

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 6 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 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, i.e. 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 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, e.g. 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. Application

This Code of Conduct applies to you whenever you are acting in your capacity as a member of Thurrock Borough Council, including:

- 1.1. at formal meetings of the Council, its Committees and Sub-Committees, its Cabinet and Cabinet Committees
- 1.2. when acting as a representative of the authority
- 1.3. in taking any decision as a Cabinet member or a Ward Councillor
- 1.4. in discharging your functions as a ward Councillor
- 1.5. at briefing meetings with officers and
- 1.6. at site visits
- 1.7. when corresponding with the authority other than in a private capacity

2. General Conduct

I understand that when I sign up to this Code I must comply with the following standards of conduct / behaviour,

- 2.1. To act solely in the public interest and never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for myself, my family, friend or close associates.
- 2.2. Not to place myself under a financial or other obligation to outside individuals or organisations that might seek to influence me in the performance of my official duties.
- 2.3. To make all decisions on merit when carrying out public duties, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits.
- 2.4. To be accountable for my decisions to the public and to co-operate fully with whatever scrutiny is appropriate to my office.
- 2.5. To be as open as possible about my decisions and actions and the decisions and actions of my authority and to be prepared to give reasons for those decisions and actions.
- 2.6. To register and declare any pecuniary and non-pecuniary interests, as set out in this Code.
- 2.7. When using or authorising the use by others of the resources of this authority, to ensure that such resources are not used improperly for political purposes (including party political purposes) and to have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 2.8. To behave in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures,

including on the use of the authority's resources and dealing with confidential information appropriately.

- 2.9. To value and respect colleagues, staff, partners and public, engaging with them in an appropriate manner that underpins the mutual respect between us that is essential to good local government and not to act in a manner that could be deemed as bullying, harassment or intimidation.
- 2.10. To promote and support high standards of conduct by leadership and by example

3. Disclosable Pecuniary Interests (see Appendix)

You must:

- 3.1. comply with the statutory requirements to register, disclose and withdraw from participating in respect of any matter in which you have a disclosable pecuniary interest
- 3.2. ensure that your register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your disclosable pecuniary interests
- 3.3. make verbal declaration of the existence and nature of any disclosable pecuniary interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent
- 3.4. "Meeting" means any meeting organised by or on behalf of the authority, including:
 - 3.4.1. any meeting of the Council, or a Committee or Sub-Committee of Council
 - 3.4.2. any meeting of the Cabinet and any Committee of the Cabinet
 - 3.4.3. in taking a decision as a Ward Councillor or as a Member of the Cabinet
 - 3.4.4. at any briefing by officers
 - 3.4.5. at any site visit to do with business of the authority

4. Other Interests

- 4.1. In addition to the requirements of Paragraph 3, if you attend a meeting at which any item of business is to be considered and you are aware that you have a "non-disclosable pecuniary interest or non-pecuniary interest" in that item, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent
- 4.2. You have a "non-disclosable pecuniary interest or non-pecuniary interest" in an item of business of your authority where:
 - 4.2.1. a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater

extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or

- 4.2.2. it relates to or is likely to affect any of the interests listed in the Table in the Appendix to this Code, but in respect of a member of your family (other than a "relevant person") or a person with whom you have a close association and that interest is not a disclosable pecuniary interest.

5. Gifts and Hospitality

- 5.1. You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a member from any person or body other than the authority.
- 5.2. The Monitoring Officer will place your notification on a public register of gifts and hospitality.
- 5.3. This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose.

6. Sensitive Interests

- 6.1. Where a Member has any type of interest and the nature of the interest is such that the Member and the Monitoring Officer both consider that disclosure of the details of the interest could lead to the Member or a person connected with the Member being subjected to violence or intimidation:
- 6.2. The Register will not include details of the interest but may state that the Member has an interest about which details have been withheld and
- 6.3. Where required by this Code to declare the interest in a meeting, the Member may only declare the fact that s/he has an interest in the matter (s.32).

7. Dispensations from the Restriction from Participating and Voting in Meetings

- 7.1. A member may apply for a dispensation from the requirement not to participate in or vote in respect of a matter at a meeting by written request to the Monitoring Officer (s.33).
- 7.2. The Monitoring Officer (or in his / her absence the Deputy Monitoring Officer) may agree the dispensation on behalf of the authority, where s/he considers, after having had regard to all relevant circumstances, the authority:
 - 7.2.1. that without the dispensation the number of persons prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,

- 7.2.2. that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
 - 7.2.3. that granting the dispensation is in the interests of persons living in the authority's area,
 - 7.2.4. if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or
 - 7.2.5. that it is otherwise appropriate to grant a dispensation
- 7.3. The Monitoring Officer will grant the dispensation in writing citing the ground or grounds on which it is agreed and will be published on the Council's website within 7 days of the decision.
 - 7.4. The dispensation must be for a fixed time period not exceeding 4 years and will normally cover only a specific matter or meeting.
 - 7.5. A Member may seek a review of the Monitoring Officer's decision to the Standards and Audit Committee. The Monitoring Officer may choose to refer any application for a dispensation to the Standards and Audit Committee.

Appendix – Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011. Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and it is either the interest of the Member; or is the interest of their spouse or civil partner; a person with whom the Member lives with husband or wife; or a person with whom the Member lives with as if they were a civil partner and the Member is aware that the other person in has the interest as follows.

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 relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</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 which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</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	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to M's knowledge):</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest</p>

Interest	Prescribed description
Securities	Any beneficial interest in securities of a body where: (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; 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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class

For this purpose:

"the Act" means the Localism Act 2011;

"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

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

"land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

"M" means a member of a relevant authority;

"member" includes a co-opted member;

"relevant authority" means the authority of which M is a member;

"relevant period" means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or 31(7), as the case may be, of the Act;

"relevant person" means M or any other person referred to in section 30(3) (b) of the Act;

"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.

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 reasonable 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.

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 e.g. 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, e.g. 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 in 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, OD 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, e.g. 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 (NB 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, negligence or
- 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 User's Policy
- xx. Wilful unauthorised disclosure of information which 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, 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 or 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 (i.e. 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, i.e. 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 are represented; or where the authority are 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 of Children's Services Corporate Director of Adults, Housing and Health Director Public Health Monitoring Officer Corporate Director of Finance, Governance and Property (Section 151 Officer)
Non-Statutory Chief Officers	Director of Place 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 of Finance, Governance and Property
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
<p>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</p>	<p>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</p>

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 are 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 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 posts.

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 are 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: