

**APPENDIX 7**

**BRENTWOOD BOROUGH COUNCIL**

**CONSTITUTION**

**DRAFT**

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**PART 1**

**SUMMARY AND EXPLANATION OF  
THE COUNCIL'S CONSTITUTION**

## **PART 1**

### **SUMMARY AND EXPLANATION OF THE COUNCIL'S CONSTITUTION**

Brentwood Borough Council has, in accordance with Section 37 of the Local Government Act 2000, agreed a constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 13 Articles which set out the basic rules governing the Council's business. Detailed procedures and codes of practice are provided in parts 3-7 of this document.

#### **What's in the Constitution?**

Article 1 of the Constitution commits the Council to exercise all its powers and duties in accordance with the law and this Constitution. Articles 2-13 explain the rights of residents and how the key parts of the Council operate.

#### **How the Council Operates**

The Council is composed of 37 members who hold office for four years. Details of the political composition of the Council are available on the Council's website.

Meetings of the Council decide the Council's overall policies and set the budget each year. Council meetings are normally open to the public.

#### **How Decisions are Made**

Most day-to-day decisions are made by committees. The Council has a number of policy committees, namely the Strategy & Policy Board, the Community Services Committee and the Performance and Resources Committee.

The Overview & Scrutiny Committee is responsible for all overview and scrutiny functions on behalf of the Council.

The Planning Development Control Committee, Licensing Committee and Audit committees perform quasi-judicial or regulatory functions.

All meetings of the Council's committees are open to the public except where the committee, in accordance with the Local Government Act 1972, decides to exclude the public because items include exempt or confidential information.

#### **Overview and Scrutiny**

There is an overview and scrutiny committee that supports the work of the policy committees Board and the Council as a whole. They allow residents to have a greater say in Council matters by holding public inquiries into matters of local concern. These can lead to reports and recommendations which advise the policy committees and the Council as a whole on its policies, budget and service delivery. The overview and scrutiny committee can also monitor the decisions of the policy committees. They can 'call-in' a decision which has been made by a policy committee but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the policy committee or council

reconsider the decision. They may also be consulted by policy committees on forthcoming decisions and the development of policy.

### **The Council's Staff**

The Council has people working for it to give advice, implement decisions and manage the day-to-day delivery of its services. Staff may be given delegated powers by the Council to make decisions on its behalf. Some staff have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol on member/staff relations governs the relationships between staff and members of the council.

### **Residents' Rights**

The Council welcomes participation by its residents in its work and the rights of residents in their dealings with the Council are set out in detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes.





**PART 2**

**ARTICLES OF THE CONSTITUTION**

## **PART 2**

### **ARTICLE 1 – THE CONSTITUTION**

#### **1.1 Powers of the Council**

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

#### **1.2 The Constitution**

This Constitution, and all its appendices, is the Constitution of Brentwood Borough Council.

#### **1.3 Purpose of the Constitution**

The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with residents, businesses and outside organisations;
2. support the active involvement of residents in the process of council decision-making;
3. help members represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively in accordance with the principles set out in Article 10.2;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no one will review or scrutinise a decision in which they were directly involved;
7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. provide a means of improving the delivery of services to the community.

#### **1.4 Interpretation and Review of the Constitution**

Where the Constitution permits the Council to choose between different courses of action at its meeting, the Council should choose that option which it thinks is closest to the purposes stated in Article 1.3.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 12.

## **ARTICLE 2 – MEMBERS OF THE COUNCIL**

### **2.1 Composition and eligibility**

- (a) **Composition.** The Council will comprise 37 members. One or more members will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of the borough; or those owning or occupying land or premises; or living or working in the borough will be eligible to hold the office of member.

### **2.2 Election and terms of members**

- (a) The ordinary election of a third (or as near as may be) of all members will be held on the first Thursday in May in each year except that in every fourth year there will be no regular election.
- (b) The terms of office of members will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

### **2.3 Roles and functions of all members**

#### **2.3.1 Key roles.** All members will:

- (a) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (b) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (c) actively represent the interests of their ward and of residents and outside organisations;
- (d) respond to residents' enquiries and representations, fairly and impartially;
- (e) participate in the governance and management of the Council; and
- (f) maintain the highest standards of conduct and ethics.

#### **2.3.2 Rights and duties**

- (a) Members will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (b) Members will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a member or member of staff entitled to know it. For these purposes, "confidential" and "exempt" information are as defined in the Access to Information Rules in Part 4 of this Constitution.
- (c) Members have a duty to declare pecuniary and non-pecuniary interests as well as any gifts and hospitality they have received.

#### 2.4 **Conduct**

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

#### 2.5 **Allowances**

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

## **ARTICLE 3 – RESIDENTS AND THE COUNCIL**

### **3.1 Residents' rights**

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

3.1.1 **Voting and Petitions** Residents on the electoral roll for the area have the right to vote at local elections and also to sign a petition to request a referendum for an elected mayor form of Constitution.

3.1.2 **Information** Residents have the right to:

- (a) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the public is therefore excluded;
- (b) inspect agendas and reports and attend meetings;
- (c) see and request copies of background papers, and any records of decisions made by the Council; and
- (d) inspect the Council's accounts and make their views known to the external auditor.

3.1.3 **Participation** Residents have the right to participate in the Council's question time in accordance with Rule 26 in the Council Procedure Rules and contribute to investigations by the Overview and Scrutiny committee.

3.1.4 **Complaints** Residents have the right to complain:

- (a) to the Council under its complaints scheme;
- (b) to the Local Government Ombudsman after using the Council's own complaints scheme;
- (c) about the conduct of a member if they have evidence which they believe shows that a member has breached the Council's Code of Conduct.

### **3.2 Residents' responsibilities**

Residents must not be violent, abusive or threatening to members or staff and must not wilfully harm things owned by the council, members or staff.

### **3.3 Contacting their local member**

- (a) Residents have the right to contact their local member about any matters of concern to them.
- (b) Residents have the right to lobby any member about any matters of concern to them.

### **3.4 Contacting the Council**

Residents can contact the Council through its website, by email, in person or on the telephone.

## **ARTICLE 4 – THE COUNCIL** [NB. cross reference Part 3 – draft TOR]

### **4.1 Policy Framework and Budget**

**4.1.1 Policy Framework** *The policy framework includes the following plans and strategies:-*

- (a) *Corporate plan;*
- (b) *The local development framework;*
- (c) *Treasury management strategy.*

**4.1.2 Budget** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

### **4.2 Functions of the Council**

Only the Council will exercise the following functions:-

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework;
- (c) approving the budget;
- (d) agreeing and/or amending the terms of reference for committees, deciding on their composition and making initial appointments to them;
- (e) appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- (f) adopting a members' allowances scheme under Part 6;
- (g) changing the name of the area, conferring the title of honorary alderman or freedom of the borough;
- (h) confirming the appointment of the Head of Paid Service; Monitoring Officer; and Section 151 Officer;
- (i) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills; and
- (j) (all other matters which by law must be reserved to Council.)
- (k) to designate the leader of the largest political group as the Leader of the Council.

### **4.3 Council meetings**

There are three types of Council meeting:-

- (a) the annual meeting;

- (b) ordinary meetings;
- (c) extraordinary meetings;

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

## **ARTICLE 5 – ELECTION, ROLE AND FUNCTION OF THE MAYOR**

The Mayor will be elected by the Council annually to serve for a period of one municipal year in accordance with the procedure set out at Appendix B. The Mayor, or in their absence, the deputy mayor, will have the following roles, functions and responsibilities:

### **5.1 Ceremonial role**

To be the “first citizen” of the Borough, a member of the Council and its ceremonial head.

### **5.2 Chairing the Council Meeting**

- (a) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of members and the interests of the community;
- (b) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members are able to hold committee chairs to account.

### **5.3 Other Responsibilities**

The Mayor will have the following responsibilities:

- (a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (b) to promote public involvement in the Council’s activities;
- (c) to be the conscience of the Council; and
- (d) to attend such civic and ceremonial functions as the Council or the Mayor determines to be appropriate.



## **ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEE**

### **6.1 Terms of reference**

The Council will appoint an overview and scrutiny committee to discharge the functions conferred by section 21 of the Local Government Act 2000.

### **6.2 General role**

Within their terms of reference, the overview and scrutiny committee will:

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (b) make reports and/or recommendations to the Council or any appropriate Committee in connection with the discharge of any functions; and
- (c) consider any matter affecting the area or its residents.

### **6.3 Specific functions**

**6.3.1 Policy development and review** The overview and scrutiny committee may:

- (a) assist the Council in the development of its budget and policy framework by in-depth analysis of policy issues;
- (b) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (d) question members of committees and staff about their views on issues and proposals affecting the area; and
- (e) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

**6.3.2 Scrutiny** The overview and scrutiny committee may:

- (a) review and scrutinise the decisions made by and performance of committees and council staff both in relation to individual decisions and over time;
- (b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (c) question members of committees and staff about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (d) make recommendations to the appropriate committee and/or Council arising from the outcome of the scrutiny process;

- (e) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance; and
- (f) question and gather evidence from any person (with their consent).

6.3.3 **Annual report** The overview and scrutiny committee will report annually to Council on their work programme and make recommendations for future work programmes.

#### 6.4 **Proceedings of the overview and scrutiny committee**

The overview and scrutiny committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

## **ARTICLE 7 – COMMITTEES**

### **7.1 Committees**

The Council will appoint the committees set out in Part 3 of this Constitution, to discharge the functions described in Part 3.

## **ARTICLE 8 – JOINT ARRANGEMENTS**

### **8.1 Joint arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities to exercise functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) A joint committee is a committee set up with one or more local authorities, or with a combination of one or more local authorities and another body or bodies for purposes in respect of which they are jointly interested.
- (c) Details of any joint arrangements including any delegations to joint committees can be found in the Council's scheme of delegations in Part 3 of this Constitution.

### **8.2 Access to information**

The Access to Information Rules in Part 4 of this Constitution apply.

### **8.3 Delegation to and from other local authorities**

- (a) The Council may delegate functions to another local authority or, in certain circumstances, the executive of another local authority.
- (b) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

## **ARTICLE 9 – STAFF**

### **9.1 Management Structure**

- (a) **General.** The Council may engage such staff as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The Council will engage persons for the following posts, who will be designated chief officers in accordance with the relevant legislation.

Head of Paid Service Overall corporate management and operational responsibility (including overall management responsibility for all staff).

Provision of professional advice to all parties in the decision making process.

Together with the monitoring officer, responsibility for a system of record keeping for all the Council's decisions.

Representing the Council on partnership and external bodies (as required by statute or the Council).

Chief Finance Officer Ensuring lawfulness and financial prudence of decision making.

Administration of financial affairs.

Contributing to corporate management.

Providing advice to the Council.

- (c) **Head of Paid Service, Monitoring Officer and Chief Financial Officer.** The Council will designate the following posts as shown:

Managing Director will be the Head of Paid Service  
Head of Legal and Governance will be the Monitoring Officer  
Director of Strategy and Corporate Services will be the Chief Finance Officer (S151 Officer)

Such posts will have the functions described below.

- (d) **Structure.** The head of paid service will determine and publicise a description of the overall departmental structure of the Council showing the management structure on the Council's website.

### **9.2 Functions of the Head of Paid Service**

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of staff required for the discharge of functions and the organisation of staff.
- (b) **Restrictions on functions.** The Head of Paid Service may not be the monitoring officer but may hold the post of Chief Finance Officer if a qualified accountant.

### 9.3 **Functions of the Monitoring Officer**

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Council if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Proper officer for access to information.** The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant reports and background papers are made publicly available as soon as possible.
- (d) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all members.
- (e) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

### 9.4 **Functions of the Chief Finance Officer (section 151 officer)**

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council and the Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all members and will support and advise members and staff in their respective roles.

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

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

9.6 **Conduct**

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

9.7 **Employment**

The recruitment, selection and dismissal of staff will comply with the Staff Employment Procedure Rules set out in Part 4 of this Constitution.

## **ARTICLE 10 – DECISION MAKING**

### **10.1 Responsibility for decision making**

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

### **10.2 Principles of decision making**

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

All decisions taken in the discharge of a function of the Council shall have regard to the following matters:

- (a) The presumption in favour of openness and transparency.
- (b) The need for consultation with interested parties.
- (c) The need to take account of relevant professional advice from appropriate staff.
- (d) The need for clarity of aims and desired outcomes.
- (e) The need to identify the range of options considered.
- (f) The need to give reasons and explanation for a decision.

### **10.3 Decision making by the Council, committees and sub-committees**

The relevant Council Procedure Rules set out in Part 4 of this Constitution will be followed at meetings of the Council, committees and sub-committees when considering any matter.

### **10.4 Decision making by overview and scrutiny committees**

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

### **10.5 Decision making by Council bodies or staff acting as a tribunal or in a quasi judicial manner**

- (a) Whenever the Council, or a member or a member of staff considers or determines the civil rights or obligations or the criminal responsibility of any person they will follow a proper procedure.
- (b) This procedure will accord with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.



## **ARTICLE 11 – FINANCE, CONTRACTS AND LEGAL MATTERS**

### **11.1 Financial management**

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

### **11.2 Contracts**

Every contract made by the Council will comply with the Standing Orders Relating to Contracts set out in Part 4 of this Constitution.

### **11.3 Legal proceedings**

The Monitoring Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Monitoring Officer considers that such action is necessary to protect the Council's interests.

### **11.4 Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Monitoring Officer or other person authorised by him, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

### **11.5 Common Seal of the Council**

- (a) The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer.
- (b) A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.
- (c) The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed.
- (d) The sealing of a document will be witnessed by the Mayor or Deputy Mayor.

## **ARTICLE 12 – REVIEW AND REVISION OF THE CONSTITUTION**

### **12.1 Duty to monitor and review the Constitution**

The Monitoring Officer will continuously monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

### **12.2 Protocol for monitoring and review of constitution by Monitoring Officer**

In undertaking the duty to monitor continuously and review the Constitution the Monitoring Officer may:

- (a) observe meetings of different parts of the member and staff structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised with him/her by members, staff, the public and other relevant stakeholders;
- (d) compare practices in this authority with those in other comparable authorities, or national examples of best practice;
- (e) consult with members and staff as appropriate.

### **12.3 Changes to the Constitution**

- (a) **Approval.** Changes to the Constitution will only be approved by the Council after consideration of a proposal by the Monitoring Officer.
- (b) A member, or member of staff, who proposes a change to the Constitution will submit that proposal to the Monitoring Officer.
- (c) The Monitoring Officer will consult with the Constitution Working Group before submitting any proposal to Council.

**ARTICLE 13 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

13.1 **Suspension of the Constitution**

13.1.1 **Limit to suspension.** The Articles of this Constitution may not be suspended.

13.1.2 The Council Procedure Rules in Part 4 may be suspended by the Council to the extent permitted within those Rules and the law if three-quarters of the whole number of members of the Council are present and vote for the suspension by a majority.

13.1.3 **Procedure to suspend.** A motion to suspend any rules will not be moved without notice and at least three-quarters of the whole number of members are present.

13.1.4 **Rules capable of suspension.** All of the Council Procedure Rules may be suspended except for where they are required by law. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

13.2 **Interpretation**

The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purpose of this Constitution contained in Article 1.

13.3 **Publication**

(a) The Monitoring Officer will ensure that a copy of this Constitution is available to each member of the Council upon delivery to him/her of that member's declaration of acceptance of office on the member first being elected to the Council.

(b) The Monitoring Officer will ensure that copies of this Constitution are available for inspection at council offices, libraries and other appropriate locations.

## **SCHEDULE 1: DESCRIPTION OF ARRANGEMENTS**

The following parts of this Constitution constitute the alternative arrangements:-

1. Article 6 (Overview and Scrutiny committees) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (Committees).



**PART 3**

**POWERS AND DELEGATIONS**



**6. Planning and Development Committee**

**7. Licensing Committee**

**8. Audit Committee**



## **PART B – DELEGATIONS TO STAFF**

Delegations to staff are set out in Appendix A of this constitution

## **PART 4**

### **RULES OF PROCEDURE**

- 4.1 Council Procedure Rules**
- 4.2 Access to Information Rules**
- 4.3 Budget and Policy Framework Procedure Rules**
- 4.4 Overview and Scrutiny Procedure Rules**
- 4.5 Financial Regulations**
- 4.6 Standing Orders Relating to Contracts**
- 4.7 Staff Employment Rules**

**PART 4.1**

**COUNCIL PROCEDURE RULES**

## **COUNCIL PROCEDURE RULES**

All of these Procedure Rules apply to meetings of the Council.

Rules 5, 8 and 13-23 apply to meetings of committees and sub-committees.

### **MEETINGS OF THE COUNCIL**

#### **1. Meetings**

- 1.1 The Council shall hold an annual meeting in the year of ordinary election of members not earlier than the eighth day and not later than the twenty first day of the date of retirement of members.
- 1.2 In any year where there are no elections to the Council, the annual meeting will be held on a date in May to be fixed by the Council.

#### **Calling extraordinary meetings**

- 1.3 Those listed below may request the Managing Director to call Council meetings in addition to ordinary meetings:
  - 1.3.1 the Council by resolution, or
  - 1.3.2 the Mayor, or
  - 1.3.3 the Monitoring Officer, or
  - 1.3.4 any five members of the Council if they have signed a requisition presented to the Mayor of the Council and if the Mayor has refused to call a meeting or failed to call a meeting within five working days of the presentation of the requisition.
  - 1.3.5 If the Mayor refuses to call an extraordinary meeting of the Council after a requisition for that purpose, signed by five members of the Council, has been presented to him, or if, without refusing to do so, the Mayor does not call a meeting then after the five working days have expired the five members can call an extraordinary meeting of the Council.

#### **Council may move to 'In Assembly'**

- 1.4 The Council may go beyond formal meetings, to which these rules of procedure apply and may move to In Assembly to which these rules of procedure do not apply.
- 1.5 This will enable members to invite presentations by other bodies and also enable general discussions, workshop events and opportunities to engage with the public, partners in the public and private sectors and other organisations.

#### **2. Agenda**

- 2.1 The Council may agree a programme of issues for debate throughout the year and may vary it from time to time.

- 2.2 Following consultation with the Managing Director, the order of the agenda will be agreed by the Mayor having regard to the following:
- 2.2.1 to choose a Member to preside if the Mayor and Deputy Mayor be absent;
  - 2.2.2 any business expressly required by statute to be transacted by the Council itself;
  - 2.2.3 to receive any announcements from the Mayor of the Borough;
  - 2.2.4 to approve as a correct record the minutes of the last meeting of the Council;
  - 2.2.5 to answer questions asked by members of the public pursuant to Rule 10;
  - 2.2.6 to consider reports of the Overview and Scrutiny Committee;
  - 2.2.7 to receive memorials or petitions (if any);
  - 2.2.8 for chairs of Committees to answer questions from Members pursuant to Rule 7.
  - 2.2.9 to receive and consider reports;
  - 2.2.10 to authorise the sealing of documents so far as the Council's authority is required by statute or this Constitution;
  - 2.2.11 to consider Notices of Motion in the order in which they have been received;
  - 2.2.12 to consider any items of urgent business (to be agreed by the Mayor on the basis of special circumstances).
- 2.3 When considering the strategic and budgetary framework at its February meeting, no other business will be considered by Council other than the budget and related proposals.

### **3. Motions and Amendments**

- 3.1 Any one or more members of the Council may, by notice received by the Monitoring Officer no later than 10.00 am **eleven working days** before the day of the Council meeting, require the Council to consider a motion about a matter relating to which the Council has powers or duties or which affects the Council's area.
- 3.2 Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the members giving notice state, in writing, that they propose to move it to a later meeting or withdraw it.

#### **Amendments**

- 3.3 Subject to Rule 3.4, notice of an amendment to a recommendation or motion on the agenda for a Council meeting may be given by two members to the Monitoring Officer by 10.00 am **four working days** before the day of the meeting but amendments arising from the debate at the Council meeting on a motion or recommendation will always be considered.
- 3.4 No amendment shall be considered with regard to the recommendation of the Strategy & Policy Board for the setting of the Council's budget unless notice of the

amendment has been given by two members to the Monitoring Officer by 10.00 am **five working days** before the day of the meeting.

#### **4. Quorum**

- 4.1 The quorum of a meeting of the Council will be one quarter of the whole number of members i.e. no less than 10 members.
- 4.2 If during any meeting of the Council the Mayor counts the numbers of members present and declares that there is not a quorum present then the meeting will adjourn. Remaining business shall be adjourned to the next ordinary meeting of the Council or to such other time and date as may be fixed by the Mayor.

#### **5. Signing the Minutes**

- 5.1 The Mayor will sign the minutes of the proceedings at the next suitable meeting.
- 5.2 The Mayor will move that the minutes of the previous meeting be signed as a correct record.
- 5.3 The only part of the minutes that can be discussed is their accuracy and any question as to their accuracy shall be raised by motion.
- 5.4 For the purposes of signing the minutes this will only take place at the annual meeting or at ordinary meetings.

#### **6. The Leader's Statement**

The Annual meeting of Council may receive:

- (i) an address from the Leader of the Council for up to **15 minutes** maximum;
- (ii) a response from the Leader of the main Opposition Group for up to **10 minutes**;
- (iii) a response from each of the leaders of the other political groups for up to **5 minutes** maximum per speaker;
- (iv) a response from any member who is not a member of a political group for up to **3 minutes**.

#### **7. Chair Reports and Questions**

- 7.1 A brief written report by each Committee Chair covering their area of responsibility will be circulated with the agenda for each Council meeting.
- 7.2 Subject to Rule 7.4, any member may ask a Chair a question on:
  - (a) any matter included in a Chair's written report; or
  - (b) any matter in relation to which the Council has powers or duties or which affects the Council's area and which falls within the area of responsibility of the Chair's Committee.
- 7.3 The period allowed for questions and answers will not exceed **60 minutes**.

- 7.4 A member may only ask a question under Rule 7.2 if notice in writing of the question has been received by the Monitoring Officer no later than 10.00 am **four working days** before the day of the Council meeting. Questions will be dealt with in the order in which notice was received.
- 7.5 An answer may take the form of:
- (a) a direct oral answer; or
  - (b) a reference to a publication, where the information is in a publication of the Council or other published work; or
  - (c) where the reply cannot conveniently be given orally (for example if is in the form of diagrams), a written answer will be circulated to all members at the meeting.
- 7.6 If the member who has given written notice of the question is not present when the question is to be put that question may, with the consent of the Mayor, be asked by any other member present.
- 7.7 If the member who has given written notice of the question is not present when the question is to be put, and that question is not put by another member then the Mayor will put the question.
- 7.8 If written notice of a question has been given in accordance with these Rules and the Committee Chair is not present when the question is to be put, then either:
- (a) a written answer will be provided subsequently to all members and placed with the minutes; or
  - (b) that question may, with the consent of the questioner, be answered by another Committee Chair.
- 7.9 A copy of each question and each written answer will be placed with the minutes.

## **8. Rules of Debate**

### **8.1 Motions without notice**

The following motions may be moved without notice:

- (1) to appoint a Chair of the meeting at which the motion is moved;
- (2) in relation to the accuracy of the minutes;
- (3) to change the order of business in the agenda;
- (4) to refer something to an appropriate body or individual;
- (5) to appoint a committee or member arising from an item on the agenda for the meeting;
- (6) to withdraw a motion;
- (7) to amend a motion (subject to Rule 3.4);

- (8) that the question be now put;
- (9) to adjourn a debate;
- (10) to adjourn a meeting;
- (11) to suspend a particular Council procedure rule;
- (12) to exclude the public and press in accordance with the Access to Information Rules;
- (13) to not hear further a member named under Rule 8.4.1 (improper or offensive behaviour) or to exclude them from the meeting under Rule 8.4.2 (continuing improper behaviour);
- (14) to give the consent of the Council where its consent is required by this Constitution.

## 8.2 Amendment without notice

Council will always consider an amendment even though notice of the amendment has not been given in accordance with Rule 3.3, subject to Rule 3.4 providing the amendment arises or emerges from the debate.

## 8.3 Rules of Debate

8.3.1 The Mayor has a right to require the motion to be put in writing and passed to him/her unless notice of the motion has already been given.

8.3.2 No speeches shall be made until the motion has been seconded.

8.3.3 Seconder's speech

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

8.3.4 Content and length of speeches

(a) The mover of a motion may speak for up to **5 minutes** when proposing a motion and also when exercising the right of reply.

(b) The seconder may speak for up to **5 minutes**.

(c) No speech by any other member may exceed **5 minutes**.

(d) Speeches must be directed to the question under discussion.

8.3.5 When Council is considering its strategic and budgetary framework

(a) the mover of the motion may speak for up to **15 minutes** and for up to **15 minutes** when exercising the right of reply;

(b) the seconder may speak for up to **10 minutes**;



- (c) the leader of the Main Opposition Group may speak, initially, for up to **10 minutes** and for up to **10 minutes** prior to the mover's right of reply at the close of the debate;
- (d) the leader of any other political group may speak for up to **10 minutes** after the main opposer's initial speech;
- (e) any member who is not a member of a political group may speak for up to **3 minutes**.

#### 8.3.6 When a member may speak again

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another member;
- (b) to move a further amendment if the motion has been amended since they last spoke;
- (c) to speak on the main issue, if their first speech was on an amendment moved by another member (whether or not the amendment on which they spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order;
- (f) by way of personal explanation; and
- (g) by way of providing information or clarification on the matter which is subject of debate.

#### 8.3.7 Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words;
 as long as the effect of (ii) to (iv) is not to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If the proposer and seconder of a motion accept an amendment then the motion will be debated as amended.

- (d) If an amendment is not carried, other amendments to the original motion may be moved.
- (e) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (f) After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, and, if there are none, put it to the vote.

#### 8.3.8 Alteration of motion

- (a) A member may alter a motion of which they have given notice with the consent of the Council. The Council's consent will be signified without discussion.
- (b) A member may alter a motion which they have moved without notice with the consent of both the Council and the seconder. The Council's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

#### 8.3.9 Withdrawal of motion

A member may withdraw a motion which they have moved.

#### 8.3.10 Right of reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on their amendment.

#### 8.3.11 Motions which may be moved during debate

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) to withdraw a motion;
- (b) to amend a motion (subject to Rule 3.4);
- (c) that the question be now put;
- (d) to adjourn a debate;
- (e) to adjourn a meeting;

- (f) to exclude the public and press in accordance with the Access to Information Rules; and
- (g) not to hear further a member named under Rule 8.4.1 or to exclude them from the meeting under Rule 8.4.2.

#### 8.3.12 Closure motions

- (a) A member may move, without comment, the following motions at the end of a speech of another member:
  - (i) that the question be now put;
  - (ii) to adjourn a debate; or
  - (iii) to adjourn a meeting.
- (b) If a motion that the question be now put is seconded, the Mayor will put the procedural motion to the vote. If it is passed the Mayor shall give a right to speak to the seconder if they have not already spoken, and will give the mover of the original motion a right of reply before putting their motion to the vote.
- (c) If a motion to adjourn the debate or to adjourn the meeting is seconded, the Mayor will put the procedural motion to the vote.

#### 8.3.13 Questions about the management of the business in a meeting

- (a) A member who is unclear about the process of the management of the business in a meeting or who wants to challenge the way a matter is proceeding shall put a question to the Mayor about the business management and the Mayor, upon advice from the Managing Director or the Monitoring Officer, shall determine the appropriate response. The Mayor's ruling shall be final.
- (b) If the Mayor is of the view that the whole of the business of a meeting cannot be accomplished satisfactorily in the time available, they may propose to the Council that certain items be held over to the next meeting.

#### 8.3.14 Point of order

A member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Procedure Rules or the law. The member must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Mayor on the point of order will be final.

#### 8.3.15 Personal explanation

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

#### 8.3.16 Point of Information or clarification

A member may raise a point of information or clarification at any time and the Mayor will hear them immediately. A point of information or clarification must relate to the matter being debated. The ruling of the Mayor on the admissibility of a point of information or clarification will be final.

#### 8.3.17 Motion to revisit a previous decision made within past six months

A motion or amendment to revisit a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least **19 Members**.

#### 8.3.18 Motion similar to one previously rejected within the past six months

A motion or amendment in similar terms to one that has been rejected at a meeting of the Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least **19 Members**. Once the notice or amendment is dealt with, no one can propose a similar motion or amendment for six months.

### 8.4 Members' Conduct

#### 8.4.1 Member not to be heard further

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

#### 8.4.2 Member to leave the meeting

If the Member continues to behave improperly after such a motion is carried, the Mayor may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion. It shall be the responsibility of the relevant Group Leader to ensure that the member leaves the meeting.

#### 8.4.3 General disturbance

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

### 8.5 Disturbance by Public

#### 8.5.1 Removal of member of the public

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

#### 8.5.2 Clearance of part of meeting room

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

## 9. **Voting**

91 Any matter will be decided by a simple majority of those members present in the room and voting at the time the question was put.

- 9.2 If there are equal numbers of votes for and against, the Mayor will have a second or casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote.
- 9.3 The Mayor has the discretion to conduct a vote by a show of hands or, if there is no dissent, by affirmation of the meeting. A show of hands will be the normal method of voting at Committees and Sub-Committees.
- 9.4 Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.
- 9.5 Where any **one member** rises and requests it immediately before the vote is taken, the voting on any question shall be recorded so as to show whether each member present gave his vote for or against that question or abstained from voting. The results of any vote so recorded shall be set out in the minutes of the meeting.

## **10. Questions from the Public**

- 10.1 A member of the public resident within the Borough of Brentwood may, through the Mayor, ask any question relating to the business of the Council, provided that notice is received by 10.00 am two working days before the meeting of the question to be asked by the Monitoring Officer at the Town Hall, Ingrave Road, Brentwood, Essex.
- 10.2 The following provisions apply in relation to questions from the public:-
- (a) Such questions shall be included on the agenda for the meeting as the next item of business after the approval of the minutes of the last meeting.
  - (b) Questions given to the Monitoring Officer in accordance with this Procedure Rule shall be submitted to the Council in order of receipt.
  - (c) The member of the public who wishes to ask the question shall be given the opportunity of attending the Council meeting to put the question in person but if not present to ask the question when the item is called, the question shall be deleted from the list of questions to be asked.
  - (d) The question shall be put to the Member named by the questioner.
  - (e) The Mayor of the Council at his/her discretion may disallow any question which is scurrilous, vexatious, improper, irrelevant or otherwise objectionable, and shall inform the questioner in writing prior to the meeting with reasons for the decision. Such questions and decisions shall be included on the agenda for the meeting if received in time or alternatively on an Information Sheet for Members. Any question requiring the disclosure of "Exempt Information" as defined under Part 1 of Schedule 12A of the Local Government Act 1972 (as amended) shall not be allowed.
  - (f) Every question asked pursuant to this Rule shall be put and answered without discussion but the Member to whom the question has been put may decline to answer.
  - (g) An answer may take the form of:
    - (i) a direct oral answer given at the Council meeting, or

- (ii) where there has been insufficient time to research the answer, a written answer will be sent to the questioner and circulated to all Members of the Council with the Minutes of the meeting at which the question was asked.
  - (h) The number of questions which may be asked by any one member of the public shall be limited to two at any one Council meeting.
  - (i) Time for questions from members of the public shall be restricted to 15 minutes in total. At the expiration of that period of time, any questions which have not been asked shall be answered in writing and the answer placed with the Minutes.
  - (j) There shall be no public question time at the Annual Meeting or an Extraordinary Meeting of the Council.
- 10.3 Every question from a member of the public shall be put and answered without discussion. An oral answer shall be recorded in the Minutes of the meeting.

