendering Processes and Tender Evaluation

10.1 All tendering procedures (including obtaining quotes), from planning to contract award and signature, shall be undertaken in a manner so as to ensure that the following is secured:

- (a) Sufficient time is given to plan and run the process
- (b) Equal opportunity and equal treatment

- (c) Openness and transparency
- (d) Probity
- (e) Outcomes which deliver sustainability, efficiency and cost savings (where appropriate).

11. Submission and Opening of tenders

- 11.1 An Invitation to Tender shall be issued by the Council for all service or supply contracts over £75,000 or works contracts over £500,000 and tenders shall be submitted in accordance with the requirements of the Invitation to Tender.
- 11.2 All invitation to Tenders (including invitation to quote for Procurements exceeding £25,000) shall be issued and received utilising the Council's e-tendering system. Tenders will be retained unopened until after the date and time specified for receipt of tender in the invitation to tender. In exceptional circumstances (in agreement with the Head of Procurement service tenders may be (received electronically, to which Rule 11.3 shall apply).
- 11.3 Where the Council has indicated in the Invitation to Tender that a tender can or must be submitted electronically, then those tenders shall be:
- (a) addressed to the email address as notified in the Invitation to Tender
 - (b) in the format specified in the Invitation to Tender
 - (c) stored in a secure mailbox controlled by Procurement Services, which requires a code or other appropriate security measure, to open it
 - (d) retained unopened until after the closing date and time specified for receipt of tender
- 11.4 No tender received after the closing time and date specified for receipt of tenders shall be accepted or considered by the Council unless the relevant Director in consultation with the Head of Procurement Service is satisfied that there is sufficient evidence of the tender having been dispatched in time for it to have arrived before the closing date and time, or other exceptional circumstances apply, and the other tenders have not been opened.
- 11.5 Tenders shall be opened by the relevant Director or nominee working in conjunction with Procurement Services after the closing date and time specified for receipt of tenders in the invitation to tender.
- 11.6 If it is necessary that the period of time for submitting tenders be extended, this should be communicated to all tenderers in writing in a fair and equal manner.

12. Evaluation of Quotes and Tenders

- 12.1 All quotes and tenders shall be evaluated in accordance with evaluation criteria notified in advance to those submitting quotes/tenderers.
- 12.2 Tenders subject to the PCR shall be evaluated in accordance with the PCR Rules.

- 12.3 Save in exceptional circumstances approved in advance by the relevant Director all contracts shall be awarded on the basis of the quote or tender which represents best value for money or where the contract value exceeds the PCR threshold on the basis of the most economically advantageous tender to the Council and not on the basis of lowest price.
- 12.4 Tenders received in an incomplete form must be evaluated in accordance with the Invitation to Tender documents as set out in the Procurement Guide.

13. Waivers

- 13.1 The requirement for the Council to conduct a competitive purchasing process for contracts in excess of £25,000 may be waived in the following circumstances:
- (a) for contracts which are not subject to the PCR, the work, supply or service is required as a matter of urgency and a delay would be likely to lead to financial loss, personal injury, damage to property or breach of the Council's statutory obligations and duties, or
 - (b) subject to the Public Contracts Regulations 2015 at the discretion of the relevant Director who may proceed in a manner most expedient to the efficient management of the service/Council with reasons recorded in writing
- 13.2 A Responsible Officer who seeks a waiver of Contract Procedure Rules, shall do so only in advance and only in exceptional circumstances. Further guidance on what may constitute exceptional circumstances permitting waiver of these Contract Procedure Rules is set out in the Council's Procurement Guide.
- 13.3 All waivers from these Contract Procedure Rules must be:
- (a) Fully documented
 - (b) Subject to a written report in an approved format to be submitted in advance in accordance with Rule 8.1 (Approval) to Cabinet, Cabinet Member or to the relevant Director or Assistant Director. The report shall include reasons for the waiver which demonstrate that the waiver is genuinely required
 - (c) Subject to written approval in advance (in the approved format) in accordance with Rule 8.1 (Approval) by Cabinet, the Cabinet Member or the relevant Director, Assistant Director, Section 151 Officer or Procurement Service who shall record that they have considered the reasons for the waiver and that they are satisfied that the circumstances justifying the waiver are genuinely exceptional.
 - (d) where the waiver is being sought in order to seek a tender from a single source, or to obtain a single tender from the one tenderer only, the application for approval will be brought in accordance with Rule 8.2 above
- 13.4 Notice of award of all contracts with a value of £25,000 or above must be published on Contract Finder.
- 13.5 All decisions on waivers must take into account:

- (a) Probity
- (b) Best value/value for money principles

13.6 For contracts subject to the PCR, any waiver from the requirement for competition must meet the conditions set out in the PCR in addition to the general requirements above.

13.7 A waiver shall not be applied for reasons of poor contract planning.

14. Extensions to Existing Contracts

14.1 Where extensions to existing contracts are made, the extensions must be determined in accordance with the contract terms or agreement of the parties, for a specified period and made in accordance with the principles set out in the Council's Procurement Guide and the Public Contracts Regulations 2015 as applicable. Extension of existing contracts shall include modification and variation of contracts.

14.2 Any extension must be:

- (a) Fully documented
- (b) Subject to a written report in an approved format to be submitted in accordance with Rule 8.1 (Approval) to Cabinet, the Cabinet Member or the relevant Director or Assistant Director. The report shall include reasons for the extension which demonstrate that the need for the extension is genuinely exceptional
- (c) Subject to written approval in advance (in the approved format) in accordance with Rule 8.1 (Approval) to Cabinet, the Cabinet Member or by the relevant Director or Assistant Director, who shall record that they have considered the reasons for the extension and that they are satisfied that the circumstances justifying the extension are genuinely exceptional.

14.3 Any extension must take into account:

- (a) Probity
- (b) Best value/value for money principles

14.4 For contracts subject to PCR, any extension must meet the conditions set out in Regulation 72 of the Public Contracts Regulations 2015 in addition to the more general requirements set out above.

15. Purchasing Schemes (including Framework Agreements)

15.1 A Responsible Officer may use Purchasing Schemes subject to the following conditions and the Council's Procurement Guide.

15.2 Responsible Officers must check in advance that:

- (a) The Council is legally entitled to use the Purchasing Scheme
- (b) The purchases to be made do properly fall within the coverage of the Purchasing Scheme

- (c) The establishment and operation of each Purchasing Scheme is in compliance with the PCR (where they apply) and meets the Council's own requirements

16. Review and Changes to these Contract Procedure Rules

- 16.1 These Contract Procedure Rules shall be reviewed and updated on a regular basis. Save in the case of revisions to the PCR Thresholds in Rule 7, amended Contract Procedure Rules shall be agreed and adopted by the Council by resolution following the consideration of a Cabinet Report brought by the Section 151 Officer and Corporate Director Resources and Place Delivery in consultation with the Assistant Director of Law and Governance and Head of Procurement Service. Revisions to the PCR Thresholds shall be dealt with in accordance with the Scheme of Delegation.

Part 3 – Finance Procedure Rules

Introduction

The Council controls many millions of pounds of public money. These Financial Procedure Rules aim to ensure that the Council manages its affairs with the highest standards of financial integrity and accountability expected by the taxpayers who fund our services.

The Local Government Act 1972 (Section 151) requires that the Council appoints a suitably qualified person to be responsible for the proper administration of the Council's financial affairs. In Thurrock Council, the responsible financial officer is the Corporate Director Resources and Place Delivery. The Local Government Finance Act 1988 (Section 114) prescribes that the responsible financial officer "must make a report if he considers that a decision has been made or is about to be made involving expenditure which is unlawful or which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency to the authority".

Any reference to the Corporate Director Resources and Place Delivery in these Financial Procedure Rules includes his or her nominated deputy, except for the making of a report under section 114 of the Local Government Finance Act 1988.

These Financial Procedure Rules are made to regulate the Council's financial administration and control processes. They set out the standards to:

- ensure that the Council's resources are used wisely and for the purposes intended
- ensure best practice for dealing with financial matters
- improve value for money, service delivery and customer satisfaction
- secure the financial standing of the Council

The Financial Procedure Rules aim to maintain an appropriate balance between managing risk sensibly, innovation and meeting the Council's statutory duties and corporate objectives.

These regulations apply to all employees, Members of the Council and others acting on the Council's behalf (there are separate regulations applicable for Schools). Directors are responsible for bringing the regulations to the attention of all staff, ensuring the necessary training is given and monitoring compliance. All Budget Holders must have access to a copy of these Financial Procedure Rules.

The Rules themselves are not of any use unless all of us understand them and adhere to them in our everyday work.

If we knowingly fail to comply with the regulations, this constitutes misconduct and may result in disciplinary action.

The Council's Financial Procedure Rules set out the control framework in seven key areas:

- Roles and responsibilities (Section 1)
- Financial planning (Section 2)
- Financial management (Section 3)

- Risk and opportunity management including insurance (Section 4)
- Control of resources and asset management (Section 5)
- Financial administration (Section 6)
- External arrangements (Section 7)

The Financial Procedure Rules are supplemented by further guidance notes. Issued by the Corporate Director Resources and Place Delivery, they act as further guidance for the implementation of financial procedures by officers acting on behalf of the Council.

The Financial Procedure Rules should be used in conjunction with:

- The rest of the Council's Constitution, including Contract Procedure Rules and the Code of Conduct.
- Agreed Schemes of Delegation (including financial delegation)
- The Council's Whistle Blowing Policy
- The Audit Protocol
- The IT Security Policy
- Departmental Guidance and Procedure Notes
- The Council's Document Retention Policy

If anyone is in doubt about the application of Financial Procedure Rules or any of these documents, please seek advice from your Group Finance Manager or the Corporate Director Resources and Place Delivery.

The Financial Procedure Rules may be revised from time to time by the Corporate Director Resources and Place Delivery provided that no such revision may affect the powers of the Cabinet, Cabinet Members, Committees or Sub-Committees without the approval of the Council and that any such revision must be reported to the Cabinet and the Standards and Audit Committee as soon as practicable.

1. Section 1 – Roles and Responsibilities

1.1 Sound financial planning, management and administration are essential in order to:

- Plan and maintain the effective use of resources to achieve agreed service standards.
- Comply with legal and corporate accounting requirements.
- Provide accurate and complete accounts that demonstrate accountability to the public.
- Ensure the appropriate use and security of financial and physical assets.

- Help the Council conduct its affairs in an efficient, effective and economic manner.

The key areas of responsibility, and associated specific financial procedure Rules, are set out below.

Roles and Responsibilities

- 1.2 Members and officers of the Council shall carry out the roles and responsibilities as set out below.

Members

- The Council sets the overall policy and Budget framework.
- The Council approves the Financial Procedure Rules.
- The Cabinet and Overview and Scrutiny Committees monitor the achievement of policies and objectives within the resources allocated.
- The Cabinet monitors financial performance and service performance and makes changes, within the policy and Budget framework to ensure the Budget is met or met within the limits determined by the Council, including the agreed reserves strategy.
- The Standards and Audit Committee seeks assurance on behalf of the Council that the control environment and governance of the Council are sound and operating well and aims to ensure the Council's ethical governance arrangements are sound and operate well

The Chief Executive

- Provides strategic management and establishes a framework for management direction, style and standards.
- Secures a process for resource allocation that ensures due consideration of national and policy and corporate priorities.
- Ensures arrangements are in place to monitor and manage the performance of the Council.

The Corporate Director Resources and Place Delivery (Section 151 Officer)

- Ensures the co-ordination and integration of service planning, financial planning, asset management, value for money and corporate governance
- Co-ordinates the development of the Council's Local Code of Corporate Governance
- Ensures that the Council's financial arrangements secure the proper stewardship and control of all public funds.
- Provides financial advice and support so that resources are managed effectively in delivering the Council's services.

- Sets corporate financial management standards and agrees with Directorates detailed procedures to meet these standards.
- Ensures that there is an adequate internal audit service to the Council.
- Approve financial systems or proposals to introduce new processes or systems (including IT systems) to ensure sound financial controls.

Directors

- Establish clear accountabilities for all managers that include objectives of and responsibility for systems and information.
- Ensure all their staff understand and comply with Financial Procedure Rules, Contract Procedure Rules, Council policies and Directorate departmental instructions.
- Identify the short, medium and long term financial implications of policy, legislative requirements and service standards.
- Plan and maintain the effective use of resources to achieve agreed service delivery standards within the agreed Budgets set by Council.
- Achieve and demonstrate value for money for commissioned and provided services.
- Take or recommend actions where necessary to stay within agreed Budgets set by the Council.
- Clearly understand the consequences of a lack of financial control.
- Ensure that all employees understand and have access to a copy of the Council's Anti-Fraud and Corruption Strategy and associated guidance.
- Ensure that Budget Holders have effective procedures for safeguarding the Council's resources.
- Operate processes to check that established controls are in place and evaluate their effectiveness.

Directors' Board

- Take an overview of overall performance, including financial performance.
- Decide or recommend management and/or policy action across the Council to ensure the Council remains within its Budget and Medium Term Financial Strategy.

Assistant Directors and Budget Holders

- Determine the appropriate level of control within their areas of responsibility in accordance with advice and guidance provided by the Corporate Director Resources and Place Delivery, their Directors and the Council's auditors.

- Ensure all their staff understand and comply with Financial Procedure Rules, Contract Procedure Rules, Council policies and Directorate departmental instructions.
- Monitor compliance within these regulations, policies and instructions.
- Identify the short-, medium- and long-term financial implications of policy, legislative requirements and service standards.
- Plan and maintain effective use of resources to achieve agreed service delivery standards within the agreed Budgets set by Council.
- Achieve and demonstrate value for money for commissioned and provided services.
- Take or recommend actions where necessary to stay within agreed Budgets set by the Council.
- Clearly understand the consequences of a lack of financial control.
- Ensure that all employees understand and have access to a copy of the Council's Anti-Fraud and Corruption Strategy and associated guidance.
- Ensure that Budget Holders have effective procedures for safeguarding the Council's resources.
- Operate processes to check that established controls are in place and evaluate their effectiveness.

All Employees

- Have a responsibility for following Financial Procedure Rules, Contract Procedure Rules, Code of Conduct, Council policies and Directorate instructions.
- Ensure Council resources are only used in carrying out the business of the Council.
- Help the Council achieve open and honest administration by supporting approved fraud prevention strategies and avoiding potential conflicts of interest.
- Assist the Council's audit processes.
- Keep accurate and comprehensive records to support the transactions undertaken on the Council's behalf.

Internal Audit Services

- Provide advice to management on the operation of financial controls to prevent things going wrong and investigate any suspected irregularities.
- Conduct independent reviews of Directorate internal control arrangements.

External Audit

- Report on whether the Council's accounts and statements present a true and fair view of the Council's financial position.
- Carry out agreed ad hoc projects.

Financial Advice

- 1.3 The advice of the Corporate Director Resources and Place Delivery must be sought regarding any matter which could materially affect the finances or financial systems of the Council before any commitment is made.
- 1.4 Directors shall ensure the early and continuous involvement of the Finance and Legal functions in proposals leading to reports to Members and in particular large, complex or sensitive proposals. The Corporate Director Resources and Place Delivery and the Monitoring Officer must be given a minimum of at least 5 working days (except in the case of an emergency) to provide comments for inclusion in any report to Members.

The Section 151 Officer and/or the Monitoring Officer have the right to withdraw any report where notice has not been given or the full financial and/or legal implications cannot be provided in the timescale available.

- 1.5 Any amendments to approved financial systems or proposals to introduce new processes or systems (including IT systems) must be agreed in advance with the Corporate Director Resources and Place Delivery. Internal Audit must be informed of and involved as appropriate in all changes to systems of internal control before they happen in order that advice can be provided.

Employees Responsibilities

- 1.6 Under no circumstances must employees use Council resources or assets for their personal benefit.
- 1.7 Employees must not allow any personal debt owed to the Council to become unmanaged. Personal debt includes, but is not limited to, rent arrears, Council tax arrears, arrears arising for leaseholder agreements with the Council, employee loan arrears or employee leasing arrangements. Where any such arrears have been accrued prior to employment with the Council and are still outstanding, employees should undertake to clear those arrears within an agreed and reasonable period of time.
- 1.8 Employees must report to their Director any occasions where they believe that Financial Procedure Rules, Contract Procedure Rules, Council policies or Directorate instructions are not being followed, or where Council resources are at risk. Provided employees act in good faith, they will be fully supported when reporting under this regulation and/or the Council's Whistle Blowing Policy. The relevant Director shall ensure the Corporate Director Resources and Place Delivery is notified immediately in order to agree any investigative action considered appropriate.

Internal and External Audit

- 1.9 To fulfil their responsibilities, Internal and External Auditors have the right to automatic and full access to all records (however held) relating to any transaction carried out on or behalf of the Council and to any of the Council's premises or land. They may seek and obtain any explanations they need to conduct their work, or require any employee to produce Council assets under their control, wherever located.
- 1.10 All audit reports must be considered and responded to in accordance with the agreed Internal Audit and External Audit Protocols.

Once agreed, recommendations must be implemented within the timescales agreed with the auditors or any alternative timescales agreed with the auditor.

The Chief Internal Auditor can report independently direct to the Chief Executive, any Director, the District Auditor, the Cabinet, any Cabinet Member, the Council or any Committee of the Council on matters concerning fraud, management or financial control.

2. Section 2 – Financial Planning

A Medium Term Financial Strategy and Budgets are needed so that the Council can plan, monitor and control the way resources are allocated and spent to meet the Council's objectives and to secure value for money. Budgets reflect Council priorities and give authority to Budget Holders to incur expenditure to meet service standards and targets.

In order to ensure a consistent approach across the Council, the Corporate Director Resources and Place Delivery shall determine the detailed form and procedures relating to the development of the Medium Term Financial Strategy, revenue and capital Budgets by the issue of standard formats (including timetables, information requirements and challenge processes). Directors and Assistant Directors shall prepare their reports to these standards.

Medium Term Financial Strategy and Budget Preparation (Capital and Revenue, including the Housing Revenue Account)

- 2.1 Detailed processes for the preparation of the Medium Term Financial Strategy (including Directorate Medium Term Financial Strategies), revenue and capital Budgets shall be issued by the Corporate Director Resources and Place Delivery. These will take into account:
- The need for Directors to demonstrate value for money, efficiency and effectiveness in current services and proposals for change.
 - The service impact on national and local policy priorities, including statutory requirements.
 - Policy choices available to the Council, including the implementation of statutory requirements.
 - The risk and opportunities in implementing changes.
 - The impact of proposals in the medium term.

- Exit strategies related to one-off or time limited funding.
- 2.2 Directors and Assistant Directors shall prepare annual revenue and capital Budgets as part of their Medium Term Financial Plan as directed by the Cabinet acting on the advice of the Corporate Director Resources and Place Delivery. Budget Holders must provide additional information when requested by the Corporate Director Resources and Place Delivery, in order to complete Government and statistical returns.
- 2.3 The Corporate Director Resources and Place Delivery shall collate the revenue and capital estimates and present them to Cabinet as part of the Budget and Medium Term Financial Strategy process prior to submission to the Council for approval.
- 2.4 Directors and Assistant Directors in accordance with the format and guidelines issued by the Corporate Director Resources and Place Delivery for the submission of new schemes and for the review of the ongoing programme, shall undertake an annual review of the medium term capital programme and consequential revenue implications for inclusion in the Medium Term Financial Plan as directed by the Cabinet on the advice of the Corporate Director Resources and Place Delivery. The annual review shall take account of:
- The ongoing need for a scheme and programmes.
 - An assessment of cost predictability – that is, total scheme costs, including land, works, fees and all associated costs.
 - The need for a risk based contingency within the available resources or where no risk assessment is carried out or contingency of 10-15% is provided for. Such a contingency should not be used for changes in specification.
 - An assessment of time predictability i.e. a realistic assessment of the phasing of capital expenditure and income over financial years.
 - The revenue implication of the capital programme to be met within Directorate Budgets.
 - Implications for the Council's VAT Partial Exemption Limit.
- 2.5 Detailed guidance for the preparation of the Capital Programme including the need for a full project appraisal shall be issued by the Corporate Director Resources and Place Delivery to include:
- The need for a scheme or programme of works against the Council's priorities and available resources.
 - An assessment of cost predictability – that is, total scheme costs, including land, works, fees and all associated costs.
 - The need for a risk based contingency within the available resources or where no risk assessment is carried out or contingency of 10-15% is provided for. Such a contingency should not be used for changes in specification.
 - An assessment of time predictability – that is, a realistic assessment of the phasing of capital expenditure and income over financial years.

- The revenue implications of the capital programme.
- Implications for the Council's VAT Partial Exemption Limit.

2.6 Capital Expenditure shall only be incurred in accordance with the approved Capital Programme. The Corporate Director Resources and Place Delivery shall be responsible for defining whether expenditure is classes as Capital or Revenue.

2.7 All Capital Receipts shall be pooled unless otherwise agreed by the Cabinet, for example, to meet contractual obligations or reduce any set aside of capital receipts or where legislation requires a different approach.

Reserves and Provisions

2.8 The Corporate Director Resources and Place Delivery is responsible for recommending to the Cabinet and Council the adequate level of unallocated General Fund and Housing Revenue Account (HRA) Reserves, the Reserves Strategy and any limitations or conditions on the use of such unallocated reserves. His or her recommendations shall be based upon:

- The assessment of the robustness of the Budget and adequacy of reserves under Section 25 of the Local Governance Finance Act 2003.
- The projected level of reserves for the year and in the medium term compared to a risk assessment based on the Budget risk register and the corporate risk register.
- An ongoing assessment of the above.

2.9 The Corporate Director Resources and Place Delivery is responsible for recommending to the Cabinet and Council on the adequate level of specific provisions and earmarked reserves. Such recommendations shall also include the decision-making and authorisation processes for the use of those provisions and reserves.

2.10 Directors shall only propose the use of earmarked reserves and provisions for the purpose of such reserves or provisions, unless otherwise agreed by the Cabinet after taking advice from the Corporate Director Resources and Place Delivery.

2.11 Directors with the Responsible Budget Holder shall review and certify annually all their relevant earmarked reserves and provisions following guidance provided by the Corporate Director Resources and Place Delivery.

3. Section 3 – Financial Management

3.1 Sound financial management is important in order to ensure:

- Council objectives are secured within the Budgets agreed by the Council.
- The Council achieves value for money.

Revenue Budget Management

3.2 Directors and Assistant Directors must formally allocate responsibility for all their individual Budgets to Responsible Budget Holders who must monitor and manage expenditure,

income and risk in the context of amounts allocated. Any potential variations must be brought to the attention of line managers so that appropriate action can be identified and taken.

3.3 Assistant Directors must ensure that Responsible Budget Holders:

- Are aware of their responsibilities, cash limits and levels of service delivery which they have to monitor.
- Receive adequate support and training to carry out their financial responsibilities.
- Complete a Registration of Responsible Budget Holder record, to certify their understanding of Financial Procedure Rules and Contract Procedure Rules.
- Comply with the Council's standards of financial management.

3.4 Assistant Directors and Budget Holders must regularly monitor (at least monthly but more frequently where necessary) actual income and expenditure against that Budgeted, for all Budgets for which they are responsible and ensure that all Budget targets are achieved. As part of such monitoring, Assistant Directors and Budget Holders must:

- Project likely future income and expenditure in order to identify immediately any potential over or under spends.
- Take corrective action without delay and, if action beyond their authority is required, report to their line manager immediately.
- Report any actual or projected material variances from income and expenditure Budgets to Corporate Finance, including any impact on future years.

3.5 Where supplementary accounting records are maintained, Assistant Directors and Budget Holders must reconcile these to the Council's main accounting systems, or bank statements, on a regular basis (at least monthly but more frequently where necessary). If, with the approval of the Corporate Director Resources and Place Delivery, a Directorate uses a financial system other than the Council's corporate financial system, the Director and the Group Finance Manager of that Directorate must ensure that financial information from their system is regularly and accurately transferred to the Council's corporate financial system.

3.6 In an emergency Directors may take any reasonable action necessary to protect the interests of the Council and its residents, reporting the financial consequences to the Corporate Director Resources and Place Delivery and the Cabinet as soon as possible.

3.7 As soon as a Budget Holder identifies a potential overspend in their cost Budgets they shall also:

- Take management actions that do not affect Council policy within their relevant Budgets to reduce or eliminate the overspend.
- If these are insufficient, identify and recommend potential policy choices within their relevant Budgets to reduce or eliminate the overspend to the Assistant Director.

- Report any changes to service delivery which increase spending or reduce income in the regular Budget Monitoring reports to Cabinet, detailing all the financial implications, including those falling on future years. At the same time offsetting savings within the Directorate Budget will be reported.
- 3.8 If the management actions in Rule 3.7 are insufficient to meet the projected overspend the Assistant Director shall:
- Take further management action within their Budgets to reduce or eliminate the projected overspend.
 - If these management actions are still insufficient, identify further potential policy choices within the range of their Budgets to reduce or eliminate the overspend to the Director.
- 3.9 If the management actions in Rule 3.7 and 3.8 are insufficient to eliminate the projected overspend, the relevant Director shall:
- Take further management action across all the Directorate's Budgets to reduce or eliminate the potential overspending.
 - If the management actions across all the Directorate's Budgets are insufficient to eliminate the overspend, to identify further policy options across the relevant Directorate's Budgets.
 - Consider the potential policy choices identified across the Directorate and include those policy choices and the relevant decision-making process in accordance with the constitution in the Budget monitoring report to Directors Board.
- 3.10 In the event that policy choices need to be put to Cabinet in the Budget monitoring report, the Directors' Board shall:
- Agree further management actions or underspendings across all the Council's Budgets to reduce or eliminate all overspends.
 - Identify policy choices across all the Council Budgets and the relevant decision-making process in accordance with the Constitution and report these to Cabinet as part of the regular or special Budget monitoring report.

Carry Forward of Revenue Budgets from One Year to the Next (Carry Forward)

- 3.11 With the prior written approval of the Corporate Director Resources and Place Delivery, at the request of the Director, underspendings on revenue expenditure of £50,000 per Assistant Director in the aggregate may be carried from one financial year to another. Any carry-forward exceeding £50,000 per Assistant Director in the aggregate requires the approval of Cabinet, which may also require any overspend to be carried forward. Only delayed spending as a result of factors beyond management control or where the Council will suffer a financial loss may be carried forward.

Transferring Financial Resources between Revenue Budget Heads in Year (Virement)

3.12 If extra expenditure is needed on an existing Budget head, then, providing equal savings can be made within the Directorate's Budget, Assistant Directors and Budget Holders may be able to transfer Budgetary provision. The following levels of authorisation are applicable:

- Up to £25,000 for any single item from or to any one Budget head at the discretion of the Responsible Budget Holder in agreement with the Assistant Director in consultation with the Group Finance Manager up to an aggregate of £50,000 in a financial year.
- Between £25,000 to £50,000 for any single item from or to any one Budget head at the discretion of the Assistant Director in agreement with the Director and in consultation with the Corporate Director Resources and Place Delivery up to an aggregate of £100,000 in a financial year.
- Between £50,000 to £100,000 for any single item from or to any one Budget head at the discretion of the Director in consultation with the Corporate Director Resources and Place Delivery up to an aggregate of £250,000 in a financial year.
- Above £100,000 for any single item or above an aggregate of £250,000 in a financial year per Director only with the prior agreement of Cabinet.

Each virement request must indicate whether the virement is permanent (that is, affects the base Budget, but without adding spending) or one-off for the relevant financial year.

The virement and carry-forward must be recorded in the Council's financial system.

Virement is permitted between the revenue Budget and the capital Budget but not from the capital Budget to the revenue Budget.

Limitations on Carry Forward and Virement of Revenue Budgets

3.13 No carry-forward or virement will be allowed if:

- It results in a policy change which Members have not approved.
- It commits additional ongoing expenditure, or reduces income, in future years.
- It involves loan charges, capital expenditure, apportioned central charges, contributions to outside bodies or Council finance which the Directorate concerned has no control over.
- The underspending arises from a change in volume of service or reduced unit costs that were not anticipated when the Budget was set.
- The Directorate's total Budget is, or is projected to be overspent, the first call on any underspending is to rectify the Directorate's financial position.

- The total Budget (General Fund or HRA) is or is projected to be overspent. The first call on any virement of an underspending will be to rectify the overall financial position.

- 3.14 The Corporate Director Resources and Place Delivery is authorised to make technical adjustments to Budgets/cash limits that are not contrary to the policy and Budget framework including the transfer of Budget between Directorates to reflect transfers of functions.
- 3.15 No virement is permitted between employee and other Budget Heads relating to day to day running costs.

Capital Budget Management

- 3.16 Where capital schemes are subject to full appraisal prior to approval by the Council as part of the capital programme this is sufficient for approval to go out to tender as required under the Contract Procedure Rules without a report to Cabinet. The award of contracts will still need to be approved in accordance with the thresholds and decision-making process set out in the Contract Procedure Rules.

If the sum approved is likely to be exceeded, prior confirmation from the Corporate Director Resources and Place Delivery is required to confirm that capital spending powers are available.

If the Council has approved a capital programme for future years and/or a reserve capital programme, this provides authorisation to carry out feasibility studies, outline design and application for planning consent (where required) provided the resources have been identified.

- 3.17 Any proposal to amend an approved Capital Programme by including a new project or deleting an approved project shall require the approval of the Cabinet. This must include all applications for schemes to be funded from Government sources, grants or other external funding.

Where additional funding for a scheme is fully funded by external resources and is consistent with the Council's corporate priorities, to the satisfaction of the Corporate Director Resources and Place Delivery, the scheme shall be added to the capital programme with a subsequent report to the Cabinet.

- 3.18 If, after a scheme has commenced, the original estimated total cost in respect of any scheme or programme appears likely to be exceeded, or where any avoidable variations or discretionary charges are to be incurred, then equivalent savings must be made within the Directorate's approved Capital Programme. The following levels of authorisation are applicable:
- Up to £25,000 for any single item from or to any one Budget head at the discretion of the Responsible Budget Holder in agreement with the Assistant Director in consultation with the Corporate Director Resources and Place Delivery up to an aggregate of £50,000 in a financial year.
 - Between £25,000 to £50,000 for any single item from or to any one Budget head at the discretion of the Assistant Director in agreement with the Director and in

consultation with the Corporate Director Resources and Place Delivery up to an aggregate of £100,000 in a financial year.

- Between £50,000 to £100,000 for any single item from or to any one Budget head at the discretion of the Director in consultation with the Corporate Director Resources and Place Delivery up to an aggregate of £250,000 in a financial year.
- Above £100,000 for any single item or above an aggregate of £250,000 in a financial year per Director only with the prior agreement of Cabinet.

The applicable limitations on virement within capital Budgets are the same as for the Revenue Budget as set out in Rule 3.12

- 3.19 In any case where the total cost of works of a scheme or a programme of works to be carried out exceeds the original estimated sum (including any contingency) by 10% and it is not possible to identify a capital virement, the final cost or estimate thereof and reason for the increased expenditure shall be reported to the Corporate Director Resources and Place Delivery and the Cabinet at the earliest opportunity by the relevant Director.
- 3.20 Any slippage in estimated payments for the year must be reported at the earliest opportunity so that steps may be taken to avoid any loss of time-limited borrowing or capital grant approvals. The Corporate Director Resources and Place Delivery will be responsible for reporting the overall position to the Cabinet on no less than a quarterly basis.
- 3.21 No asset lease (operational or finance) shall be entered into unless approved by the Corporate Director Resources and Place Delivery. No property lease shall be undertaken without the prior approval of the Corporate Property Officer in consultation with the Corporate Director Resources and Place Delivery.

Treasury Management and Banking

- 3.22 The Council has adopted the CIPFA Code of Practice on Treasury Management in Local Authorities.

The Corporate Director Resources and Place Delivery shall report to the Cabinet prior to the start of each financial year on the Annual Treasury Management Strategy prior to submission to the Council for approval. The Corporate Director Resources and Place Delivery shall have authority to make investments and arrange borrowings in such form as he/she deems appropriate within the limits imposed by the Council. The Corporate Director Resources and Place Delivery will report at least twice a year to the Cabinet on the implementation of the Treasury Management Policies and strategy, including when the final accounts for each financial year are submitted, the actual methods of funding and investment that have been used.

- 3.23 Only the Corporate Director Resources and Place Delivery is authorised to open, manage and operate the Council's bank accounts and all cheques and other forms of authority for payment out of the Council's bank accounts shall bear the signature of the Corporate Director Resources and Place Delivery or another officer authorised by him/her. Managers shall not maintain, or permit to be maintained, bank accounts in the name of the Council without the express authority of the Corporate Director Resources and Place Delivery.

Reporting

- 3.24 There shall be at least four regular Budget monitoring reports to Cabinet during the year, including the provisional out-turn report. The Corporate Director Resources and Place Delivery shall report to Cabinet in between such regular reports should he or she require this to be necessary in the financial circumstances.
- 3.25 Virements between £50,000 and £100,000 will be reported to Cabinet as part of the agreed Budget monitor reporting arrangements.

4. Section 4 – Risk and Opportunity Management including Insurance

- 4.1 The objectives of risk management and insurance are to ensure that risks to the Council are identified and quantified and that effective measures are taken to reduce, eliminate, accept or insure against them. This involves ensuring that:
- The possible impact of risks and opportunities is evaluated.
 - What needs to be done about risks and opportunities is determined.
 - Measures to avoid, transfer or reduce risk are identified and applied.
 - Measures to bring forward opportunities are identified and applied.
 - A programme for risk reduction and loss prevention is formulated.

General

- 4.2 The Corporate Director Resources and Place Delivery is responsible for ensuring adequate risk and opportunity management and insurance arrangements are in place although this function may be carried out within another Directorate. Directors and Assistant Directors must ensure that Budget Holders and employees:
- Are aware of their responsibilities for insurance and risk management.
 - Receive adequate support and training to carry out their financial responsibilities.
 - Comply with the Council's standards for risk management.
 - Are personally protected from associated risks.
- 4.3 Directors and Assistant Directors are responsible for notifying the Corporate Director Resources and Place Delivery of:
- All new property, vehicles, plant or other risks that require insurance or an alteration to existing insurances.
 - All new partnership arrangements or changes to existing partnership arrangements that require insurance or an alteration to existing insurances.
 - Any loss or liability or damage that may lead to a claim against the Council.

- 4.4 Directors and Assistant Directors are responsible for ensuring that they and anyone covered by the Council's insurances:
- Do not admit liability nor offer any payment of compensation that may prejudice the Council's liability in respect of any future claim.
 - Do not enter into any indemnity without first consulting the Monitoring Officer and the Corporate Director Resources and Place Delivery.
- 4.5 Directors and Assistant Directors are responsible for the identification of potential risks of loss or damage to the resources and operations they control. The most common risks are:
- Loss of service.
 - Liability for injury to/death of employees and third parties, or damage to their property, caused by the negligence of the Council.
 - Council property damage or loss resulting from fire, flood, storm and similar perils.
 - Loss of Council equipment or property due to theft.
 - Additional or consequential expenses arising from a loss.
 - Loss of Council money due to theft, or dishonesty of staff.
- 4.6 Having identified all risks, Directors and Assistant Directors must assess the likelihood of their occurrence and evaluate the possible impact. This involves arranging them in order of priority, recording the risk and judging the likelihood and impact of:
- Financial cost.
 - Disruption to service delivery.
 - The reputation of the Council.

Each directorate and Assistant Director must maintain a risk register and mitigation plan as part of their service or Directorate Plans and ensure any critical risks are reflected in the Corporate Risk Register.

- 4.7 Directors with their Assistant Directors will prepare a risk assessment of the Budget and Medium Term Financial Strategy and agree this with the Corporate Director Resources and Place Delivery to inform the Annual Governance Statement and the Section 151 Officer's statement of the robustness of estimates and adequacy of reserves.

Managing Risk

- 4.8 Directors, Assistant Directors and Budget Holders must take steps to minimise potential losses through preventative measures. Effective action will represent a judgement between the probable risk and the cost or effort required to safeguard against it. Potential measures may include:
- Taking care to guard against obvious risk, including statutory requirements.

- Prevention of loss through ensuring that the circumstances leading up to it are avoided.
- Preparing for the impact of likely incidents.
- Ensuring that incidents are discovered early through appropriate controls.
- Limiting losses once they arise through rapid and appropriate action and good record keeping.
- Having in place and regularly testing and reviewing disaster recovery and business continuity plans

4.9 Directors and Assistant Directors must regularly review their service risk registers and the Corporate Risk Register and report major changes to the Corporate Risk Register to the Risk and Opportunity Manager and the Corporate Director Resources and Place Delivery.

4.10 The Corporate Risk Register will be reported to the Cabinet and the Standards and Audit Committee on a quarterly basis or more frequently, if appropriate.

Insurance Procedure

4.11 The Corporate Director Resources and Place Delivery is responsible for arranging appropriate insurance cover for the Council. Directors and Assistant Directors are responsible for notifying the Corporate Director Resources and Place Delivery of:

- All new risks and liabilities which may require specific insurance cover.
- Any alteration which may affect existing insurance.
- All new property, vehicles, plant or other risks that require insurance or an alteration to existing insurances.
- All leases of property granted by or to the Council which involve a transfer of insurance cover.
- All new partnership arrangements or changes to existing partnership arrangements that require insurance or an alteration to existing insurances.
- Any loss or liability or damage that may lead to a claim against the Council.

4.12 Directors and Assistant Directors are responsible for ensuring that they and anyone covered by the Council's insurances:

- Do not admit liability nor offer any payment of compensation that may prejudice the Council's liability in respect of any future claim.
- Do not enter into any indemnity without first consulting the Monitoring Officer and the Corporate Director Resources and Place Delivery.

Ex Gratia Payments and Compensation in respect of Local Government Ombudsman Investigations

- 4.13 An ex-gratia payment relates to compensation made in respect of personal injury, loss or damage to clothing or personal belongings where there is no legal liability on the Council. Any proposal to make such a payment must be agreed, in advance, with the Corporate Director Resources and Place Delivery and the Monitoring Officer. Claims up to £10,000 per event may be agreed by the Corporate Director Resources and Place Delivery and the Monitoring Officer. Claims over £10,000 must be referred to the relevant Cabinet Member.
- 4.14 Compensation made in respect of a Local Government Ombudsman investigation and report must be agreed, in advance, with the Corporate Director Resources and Place Delivery and the Monitoring Officer. Claims up to £10,000 per event may be agreed by the Corporate Director Resources and Place Delivery and the Monitoring Officer. Claims over £10,000 must be referred to the relevant Cabinet Member.

Money Laundering

- 4.15 The Corporate Director Resources and Place Delivery shall nominate a suitably qualified and experienced Money Laundering Reporting Officer and a Deputy Money Laundering Reporting Officer who shall ensure that systems are in place which counter opportunities for money laundering to take place within the Council. Within the established system of control, Directors and Assistant Directors in conjunction with the Reporting Officer should assess areas of vulnerability and any money laundering suspicions they may have.

5. Section 5 – Control of Resources and Asset Management

The purpose of this section is to ensure that Budget Holders and employees have a clear understanding of their responsibilities regarding resources and asset management.

General

- 5.1 Directors, Assistant Directors and Budget Holders must formulate a service delivery plan to identify the resources that are required to meet agreed service levels with due regard to the principles of Best Value and value for money. A comparison of resource inputs, outputs and outcomes must be made to identify:
- Where new resources are required and that these represent value for money.
 - That the application of existing resources represents value for money.
 - Opportunities to minimise or eliminate resource consumption, for example, of energy, water or paper and to meet the Council's Carbon Reduction Commitment.
 - Opportunities for resource efficiency, including the use of property, technology and business processes.
 - Opportunities to minimise negative environmental impacts.
- 5.2 Budget Holders are responsible for ensuring that the most favourable terms for price, delivery and quality are obtained on all purchases in accordance with Contract Procedure Rules.

- 5.3 Budget Holders must have due regard to the environmental impact of their purchasing decisions, including the national Carbon Reduction Commitment.
- 5.4 All transactions and agreements with property implications, including the acquisition or disposal of any interest in land, maintenance of buildings, change of use, increased use of space, change of premises and Section 106 and other planning agreements affecting Council interests must be authorised by the Section 151 Officer.
- 5.5 All property transactions including the granting, exchange, variation, taking, renewal or amendment (including assignment or subletting) of leases, tenancies, licences, easements, wayleaves, dedications, concessions or supply agreements concerning property transactions, must be with the agreement of the Section 151 Officer. This includes the agreement of any rents (except Council house rents) payable to, by or within the Council and determination of any payment or valuation required by statute or instrument (including asset rents and valuations).
- 5.6 Increases or reductions in personnel must be considered in consultation with the Director of Human Resources, Organisational Development and Transformation. Recruitment or reductions in personnel may be subject to certain constraints and must comply with Council policy and legislation.
- 5.7 Assistant Directors and Budget Holders must ensure that all staff are aware of health and safety standards in relation to employees and third parties. It is the individual duty of each employee to comply with these standards.

Information Systems

- 5.8 Where new systems are introduced, or there are significant amendments to existing systems, the development must conform to standards specified by Council. There must be a full business case (including costs and benefits and how benefits will be realised), a review of business processes, a training needs analysis and adequate project management that meets the Council's standards, including early consideration of internal controls and security.
- 5.9 Directors, Assistant Directors and Budget Holders must ensure full compliance with the Council's IT Security Policy, in particular that:
- Adequate control is exercised over computer access through unique user identities, access levels, passwords, and identification of security violations.
 - Systems to back up and store computer data are sufficient.
 - A contingency plan is developed and maintained so that in the event of any disaster, systems and equipment can be reinstated.

Using and Accounting for Resources

- 5.10 All equipment valued in excess of £1,000, or likely to be attractive to thieves, must be recorded in an Official Council Inventory. The accuracy of inventories must be checked at least once a year.

- 5.11 All valuable equipment must be visibly security marked in such a way as to identify it as the property of the Council, school or other establishment where held. All of the Council's computer equipment must be marked with the corporate standard marking that uniquely identifies equipment as the property of the Council.
- 5.12 Directors, Assistant Directors and Budget Holders are responsible for ensuring that proper security arrangements are maintained at all times for buildings, furniture, equipment, stocks, cash and other valuable resources or assets. All valuable resources must be locked away wherever possible to reduce the risk of theft. Buildings must be kept secure, well maintained and, where appropriate, access must be restricted.
- 5.13 All stocks must be recorded in a stock register in a form to be agreed by the Corporate Director Resources and Place Delivery. The stock register must be independently checked and certified at least annually to ensure all items are accounted for and the stock valued. Where a deficiency occurs or obsolete stock is identified, the correct write-off procedure, determined by the Corporate Director Resources and Place Delivery, must be followed. Deficiencies of more than £1,000 on any one item or £6,000 on all items of stock shall be reported to the Corporate Director Resources and Place Delivery.
- 5.14 Stocks and stores must generally be maintained at minimum levels consistent with operational requirements.
- 5.15 The Corporate Director Resources and Place Delivery must ensure that an asset register is maintained. This shall record information about all fixed assets that have a material or significant value to the Council. The threshold level for materiality will be set by the Director of Public Realm and will be subject to annual review.

Disposing of Resources

- 5.16 Obsolete, unserviceable or unnecessary assets must be disposed of in accordance with legislation, Council policy and regulations. Disposal of surplus items will usually be by offer to other Council departments, tender or auction, although this requirement can be waived for low value items after consulting with the Section 151 Officer. All items must be disposed of for the best possible price.

6. Section 6 – Financial Administration

- 6.1 This section outlines the standards of financial administration, including:
- Being clear on who is authorised to approve financial transactions (orders, payments, payroll, income)
 - Ensuring staff appointments are made in accordance with employment law, that salaries and wages are properly authorised, that the proper deductions are made (statutory and non-statutory) and all payments are properly recorded and correctly charged
 - Ordering and paying for goods and services according to the Council's Contract Procedure Rules, securing value for money, paying only for what the Council receives and dealing with VAT properly
 - Ensuring all sources of income to the Council are identified, claimed and collected

- Ensuring that a live and complete record of all Council transactions is maintained
- Ensuring the Council pays and accounts for tax correctly

Authorisation Levels

6.2 Expenditure should only be incurred or income raised if authority to purchase goods and services has been delegated to an employee by a Director or Assistant Director.

The Council operates a process of authorised personnel and Directors must supply the Corporate Director Resources and Place Delivery with a list of employees, including any constraints or limits, who can:

- Place orders and make payments, including via the Council's procure-to-pay system.
- Certify travel and expense claims.
- Sign petty cash cheques and claim petty cash reimbursement.
- Authorise payroll transactions, including starters and leavers, overtime or bonus payment, notification of sickness, salary adjustments.
- Raise and collect income, including issuing receipts, requesting income adjustments, raising invoices and credit notes, requesting write-offs and invoice cancellations.

Transactions will not be processed unless authorisation has been given.

Any changes in authorised personnel must be notified immediately to the Corporate Director Resources and Place Delivery.

Payroll

- 6.3 Directors, Assistant Directors and the Director of Human Resources, Organisational Development and Transformation will ensure that all appointments are made in accordance with the Council's policies covering approved establishments, grades and pay scales.
- 6.4 Directors and Assistant Directors when employing staff funded from one off or time limited funding must also have in place an exit strategy that minimises the cost to the Council while meeting employment law and Council policies.
- 6.5 The Director of Human Resources, Organisational Development and Transformation is responsible for:
- Paying all salaries, wages and other amounts due to employees.
 - Keeping records dealing with our pay, superannuation, national insurance and income tax.
 - Making payments due to third parties such as HM Revenue and Customs.

- 6.6 Directors, Assistant Directors and Responsible Budget Managers are responsible for reconciling payroll expenditure against approved Budgets and approved establishment.
- 6.7 Budget Holders must operate controls to ensure:
- There is Budget provision for the appointment of new employees.
 - The integrity and authorisation of all input documents.
 - The reconciliation and monitoring of payroll output to Budget monitoring statements.
 - That documentation is completed and forwarded to Payroll Services according to agreed timescales.
- 6.8 The Director of Human Resources, Organisational Development and Transformation must ensure that preparation of payroll documentation, document authorisation, data input and the checking of output is carried out by different members of staff, or have agreed compensating arrangements with the Corporate Director Resources and Place Delivery, where this is not practical.
- 6.9 Employees have a duty to check the accuracy of their pay. They must immediately notify Payroll Services of any change in circumstances, or situations (such as payments received in error), likely to affect their entitlement. Should employees receive any payment to which they are not entitled, they must refund this to the Council.
- 6.10 To ensure prompt and accurate payment, Payroll Services must be advised immediately decisions are made concerning:
- Anyone who starts working for the Council.
 - Anyone who resigns or is dismissed.
 - Anyone who transfers to another post.
 - Any other changes that may be necessary to ensure accurate payroll records including the completion of performance and development reviews where these lead to changes in pay.

In order to verify that all amendments to the payroll are properly authorised, instructions regarding these matters will only be accepted via official Council financial processes under the signature of an authorised officer.

- 6.11 Payroll Services will arrange payments for additional work, such as overtime, through the payroll system on completion of the approved claim form, signed by the claimant and certified by an authorised officer.
- 6.12 Very complex and stringent Rules govern circumstances where payment can be made to individuals without deducting national insurance or tax contributions. To avoid breaching these regulations, payments to employees must only be made through the payroll unless otherwise approved by the Director of Human Resources, Organisational Development and Transformation.

- 6.13 Similarly, care is needed when considering making payments for services provided by individuals who, although not permanently employed by the Council, are acting in this type of capacity. If there is any doubt regarding the method of reimbursement, contact the Payroll Services Manager or the Director of Human Resources, Organisational Development and Transformation.

Ordering and Paying for Goods and Services

- 6.14 Directors must designate specific employees who are authorised to place orders on their behalf (Rule 6.1) and must operate procedures which secure value for money in accordance with Contract Procedure Rules. The procedures must also be properly recorded, communicated to staff, and continuously monitored.

In order to protect individual employees and also minimise the risk of losses through misappropriation or fraud, duties must be arranged to avoid the same member of staff having authority to place orders, receive and pay for goods without the involvement of others. Where limited staff resources make this difficult to achieve, the advice of the Chief Internal Auditor must be sought regarding compensating controls.

- 6.15 Under no circumstances may individual employees use the Council's ordering or payment systems for personal use or benefit. This includes any official trade cards and consortia.
- 6.16 The Council's approved financial systems must always be used when placing orders for goods and services. The only occasions where expenditure can be incurred without the issue of an official order are for petty cash purchases, payments made under written contracts, utility services or other circumstances approved by the Corporate Director Resources and Place Delivery.
- 6.17 There may be occasions, in cases of emergency, when verbal orders are placed, but these must be the exception rather than the rule and always confirmed by the issue of an authorised official order.
- 6.18 When receiving goods or services checks must immediately be made to ensure that:
- The goods or services are in accordance with the order placed.
 - Any faults or deficiencies are reported to the supplier and remedial action taken.
 - Where necessary, inventories or stock records have been updated.
 - Goods delivered are placed in the safe custody of their authorised recipient.
- 6.19 Payment must only be made on the satisfactory completion of the order placed. Any proposal to pay in advance of receiving the goods or services must, therefore, be first authorised by the Corporate Director Resources and Place Delivery.
- 6.20 Before paying for goods or services checks must be made to ensure that:
- Payment is made against a supplier's invoice using the correct expenditure code.
 - The goods or services have been received.
 - The goods or services meet the required quality standards.

- The supplier's invoice is correct in terms of price and quantity delivered.
- Any available discounts have been taken and VAT correctly coded.
- The invoice has not previously been paid and the Council is responsible for payment.

Similar checks apply where stage or phased payments are being made under the terms of a specific contract.

- 6.21 Once satisfied that invoices are correctly payable, and not covered by an automated procurement to pay process, they must be certified by an authorised officer and forwarded to the Invoice Request Team without delay, together with any information which needs to be despatched with the payment. Penalties may be imposed on the Council for late payment of invoices under the Late Payment of Commercial Debts (Interest) Act 1988. Any such penalties will be charged to the responsible Budget Manager's Budget.

Petty Cash

- 6.22 The Corporate Director Resources and Place Delivery may approve the use of a petty cash imprest and open a bank account if necessary. Directors will authorise nominated employees to operate these arrangements and supply Corporate Finance and Internal Audit with their names and samples of their signatures.

Petty cash must only be used for small purchases (no more than £50 in a single transaction) for which the ordering system is not appropriate. Receipts must be obtained for spending from petty cash as this will support claims for reimbursement. Any "borrowing" from petty cash is strictly forbidden.

The petty cash bank account must be regularly reconciled and a reimbursement claim submitted when one half to two-thirds of the authorised level has been spent. A petty cash reimbursement claim cannot be paid if the account has not been reconciled.

All cash and unused cheques must be kept in a safe or other locked receptacle. Unused petty cash cheques must never be pre-signed. To avoid confusion, petty cash must not be mixed with other monies held and must never be used to cash personal cheques.

Electronic Payments

- 6.23 Where payments are to be transmitted electronically, the Corporate Director Resources and Place Delivery shall approve the necessary arrangements made to safeguard the Council against losses. Requests for electronic transfers through the Banking system must be made to the Corporate Finance (Treasury Management team) in writing by an authorised signatory. The Treasury Management team must be given advance warning when such transfers are required. As a general guide, 7 days' notice is required for payments up to £2,000,000 and fourteen days for payments in excess of £2,000,000. Payment by Direct Debit may only be agreed with the prior approval of the Corporate Director Resources and Place Delivery. Directorates will be required to take any necessary action to safeguard against loss of VAT recovery.

- 6.24 The use of Payment Cards and Credit Cards may only be made with the prior approval of the Corporate Director Resources and Place Delivery and will require users to comply with detailed operating and security arrangements.

Construction Industry Scheme

- 6.25 When ordering services such as painting, decorating, plumbing or any other general building works, Budget Holders must observe the regulations stipulated within Her Majesty's Revenue and Customs (HMRC) The scheme requires that the Council acts as agent to the HMRC, deducting Income Tax where appropriate. Any enquiries should be referred to the Payroll Manager who will liaise with the HMRC as required.

Fees and Charges and Income Collection

- 6.26 Directors must formally delegate responsibility for ensuring that all sources of income due to the Council are identified and collected promptly and that payments received are accepted, recorded, banked and reconciled promptly and correctly.
- 6.27 A charging policy must be established and reviewed annually by the Assistant Director and relevant Director and the Corporate Director Resources and Place Delivery. The Cabinet must approve the charging policy. The charging policy should include consideration of:
- Whether the charge should be at full cost or subsidised and if the latter whether the proposed level of subsidy.
 - Who they must be charging, and when.
 - Any concessions to meet the objectives of the Council within the relevant legislation.
 - New services that can or should be charged for.
- 6.28 Budget Holders must ensure that they and all employees under their management are aware of all the controls that exist and that they operate within them.
- 6.29 Budget Holders must monitor trends in the amount of income received and of outstanding debt so that anomalies can be identified and investigated.
- 6.30 Budget Holders must ensure that they and their staff identify:
- All the goods and services they provide for which a charge is to be made.
 - Who they must be charging, and when.
 - Whether VAT is to be charged.
 - Opportunities to maximise income from services provided, within the limits imposed on the Council by legislation and policy.
- 6.31 Budget Holders must:

- Maintain a record of all money due to the Council, including details of contracts, leases and other arrangements that may generate income.
- Ensure that amounts due to the Council are collected at the earliest opportunity, where possible in advance of a service being provided. The issue of low value invoices, below £50, must be avoided wherever possible.

6.32 An official invoice, with pre-printed sequential numbering, must be requested within five working days of service delivery.

6.33 Budget Holders are responsible for ensuring that all income generated from their services is accounted for. They are also responsible for the security of monies prior to banking and for ensuring that adequate and accurate records relating to the collection of income are maintained.

There must be a separation of duties between employees who issue invoices and those who receive and bank money.

VAT must be properly recorded. Failure to account for VAT may result in the imposition of penalties on the Council. Guidance on VAT is available from the Accountancy Services section.

Taking Action on Non-Payment of Income Due to the Council (except for Council Tax, Benefits Overpayments and National Non-Domestic Rates)

6.34 Budget Holders are responsible for ensuring prompt action to secure the recovery of debt, having regard to the cost of collection. This will be facilitated by the maintenance and regular review of debtors' records and by following clearly defined procedures for recovery action. Courses of action available to Budget Holders include:

- Review of continued provision of services to the debtor where this is legal.
- The prompt submission of written reminders.
- Immediate follow up of queries or disputes.
- The use of collection or enquiry agents.
- Referral for legal action in the courts.

If a debt is not recovered within six months of the issue of a debtors invoice, and recovery action is continuing, the outstanding amount will be written back in the Council's revenue account unless an arrangement has been agreed with the debtor.

However, this does not mean that recovery action has ended or that the debt has been written off. The purpose of the write back is to notify Budget Holders that income credited to their Budget head has not yet been collected due to late payment.

6.35 Managers shall ensure that every effort is made to recover debts due to the Council using the central sundry debtors services as appropriate. No significant amendment should be made to any procedures for billing or recovery of monies due to the Council without prior consultation and agreement with the Corporate Director Resources and Place Delivery. Where authorised Managers consider that the sums are not reasonably recoverable, they

shall have the authority to amend or write off a debt, deficiency of stock or stores, or any item in an inventory subject to the following:

- Up to £2,000 in any one case after notifying the Corporate Director Resources and Place Delivery or a senior officer given delegated authority by the Corporate Director Resources and Place Delivery to write off amounts up to a pre-determined level.
- Between £2,000 and £25,000 in any one case after consultation with both the Corporate Director Resources and Place Delivery and a senior officer given delegated authority by the Corporate Director Resources and Place Delivery to write off amounts up to a pre-determined level.
- Over £25,000 in any one case after consultation with both the Corporate Director Resources and Place Delivery and Monitoring Officer and subject to the appropriate Cabinet approval.

Holding Cash and Cheques

6.36 The holding of cash should only be in exceptional circumstances.

Responsibility for the security of money held shall rest with officers designated by Budget Holders. A lockable cash box must be used to hold money; the key to this cash box must remain in the custody of the employee with designated responsibility for the security of money. When custody of money held transfers between employees, the amount must be agreed to supporting records and the transfer of responsibility must be certified by a record signed by both employees.

The cash-box must be kept in a safe or a secure cabinet. Access to the safe must be restricted to a limited number of designated employees.

The safe or secure cabinet must be locked at all times unless a designated officer is depositing or withdrawing an item. Designated employees must retain keys in their possession at all times and must not leave them on the premises unless responsibility has transferred to another employee.

Budget Holders must ensure that cheques are securely held.

Official monies belonging to the Council or Voluntary and Semi-official Funds under the control of Council employees must not, under normal circumstances, be held at employees' homes. Should this be necessary for the efficiency of the service, these arrangements must be authorised by the Corporate Director Resources and Place Delivery.

6.37 Banking must be carried out as frequently as required and at least once a week. Where practical, two employees must visit the bank. The time of banking and route taken must be varied. Budget Holders must not allow the amount of cash held to exceed insurance limits.

All deposits to the bank must be made with an official, sequentially numbered and pre-printed bank paying-in book, as provided by Corporate Finance. The paying in slip must be fully completed with details of:

- department or establishment and officer making the deposit
- income code and VAT code
- total deposited, analysis of cash, number, value and details of cheques

Departments receiving cheques in excess of £10,000 must ensure that these are banked on the day of receipt. If the cheque is for £50,000 or more Corporate Finance must be informed of the deposit so that arrangements can be made within Treasury Management Services.

- 6.38 Accounting records must be reconciled to bank statements at least once a month by an officer not involved in the day to day operation of the account. A signed and dated statement must be produced as evidence that the reconciliation has been performed which must be countersigned by the Budget Manager.

Budget Holders must certify that the bank reconciliation is accurate and completed according to the agreed frequency.

Administration of Funds for Third Parties

- 6.39 All trust funds shall, wherever possible, be in the name of the Council or approved nominees. All officers acting as trustees by virtue of their official position shall deposit all documents of title relating to the trust with the Corporate Director Resources and Place Delivery.

- 6.40 Directors are responsible for ensuring that all such funds are properly administered and audited. These funds must be administered to the standards required by Financial Procedure Rules. Such funds shall not be administered without the approval of the Director and Corporate Director Resources and Place Delivery.

Any material change to the fund level, and/or purpose must be immediately referred to the Director and Corporate Director Resources and Place Delivery.

Voluntary and Semi-official Funds must be kept entirely separate from Council funds and employees own personal monies.

These funds must be kept secure at all times on Council premises.

- 6.41 Budget Holders must offer to safeguard the property, including cash or savings, of any person under their care. Budget Holders who are responsible for such property must:
- Take all steps necessary to prevent or mitigate loss or damage to that property, this will normally involve securing property in a safe.
 - Maintain a record of property, cash or savings in a form prescribed by the Corporate Director Resources and Place Delivery, including a description of the property. The record must be prepared, and updated by at least two employees and regularly agreed to property held.
 - Report any loss to the Corporate Director Resources and Place Delivery and the Monitoring Officer.

If any person under the care of the Council declines an offer to safeguard their property, the Local Manager must obtain a disclaimer to this effect.

Accounting Systems and Processes

- 6.42 Each Directorate must establish accounting processes for the recording of financial transactions. These processes must be designed to meet the Directorate's specific requirements for accounting information, the need to analyse income and expenditure by category and meet the corporate requirements of the Council as a whole.

Directorate Finance Managers must ensure that all financial transactions are accounted for in a timely manner in the accounting system using an appropriate code, which properly records the nature of the income or expenditure. Budget Holders must ensure that all income and expenditure is accounted for separately and not set off, one against the other.

Capital expenditure must be accounted for separately from revenue expenditure.

- 6.43 Budget Holders must only use their own designated accounting codes unless written authority has been given by another Budget Holder or the Corporate Director Resources and Place Delivery.
- 6.44 The Corporate Director Resources and Place Delivery will produce a timetable and standards for the production of final accounts each year. Corporate Finance will produce Directorate timetables to meet the timescale set. Inability to meet the required timescales must be reported without delay to the Corporate Director Resources and Place Delivery and the Director concerned together with proposals for remedial action.
- 6.45 The Corporate Director Resources and Place Delivery, in conjunction with the Budget Manager will maintain a definitive list of accounting codes to be used by all departments, which must be reviewed and updated regularly. These accounting codes will be communicated to all appropriate staff who must receive guidance on the use of the coding system.

Controls must be in place to ensure that all accounting transactions are processed into the financial management system.

- 6.46 It is the responsibility of the relevant Finance Manager to ensure that Control and Suspense accounts are reconciled on a regular basis and no less frequently than monthly.
- 6.47 A regular reconciliation must be carried out at least once per month for all bank accounts, to prove the correctness of the bank balance and to confirm that all transactions have been processed into the Council's accounts.
- 6.48 Journal transfers must be used to make accounting adjustments.

Journal transfers must show the full details of the transaction, the name and contact point of the originator and must be authorised as appropriate. Hand-written journal transfers must be legible and fully detailed with, where appropriate a reference to source documents. All journal transfers must have a reference number and must be retained on file for future reference.

The journal transfer must balance to zero. The value of debits must equal the value of credits.

Any Budget Holder whose accounts are affected must be advised of the journal transfer. A copy must be made available to Budget Holders.

- 6.49 All accounting transactions and financial statements produced must conform to the latest legislation and best accounting practice as determined by the relevant Statement of Recommended Accounting Practice published by CIPFA.

VAT and Taxation

- 6.50 Budget Holders must ensure that VAT is dealt with correctly by the maximum recovery of tax paid to suppliers (input tax) and the identification of all income on which tax is due (output tax). Penalties are imposed for serious failures to account for output tax. Detailed application of the tax is subject to HMRC interpretation of the law. This can vary over a period of time for a number of reasons, including Tribunal decisions and changes in practices. Any queries concerning VAT must be immediately referred to the Council's VAT Officer.
- 6.51 The Council is unable to reclaim input tax unless a valid tax invoice is held. Managers must obtain a valid tax invoice for all goods and services on which VAT is payable. Failure to do so will mean the gross amount being charged to the relevant Budget.
- 6.52 Budget Holders' certification procedures must ensure that VAT is checked when authorising invoices. They must ensure that:
- Transactions where no VAT is paid are correctly identified as Zero-rated, Exempt or Outside the Scope.
 - There is a valid tax invoice.
 - The correct VAT indicator is used.
 - The VAT is correctly calculated.
 - The data capture slip is properly completed.
- 6.53 Budget Holders must ensure that tax is charged on income collected by the Council when due. Liability is determined by the type of organisation being charged and the nature of the service provided.

Budget Holders must correctly identify taxable income and customers. The VAT Manual contains examples of common types of income and their tax status, together with a list of taxable customers. Any new sources of income where the VAT treatment is unclear must be referred to the Council's VAT Officer.