## **11. Memorials or Petitions**

- 11.1 Memorials or petitions may be presented by any Member of the Council at a meeting of the Council, but such presentation shall not be accompanied by any speech or comment other than to mention the nature of the petition and the number of signatories. Every such memorial or petition shall stand referred, as appropriate, to the Committee within whose terms of reference it falls.
- 11.2 Any Member of the Council presenting a memorial or petition shall be entitled to attend the meeting of any Committee, of which he is not a Member to which that memorial or petition is referred and to take part in that meeting's deliberations concerning the subject matter of the memorial or petition but not to vote on the matter.

## **12. Disability from taking part in debate arising from arrears of council tax payments.**

- 12.1 Pursuant to the Local Government (Finance) Act 1992, a Member who is more than two months in arrears with payments of their Council Tax may not take part in any Meeting of the Council or its Committees, when any of the following matters are to be discussed:-
  - (a) Any matters relating to the Council's responsibilities as the billing and precepting Authority and any discussion on the capping regime.
  - (b) Anything to do with the setting of the Council Tax.
  - (c) Any matter which would have an effect on the calculation of the charge and anything else to do with the budget.
  - (d) Anything to do with the enforcement of the collection of Council Tax.
- 12.2 Failure to comply with the above provisions renders a Member liable to prosecution.

## **MEETING OF COMMITTEES AND SUB-COMMITTEES**

### **13. Election of a Chair**

- 13.1 Except where Council has appointed a Chair, every body shall elect a Chair and a Vice-Chair at the first meeting after the Council's annual meeting.
- 13.2 In the absence of the Chair or Vice-Chair from a meeting a Chair for the meeting may be elected for that meeting. The election of the Chair shall be conducted by the clerk to the meeting.
- 13.3 Where the Vice Chair takes the Chair of the meeting they shall forthwith nominate another member to act as Vice Chair.
- 13.4 The Chair or Vice Chair of a committee or sub-committee shall hold office until the next annual meeting unless they resign by giving notice in writing to the Managing Director or cease to be a member of the committee or sub-committee, or the Council.

### **14. Openness**

All meetings shall be in public unless the business requires members to consider 'confidential' or 'exempt' information (as defined in the Access to Information Rules in Part 4 of this Constitution) and shall take place at a venue accessible to the public.

### **15. Size**

<b>Committee</b>	<b>Membership</b>	<b>Quorum</b>
Strategy and Policy Board	13	4
Community Services	13	4
Performance and Resources	13	4
Overview and Scrutiny	12	3
Planning and Development Control	15	4
Licensing	15	4
Audit	7	2

### **16. Quorum**

All meetings (with the exception of Council) shall be quorate if at least one quarter of the members are present and at least half of those present are members of the Council, provided that in no case shall the quorum be fewer than two members of the Council, and, if the meeting is not quorate the meeting will adjourn. The remaining business will be adjourned to the next regular or arranged meeting.

### **17. Venue**

Meetings will be held in appropriate locations for the business as decided by the relevant committee.

### **18. Time**

Meetings will start at 7.00 pm unless the committee otherwise agrees.

## **19. Appointments and Substitutes**

- 19.1 Subsequent to Annual Council, the Managing Director on the nomination of Group Leaders, or in their absence Deputy Group Leaders, appoints and removes members of committees and subcommittees.
- 19.2 Where a Member cannot attend a meeting, he or she will contact the Committee Administrator by 5.00pm on the day before the meeting to let them know this and to confirm who will be coming in their place.
- 19.3 The names of substitutes shall be announced at the start of the meeting by the Chair and the substitution shall cease at the end of the meeting.
- 19.4 Substitutes for quasi judicial Committees must be drawn from members who have received training in quasi-judicial decision making. If a casual vacancy occurs on a quasi judicial Committee it will not be filled until the nominated member has been trained.
- 19.5 All members are entitled to attend the training provided for members of quasi judicial Committees.

## **20. Proportionality**

Membership of committees and subcommittees will reflect proportionality. The Monitoring Officer shall be responsible for calculating the entitlement of each political group to places on committees and subcommittees and shall notify Group Leaders.

## **21. Rights to attend and speak**

Any Member may attend any body to which these Procedure Rules apply.

A Member who is not a member of the committee may speak at the meeting if they have given prior notification by no later than one working day before the meeting to the Chair and advised them of the substance of their proposed contribution.

The member may speak at the Chair's discretion, it being the expectation that a member will be allowed to speak on a ward matter.

## **22. Co-option**

Generally a Committee, or a subcommittee may co-opt a person or persons onto itself. Any person so co-opted may speak but not vote.

## **23. Interpretation of Rules of Procedure and Notices**

Except where otherwise provided, the Monitoring Officer will consult with the Chair, Group Leaders and chief officers over matters of interpretation and is responsible for making a determination if necessary.

## **24. Outside Bodies**

- 24.1 Any person appointed by Council to serve on an outside body shall be appointed until they resign, are dismissed or their successor is appointed. Members shall cease to



hold appointments on the fourth day after the ordinary day of election unless they are re-elected as a Borough Member at the Election.

24.2 The Managing Director will:

- (a) in consultation with the appropriate Group Leaders, revise as necessary appointments to outside bodies arising as a result of a vacancy or otherwise;
- (b) in consultation with the Leader of the Council and the Group Leaders, agree the allocation of appointments to any new outside bodies or organisations.

## **PART 4.2**

### **ACCESS TO INFORMATION RULES**

## **ACCESS TO INFORMATION RULES**

### **1. Scope**

These rules apply to all meetings of the Council, its committees and sub-committees.

### **2. Additional rights to information**

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

### **3. Rights to attend meetings**

Members of the public may attend all meetings subject only to the exceptions in these rules.

### **4. Notices of meeting**

The Council will give at least five working days' notice of any meeting (excluding the day of publication and the day of the meeting) of the Council, a committee or sub-committee by posting details of the meeting at Town Hall, Ingrave Road, Brentwood (the designated office).

### **5. Access to agenda and reports before the meeting**

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five working days before the day of the meeting.

### **6. Supply of copies**

The Council will supply copies of:-

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the monitoring officer thinks fit, copies of any other documents supplied to members in connection with an item;

to any person.

### **7. Access to minutes etc. after the meeting**

The Council will make available copies of the following for six years after a meeting:-

- (a) the minutes of the meeting excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) the agenda for the meeting; and
- (c) reports relating to items when the meeting was open to the public.

## 8. **Background papers**

### 8.1 **List of background papers**

The managing director will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:-

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report;

but does not include published works or those which disclose exempt or confidential information.

### 8.2 **Public inspection of background papers**

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## 9. **Summary of public's rights**

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and available to the public at the designated office.

## 10. **Exclusion of access by the public to meetings**

### 10.1 **Confidential information – requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

### 10.2 **Exempt information – discretion to exclude public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6 of the Act.

### 10.3 **Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

### 10.4 **Meaning of exempt information**

Exempt information means information falling within any of the categories listed in the table below, subject to the applicable conditions and provided that information:

- is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992; and
- is exempt information so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Category	Condition
1. Information relating to any individual. <b>(Information relating to an individual)</b>	
2. Information which is likely to reveal the identity of an individual. <b>(Information identifying an individual)</b>	
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information). <b>(Financial or business affairs)</b>	Information is not exempt if it is required to be registered under the Companies Acts (as defined in section 2 of the Companies Act 2006), the Friendly Societies Acts 1974 and 1992, the Cooperative and Community Benefit Societies and Credit Union Acts 1965 to 1978, the Building Societies Act 1986, or the Charities Act 1993.
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Authority or a Minister of the Crown and employees of, or an officer holder under, the authority.	
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. <b>(Legal privilege)</b>	
6. Information which reveals that the Authority proposes: (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person (b) to make any order or direction under any enactment. <b>(Enforcement proceedings)</b>	
7. Information relating to any action or to be taken in connection with the prevention, investigation or prosecution of crime. <b>(Crime prevention, investigation or prosecution)</b>	

11. **Exclusion of access by the public to reports**

If the managing director thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

**PART 4.3**

**BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

**BUDGET AND POLICY FRAMEWORK**  
**PROCEDURE RULES**

**(a) Policy Framework and Budget**

The Council is responsible, on an annual basis, for the adoption of its Budget and Policy Framework as set out below. The Council may agree to amend the annual timescale in respect of specific policies which have longer term significance, where it considers this to be appropriate. Once the Budget and Policy Framework are in place, it is the responsibility of the Strategy and Policy Board to implement them.

**(b) Developing the Policy Framework and Budget**

- (i) After consulting stakeholders in a manner appropriate to the matter under consideration, the Strategy and Policy Board draws up initial proposals in relation to any plan, strategy or budget which forms part of the Budget and Policy Framework. Once drawn up, the Proper Officer sends copies of the document to the Chair of the Overview and Scrutiny Committee together with dates when the Strategy and Policy Board is to consider them further.
- (ii) The Overview and Scrutiny Committee will be convened to formulate responses to the Strategy and Policy Board's initial proposals and whether any consultation by it, is appropriate.
- (iii) The Strategy and Policy Board finalises its proposals for the Council taking into account the comments from the Overview and Scrutiny Committee. The report to Council must show the Strategy and Policy Board's response to those comments.
- (iv) The Council considers the proposals of the Strategy and Policy Board and may adopt them, amend them, refer them back to the Strategy and Policy Board for further consideration, or substitute its own proposals in their place.
- (v) The Council's decision is to be publicised within two working days of the Council meeting and a copy must be given to the Leader of the Council. If the Council accepts the Board's recommendation without amendment the Council's decision has immediate effect. If the Strategy and Policy Board's proposal is not accepted the Council's decision will become effective on the expiry of five working days after the publication of the decision, unless the Strategy and Policy Board raises an objection to it within that period.
- (vi) If the Strategy and Policy Board objects to this decision written notice must be given to the Proper Officer stating the reasons for the objection. The Proper Officer will convene a meeting of the Council within 10 days. The decision cannot be implemented pending that meeting.
- (vii) The Council's decision, if not in accordance with the recommendation of the Strategy and Policy Board shall:-
  - (a) be approved by simple majority of votes cast at the meeting; or



- (b) if the Council has made a different but still not in accordance with the Strategy and Policy Board's recommendations by a two-third majority vote count at the meeting.
- (viii) The decision must then be made public in accordance with the Council's Procedures and must be implemented immediately.
- (ix) Once the policies and strategies within the Budget and Policy Framework are in place, they may only be amended by the Council.
- (c) **Decisions outside the Policy Framework or Budget**
  - (i) Subject to the provisions of the Financial Procedures, the Strategy and Policy Board may only take decisions which are in line with the Budget and Policy Framework. If the Strategy and Policy Board wishes to make a decision which is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, then that decision may only be taken by the Council and not by the Strategy and Policy Board.
  - (ii) If the Strategy and Policy Board wants to make a decision outside the Policy Framework, they must take advice from the Head of Paid Service, the Monitoring Officer and the Section 151 Officer as to whether the decision they wish to make would breach the Council's existing Policy Framework and Budget. If the advice of either of those officers is that the decision would not be in line with the existing Policy Framework and Budget, the matter must be referred to the Council for decision, unless the decision is a matter of urgency, in which case Urgent Action Procedure Rules apply.

(d) **Changes to Policy Framework and Budget**

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Strategy and Policy Board must be in line with it. No changes to any policy and strategy which make up the Budget and Policy Framework may be made by the Strategy and Policy Board unless they involve changes:-

- (i) which are minor and would not involve total expenditure of £5,000 or more;
- (ii) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (iii) in relation to the Policy Framework in respect of a policy which the Council normally agree annually following consultation, but in circumstances where the existing policy framework does not cover the matters under consideration.

(e) **Virement Arrangements**

- (i) Virements by the Strategy and Policy Board must be taken in accordance with the Procedures.
- (ii) In taking steps to implement Council policy, the Strategy and Policy Board must not exceed those budgets allocated to different services or projects as approved by the Council. However the Strategy and Policy Board is entitled to vire across different services or projects where each individual virement does not exceed **£200,000**. Beyond that limit, approval to any virement across different services or projects shall require the approval of the full Council.

(f) **Scrutiny of decisions outside the Policy Framework and Budget**

- (i) Where Overview and Scrutiny Committee is the opinion that a Strategy and Policy Board decision is, or would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget, then this must be reported to the Head of Paid Service and the Monitoring Officer and the S151 Officer.
- (ii) If the decision has not been made, or implemented, and the advice from the Officer(s) is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly consistent with the Budget, the Overview and Scrutiny Committee may refer the matter to the Council. In such cases, no decision shall be implemented until the Council has met and considered the matter. The Council must meet within 10 working days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Head of Paid Service and the Monitoring Officer Services and the S151 Officer. The Council may either:
- (1) Endorse a decision or proposal of the Strategy and Policy Board as falling within the existing Policy Framework and/or Budget. In this case no further action is required, save that the decision of the Council shall be minuted and circulated to all Members in the normal way.
  - (2) Amend the Budget and Policy Framework to include the decision or proposal of the Strategy and Policy Board and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council must be minuted and circulated to all Members in the normal way.
  - (3) Where the Council accepts that the decision or proposal is contrary to the Budget and Policy Framework and does not amend the existing framework to accommodate it, the Strategy and Policy Board is required to reconsider the matter in accordance with the advice of the Head of Paid Service and the Monitoring Officer and/or the S151 Officer.

## **PART 4.4**

### **OVERVIEW AND SCRUTINY PROCEDURE RULES**

## OVERVIEW AND SCRUTINY PROCEDURE RULES

### THE OVERVIEW AND SCRUTINY COMMITTEE

#### **1. Composition of the Overview and Scrutiny Committee**

- 1.1 The Council has established an Overview and Scrutiny Committee consisting of 12 members of the Council to undertake the performance of all overview and scrutiny functions on behalf of the Council.
- 1.2 The Overview and Scrutiny Committee shall be chaired by a Member of one of the Opposition Groups on the Council and the appointment shall be made at Annual Council.
- 1.3 The Council's local protocol for the Overview and Scrutiny Committee is that no members of the Strategy and Policy Board, Community Services Committee or Performance and Resources Committee will be members of the Overview and Scrutiny Committee.
- 1.4 No member may participate in the scrutiny of a decision in which he/she has been directly involved unless he/she attends a meeting for the purpose of making representations, answering questions or giving evidence.
- 1.5 Up to three non-voting co-optees can be appointed to assist the work of the Overview and Scrutiny Committee.

#### **2. Composition of Task and Finish Groups**

- 2.1 The Overview and Scrutiny Committee may appoint such task and finish groups as they consider necessary, in line with agreed protocols, to undertake specific tasks on their behalf.
- 2.2 The Overview and Scrutiny Committee will determine the size and membership of a task and finish group, terms of reference, the date for completion of a task and, where appropriate, appoint a chair from the membership of the Overview and Scrutiny Committee.
- 2.3 Task and finish group members can be drawn from across the Council.

#### **3. Meetings of the Overview and Scrutiny Committee**

There shall be at least four ordinary meetings of the Overview and Scrutiny Committee in each municipal year, with extra-ordinary meetings called when appropriate (for example to deal with a call-in).

#### **4. Quorum**

The quorum for the Overview and Scrutiny Committee shall be at least one quarter of the whole number of the Committee provided that in no case shall the quorum of the Committee be less than three members.

#### **5. Work Programme**

- 5.1 The Overview and Scrutiny Committee will be responsible for setting its own work

programme. The Overview and Scrutiny Committee will have particular regard to the Budget, Corporate Plan, Forward Plan and significant national issues. Also, to seek to include the scrutiny of external facing matters that are of significant interest to local communities.

- 5.2 In forming and revising the Committee's work programme, the chair will engage in regular dialogue with other Committee chairs to maintain an up to date overview of up and coming issues.
- 5.3 The Strategy and Policy Board, Community Services Committee and Performance and Resources Committees may identify issues or studies they wish to be considered by the Overview and Scrutiny Committee.
- 5.4 The Overview and Scrutiny Committee will also respond, as their work programme permits, to requests from the Council and its Committees to review particular areas of Council activity and where they do so, shall report their findings and any relevant recommendations to the relevant Board or Committee.

## **6. Consultation and attendance**

- 6.1 The Overview and Scrutiny Committee, or a Task and Finish Group, may invite any person to attend a meeting to address the Committee or Task and Finish Group, raise issues of local concern and/or answer questions.
- 6.2 The Overview and Scrutiny Committee, or a Task and Finish Group, may consult and involve the local community and other local public, private and voluntary bodies and organizations.
- 6.3 The Overview and Scrutiny Committee, or a Task and Finish Group, may hear from councillors, residents, stakeholders, staff, people with specific knowledge or experience, and other persons as it is considered appropriate.
- 6.4 As well as reviewing documentation in fulfilling the Overview and Scrutiny Committee role, the Committee may require any Member of a Board or Committee, the Managing Director and or any other senior officer to attend before it to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy.
- 6.5 The Member or Officer shall be given not less than 10 working days notice in writing of the meeting at which he/she is required to attend and whether any papers are required to be produced to the Committee. When the account to be given to the Committee requires the production of a report then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 6.6 It is the duty of any Council member or member of staff to comply with any request to attend and answer questions. Reasonable notice will be given by the Committee, and in exceptional circumstances where attendance is not possible on the required date, the Committee shall, in consultation with the person(s) concerned, arrange an alternative date.

## **7. Reports from Overview and Scrutiny Committee**

- 7.1 Once it has formed recommendations on proposals for development the Overview and Scrutiny Committee will prepare a formal report and submit it for consideration by the appropriate Committee (if the proposals are consistent with existing budgetary and policy framework) or to the Council as appropriate.
- 7.2 The relevant Board, Committee or the Council shall consider the report of the Overview & Scrutiny Committee at the earliest opportunity and wherever possible within two months of it being submitted.
- 7.3 The Overview & Scrutiny Committee shall produce an Annual Report to be presented to Council summarising its investigation and findings.

## **8. Rights of Overview and Scrutiny Committee Members to Documents**

The Overview and Scrutiny Committee has the right to inspect any part of a document that contains exempt or confidential information provided the information is relevant to an action or to a decision being reviewed or scrutinised or intended to be scrutinised by the Overview & Scrutiny Committee. This provision is not intended to override the restrictions that apply where a Councillor has a prejudicial interest in a matter or document.

## **9. Call-in**

- 9.1 All of the rules and procedures relating to call-in seek to recognize that in a Committee System every non-delegated decision is taken in a politically balanced committee, where all councillors who are members of that committee have the opportunity to question and debate the issues in hand in public forum and participate in the decision-making process. Call-in procedures and practices should recognise this, and the procedures set out intend to allow decisions to be swiftly implemented.
- 9.2 Call-in is intended to be used only in exceptional circumstances, the procedure being seen as a last resort through which councillors may request scrutiny of a decision they believe to be contrary to the authority's decision making principles. The process cannot be used simply because members disagree with a decision that has been taken.

### **What is a call-in?**

- 9.3 Where there is concern about a decision which has just been taken, there is a formal procedure to allow it to be "called in" so members of the Overview and Scrutiny Committee can review it before the decision is implemented. It is a key way of holding decision-makers to account. A called-in decision cannot be implemented until it has been considered by the Overview and Scrutiny Committee, which can examine the issue and question the decision-taker on the actions taken. The Overview and Scrutiny Committee does not have the power or remit to change or overturn a decision taken elsewhere.

### **Who can call in a decision?**

- 9.4 Any councillor can start the call-in procedure.  
Decisions can be called in by eight individual councillors

### **What can be called-in?**

9.5 Call-in powers relate to executive functions. Subject to the exceptions listed below, any decision made by the Strategy and Policy Board, Community Services Committee or Performance and Resources Committee or a key decision made by an officer with delegated authority may be called-in.

### **What can't be called-in?**

9.6 The following categories of decision cannot be called-in:

- (1) a decision which is not a key <sup>1</sup>decision, and which has been taken by an officer under delegated powers;
- (2) a decision which the decision-taker has certified as urgent (giving reasons) in accordance with the Council's Rules of Procedure;
- (3) a decision relating to a matter which has already been the subject of a call-in during the previous six months;
- (4) any decision relating to a non-executive function, whether taken by a Committee or an officer under delegated powers;
- (5) a decision by, or to be taken by, the full Council; or
- (6) a decision taken at stage 4 of the call-in procedure (see below);
- (7) a decision that has gone through pre-scrutiny, except for where there is evidence that due process has not been followed.

9.7 In particular, it should be noted that the Overview and Scrutiny Committee cannot scrutinise individual decisions made by, or on behalf of, the regulatory / quasi-judicial committees of the Council, eg decisions relating to development control, licensing, registration, consents and other permissions. Nor can it scrutinise decisions taken by committees or sub-committees relating to individual members of staff, or recommendations by the Independent Remuneration Panel.

9.8 Furthermore, although they may be key decisions (and included in the Forward Plan), decisions taken by the committees when preparing annual budget or new policy proposals for submission to the full Council will not be subject to call-in. In these circumstances the full Council is responsible for the final decision and the Overview and Scrutiny Committee will be consulted, even if it has been involved earlier in the process.

### **When can a decision be called-in?**

9.9 It is important that the call-in process is not abused, nor causes unreasonable delay; the main tool of the Overview and Scrutiny Committee to improve the delivery of policies and services should be detailed reviews, rather than call-ins.

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<sup>1</sup> A "Key Decision" is defined as a decision that is likely to result in the Council incurring expenditure, which is, or the making of savings which are, over £5,000; or to be significant in term of its effects on communities living or working in an area comprising two or more wards in the area of the Borough.

- 9.10 Call-ins should be reserved for exceptional circumstances. Broadly, a decision can be called-in when councillors:
- have evidence that it may be contrary to the normal requirements for decision-making;
  - have evidence that it may be contrary to the Council's agreed policy framework and/or budget;
  - lack reasonable and significant information from the decision-taker to explain why it was taken.
- 9.11 Any decision which is subject to potential call-in cannot be implemented until the end of the call-in period. The call-in period lasts for **five working days** after relevant minutes are published by the Head of Legal and Democratic Services.
- 9.12 Minutes of the committees will be published on the Friday of the week in which the decision was taken. This means that the normal call-in period will expire at 4:30m on the following Friday (adjusted for bank holidays as appropriate). Call in requests received after this will not be accepted.
- 9.13 Call-in requests may be submitted prior to publication of the minutes, however validity will not be determined until the minutes are available for consideration alongside the call-in request.

## **10. The call-in procedure itself follows four stages**

### **STAGE 1**

- 10.1 A valid call-in request must be submitted in accordance with the current rules in the Constitution. The request must say who is making the call-in and to which decision it relates. It must also give:
- reasons and evidence to support why the decision is being submitted for call-in;
  - what action the caller-in would like to see the decision-maker take to address the concerns outlined in the call-in, **or** how the original decision should be varied; and
  - details of attempts the caller-in made to discuss the issue with the relevant Chairman in advance of calling the decision in. If reasonable attempts were not made in advance, the call in will not be accepted.

A pro-forma will be made available.

- 10.2 Requests may also be submitted by electronic mail, fax or by telephone. If the call-in is to be submitted by e-mail, only one councillor need submit the actual form/request. However, individual e-mails (or letters) in support of the request must also be submitted by the other councillors specified on the form before the end of the call-in period. Call-ins submitted by fax or telephone must be followed up in writing with the required number of signatures before the end of the call-in period.
- 10.3 In the event of lack of clarity about the validity of a call-in; the Monitoring Officer (in consultation with the Chair of O&S and the Managing Director) will decide.



- 10.4 In exceptional cases, where there is clear evidence that a delay to the implementation of a decision would lead to a specific and significant financial or reputational harm to the Council, a call-in request may be refused.
- 10.5 Where a submitted call-in request is considered as invalid, the councillors requesting the call-in will be written to by the Monitoring Officer explaining the reasoning for the decision.

## **STAGE 2**

- 10.6 When the officers receive a valid call-in request with respect to a decision, then that decision may not be implemented until that decision has completed the call-in procedure. The officers will convene a meeting of the Overview and Scrutiny Committee to take place within 10 working days of the receipt of a valid call-in request. In setting the date of the call-in hearing, all efforts will be made to maximize attendance by O&S Committee members, relevant Committee chairs and required officers and other witnesses. The chair of the relevant Committee will be kept informed and invited to address the O&S Committee. Councillors who have requested the call-in will have the right to address the Committee when it deals with the issue.

## **STAGE 3**

- 10.7 The Overview and Scrutiny Committee will consider the called-in decision and decide to take one of the following courses of action (the Overview and Scrutiny Committee's decision should not be adjourned or delayed without an exceptional reason):
- (1) to allow the decision to be implemented without further delay.
  - (2) to refer the decision back to the relevant committee together with the observations of the Overview and Scrutiny Committee. The Committee will then take the final decision, and that decision may not be called in.
  - (3) to request the decision-making Committee Chair to allow further time for the Overview and Scrutiny Committee to consider the issue and make observations at a later date.
  - (4) referral to Monitoring Officer (S106 officer) and/or S151 officer for further consideration (for exceptional / complex matters).

## **STAGE 4**

### Reference back to Committee

- 10.8 Where the Overview and Scrutiny Committee decides to refer the decision back, the relevant Committee must reconsider the decision in the light of any observations of the O&S Committee.
- 10.9 Where the Overview and Scrutiny Committee has requested more time to consider an issue, the decision-making Committee Chair must have regard to the urgency, and to the Budget and Policy Framework Rules, when deciding whether to implement the decision.

## Reference to Monitoring Officer and/or Section 151 Officer

- 10.10 The Overview and Scrutiny Committee may, in exceptional circumstances, refer the called-in decision to the Monitoring Officer (S106 officer) and/or the S151 Officer if it considers it to be contrary to the policy framework or budget. This should only refer to complex matters that cannot be adequately examined within the call-in hearing itself. The relevant officer(s) will then submit a report on the matter to the next meeting of the relevant Committee. A copy of this report will be sent to all members of the Council. No action may be taken in respect of the decision or its implementation pending that meeting. If, in that report, the Monitoring Officer (S106 officer) and/or the S151 Officer is of the view that a decision referred to him/her by the Overview and Scrutiny Committee is not a departure from the policy framework or budget, the decision may be implemented immediately. A report to this effect will be submitted to the Overview and Scrutiny Committee for information. If, however, a referred matter is deemed to be a departure from the policy framework or the budget by the Monitoring Officer (S106 officer) and/or the S151 Officer, the relevant Committee has two options.
- 10.11 Firstly, it may choose to adjust its decision to bring it within the policy framework or budget, in which case it can then be implemented. In these circumstances, the Committee would submit a report to the next meeting of the Overview and Scrutiny Committee explaining its actions.
- 10.12 Secondly, if the Committee does not wish to adjust its original decision, it must prepare a report for the full Council. This report must include the views of the Overview and Scrutiny Committee. No action may be taken in respect of the decision or its implementation until the Council has met to consider the matter.

## **11. Reference to Full Council**

- 11.1 Subject to the provisions above, the Overview and Scrutiny Committee may require that any called-in matter which has been deemed to be (and remains) contrary to the policy framework or budget is referred to the full Council. The report to the full Council will set out the views of the relevant Committee and the Overview and Scrutiny Committee and the advice of the Monitoring Officer and/or the S151 Officer.
- 11.2 The Council may:
- decide that the decision is within the existing policy framework and/or budget (in which case it can be implemented); or
  - amend the financial regulations or policy concerned to encompass the decision (in which case it can be implemented); or agree that the decision is contrary to the policy framework or budget and require the Committee to reconsider the matter in accordance with the advice of the officer(s).

## **12. Procedure for Call-in hearings**

- 12.1 The following protocol is intended to formalise the conduct of call-in hearings and the preparation work carried out in the run-up to such a hearing.

### **Prior to the Call-in**

- 12.2 A meeting will take place between the Chairman and Vice Chairman of the Overview and Scrutiny Committee, Chairman of the relevant committee, relevant officers, Head

of Legal and Democratic Services and the caller-in, at which a definitive list of witnesses for the call-in hearing will be drawn up, together with question plans for each witness, as appropriate.

- 12.3 A Chair of the decision-taking Committee statement may be published with the agenda for the meeting.
- 12.4 A caller-in's statement will be published with the agenda for the meeting, should the caller-in wish to provide such a statement.
- 12.5 The caller-in and relevant committee chairman will be invited to the meeting, together with any other parties relevant to the decision-making process, for example Chairs of other Committees or Board, or officers.
- 12.6 Any other relevant internal or external witnesses will be invited to the meeting.
- 12.7 Five working days notice of a request to attend the meeting will be given to all witnesses. If a question plan is to be produced, five working days notice of the questions planned will also be given to witnesses.
- 12.8 Any witness at a call-in who does not have a question plan, but is being asked for his or her views on a particular issue, will be invited to speak for no more than three minutes.
- 12.9 Prior to the meeting any councillor who may have a conflict of interest should declare that conflict, and will be given relevant advice by the Monitoring Officer.

### **13. The Call-in meeting**

- 13.1 The call-in will be the first item of business on the agenda, in order that witnesses are not kept waiting.
- 13.2 Witnesses will be placed around the table with the Committee if space permits, but if there are a large number of witnesses or other attendees at the meeting, they may be required to wait in a separate seating area or the public gallery.
- 13.3 The caller-in will be invited to make a presentation outlining his or her main reasons for calling in the decision. A question and answer session will follow.
- 13.4 The decision-taker will be invited to make a presentation outlining his or her main reasons for making the decision. A question and answer session will follow.
- 13.5 Any other parties relevant to the decision-making process, for example Chairs of other Committees or Boards, Spokespersons or officers, will be invited to make presentations outlining their reasons for any recommendations on the issue concerned, or in the case of officers their reasons for any recommendations or advice to councillors. Question and answer sessions will follow.
- 13.6 Any other relevant internal or external witnesses will be invited to make a presentation to the Committee without interruption, for up to three minutes each, following which there will be a question and answer session.
- 13.7 Witnesses will be given the opportunity to add any points of clarification before any resolution or recommendation is moved.

13.8 The caller-in will be given the opportunity to add any points of clarification before any resolution or recommendation is moved.

#### 14. Call-in Checklist

The above rules and criteria have been brought together in the checklist of questions (or tests). Councillors should use this checklist when they are considering a call-in. Questions 2 - 4 should also be used by report authors to test draft reports for completeness.

<p>1. Can the decision actually be called- in?</p> <p><b>If the answer to any of questions 1(a)-(g) is “yes” then the decision can NOT be called-in.</b></p>	<p>a) Does it relate to a non-executive function?  b) Was it a non-key decision taken by an officer under delegated powers?  c) Was it classified as an urgent decision?  d) Has this issue been called-in in the last 6 months?  e) Does the decision relate to an existing call-in (ie decisions taken in relation to a reference back)?  f) Does the decision relate to the formulation of a policy or budget matter which requires full Council approval?  g) Was it a decision taken by, or to be taken by, full Council?</p>
<p>2. Was the decision in accordance with the Council’s policy framework?</p>	<p>a) What is the relevant policy or strategy?  b) Is the decision contrary to that policy?  c) If yes, how? (Evidence must be provided at the time of the call in.)</p>
<p>3. Was the decision in accordance with the agreed budget or budget procedures?</p>	<p>a) Is there funding for the proposal in an agreed budget/capital programme? (If yes, no call in can be evoked on this ground)  b) If no, have the rules for virement and supplementary estimates been observed?</p>
<p>4. Was the decision taken in accordance with the Council’s Constitution and the principles of decision-making?</p>	<p>a) Does the decision comply with the Council’s Constitution, ie</p> <ul style="list-style-type: none"> <li>• Articles of Constitution</li> <li>• Scheme of Delegation</li> <li>• Rules of Procedure</li> <li>• Codes and Protocols</li> </ul> <p>b) Did the decision taken show a reasonable regard for the following:</p> <ul style="list-style-type: none"> <li>○ The presumption in favour of openness and transparency.</li> <li>○ The need for consultation with interested parties.</li> <li>○ The need to take account of relevant professional advice from appropriate officers.</li> <li>○ The need for clarity of aims and desired outcomes.</li> <li>○ The need to identify the range of options considered.</li> <li>○ The need to give reasons and explanation for a decision.</li> </ul>

## 15. Councillor Call for Action Protocol

### Introduction

- 15.1 The 'Councillor Call for Action' (CCfA) was introduced under Section 119 of the Local Government and Public Involvement in Health Act 2007. The Act enables any member of the Council to refer to the Overview and Scrutiny Committee any local government matter (under the jurisdiction of the council where the CCfA is being considered) or any crime and disorder matter which affects their ward/division.
- 15.2 The power to refer a matter is available only where the matter is of direct concern to the ward that the councillor represents. A councillor can refer a matter even if no citizen has asked him/her to consider it, and there is no requirement for councillors in multi-member wards to agree – any of them can refer a matter.

### Limitations

- 15.3 It is important to recognise that CCfA is not guaranteed to solve a given problem. CCfA can provide a method for discussing such problems and, through discussion, trying to overcome them.

### Issues excluded from referral as a CCfA

- 15.4 The regulations exclude the following matters from referral as a CCfA:
- Individual complaints concerning personal grievances or commercial issues.
- 15.5 Any matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman), for example:
- Planning and licensing applications and appeals;
  - Council Tax/Housing Benefits complaints and queries;
  - Issues currently under dispute in a court of law;
  - Any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Committee or any of its sub-committees.
- 15.6 A referral, provided it is not an excluded matter (see above), will ensure that the matter is included on the agenda of the Overview and Scrutiny Committee. It is then up to the members of the committee to decide whether or not to take the matter further. A referral made to the Overview and Scrutiny Committee is seen as being the end of the CCfA process (**the last resort**) and not the first step.

## 16. Steps to be taken prior to making a Councillor Call for Action referral

- 16.1 Prior to a councillor referring a matter as a CCfA to the Overview and Scrutiny Committee, a councillor **must** have tried to resolve the issue/problem themselves using all mechanisms and resources available to them at ward level. Councillors should:
- If a local crime and disorder matter, raise the issue through the Community

Safety Partnership to find a way to resolve the issue.

- Ensure that all relevant partner organisations have been informed of the issue and given enough time to resolve it, for example through formal letters written on behalf of constituents, discussion at public meetings, petitions, communication with local MPs and councillors in other authorities and so on.
- Ensure that all relevant internal potential routes to solution have been followed, for example specific discussions with officers and/or members, questions at committees, motions on the agenda at full Council and so on.
- Ensure that this is not an issue that is currently being or should be pursued via the council's complaints procedure.
- Ensure this is not a matter which has previously been ruled out by the Administration (in the last 12 months).
- Ascertain whether or not any other form of local scrutiny is investigating the issue, for example Essex County Council.

## **17. How to make a Councillor Call for Action referral**

17.1 If the issue/problem is still not resolved the councillor can refer it to the Overview and Scrutiny Committee as a 'Councillor Call for Action'. To do this the councillor should firstly speak to the relevant Chairman about their intention to see if any other route can be taken etc. If not, complete and submit to the lead Scrutiny Officer a CCfA Request Form outlining what the issue is and what steps have been taken towards a resolution. The request form for a CCfA includes:

- The name of the councillor and ward they represent.
- Title of the CCfA and date of submission.
- A brief synopsis of what the main areas of concern are.
- Which organisations have been contacted in trying to resolve the issue and people and timeframes to respond.
- Responses received from those organizations.
- Whether the committee has considered a similar issue within the last 12 months and how this issue differs from that.
- Whether the issue should be considered through the council's complaints procedure.
- Whether the issue relates to a quasi-judicial matter such as development control or licensing.
- Whether a similar or related issue is the subject of a review on the current work programme.
- Whether the issue is currently being looked at by another form of local scrutiny.
- The potential for scrutiny of the issue to produce real improvements.

- Whether the CCfA is currently the subject of legal action by any party (to your knowledge) or is being examined by a formal complaints process.
  - Whether there are any deadlines associated with the CCfA of which the Overview and Scrutiny Committee needs to be aware.
- 17.2 Members are required to produce all their evidence regarding actions already taken in relation to the issue, and responses received from organisations contacted, at the time of submitting the CCfA Request Form.
- 17.3 The Lead Officer will receive the referral form, log it to track its progress and, with the advice of the Head of Legal and Democratic Services, assess the issue to ensure that it is not a matter excluded from referral to Overview and Scrutiny Committee.
- 17.4 The Head of Legal and Democratic Services will, if necessary, advise the member that more evidence should be added in any section of the CCfA submission, although it will be the decision of the referring Councillor as to whether he or she chooses to provide more evidence, or wishes to submit the form in its original state.
- 17.5 The Lead Officer will inform the Chairman of the Overview and Scrutiny Committee that the item will be included on the next Committee agenda. The councillor will be informed whether or not their referral has been successful. Officers and Chairs of Committee cited in the submission will be contacted to notify them of the CCfA, and given the opportunity to respond to any statements made about their involvement in the matter.
- 17.6 In the event of lack of clarity about the validity of a CCfA submission; the Monitoring Officer (in consultation with the Chair of O&S and the Managing Director) will decide.
- 17.7 A successful referral will ensure that the CCfA will be placed on the next agenda of the Overview and Scrutiny Committee. It is then up to the members of the committee to decide whether or not to take the matter further.

**18. Decision of the committee whether to take the matter further**

- 18.1 In deciding whether or not to take the matter further the committee will consider:
- Anything that the councillor has done in relation to this matter.
  - Representations made by the councillor as to why the committee should take the matter up. (Councillors have the option of either presenting their CCfA form without supporting papers, or of preparing a report setting out their views. Any reports prepared by councillors will be circulated with the agenda alongside the CCfA referral form).
  - The Council's Corporate Plan and priorities and whether the matter / proposals contravene these, along with financial implications of the proposals.
- 18.2 The criteria the committee will use to decide whether or not to take the matter further include:
- Is the committee satisfied that all reasonable attempts have been made to resolve the issue by the ward councillor? And do the responses received by the referring councillor demonstrate that the matter is not being progressed?

- Has the Council considered a similar issue in the last 12 months – if yes have the circumstances or evidence changed?
  - Is there a similar or related issue which is the subject of a review on the current work programme? It may be more appropriate to link the new issue to an existing review, rather than hold a separate CCfA hearing. Relevant time pressures on resolving the CCfA should be taken into account.
  - Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response has the councillor received?
  - Is this a case that is being or should be pursued via the council's corporate complaints procedure?
  - Is it relating to a 'quasi-judicial' matter or decision such as planning or licensing?
  - Is the issue part of an individual's own personal agenda (an issue of genuine local concern should have an impact on the local community).
  - Is this an issue currently being looked at by another form of local scrutiny, for example Essex County Council?
  - And, as with all scrutiny, does the matter referred have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the referring member's ward?
- 18.3 In considering the CCfA, the Overview and Scrutiny Committee may invite the relevant portfolio holder, chief executive, director, head of service or external organisation to discuss the issue with the committee and answer any questions.
- 18.4 If the committee decides not to accept the CCfA referral it must inform the councillor and provide reasons.
- 18.5 If the committee decides to accept the CCfA referral, it must decide how it intends to take the matter forward and include the CCfA in its work programme. This could include:

**Before holding a formal hearing:**

- 18.6
- Asking the service area(s)/partner organisation(s) to respond to the CCfA.
  - Setting up a research group to undertake a more in-depth review.

**At formal hearing**

- 18.7
- Asking for further evidence and/or witnesses to be brought to a future meeting then making recommendations to the relevant Committee / partner organisation.

**Potential outcomes**

- 18.8 Following a formal hearing, there are a number of potential outcomes from the O&S committee meeting:
- 18.9 The committee could determine not to make a report or recommendations (perhaps



because it is not considered the right time to consider a particular issue), with the ward councillor notified in writing;

- 18.10 The committee could determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue.
- 18.11 The committee could write a report and make recommendations on the CCfA to a committee and/or relevant partners.
- 18.12 Once the committee has completed its work on the CCfA referral the member who made the CCfA referral will receive a copy of any report or recommendations made. The report will also be made available on the council's website, unless the matter was an exempt item, in which case the report cannot be made public.

## **19. Timescales**

- 19.1 Once a CCfA has been assessed as not being a matter which is excluded from referral to Overview and Scrutiny Committee, the item will be included on the next committee agenda.
- 19.2 If the committee agrees to take the matter forward, the hearing will usually be held as an item on the next available agenda. In exceptional circumstances, for example where there are unavoidable time constraints, a separate meeting may be convened.
- 19.3 Should a CCfA hearing result in recommendations to the relevant Committee being made, the Committee will usually respond to the recommendations, setting out any action it intends to take, within 28 days of the date of the Committee agenda on which the recommendations were placed.
- 19.4 Should a CCfA hearing result in recommendations to partner organisations, such organisations will also be requested to make a response to the recommendations, although they are under no legal obligation to do so.

**PART 4.5**

**FINANCIAL REGULATIONS**

## **FINANCIAL REGULATIONS**

### **1. INTRODUCTION**

#### **FINANCIAL REGULATIONS**

- 1.1 The Local Government Act 2000 requires each local authority to review its constitutional arrangements and due to the size of its Constituency Brentwood Borough Council has decided to adopt the alternative arrangements, which takes the form of a traditional Committee System.
- 1.2 These regulations reflect the CIPFA / SOLACE Statement on Governance.
- 1.3 To conduct its business efficiently, the Borough Council has approved a 'Scheme of Delegation'; this specifies decision-making responsibilities of the Chair, Committees and Staff of the Council.
- 1.4 The establishment and the strict adherence to sound financial management policies is an integral part of the Scheme; part of this process is the establishment of both financial regulations, which set out the financial policies of the Borough Council and a series of key controls to ensure that they are adhered to. In exceptional circumstances, approval may be sought to the temporary waiver of the requirements.
- 1.5 CIPFA has produced a model set of financial regulations that reflect best practice and provide a practical source of advice to assist the 'modern' Borough Council. These financial regulations are based on that model.
- 1.6 The financial regulations provide clarity about the accountabilities of individuals – particularly:
  - Members of the Policy Performance and Resources Board;
  - Members of the Scrutiny Committee;
  - Managing Director (as the Head of the Paid Service);
  - Head of Resources (as the Responsible Financial Officer);
  - Head of Legal Services (as the Monitoring Officer); and
- 1.7 Each of the financial regulations sets out the overarching financial responsibilities, and the Borough Council itself is required to approve them. These were approved by Audit Committee on the 8th March 2011.

#### **FINANCIAL GUIDANCE**

- 1.8 The Head of Resources is responsible for issuing advice and guidance to support the financial regulations and procedures which members, staff and others acting on behalf of the Borough Council are required to follow.

#### **OTHER REGULATORY DOCUMENTS**

- 1.9 Beyond the scope of this document, the Borough Council links the financial regulations with other internal regulatory documents forming part of the District Council's constitution. These identify accountabilities for specific functions as shown in the Scheme of Delegation, and procedural notes on the conduct of council and other meetings; on access to information; on procurement and contracts; on the

acquisition / disposal of land and buildings; and the employment of staff; as well as codes of conduct for members and staff; together with various other protocols.

- 1.10 Services may also attach their own more detailed financial procedures, guidance and instructions.

## **2. STATUS OF FINANCIAL REGULATIONS**

- 2.1 Financial regulations provide the framework for managing the Borough Council's financial affairs, and are required to be approved by the Borough Council itself. They apply to every member and officer of the Borough Council, and anyone acting on behalf of the Borough Council. Contravention is a serious matter and could lead to disciplinary action being taken.
- 2.2 The regulations identify the financial responsibilities of the Borough Council; the Policy Performance and Resources Board; the Scrutiny Committee; the Audit Committee; the Managing Director; the Head of Legal Services; the Director of Strategy and Corporate Services (s151 officer) and Heads of Service. They must maintain a written record where their responsibilities have been delegated to members of their staff, including seconded staff. Where responsibilities have been delegated or devolved to other responsible staff or bodies, the regulations should be read as referring to them.
- 2.3 The Director of Strategy and Corporate Services is responsible for maintaining a continuous review of the financial regulations and advising the Borough Council of any additions or changes that it needs to make. They are also responsible for reporting, where appropriate, breaches of the financial regulations to the Borough Council or to the Audit Committee as appropriate.
- 2.4 The Director of Strategy and Corporate Services (s151 officer) is responsible for issuing guidance to underpin the financial regulations which members, staff and others acting on behalf of the authority are required to follow. Contravention could lead to disciplinary proceedings.
- 2.5 Corporate Directors are responsible for ensuring that all staff in their directorates is aware of their responsibilities under financial regulations and other internal regulatory documents, and that they comply with them.
- 2.6 However, all members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised and provides value for money.
- 2.7 In exceptional circumstances, the Borough Council may approve the temporary waiver of any of the Financial Regulations or Procedures.

### **3. FINANCIAL REGULATION A:**

#### **FINANCIAL MANAGEMENT**

##### **Introduction**

- 3.1 Financial management covers all financial accountabilities in relation to the running of the authority, including the policy framework and the budget.

Overview of financial accountabilities in relation to:

[The numbering is incorrect here](#)

##### **The Borough Council**

- 4.2 The Borough Council is responsible for its internal constitutional arrangements and codes of conduct for members and staff, and for determining the policy framework and budget within which the Policy, Performance and Resources Board operates. It sets the level of council tax and determines issues relating to the control of its treasury management requirements. It is also responsible for setting and monitoring compliance with the Borough Council's overall framework of accountability and control. The framework is set out in its constitution. Together with the Policy, Performance and Resources Board, the Borough Council is responsible for monitoring compliance with policies and the framework of accountability and controls. However, the scrutiny of key decisions taken by the Policy, Performance and Resources Board is undertaken by the Scrutiny Committee – see below
- 4.3 The Council's constitution sets out responsibilities and procedures for the recording and reporting of decisions taken, including key decisions as defined under the Local Government Act 2000.

##### **The Policy, Performance and Resources Board**

- 4.4 The Policy, Performance and Resources Board is responsible for proposing to the Borough Council the policy framework, including that for accountability and control, the budget, and for delivering services and discharging functions in accordance with the policy framework and budget.
- 4.5 Authority for Policy, Performance and Resources Board decisions may be delegated to the Chair, Vice Chair and Staff and must be undertaken in accordance with approved protocols.
- 4.6 Together with the Borough Council, the Policy, Performance and Resources Board is responsible for monitoring compliance with policies, and the framework of accountability and control.

##### **Committees:**

- 4.7 Overview and Scrutiny Committee
- The Overview and Scrutiny Committee will scrutinise, with rigour, matters of concern that reflect on the quality of the decision making of the Council and the delivery of its services.

#### 4.8 Audit Committee

- The Audit Committee has the delegated (from the Borough Council) overall responsibility for internal audit; however, in turn, it has delegated the day-to-day responsibility for this to the Head of Resources. He or she consults the Committee as necessary on the content of the annual audit plans of both the internal and external auditors. However, the Committee is responsible for monitoring the delivery of both plans and any additional audit work undertaken during the year; it also reviews the internal auditor's annual report and the external auditors' statutory management letters, and makes recommendation for appropriate further action. In addition, the committee may consider the outcomes of any fraud investigations and the action taken.
- The Committee may also initiate reviews of the adequacy of financial procedures and internal controls, including the adequacy of the audit function, and recommend to the Policy, Performance and Resources Board future policy options; as part of these reviews, Corporate Directors may be required to account to the committee for their actions or those of their staff.

#### **The statutory staff**

#### 4.9 **Managing Director**

- The Managing Director is the head of the paid service and is responsible for the corporate and overall strategic management of the Borough Council as a whole. He or she must report to, and provide information for the Borough Council, and its committees and sub-committees. Also, he or she is responsible for establishing a framework for management direction, style and standards, and for monitoring the performance of the organisation. In addition, he or she is also responsible, together with the Head of Legal Services, for the system of recording Council decisions.

#### 4.10 **Responsible Financial Officer**

The Head of Resources exercises the statutory duties in relation to the financial administration and stewardship of the Borough Council. This statutory responsibility cannot be overridden. The statutory duties arise from:

- Section 151 of the Local Government Act 1972;
- Local Government Finance Act 1988;
- The Local Government and Housing Act 1989;
- The Accounting and Audit Regulations 1996, and are underpinned by case law; and
- The Accounts and Audit Regulations 2003.

He or she is responsible for:

- the proper administration of the Borough Council's financial affairs;
- setting and monitoring compliance with financial management standards;

- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- preparing the draft Medium Term Resource Strategy which incorporates the annual revenue budget, and the capital investment programme;
- advising Council on the requirements to be observed in the setting of the revenue budget and the fixing of the council tax; and
- Treasury management.

A formal deputy officer will be nominated by the s151 officer to act in his stead where necessary.

4.11 Under Section 114 of the Local Government Finance Act 1988, the Head of Resources is required specifically to report to the Borough Council and the external auditor if the Borough Council or one of its staff:

- has made, or is about to make, a decision which involves incurring unlawful expenditure;
- has taken, or is about to take, an unlawful action which has, or would result in a loss or deficiency to the Borough Council; or
- is about to make an unlawful entry in the Borough Council's accounts.

#### 4.12 **Monitoring Officer**

- The Head of Legal Services is the monitoring officer and is responsible for promoting and maintaining high standards of overall conduct, and therefore provides support to the Standards Committee. The Head of Legal Services is also responsible for reporting any actual or potential breaches of the law, or instances of mal-administration either to the Borough Council directly or via the Policy, Performance and Resources Board.

#### 4.13 **Corporate Leadership Board**

- Corporate Leadership Board (CLB) comprises the Managing Director, the Director of Finance and Heads of Service; it acts as the senior staff body in instigating policy proposals; considering Corporate policy proposals; ensuring the preparation of the medium term resource strategy, the asset management plan and the performance plan; and in directing and monitoring the performance of the organisation in applying the approved policies. It is also responsible for referring issues of concern to the Policy, Performance and Resources Board for determination.

#### 4.14 **Corporate Directors**

In this context their responsibility is:

- to direct the delivery of services in compliance with the Scheme of Delegation, these Financial Regulations and the Procurement Framework, and in accordance with all statutory requirements, the Council's approved policy and performance



framework, and their service budget allocations;

- to develop and propose policy changes for service delivery; and
- to ensure that they identify and agree with the Head of Resources the financial implications of all proposals for new spending, where appropriate, Policy, Performance and Resources Board is advised of those implications.

Other financial accountabilities in relation to:

#### 4.15 **Key spending decisions**

Key decisions taken by the Policy, Performance and Resources Board must be publicised in advance. The Head of Legal Services must ensure that key decisions taken by the Borough Council and the reasons for them are made public. He or she must also ensure that Borough Council members are made aware of key spending decisions made by the Policy, Performance and Resources Board or under delegated powers. In addition, the Head of Legal Services must monitor, review and seek Council's approval to the update of its constitutional arrangements.

4.16 The Policy, Performance and Resources Board is responsible for establishing protocols to ensure that those members/staff exercising delegated authority follow the limitation provisions of the Scheme of Delegation. In doing so, the individual member/officer must take account of both legal and financial liabilities as well as risk management issues which may arise from the decision.

4.17 The Head of Resources is responsible for advising the Policy, Performance and Resources Board or the Borough Council if the financial implication of a proposal or of a decision already taken under delegated authority is, or is likely to be considered, contrary to, or not wholly in accordance with, the approved policy framework or financial plans. In this context this may result from a Corporate Director:

- initiating a new policy (without prior approval);
- committing expenditure or other resources in future years in excess of the approved plan level;
- agreeing transfers of budget approvals (virements) in excess of the limits within delegated authority; or
- causing the total expenditure financed from Borough Council tax, grants and corporately held reserves to increase, or to decrease by more than a specified amount.

4.18 Corporate Directors and Heads of Service are responsible for consulting with the Head of Resources on any matter which is liable to affect the Borough Council's finances materially either favourably or adversely, before any commitments are incurred, and for advising the Policy, Performance and Resources Board accordingly.

4.19 The Head of Legal Services is responsible for advising the Borough Council, the Policy, Performance and Resources Board, the Corporate Leadership Board and other staff regarding who has the authority within the Borough Council to take a particular decision regarding financial issues.

### **Revenue Budget monitoring**

- 4.20 The Head of Resources is responsible for providing appropriate financial information to enable Corporate Directors, acting as 'summary budget holders', to monitor effectively their budgets.
- 4.21 It shall be the responsibility of each appropriate officer to expend the budget allocation efficiently, effectively and economically and ensure that no approved budgets are overspent.
- 4.22 The Head of Resources is responsible for monitoring the performance of Corporate Directors in controlling income and expenditure against their budget allocation and he or she must report details of variances on a regular basis to the Policy, Performance and Resources Board
- 4.23 The Borough Council is responsible for agreeing procedures for the transfer of approvals (virement) between budget headings and for approving supplementary estimates.

### **Virement and Supplementary Estimates**

- 4.24 The Policy, Performance and Resources Board is responsible, on the basis of advice from the Corporate Leadership Board, for taking in-year decisions on reallocating resources in order to deliver the budget policy framework within the financial limits set by the Borough Council.
- 4.25 In addition, Heads of Service are responsible for agreeing in-year virements which are within delegated limits and in line with the currently approved policy framework, which includes consulting with the relevant Corporate Directors and the Head of Resources.
- 4.26 Virements above the delegated limits will be subject to the approval of the Strategy and Policy Board (up to the value of £200,000), and full Council for items greater than £200,000 in value.

### **Treatment of year-end balances**

- 4.27 The Section 151 Officer is responsible for agreeing procedures for carrying forward under and over-spending on budget headings at the year-end, where it is considered appropriate to do so.
- 4.28

### **Accounting policies**

- 4.29 The Head of Resources is responsible for selecting appropriate accounting policies and for ensuring that they are applied consistently.

### **Accounting records and returns**

- 4.30 The Head of Resources is responsible for determining the accounting procedures to be followed and accounting records to be maintained within the authority.

## **The annual statement of accounts**

- 4.31 The Head of Resources is responsible for ensuring that the annual statement of accounts is prepared in accordance with CIPFA's Code of Practice on Local Authority Accounting in the United Kingdom: The Code of Practice and other legal requirements, for approval by the Borough Council.

## **5. FINANCIAL REGULATION B:**

### **FINANCIAL PLANNING**

#### **Introduction**

- 5.1 The Borough Council is responsible for approving the following, which will be proposed by the Policy, Performance and Resources Board:
- the policy framework;
  - the Medium Term Resource Strategy , including the annual revenue budget;
  - the Capital Programme; and
  - the performance plan.

#### **Policy framework**

- 5.2 The Borough Council's agreed policy objectives will inform the overall policy framework and service plans.
- 5.3 The Borough Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies which form the policy framework.
- 5.4 The Borough Council is responsible for setting the level at which the Policy, Performance and Resources Board may re-allocate budget funds within the current year revenue budget, the medium term financial plan, or the capital programme. The Policy, Performance and Resources Board is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Borough Council.

Preparation of the policy framework:

- 5.5 The Managing Director is responsible for ensuring the policy framework is prepared for approval by the Borough Council and that it is consistently applied.

#### **Budgeting**

##### **Budget format:**

- 5.6 The Borough Council determines the general content of the Medium Term Resource Strategy and the annual revenue budget.

##### **Budget preparation:**

- 5.7 The Head of Resources is responsible for ensuring that a Medium Term Resource Strategy covering a 3 – 5 year period, or as may otherwise be determined, and a revenue budget is prepared / updated on an annual basis for consideration, where appropriate with the input of officer and members before submission for approval to the Policy, Performance and Resources Board and the Borough Council. The Borough Council may amend the budget or ask the Policy, Performance and Resources Board to reconsider it or to re-examine areas of detail within the overall budget set.

- 5.8 Corporate Directors are responsible for ensuring that their Medium Term Resource Strategy reflects agreed service performance plans and their proposals for change, and are available for submission to the Policy, Performance and Resources Board within the timetable set. The Corporate Directors must also provide information to the Policy, Performance and Resources Board where, in their opinion, the service plan does not meet statutory or central government requirements.
- 5.9 Proposals on the annual revenue budget submitted by the Policy, Performance and Resources Board to the Borough Council should include details of the allocation of resources to different services and projects, the options for alternative taxation levels, the nature and level of contingency funds and reserves and the requirement to set the Prudential Code limits in particular the statutory borrowing limit under the Local Government Act 2003.

### **Guidelines**

5.10 The Head of Resources is responsible for issuing to Corporate Directors guidelines on the preparation of the Medium Term Resource Strategy and the Capital Programme. The guidelines will take account of:

- legal requirements;
- the approved policy framework and service delivery targets;
- medium term financial planning prospects;
- available resources;
- members' agreed political objectives and targets
- spending pressures;
- service performance measures;
- best value and other relevant Government guidelines; and
- cross cutting issues (where relevant);
- the findings of external inspections;
- risk.

Preparation of the Capital Strategy and Capital Programme:

- 5.11 The Head of Resources is responsible for ensuring that a Capital Strategy, and a Capital Programme covering a 3-5 year period, or as may otherwise be determined, are prepared / updated on an annual basis for consideration initially by the Policy, Performance and Resources Board, before their submission for approval to the Borough Council.
- 5.12 The Capital Strategy sets out the principles to be followed which demonstrate how new capital investment, together with active management of existing assets, contributes to achieving the Council's approved policies, objectives and targets. The Capital Strategy is supported by detailed asset management plans for each major

area of capital investment; these plans include details of individual schemes, and the impact of each on the planned level of service outputs / outcomes, together with the means of financing those proposals. Investment proposals are, as appropriate, summarised in the draft Capital Programme.

- 5.13 The Borough Council may amend the proposed Capital Strategy or Capital Programme, or ask the Policy, Performance and Resources Board to reconsider areas of detail within them.
- 5.14 Schemes are approved within the Capital Programme on an individual basis or at a generic level for a specific activity (e.g. General Asset Maintenance) and the approval relates to the total spending on the scheme, irrespective of when the payments are made; virements of approvals are permitted within limits set by the Council.

**Resource allocation:**

- 5.15 The Head of Resources is responsible for determining a process to identify on an annual basis for consideration and approval by the Borough Council, the resource constraints which limit the financing and are available to meet the Medium Term Resource Strategy and Capital Programme. The process must also identify all opportunities for optimising funding arrangements without impacting adversely on the delivery of the plans.

**Budget monitoring and control:**

- 5.16 The Head of Resources is responsible for providing appropriate financial information to Corporate Directors; they must monitor and control expenditure against their revenue and capital budget allocations, as well as monitoring against service performance targets.
- 5.17 The Corporate Directors must provide the Head of Resources with details of the progress on their budgets to enable him or her to the Policy, Performance and Resources Board on a regular basis. The report will include Corporate Directors' proposals for containing spending within their allocations, details of spending pressures in excess of those allocations, and, in respect of the Capital Programme, details of the continued availability of resources to fund the programme; also, the report will seek, where appropriate, approval from the Council to any variations to the annual revenue budget or the Capital Programme, identifying the impact of those variations on the level of planned service outputs.

**Maintenance of reserves**

- 5.18 The Head of Resources is responsible for advising the Policy, Performance and Resources Board and the Borough Council on the prudent level of reserves to be maintained for the authority.
- 5.19 The Head of Finance is responsible for advising the Policy, Performance and Resources Board and the Borough Council on compliance with the CIPFA Prudential Code (Local Government Act 2003 and associated regulations).

## **6. FINANCIAL REGULATION C:**

### **RISK MANAGEMENT AND CONTROL OF RESOURCES**

#### **Introduction**

- 6.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all the Borough Council's significant operational risks. This should include the proactive participation of all those involved directly or associated with the planning or delivering of services.

#### **Risk management**

- 6.2 The Policy, Performance and Resources Board and the Borough Council and the Borough Council are jointly responsible for approving the District Council's risk management strategy and policy statement and, in addition, for ensuring that proper insurance arrangements are effected where appropriate.
- 6.3 The Head of Business Improvement is responsible for preparing the Borough risk management policy statement, advising Corporate Directors of their responsibilities and for monitoring their compliance.
- 6.4 Corporate Directors are responsible for complying with the risk management policy statement in respect of their service areas.
- 6.5 The Head of Resources is responsible for advising initially the Corporate Leadership Board subsequently the Policy, Performance and Resources Board on any non-compliance by a Corporate Director with the approved risk management policy statement. He or she is also responsible for providing advice on and effecting the appropriate insurance arrangements.

#### **Internal control**

- 6.6 Internal control is the system of control devised by management to help ensure the Borough Council's objectives are achieved in a manner which promotes economical, efficient and effective use of resources and that the Borough Council's assets and interests are safeguarded.
- 6.7 The Head of Resources is responsible for advising Corporate Directors on effective systems of internal financial control. These arrangements need to ensure that all statutory and corporate requirements and other relevant statements of best practice are met. They should ensure that public funds are properly safeguarded and used economically and efficiently, and in accordance with the statutory and other authorities that govern their use.
- 6.8 Corporate Directors are responsible for establishing, in line with that guidance, sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness in the use of resources in the delivery of their service and the achievement of their financial performance targets.

#### **Audit requirements**

- 6.9 The Accounts and Audit Regulations 1996 require every local authority to maintain an adequate and effective internal audit.

- 6.10 The Audit Commission is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.
- 6.11 The authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs who have statutory rights of access.

### **Preventing Fraud and Corruption**

- 6.12 The Head of Resources is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

### **Assets**

- 6.13 Corporate Directors are responsible for ensuring that all financial records, physical assets and supporting documentation used in the provision of their services are properly maintained, securely held and, in respect of physical assets, suitably recorded.
- 6.14 They must also ensure that sound contingency plans for the security of those assets and for the continuity of service provision in the event of a disaster or other major system failure are in place, and that those arrangements are regularly tested.