Budget Holders must correctly identify non-taxable items as Zero, Exempt or Outside the Scope.

Financial Stationery and Document Retention

6.54 All financial stationery and systems must be authorised by the Corporate Director Resources and Place Delivery and ordered through the Directorate Finance Managers.

Budget Holders must ensure that all unused Controlled Financial Stationery is kept under lock and key and that its use is properly controlled and recorded.

Budget Holders must not transfer Controlled Financial Stationery to another establishment, division or department without the agreement of the Controlled Stationery Officer. Any such transfers must be recorded.

If any Controlled Stationery has to be cancelled all copies of the relevant form/receipt must be endorsed "cancelled" and all copies retained.

6.55 Directors, Assistant Directors and Budget Holders must adhere to the Council's Document Retention Policy.

In general, financial documents must be retained for three complete financial years. However there are important exceptions to this general rule which are dictated by external agencies, such as HM Revenue and Customs. The key exceptions are summarised below.

- VAT Transactions – All records including proof of payment and banking records must be kept for six years (for example, bank paying in books, cheque stubs, bank statements).
- Payroll – All records relating to income tax and national insurance must be retained for six years.
- Pensions – Records identifying pay received and pension contributions are to be kept until the employee reaches benefit age.
- Insurance – Records and correspondence relating to liability policies must be retained indefinitely. Documents relating to other policies and internal funding arrangements must be kept for six years.

Personal Finances of Service Users (for example, Social Services) – All records relating to a Service User's personal cash or property must be retained for three years after the final transaction has taken place, in effect, three years after closure of the case.

6.56 Documents which are retained in an electronic format must comply with the Code of Practice for Legal Admissibility of Information Stored on Electronic Document Management Systems, published by the British Standards Institution.

7. Section 7 – External Arrangements

This section of the financial regulations addresses responsibilities for:

- 1) Partnerships
- 2) External funding

3) Providing services to third parties

Partnerships

7.1 The Corporate Director Resources and Place Delivery will ensure that the accounting arrangements adopted in relation to partnerships and joint ventures are subject to financial control procedures that reflect those of the Council, legislative requirements and other professional guidance. Partnerships include:

- Services provided by private sector and community and voluntary sector partners.
- Shared services with other public bodies, including section 75 agreements entered into under the Health Act 2003 or similar arrangements.
- Where the Council becomes the accountable body under legislation or the terms of a grant.
- Any other partnerships involving a sharing of resources or risk and reward.

7.2 Directors and Assistant Directors have a responsibility to take appropriate professional advice when entering into partnership arrangements and to ensure that the impact of any such arrangements in terms of risk or financial standing are identified and considered by the Cabinet and the Council as appropriate. This includes:

- Governance arrangements for the partnership.
- Risk and opportunity management and risk sharing agreements.
- Performance and Financial Management/Monitoring Arrangements.
- Financial administration, cash management and accounting arrangements.
- Pensions risk.
- Taxation implications.
- Human resources implications.
- The transfer of assets and liabilities.
- Insurance arrangements.

External Funding

7.3 The Corporate Director Resources and Place Delivery must ensure that all funding by external bodies is approved, received and properly recorded in the Council's accounting system. A central register of major external funding/grant arrangements will be maintained by the Corporate Director Resources and Place Delivery. All Directors and Assistant Directors should ensure that such initiatives support the Council's service priorities and that the Corporate Director Resources and Place Delivery is notified of all such external funding and any conditions applying to that funding.

Providing Services to Third Parties

- 7.4 Any financial and risk implications associated with arrangements made between the Council and third parties must be approved by the Corporate Director Resources and Place Delivery prior to entering into such arrangements.

Directors must ensure that financial and risk and other procedures are in place and that approval of the Cabinet or Council is obtained (as appropriate) before negotiations are concluded with third parties.

A business case should be prepared for the approval of Cabinet that includes:

- Governance arrangements for the partnership.
- Risk and opportunity management and risk sharing agreements, including the risk of service failure.
- Financial administration, cash management and accounting arrangements.
- Pensions risk.
- Taxation implications.
- Human resources implications.
- The transfer of assets and liabilities.
- Insurance arrangements.

Part 4 – Indemnities for Members and Officers

1. Introduction

- 1.1 Under Section 265 of the Public Health Act 1875 councillors and local authority officers, when acting in the course of their duties and in good faith, have statutory immunity and are not personally liable for the actions they take. The Act provides for an indemnity in relation to potential liabilities and also costs.
- 1.2 The Local Authorities (Indemnities for Members and Officers) Order 2004 gives a specific power for authorities to grant indemnities and/or take out insurance to cover the potential liability of councillors and officers in a wider range of circumstances than under the 1875 Act. Each local authority has the discretion to decide whether to use the powers, and to decide the extent of such indemnities and insurance.
- 1.3 At the present time councillors may incur personal liability, or have to defend themselves where allegations are made that:
 - (a) They acted outside the powers of the authority
 - (b) They acted in bad faith, or fraudulently or out of malice
 - (c) Their actions constitute a criminal offence
 - (d) They made a defamatory statement.
- 1.4 They may also be liable, or attract allegations, for
 - (a) Activities where members are appointed to or working with outside bodies in their role as a councillor
 - (b) Action taken for an alleged failure to comply with the Code of Conduct for Members. (The Order requires the member to reimburse the Council if there is a finding of breach of the Code or the member admits non-compliance with the Code).
- 1.5 In relation to officers, Councils have always been able to indemnify officers and take out insurance cover where an officer acts within his or her powers for the Council, in order to protect the Council in the event of an officer's actions or inactions giving rise to a claim. The 2004 Order allows Councils to indemnify officers where they have acted outside the powers of the authority but reasonably believe that the action was within the powers at the time they were taken, or where they are acting on outside bodies for the Council.
- 1.6 Given the wide range of Council activities, the complexity of issues councillors and officers' face, and the demands made on their time, it may be considered appropriate for the Council to provide an indemnity where a councillor/officer inadvertently acts outside the powers given whilst believing he/she is acting in the interests of the Council or other body. However for both councillors and officers, the 2004 Order restricts the provision of indemnities so that they cannot cover any finding of criminal liability or liability arising from fraud, deliberate wrongdoing, or the cost of pursuing a defamation claim. In such cases any costs incurred under an indemnity would normally have to be repaid to the Council or insurer.

Terms of Indemnity

- 1.7 Subject to the exceptions set out below, the Council will indemnify each of its members and employees against any loss or damage suffered by the member or officer arising from his/her action or failure to act in his/her capacity as a member or officer of the Council. "Member" means an elected Member of the Council, a co-opted Member of a committee of the Council and the Independent Person.
- 1.8 This indemnity will not extend to loss or damage directly or indirectly caused by or arising from:
- (a) any criminal offence, fraud or other deliberate wrongdoing or recklessness on the part of the member or officer
 - (b) Any act or failure to act by the member or employee otherwise than in his/her capacity as a member or officer of the Council, or
 - (c) failures by the member to comply with the Code of Conduct for Members
- 1.9 Subject to the exceptions set out below, the Council will indemnify each of its members and officers against the reasonable costs which he/she may incur in securing appropriate legal advice and representation in respect of any civil or criminal proceedings or code of conduct proceedings to which he/she is subject.
- (a) "Criminal proceedings" includes any interview or investigation by the Police, and any proceedings before a criminal court, in the United Kingdom
 - (b) "Code of Conduct proceedings" means any investigation or hearing in respect of an alleged failure to comply with the Code of Conduct for Members
- 1.10 This indemnity will not extend to any advice or representation in respect of any claim or threatened claim in defamation to be brought by a member or officer, but will extend to defending a claim for defamation.
- 1.11 Where any member or officer avails him/herself of this indemnity in respect of defending him/herself against any criminal proceedings or Code of Conduct proceedings, the indemnity is subject to a condition that if, in respect of the matter in relation to which the member or officer has made use of this indemnity:
- (a) The member or officer is convicted of a criminal offence in consequence of such proceedings, or
 - (b) A Case Tribunal or Standards and Audit Committee determine that the member has failed to comply with the Code of Conduct for Members
- and the conviction or determination is not overturned on appeal, the member or officer shall reimburse any expenditure incurred by the Council under the indemnity.
- 1.12 Where the Council arranges insurance to cover its liability under this indemnity, the requirement to reimburse in Paragraph 5 shall apply as if references to the Council were references to the insurer.

- 1.13 For the purpose of these indemnities, a loss or damage is deemed to have arisen to the member or officer "in his/her capacity as member or officer of the Council" where:
- (a) the act or failure to act was outside the powers of the Council, or outside the powers of the member or officer, but the member or officer reasonably believed that the act or failure to act was within the powers of the Council or within the powers of the member or officer (as appropriate) at the time that he/she acted or failed to act, as the case may be
 - (b) the act, or failure to act, occurred not in the discharge of the functions of the member or officer as a member or officer of the Council but in their capacity as a member or employee of another organisation, where the member or officer is, at the time of the action or failure to act, a member or employee of that organisation either:
 - (i) In consequence of his/her appointment as such member or officer of that organisation by the Council, or
 - (ii) In consequence of his/her nomination for appointment as such member or officer of that organisation by the Council, or
 - (iii) Where the Council has specifically approved the appointment of the member or employee of that organisation for the purpose of these indemnities.
- 1.14 The Council undertakes not to sue (or join in action as co-defendant) an officer in respect of any negligent act or failure to act by the officer in his/her capacity as an officer of the Council, subject to the following exceptions:
- (a) any criminal offence, fraud or other deliberate wrongdoing or recklessness on the part of the officer; or
 - (b) Any act or failure to act by the officer otherwise than in his/her capacity as a member or officer of the Council.
- 1.15 These indemnities and undertaking will not apply if a member or officer, without the express permission of the Council or of the appropriate officer of the Council, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of the resolution.
- 1.16 These indemnities and undertakings are without prejudice to the rights of the Council to take disciplinary action against an officer in respect of any act or failure to act.
- 1.17 These indemnities and undertakings apply retrospectively to any act or failure to act which may have occurred before this date and shall continue to apply after the member or officer has ceased to be a member or officer of the Council as well as during his/her membership of or employment by the Council.

Part 5 – Protocol for recording of Council, Cabinet, Committee and Sub-Committee meetings

1. Introduction

- 1.1 For the purpose of making committees easily accessible and following recent technological advances, the Council has agreed to mandate its meetings, together with those of the Cabinet, Committees and Sub-Committees to be the subject of audio visual recording for transmission and publication on the Council's website.
- 1.2 This protocol has been produced to assist the conduct of the recording of meetings and to ensure that in doing so the Council is compliant with its obligations under the Data Protection Act 1998 and the Human Rights Act 1998. Accordingly, the following will apply to all meetings to be recorded by the Council.

2. Main provisions

- 2.1 The Chair of the meeting may request that any part of a recording may not be published to the Council's website if, in their opinion, the recording would prejudice the proceedings of the meeting for the following reasons.
 - (i) Public disturbance or other suspension of the meeting
 - (ii) Exclusion of public and press being proposed and agreed by the Council, the Cabinet, a Committee or Sub-Committee
 - (iii) Any other reason proposed, seconded and supported by the Council, the Cabinet, a Committee or Sub-Committee and recorded in the Minutes of the meeting.

In such circumstances, Democratic Services will stop the recording prior to publication to the Internet, as directed by the Chair and recorded in the Minutes of the meeting.

- 2.2 The proceedings of exempt or confidential agenda items may be recorded but shall not be published to the Council's website. Any such recordings will be held securely by Democratic Services.
- 2.3 Subject to paragraph 2.4 below, all recordings will be available on the Council's website for a minimum of 12 months from the date of the meeting.
- 2.4 Archived recordings, or parts thereof, shall only be removed from the Council's website if the Monitoring Officer considers that it is necessary because all or part of the content of the webcast is or is likely to be in breach of any statutory provision or common law doctrine, for example Data Protection and Human Rights legislation or provisions relating to confidential or exempt information.

If the Monitoring Officer has decided to take such action, they must notify all Members in writing of their decision and include the reasons for this as soon as possible. The Council anticipates that the need to exercise the power set out above will occur only on an exceptional basis.

- 2.5 Any Member who is concerned about any recording that has been made, including any that have not already been published on the Council's website, should raise their concerns with the Monitoring Officer or in their absence, the Deputy Monitoring Officer.
- 2.6 Any concerns raised by a Member or a member of the public in respect of an audio recording being taken at a particular meeting should be brought to the attention of the Chair or a member of Democratic Services in attendance at the meeting.

3. Agenda and Signage at Meetings

- 3.1 On each Agenda for a meeting, and on signs to be displayed inside and outside the Council Chamber and each of the committee rooms, there will be the following notice.

Recording Notice

Please note that this meeting may be recorded for transmission and publication on the Council's website. At the start of the meeting the Chair will confirm if all or part of the meeting is to be recorded.

You should be aware that the Council is a Data Controller under the Data Protection Act. Data collected during this recording will be retained in accordance with the Council's Information Management Policy.

Members of the public not wishing any speech or address to be recorded for publication to the Internet should contact Democratic Services to discuss any concerns.

The Council will not publish any part of a recording where members of the public have made it known that they do not wish to appear in any broadcast.

If you have any queries regarding this, please contact the Democratic Services Manager on 01375 652 082.

4. Meetings of the Planning Committee, Licensing Committee and other 'quasi-judicial' hearings

- 4.1 In any correspondence notifying applicants, licence holders, supporters or objectors, or anyone who has registered to speak at a meeting, of the meeting date on which a particular application will be heard, the following advice will be included if the meeting is to be recorded:

"Please note that meetings of Thurrock Council, its Cabinet, Committees and Sub-Committees may be recorded for subsequent broadcast via the Council's Internet site.

"If you do not wish your speech to be recorded for publication to the Internet, please contact Democratic Services to discuss your concerns.

"The Council will not publish any part of a recording where members of the public have made it known that they do not wish to appear in any broadcast"

5. Conduct of Meetings

- 5.1 At the start of each meeting to be recorded, an announcement will be made to the effect that the meeting is being recorded and that the Chair may also terminate or suspend the recording of the meeting, in accordance with this protocol.

This will be confirmed by the Chair making the following statement or one to like effect:

"I would like to remind everyone present that this meeting will be recorded for publication on the Council's website and will normally be available within 3 working days of the meeting."

6. Transcription

- 6.1 The Council will not provide transcripts of the recordings or any extracts from them. The Minutes of the meeting are the official record of proceedings.

Chapter 10 – Officer Employment Procedure Rules

Procedure Rules

1. Responsibility for the Discharge of Employment Functions

- 1.1 The final decision on the appointment or dismissal of the Head of Paid Service / Chief Executive or on the appointment of any Statutory Chief Officers / Directors / Assistant Directors or the dismissal of the Monitoring Officer, and Chief Financial Officer (as defined in the Local Government and Housing Act 1989) shall be by resolution of Council on the recommendation of the General Services Committee.
- 1.2 The appointment and dismissal of, and taking disciplinary action against, any Chief Officer / Director shall, except where required to be by resolution of Council under Rule 1.1 above, be conducted by the General Services Committee.
- 1.3 The General Services Committee may arrange for the discharge of any of its functions under Rule 1.2 above by a Sub-Committee or (with the exception of making a recommendation to Council as set out in Rule 1.1 above or the final decision on the appointment or dismissal of a Chief Officer/Director) an Officer.
- 1.4 Any Committee or Sub-Committee discharging functions under Rules 1.1 to 1.3 above must include at least one Member of the Cabinet.
- 1.5 The function of appointment and dismissal of, and taking disciplinary action against, any Officer of the Authority other than those listed at Rule 1.6 below shall be discharged, on behalf of the Authority, by the Chief Executive or by an Officer nominated by him/her.
- 1.6 Rule 1.5 above shall not apply to the appointment or dismissal of, or disciplinary action against:
 - (a) the Head of the Paid Service / Chief Executive
 - (b) a Statutory Chief Officer / Director
 - (c) a non-statutory Chief Officer / Director
 - (d) a political assistant

2. Conflicts of Interest – General

2.1 Conflicts of Interest

- 2.2 No Officer shall take part in the appointment and dismissal of, and taking disciplinary action against, any Officer, including making any recommendation in respect of such action, where the Officer or a candidate for such appointment is a spouse, partner, close family relative or friend of the Officer concerned.

2.3 Where an Officer identifies that he/she would be in breach of Rule 2.2, above, he/she shall immediately notify his/her line manager – that is, the Officer to whom he/she is responsible within the Authority's Management Structure – and the Director of Human Resources, Organisational Development and Transformation of such conflict, and the line manager shall arrange for another Officer to take over the Officer's responsibility in this matter. Where the Officer is the Chief Executive, he/she shall inform the Mayor and the Leader of such conflict and of the arrangements which he/she has made to avoid such conflict.

2.4 Declarations

2.5 The Authority will require any candidate for appointment as an Officer to state in writing whether he/she is the spouse, partner or close family relative of a serving Member or Officer or the spouse or partner of such a person. This statement will be included in appropriate recruitment literature.

2.6 Where a candidate has declared such a relationship, any offer of employment shall be subject to approval by the appropriate Assistant Director (unless the Assistant Director is the Officer with whom the candidate has declared a relationship) or the appropriate Director or the Chief Executive.

2.7 Seeking support for appointment

2.8 The Authority will disqualify from consideration any candidate who directly or indirectly seeks the support of any Member or Officer (other than in the proper course of interview and selection) for any appointment with the Authority. The content of this paragraph will be included in any recruitment information.

2.9 No Member or Officer will seek to support any candidate for appointment to the staff of the Authority. Councillors shall not stand as referees for candidates for appointment as Officers.

2.10 Employment Rules 2.5 and 2.6 above do not prevent an Officer acting in a professional capacity as a referee for candidates for appointment as Officers of the Authority.

3. Recruitment of Head of Paid Service and Chief Officer/Directors

3.1 Where the Authority proposes to appoint a Head of Paid Service or a Chief Officer / Director and it is not proposed that the appointment be made exclusively from among its existing Officers, the Authority will:

- (a) draw up a statement specifying:
 - (i) the duties of the Officer concerned
 - (ii) any qualifications or qualities to be sought in the person to be appointed, and
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in (a) above to be sent to any person upon request

4. Notification Procedure for Appointment / Dismissal of Head of Paid Service and Chief Officer / Directors

- 4.1 In this Rule, "decision-maker" means, in relation to appointments or dismissals, the Council or, where the General Services Committee, a Joint Appointments Committee, a Sub-Committee or Officer is discharging the function of appointment or dismissal on behalf of the Council, that Committee, Sub-Committee or Officer as the case may be.
- 4.2 An offer of an appointment as Head of Paid Service / Chief Executive or a Chief Officer / Director, or a decision to dismiss such Officer, must not be made by the decision-taker until:

- (a) the decision-maker has notified the Chief Executive of the name of the person in respect of whom the proposed action is to be taken together with any relevant particulars which the decision-maker considers relevant. Where the final decision rests with the Council, the decision of the General Services Committee or of a Sub-Committee to recommend such action to the Council shall be deemed to be a decision that the Authority wishes to take the proposed action, and the General Purpose Committee or Sub-Committee shall be treated as the decision-taker for the purpose of notifying the Chief Executive thereof
- (b) The Chief Executive has notified each Member of the Cabinet of:
 - (i) the name of the person in respect of whom the action is proposed
 - (ii) any other particulars relevant to the action notified to the Chief Executive by the decision-maker, and
 - (iii) the period within which any objection to the making of the decision is to be made by any Member of the Cabinet

The notification shall be by email or in writing to all Cabinet Members and the period of objection will be two working days or such longer period as the decision-taker shall determine. If the period of objection is to be shortened, notification will be by telephone and email, and

- (c) either:
 - (i) the Leader notifies the decision-maker that neither he/she nor any other Cabinet Member has an objection to the action proposed
 - (ii) the Chief Executive has notified the decision-maker that no objection was received by him/her from the Leader within that period
 - (iii) the decision-maker has considered any objection received from the Leader within that period and is satisfied that such objection is not material or is not well-founded

5. Political Assistants

- 5.1 Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

- 5.2 No political assistant post shall be allocated by the Council to a political group which does not qualify for one under section 9 of the Local Government and Housing Act 1989.
- 5.3 No political group shall be allocated more than one political assistant.
- 5.4 Disciplinary action and dismissal of an assistant to a political group shall be undertaken by the Chief Executive or an Officer designated for that purpose by the Chief Executive.

6. Statutory Officers – Disciplinary Action

6.1 Suspension

- 6.2 The Chief Executive may suspend the Monitoring Officer or the Chief Finance Officer, and the General Services Committee, or a Sub-Committee thereof, may suspend the Chief Executive for the purpose of investigating alleged misconduct. That suspension will be on full pay and shall last no longer than two months unless extended at the direction of the General Services Committee.

6.3 Disciplinary Action

- 6.4 No other disciplinary action may be taken in respect of any of those Officers except in accordance with a recommendation in a report made by the General Services Committee.

7. Disciplinary Action – Other Employees

- 7.1 Members will not be involved in disciplinary action against any Officer other than a Chief Officer/Director except where such involvement is necessary for any investigation or inquiry into alleged misconduct, although the Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to Members in respect of Disciplinary Action.

8. Other Polices

- 8.1 Except as set out in these Employment Rules, or as required by law or under a contract of employment, all appointments shall be made and disciplinary action shall be taken in accordance with the Authority's personnel and Human Resources practices and procedures which may add to these Rules but not conflict with them.

9. Interim Officers

- 9.1 An "Interim Officer" is a person who is not employed by the Authority, but who, as far as legally possible discharges the functions of an Officer under a consultancy contract between the Authority and the Interim Officer's employer.

Where the Authority proposes to engage an Interim Officer in the position of the Head of the Paid Service / Chief Executive or a Chief Officer/Director, the Authority shall comply with the Authority's Contract Procedure Rules but in such manner as, as far as possible, follows these Employment Procedure Rules in respect of such engagement.

Chapter 11 – Members' Allowances

Scheme

1. Scheme pursuant to the Local Authorities (Members' Allowances) (England) Regulations 2001 and the Local Authority (Members' Allowances) (England) Regulations 2003 ("the Regulations").

2. Introduction

2.1 The Council established jointly with Southend-on-Sea Borough Council a panel of independent persons to review its Members' Allowances Scheme. The Council last amended this scheme on 29 January 2020 after taking full account of the Panel's recommendations.

3. Schemes of Allowances

3.1 The allowances payable to Members are:

- (a) The Basic Allowance
- (b) Special Responsibility Allowance
- (c) An allowance for Co-opted Members
- (d) Travelling and Subsistence Allowance
- (e) Dependants' Carers' Allowance

4. The Scheme

4.1 Thurrock Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) Regulations 2001 and the Local Authorities (Members' Allowances) (England) Regulations 2003 and any subsequent amendments (hereinafter referred to as "the Regulations"), made this Scheme of Allowances, which may be cited as the "Thurrock Council Members' Allowances Scheme", on 29 January 2020.

4.2 This Scheme has effect from 30 January 2020.

5. Definitions

5.1 Except as follows or where the context otherwise admits, this Scheme shall be interpreted in accordance with the Council's Constitution.

5.2 In this Scheme, "approved duties" means attendance by a Member at any:

- (a) formally convened meeting of the Council or of the Cabinet, a Committee or Sub-Committee to which he/she has been appointed by the Authority
- (b) formally convened meeting of the Cabinet, Committee or Sub-Committee as the local ward Member, for the purposes of making any representations at that

meeting under any procedures approved by that body or under the Constitution of the Authority

- (c) a formally convened meeting of anybody (including anybody such as a working party or consultative group) to which the Authority makes appointments or nominations or of any Committee or Sub-Committee of such a body
- (d) other meeting the holding of which is authorised by the Council, the Cabinet, the Leader, a Cabinet Member (acting within the scope of his/her portfolio), a Committee or Sub-Committee, a Chair, a joint Committee of the Authority and one or more other authorities, a Sub-Committee of such a joint Committee or by the Chief Executive
- (e) training sessions and presentations for Members organised by or on behalf of the Authority
- (f) meeting with a Director or Assistant Director where the Officer has requested the Member's attendance in writing or by email or where the Member is a Member of the Cabinet or the Leader of an opposition Political Group
- (g) a meeting of any association of authorities of which the Authority is a Member
- (h) duties undertaken on behalf of the Authority

5.3 "the Authority" means Thurrock Council or any person or body authorised to act on its behalf in relation to this scheme.

5.4 "Co-opted Member" means any co-opted, added or independent Member of a Committee or other body to which this scheme relates regardless of whether or not the Co-opted Member receives a Co-opted Members' Allowance.

5.5 "Sub-Committee" means, unless the context otherwise requires, a Sub-Committee appointed by the Council, a Committee or an Officer acting under delegated powers and shall include a working party or panel.

5.6 "Year" means the 12 months ending with 31 March.

6. Basic Allowance

6.1 A Basic Allowance shall be paid to each Member in accordance with Appendix 1 of this Scheme.

7. Special Responsibility Allowances

7.1 Special Responsibility Allowances shall be paid in accordance with Appendix 1 to this Scheme.

7.2 No member is permitted to draw down more than one Special Responsibility Allowance regardless of number of remunerated posts they may hold. It is assumed they will be paid the higher Special Responsibility Allowance.

7.3 In the event of a person receiving a Special Responsibility Allowance being absent or substantially unable to act for a period of at least three months, the Council may by resolution for such period as it determines reduce the level of Special Responsibility Allowance payable to that person and instead resolve to pay the allowance, or part of it, to any person appointed as a deputy or Vice-Chair.

8. Travelling and Subsistence Allowances

8.1 Subject to paragraphs 8.2 to 8.5 below, travelling and subsistence allowances in respect of Approved Duties undertaken by Members and Co-opted Members are payable in accordance with Appendix 1 to this Scheme.

8.2 Any claims for car mileage and subsistence costs must relate to approved duties undertaken outside the Borough only. Members and Co-opted Members are not permitted to claim such allowance whilst undertaking any duties within the Borough.

8.3 Travelling and subsistence costs by or on behalf of Members shall only be incurred and accounted for in accordance with this Scheme.

8.4 The following provisions apply to Travelling Allowances:

- (a) Claims for car mileage must relate to approved duties undertaken outside the Borough only. Members and Co-Opted Members are not permitted to claim an allowance for car mileage incurred whilst undertaking any duties within the Borough
- (b) Members are asked to ensure that their journey is essential and that other means of communication – email, telephone, etc – are not available
- (c) Members are encouraged to use public transport where practicable
- (d) Public transport is reclaimable at standard rates wherever possible, but first class fares may be claimed in exceptional circumstances
- (e) Taxi and private hire fares may be claimed where alternative public or private transport arrangements are not reasonably available
- (f) Where taxi or car travel is unavoidable, Members travelling to the same location are encouraged to share vehicles
- (g) Public transport, taxi, private hire and parking costs will only be reimbursed against a ticket or formal receipt.

8.5 The following provisions apply to Subsistence Allowances:

- (a) The allowance is payable to Members and Co-Opted Members for out of Borough approved duties only
- (b) The allowance is only payable on proof of actual expenditure
- (c) For the purpose of calculating time, account should be taken of the time on Approved Duties, including travelling time, from leaving home until return

- (d) If a Member on an Approved Duty is staying at an hotel, he/she may claim the actual cost of standard meals supplied at that hotel

8.6 The Chief Executive may, in consultation with such Members as he/she considers appropriate, give prior approval to subsistence in excess of that authorised by this Scheme where, in all the circumstances, alternatives are not reasonably available.

9. Dependants' Carers' Allowances

9.1 Subject to paragraph 9.2 below, Members and the co-opted Members listed in Appendix 1 shall be entitled to claim for the care of dependants in accordance with the rates in Appendix 1 to this Scheme.

9.2 The following provisions apply to Dependants' Carers' Allowances:

- (a) Payments shall be claimable in respect of children up until their fifteenth birthday or in respect of dependants where there is medical or social worker evidence that care is required
- (b) The Council reserves the right to require evidence that there is a reasonable need for the level of care in respect of which a claim is made. Members seeking to claim an allowance to cover the cost of professional or specialist carers should first seek the approval of the Assistant Director of Law and Governance
- (c) A claim will be reimbursed where it is a reasonable requirement of the market that a booking fee is payable and that a rate is payable for each person cared for
- (d) The allowance shall be paid as a reimbursement of actual incurred expenditure against receipts. If receipts are unavailable the payment will be made through the Council's payroll and be subject to tax and national insurance contributions
- (e) When there is more than one Member in a household, only one claim can be made in respect of each person cared for
- (f) The paid carer cannot be a member of the immediate family or household

10. Allegations of abuse of the Scheme

10.1 Any allegation of abuse of the Scheme shall be referred to the Council's Standards and Audit Committee for adjudication.

11. Co-opted Members

11.1 Co-opted Members shall be paid in accordance with Appendix 1.

12. School Appeals Panel Members

12.1 Schools Appeals Panel (Admissions and Exclusions) members shall be entitled to receive travelling and subsistence allowances payable at the same rates that are applicable to elected Members and Officers.

13. Index Linking of Schemes of Allowances

- 13.1 The Basic, Special Responsibility, and Co-optees Allowances shall be adjusted annually in line with average pay increases negotiated through the National Joint Committee for Local Government Employees (at spinal column 49) to be implemented from the start of the municipal year, rather than financial year, for which year it is applicable.
- 13.2 The travelling allowances shall be adjusted annually in line with the rates payable to the Authority's Officers. The day subsistence allowances and overnight subsistence allowances should be indexed to the same percentage increase that may be applied by the Council to Officer day subsistence and overnight subsistence rates.
- 13.3 For Dependants' Carers' Allowances, the basic "sitters" allowance shall be indexed to national minimum wage applicable to the age of the carer.
- 13.4 A full review of the scheme will take place in 2023, when the Independent Remuneration Panel shall make further recommendations on the level of allowances to Council, unless either:
- (a) the Council in any given year decides not to apply such increases
 - (b) the Council decides to request the Independent Remuneration Panel to make further recommendations with regard to Members' Allowances, and/or
 - (c) the Authority's Section 151 Officer / Chief Finance Officer advises Council to disallow any increases due to Budgetary constraints

14. National Insurance and Social Security and Income Tax

- 14.1 Payment of allowances shall be subject to such deductions as may be statutorily required in respect of national insurance and social security and income tax.

15. Elected Members and the Local Government Pension Scheme (LGPS)

- 15.1 On 29 June 2011 the Southend-on-Sea and Thurrock Independent Remuneration Panel made no recommendation as to the entitlement of Members to be eligible to join the Local Government Pension Scheme. Accordingly, pursuant to Regulation 11(2) of the 2003 Allowances Regulations, no Member shall be eligible to join the scheme.

16. Renunciation

- 16.1 Regulation 13 of the Local Authorities (Members' Allowances) (England) Regulations 2003 provides that a Member may, by notice in writing given to the Proper Officer of the Authority (Chief Executive), elect to forgo their entitlement or any part of his entitlement to allowances.

17. Payments and Claims

- 17.1 Payment of Basic and Special Responsibility Allowances shall be made in instalments of one-twelfth of the amounts specified on a monthly basis.

- 17.2 Where a person takes office part way through a Year, a proportionate part of any annual allowance is payable unless the allowance is a Special Responsibility Allowance for serving on a Committee which is appointed for a period of less than a year.
- 17.3 The Council may determine that an allowance or a rate of allowance will not come into effect until a date during the Year.
- 17.4 Claims for travelling and subsistence allowances and dependents carers' allowance should be completed monthly. All claims for out of Borough travel and subsistence should be submitted by the 15th day of the following month for which the claim related otherwise it will not be paid, unless exceptional circumstances prevent the claim being submitted by this date (for example, illness), whereby the Officer administering the Scheme has authority to accept a belated claim.