### **Treasury Management**

- 6.15 The Borough Council has adopted CIPFA's 'Code of Practice for Treasury Management in Local Authorities'.
- 6.16 The Borough Council is responsible for approving the treasury management policy statement setting out the matters detailed in paragraph 15 of CIPFA's 'Code of Practice for Treasury Management in Local Authorities.' The draft policy statement is prepared on an annual basis by the Head of Resources and proposed to the Borough Council by the Policy, Performance and Resources Board.
- 6.17 All money in the hands of the Borough Council is monitored and controlled by the Head of Resources acting as the officer designated for the purposes of section 151 of the Local Government Act 1972.
- 6.18 The Head of Resources has delegated responsibility for implementing and monitoring the treasury management policy statement. All executive decisions on borrowing, investment or financing shall be delegated to him or her, and he or she is required to act in accordance with the policy statement which has regard to CIPFA's Code of Practice for Treasury Management in Local Authorities and the Prudential Code
- 6.19 The Head of Resources is responsible for reporting to the Managing Director not less than annually on the treasury management activities and on the exercise of his or her delegated treasury management authority.

### **Staffing**

- 6.20 The Managing Director is responsible for exercising the overall management of staff.



- 6.21 The Managing Director is responsible for determining and monitoring adherence to staffing policies and procedures, and for ensuring that there is proper use of the evaluation, or other agreed system, for determining the remuneration of a job.
- 6.22 Corporate Directors are responsible for controlling total staff numbers by:
- employing staff in accordance with the approved policy framework and annual revenue budget;
  - seeking the approval within the medium term financial plan of the Borough Council to cover the estimated staffing levels required to support the existing and proposed levels of service provision;
  - seeking the prior approval of the Policy, Performance and Resources Board to any adjustment to the staffing numbers to meet changing operational needs where the ongoing impact can not be wholly met from within the approved budget or from within ongoing additional external income, and / or where staffing implications are significant;
  - staff must only be employed on a permanent basis if ongoing and sustainable funding is available.

## **7. FINANCIAL REGULATION D:**

### **SYSTEMS AND PROCEDURES**

#### **Introduction**

- 7.1 Sound systems and procedures are essential to form an effective framework of accountability and control.

#### **General**

- 7.2 The Head of Resources is responsible for the overall operation and maintenance of the Borough Council's form of accounts, the accounting and related systems, and all supporting financial records. The Head of Resources with the approval of the Corporate Leadership Board and the Policy, Performance and Resources Board can enforce the use of corporate financial systems where there are financial or other benefits to be gained from doing so.
- 7.3 Corporate Directors are responsible for the proper operation of approved financial procedures within their own service area.
- 7.4 Corporate Directors must seek the prior approval of the Head of Resources to any proposed changes to the existing financial or related systems or to the establishment of any new financial or related systems which are / will be directly under their control.
- 7.5 Corporate Directors must also seek the prior approval of the Head of Resources, who, if appropriate, will seek the approval initially of the Corporate Leadership Board and subsequently of the Policy, Performance and Resources Board, to any proposed changes to the Borough Council's instructions or procedural notes on financial matters which are required to meet their own specific service needs.
- 7.6 Corporate Directors must ensure that, where financial management arrangements are undertaken within their departments, whether under formal decentralised arrangements or not, their staff receive appropriate financial training and operate to the professional standards set by, and detailed in guidelines issued by the Head of Resources.
- 7.7 Corporate Directors must ensure that, where appropriate, computer and other systems are registered in accordance with Data Protection legislation and that their staff are aware of their responsibilities under the freedom of information legislation.

#### **Expenditure and Income**

- 7.8 Corporate Directors are responsible for the effective operation of a system for the control of expenditure and income within their area; where a Corporate Director has delegated this responsibility, their records must identify who has been authorised to act on his / her behalf in respect of the placing of orders, the making of payments, or the collection of income, and the limit of their authority.
- 7.9 The Borough Council is responsible for approving procedures for the writing-off of uncollectable debts as part of its overall control framework of accountability and control.

### **Payments to employees, former employees and members**

- 7.10 The Head of Resources is responsible for making all payments for salaries and wages to all staff, for pension and other benefit payments to relevant former employees and for the payment of allowances to members.

### **Taxation**

- 7.11 The Head of Resources is responsible for advising Corporate Directors on all taxation issues that affect the Borough Council, in the light of statutory requirements and relevant guidance issued by the appropriate bodies.
- 7.12 The Head of Resources is responsible for maintaining directly, or where appropriate, ensuring that Corporate Directors, maintain the Borough Council's taxation records, and for making all tax payments, receiving tax credits / refunds and for submitting tax returns by their due date as and when appropriate.

### **Trading Accounts and Business Units**

- 7.13 The Head of Resources is responsible for advising on the establishment and the operation of suitable accounting records and supporting procedures for trading accounts and business units.

## **8. FINANCIAL REGULATION E:**

### **EXTERNAL ARRANGEMENTS**

#### **Introduction**

- 8.1 The Borough Council provides a distinctive leadership role for the community and is able to bring together the contributions of various participants / stakeholders by participating in various partnership / joint working arrangements; as a result, it is able to achieve the promotion or improvement of the economic, social or environmental well being of its area.

#### **Partnerships**

- 8.2 The Policy, Performance and Resources Board is responsible for approving the operational framework for the Borough Council's participation in all strategic partnerships / joint working arrangements with other local public, private, voluntary and community sector organisations; this includes the arrangements for delegation to staff and the detailed arrangements for the provision of both financial and physical resources by the Borough Council.
- 8.3 In the same way, Corporate Directors are responsible for approving the operational framework of all other partnerships, joint working arrangements with other local public, private, voluntary and community sector organisations, which affect their service areas.
- 8.4 The Head of Legal Services, Head of Resources and Corporate Directors are responsible for promoting and maintaining within all partnership / joint working arrangements the same high standards of conduct with regard to the legal, corporate governance and financial affairs which are detailed in these Financial Regulations and Financial Procedures and elsewhere, and which are applied throughout the Borough Council.
- 8.5 The Head of Resources is responsible for:
- advising Corporate Directors on the need for, and, if appropriate, for appraising and approving the relevant Corporate Directors' risk assessment of the proposal before any commitment is made for the Borough Council to participate in a partnership or joint working arrangement or scheme; and
  - specifying the accounting and auditing arrangements to be adopted and approving the overall corporate governance arrangements when, under the approved arrangements, the Borough Council is to be the lead authority.
- 8.6 Corporate Directors are responsible for:
- ensuring that before committing the Borough Council's participation in a partnership or joint working arrangement or scheme, or before seeking the approval of the Policy, Performance and Resources Board to such participation, they consult with the Head of Resources on the need to prepare a risk assessment of the proposal, and if appropriate, obtaining his or her approval to it;
  - ensuring that the approval of the Policy, Performance and Resources Board is obtained before any negotiations are concluded where the Borough Council's

participation is of a material nature;

- ensuring that all agreements and arrangements are properly documented, including details of the Borough Council's financial and physical commitment to the arrangements which are to be in accordance with procedures specified by the Head of Resources;
- observing the Borough Council's standard of conduct whilst having due regard to the partnership or joint working arrangement's governance framework;
- ensuring that the body or person maintaining the accounting and auditing arrangements do so to a standard acceptable by the Head of Resources in those cases where, under the approved arrangements, the Borough Council is not to be the lead authority but the Borough Council's participation is of a material nature; and
- providing appropriate information to the Head of Resources to enable him or her to include relevant details in the Borough Council's Statement of Accounts, and other financial statements and returns.

### **External funding**

- 8.7 The Head of Resources is responsible for providing specific guidance to Corporate Directors to enable them to account properly for funding receivable from external sources work for third parties.
- 8.8 The Head of Resources is responsible for providing specific guidance to Corporate Directors in respect of contractual arrangements for the provision of services to third parties or external bodies.

## Revenue Virements Threshold

### Responsibility

- Transfers between revenue budget headings can take place provided that they do not involve new policy or policy change and do not involve an increasing commitment in future years that cannot be contained within existing approved budget allocations.
- Each Head of Service and Corporate Director is responsible for the control of income and expenditure within their service area, and to monitor performance, taking account of information provided by the Head of Resources. Corporate Directors should report to the Corporate Leadership Board on variances within their own areas, and take any action to avoid exceeding their budget allocation. Heads of Service may delegate detailed control over cost centres within their service areas to designated cost centre managers.
- Each estimate head in the approved revenue budget shall be the responsibility of a designated cost centre manager. It shall be the responsibility of those staff to ensure that any probable overspending of expenditure, or shortfall in income, increased income or under spends is reported directly to the appropriate Corporate Director and to the Head of Resources, if such overspending or shortfall on any budget item or service exceeds £5,000.
- Any identified overspending or budget shortfalls in excess of £25,000 shall also be reported to the Policy, Performance and Resources Board.
- Where overspending or budget shortfalls can be compensated from savings elsewhere within the budget for the relevant service, budget transfers may be approved in accordance with the table below:

	<b>Financial Limit £</b>	<b>Officer Approval</b>
Within the same service area	Up to £5k	Cost centre manager and Head of Service
Within the same service area	Up to £10k	Head of Service
Within the same service area	Between £10k and £25k	Corporate Director
Within the same service area	Greater than £25k	Policy Performance and Resources Board
Between different service areas	Up to £10k	Head of Service
Between different service areas	Between £10k and £25k	Corporate Director
Between different service areas	Between £25k and £200k	Strategy and Policy Board
Between different service areas	Greater than £200k	Full Council

**PART 4.6**

**STANDING ORDERS RELATING TO CONTRACTS**

## **STANDING ORDERS RELATING TO CONTRACTS**

### **Document History**

<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Review Date</b>	<b>Circulation</b>	<b>Approved</b>
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[NB – re-number contents page after Council]

**PROCUREMENT THRESHOLD LIMITS & APPROVAL ROUTES FOR WORKS, GOODS & SERVICES.**

For values up to **£10,000**

Officer with delegated authority may place a single order without inviting quotations provided they are satisfied that the Council is receiving best value for money and the supplier is suitable.

Any authorised Officer can approve.

For values between **£10,000** and **£50,000**

Minimum 3 written quotes.

Suppliers from collaborative framework agreements (see procurement micro site for guidance) must be considered.

Member involvement in decision route. (see sensitive procurement below)

Head of Service to approve.

For values between **£50,000** and **OJEU** (see procurement officer for OJEU threshold figure)

Minimum 3 written tenders.

Full tender exercise using e- procurement.

Suppliers from collaborative framework agreements (see Procurement Micro site for guidance).

Member involvement in decision route.

Head of Service and Head of Legal & Governance, Section 151 Officer or Managing Director to approve.

### **Sensitive Procurement**

‘As far as is practicable, the Head of Legal and Governance (Monitoring Officer) shall be informed of all purchases with a value greater than £20,000, and if considered to be of an unusual or sensitive nature, then the issue will be taken before CLB for their consideration’.

## **CONTRACT STANDING ORDERS**

### **1. Introduction**

- 1.1 Brentwood Borough Council is committed to developing its procurement strategy and to raising organisational awareness of its importance.
- 1.2 Procurement decisions are among the most important decisions staff will make because the money involved is public money, and the Council is concerned to ensure that high quality goods, works and services are provided. Efficient use of resources in order to achieve best value is therefore imperative. The Council's reputation is equally important and should be safeguarded from any imputation of dishonesty or corruption.
- 1.3 For these reasons, it is a disciplinary offence to fail to comply with Contract Procedures. Employees have a duty to report breaches of Contract Procedures to an appropriate senior manager.
- 1.4 The Procedures lay down the minimum requirements. A more detailed procedure may be appropriate for a particular contract. If there is any doubt as to how to undertake any procurement then the officer must contact the Procurement Officer to seek guidance.
- 1.5 A contract includes the following:
  - any contract for goods, works or services, including disposals;
  - any order for goods, works or services;
  - a grant given or received by the Council;
  - a contract managed by consultants;
  - a contract appointing consultants;
  - any partnership arrangement;
  - contracts relating to the disposal or purchase of land and buildings;
  - any lease agreements for property and goods.
- 1.6 Both purchasing and disposal procedures must:
  - achieve best value for public money spent;
  - be consistent with the highest standards of integrity;
  - ensure fairness in allocating public contracts;
  - comply with legal requirements;
  - ensure that non-commercial considerations do not influence any contracting decision;
  - support the Council's corporate and service aims and policies;
  - comply with the Council's Procurement Strategy;
  - comply with Financial Regulations, Health and Safety, Environmental and Equal Opportunities (Diversity) requirements;
  - be able to demonstrate that the Council's interests have not been prejudiced or exposed to undue or unmanaged risks.

### **2. Scope**

- 2.1 These Standing Orders (Contracts) are made under the provisions of section 135 of the Local Government Act 1972 and govern the making of contracts for and on behalf of the Council.

2.2 These Standing Orders apply to:-

- 2.2.1 all contracts made and to all orders placed by, for or on behalf of the Council for the procurement, hire and commissioning of goods, services and works including where the Council is acting on behalf of other public bodies;
- 2.2.2 all staff of the Council;
- 2.2.3 any person or organisation engaged to manage a contract or undertake work that involves procurement on behalf of the Council. In each case the requirement to comply with the Regulations is to be included in the terms of engagement;
- 2.2.4 the selection of sub-contractors where these are nominated by the Council under a main contract.

2.3 Minor amendment to these Contract Standing Orders may be made by the Head of Legal and Governance. Any substantial or material amendment shall on the advice of the Managing Director be referred to Members.

**3. Responsibility of Staff, Heads of Service and Directors**

Within this framework:-

**3.1 Staff**

- 3.1.1 Every officer dealing with contracts must have authority from their line Manager to do so. This can be in their job description or in written delegated authority from their Head of Service or the Managing Director or the Head of Legal & Governance through the financial scheme of management delegation. A signature list of all Staff with delegated authority will be kept and maintained by the Procurement Officer.
- 3.1.2 Staff responsible for purchasing and disposal must comply with Contract Standing Orders, all relevant procedures contained in the Council's Procurement Guide, the Council's Financial Regulations and the Council's Code of Conduct together with all UK and European legal requirements. Where there is conflict between these Standing Orders and any binding rule of law, the law must prevail.
- 3.1.3 Only staff with authorised approval can sign contracts in accordance with their authorisation limits:

**EU thresholds –**

Works **£4,348,350 (€5,000,000)**

Goods and Services **£173,934 (€200,000)**

**The Head of Service must** be consulted before the commencement of tenders over **£50,000** for policy sign off.

N.B. This is for new expenditure only.

**Authorised Officer** Up to **£10,000** may place an order with one verbal quotation

**Heads of Service** Between **£10,000** and **£50,000** with 3 written quotations and Head of Service approval

**Head of Service and Managing Director or**

### **Head of Legal & Governance Over £50,000 up to EU threshold**

- 3.1.4 Staff **MUST** comply with the guidance in the Contract Standing Orders.
- 3.1.5 Staff **MUST** use any relevant Corporate Contract already in place. A list of Corporate Contracts can be found on the Intranet.
- 3.1.6 Staff must keep records to show a clearly documented audit trail. It will be the Procurement Officer's role to ensure that details of all new contracts are recorded on the Contracts Register. A copy of all contracts to be kept by Procurement Services.
- 3.1.7 Each procurement exercise which results in a contract will be managed throughout the procurement process and during the life of the contract by an appropriately skilled officer appointed by the relevant Head of Service. All such contracts will be actively managed against clear outcomes and objectives. Failure by any contractor to meet such outcomes and objectives shall be immediately brought to the attention of the appropriate Head of Service, who shall take whatever action he deems necessary to ensure that so far as possible performance targets are achieved.
- 3.1.8 All staff involved in procurement, shall ensure that records of actions and decisions at all stages of the procurement process, will be maintained and made available for inspection when required by Internal and External Audit. Rectification action will be taken within the terms of the contract where performance targets are not being met.
- 3.1.9 Staff must ensure that agents and consultants acting on their behalf comply with the requirements referred to in Contract Standing Orders 3.1.2 above. Such consultants must not make any decision as to whether to award a contract or who a contract should be awarded to.

### **3.2 Director and Heads of Service must:**

- 3.2.1 Ensure they have the delegated powers for the contract and that the project has the appropriate policy approval.
- 3.2.2 Ensure that there is full budgetary provision (including any maintenance and other charges) for the contract and that the sources of funding are fully detailed and agreed before starting the contract process.
- 3.2.3 Ensure that no tender is accepted where it exceeds the approved budget/cash limit by more than **10%** unless prior written approval is obtained from the Council's Section 151 officer.
- 3.2.4 Ensure that expenditure is fully contained within the approved budget/cash limit and secured.
- 3.2.5 Ensure that they have issued appropriate staff with written delegation of the role that they may take in the contracting process on behalf of the Council.
- 3.2.6 Ensure that their staff complies with Contract Procedures.

#### **4. The Procurement Guide & Procurement Tool Kits**

- 4.1 The Procurement Guide shall be in electronic form on the Council's Intranet. The Guide & Procurement Tool Kits will contain all relevant procurement and other Council documents which are relevant to and assist with the procurement process.
- 4.2 The Procurement Guide is intended to be an evolving document, the Head of Legal and Governance will review the Procurement Guide as required and at least annually. No alteration will be made to the Procurement Guide unless agreed by the Head of Legal and Governance.

#### **5. The Procurement Principles**

The Council will:-

- 5.1 Base the procurement of its requirements on the principles of best value to ensure that it achieves efficiency, effectiveness and value for money.
- 5.2 Take a long term strategic view of how it procures its requirements including the potential for alternative methods of service delivery, innovative funding methods and partnership working.
- 5.3 Expect that externally sourced requirements will be procured as a result of a competitive process unless there are compelling or practical reasons to the contrary.
- 5.4 Ensure that sustainability is an important criterion in any procurement activity along with Equality & Diversity objectives. Please see the Sustainability & Equality/Diversity tool kit within the procurement section of the intranet.
- 5.5 Where appropriate develop procurement on a partnering basis in which both the Council and the supplier seek to achieve continuous improvement, and maximise mutual benefit through longer term clearly worded contracts. These contracts will be based on measurable outcomes and performance that define the obligations of both parties.
- 5.6 Where appropriate seek to work with others, and through legitimate consortia in the procurement of its requirements in order to widen the scope of its experience and focus expertise, maximise purchasing power and harness economies of scale.
- 5.7 Respect and value good employment practice and comply with all obligations imposed upon the Council, by relevant employment legislation and seek to ensure its provider markets meet the same standards.

#### **6. Code of Ethics**

- 6.1 All Employees of Brentwood Borough Council are required to uphold this code, and to seek commitment to it by all those with whom they engage in their professional practice. Council staff are expected to adopt an ethical purchasing policy based on the principles of this code and to raise any matter of concern relating to business ethics at an appropriate level.

All Employees are already required to comply with the Staff Code of Conduct which contains provisions in respect of relationships with contractors and other related matters.

Appropriate action will be taken against anyone who is found to have breached this code or the Staff Code of Conduct. Advice on any aspect of the code is available from the Procurement Department.

6.2 All employees of Brentwood Borough Council are expected to:

- maintain the highest standard of integrity in all business relationships;
- reject any business practice which might reasonably be deemed improper;
- never use their authority or position for personal gain;
- enhance the proficiency and stature of the Council by acquiring and applying knowledge in the most appropriate way;
- foster the highest standards of professional competence amongst those for whom they are responsible;
- optimise the use of resources for which they have influence over for the benefit of the Council;
- comply with both the letter and the intent of agreed contractual obligations;
- declare any personal interest that might affect, or be seen by others to affect, impartiality or decision making;
- ensure that the all information given out in the course of their work is accurate;
- respect the confidentiality of information received and never use it for personal gain;
- strive for genuine, fair and transparent competition;
- not accept inducements or gifts, other than items of small value such as business diaries or calendars;
- always to declare the offer or acceptance of hospitality and never allow hospitality to influence a business decision;
- remain impartial in all business dealing and not be influenced by those with vested interests.

## 7. Aggregation and Disaggregation

7.1 Where the Council requires a single set of goods, works or services to be provided the total contract value is made up of the total value of the smaller sums. This is known as aggregation.

7.2 A contract value shall not be divided up into its constituent smaller parts, so as to deliberately avoid placing a contract for the full value with one contractor or avoid the requirements set out in the EU Regulations. It is an offence under the EU Regulations to disaggregate the value of a contract so as to deliberately avoid the EU Regulations.

## 8. Requirements to ensure competition

8.1 Where the total value of the contract for goods and/or services and works is less than **£50,000**, staff may identify potential suppliers using the most cost-effective and reasonable method. Collaborative frameworks & partnership options must be considered as part of the procurement process.

8.2 As a minimum and where the estimated value of a contract is:

### 8.2.1 Estimated contract value up to **£10,000**

Whilst no specific written quotation is required it is recommended good practice that one is provided. The aim of the officer responsible for the



contract shall be to obtain the best value for money for the Council. An officer with authorised approval can sign/approve the contract.

#### 8.2.2 **Estimated contract value between £10,000 and £50,000**

Three written quotations are required. The aim of the officer responsible for the contract shall be to obtain the best value for money for the Council. The Head of Service must sign/approve the contract.

#### 8.2.3 **Estimated contract value between £50,000 and the current OJEU limit**

The officer responsible for the contract must comply with one of the following options: - follow a publicly advertised competitive tender process inviting a minimum of 3 suppliers/organisations to bid. The Managing Director or Head of Legal & Governance must sign/approve the contract, **or**, select a contractor from an approved list of contractors using a mini competition by inviting bids from at least three providers. In either case the Officer must use the Council's conditions of contract or appropriate professional institute conditions of contract or a contract which has been approved by an officer in Legal Services.

#### 8.2.4 **Estimated contract value over EU Threshold**

At 1 January 2012 EU Thresholds are:

**Works: £4,348,350 – €5,000,000**

**Services & Supplies: £173,934 – €200,000**

Contracts must be advertised according to EU procurement law (further guidance can be found in the Guide to Procurement). The officer responsible for the contract **must**, before starting the contract process, obtain advice from the Procurement Officer.

### 8.3 **Tender Threshold**

8.3.1 The table below provides details of the Council's Contract Value thresholds. These are aligned with the formal authorised limits which are:

**£0 - £10,000** Officer with delegated procurement authority

**£10,000 - £50,000** Head of Service (HoS).

**£50,000- £173,934** HoS and Managing Director or Head of Legal & Governance

**Above £173,934** EU procurement rules apply

Where it can be demonstrated that there are insufficient suitably qualified contractors to meet the competition requirement set out above all suitably qualified contractors should be invited so far as is practical. Members will be kept advised on any high value tenders received.

## 9. **Competitive Tendering Process**

9.1 Where the total value of the contract is more than **£50,000**, staff must ensure there is sufficient competition and that the contract is appropriately advertised. Any tender process must ensure that potential candidates provide sufficient detail to enable staff to determine whether they:

9.1.1 Are financially stable.

- 9.1.2 Have appropriate technical ability to undertake the sort of contract they wish to be considered for.
- 9.1.3 Are able to check their health and safety, environmental, equality and diversity and other records.
- 9.2 Where the total value of the contract is more than **£50,000** and there is no approved list or corporate contract for the contract, staff must invite tenders by public advertisement. Public advertisement may include advertising the contract on the Council's website.
- 9.3 The Council's best practice suggests that a period of no less than four weeks must be allowed for potential tenderers to receive and submit their expressions of interest and/or return of completed tender for any council contract. Where EU regulations apply, relevant time limits apply.

## **10. Partnerships**

- 10.1 Staff considering a partnership arrangement must, before starting any contract process, obtain advice from Legal Services and the Procurement Group. The Head of Legal & Governance will advise on the partnership options available to ensure a workable solution including appropriate governance arrangements.

## **11. Waiver of Contract Procedures**

- 11.1 A waiver under this Section allows a contract to be placed by direct negotiation with one or more suppliers rather than in accordance with Section 8. No waiver can be used if the EU procedure applies.
- 11.2 All waivers must be signed by the Officer and countersigned by the Managing Director and Head of Legal & Governance.
- 11.3 The following waivers only need the signature of the Head of Service and the Council's section 151 officer or their nominee or Head of Legal & Governance if:
  - 11.3.1 The subject matter of the contract can only be supplied by one specialist firm.
  - 11.3.2 A waiver is necessary because of unforeseen emergency involving immediate risk to persons, property or serious disruption to Council services.
- 11.4 In addition to the signature of the Head of Service and Managing Director, or their nominee or Head of Legal & Governance.
  - 11.4.1 The Procurement Officer must be consulted where the purchase is to be made using collaborative procurement arrangements i.e. with another local council, government department, statutory undertaking or public service purchasing consortium.
  - 11.4.2 The Managing Director or nominee must agree and confirm that the waiver process has been duly completed where the contract is an extension to an existing contract and where a change of supplier would cause:

- disproportionate technical difficulties;
- diseconomies of scale;
- significant disruption to the delivery of Council services.

11.4.3 The Procurement Officer must be consulted prior to commencing any procurement process using any Office of Government Commerce Buying Solutions (OGC) contract, or, any other local or national framework agreements to ensure best fit for the council's requirements.

## **12. Requirements for All Contracts**

12.1 All contracts (purchases) must be in writing and must state clearly:

- the goods, works or services to be provided;
- the agreed programme of delivery;
- the price and terms of payment;
- all other terms that are agreed;
- exit procedures, for when the contract comes to its natural end, and termination procedures for early termination of the contract including when the contractor has not fulfilled his contractual obligations.

12.2 Every contract must comply with Financial Regulations and any corporate procurement guidance, including EU procurement regulations, where appropriate.

## **13. Steps Prior to Letting a Contract**

13.1 Before letting a contract, Staff must:

13.1.1 Ensure that contracts are within the policy framework of the Council. Estimate the total value of the contract. For example, if the subject matter of the procurement is worth £15,000 over 5 years, the total value of the contract will be £75,000 (i.e. £15,000 x 5). This must include the value of allowance for extension to the contract and any ongoing costs (e.g. maintenance).

13.1.2 Take into account the whole-life costs of the contract.

13.1.3 Ensure that the contracting process is not used to create separate contracts in order to avoid the requirements of Contract Procedures or the requirements of the EU procurement regulations.

13.1.4 Ensure that there is sufficient budgetary provision for the goods or services required.

13.1.5 Provide evidence in writing that the risks associated with the contract have been assessed and suitable arrangements have been or can be put in place to manage them.

13.1.6 Identify whether there is an existing corporate contract, framework agreement, partnership arrangement etc. already in place.

13.1.7 Take into account the outcome from any strategic service review, if appropriate.

- 13.1.8 Define the objectives of the contract.
- 13.1.9 Evaluate what procurement method is most likely to achieve the Council's objectives, including internal/external sourcing, sourcing through a public sector consortium, packaging strategy or collaboration with another organisation.
- 13.1.10 Consult users as appropriate about the proposed procurement method and standards for the contract.
- 13.1.11 Consult with Corporate Leadership Board on sustainability, Health and Safety and Equality and Diversity on areas within the contract which must be included or considered.
- 13.1.12 Retain evidence that the above steps have been carried out, for examination by internal or external auditors.
- 13.1.13 Ensure confidentiality when dealing with contractual matters. Staff must not disclose any information regarding tenders to anyone who is not involved in the selection process.
- 13.1.14 In circumstances that it is likely that employees will transfer to a new employer as a result of a new contract, seek advice from Human Resources and Legal Services with regard to the application of TUPE - Transfer of Undertakings (Protection of Employment) Regulations 2006.

#### **14. Creation and Maintenance of an Approved List and Framework Agreements**

##### **14.1 Approved lists:**

- 14.1.1 As an alternative to advertising contracts, staff may use approved lists to select tenderers. However, approved lists cannot be used where the total value of the intended contract exceeds the EU procurement threshold (currently, Works **£4,348,350**. Goods and Services **£173,934**). The Managing Director, Head of Service and CLB (Corporate Leadership Board) must be consulted before the commencement of tenders over the **OJEU limit**, for policy signoff.
- 14.1.2 When the list is first created, and every three years afterwards, an advertisement must be placed on the Council's website and at least one appropriate journal stating the Council's intent to create an approved list.
- 14.1.3 Potential candidates for the list must be asked to provide details (in accordance with the Guide to Procurement), which will enable the Council to:
  - ensure that they are financially stable;
  - ensure that they have appropriate technical ability to undertake the sort of contract they wish to be considered for;
  - check their health and safety, environmental, equality and diversity and other appropriate records.
- 14.1.4 The maintenance of any list will be the responsibility of the appropriate Head of Service.

- 14.1.5 An accredited government scheme, subject to approval by the Procurement Group is also considered to be an approved list for the purpose of these Contract Procedures.

## 14.2 Framework agreements

- 14.2.1 The term of any framework agreements may be for any period but must not exceed 4 years (EU requirement), unless
- 14.2.2 Where the framework agreement is concluded with several organisations, there must be at least 3 in number. Contracts based on framework agreements may be awarded either:
  - 14.2.2.1 By applying the terms laid down in the framework agreement (where terms are sufficiently precise to cover the particular call-off) without reopening competition.
  - 14.2.2.2 Where the terms laid down in the framework agreement are not precise enough or complete for the particular call-off, by holding a mini competition in accordance with the following procedure.
  - 14.2.2.3 Inviting the organisations within the framework agreement who are capable of executing the subject of the contract to submit written tenders.
  - 14.2.2.4 Fixing a time limit, which is sufficiently long, to allow tenders for each specific contract to be submitted, taking into account factors such as the complexity of the subject of the contract?
  - 14.2.2.5 Tenders shall be submitted in writing, and their content shall remain confidential until the stipulated time limit for reply has expired.
  - 14.2.2.6 The Council must award each contract to the tenderer who has submitted the best tender on the basis of the award criteria set out in the specifications of the original framework agreement.

## 15. Award criteria

- 15.1 Staff must ensure that award criteria selected are appropriate to the contract and that these are signed off by the appropriate officer.
- 15.2 Staff must design award criteria to ensure best value for money for the Council. Particular emphasis must be placed on cost, quality and timeliness of the service or supplies (goods).
- 15.3 The pre-agreed award criteria for assessing the bid must not be changed after tender proposals have been opened and must be signed off by the officer who approved the original award criteria.

## 16. Invitations to Tender/Quotations

- 16.1 The officer must ensure that Invitations to Tender (ITT) and Invitations to Quote (ITQ or sometimes called Request for Quotation (RFQ)) include a specification. The

specification must describe clearly the Council's requirements in sufficient detail to ensure the submission of competitive bids may easily be compared.

- 16.2 The Invitation to Tender/Quote must state that the council is not bound to accept any quotation or tender.
- 16.3 All candidates invited to tender or quote must be issued with the same information at the same time and subject to the same terms. Any additional information or amendments to the specification must be provided to all candidates on the same basis.
- 16.4 Staff who undertake procurement of goods and/or services and works with a total value of less than **£50,000** must ensure that they follow the quotation procedures laid out in Section 8 (above).
- 16.5 In cases where it can be demonstrated that there are insufficient suitably qualified candidates to meet the competition requirements set out in Section 8 (above) all candidates must be invited to bid.
- 16.6 The Invitation to Tender/Quote must specify the award criteria in descending order of importance or any weighting to be used and the procedure to be adopted.
- 16.7 Unless the tendering process is by using an approved list, all Invitations to Tender/Quote must be advertised on the Council's website.

## **17. Short Listing**

- 17.1 Where approved lists are used, the responsible officer and the relevant Head of Service may undertake the short listing in accordance with the original award criteria.
- 17.2 Short listing must be undertaken with regard to the award criteria and include financial, technical and value for money considerations.
- 17.3 In the case of contracts let under the EU procedure, the advice of an officer within Legal Services or the Procurement Group must be sought.
- 17.4 Where appropriate, staff may decide not to shortlist and to send invitations to Tender/Quote to all applicants and evaluate all submissions.

## **18. Submission, Receipt and Opening of Tenders/Quotations**

- 18.1 Candidates invited to bid must be given adequate time in which to submit a quotation or tender. At least four weeks must be allowed for submission of tenders. Note that the EU procedure sets out specific time periods.
- 18.2 All tenders submitted to Brentwood Borough Council, should be done using the e-tendering system, or, in a sealed, plain envelope marked 'TENDER'. There must be no indication on the outside of the envelope of who the sender is. The envelope should be clearly addressed to procurement services and should indicate the subject of the contract.
- 18.3 Procurement Services shall be responsible for the safekeeping of tenders until opening. Receipt of each tender must be initialled and dated by the receiving officer.
- 18.4 A record must be made at the time of opening the tenders showing the name and

address of the tenderers, the date and time of opening and the amount tendered (where possible). All those present at the tender opening shall sign the record as evidence that it is correct.

- 18.5 In the event of a marked or late tender then Procurement Services must be advised and a decision made by the Head of Legal & Governance on whether the tender can be accepted.

## **19. Clarification Procedures**

- 19.1 After the tender opening, it may become apparent that one or more of the potential contractors who have submitted bids have misinterpreted the specification. If it is clear that this is a result of an error or ambiguity in the specification, the responsible officer must consult Procurement Services as to whether all the contractors should be provided with revised specifications and given the opportunity to revise their tender.

## **20. Tender evaluation**

- 20.1 Confidentiality of tenders/quotations and the identity of tenderers must be maintained at all times. Information about one tenderer's response must not be given to another tenderer.
- 20.2 This includes the situation when one part of the Council is tendering for a contract with another part of the Council. In such a situation, there must be a clear division between the two parties, with no advantage ensuing for the internal candidate.
- 20.3 Staff must evaluate and award the contract in accordance with the agreed award criteria in the Invitation to Tender/Quote. The officer responsible for evaluating the tenders should complete a tender evaluation sheet recording the details of the tenders and the process for selecting the winner contained in Appendix 4. There is also a form that requests Legal Services to seal the contract – Appendix 3, and must be someone other than the person who is going to sign the contract.
- 20.4 The reasons for the selection of the successful candidate should be recorded on the evaluation report. The officer carrying out the evaluation must sign the report. Authorisation to award the contract must be given in writing by an officer who has written delegated authority to do so.

## **21. Contract documents**

- 21.1 Every contract must be recorded on the Council's Contract Register. To ensure this process is completed successfully, every contract must be recorded in writing, and must state clearly:
- 21.1.1 What is to be supplied (description and quality).
  - 21.1.2 Payment provisions (amount and timing).
- 21.2 **Every contract with a value over £50,000 must state clearly**
- 21.2.1 When the Council will have the right to terminate the contract.
  - 21.2.2 That the contract is subject to the law as to prevention of corruption (see section 24). The Council's standard terms and conditions of purchase must

be used where possible.

- 21.2.3 That the contractor may not assign or sub-contract part or all of the activity without prior written consent.
- 21.2.4 All insurance requirements.
- 21.2.5 Health and safety requirements.
- 21.2.6 Any ombudsman requirements.
- 21.2.7 Data protection requirements if relevant.
- 21.2.8 Race Relations Act requirements.
- 21.2.9 Disability Discrimination Act requirements.
- 21.2.10 Freedom of Information Act requirements.
- 21.2.11 Where an agent (consultants or contractors) is used to let a contract, that agent must comply with the Council's Contract Procedures relating to contracts.
- 21.2.12 The right of access to relevant documentation and records of the contractor for monitoring and audit purposes.

| No number 21.3

- 21.4 The advice of the Managing Director and/or Head of Legal & Governance must be sought for the following contracts:
  - 21.4.1 Those involving any leasing arrangements, other than property Contract Procedures.
  - 21.4.2 Where it is proposed to use the supplier's own terms.
  - 21.4.3 Those involving the purchase of application software with a total value of more than **£50,000**.
  - 21.4.4 Those which are complex in any other way.
- 21.5 Race, disability and gender equality (Please also refer to "The Equality & Diversity Procurement Policy" on the intranet:
  - 21.5.1 Staff must note that the Race, Disability and Gender Equality duties require all statutory agencies to eliminate discrimination and promote equality of opportunity. Through a variety of specific duties, the Council is required to ensure services are targeted on the most vulnerable sections of the community and that inclusion/participation rates amongst these groups are increased. Recent access to services legislation makes discrimination on the grounds of religion and belief or sexual orientation illegal.
  - 21.5.2 Legislation such as the Disability Discrimination Act and Race Relations (Amendment) Act etc, make it clear that when the Council contracts, it still



retains responsibility for ensuring that services are provided in an appropriate and non discriminatory way. This requires consideration of equality to be built into all the Council's procurement and contract management processes.

- 21.5.3 Any partner organisations, consultants or organisations acting on behalf of the Council will be required to ensure that all policies relating to Race, Disability and Gender Equality are fully complied with. Checks may be made to ensure that these organisations are aware of and addressing equality and diversity legislation.

## **22. Bonds and parent company guarantees**

- 22.1 A bond is an insurance policy, if the contractor does not do what is agreed under a contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Council against a level of cost arising from a contractor's failure. The officer must consult the Head of Resources as to whether a bond is appropriate. Generally a bond will be required:

Where the total value exceeds **£500,000**;

Where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract.

- 22.2 A parent company guarantee is a contract which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract with the Council, they can require the parent company to do so instead. The Head of Resources must be consulted when:

a candidate is a subsidiary of a parent company, the officer does not think a parent company guarantee is necessary and any of the following conditions are satisfied;

the total value exceeds **£50,000**;

award is based on the evaluation of the parent company;

there is some concern about the financial stability of the candidate.

## **23. Award of contract**

- 23.1 All candidates must be notified in writing, simultaneously and as soon as possible, as to the outcome of the tender exercise.
- 23.2 Where a full tender exercise has been carried out, a statutory minimum standstill period of 10 days must apply between the notification of the tenderers and the successful candidate signing the contract. This is to allow for the decision to be challenged by any unsuccessful candidates.
- 23.3 The contract can only be signed by an officer who has the authority to do so. (see 8.3. above).

## **24. Sealing a Contract**

- 24.1 Where a contract has a bond or guarantee or is over the EU threshold, it shall be

sent to the Head of Legal & Governance with the attached Sealing Form (Appendix 3) and shall be sealed on behalf of the Council.

- 24.2 Any contract under the EU threshold shall be signed by an authorised officer as set out in 8.3 above.

## **25. Prevention and Detection of Corruption**

- 25.1 All staff must comply with the Council's Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the officer to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under EU Procurement Regulations.

- 25.2 The following clause must be put in every written council contract:

*“The Council may terminate this contract and recover all losses if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following:*

*Offer, give or agree to give to anyone any inducement or reward in respect of this or any other council contract (even if the contractor does not know what has been done);*

*commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972;*

*commit any fraud in connection with this or any other council contract whether alone or in conjunction with council members, contractors or employees;*

*violate the Council's Anti-Fraud policy;*  
*violate the Council's Anti-Bribery Policy.*

Any clause limiting the Contractor's liability shall not apply to this clause.

- 25.3 All staff and suppliers are expected to adhere to the Council's Anti-Fraud policy. The Council has a zero tolerance policy on fraud and has a confidential reporting mechanism (known as whistle blowing) for genuine reporting of malpractice.

## **26. Managing contracts**

- 26.1 The Managing Director of Head of Legal & Governance together with the Head of Service in sponsoring departments is responsible for naming contract managers for all new contracts. All contracts must have a named contract manager for the entirety of the contract.

- 26.2 Contract managers must follow the procedures set out in the Procurement Guide.

- 26.3 Where the value of a contract for Services exceeds **£50,000**, a detailed Service Level Agreement (SLA) must set out the detailed requirements of the Service.

## **27. Contracts Register**

- 27.1 The Council is required to maintain a Contracts Register. It is the responsibility of the Procurement Department to ensure that all contracts are included on the Council's Contract Register.

## **28. Business case, risk assessment and business continuity planning**

- 28.1 An appropriate business case must be prepared for all procurements over **£10,000**. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.
- 28.2 For all contracts with a value of over **£50,000**, contract managers must:
- maintain a risk register during the contract period;
  - undertake appropriate risk assessments;
  - for identified risks, ensure contingency measures are in place;
  - ensure critical support and maintenance arrangements are documented in the specification in order to avoid costly post-tender negotiation.;
  - ensure that the relevant Chair of the regulating committee for their service or in its absence the Policy Performance & Resources Board is aware of the existence of such contracts and regularly inform them on such matters.
- 28.3 Members of the Council may have involvement in commercial transactions and their involvement in such matter is covered by the Council's Protocol on Member Involvement in Commercial Transactions.
- 28.4 Business continuity is critical to the successful delivery of council services. The officer must ensure that appropriate business continuity arrangements are in place and fully tested to enable services to be delivered in the event of any unforeseen incident occurring. The requirement for a Business Continuity Plan must be an integral element of the Council's specification.

## **29. Post contract monitoring, evaluation and review**

- 29.1 All contracts which have a value higher than the EU threshold limits, or, which are high-risk, are to be subject to monthly formal review with the contractor. The review may be conducted quarterly if permitted by the Managing Director or the Head of Legal & Governance.
- 29.2 The Council's developed contract review process must be applied to all contracts deemed either high risk, high value, or, high profile. This process must be applied at key stages of major procurements.
- 29.3 During the life of the contract the officer must monitor in respect of:
- performance;
  - compliance with specification and contract;
  - cost;
  - any value for money requirements;
  - user satisfaction and risk management.
- 29.4 Where the total value of the contract exceeds **£50,000**, the officer must make a written report evaluating the extent to which the need and objectives were met by the contract. This should be done when the contract is completed. Where the contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the contract.

### **30. Termination of Contract**

- 30.1 An officer shall not terminate a contract over **£50,000** prior to its expiry date without first obtaining advice from the Managing Director or the Head of Legal & Governance.
- 30.2 Where there is an intention to terminate a contract early, the Officer shall report the reasons for this termination to the Managing Director or Head of Legal & Governance at the earliest opportunity.
- 30.3 Staff must seek advice from the Managing Director and Head of Legal & Governance if, payments to a contractor are to be withheld or there is any other problem with the contract which may result in possible early termination.

### **31. Appointment of Consultants to Provide Services**

- 31.1 The Council uses the expertise of specialist consultants to undertake a range of procurement exercises on behalf of the Council. Staff must ensure that such consultants are fully briefed as to Contract Procedures:
  - 31.1.1 Consultants, whether technical or professional, must be selected, and any commissions awarded, in accordance with these contract procedures.
  - 31.1.2 The engagement of a consultant shall follow the agreement of a 'brief' that describes the scope of the services to be provided and shall be subject to completion of a formal contract.
  - 31.1.3 Consultants shall be required to provide evidence of, and maintain professional indemnity insurance policies to the satisfaction of the relevant director for the duration of the contract.
  - 31.1.4 Consultants will generally be paid on results (outputs) as opposed to a daily/weekly fee. The Managing Director must sign off the business case to engage a consultant prior to any agreement between parties. The business case must clearly identify the outputs required and the schedule of fees to be paid.

### **32. Technical Amendments**

- 32.1 The Managing Director and the Head of Legal & Governance have the delegated authority to make technical amendments when necessary, to ensure that these Contract Procedures remain up to date and consistent with legislation, the Council's organisation, structure and generally with best practice. These amendments shall be subject to consultation with the Heads of Human Resources, section 151 Officer or Financial Resources and Internal Audit.
- 32.2 Financial thresholds as set out in Section 8 (above) may only be altered or amended following consultation and agreement of the Audit Committee and the Managing Director.

### **33. Asset disposals (other than land or property)**

- 33.1 A check should be made to determine whether there is a corporate policy or contract for the disposal of the stock (e.g. IT equipment should be disposed of through the ICT team). If a policy or contract is in place, this must be used.

- 33.2 Office equipment and furniture should first be advertised on the “Office Equipment” section of the Intranet, and communicated to schools and other establishments of the Council. Where this method of disposal is unsuccessful, the goods may be sold according to the paragraphs below.
- 33.3 Where the estimated value of the goods is no more than **£2,500** the disposal can be authorised by the Council’s Section 151 officer. If the estimated value is more than **£2,500** then the Managing Director or the Head of Legal & Governance needs to approve the disposal.
- 33.4 Disposal must be either by public auction or by obtaining three quotes from suitable contractors.
- 33.5 The responsible officer for the disposal must ensure that the Council is receiving value or money, and that the contractor used is reputable and evidence of this must be retained.
- 33.6 Items for disposal must not be given to any member of staff without suitable authorisation from the Managing Director or the Head of Legal & Governance.

#### **34. Contract procedures**

- 34.1 For further information and guidance contact the Procurement Officer.

#### **Definitions Index**

<b>“Agent”</b>	A person or organisation acting on behalf of the Council or on behalf of another organisation.
<b>“Approved List”</b>	A list drawn up in accordance with Section 14.
<b>“Award Criteria”</b>	The criteria by which the successful quotation or tender is to be selected.
<b>“Award Procedure”</b>	The procedure for awarding a contract as specified in Section 23.
<b>“Best Value”</b>	The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council. (Note: This terminology has now in many instances been superseded with Value for Money).
<b>“Bond”</b>	An insurance policy: If the contractor does not do what it has promised under a contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Council against a level of cost arising from a contractor’s failure.
<b>“Business Continuity Plan” (BCP)</b>	A BCP is how an organisation prepares for future incidents that could jeopardise the organisation’s core mission and its stability. Could include local incidents like building fires, regional incidents like floods, epidemics or national incidents

	such as a pandemic.
<b>“Candidate”</b>	Any person who asks or is invited to submit a quotation or tender.
<b>“Code of Conduct”</b>	The Council’s code regulating conduct of staff.
<b>“Committee”</b>	A committee, which has power to make, decisions for the Council, i.e. a joint committee with another local council but not a scrutiny committee.
<b>“Constitution”</b>	The constitutional document approved by the Council which: allocates powers and responsibility within the Council and between it and others;  delegates authority to act to the Executive, Committees, Portfolio Holders and staff;  regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.
<b>“Consultant”</b>	Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the Council has no ready access to employees with the skills, experience or capacity to undertake the work.
<b>“Contracting Council”</b>	The organisation that is letting the contract in question.
<b>“Contracting Decision”</b>	Any of the following decisions: composition of approved lists; withdrawal of Invitation to Tender; whom to invite to submit a quotation or tender; short listing; award of contract; any decision to terminate a contract.
<b>“Contract Register Form”</b>	A contract award notification form that must be completed for all relevant contracts a copy of which must be e-mailed to the Procurement department.
<b>“Corporate Contract”</b>	A contract let by the Procurement Group to support the Council’s aim of achieving Value for Money. Where a corporate contract is in place, the officer is obliged to use it unless a waiver has been granted under Section 10 of Contract Procedures.
<b>“Council”</b>	For the purposes of these Rules, “Council” refers to Brentwood Borough Council (BBC).
<b>“EU Procedure”</b>	The procedure required by the EU where the total value exceeds the EU threshold (see the Guide to Procurement for the tendering rules).
<b>“EU Threshold”</b>	The contract value at which the EU public procurement legislation must be applied.
<b>“European Economic Area”</b>	The 27 members of the European Union, plus Norway, Iceland and Liechtenstein.

<b>“Evaluation Report”</b>	A report produced by the officer detailing the outcome of the evaluation process undertaken, from which a recommendation is put forward for approval by a director.
<b>“Financial Officer”</b>	The most senior officer representing the Managing Director or designated by her to provide financial advice to the Council.
<b>“Financial Rules”</b>	The financial rules outlining officer responsibilities for financial matters issued in accordance with the Constitution.
<b>“Framework Agreement”</b>	An agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
<b>“Government Procurement Agreement”</b>	The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the European Economic Area are: the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.
<b>“Head of Legal &amp; Governance”</b>	As identified in the Constitution. This person is also Council’s Monitoring Officer.
<b>“High Profile”</b>	A high-profile purchase is one which could have an impact on functions integral to Council service delivery including publicity and public interest should it fail or go wrong.
<b>“High Risk”</b>	A high-risk purchase is one which presents the potential for substantial exposure on the Council’s part should it fail or go wrong.
<b>“High Value”</b>	A high-value purchase is one where the value is greater than that of the EU threshold values.
<b>“Invitation to Tender”</b>	Invitation to Tender documents in the form required by Contract Procedures.
<b>“Invitation to Tender by Advertisement/List”</b>	An Invitation to Tender sent to candidates shortlisted from among either: <ul style="list-style-type: none"> <li>• those responding to advertisement of the contract inviting proposals placed in such publications as shall secure widest publicity among relevant suppliers;</li> <li>• those included on an approved list in respect of the type of purchase which is the subject of the Invitation to Tender.</li> </ul>
<b>“Irregular Tender”</b>	An irregular tender is a tender, received after the appointed time for receipt or contains a mark of identification.
<b>“Key Decision”</b>	A key decision is an executive decision which is likely to: <p>result in the Council incurring expenditure which is, or, the making of savings which are significant having regard to the Council’s budget for the service or function to which the decisions relates. The financial threshold set by the Council for key decisions is the current OJEU limit and above;</p> <p>be significant in terms of its effect on communities living or working in an area comprising two or more electoral</p>

	divisions in the area of the Council.
<b>“Leader”</b>	A member of the Council elected annually to provide political leadership to the Council.
<b>“Line Manager”</b>	The officer’s immediate supervisor/manager or, the officer designated by the Managing Director to exercise the role reserved to the line manager by these Contract Procedures.
<b>“Managing Director”</b>	As identified in the Constitution.
<b>“Nominated Suppliers and Sub-contractors”</b>	Those persons specified in a main contract for the discharge of any part of that contract.
<b>“Non-Commercial Considerations”</b>	<p>Except as provided below, the following matters are non-commercial considerations:</p> <p>(a) the terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces (“workforce matters”);</p> <p>(b) whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only;</p> <p>(c) any involvement of the business activities or interests of contractors with irrelevant fields of government policy;</p> <p>(d) the conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons (“industrial disputes”);</p> <p>(e) the country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors;</p> <p>(f) any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees;</p> <p>(g) financial support or lack of financial support by contractors for any institution to or from which the Council gives or withholds support;</p> <p>(h) use or non-use by contractors of technical or professional services provided by the Council under the Building Act 1984 or the Building (Scotland) Act 1959. Workforce matters and industrial disputes, as defined above in paragraphs (a) and (d) of this definition, cease to be non-commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of Undertakings (Protection of Employment) Rules 1981 (“TUPE”) may apply.</p>
<b>“Officer”</b>	The officer designated by the Managing Director to deal with the contract in question.
<b>“Official Journal of the European Union”</b>	OJEU - the Official Journal of the European Union (formerly known as OJEC). This is the publication in which all contracts from the public sector which are valued above



	EU thresholds must be published.
<b>“Open Procedure”</b>	All candidates are invited to bid in response to advertisement.
<b>“Parent Company Guarantee”</b>	A contract which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract with the Council, they can require the parent company to do so instead.
<b>“Portfolio Holder”</b>	A member of the Executive to whom political responsibility is allocated in respect of specified functions.
<b>“Priority Services”</b>	Those services required to be tendered as defined in the EU Public Procurement Directives.
<b>“Procurement”</b>	Procurement is ‘the end to end process to acquire or commission goods and services or works at the best possible total cost of ownership, in the right quantity and quality, at the right time, in the right place for the direct or indirect benefit or use of the Council and the taxpayers of Brentwood Borough Council generally via a contract’.
<b>“Procurement Officer”</b>	The Council’s central procurement officer charged with providing strategic direction, support and advice to secure value for money in the Council’s procurement activities.
<b>“Procurement Strategy”</b>	The document setting out the Council’s approach to procurement and key priorities for the next few years.
<b>“Purchase Card”</b>	A card issued to an officer or member by the Council, to be used for purchasing goods or services of low value or for one-off purchases.
<b>“Purchasing”</b>	Purchasing refers to the Councils attempt to acquire goods or services to ensure its key objectives can be met. It sets standards in the purchasing process, through Contract Procedures. Note: Typically the word “purchasing” is not used interchangeably with the word “procurement”, since procurement typically includes a wide range of issues such as supplier quality and logistics in addition to the purchasing process.
<b>“Quotation”</b>	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
<b>“Relevant Contract”</b>	A contract to which these Contract Procedures apply.
<b>“Section 151 Officer”</b>	As identified in the Constitution. This person is nominated to deal with the Council’s Finances under section 151 of the Local Government Act 1972.
<b>“Service Level Agreement”</b>	An SLA is a formally negotiated agreement between two parties. It exists between customers and their service provider. It records the common understanding about services, priorities, responsibilities, guarantee, etc. with the main purpose to agree on the level of service. For example, it may specify the levels of availability, serviceability, performance, operation or other attributes of the service like billing.
<b>“Short listing”</b>	Where candidates are selected:

	<ul style="list-style-type: none"> <li>• to quote or bid;</li> <li>• to proceed to final evaluation.</li> </ul>
<b>“Supervising Officer”</b>	The person to whom the line manager reports.
<b>“Tender”</b>	A candidate’s proposal or offer submitted in response to an Invitation to Tender.
<b>“Tender Thresholds”</b>	<p>The thresholds that determine the appropriate procurement route:</p> <ul style="list-style-type: none"> <li>• the whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal;</li> </ul> <p>whether or not it comprises several lots or stages;</p> <p>to be paid or received by the Council or a Discrete Operational Unit within the Council.</p>
<b>“Total Value”</b>	<p>The total value shall be calculated as follows:</p> <p>Where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period;</p> <p>where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions over the period of the contract;</p> <p>where the contract is for an uncertain duration by multiplying the monthly payment by 48;</p> <p>for feasibility studies the value of the scheme or contracts which may be awarded as a result;</p> <p>for nominated suppliers and sub-contractors the total value shall be the value of that part of the main contract to be fulfilled by the nominated supplier or sub-contractor.</p>
<b>“TUPE Transfer of Undertakings (Protection of Employment)”</b>	TUPE refers to the Transfer of Undertakings (Protection of Employment) Rules, 1981. These rules were introduced to ensure the protection of employees when, for example, a business is taken over by another organisation. Broadly, TUPE rules ensure that the rights of employees are transferred along with the business.
<b>“Value for Money”</b>	Value for Money (vfm) is not the lowest possible price, it combines goods or services that fully meet the needs of the council, with the level of quality required, delivery at the time needed and at an appropriate price. This includes the total cost of delivery (whole life cost).
<b>“Whistle blowing Policy”</b>	The Public Interest Disclosure Act 1998 encourages individuals to raise concerns about malpractice in the workplace. This policy document makes it clear that employees can raise serious concerns without fear of victimisation, subsequent discrimination or disadvantage. It’s intended to encourage and enable employees to raise those concerns within the Council rather than overlooking a problem or ‘blowing the whistle’ outside. The policy applies to all employees and those contractors working for the Council on Council premises. For example, agency staff,

builders, and drivers. It also covers suppliers and those providing services under a contract with the Council in their own premises.

**“Workforce Matters”**

Authorities cannot focus on matters classed as non-commercial’ considerations as part of the contractual process. However, the restrictiveness of the original definitions was considered too great, and so from 2001 authorities may consider the following matters to the extent that they are relevant to the delivery of best value or for the purposes of a TUPE transfer:

- the terms and conditions of employment by suppliers of their workers or the composition of, the arrangements for the promotion, transfer or training of or other opportunities afforded to, their workforces (section 17(5)(a));
- the conduct of suppliers or workers in industrial disputes between them (section 17(5) (d)). Restrictions on other non-commercial considerations listed in Section 17 of the Local Government Act 1988 remain in place.

**Appendix 1 - Record of waivers from contract procedures**

**Requirements under contract procedures**

Completion is not required for purchases using PAE, OGC or Buying Solutions contracts. Dispensation is not permissible for EU tenders. Please complete and return one authorised copy to: The originating officer and a photocopy to the Head of Resources. Contract description	
Total Contract Value	Contract duration

<b>Waiver of Contract Procedures is required as:</b> (please highlight in <b>BOLD</b> )	The Contract can only be supplied by one specialist organisation. Or there is an unforeseen emergency with potential risk to persons, property or Council Services	The purchase involves collaborative procurement arrangements with another local authority, government dept, or public service purchasing consortium.	The contract is an extension to an existing contract and a change of supplier would cause technical difficulties, diseconomies of scale or significant disruption to Council services.
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**Reason for the waiver from Competition**

**List of documents attached to substantiate the waiver.**

**NAME OF ORIGINATING OFFICER REQUESTING APPROVAL: .....**  
**Department: ..... Date: .....**

**APPROVAL IS REQUIRED FOR ALL LEVELS:**

**Approved by Head of Resources**  
**Signature: .....Date: .....**

**Approved by Head of Legal & Governance**  
**Signature: .....Date: .....**

**Approved by Managing Director/Director of Finance**  
**Signature: .....Date: .....**

**PART 4.7**

**STAFF EMPLOYMENT PROCEDURE RULES**

## **STAFF EMPLOYMENT PROCEDURE RULES**

### **1. Recruitment and appointment**

#### **(a) Declarations.**

- (i) The Council will draw up a statement requiring any candidate for appointment as a member of staff to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing member officer of the Council; or of the partner of such persons.
- (ii) No candidate so related to a member or a member of staff of the Council will be appointed without the authority of the relevant chief officer or an officer nominated by them.

#### **(b) Seeking support for appointment.**

- (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any member for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) Subject to paragraph (iii), no member will seek support for any person for any appointment with the Council.
- (iii) Nothing in paragraphs (i) and (ii) above will preclude a member from giving a written reference for a candidate for submission with an application for appointment.

### **2. Recruitment of head of paid service and chief officer**

Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing staff, the Council will:-

- (a) draw up a statement specifying:
  - (i) the duties of the officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

### **3. Appointment of head of paid service**

The Council will approve the appointment of the head of paid service following the recommendation of such an appointment by a committee or sub-committee of Council.

4. **Appointment of chief officers and Monitoring Officer**

Every appointment of a chief officer shall be made by the Council except where the Council has delegated the decision to a committee or sub-committee of the Council.

5. **Other appointments**

**Staff below chief officer.** Appointment of staff below chief officer is the responsibility of the head of paid service or their nominee, and may not be made by members.

6. **Disciplinary action**

- (a) **Suspension.** The head of paid service, monitoring officer and chief finance officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- (b) **Independent person.** No other disciplinary action may be taken in respect of any of those staff except in accordance with a recommendation in a report made by a designated independent person.
- (c) Members will not be involved in the disciplinary action against any member of staff below chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

7. **Dismissal**

Members will not be involved in the dismissal of any member of staff below chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.

## **PART 5**

### **CODES AND PROTOCOLS**

- 5.1 Members' Code of Conduct**
- 5.2 Members' Planning Code of Good Practice**
- 5.3 Staff Code of Conduct**
- 5.4 Protocol on Member/Staff Relations**



## **PART 5.1**

### **MEMBERS' CODE OF CONDUCT**

**Part 1 – General Provision**

**Part 2 – Members' Interests**

**Part 3 – Register of Members' Interests**

**Appendix 1 – The Nolan Principles**

**Appendix 2 – The Conduct Complaint Process**

## **MEMBER CODE OF CONDUCT**

### **PART 1 GENERAL PROVISIONS**

#### **Introduction and interpretation**

As a Member you are a representative of Brentwood Borough Council (“the Authority”) and the public will view you as such. Therefore your actions impact on how the Authority as a whole is viewed and your actions can have both positive and negative impacts on the Authority.

This Code as a whole is consistent with “Nolan Principles” which are set out in **Appendix 1** and the provisions of S29(1) Localism Act 2011.

In this Code-

“meeting” means any meeting of:

- (a) the Authority;
- (b) the Executive of the Authority;
- (c) any of the Authority’s or its Executive’s committees, sub-committees, joint committees, joint sub-committees or areas committees;

whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Members.

- (d) any briefings by staff and site visits organised by the Authority.

“relevant period” means the period of 12 months ending with the day on which you give notification to the Authority’s monitoring officer of any disclosable pecuniary interests you had at the time of the notification.

“profit or gain” includes any payments or benefits in kind which are subject to Income Tax.

“beneficial interest” means having an economic benefit as a legal owner or holding it on trust for the beneficial owner, having a right to the income from the land or securities or a share in it or the right to the proceeds of sale or share of part of the proceeds of sale.

“Member” includes a co-opted member.

#### **1. Who does the Code apply to?**

- (1) This Code applies to all Members of the Authority including co-opted members.
- (2) It is your responsibility to comply with the provisions of this Code.

#### **2. What does the Code apply to?**

- (1) You must comply with this Code whenever you:
  - (a) conduct the business of the Authority, or

- (b) you are acting as a representative of the Authority.
- (2) This Code has effect in relation to your conduct in your official capacity.
- (3) Where you act as a representative of the Authority:
  - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with the Authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### **3. General obligations**

- (1) You must treat others with respect.
- (2) You must uphold the law.
- (3) You must not:
  - (a) do anything which may cause the Authority to breach any of the equality enactments;
  - (b) bully any person;
  - (c) intimidate or attempt to intimidate any person who is or is likely to be:
    - (i) a complainant;
    - (ii) a witness; or
    - (iii) involved in the administration of any investigation or proceedings;in relation to an allegation that a Member (including yourself) has failed to comply with the Authority's code of conduct; or
  - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

### **4. Confidential Information**

You must not:

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

- (iv) the disclosure is:
  - (aa) reasonable and in the public interest; and
  - (bb) made in good faith and in compliance with the reasonable requirements of the Authority.
- (b) prevent another person from gaining access to information to which that person is entitled by law.

## **5. Conferring an advantage or disadvantage**

You must:

- (a) not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
- (b) when using or authorising the use by others of the resources of the Authority:
  - (i) act in accordance with the Authority's reasonable requirements;
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes);
- (c) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

## PART 2 MEMBERS INTERESTS

### 6. Disclosable Pecuniary Interests<sup>2</sup>

6.1 You have a Disclosable Pecuniary Interest in any business of the Authority if it is of a description set out in 6.2 below and is either:

- (a) An interest of yours; or
- (b) An interest (of which you are aware) of a spouse, civil partner or a person you are living with as a spouse or civil partner (“known as Relevant Persons”).