18. Record of Allowances Paid

- 18.1 A record of the payments made by the Authority to each Member and Co-opted Member shall be maintained in accordance with the Regulations and shall be published in accordance with the Regulations.

19. Publication of Scheme

- 19.1 In accordance with the Regulations, as soon as practicable after the making or amendment of any scheme made under the Regulations, arrangements shall be made for its publication within the Authority's area.

**Appendix 1 –
Thurrock Borough Council –
Summary of Allowances for Financial Year 2022/23**

Type	Allowance per Annum
Basic Allowance ("BA") (for all Members x 49)	£9,565
Special Responsibility Allowances ("SRA")	
SRAs are paid in addition to BA, but no Councillor shall be entitled to payment of more than one SRA regardless of the number of remunerable posts they hold. If a Councillor holds more than one post which attracts an SRA, it will be assumed they will be paid the higher SRA.	
Leader	£33,583 (350% of BA)
Deputy Leader	£17,271 (180% of BA)
Cabinet Members (other than Leader and Deputy)	£11,994 (125% of BA)
Leader of the Main Opposition+	£9,595 (100% of BA) (If two main opposition groups are equal in size, each group leader will be paid 100% of BA)^
Deputy Leader of the Main Opposition	£2,399 (25% of BA) (But if opposition group has fewer than 17 members, namely one third of the Council, then this SRA is not payable)
Leader of Other Opposition*	£2,399 (25% of BA) (But if opposition group has fewer than 4 members then this SRA is not payable)
Chairs of Scrutiny Committees (x 6)	£7,196 (75% of BA)
Vice-Chairs of Scrutiny Committees (x 6)	£1,440 (15% of BA)
Chair of Planning Committee	£9,595 (100% of BA)
Vice-Chair of Planning Committee	£2,399 (25% of BA)
Chair of Licensing Committee	£5,757 (60% of BA)
Vice Chair of Licensing Committee	£5,277 (55% of BA)
Chair of Standards and Audit Committee	£2,399 (25% of BA)
Chair of Corporate Parenting Committee	£2,399 (25% of BA)

Type	Allowance per Annum
Civic Allowances	
The Allowances for the Mayor and Deputy Mayor are payable under sections 3(5) and 5(4) of the Local Government Act 1972.	
Mayor	£14,393 (150% of BA)
Deputy Mayor	£3,358 (35% of BA)
Co-opted Members' Allowance	
Audit Committee	£1,199 (12.5% of BA)
Statutory Co-opted Members on Scrutiny Committees	£282 (3% of BA)
Independent Person(s) Allowance	
Independent Person(s)	£1,199 (12.5% of BA)
Travelling Allowances	
Mileage to be claimed for out of Borough approved duties only – rates:	<p>Cars: 45p per mile (up to 10,000 miles), 25p per mile thereafter (such allowance to also apply to electric/hybrid vehicles).</p> <p>Motorcycles: 24p per mile</p> <p>Bicycles: 20p per mile</p> <p>Standard rates for public transport wherever possible, but first class fares may be claimed in exceptional circumstances.</p>
Subsistence Allowances	
For out-of-Borough approved duties only – day rates (actual)	<p>Breakfast: £6.72 (away from home before 6am)</p> <p>Lunch: £9.28 (away between midday and 2pm)</p> <p>Tea allowance: £3.67 (attendance at a venue between 3pm and 6pm)</p> <p>Evening: £11.49 (away after 8pm, unless leaving home after 6pm)</p>
For out-of-Borough approved duties only – overnight rates	<p>Normal: £109.56</p> <p>London: £124.97</p> <p>Conferences: £124.97</p>

Type	Allowance per Annum
Dependants' Carers' Allowance	
Basic "sitters" allowance	To be linked to National Minimum Wage
Professional carers	Up to £10.00 per person cared for per hour
Specialist carers	Up to £15.00 per person cared for per hour
Booking fees	Actual up to £10.00

+ To qualify as 'Main Opposition', the group must have at least 17 members.

^ If two or more parties have equal numbers of membership, all their leaders will receive the same allowance.

* To qualify for this SRA, the membership of 'other' opposition groups must have a minimum of four elected Members.

Chapter 12

Part 1 – Partnership Arrangements

1. Article 10 – Area Committees and Forums

1.1 The Council has decided not to appoint any Area Committees or Forums.

2. Article 11 – Joint Arrangements

Arrangements to promote well being

2.1 The Council or the Cabinet, in order to promote the economic, social and 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, or
- (c) exercise on behalf of that person or body any functions of that person or body

Joint arrangements

2.2 The Council may establish joint arrangements with one or more local authority and/or their Executives to exercise functions which are not Executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a Joint Committee or Board with these other local authorities. The Council may, where the legislation allows, also establish other joint arrangements with, for example, health service organisations. These other arrangements are called "Boards" in this Constitution.

2.3 The Cabinet may establish joint arrangements with one or more local authorities or other organisations to exercise functions which are Executive functions or to advise the Cabinet. Such arrangements may involve the appointment of joint Committees or Boards with these other local authorities or bodies. The Cabinet may, where the legislation allows, also establish other joint arrangements with, for example, health service organisations.

2.4 Except as set out in paragraphs 2.5 and 2.6 below, the Cabinet may only appoint Cabinet Members to a Joint Committee or Board under paragraph 2.3 above and those Members need not reflect the political composition of the local authority as a whole.

2.5 The Cabinet may appoint Members to a Joint Committee from outside the Executive / Cabinet if 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 Cabinet may appoint to the Joint Committee any Councillor who is a Member of a ward which is wholly or partly contained within the area.

2.6 The Cabinet may appoint non-executive Members to Joint Boards established under the NHS Bodies and Local Authorities Partnership Arrangements (Amendments) Regulations 2009.

- 2.7 Where both executive and non-Executive Functions are delegated to a Joint Committee or Board, appointments to the joint Committee or Board will be made by the Council.
- 2.8 Details of any joint arrangements including any delegations to Joint Committees or Boards shall be set out in this Constitution, if made.

Access to information

- 2.9 If all the Members of a Joint Committee or Board are Members of the Cabinet/Executive in each of the participating authorities then the Access to Information Rules relating to the Cabinet / Executive will apply.
- 2.10 If the Joint Committee or Board contains Members who are not on the Cabinet / Executive of any participating authority then the Access to Information Rules and Part VA of the Local Government Act 1972 will apply.

Delegation to and from other local authorities

- 2.11 The Council may delegate non-Executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
- 2.12 The Cabinet may delegate Executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
- 2.13 The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council.

Delegation to and from other organisations

- 2.14 The Council may delegate non-Executive Functions to other organisations or Boards, where legislation allows.
- 2.15 The Cabinet may delegate Executive Functions to other organisations or Boards where legislation allows.
- 2.16 The decision whether or not to accept such a delegation from another organisation or Board shall be reserved to the Council.

Part 2 – Outside Bodies

1. Introduction

- 1.1 Both the Council and the Cabinet have the powers to appoint Members, Officers and others to serve on outside bodies in a variety of capacities.
- 1.2 Broadly speaking, there are three circumstances in which a Member or an Officer might attend an outside body:
- (a) to manage or play a direct part in the affairs of that body, for example as a trustee or as a Member of a management Committee or Board ("manager/trustee")
 - (b) to offer advice and information on behalf of the Council, for example on Council policy ("adviser")
 - (c) to observe, perhaps participating in discussion, but taking no part in decision-making or management ("observer")
- 1.3 In some circumstances, the Council can indemnify both Members and Officers acting responsibly where they attend outside bodies with the approval of the Council. This would not apply to criminal acts or other wrong-doing, recklessness or defamation or where the individual was acting outside the statutory powers of the Council.

2. Types of Representation

- 2.1 In some cases, the persons appointed will be Council representatives, i.e., they will be expected to represent the Council's views at meetings and look after the Council's interests.
- 2.2 On other bodies, Members will be nominees – that is, their main responsibility will be to the organisation to which they have been appointed.
- 2.3 In some cases, there will be a link between the activities of the organisation and those of the Council. In such cases, the Member's knowledge of Council affairs will be useful but the affairs of the outside body must take priority when the Member is acting as a member of that body.

Manager/Trustees

- 2.4 By and large, the Member or Officer appointed to an outside body as a manager or trustee owes their duty to that body and not to the Council. Often, the body concerned will be a registered charity or perhaps a company and will have obligations to the Charity Commission and/or under company law. Managers, trustees and Board Members will have personal liabilities to ensure that the body acts lawfully and within its terms of reference.
- 2.5 Other than making the appointment or as a financial contributor, the Council will usually have no legal or other obligations towards an outside body. The body is responsible for its own legal and professional advice and for taking out its own insurances. In particular, any Member or Officer appointed to such a body should always satisfy themselves that the

body carries the necessary insurance cover and that they will be appropriately indemnified in respect of claims. Such cover is unlikely to apply where a person has acted criminally, with improper motive or recklessly.

- 2.6 It follows that the Council will not (and is not able to) indemnify any of its appointees to an outside body where the individual is not exercising a function of the Council and is:
- (a) a voting Member of a management Committee
 - (b) a trustee
 - (c) a company director
- 2.7 It is likely that the only circumstances in which the Council can indemnify its appointees would be to a body set up solely in pursuance of the Council's statutory powers, the terms of reference of which were laid down by the Council; for example some sort of Joint Committee, partnership or working party. If in doubt, the Council's Insurance Officers can advise on whether or not an individual is covered in a particular situation.

Advisers and Observers

- 2.8 The Council will indemnify those Members or Officers, appointed as an observer or in an advisory capacity, to attend a body set up solely in connection with the Council's functions or in a statutory capacity.
- 2.9 The appointees should act within the scope of their authority. Members should always consider the need to take professional advice before acting as an adviser, or offering advice, to an outside body, as the indemnity will not apply to a Member acting independently of Officer advice.

3. Conflicts of Interest

- 3.1 In carrying out their role, Members and Officers act both as individuals and as representatives of the Council.
- (a) This entails:
 - (i) acting according to the Rules, Constitution and framework set by the outside body
 - (ii) making independent and personal judgements in line with their duty of care to the outside body
 - (iii) reporting back to the Council or relevant panel, etc
 - (iv) behaving ethically and following as far as applicable the relevant Code of Conduct
 - (v) taking an active and informed role in the management of the outside body's affairs
 - (b) It does not entail:

- (i) representing the political party to which Councillors owe their political loyalty, or the Council by which the Officer is employed
- (ii) avoiding taking part in the outside body's discussions and decisions
- (iii) looking at things simply from the Council's perspective
- (iv) being there in name only and merely turning up to meetings

3.2 Both Members and Officers may be asked to attend an outside body in order to protect the Council's interests and report back as appropriate. In the past, the Authority may for that reason have appointed a manager or trustees. If so, there is a clear conflict of interest between the obligations of the appointee to the Council and the obligations to the body to which the individual has been appointed.

3.3 In those circumstances, the appointee should take advice from the Monitoring Officer and, if necessary, a decision can be taken to change the nature of the appointment (e.g. from a manager to an observer). For as long as this situation continues, however, the appointee's priority must be to perform their obligations as a manager/trustee, as outlined above.

3.4 Where a person is appointed, whether as a manager or trustee or otherwise, to an outside body, they should consider whether the Council's Code of Conduct or other protocol applies when the business of that outside body comes before the Council.

4. Representation on Outside Bodies

Organisation	Number of Representatives	Term of Office	Appointed by Cabinet	Appointed by Council
Anglian (Eastern) Regional Flood and Coastal Committee	1	1 year	1	0
Association for Public Services Excellence	1	1 year	1	0
Association of South Essex Local Authorities (ASELA)	1	1 year	1	0
Campaign to Protect Rural Essex	1	1 year	0	1
East Thurrock Community Association	1	1 year	0	1
Essex County Traveller Unit	1	1 year	1	0
Essex Partnership for Flood Management	1	1 year	1	0
Essex Pension Fund Board (appointment alternates with Southend-on-Sea BC)	1	1 year	0	1
Essex Police, Fire and Crime Panel	1	1 year	0	1

Organisation	Number of Representatives	Term of Office	Appointed by Cabinet	Appointed by Council
High House Production Park Board of Trustees	1	1 year	1	0
Impulse Leisure	2	For term of office as a Councillor	1	1
Kent and Essex Inshore Fisheries and Conservation Authority	1	4 years	0	1
Local Government Association	3	1 year	2	1
Local Government General Assembly	4	1 year	0	4
Mid and South Essex NHS Foundation Trust Council of Governors	1	1 year	1	0
Open Door (Thurrock)	1	1 year	0	1
Essex NHS Trust Partnership	1	3 years	0	1
Safer Essex Partnership	1	1 year	1	0
South East Local Enterprise Partnership – Accountability Board	1	1 year	1	0
South East Local Enterprise Partnership – Strategic Board	1	1 year	1	0
Thames Gateway South Essex Partnership Board (Leader and Chief Executive)	2	5 years	1	1
Thurrock Arts Council	4	1 year	1	3
Thurrock Play Network	1	1 year	0	1
Thurrock Sports Council	5	1 year	1	4
West Tilbury Commons Conservators	1	1 year	0	1
William Palmer College Educational Trust	2	4 years	0	2

5. Statutory and Other Panels to be appointed by Council and Cabinet

Organisation	Number of Representatives	Term of Office	Appointed by Cabinet	Appointed by Council
Fostering and Adoption Panel	1	3 years	0	1
Civic Awards Panel	4	1 year	0	4

Organisation	Number of Represent-atives	Term of Office	Appointed by Cabinet	Appointed by Council
Prevent Violent Extremism Members Working Group	6	1 year	0	6
Standing Advisory Council on Religious Education (SACRE)	3	4 years	0	3
Thames Estuary 2100 Strategic Programme Board	1	1 year	1	0
Thurrock Community Safety Partnership	1	1 year	1	0

Appendix A – A Guide to the Law for Councillors and Officers on Outside Bodies

1. Introduction

- 1.1 This advice is for Councillors and Officers who represent the Council on organisations outside the Council, whether as a company director, the trustee of a charity or a representative on a management Committee. It simply sets out some of the most important responsibilities. It is not meant to be a comprehensive guide. If councillors or Officers have queries then the Assistant Director of Law and Governance and Monitoring Officer would be happy to advise in the circumstances of your particular concern.

2. General

- 2.1 There are some general provisions which apply to Councillors and Officers who act in the role of company director, trustee or member of an incorporated body, such as the Committee of management of an unincorporated voluntary organisation.
- 2.2 Members are under a duty to exercise independent judgement in the interest of the organisation in which they are involved. Whilst it is recognised that Councillors and Officers may have a commitment to representing the Council on the outside organisation, they must be aware that it is their responsibility to decide what view to take on any question before that organisation. Where a Councillor or Officer is partaking in an outside organisation in a representative capacity, he/she must declare that fact to the organisation. There will be a fine line to tread between his/her duty to the organisation and to the Council.

Compliance with the Code on the outside body

- 2.3 The Code of Conduct requires Members acting as the authority's representative on another body to comply with the authority's Code of Conduct, unless it conflicts with any legal obligations arising as a consequence of service on that body.
- 2.4 Some outside bodies may require the Councillor to treat the body's business as confidential. This may militate against the idea of assisting the public accountability of the body (but accountability may be through some channel other than the Council), but the Councillor will be bound by that confidentiality.

Consultative or advisory bodies

- 2.5 A Member could be appointed to an external Committee which advises the Council on various issues. Difficulties have arisen where that Member champions a position taken by the external Committee and a challenge has succeeded on the grounds of bias and of a closed mind.

Application of the Code to Members

- 2.6 Under the Code you must declare in your Register of Interests your Membership or position of control or management in any other body to which you have been appointed or nominated by the Council. You therefore will have a personal interest in any business considered by the Council affecting that body. If the interest is personal and arises solely from your Membership of, or position of control or management on that body you need

only declare the interests if and when you speak on the matter. You can remain in the meeting and vote.