6.2 A Pecuniary Interest is an interest which relates to or is likely to affect:

- (a) Any employment, office, trade, profession or vocation carried on by you or a Relevant Person for profit or gain;
- (b) Any payment or provision of any other financial benefit (other than from the Authority) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (c) Any contract for goods, services or works which has not been fully discharged between you or a Relevant Person and the Authority or a body in which you or they have a beneficial interest;
- (d) A beneficial interest in any land in the Authority’s area;
- (e) A licence of any land in the Authority’s area (alone or jointly with others) that you or a Relevant Person occupy for a month or longer;
- (f) Any tenancy where to your knowledge (a) the landlord is the Authority and (b) the tenant is a body in which you or a Relevant Person has a beneficial interest;
- (g) Any beneficial interest in securities of a body where:
  - (1) that body (to your knowledge) has a place of business or land in the area of the Authority; and
  - (2) either:
    - (a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - (b) the beneficial interest exceeds one hundredth of the total issued share capital of the share capital of that body, if of more than one class, the total nominal value of the shares of any one class.

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<sup>2</sup> The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 set out the pecuniary interests specified for the purposes of Chapter 7 of Part 1 Section 30(3) of the Localism Act 2011

## **7. Other Pecuniary Interests**

You have a pecuniary interest in any business of the Authority where it relates to or is likely to affect:

- (i) any person or body who employs or has appointed you;
- (ii) any contract for goods, services or works made between the Authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specific in paragraph 6.2.(vii) which has been fully discharged within the last 12 months.

## **8. Non-Pecuniary Interests**

You have a non-pecuniary interest in any business of the Authority where it relates to or is likely to affect-

- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority;
- (ii) any body:
  - exercising functions of a public nature;
  - directed to charitable purposes; or
  - one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);of which you are a member or in a position of general control or management;
- (iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;
- (iv) a decision in relation to that business which might reasonably be regarded as affecting your wellbeing or the wellbeing of a relevant person to a greater extent than the majority of:-
  - (a) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
  - (b) (in all other cases) other council tax payers, ratepayers or inhabitants of the Authority's area.

## **9. Disclosure of Interests (Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests)**

9.1 Subject to sub-paragraphs 9.2 to 9.3, where you have a Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.

9.2 Sub-paragraph 9.1 only applies where you are aware or ought reasonably to be aware of the existence of the Relevant Person's Interest.

- 9.3 Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 but by virtue of paragraph 12 (Sensitive Information) details of the interest are not registered in the Authority's published Register of Members' Interests and the interest is a Disclosable Pecuniary Interest you need not disclose the nature of the interest to the meeting.
- 9.4 Where you have a Pecuniary Interest in any business of the Authority and a function of the Authority may be discharged by you acting alone in relation to that business, you must ensure you notify the Authority's monitoring officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business.
- 9.5 Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 and you have made an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest. In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

## **10. Effect of Interests on participation**

### **10.1 Disclosable Pecuniary Interests**

- (a) If you are present at a meeting of the Authority or of any committee, sub-committee, joint committee or joint sub-committee of the Authority and you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and you are aware of that Interest:
- (i) You must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting;
- (ii) You must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the Authority's proper officer;
- (b) If you have a Disclosable Pecuniary Interest in any business of the Authority you must not:
- (i) exercise executive functions in relation to that business; and
- (ii) seek improperly to influence a decision about that business.
- (c) If a function of the Authority may be discharged by a Member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enable the matter to be dealt with otherwise than by yourself).

### **10.2 Other Pecuniary Interests**

If you have an Other Pecuniary Interest in any business of the Authority which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement in the public interest and you are present at a meeting

of the Authority at which such business is to be considered or is being considered you must:

- (i) disclose the existence and nature of the interest in accordance with paragraph 9.1 (but subject to paragraph 9.3); and
- (ii) withdraw from the room or chamber where the meeting considering the business is being held unless you have obtained a dispensation from the Authority's proper officer.



## PART 3 REGISTER OF MEMBERS INTERESTS

### 11. Registration of Members' Interests

Subject to paragraph 12, you must, within 28 days of:

- (i) this Code being adopted by or applied to the Authority; or
- (ii) your election, re-election or appointment or re-appointment to office (where that is later), or co-opted onto the Authority

register in the Authority's Register of Members' Interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:

- (i) Disclosable Pecuniary Interests as referred to in paragraph 6 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner in so far as you are aware of their interests at that time.
- (ii) Pecuniary Interests referred to in paragraph 7 that you have.

Subject to paragraph 12, you must within 28 days of becoming aware of any new Disclosable Pecuniary Interest as referred to in paragraph 6 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner or change to any Disclosable Pecuniary Interest registered under paragraphs 11(a)(i) or (ii) above by providing written notification to your authority's Monitoring Officer.

### 12. Sensitive Information

12.1 Where you have a Disclosable Pecuniary Interest referred to in paragraph 6 or pecuniary interest referred to in paragraph 7 and the nature of the interest is such that you and the Authority's monitoring officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the Authority's Register then copies of the register available for inspection and any published version of the Register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.

12.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 12.1 is no longer sensitive information, notify the Authority's monitoring officer.

12.3 In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subject to violence or intimidation.

### 13. Register of Gifts and Hospitality

13.1 You must within 28 days of receipt, notify the Authority's monitoring officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a member from any person or body other than the Authority.

13.2 The monitoring officer will place your notification on a public register of gifts and hospitality.

- 13.3 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.

**CODE OF CONDUCT**

**THE NOLAN PRINCIPLES AND SECTION 28(1) OF THE LOCALISM ACT 2011**

**SELFLESSNESS**

To serve only the public interest and never improperly confer an advantage or disadvantage on any person

**INTEGRITY**

Not to place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour

**OBJECTIVITY**

Make decisions on merit, including when making appointments, awarding Contracts or recommending individuals for rewards or benefits.

**ACCOUNTABILITY**

To be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their Office.

**OPENNESS**

To be as open as possible about their actions and those of the Council and should be prepared to give reasons for those actions.

**HONESTY**

Not to place themselves in situations where their honesty may be questioned, should not behave improperly and should, on all occasions, avoid the appearance of such behaviour.

**LEADERSHIP**

Should promote and support these principles by leadership and by example and should always act in a way that secures or preserves public confidence.

**THE CONDUCT COMPLAINT PROCESS**

**[to be added]**

**PART 5.2**

**MEMBERS' PLANNING CODE OF GOOD PRACTICE**

## **MEMBERS' PLANNING CODE OF GOOD PRACTICE**

### **Introduction & Background**

This code has been prepared in response to the Local Government Association's Guidance note on the preparation of Local Codes of Good Practice on Planning Matters in the light of the introduction of the new ethical framework.

**The aim of this code of good practice:** to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

**The key purpose of Planning:** to control development in the public interest.

**Your role as a Member of the Planning Authority:** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.

**When the code applies:** this code of good practice applies to Members at all times when involving themselves in the planning process. (This includes, where applicable, when part of decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers of the public and consultative meetings). It applies as equally to planning enforcement matters as it does to planning applications.

If you have any doubts about the application of this code to your own circumstances you should seek advice early, preferably well before any meeting takes place.

### **Relationship of the Members' Code of Conduct: General**

- **Do** apply the rules in the Members' Code of Conduct first, which must always be complied with.
- **Do** then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not abide by this Code of Good Practice, you may put:
  - The Council at risk of proceedings on the legality of maladministration of the related decision; and
  - yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is likely to also be a breach of the Code of Conduct, a complaint being made to the Standards Board for England.

### **Development Proposals and Members' Interests**

- **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members.
- **Do** then act accordingly. Where your interests are prejudicial:-
  - **Don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.

- **Don't** try to represent ward views, get another (ward) Member to do so instead.
- **Don't** get involved in the processing of the application.
- **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include using your position to discuss personally with officers an application in which you have a personal and prejudicial interest when other members of the public would not have the opportunity to do so.
- **Do** be aware that, whilst you're not prevented from seeking to explain and justify a proposal in which you have a prejudicial interest to an appropriate officer (in person or in writing), the Code places greater limitations on you in representing that proposal than would apply to a normal member of the public. (For example, where you have a personal and prejudicial interest in a proposal to be put before a meeting, you will have to withdraw from the room or chamber whilst the meeting considers it, whereas an ordinary member of the public would be able to make use of the public speaking scheme to address the meeting on the proposal and observe the meeting's consideration of it from the public gallery.)
- **Do** notify the Monitoring Officer in writing of your own proposals and those where you act as agent for a third party - this notification should be made no later than submission of the application. These proposals be dealt with under normal planning procedures.

### **Fettering Discretion in the Planning Process**

- **Don't** fetter your discretion and therefore your ability to participate in planning decision making at the Council by making up your mind, or appearing to have made up your mind, on how you will vote on any planning matter (including whilst serving on another body) prior to formal consideration of the matter at a meeting(s) of the planning authority and of your hearing the officer's representation and evidence and arguments on both sides.

Fettering your discretion in this way may put the Council at risk of a finding of maladministration and of legal proceedings in respect of the decision on the grounds of a danger of bias or pre-determination or of a failure to have taken into account all of the factors enabling the proposal to be considered on its merits.

- **Do** be aware that the above includes where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal, either on behalf of the Council or in respect of a particular areas. Through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public, as being no longer able to determine the application purely on its planning merits or to act impartially in respect of the application.
- **Do** consider, where you have been significantly involved in the preparation, submission or advocacy of a planning proposal on behalf of:
  - another local or public authority of which you are a member; or
  - a body to which you have been appointed or nominated by the Council as its representative,

that

- it is recommended you disclose a personal and prejudicial interest (the Members Code of Conduct allows for an exemption in that you may choose not to regard yourself as having a prejudicial interest in matters which relate to these organisations); but
- should you decide to make use of the exemption, you will have fettered your discretion (as described in the paragraph above)

and you should act accordingly.

- **Don't** speak and vote on an application/matter where you have fettered your discretion. You do not also have to withdraw, but you may prefer to do so for the sake of appearances.
- **Do** explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.
- **Do** take the opportunity to exercise your separate rights as Ward Member where you have already represented your views or those of local electors in this way and therefore fettered your discretion, but do not have a personal interest. Where you do:
  - advise the proper officer or Chairman that you wish to speak in this capacity before commencement of the item;
  - remove yourself from the member seating area for the duration of that item; and
  - ensure that your actions are recorded.
- **Do** decide where you wish to exercise your decision-making powers.

#### **Lobbying of and by Councillors**

- **Don't** declare to any person the way you intend to vote, or express an opinion on the merits in such a way or of such firmness that it implies the same thing as this will result in you having fettered your discretion.
- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality to express a firm point of view or an intention to vote one way or another.
- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal wherever possible. If a degree of hospitality is unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible and remember to register the gift or hospitality where its value is over £25 [in accordance with the authority's rules on gifts and hospitality].
- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you



should not improperly favour, or appear to improperly favour, any person, company, group or locality.

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion and you are likely to have a personal and prejudicial interest and have to withdraw.
- **Do** join interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE or a local civic society, but declare a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation that you must reserve judgement and the independence to make up your own mind on each separate proposal.
- **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts of hospitality), who will in turn advise the appropriate officers to follow the matter up.
- **Do** note that, unless you have a personal and prejudicial interest, you will not have fettered your discretion or breached this or Planning Code of Good Practice through:
  - listening or receiving viewpoints from residents or other interested parties;
  - making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to prejudging the issue and you make clear you are keeping an open mind;
  - seeking information through appropriate channels; or
  - being a vehicle for the expression of opinion or speaking at the meeting as a ward member, provided you explain your actions at the start of the meeting/item and make it clear that, having expressed the opinion or ward view, you have not committed yourself to vote in their interest and will make up your own mind having heard all the facts and listened to the debate.

### **Ward Member Rights**

- **Do** exercise your separate rights as a Ward Member where you wish to act as a representative of your local area, reporting and advocating the views of your constituents. If you do, however, it follows you will no longer be acting impartially.
- As a Ward Member you will be given the opportunity to speak where you have declared your opinion in advance on the matter.  
**Do** advise the Chairman in advance and announce at the meeting your intention to speak and represent the views of residents at the meeting.
- **Don't** when exercising these rights as a Ward Member participate in any vote on the matter.

## **Contact with Applicants, Developers and Objectors**

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the Chief Planning Officer to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action and that the meeting is properly recorded on the application file.
- **Do** otherwise:
  - follow the rules on lobbying;
  - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
  - report to the Chief Planning Officer any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

### **In addition in respect of presentations by applicants' developers:**

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

## **Officers**

- **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Chief Planning Officer which may be incorporated into any committee report).
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinion and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

### **Decision Making**

- **Do** comply with section 54A of the town and Country Planning Act 1990 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- **Do** come to your decision only after due consideration of all of the information reasonably required to base a decision upon. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request it. If necessary, defer.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.

### **Public Speaking at Meetings**

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

**PART 5.3**

**STAFF CODE OF CONDUCT**

**STAFF CODE OF CONDUCT**

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## **1. INTRODUCTION**

### **Application**

- 1.1 This Code of Conduct applies to all Brentwood Borough Council employees (including those working within Direct Service Organisations) irrespective of the job that they do or the grade that they are on or, indeed, the status of the contract (e.g. permanent, fixed term, casual).

### **Purpose of the Code**

- 1.2 Brentwood Borough Council is a public authority and, as such, the public, and all other individuals and organisations who come into contact with the Council, are entitled to expect from its employees the highest standard of service in terms of integrity, efficiency, impartiality and courtesy.
- 1.3 This Code sets out the standards of conduct that Brentwood Borough Council employees should adhere to when carrying out their work and duties. In addition, its purpose is to maintain and improve standards and protect employees from misunderstanding or criticism.
- 1.4 Employees should always bear in mind that it is not enough to avoid actual impropriety or improper conduct. Employees should at all times endeavour to avoid any occasion for suspicion and any appearance of improper conduct or impropriety.

### **Status of the Code**

- 1.5 This Code has been formally approved and adopted by the Council.
- 1.6 The Council believes that the Code represents the standard against which the conduct of employees will be judged, both by the public and by their fellow employees. It is not an exhaustive listing of all standards expected of employees.

### **Non-Observance of the Code**

- 1.7 Failure to adhere to the Code can bring the Council and local government as a whole into disrepute. Such failure could also lead to a finding of maladministration on the part of the Council by the Local Government Ombudsman.
- 1.8 One of the purposes of the Code is to provide guidance to employees, and protect them from misunderstanding or criticism. It is therefore in each employee's own interest to adhere to the Code.
- 1.9 Employees also need to bear in mind that there will inevitably be some instances where there is an overlap between the provisions of the Code and the Council's disciplinary procedures. Accordingly, conduct which is contrary to the Code could result in disciplinary proceedings being instituted against the employee.
- 1.10 Furthermore, employees need to be aware that conduct which is contrary to certain provisions of the Code (e.g. those dealing with unauthorised

disclosure of confidential information) could, depending upon the precise circumstances of the case, also amount to an offence under criminal law (e.g. Data Protection Act) and thus result in prosecution of the employee concerned.

### **Interpretation**

- 1.11 The Code is to be interpreted in spirit as well as by the letter. An employee who is in any doubt as to whether a particular provision in the Code is applicable to his/her situation should, in the first instance, refer the matter to his/her manager.

## **2. DEALINGS WITH THE PUBLIC**

### **General**

- 2.1 Employees are expected to give the highest possible standard of service to the public and to the local community and to abide by the customer care standards set by the Council. Employees who, in the course of their employment, have contact with the public, whether face to face, over the telephone or by way of written correspondence should ensure that at all times they deal with the individual(s) in an efficient and courteous manner, irrespective of the circumstances.

### **Standards of Dress**

- 2.2 Employees should dress in a manner appropriate to their role so as to ensure, so far as is reasonably possible, that no offence is caused to individual members of the public, including members of minority groups.
- 2.3 Smart business dress standards are to be observed at all times, unless special dispensation has been granted by the supervisor or line manager. Where a uniform is provided, this must be worn at all times.
- 2.4 Employees should refrain from wearing any badges, jewellery or insignia which might give offence or which could be taken to indicate that the wearer is a supporter of a particular political party or pressure group.

### **Alcohol and Drugs**

- 2.5 Employees should refrain from consuming any alcohol or drug before or during their working day if it is likely to have an adverse effect on their work (for example, driving, operating machinery and supervising others) or if it would be inappropriate (for example, if their work brings them into face to face contact with the public).

### **Smoking**

- 2.6 The provisions of the Council's No Smoking Policy must be observed by staff at all times.

### **Complaints**

- 2.7 Employees who, in the course of their employment, have contact with the public should familiarise themselves with the Council's complaints procedure and, where appropriate, bring the procedure to the attention of members of the public.
- 2.8 Employees should be prepared to disclose to any member of the public their name and position with the Council unless in any particular case they have genuine cause to believe that such disclosure might compromise their own personal safety.



### **3. DISCLOSURE AND USE OF CONFIDENTIAL INFORMATION**

#### **Disclosure of Information**

- 3.1 Employees should not divulge by any means to any person(s) outside the Council or to any unauthorised person(s) within the Council confidential information obtained in the course of their employment.
- 3.2 Employees should bear in mind that some information which the Council has in its possession is available to the public or other outside parties as of right. It is, however, the responsibility of each individual employee to satisfy himself or herself in any particular case that the disclosure is authorised and proper. In cases where there is any doubt as to whether information is confidential or not employees should refer to their manager.
- 3.3 Employees should also be aware that under the Data Protection Act 1998 the unauthorised disclosure of personal information held on computer is a criminal offence, punishable on conviction with a heavy fine.
- 3.4 This provision is not intended to preclude or discourage employees from communicating confidential information to the Council's Whistleblowing Officer, the Monitoring Officer or their own Head of Service, where such communication is necessary in order to bring to that Officer's notice conduct which is (or might be) unlawful or in breach of the Council's Disciplinary Standards.
- 3.5 The Council has in place a formal Whistleblowing Policy which is applicable to employees who have concerns that they feel should be raised in a confidential setting. Details can be obtained from the Personnel Office.

#### **Use of Information by Employees**

- 3.6 Employees must never use confidential or sensitive information obtained by them in the course of their employment for personal gain or benefit.

#### **4. EQUALITY ISSUES**

- 4.1 All employees should 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, customers and other employees have a right to be treated with fairness and equality.
- 4.2 The Council recognises and values all sections of the Community, and is committed to the planning and delivery of services which recognise the different needs of the community and which are non discriminatory regardless of race, religion, disability, health, status, age, gender or sexual orientation.
- 4.3 All members of staff are expected to observe the foregoing as part of their role within the Council.

## **5. POLITICAL NEUTRALITY**

### **When Carrying Out Work**

- 5.1 Employees (whether or not their post is designated as politically restricted) should follow every lawful expressed policy of the Council, and should not allow their own personal or political opinions to interfere with or influence their work.

### **Dealings with Members**

- 5.2 Employees should bear in mind that they serve the Council as a whole. They therefore serve all Members and not just those of the controlling group, and should ensure that the individual rights of all Members are respected.
- 5.3 Staff may from time to time be required to provide advice to the political groups on the Council. If this is the case staff must do so in ways which do not compromise their political neutrality. Information communicated to a staff member by a political group in confidence should not be communicated to other political groups.
- 5.4 Close personal familiarity between employees and individual Members can damage Officer/Member relationships and should be avoided in the conduct of Council business in order to avoid perceptions of bias or favouritism.
- 5.5 To avoid this problem, employees must declare to their Head of Service any close personal relationship with a Member.
- 5.6 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 regular social mixing such as holidays or evening meals together.

### **Undue Political Pressure**

- 5.7 If any member of staff feels that a Member of the Council is seeking to exert undue political pressure on the individual, or is making requests that are considered to be overtly political in nature, then the matter should be reported immediately to the line manager and Head of Service.

## **6. ACCEPTANCE OF GIFTS ETC**

### **General**

- 6.1 Except in the very limited circumstances set out below employees should not accept any fees, gifts or other benefits on their own behalf or on behalf of a third party, from any member of the public, pressure group or other outside party.

### **Gifts**

- 6.2 Employees may, either in the course of receiving authorised hospitality (see Section 7) or otherwise, accept gifts of a nominal value, such as biros, complementary notepaper, diaries, calendars etc.
- 6.3 Employees should however always be very cautious about accepting any gift(s) which could reasonably be regarded as having more than a nominal value. In such cases, the gift should be reported to the relevant Head of Service as to whether in all the circumstances it is appropriate for the gift to be accepted.
- 6.4 If such a gift is deemed to be acceptable, then it must be recorded in the departmental "Hospitality Book" detailing the nature of the gift, the recipient and the name of the organisation or individual presenting the gift.
- 6.5 Gifts which are deemed to be inappropriate to accept shall be courteously but firmly returned and the rejection must be recorded in the department 'Hospitality Book'. Any organisation or individual who strongly wishes to make a gesture of goodwill to the Council should be directed to the Mayor's Secretary in relation to the Mayor's Charity Fund.
- 6.6 In any particular instance, employees should always have regard to the criminal law position (see 6.8 below) and also how acceptance of such a gift might be perceived by the ordinary member of the public.
- 6.7 Items which have a significant or high monetary value should never be accepted.

### **Criminal Law**

- 6.8 Employees should be aware that it is a serious criminal offence for them corruptly to receive any gift, loan, fee, reward or advantage for doing, or not doing anything, or showing favour or disfavour to any person in their official capacity. If an allegation is made then it is for the employee to demonstrate that any gift, loan, fee, reward actually received has not been corruptly obtained.

## **7. HOSPITALITY**

### **Accepting Hospitality**

- 7.1 Employees should only accept offers of hospitality if these are occasions on which they are gathering, imparting or exchanging information or representing the Council.
- 7.2 Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented.
- 7.3 Attendance at such functions should be authorised by the appropriate Head of Service and should be recorded in the departmental "Hospitality Book" detailing the nature of the hospitality, the recipient and the name of the organisation or individual providing the hospitality.
- 7.4 Acceptance of hospitality through attendance at relevant conferences, seminars and courses may be acceptable where it is clear that the hospitality is corporate rather than personal.

### **Refusing Hospitality**

- 7.5 When hospitality has to be declined the person or organisation making the offer should be courteously but firmly informed of the procedures and standards operating within the Council and the rejection must be recorded in the department 'Hospitality Book'.

### **Sensitivity as to Timing**

- 7.6 When receiving authorised hospitality employees should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.

### **Giving of Hospitality**

- 7.7 The giving of reasonable hospitality to visiting individuals, and in the course of meetings with outside individuals/organisations which take place off Council premises, is acceptable provided that:
  - (i) the visit/meeting relates to Council business;
  - (ii) such hospitality is of a kind which is appropriate to the circumstances;
  - (iii) The hospitality does not compromise any purchasing decisions; and
  - (iv) the hospitality has been approved by the relevant Head of Service.
- 7.8 In some cases it may well be wrong not to offer hospitality. For example, the failure to offer a visitor basic refreshment (i.e. tea/coffee) would, in certain circumstances, be construed as discourteous, and possibly contrary to the Council's customer care ethos. Similarly, in the case of lengthy meetings the provision of a "working lunch" may well be appropriate.
- 7.9 Hospitality should never be lavish or extravagant. Employees should always

have regard to how such hospitality might be perceived by ordinary members of the public - bearing in mind the Council is a public body funded in the main by local and central government taxation, and also the need for impartiality in relations with contractors and potential contractors.

### **Sponsorship**

- 7.10 Where an outside organisation or individual wishes to sponsor or is seeking to sponsor a Council activity whether by invitation, tender, negotiation or voluntarily the basic principles above concerning gifts and hospitality apply.

## **8. PERSONAL INTERESTS - DISCLOSURE ETC**

### **The Underlying Principle**

- 8.1 Employees should never use their positions with the Council to seek special favour or preferential treatment for themselves, or friends or relatives. Equally important, employees should not allow the impression to be created that they are, or may be, using their position to promote private or personal interests.

### **Disclosure Generally**

- 8.2 Employees should disclose to their manager or Head of Service any personal interest (whether financial or non-financial in nature) which may affect, or be considered by others to affect, an employee's impartiality in any matter relevant to his/her duties.
- 8.3 Non-financial interests could, for example, include involvement with an organisation receiving grant aid from the Council, or involvement with an organisation or pressure group which is seeking to influence or change the Council's policies.

### **Statutory Duty to Disclose any Pecuniary Interests**

- 8.4 Employees must be aware that by law (Section 117 of the Local Government Act 1972) they are required to disclose in writing to the Council any pecuniary interest, whether direct or indirect, which they have in any contract which, to their knowledge, has been, or is proposed to be entered into by the Council. Failure to disclose such an interest is a serious criminal offence.
- 8.5 The Chief Executive maintains a register for the disclosure of pecuniary interests. This register is open to inspection by the public.
- 8.6 Employees who are not sure whether disclosure is required in a particular case should initially refer the matter to their manager or Head of Service.

## **9. RELATIONS WITH OUTSIDE CONTRACTORS AND PROPOSED CONTRACTORS**

### **Familiarity With Standing Orders Etc.**

- 9.1 Employees who make or advise on purchasing decisions or are otherwise involved in the ordering of goods or services on behalf of the Council must ensure that they are familiar with, and observe the provisions of, the Council's Standing Orders (Contracts) and Financial Regulations.

### **Awarding of Contracts and Orders**

- 9.2 Employees who make purchasing decisions, or who are otherwise involved in the ordering of good or services on behalf of the Council, must ensure that orders and contracts are awarded strictly in accordance with the Council's Standing Orders (Contracts) and that no special favour is shown, or preferential treatment given, to businesses run by partners, relatives, friends or former employees.

### **Disclosure of Private Work - The General Principle**

- 9.3 Any employee involved in purchasing decisions (including the selection of persons invited to tender, and the evaluation of tenders etc) and who has, or has had, a private business relationship (as defined below) with a person or company whom they know has or is seeking to have a contractual relationship with the Council (whether for the supply of goods, services or construction works) should disclose that fact in writing to the Chief Executive.
- 9.4 The Chief Executive shall record the disclosure in a register which is kept for that purpose and which is open to inspection by the public.

### **Definition of a Private Business Relationship**

- 9.5 An employee shall be taken to have a private business relationship with a person or company if that person or company has been engaged to carry out work to the employee's home or that of his/her family or close friend(s); or to supply any goods or services to the employee or his/her family or close friend(s).

### **Exceptions**

- 9.6 This part of the Code shall not, however, be taken as requiring an employee to disclose a private business relationship with:
- (1) any public utility company or statutory undertaker (e.g. British Telecommunications Plc, Eastern Electricity, rail operators and other public transport companies) where work done or goods/services supplied is a kind which is provided or made available to a large section of the general population.
  - (2) any bank or similar financial institution where the services provided are of a kind commonly provided or made available to other customers of the bank/institution.
  - (3) any retail store or outlet (e.g. a supermarket or bookshop) where the private



business relationship has arisen solely because the employee has purchased from the store/outlet (during its opening hours) goods or services which, at the time of purchase were on display or offer to the general public at the same price and on the same terms.

### **Employees Who Supervise Contracts**

- 9.7 Employees who supervise contractors should disclose in writing to the Chief Executive any private business relationship (as defined in 9.5 above) which they have, or have had, with any of the contractors which come within their supervision. The Chief Executive shall record the disclosure in a register which is kept for that purpose and which is open to inspection by the public.

## **10. OUTSIDE COMMITMENTS**

- 10.1 Employees should not engage in any outside employment which conflicts or may conflict with the Council's interests.
- 10.2 Certain employees, by virtue of their specific contracts of employment, are precluded from engaging in any outside employment unless they have first obtained the consent of the Council. An employee who wishes to take up outside employment must therefore first check the position with the Personnel Manager.
- 10.3 The Council does encourage voluntary work, public duties and activities in support of local community groups, and employee involvement in these areas is welcomed.

## **11. SEPARATION OF ROLES DURING THE TENDERING PROCESS**

### **Separation of Roles**

- 11.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Council.

### **Fairness and Impartiality**

- 11.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

## **12. USE OF COUNCIL RESOURCES AND PROPERTY ETC**

### **Use of Resources**

- 12.1 Employees must ensure that they use public funds entrusted to them in a responsible manner. They should strive to ensure value for money to the local community.

### **Use of Council Property Etc**

- 12.2 Council property, equipment (including telephones and computer/word processing hardware and software) and materials are provided in connection with the Council's official business purposes only, and are not provided for personal use.
- 12.3 Employees are required to observe the provisions of the Council's Telephones Code of Practice, and its Email and Intranet Protocols at all times. These documents are available separately.

### **Security**

- 12.4 Employees should be mindful of the constant need to ensure, so far as is practicable, the security and safety of their fellow employees, and the safeguarding of Council property and buildings.
- 12.5 Each employee should endeavour to avoid acts or omissions on their own part which may be prejudicial to, or compromise, safety and security.

## **13. RECRUITMENT OF STAFF AND OTHER EMPLOYMENT MATTERS**

### **Recruitment of Staff**

- 13.1 Employees involved in appointments should ensure that these are made on the basis of merit and in accordance with the Council's recruitment procedure. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to the applicant, or have a close personal relationship outside work with him or her.
- 13.2 The Council's Standing Orders contain a number of provisions relating to appointments. A copy of the Council's recruitment procedures can be obtained from the Personnel Manager.
- 13.3 If you are involved in an appointment the only question you should consider is which candidate would best serve the whole Council. You must not let political or personal preferences influence your judgement in this respect. You must not canvass the support of other colleagues for any candidate, and you must resist any attempt by others to canvass you.

### **Other Employment Matters**

- 13.4 Employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any employee who is a relative, partner or is someone with whom they have a close personal relationship.

## **14. RELATIONS WITH OTHER EMPLOYEES**

### **Employees**

- 14.1 Employees (irrespective of the job they do, or the grade which they are on) should at all times endeavour to treat each other with courtesy and respect in the workplace.
- 14.2 The Council endeavours to be a model employer. Failure to observe the above standard of behaviour can, among other things, lead to poor industrial relations, low staff morale and also a poor public perception of the Council as a whole.

**15. GENERALLY**

- 15.1 If an employee has any doubt as to whether or not any action taken or contemplated on his/her part, or on the part of a third party, is likely to result or has resulted in a breach of this Code of Conduct then he/she should discuss the matter with his/her manager or Head of Service as soon as possible.

**PART 5.4**

**PROTOCOL ON MEMBER/STAFF RELATIONS**



## **PROTOCOL ON MEMBER/STAFF RELATIONS**

### **1. Introduction**

- 1.1 The relationship between Members and Staff is essential to the successful working of the organisation. This relationship within the authority is characterised by mutual respect, informality and trust. Members and Staff must feel free to speak to one another openly and honestly.

The purpose of this Protocol is to help Members and Staff to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. The Protocol also gives guidance on what to do on the rare occasions when things go wrong. Responsibility for the operation of this protocol lies with the Head of the Paid Service.

- 1.2 The Protocol must be read and operated in the context of any relevant legislation and national and local Codes of Conduct and any procedure for confidential reporting.

### **2. Roles of Members and Staff**

- 2.1 The respective roles of Members and Staff can be summarised as follows:

Members and Staff are servants of the public and they are indispensable to one another however. Their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Staff are responsible to the Council. Their job is to give advice to Members and to the authority, and to carry out the authority's work under the direction and control of the Council, the relevant committees and Panels. Mutual respect between Members and Staff is essential to good local government.

#### **2.2 Members**

Members have four main areas of responsibility:-

- (a) determining the policy of the authority and giving it political leadership;
- (b) monitoring and reviewing the performance of the authority in implementing that policy and delivering services;
- (c) representing the authority externally; and
- (d) acting as advocates on behalf of their constituents.

It is not the role of Members to involve themselves in the day to day management of the authority's services.

#### **2.3 Staff**

The role of Staff is to give advice and information to Members and to implement the policies determined by the authority.

In giving such advice to Members, and in preparing and presenting reports, it

is the responsibility of the Officer to express his/her own professional views and recommendations. Whilst an Officer may report the views of individual Members on an issue, if the Member wishes to express a contrary view he/she should not seek to pressure the Officer to make a recommendation contrary to the Officer's professional view.

Certain Staff e.g. Head of Paid Service, Monitoring Officer, Chief Finance Officer (Section 151 Officer) have responsibilities in law over and above their obligations to the authority and to individual Members, and Members must respect these obligations, must not obstruct Staff in the discharge of these responsibilities, and must not victimise Staff for discharging these responsibilities.

### 3. **Expectations**

#### 3.1 **Members can expect from Staff:-**

- (a) A commitment to the authority as a whole, and not to any political group.
- (b) A working partnership.
- (c) An understanding of and support for respective roles, workloads and pressures.
- (d) Timely response to enquiries and complaints.
- (e) Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of Staff.
- (f) Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold.
- (g) Awareness of and sensitivity to the political environment.
- (h) Respect, dignity and courtesy.
- (i) Training and development in order to carry out their role effectively.
- (j) Integrity, mutual support and appropriate confidentiality.
- (k) That employees will not use their relationship with Members to advance their personal interests or to influence decisions improperly.
- (l) That Staff will at all times comply with the relevant Code of Conduct.
- (m) Support for the role of Members as the local representatives of the authority.

#### 3.2 **Staff can expect from Members:-**

- (a) A working partnership.
- (b) An understanding of and support for respective roles, workloads and pressures.

- (c) Political leadership and direction.
- (d) Respect dignity and courtesy.
- (e) Integrity, mutual support and appropriate confidentiality.
- (f) Not to be subject to bullying or to be put under undue pressure. Members should have regard to the seniority of Staff in determining what are reasonable requests, having regard to the power relationship between Members and Staff, and the potential vulnerability of Staff, particularly at junior level.
- (g) That Members will not use their position or relationship with Staff to advance their personal interests or those of others or to influence decisions improperly.
- (h) That Members will at all times comply with the relevant Code of Conduct.

#### 4. **Relations between Members and Staff**

- 4.1 Mutual respect between Members and Staff is essential to good local government. Personal relationships or close personal familiarity between individual Members and Staff can damage this relationship and prove embarrassing to other Members and Staff.
- 4.2 It is not enough to avoid actual impropriety. Members and staff should at all times avoid any occasion for suspicion and any appearance of improper conduct.
- 4.3 Where there is a close relationship, it should be declared by both the Member and Officer to the Chief Executive who will treat them as confidential. The Member should also advise their Group Leader.
- 4.4 A close relationship includes any family business or close personal relationships. It is not possible to define exactly the range of relationships that would be considered close or personal. Examples however would include a family or sexual relationship and regular social mixing such as holidays or evening meals together.
- 4.5 In their dealings with Staff (especially junior Staff) Members need to be aware that it is easy for Staff to be overawed and feel at a disadvantage. Such feelings can be intensified where Members hold official and/or political office.
- 4.6 A Member should not pressure an Officer to do something he/she is not authorised to do and which is against his professional judgement. A Member should also not require an Officer to do something which is outside his normal duties or working hours.
- 4.7 An Officer must not seek to influence a Member to do something that may be advantageous to the member of staff personally or professionally or injurious to another Officer. Any approaches of this nature should be reported to the Managing Director.
- 4.8 No Member or Officer shall criticise or otherwise undermine the other at Council or other public meetings.

4.9 Members will take no part in the appointment or dismissal of staff below Chief Officer, nor should they seek to influence in any way the appointment or dismissal of a particular person.

5. **Staff relationships with Chair, Vice-Chair and Group Leaders**

5.1 It is important that there are close working relationships between senior staff and senior members. However, such relationships should never be allowed to become so close or appear to be close, so that the ability of a staff member to deal impartially with other Members or groups is questioned.

5.2 The Managing Director and s151 officer are expected to work closely with the Leader and Chairs of the Committees and to meet regularly with them.

5.3 A Chair should not seek to influence a member of staff to reduce the options or withhold information which should properly be reported to the appropriate Committee.

5.4 Any issues arising relating to such reports that cannot be resolved will be referred to the Managing Director for resolution. The Managing Director has the ultimate responsibility for the content of the agenda.

5.5 Staff are accountable to the Head of Service and whilst Staff should always seek to assist any Member, they should not go beyond the limits of whatever authority they have been given by their manager.

5.6 Prior to the Council and Committee meetings, it is normal for the appropriate Staff to meet informally with the Mayor and Deputy Mayor in the case of the Council, the Chair, Vice-Chair and other group spokesmen, to discuss matters on the agenda, answer any questions that Members have which might improve the running of the meeting and also to enable specific issues to be highlighted for which Staff and members may need to prepare. These meetings should be regarded as confidential meetings.

6. **POLITICAL GROUPS**

6.1 The operation of political groups is an integral feature of local government, and such political groups have an important part to play in the development of policy and the political management of the authority.

6.2 Staff serve the Council as a whole and not exclusively any political group, combination of groups or any individual Member of the Council.

6.3 **Officer Attendance**

(a) Any political group may request the Managing Director to attend a meeting of the group, consisting of Members of the Council only, to advise on any particular matter relating to the authority.

(b) The Managing Director may arrange for the attendance of a representative in their stead, or may decline to attend or to provide a representative where they are of the opinion that the particular issue is of such a political nature that it would be inappropriate to attend.

- (c) Staff advice to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the authority. Advice will not deal with any political implications of the matter or any option, and Staff will not make any recommendation to a political group.
- (d) Staff will respect the confidentiality of any matter which they hear in the course of attending a political group meeting.

## **7. WHEN THINGS GO WRONG**

### **7.1 Procedure for Staff**

From time to time the relationship between Members and Staff may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior Manager or Members, Staff will have recourse to their Head of Service or to the Council's Monitoring Officer, as appropriate to the circumstances. In the event of a grievance or complaint being upheld, the matter will be referred to the Managing Director, who, having advised the Leader of the Council and the appropriate group leader will decide on the course of action to be taken.

### **7.2 Procedure for Members**

In the event that a Member is dissatisfied with the conduct, behaviour or performance of a member of staff, the matter should be raised with the appropriate Head of Service. Where the member of staff concerned is a Head of Service, the matter should be raised with the Managing Director. If the matter cannot be resolved informally, it may be necessary to invoke the Council's Disciplinary Procedure.

## **8. MEMBERS IN THEIR WARD ROLE**

- 8.1 It is important for Staff to keep Members informed about major issues concerning the Council and more specifically about issues affecting the wards that Members represent.
- 8.2 Whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be informed and involved, as appropriate. Similarly whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should as a matter of course, be invited to attend the meeting.

## **9. SUPPORT SERVICES**

- 9.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying room bookings etc) to Members is to assist them in discharging their role as a Member of the Council. Such support services should only be used for Council business. They should never be used in connection with party political or campaigning activity or for private purposes.
- 9.2 All Members are required to agree to adopt and abide by the Council's Corporate Internet and E-mail Policy.

## 10. **MEMBERS' ACCESS TO INFORMATION AND COUNCIL DOCUMENTS**

- 10.1 If a Member requires information or advice from a member of staff they should approach a senior member of staff. It is not usually appropriate for Members to deal directly with a junior member of staff.
- 10.2 Members have a statutory right to inspect any Council document which contains material relating to business which is to be transacted at a Council or Committee meeting. This right applies irrespective of whether the Member is a member of the Committee and extends not only to reports which are to be submitted to that meeting, but to any relevant background papers. This right does not apply to certain documents which disclose exempt information.
- 10.3 A Member does not have a right to request information out of curiosity. They must demonstrate a need to know the contents of a document to enable them to carry out their duties as a member. It is for the Managing Director or Head of Service to determine whether a Members' request for information is justified and can be met from within existing resources.
- 10.4 Any information provided to a Member must only be used for the purpose for which it is provided and a Member must never disclose or use any confidential information.

## 11. **CORRESPONDENCE**

- 11.1 Members must not normally communicate in the name of the Council with any outside body or person. All such communications should be carried out by the appropriate member of staff.
- 11.2 It may be appropriate in some circumstances for a letter to be sent in the name of a Member, for example in response to a letter of complaint sent direct so that Member, but this should be the exception rather than the norm and it should only be done following consultation with the Managing Director or Head of Service.
- 11.3 Letters which create contractual, legal or other obligations or which give instructions on behalf of the Council must never be sent out in the name of a Member.
- 11.4 Staff should consider when providing information to one Member, whether others should be informed e.g. in relation to a Ward or local matter, unless there are good reasons for not making the information more widely available.

## 12. **MEDIA**

- 12.1 In general Members provide comment and views while Staff provide factual information. If a Member is unsure about the circumstances of a particular issue he should contact the appropriate Officer concerned or ask the Press Office to do so.

## 13. **REDRESS AND BREACH OF THIS PROTOCOL**

- 13.1 If a Member considers that they have not been treated with the proper respect and courtesy or that a member of staff is otherwise in breach of this protocol, they should raise the matter with the member of staff's Head of Service or the

Managing Director.

- 13.2 If a member of staff has similar concerns about a Member, they should raise the matter with their Head of Service or the Managing Director. In such circumstances the Managing Director will take appropriate action by approaching the individual Member or group leader.

**PART 6**

**MEMBERS' ALLOWANCE SCHEME**

*[NB: To be decided at Council]*

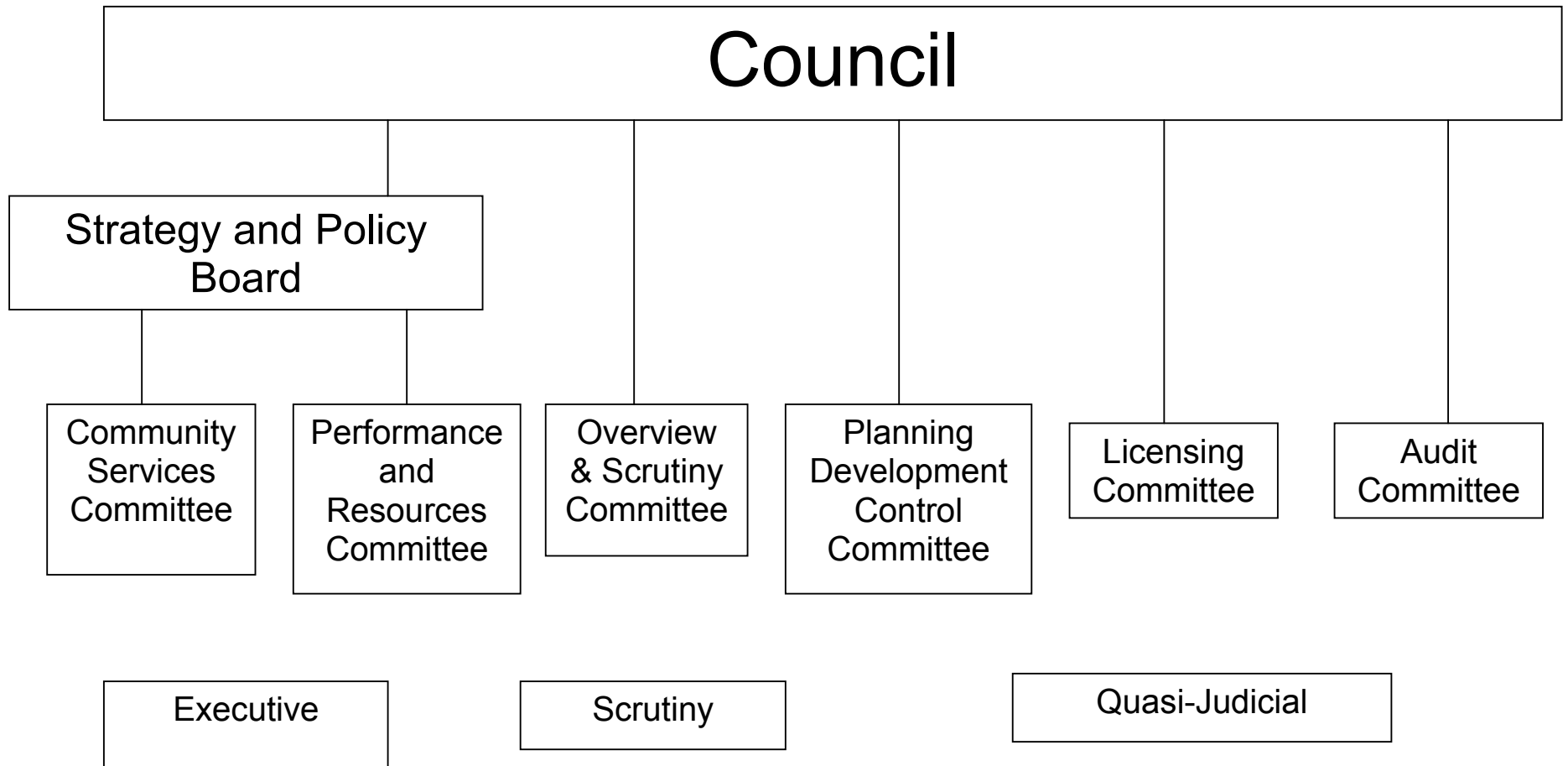


## INDEPENDENT REMUNERATION PANEL

1. The Borough Council is required to establish and maintain an Independent Remuneration Panel. The purpose of the panel is to make recommendations to the Council about the allowances to be paid to elected Members of the Council.
2. The Council has appointed an Independent Remuneration Panel comprising of three individuals who are independent of the Council.
3. The terms of reference of the Independent Remuneration Panel are:-
4. To review the Council's existing scheme of allowances and to make recommendations to the Council thereon. In accordance with the regulations this incorporates the following functions whether or not covered by the existing scheme:
  - (a) to make recommendations to the authority as to the amount of basic allowance that should be payable to its elected members;
  - (b) to make recommendations to the authority about the categories of members who should receive a special responsibility allowance and as to the amount of such an allowance.
  - (c) to make recommendations to the authority about the duties for which a travelling and subsistence allowance can be paid and as to the amount of this allowance.
  - (d) to make recommendations as to the amount of co-optees allowance.
  - (e) to make recommendations as to whether the authority's allowances scheme should include an allowance in respect of the expenses of arranging for the care of children and dependants and if it does make such a recommendation, the amount of this allowance and the means by which it is determined.
  - (f) to make recommendations on whether any allowance should be backdated to the beginning of a financial year.
  - (g) to make recommendations as to whether annual adjustments of allowance levels may be made by reference to an index, and, if so, for how long such a measure should run.

PART 7

GOVERNANCE STRUCTURE



## PART 8

### GLOSSARY OF TERMS

**Chief Finance Officer** – officer appointed under section 151 Local Government Act 1972.

**Chief Officers** – members of staff appointed by the Council pursuant to Local Authorities (Standing Orders) (England) Regulations 2001 – the Head of the Paid Service and Chief finance Officer.

**Confidential information** – information given to the council by a government department on terms that forbid its public disclosure or information that cannot be publicly disclosed by court order.

**Constitution Working Group** – cross party consultative body consisting of eight Members appointed by the Group Leaders.

**Designated Independent Person** – person appointed under the Localism Act 2011 to be consulted in cases where there are complaints about the conduct of Members.

**Designated Office** – Town Hall, Ingrave Road, Brentwood.

**Exempt information** – information defined in schedule 12A Local Government Act 1972.

**Leader of the Council** – Leader elected to the largest political group on the council.

**Head of the Paid Service** – this has the meaning set out in section 4 Local Government and Housing Act 1989.

**Main Opposition Leader** – The Leader of the second largest political group on the Council is the Main Opposition Leader.

**Managing Director** – the Head of the Paid Service and Chief Officer.

**Mayor** – ceremonial head of the Council.

**Members** – persons elected to the Borough council and also known as Councillors.

**Monitoring Officer**- as defined in section 5 Local Government and Housing Act 1989.

**Overview and Scrutiny Committee** – Committee appointed pursuant to section 21 Local Government Act 2000.

**Petition** – request for a referendum for an elected mayor.

**Policy framework** – the following plans and strategies *[to be completed when Article 4 is agreed]*.

**Political Group** – this has the meaning set out in the Local Government and Housing Act 1989. Two or more members who give written notice of their wish to be treated as a group.

**Proportionality** – the allocation of seats on committees to political groups in accordance with the proportion of seats held on the Council by those political groups.

**Quasi-judicial** – the action taken and discretion exercised by public administrative agencies or bodies that are obliged to investigate or ascertain facts and draw conclusions from them as the foundation for official actions.

**Quorum** – one quarter of the whole number of members at the meeting provided that at no meeting will a quorum be fewer than two members.

**Regulatory** – the function of the Council concerned with control or direction in accordance with established rules, principles or the law.

**Section 151 Officer** – officer appointed under section 151 Local Government Act 1972.

**Urgent Business** – any item of business that is accepted by the Mayor because of special circumstances which will be specified in the minute recording their decision.

**Working days for publication of an agenda for a Council or a committee meeting** – a working day excludes the day that the notice is given and the date of the meeting if the provision relates to the date of a meeting. For example if the requirement is to give five working days notice and the notice is given on a Wednesday then five working days will expire on the following Wednesday evening.

## PART 9

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Appendix A Delegations to staff

Appendix B Process for election of Mayor and Deputy Mayor

**APPENDIX A**  
**DELEGATIONS TO STAFF**

BRENTWOOD BOROUGH COUNCIL

REGISTER OF POWERS DELEGATED

AND

DESIGNATED PROPER OFFICERS

(Section 100G Local Government Act 1972)

(from first meeting of District Council to 14<sup>th</sup> December)



NOTES

1. General authority for delegation contained in Section 101 of the Local Government Act 1972.
2. Delegation to Panels/Committees - See current Constitution/Council Handbook

Abbreviations used in the Register are as follows:

Environment Panel	EP
Housing and Health Panel	H&HP
Asset, Infrastructure and Localism Panel	AI&LP
Highways and Parking Panel	H&PP
Planning Development Control and Licensing Committee	Planning DC & L

3. Adoption Authorities:
  - (a) Standing Orders for the Regulation of the Proceedings and Business of the Council )
  - (b) Standing Orders Relating to Contracts ) Min 265, 16.7.2003
  - (c) Financial Regulations )
4. Where delegations are to an Officer of the Council other than the Chief Executive, then such delegation is also granted to the Managing Director of the Council.
5. For the avoidance of doubt, in the absence of the Chief Executive and the Managing Director delegations granted to them shall also apply and be exercised by the appropriate Heads of Service or such other Officer nominated and authorised by the Chief Executive and/or the Managing Director.
6. Staff exercising delegated papers shall do so with regard to Article 1.3 – Purpose of the Constitution and Article 10.2 – Principles of Decision Making.

Abbreviations used in the Register are as follows:-

CE	Chief Executive
MD	Managing Director
DoF	Director of Finance
HoLG	Head of Legal and Governance
HoLP	Head of Localism and Partnership
HoPI	Head of Performance and Improvement
HoP	Head of Planning
HoH	Head of Housing
HoSSP	Head of Street Scene (Policy)
HoEHL	Head of Environmental Health and Licensing
HoR	Head of Resources
RBM	Revenues and Benefits Manager
PLO	Principal Licensing Officer

7. Certain legislative changes have occurred since various delegations were originally granted. For the avoidance of doubt all delegations refer to the legislation quoted and any subsequent amendments.
8. Where authority is delegated in the Register to take 'all appropriate action' or 'all necessary action' such action shall be interpreted as 'all reasonable appropriate action' or 'all reasonable necessary action'.

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<b>COUNCIL AND MEMBER ADMINISTRATION</b>		
<b>CA1</b>	<b>Signing and Certification of Documents</b>	
CA1/1	<u>Signing of Documents</u> (1) General authority to sign documents on behalf of the Council. (2) Signing of any document required in legal proceedings unless any enactment requires otherwise or authority has been granted to some other person. (3) Signing of Contracts relating to land transactions and Land Charge Certificates on behalf of the Council. (4) Persons to attest the Common Seal of the Council.	(1) & (2) MD, HoLG  (3) MD, HoLG  (4) Mayor or Deputy Mayor or Member of the Council, MD and HoLG
CA1/2	<u>Certification of Documents</u> (1) Certification of any document or photographic copy of a document required in legal proceedings or of any copy of a document or part of a document which has been destroyed while in the custody of the Council. (2) Certification of a printed copy of a byelaw.	MD and HoLG  MD and HoLG
<b>CA2</b>	<b>Meetings of Council and Committees</b>	
CA2/1	<u>Special Meetings</u> (1) Special Meetings of the Council (or Committees) - authority to call. (2) Issue of Summons to attend meetings "Proper Officer".	Mayor or Chairman of Committee or requisition of 5 Members. CE, MD
CA2/3	<u>Notices under Standing Orders</u> Notices of Motion and Notices of Questions - Officer to receive.	CE or, in her absence, MD

Council and Member Administration (cont)			
CA2/4	<p><u>Head of Paid Services, Monitoring Officer, Proper Officer for the Purposes of the Access to Information Act, Data Protection Officer and Whistleblowing Officer</u></p> <p>(1) Designation as Head of Council's Paid Service in accordance with Section 4 of the Local Government and Housing Act 1989.</p> <p>(2) Designation as Monitoring Officer in accordance with Section 5 of the Local Government and Housing Act 1989.</p> <p>(3) Designation as Proper Officer for the purposes of the Local Government (Access to Information) Act 1985.</p> <p>(4) Designation as Data Protection Officer with authority to take all appropriate action in connection with the Data Protection Act 1984 to ensure that all the Council's operations covered by the Act comply with the statutory requirements.</p> <p>(5) Designation as Freedom of Information Officer with authority to take all appropriate action in connection with the Freedom of Information Act 2000 to ensure that all the Council's operations covered by the Act comply with the statutory requirements.</p> <p>(6) In the absence of the Chief Executive where delegations are granted to the Chief Executive they shall apply and be exercised by such other officer nominated and authorised by the Chief Executive and the Managing Director.</p> <p>(7) Whistleblowing Officer.</p>		<p>MD Ms. A. Crowe for a period expiring on the day following the first Ordinary Council meeting in the next Council year or on the commencement in post of a new CE (whichever is the earlier). HoLG Mr Boyle</p> <p>CE or, in her absence, MD</p> <p>HoLG Mr Boyle</p> <p>HoLG Mr Boyle</p> <p>CE/MD</p> <p>HoLG Mr Boyle</p>



<b>Council and Member Administration (cont)</b>			
<b>CA3</b>	<b><u>Publication of information etc</u></b>		
CA3/1	<u>Statements/Publications</u> Publication of information by local authorities - to approve all necessary statements/publications and method of distribution.		MD in consultation with Chairman or Vice-Chairman of the Policy and Resources Board where it is considered appropriate.
CA3/2	<u>Byelaws</u> Proper Officer to send and receive byelaws in accordance with provisions of S 236 L G Act 1972.		MD
CA3/3	<u>Public Information Panel and Tenants News</u>		
	(1) To authorise all appropriate action, including if appropriate, the waiving of Standing Orders - Contracts, to ensure the efficient and economical publication of information services to the press and public in accordance with the Council's policy, and (2) To determine the Council's policy with regard to the publication of newsletters/information for circulation to the Council's tenants.		MD subject to prior consultation with Public Inf. Panel and in the case of (2) with the Chairman or Vice-Chairman of H&HP Panel
CA3/4	<u>Media Coverage of Council Activities and Allied Matters</u> (a) to write to the Editor in appropriate cases seeking redress, where inaccurate or unbalanced reports are published; (b) where an Officer's professional standing or integrity is maligned by deliberately malicious or ill considered comment by individuals or organisations, to take appropriate action including action through the Press Council and the Courts.		(a) CE and MD  (b) MD subject to prior consultation with the Chairman and Vice-Chairman of the Policy and Resources Board with the Officer's concurrence.

<b>Council and Member Administration (cont)</b>			
<b>CA4</b>	<b>Member Administration</b>		
CA4/1	<u>Proper Officer Designations</u> Designation of Proper Officer to accept the following (i) Declarations of Acceptance of Office (Mayor, Deputy Mayor and Councillors; (ii) Written Notice of Resignation of Councillors; (iii) Notice of Relationships to Members or Senior Officers given by candidates for any appointment by the Council - report to be made to Policy and Resources Board; (iv) Request for inspection of documents by Members; (v) Notices under The Local Government (Committees and Political Groups) Regulations 1990.		MD, HoLG
CA4/2	<u>Requisition for Special Meetings</u> Requisition for Special Meetings of the Council (or Committees) in accordance with SO 1 - Officer to whom requisition to be made.		CE and MD
CA4/3	<u>Standing Orders - copy to Members</u> Standing Orders - Officer to provide Members with copy.		HoLG
CA4/4	<u>Members - Claims for travelling or other allowances</u> Members of Council, including co-opted Members -claims for travelling or other allowances.		DoF
CA4/5	<u>Members' Allowances</u> To vary the amounts of each of the Allowances pro rata as may be permitted to the maximum total.		DoF/HoLG

<b>Council and Member Administration (cont)</b>			
<b>CA5</b>	<b><u>Contracts</u></b>		
CA5/1	<u>Interests of Officers</u> Pecuniary Interests of an Officer in a contract - Officer to keep records.		HoLG
CA5/2	<u>Approved List of Contractors</u> Tenderers - Standing Approved List of persons to be invited to tender (where Council has determined list shall be prepared).		Appropriate Heads of Service
CA5/3	<u>Appointing Contractors</u> <ol style="list-style-type: none"> <li>1. To enter into a contract for more than £10,000 but less than £30,000 provided that:- <ol style="list-style-type: none"> <li>(i) the contract forms a continuation of a contract or variation thereto which is based on prices and rates obtained following procedures set out in Standing Orders (Contracts), or</li> <li>(ii) at least three quotations have been sought in accordance with the procedure defined under Standing Order (Contracts) 4.2 ii.</li> </ol> </li> <li>2. To enter into a Contract in the following exceptional circumstances <ol style="list-style-type: none"> <li>i) For the supply of goods where in the officers professional judgement (which shall be recorded) there is only one supplier and no acceptable alternative, subject to consultation with the Chairman of the appropriate Committee where the Contract is to be £30,000 or above.</li> <li>ii) For the supply of goods and for services, which in the officer's professional judgement, is required in an emergency. A record of such judgement shall be made, and a report made to the next appropriate Committee.</li> <li>iii) Carrying out security works when the publication of documents in the tendering process could prejudice the security of the work to be done.</li> </ol> </li> </ol>		<p>Appropriate Heads of Service.</p> <p>Appropriate Heads of Service.</p>

<b>Council and Member Administration (cont)</b>			
CA5/4	<u>Nomination of Sub-Contractors</u> Nomination (subject to provisos) of Sub-Contractors and Suppliers to Main Contractor.		Head of Service concerned
CA5/5	<u>Appointment of Consultants</u> Appointment of Consultants, including Architects, Engineers and QS - compiling and maintaining standing list (of proven competence).		MD
CA5/6	<u>Receipt of Tenders</u> Tenders - receipt and opening.		MD or the duly appointed representative and the appropriate officer and (for contracts over £30K) in presence of Chairman or Vice Chairman of the appropriate Policy and Resources Board or Executive Panel.
CA5/7	<u>Acceptance of Tenders</u> Tenders - acceptance of most financially favourable.		MD in consultation with Head of Service concerned and Chairman and Vice Chairman of Policy and Resources Board or Executive Panel with a report on any action taken being made to Members via the Members' Newsletter.
CA5/8	<u>Extending Existing Contracts</u> 1. Authority to vary Contracts whose original sum does not exceed £250,000 on original terms and conditions for work of a similar character and nature, the same specification (if any) and at the same rates if any) by anything up to 5% of the original contract price or £10,000 whichever is greater subject to requirements concerning funding defined under Standing Order (Contracts 3.1).		Appropriate Heads of Service.

	<b>Council and Member Administration (cont)</b>		
CA5/8 (cont)	2. Authority to extend contracts whose original sum exceeds £250,000 in respect of work of the same character and nature in accordance with the original specification and schedule of rates or bill of quantities by anything up to 5% or £50,000 whichever is the lesser subject to the requirements concerning funding defined under Standing Order (Contracts 3.2).		
<b>CA6</b>	<b>Custody of Seal and Documents</b>		
CA6/1	<u>Seal</u> Custody of Seal of the Council.		HoLG
CA6/2	<u>General Documents</u> 1. Minutes, Contracts, Agreements, Documents of Title, Mortgages, Deeds and other Securities -Custody of, together with maintenance of terrier of property 2. Properties under the Housing Acts.		HoLG
CA6/3	Investment Certificates Custody of all investment certificates and other documents relating to loans and investments.		DoF
<b>CA7</b>	<b>Miscellaneous</b>		
CA7/1	<u>Subscription to Outside Organisations</u> To determine the renewal of corporate subscriptions to outside organisations.		MD subject to consultation with the Chairman and Vice-Chairman of Policy and Resources Board and where appropriate the relevant Panel/Committee Chairmen.