- 2.7 If your interest is a disclosable pecuniary you must declare it and may only speak at the meeting after being granted a dispensation to allow you to speak in accordance with the Code of Conduct, You must then leave the meeting unless the dispensation allows you to remain. You cannot vote on the matter unless with a grant of a dispensation in accordance with the Members' Code of Conduct.
- 2.8 If a Member does not have a disclosable pecuniary interest, he/she may stay, speak on the item and vote.

Predisposition

- 2.9 It is not a problem for Councillors to be predisposed. Predisposition is where a councillor holds a view in favour of or against an issue, for example an application for planning permission, but they have an open mind to the merits of the argument before they make the final decision at the Council meeting.
- 2.10 This includes having formed a preliminary view about how they will vote before they attend the meeting, and/or expressing that view publicly. They may even have been elected specifically because of their views on this particular issue.

Predetermination or bias

- 2.11 Predetermination or bias can lead to problems. It is where a Councillor is closed to the merits of any arguments relating to a particular issue, such as an application for planning permission, and makes a decision on the issue without taking them into account.
- 2.12 Councillors must not even appear to have already decided how they will vote at the meeting, so that nothing will change their mind. This impression can be created in a number of different ways such as quotes given in the press, and what they have said at meetings or written in correspondence.
- 2.13 Rarely will Membership of an organisation, such as a national charity, amount to predetermination or bias on its own unless it has a particular vested interest in the outcome of a specific decision that a Councillor is involved in making.
- 2.14 There is an important difference between those Councillors who are involved in making a decision and those Councillors who are seeking to influence it. This is because Councillors who are not involved with making a decision are generally free to speak about how they want that decision to go.
- 2.15 When considering whether there is an appearance of predetermination or bias, Councillors who are responsible for making the decision should apply the following test: would a fair-minded and informed observer, having considered the facts, decide there is a real possibility that the Councillor had predetermined the issue or was biased?
- 2.16 However, when applying this test, they should remember that it is legitimate for a Councillor to be predisposed towards a particular outcome on the basis of their support of a general policy. This is as long as they are prepared to be open-minded and consider the arguments and points made about the specific issue under consideration.

2.17 Predetermination or bias may arise:

- (a) Where the Councillor has a close connection to someone affected by the decision
- (b) Where the Councillor has allowed an improper involvement of someone with an interest in the outcome
- (c) Prior involvement such as hearing an appeal from their own decision
- (d) Comments made prior to decision which suggest that the Councillor has already made up their mind.

2.18 The Councillor or Officer, in acting as a director/trustee or Member of a management Committee of an organisation, must act in accordance with the interests of that organisation. A mandate from the Council to vote one way or the other would put the Councillor or Officer in breach of the duty to the organisation. It is permissible to take account of the Council's wishes but not to vote simply in accordance with them.

2.19 The overriding duty in considering an item before the outside organisation is to vote in accordance with the interests of that organisation.

2.20 Councillors and Officers must also ensure that avoidable loss is not incurred in managing the organisation. They cannot avoid this responsibility by not reading the papers or failing to ask for appropriate reports. They will be expected to seek professional advice where appropriate.

3. Companies

3.1 On incorporation a company becomes a separate legal entity which can hold property in its own right, enter into contracts and sue and be sued in its own name. The company is distinct from its shareholders and members. In the case of a limited liability company, the liability of members of the company is limited to the amount they paid or agreed to pay when they joined the company. This can be as little as £1.

3.2 Companies limited by shares are those which have a share capital (for example, 1,000 shares of £1 each). Each Member holds shares and receives a share in the profits made by the company according to the value of the shares held. Shares can be sold. Companies limited by guarantee are those where there is no shareholding. Instead each Member agrees that in the event of the company being wound up, they will agree to pay a certain amount. This may also be as little as £1. This form of company is the most usual in the public and voluntary sector, particularly where charitable status is sought.

3.3 The management of a company is generally the responsibility of a board of directors. The powers of the directors are usually set out in the company's Articles of Association (the Rules each company has to govern its internal management). Sometimes even though a company has been incorporated, the directors may be referred to as Members of the Committee of management, governors or even trustees. However, this does not change their status as directors. Conversely, sometimes officials are called directors but they are not members of the board. Again their status will not be affected. Directors are those who are appointed by the company to act in that capacity.

Directors' Duties

- 3.4 A director is an agent of the company. His/her prime duties are as follows:
- (a) A fiduciary duty to the company (not individual shareholders) to act honestly and in good faith and in the best interests of the company as a whole. Directors are therefore in the position of "quasi trustees" who must take proper care of the assets of the company. The fiduciary duty of the director towards the company is very similar to the fiduciary duty of Councillors to the Council Taxpayers of Thurrock.
 - (b) A general duty of care and skill to the company. So long as the company remains solvent, a director requires no greater skill than might reasonably be expected of someone of that individual's particular knowledge and experience. A director is not deemed to be an expert but is expected to use due diligence and to obtain expert advice if necessary. But note that if the company become insolvent, the Court may expect that the director brings an appropriate level of skill, competence and experience to the job.
 - (c) Like a Councillor in respect of Council decisions, the director is under a duty to exercise independent judgement, though it is permissible for him/her to take account of the interests of a third party which he/she represents. In such a case the director must disclose that position and treads a fine line between the interests of the company and the party represented (in this case the Council). The director cannot vote simply in accordance with the Council mandate. To do so would be a breach of duty.
 - (d) No conflict of interests is allowed. There may be actual or potential conflicts between the interests of the Council and the interests of the company. In such circumstances the only proper way for the conflict to be resolved is for the Councillor or Officer to resign either from the company or from the Council.
 - (e) Directors are not allowed to make a private profit from their position. They must therefore disclose any interests they or their family may have in relation to the company's contracts. Whether they are then allowed to vote will depend on the Articles of Association.
 - (f) Directors must ensure compliance with the Companies Acts in relation to keeping of accounts, and that the relevant returns are made to the Registrar of Companies. Failure to do so incurs fines and persistent default can lead to disqualification as a director. They must also ensure compliance with other legislation – for example, health and safety, if the company employs staff or employs contractors.

Directors' Liabilities

- 3.5 The company's identity must clearly be shown on its stationery. The company number, place of registration, registered office address and if any of the directors' names are shown then they must all appear.
- 3.6 A company can only act within the scope set out in its Memorandum of Association (the document which sets out the objects of the company). Those directors knowingly causing

the company to act beyond the activities set out in the Memorandum will be liable personally. In very limited circumstances it is possible for the actions of the directors to be ratified by the members of the company.

- 3.7 A director may also be liable for breach of trust if he/she misapplies the money or property of the company. Directors may also be liable if they fail to take action to prevent the breach of a co-director of which they are aware.
- 3.8 In the event of failure to act in accordance with the best interests of the company, or if a director uses his/her powers improperly or makes a personal profit from his/her position as director, then the director may be personally liable for loss to the company and may be required to give to the company the personal profit made.
- 3.9 If the level of skill and care shown by a director falls below that which could be reasonably expected and the company suffers loss, the director will be liable for the loss incurred. However, if it believes the director acted honestly and reasonably, a Court may excuse the director the liability.
- 3.10 If a director knows or ought to know that there is no reasonable prospect of the company avoiding liquidation, a Court may require that director to contribute to the company's assets on liquidation if the company continues to trade. This is known as wrongful trading. No such order will be made if the Court is satisfied that the director took all reasonable steps to minimise the loss to the creditors. If a director has concerns about the company's financial position, he/she could be well advised to inform the other directors and seek advice from the company auditors. He/she should try to ensure that further debts are not incurred.
- 3.11 A director will also be liable if to his/her knowledge the company carries on business with intent to defraud creditors or any other person, or for any other fraudulent purpose. Fraudulent trading can also lead to disqualification from acting as a director.
- 3.12 All cheques and similar documents which purport to be signed on behalf of the company must bear the company name. Where they do not, the director signing on behalf of the company may be liable to a fine and may also be liable to the payee if the company fails to honour the cheque. It is therefore wise for directors to make sure that all documents they sign on behalf of the company state very clearly that they act as agent for the company.
- 3.13 A third party who enters into a contract on the assumption that a director has power to bind the company, may be able to claim damages against the director if it subsequently transpires that the director had no such power. Directors would be well advised to ensure that contracts are approved by the board and that the authority to enter into any contract has been properly delegated before signing it.
- 3.14 Though company liability ceases on dissolution, the liability of the directors (if any) may still be enforced after dissolution.

Local Authorities (Companies) Order 1995 (as amended)

- 3.15 This Order, made under the Secretary of State's powers contained in Part V, Local Government and Housing Act 1989, sets out Rules concerning local authorities' involvement in "regulated companies" which are subject to extensive controls, and their involvement in other companies where a number of Rules apply. [Note: Part V has been

repealed; its coming into effect is awaited. This section will be reviewed as soon as the repeal is effective].

- 3.16 "Regulated companies" are so defined if they are controlled or influenced by the local authority. "Influenced companies", under the effective control of the local authority, will be subject to capital finance regime and special propriety controls. In broad terms, the test as to whether companies are local authority influenced is whether the local authority has the right to or in fact does exercise a dominant influence over the company in question.
- 3.17 The original concept of controlled, influenced and minority interests in companies were introduced by the 1989 Act. "Influenced" means at least 20% local authority interest plus a business relationship with the company accounting for over 50% of the company's turnover and/or the company is located on local authority land leased or sold for less than best consideration. "Controlled" means over 50% local authority interests, and "minority" less than 20% interest. The concept in the 1989 Act stands, but the Order introduces the term "regulated".
- 3.18 Councillors or Officers who are directors of outside companies to which they have been nominated by the Council are under the following obligations:
- (a) (Councillors only) that the remuneration they receive from the company should not exceed that received from the Authority, and should be declared
 - (b) (Officers only) that they shall not receive any fee or reward other than their Council salary, unless so agreed with the Council
 - (c) to give information to Councillors about their activities as required by the local authority (save for confidential information), and
 - (d) to cease to be a director immediately upon disqualification as a Councillor or termination of their employment by the Council

4. Charities

- 4.1 To be a charity, an organisation must operate for a charitable purpose. There are four charitable purposes:
- (a) the relief of poverty and human suffering
 - (b) the advancement of education
 - (c) the advancement of religion
 - (d) another purpose for the benefit of the community
- 4.2 It must operate for the public benefit and have exclusively charitable purposes. An organisation which operates for political purposes will not qualify for charitable status.
- 4.3 To register as a charity the organisation must submit its completed Constitution (usually Certificate of Incorporation and the Memorandum and Articles of Association of a company limited by guarantee) to the Charity Commissioners for approval. If they are satisfied that the organisation is charitable, it will be registered as such.

- 4.4 Those who are responsible for the control and administration of a charity are referred to as its trustees, even where the organisation is a company limited by guarantee. Trustees of a charity retain personal liability, and can only delegate to the extent that the Constitution authorises them so to do. There are a number of useful publications produced by the Charity Commission available on www.charitycommission.gov.uk.

Trustees' Duties

- 4.5 Trustees must take care to act in accordance with the Constitution and to protect the charity's assets. They are also responsible for compliance with the Charities Acts, and should note the particular requirements of the Acts in respect of land transactions.
- 4.6 Trustees must not make a private profit from their position. They cannot receive remuneration without the sanction of the Charity Commission. They must also perform their duty with the standard of care which an ordinary, prudent businessperson would show. Higher standards are required of professionals and in relation to investment matters.
- 4.7 Charitable trustees must ensure that the information relating to the charity and trustees is registered with the Charity Commissioners and that annual accounts, reports and returns are completed and sent.
- 4.8 If charitable income exceeds £10,000, the letters, adverts, cheques, etc., must bear a statement that the organisation is a registered charity.
- 4.9 Trustees are under a duty to ensure compliance with all relevant legislation – for example, in relation to tax and land matters.

Trustees' Personal Liability

- 4.10 If in doubt, always consult the Charity Commissioners. A trustee who does so can avoid personal liability for breach of trust if he/she acts in accordance with the advice given.
- 4.11 Generally though, a trustee incurs personal liability if he/she:
- (a) acts outside the scope of the trust deed
 - (b) falls below the required standard of care
 - (c) acts otherwise than in the best interests of the charity, in a way which causes loss to the charity fund
 - (d) makes a personal profit from the trust assets
- 4.12 In such circumstances the trustee will incur personal liability for losses incurred.
- 4.13 Trustees of a trust can be liable personally to third parties because unlike a company, a trust has no separate identity from the trustees. The Constitution will normally provide for trustees to be given an indemnity from the trust assets, provided they act properly in incurring the liability. Trustees remain personally liable for their own acts and defaults once they have retired. If they have entered into any ongoing contracts on behalf of the trust, they should seek an indemnity from their successors. If the charity is a company, the

trustees will be protected from liabilities incurred in the day-to-day running of the charity in the normal course, but will be personally liable if they commit a breach of trust.

- 4.14 Trustees may be liable to fines if they do not comply with the duty to make returns, etc.

5. Committees of Management

- 5.1 Groups which are not charitable trusts or limited companies are "unincorporated associations" and have no separate legal identity from their Members. The Rules governing the Members' duties and liability will be set out in a Constitution, which is simply an agreement between the Members as to how the organisation will operate. Usually the Constitution will provide for a management Committee to be responsible for the everyday running of the organisation. An unincorporated organisation may be charitable and may register as a charity.
- 5.2 Property will have to be held by individuals as the organisation has no existence of its own.

Duties

- 5.3 Broadly, Management Committee Members must act within the Constitution, and must take reasonable care in exercising their powers.

Liabilities

- 5.4 Generally, the Management Committee Members are liable for the acts of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the Committee Members are personally liable for the shortfall.
- 5.5 If one person is appointed by the Constitution to act as the agent of the organisation for certain purposes, then that person acts as the agent of all the Members who have joint liability for the agent's actions.
- 5.6 Members of the Committee of Management will have personal liability if they act outside the authority given to them or if they do not comply with statute – for example, the payment of employees' tax, etc.

6. Indemnities

- 6.1 Councillors and Officers who are directors cannot be indemnified by the company against liability arising out of negligence, default or breach of duty or trust. However, the company's Articles of Association may allow for directors to be indemnified by the company in respect of the cost of defending such proceedings if the director is granted relief by the Court or acquitted. Equally, in making the appointment, the Council can offer an indemnity against losses which the Councillor may suffer through acting conscientiously as a director. But note that it is lawful for companies to purchase insurance to protect its directors against claims of negligence, breach of duty, trust, and default. Directors would be well advised to ensure that such a policy of insurance is maintained at all times.

- 6.2 Under the Local Government Act 2000, it is now possible for the Council to provide indemnities for Councillors or Officers when appointing them to act as directors, and to buy insurance to cover any losses which they may suffer through acting conscientiously as a director. However, the first recourse would be to ensure that the company had provided such insurance.
- 6.3 In the case of Councillors and Officers appointed by the Council to be a Trustee of a charity, an indemnity can be given from the trust fund provided the trustee has acted properly and within his/her powers. Trustees may take out insurance to protect themselves against personal liability but not for criminal acts, fraud, etc. There will no problem if the trustees themselves pay the premiums but if they are paid out of the charitable funds the trustees will need the consent of the Charity Commissioners first, unless the trust deed allows it.
- 6.4 Councillors and Officers appointed by the Council to Committees of Management ("unincorporated associations"), will be entitled to an indemnity if they act in accordance with the Constitution of the Committee of Management and are not at fault. It is possible to obtain insurance but if the organisation is to pay the premium, it must be permitted by the Constitution of the Committee of Management.
- 6.5 In accordance with Chapter 9, Part 4 of this Constitution, the Council will indemnify each of its members and employees against any loss or damage suffered by the member or officer arising from his/her action or failure to act in his/her capacity as a member or officer of the Council.