<b>Council and Member Administration (cont)</b>			
CA7/2	<p><u>Consultation Papers</u></p> <p>(1) To prepare and submit on behalf of the Council responses to government and other consultation papers of general corporate, Borough or service input.</p> <p>(2) To prepare and submit on behalf of the Council responses to purely technical consultation papers.</p>		<p>(1) MD subject to consultation with Chairman and Vice-Chairman of the appropriate Policy and Resources Board, Executive Panel or Committee and prior notification to all Members of the consultation papers received, together with officer comments via the Members' Newsletter.</p> <p>(2) MD</p>
<b>CA8</b>	<b>Strategic Management</b>		
CA8/1	Strategic Policy Advisor to the Council.		CE
CA8/2	Responsibility for overall strategic direction of the Authority, including development and implementation of corporate policies and priorities, including the overall car park revenue and capital budget strategies.		CE
<b>CA9</b>	<b>Local Strategic Partnership/Local Area Agreement</b>		
CA9/1	Responsibility for the development of the Brentwood Local Strategic Partnership, the LSP Community Strategy and the local partnerships.		CE
CA9/2	Leading the Council in relation to the Essex Local Area Agreement.		CE
CA9/3	Relations with the voluntary sector.		MD

	<b>Council and Member Administration (cont)</b>		
<b>CA10</b>	<b>Performance</b>		
CA10/1	Leading on corporate performance improvement strategies and responding to corporate area assessment and other inspection regimes.		MD
	<b>COUNCIL PROPERTY</b>		
<b>CP1</b>	<b>Leases and Licences</b>		
CP1/1	<u>Leasehold Reform Act 1967</u>		
	<ol style="list-style-type: none"> <li>1) Authority to determine whether tenants' claims to the freehold or an extended lease are valid, to serve landlord's Notices on behalf of the Council under the Act and regulations made thereunder to instruct a valuer to negotiate terms, and to settle the terms (other than the price or rent) on which the grant of the freehold or the extended lease should be made.</li> <li>2) Where the HoG is satisfied that a tenant's claim is valid – authority to approve the price or rent to be paid by the tenant for the freehold or extended lease of the property.</li> </ol>		<p>1) HoLG</p> <p>2) HoLG in consultation with Chairman of H&amp;HP Panel</p>
CP1/2	<u>Rent reviews</u> Authority in respect of all leases containing rent review clauses to negotiate and determine new rentals as these fall due for periodic review.		HoLG
CP1/3	<u>Action on renewals</u> 1. Initiation of action for renewal of tenancies, leases, licences and other similar disposals.		HoLG

	<b>Council Property (cont)</b>		
CP1/3 (cont)	2. To approve applications for the renewal of leases of Council land and property where no change of policy is involved subject to advice being obtained from the District Valuer as to rent where appropriate.		HoLG/Heads of Service subject to consultation with the Chairman and the Vice-Chairman of the appropriate Panel or Policy and Resources Board
CP1/4	<u>King George's Field</u> - granting of annual licences to occupiers of adjoining dwellings for access to park - power to fix annual licence fee each year.		HoLG in consultation with Chairman or Vice Chairman, Policy and Resources Board
<b>CP2</b>	<b>Land Uses</b>		
CP2/1	<u>General Authority to protect land etc.</u> Authority to take all appropriate action and legal proceedings to protect land and other property owned, occupied or controlled by the Council as the case may be and/or to claim damages including proceedings for trespass, nuisance and criminal damage.		HoLG subject to a report on any action taken being made to the next appropriate meeting or via the Members' Newsletter
CP2/2	<u>S.16 Local Government (Misc. Provisions) Act 1976 (Power of Local Authorities to obtain particulars of persons interested in land</u> (a) To serve Notices pursuant to S.16 Local Government (Misc. Provisions) Act 1976; (b) To institute legal proceedings against a person who fails to comply with the notice or knowingly or recklessly makes a statement false in material particular in response thereto.		HoLG, HoP, HoEHL & duly authorised officers



<b>Council Property (cont)</b>			
CP2/3	<u>Metal Detecting on Council Land</u> To grant permission to organised detecting groups and archaeological societies to investigate Council land within parks and open spaces which is about to be relandscaped or developed and in relation to specific housing sites to grant permission to Brentwood & District Metal Detecting Club and Historical or Archaeological Societies, where he is satisfied that their activities would not be prejudicial to development of the land and having regard to the interests of any neighbouring residents.		MD
CP2/4	<u>Regulation of Investigatory Powers Act 2000</u> Authority to direct surveillance or covert human intelligence sources in appropriate cases.		MD HoLG
CP2/5	<u>General</u> To determine applications for permission for repeat or similar events, activities or uses of Council land or property in accordance with previous decisions of the Council.		MD or Head of Service authorised by them.
CP2/6	<u>Disposal of Surplus Land for Housing Amenity Purposes</u> To approve applications for the disposal of small areas of amenity green or other housing land for garden extensions, etc, subject to advice being obtained from the District Valuer, together with appropriate planning consents.		MD subject to consultation with the Chairman and the Vice-Chairman of the H&HP
<b>ELECTIONS</b>			
<b>EL1</b>	<b>Register of Electors</b>		
EL1/1	<u>Registration Officer</u> Registration Officer (S.8 Representation of the People Act 1983).		A Crowe

	<b>Elections (cont)</b>		
EL1/2	Deputy Registration Officer (S52(2) (Representation of the People Act 1983 as amended.		C Tatton-Bennett
<b>EL2</b>	<b>District and Parish Elections</b>		
EL2/1	<u>Returning Officer</u> Returning Officer (S.35 Representation of the People Act 1983).		A Crowe
<b>EL3</b>	<b>Parliamentary Elections</b>		
EL3/1	<u>Acting Returning Officer</u> Acting Returning Officer (by virtue as appointment as Registration Officer (S.28 Representation of the People Act 1983.		A Crowe
<b>EL4</b>	<b>Fees and Expenses at Elections</b>		
	To increase fees and expenses paid at elections by a rate equivalent to the Council's annual salary award rounded upwards or downwards to the nearest 5p.		Registration Officer, subject to a report on the exercise of the delegations being included on the Members' Newsletter.
	<b>EMERGENCY POWERS &amp; ACTION</b>		
<b>EM1</b>	<b>Emergency Planning</b>		
EM1/1	<b>Emergency Planning Officer</b>		HoPI

Emergency Powers & Action (cont)			
<b>EM2</b>	<b>Emergency Action</b>		
EM2/1	<u>Urgent Action - Standing Orders</u> Urgent exercise of Council's Powers by an Officer - (SO 40).		<p>Any Officer where the exercise of such powers has been sanctioned orally or in writing by the Chairman or in his absence the Vice Chairman of the Board or Executive Panel or Committee having control of such powers together with the Mayor of the Borough and Leader of the Council (or in their absence the Deputy Mayor and Deputy Leader respectively).</p> <p>Where authorisation is given orally, it shall be certificated in writing by the Members for record purposes within 7 days of the authorisation.</p> <p>A report will be made on the circumstances which necessitated the exercise of these powers to Members via the Members' Newsletter.</p>
EM2/2	<u>Emergency expenditure</u> (F Regs 2.10)		<p>Policy and Resources Board, Executive Panels acting through the appropriate ED subject to action being reported forthwith to Policy and Resources Board.</p>

	<b>FINANCE &amp; RATING</b>		
<b>FR1</b>	<b>Financial Administration</b>		
FR1/1	<u>Administration of Council's Financial Affairs</u> Officer nominated as having responsibility for the proper administration of the financial affairs of the Council under Section 151 of the Local Government Finance Act 1972, as amended by the Local Government Finance Act 1988, under the general direction of Policy & Co-ordinating Committee.		HoR
	(a) <u>Accounting</u> To determine all accounting procedures, the form of accounts and supporting records of the Council.  (b) <u>Objectives and Scope of Internal Audit</u> (c) <u>Banking Arrangements and Cheques</u> All arrangements with Council bankers. Operation of banking accounts including National Giro. (d) <u>Cash Floats</u> (e) <u>Orders for Work, Goods and Services</u> Approval of form of official orders. (f) <u>Payment of Accounts</u> (g) <u>Payment of Employees</u>  (h) <u>Prescribed Form for time records</u> (i) <u>Determination as to whether an individual is an employee or contractor</u> (j) <u>Care and Custody of Stores</u> (k) <u>Approval of Form of claims for staff car mileage allowance</u>		HoR where appropriate following discussion with relevant Directors.  CE through the HoR HoR  HoR HoR following consultation with Service Directors HoR MD under arrangements and procedures agreed with HoR  MD and HoR MD Heads of Service HoR/All Heads of Service

Finance & Rating (cont)			
FR1/1 (cont)	<p>(l) <u>Receipt of Income</u></p> <ul style="list-style-type: none"> <li>- Control of Collection of all monies due to the Council.</li> <li>- Arrangements for acceptance of payments by instalments of any debt not exceeding £1,000 within one year due to the Council and originating from his directorate.</li> </ul> <p>Acceptance of Payments of Instalments at his discretion.</p> <p>(m) <u>Loans and Investments</u></p> <ul style="list-style-type: none"> <li>- Negotiations of all loans, investments, credit arrangements and equipment leasing arrangements in the name of the council.</li> <li>- Registrar of Stocks Bonds Mortgages and other loans.</li> </ul> <p>(n) <u>Inventories</u></p> <p>Agreement as to form of inventory.</p> <ul style="list-style-type: none"> <li>- Arrangements for the disposal of obsolete and redundant equipment. (If equipment is not sold at recognised public auction and market value is likely to exceed £5K at least three quotations must be obtained unless Policy and Resources Board decides otherwise).</li> </ul> <p>(o) <u>Insurances</u></p> <p>Responsibility for effecting necessary insurance.</p>		<p>HoR Head of Service</p> <p>HoR</p> <p>HoR HoR</p> <p>HoR and appropriate Director/Head of Service</p> <p>Each Director/Head of Service in consultation with HoR</p> <p>HoR (subject to satisfying relevant Director or officer appointed by him as to the level of insurance in appropriate circumstances relating to the services provided by the Directorate)</p>

	<b>Finance &amp; Rating (cont)</b>		
FR1/1 (cont)	(p) <u>Security</u> Arrangements for receipt opening of post.		HoR following consultation with Director/Head of Service and HoR
FR1/2	<u>Ex-gratia Payments</u> Employees - damage to clothing etc - Authority to approve ex gratia payment of amounts not exceeding £1,000.		MD
FR1/3	<u>Finances, Housing Revenue Account, Capital Programme and Expenditure &amp; Funds and Balances</u> (1) To take such action as he considers necessary, or appropriate, to conserve and strengthen funds and balances to safeguard and enhance the Council's financial position and Grant entitlements. (2) Authority to complete the necessary financing arrangements and documentation in respect of the capital programme to include the taking of all necessary action to maximise the Council's capital spending ability. (3) To maintain the Collection Fund and to credit to the Fund the items required by law to be so credited and to debit to the Fund the items required by law to be so debited, including interest accruing to the charging authority, payments debited in respect of non-domestic rates transferred to the national pool and payments to the Essex County Council, Essex Police Authority & Fire Authority, Parish Councils and Brentwood Borough Council, payments representing repayment of any government grant and to invest any surplus arising from time to time on the fund. (4) To make such adjustments when and wherever appropriate in order to maximise the Housing Revenue Accounts entitlement to subsidy.		DoF in consultation where appropriate with the Chairman or Vice Chairman of Policy and Resources Board. DoF subject to the approved capital programme not being exceeded without specific Council authority. DoF  DoF subject to subsequent report being made to Policy and Resources Board.

	<b>Finance &amp; Rating (cont)</b>		
FR1/3 (cont)	<p>(5) To take any action considered necessary or appropriate to maximise finances and resources for housing provided that if under current regulations such action increases the net expenditure falling on the General Fund any action taken shall be reported to Members.</p> <p>(6) To make further determinations under Part IV of the Local Government &amp; Housing Act 1989.</p> <p>(7) To invest appropriate Council funds at his discretion in:</p> <ol style="list-style-type: none"> <li>1. The Council's bankers (Co-operative Bank PLC).</li> <li>2. Other local authorities (excluding those who are charge capped).</li> <li>3. Building Societies (limited to the 20 major societies).</li> </ol> <p>Subject to: not more than £3 million being invested in any one institution in 2 and 3 above there being a suitable spread of maturity dates in the investments overall and in the institutions in 2 and 3 above where there is more than one investment.</p>		<p>DoF</p> <p>DoF</p> <p>DoF</p>
<b>FR2</b>	<b>Rating</b>		
FR2/1	<p><u>Local Government Finance Act 1988</u> To take all appropriate action to implement, including billing, collecting and enforcing as appropriate, all matters arising from the Local Government Finance Act and subsequent regulations etc.</p>		DoF

	Finance & Rating (cont)		
FR2/2	<p><u>Council Tax/Community Charge &amp; National Non-Domestic Rate</u></p> <p>(1) To maintain the Council Tax/Community Charge Collection Fund and to credit to the Fund the items required by law to be so credited and to debit to the Fund the items required by law to be so debited, including interest accruing to the charging authority, payments debited in respect of non-domestic rates transferred to the national pool and payments to the Essex County Council, Essex Police Authority &amp; Fire Authority, Parish Councils and the Brentwood District Council payments representing repayment of any government grant.</p> <p>(2) Power to vary payment dates in respect of non-domestic rates if the Council is required to make payments into the Non-Domestic Rating Pool before the dates approved in Min. 522 (31.10.89).</p> <p>(3) To institute appeals in respect of the valuation of any Council property (national non-domestic rate purposes) and to take all necessary steps in that connection.</p> <p>(4) To maximise, to the benefit of the Council's Capital Programme, the Aggregate Credit Limit, including the use of other permissible methods of financing as he considers appropriate.</p> <p>(5) To consider and determine any application for transitional relief if it is received six months after the date on which the relevant Council Tax/ Community Charge bill was sent out.</p> <p>(6) To determine the Council Tax Collection Fund payment dates.</p> <p>(7) To institute and defend all proceedings and appear on behalf of the Council before any Court of Summary Jurisdiction to recover Council Tax, Penalties, and Non-Domestic Rates remaining unpaid and to take whatever action is necessary for the billing, collection and recovery of the Council Tax, Penalties and National Non-Domestic Rate in accordance with existing and new legislation including applying and quashing penalties, issuing statutory requests for information, applying for Attachment of Earning Orders and deductions from income support, and refunding overpayments with interest where statutorily applicable.</p>		<p>DoF</p> <p>DoF subject to written prior consultation with Chairman &amp; Vice Chairman Policy and Resources Board</p> <p>DoF</p> <p>DoF subject to any action taken being reported to Policy and Resources Board</p> <p>DoF</p> <p>DoF</p> <p>DoFand/or Billing and Recovery Service Manager and/or NNDR Service Manager and/or RBM (Revenues) and/or other staff authorised by either DoF or RBM</p>



	<b>Finance &amp; Rating (cont)</b>		
FR2/2 (cont)	<p>(8) To increase the charges for the issue of a summons and issue of a liability order by the amount of any increase(s) in Court charges levied on the Council effective from the date of such increase(s).</p> <p>(9) To introduce a charge of £25 for an application for a warrant of commitment to be increased as above as and when appropriate and to authorise to levy and collect the charges.</p> <p>(10) To borrow as and when required up to the maximum amounts permitted by the Capital and credit controls.</p>		<p>DoF</p> <p>DoF</p> <p>DoF subject to a report back on any action taken via the Members' Newsletter.</p>
FR2/3	<p><u>Council Tax</u></p> <ol style="list-style-type: none"> <li>1. To make any appeals necessary in relation to Council properties and any other proposals on behalf of the Billing Authority, represent the Council at Valuation Tribunal hearings and sign agreements where required to do so.</li> <li>2. To operate the Council Tax Benefits Scheme and to determine the backdating of benefit for the permitted maximum period of up to 52 weeks where the claimant can show good cause and increase weekly benefits in exceptional circumstances.</li> <li>3. To increase the Council's costs by the amount of any increases made by the Court effective from the date(s) of such increase(s).</li> <li>4. To institute and defend all proceedings and appear on behalf of the Council before any court of summary jurisdiction to recover Council Tax, National Non Domestic Rates and take whatever action is necessary for the billing, collection, and recovery of the Council Tax, National Non Domestic Rate and penalties in accordance with existing and new legislation including applying and quashing penalties, issuing statutory requests for information applying for Attachment of Earnings Orders and for deductions from income support and refunding overpayments with interest where statutorily applicable. Note: Delegations to the HoR (in respect of Council Tax) will also apply to other members of the Revenues staff designated by the HoR for that purpose.</li> </ol>		<p>DoF</p> <p>DoF</p> <p>DoF</p> <p>DoF and or Billing and RBM and NNDR Service Manager and or staff authorised by the HoP.</p>

Finance & Rating (cont)			
FR3 FR3/1	<p><b>Debts</b></p> <p><u>Write-off</u></p> <p>(a) Amounts up to four weeks for rents of dwellings and other premises within the Housing Revenue Account (amount to be self adjusting according to annual rent levels).</p> <p>(b) Up to four weeks rent (amount to be self adjusting according to annual rent levels).</p> <p>(c) Amounts above four weeks.</p> <p>(d) National Non-Domestic Rates where the write off is on the grounds of poverty under Section 49 of the Local Government Finance Act 1988, as amended.</p> <p>(e) Cases of bankruptcy and liquidation.</p> <p>(f) All other debts where the amount to be written off does not exceed £750*.</p> <p>(g) All other cases where attempts to trace the debtor have failed.</p> <p>(Limitations in these Regulations marked * shall be increased by the HoR in line with the retail price index effective on 1st April in each year commencing in 2004).</p>		<p>HoH in consultation with S.151 officer/DoF</p> <p>HoH</p> <p>HoH/DoF in consultation with Chairman and Vice Chairman of Environment, Housing and Community Panel (and reported to Policy and Resources Board).</p> <p>DoF following consultation with the Chairman and Vice Chairman of the Policy and Resources Board</p> <p>DoF</p> <p>DoF</p> <p>DoF following consultation with Chairman and Vice Chairman of Policy and Resources Board</p>
FR3/2	<p><u>Affidavits</u></p> <p>Swearing affidavits for proof of debt in cases of bankruptcy etc.</p>		<p>DoF, NNDR Service Manager; Billing and RBM; Any other Officer designated by the DoF</p>
FR3/3	<p><u>Representation in the Magistrates Court and County Court</u></p> <p>Authority to carry out the following duties pursuant to S.223 of the Local Government Act 1972.</p>		

Finance & Rating (cont)			
FR3/3 (cont)	<p>(a) to appear in the Magistrates' Court where prosecutions have been brought or on other matters before the Magistrates' Court.</p> <p>(b) Pursuant to Section 60(2) of the County Court's Act, 1984</p> <p style="padding-left: 20px;">(i) the recovering of possession in the County Court of a house belonging to the Council (house includes a part of a house, a flat or any other dwelling and also includes any yard, garden, outhouse or appurtenance occupied with the house or part of a house or with a flat or other dwelling).</p> <p style="padding-left: 20px;">(ii) the recovery of any rent, mesne profits, damages or other sum claimed by the Council in respect of the occupation by any person of such a house.</p> <p>(c) Pursuant to the Access to Justices Act 1999 the Courts and Legal Services Act 1990.</p> <p style="padding-left: 20px;">(i) the recovery of possession in the County Court of a house held by the Council for any other purpose by an agreement and the recovery of any rent, mesne profits, damages or other sum claimed by the Council in respect of the occupation by any person of such a house;</p> <p style="padding-left: 20px;">(ii) all necessary steps for recovery of all arrears (whether Capital or interest), due to the Council in respect of any mortgage granted by them and secured on residential property, including the appearance before the Registrar of the County Court;</p> <p style="padding-left: 20px;">(iii) recovery of debt and generally on other matters before the County Court and any other Courts of competent jurisdiction.</p>		<p style="text-align: right;">(a, b + c)</p> <p>HoLG Mr. S. Boyle Mr K Ebbs Miss L Gibbins</p>
FR3/4	<p><u>Representation in all other forms of judicial body or process</u></p> <p>(a) to represent the Council in order to conduct proceedings and act as advocate in connection with any tribunal, panel, board or other judicial or quasi-judicial process.</p>		<p>HoLG Mr. S. Boyle Mr K Ebbs Miss L Gibbins</p>

	<b>Finance &amp; Rating (cont)</b>		
FR3/5	<u>Community Charge Deceased Chargepayers</u> Not to pursue small debts from the executors of deceased chargepayers where the likelihood of recovery of the amount involved was neither worthwhile or realistic.		DoF subject to a report on exercise of such discretion via the Members' Newsletter.
<b>FR4</b>	<b>Grants &amp; Loans</b>		
FR4/1	<u>Ex-gratia payments for financial loss</u> To make ex-gratia payments, without prejudice, or admission of any liability or responsibility on the part of the Council, in settlement of claims submitted by persons where satisfactory evidence of financial loss was shown to exist, and there was reasonable connection between the incident rise to the claim and some action or inaction by the Council not amounting to a legal liability.		MD together with DoF, subject to the concurrence of Chairman of Policy and Resources Board or in his absence the Vice Chairman for amounts in excess of £500.
FR4/2	To approve interest bearing loans (at no cost to the Council).		DoF following consultation with the Chairman and V.Chairman of Policy and Resources Board and subject to prior notification to all Members of such applications.
<b>FR5</b>	<b>Borrowing and Banking</b>		
FR5/1	<u>Bonds, Mortgages etc.</u> (i) Register of Bonds, Mortgages and other loans; (ii) To deal with all matters relating to borrowing and leasing arrangements (including negotiations); (iii) to issue under Para 2 Schedule 13 L G Act 1972 and Regs made thereafter, one to five years Bonds up to the max amount permitted, and to:- (a) determine price of issue and rate of interest; (b) approve the organisations by whom and the means by which the issue is to be made;		DoF DoF  DoF subject to report on any action concerning (ii) and (iii) before being made to the Policy and Resources Board.

<b>Finance &amp; Rating (cont)</b>			
FR5/1 (cont)	(c) settle any further detailed requirements for the issue of the Bonds; and (d) approve and sign on behalf of the Council any necessary documents to give effect to the above.		
FR5/2	<u>Indemnity</u> Signing an indemnity to the Co-operative Bank acknowledging Council's liability on any instrument (all orders for payment not exceeding £500 on open cheques and £10,000 on crossed cheques).		DoF
FR5/3	<u>Overdraft</u> To incur a bank overdraft up to figure permitted from time to time under Agreement between Committee of London Clearing Bankers and Local Authority Associations.		DoF subject to as report on any action taken being made via the Members' Newsletter.
<b><u>FR6</u></b>	<b>Estimates</b>		
FR6/1	Virement Policy (1) An Executive Panel, Policy and Resources Board or Committee may divert estimates from one heading of approved revenue estimates to another heading within its control provided that:- (a) No change in Council policy is implied; (b) no variation is made in the staff establishment without the approval of the Policy and Resources Board and the Council; (c) no increase in the Council's future annual charges to Council Tax Payers or tenants will arise; (d) approval of Policy and Resources Board is obtained where the diversion exceeds £30,000.		(1) Executive Panel, Policy and Resources Board and Committees

	<b>Finance &amp; Rating (cont)</b>		
FR6/1 (cont)	<p>(2) Authority to approve diversions of amounts provided under a service heading of Approved Revenue estimates to another purpose where amount does not exceed £30,000 provided:-</p> <p>(a) no change in Council Policy is implied;</p> <p>(b) no variation is made in the establishment of employees except with the approval of the Policy and Resources Board and the Council;</p> <p>(c) no increase in the Council's future annual charge to Council Tax payers or tenants will arise.</p>		MD or DoF
FR6/2	<p><u>Leasing</u> Vehicles plant and equipment (Standing Orders Waived):-</p> <p>(a) Authority to decide which items in estimates are appropriate for acquisition under leasing arrangements;</p> <p>(b) Authority to select companies to be invited to tender and to accept the most advantageous tenders in connection with such leasing;</p> <p>(c) Authority to enter into any Agreement necessary to give effect to the above.</p>		<p>(a) MD in consultation with DoF</p> <p>(b) MD in consultation with DoF</p> <p>(c) MD and such other Officers as are authorised by the MD subject to a report on any action taken being made to the Policy and Resources Board</p>
<b>FR7</b>	<b>Charities</b>		
FR7/1	<p><u>Proper Officer</u> Proper Officer in whom shall vest the powers with respect to Charities described in S210 L G Act 1972.</p>		MD

	<b>Finance &amp; Rating (cont)</b>		
<b>FR8</b>	<b>Application for Discretionary Rate Relief and Village Shop Rate Relief</b>		
	To determine applications for Discretionary Rate Relief and Village Shop Rate Relief in accordance with the criteria adopted by the Council.		HoPI subject to consultation with the Chairman and Vice-Chairman of the Policy and Resources Board and prior notification to all Members of the schedules of applications concerned.
<b>FR9</b>	<b>Grants to Voluntary Organisations</b>		
	To determine applications for discretionary grants to voluntary organisations.		HoPI subject to consultation with the Chairman of AI&LP Panel and prior notification to all Members of the Schedules of applications concerned.
	<b>HIGHWAYS</b>		
<b>HY1</b>	<b>General</b>		
HY1/1	<u>Requisition for Information (S 16 L G (Misc Provisions) Act 1976)</u>  1) Authority to serve notices in respect of action or legal proceedings authorised by Highways Panel.  2) Authority to authorise, following consultation with HoG institution of legal proceedings in respect of failure to comply with notice etc (Min. 741 11.12.78).		HoP  HoP subject to any action taken being reported to H&PP

	<b>Highways (cont)</b>		
<b>HY2</b>	<b><u>Traffic Management</u></b>		
HY2/1	<u>Temporary Traffic Orders</u> Town Police Clauses Act 1847		MD or HoLG
HY2/2	<u>Civil Parking Enforcement</u> (i) Authority to implement and operate civil parking enforcement.  (ii) To exercise discretion and for the avoidance of doubt to rescind parking charge notices in respect of mitigating circumstances put forward by objectors to penalty charge notices having due regard to the Council's policies and procedures for parking enforcement.  (iii) Authority to write off Penalty Charge Notices limited to £750 in line with Financial Regulation 18.5.  (iv) Authority to grant dispensations in respect of Residents Parking schemes and other waiting restrictions.		MD following consultation with the Chairman of the H&PP  MD, HoSSP, Parking Manager or officer nominated by him  MD, HoSSP, Parking Manger or officer nominated by him  MD, HoSSP, Parking Manger or officer nominated by him
<b>HY3</b>	<b>Works etc in/adj Highway</b>		
<b>HY3/1</b>	L G (Misc Provisions) Act 1976 To exercise the Council's powers contained in the following sections: S25 & S26 (Dangerous excavations on land accessible to the public and authority to enter land)		MD



	<b>Highways (cont)</b>		
<b>HY4</b>	<b>Street Numbering and Naming</b>		
HY4/1	<u>Naming of streets</u> (appropriate Parish Council to be consulted) (S27, 18 & 19 P H Act 1925)		MD
HY4/2	<u>Number or re-number buildings</u> (S64 & 65 Town Improvement Clauses Act 1847)		MD
HY4/3	<u>Road Names</u> To object as appropriate to future road naming proposals for the District.		MD
<b>HY5</b>	<b><u>Private and New Street Works</u></b>		
HY5/1	<u>ECC Acts - New Streets</u> Authorise service of Notices.		MD
<b>HY6</b>	<b><u>Contracts, Tenders etc</u></b>		
HY6/1	<u>Annual Contracts</u> Acceptance of Annual Tenders for supply of stores, goods and minor highway facilities.		MD in consultation with Ch. or V.Ch. H&PP
HY6/2	<u>Commercial and Industrial Waste</u> 1. To determine the charges for the collection of commercial and industrial waste where the fixed charge is not appropriate. 2. To adjust charges for bulk container emptying to take account of external charges.		1. HoSSP and DoF following consultation with Ch. or V.Ch. EP Panel 2. HoSSP following consultation with Chairman of EP Panel

	HOUSING		
HO1	<u>Lettings</u>		
HO1/1	<u>Redecoration of Council dwellings</u> Prior to re-letting Authority to grant a rent free period (to max of 4 weeks or equivalent decoration voucher) to new tenants undertaking decorations.		HoH
HO1/2	<u>Mutual Exchanges and Transfers</u> Authority to exercise discretion.		HoH
HO1/3	<u>Selection of Tenants - Housing Register</u> (i) Authority to approve tenants for rehousing from the Housing Register in accordance with the Council's published applications and lettings policy; (ii) To determine exceptional cases to the policy whereby initial tenancies would be in flatted accommodation;  (iii) Subject to receipt of supporting agencies and project worker in the case of Carr Gomm that the person needs to be rehoused and that appropriate resettlement support will be provided (where required) to award up to 70 Social and Welfare Points and 25 lacking Security Points to applicants.		HoH  HoH in consultation with Chairman & Vice Chairman of H&HP Panel  HoH following consultation with the Chairman & Vice Chairman of the H&HP Panel
HO1/4	<u>Sheltered Housing for Non-Elderly Applicants</u> To make allocation to applicants considered appropriate.		HoH in consultation with the Chairman & Vice Chairman of the H&HP Panel and the Opposition spokesman on housing matters subject to a report on action taken on the Members' Newsletter.

	<b>Housing (cont)</b>		
HO1/5	<u>Mutual Exchanges</u> To determine applications for exchange by a couple with one child to a three bedroom property within the period allowed for determination of an application for mutual exchange.		HoH following consultation with the Chairman, Vice Chairman and Main Opposition Spokesman on the H&HP Panel.
<b>HO2</b>	<b>Rents and Charges</b>		
HO2/1	<u>Heating Charges</u> Council Housing - Where heating and hot water supplied from a communal source: 1) Authority to increase heating charges in line with further price rises.  2) Authority to write off any marginal differences at the end of each financial year.		1) DoF in consultation with Chairman of H&HP Panel 2) DoF
HO2/2	<u>Rent arrears</u> 1) Signing of Notices to Quit and of Seeking Possession. 2) To authorise evictions once orders for possession have been obtained.		1) HoH 2) HoH following consultation with the Chairman and Vice Chairman of the H&HP Panel together with the Leader and Deputy Leader of the Council and relevant Ward Members.
HO2/3	<u>Rent rebates and allowances Schemes</u> (Social Security Act 1986) Authority to back date (max 12 months) rent rebate and housing benefit allowance applications in appropriate cases.		DoF
HO2/4	<u>All rent arrears cases</u> To initiate action, use the services of the Council's Bailiffs and to instruct the HoLG.		HoH

	<b>Housing (cont)</b>		
HO2/5	<u>Leasehold Service Charges</u> To initiate action, including instructions to HoG to recover leasehold service charge arrears including forfeiture of lease and recovery of possession.		HoH
<b>HO3-</b>	<b>Squatters/Trespassers</b>		
HO3/1	<u>Legal Proceedings</u> Authority to take all necessary action leading to issue by Court of Warrant of Possession.		HoLG subject to action being reported on the Members' Newsletter.
<b>HO4</b>	<b>Shops</b>		
HO4/1	<u>Housing Estate Shops</u> Rent Reviews - authority to negotiate and settle as they become due.		HoH/HoLG subject to any action taken being reported on the Members' Newsletter.
HO4/2	<u>Shop Leases</u> 1. Power to approve future applications for consent to the assignment of shop leases where no change in trade is proposed. 2. To approve the change of use of Council owned shops in accordance with Planning and other Policies subject to consultation with adjoining Council tenants.		HoLG  HoH following consultation with the Chairman and Vice-Chairman of the H&HP Panel.
<b>HO5</b>	<b>Housing the Homeless</b>		
HO5/1	<u>Variation of Charges</u> Authority to vary the charges according to any future changes in the levels of Social Security benefits.		DoF

	<b>Housing (cont)</b>		
HO5/2	<u>Temporary Assistance</u> “Intentionally Homeless” assistance with temp accommodation beyond 28 days - authority to authorise further action (so as to ensure that the actual period for which temp. accommodation is made available is determined by reference to the particular circumstances of each case in accordance with the Act).		HoH
HO5/3	<u>Temporary Accommodation for Homelessness - Private Sector Leasing Arrangements</u> To negotiate arrangements with another agency or agencies to secure temporary homes for the homeless, on the basis that the accommodation is located as close as possible to or within the Borough and the cost is substantially less than for bed and breakfast accommodation.		HoH
<b>HO6</b>	<b>Council House Sales</b>		
HO6/1	<u>“Right to Buy” (Housing Act 1985)</u> 1) to deal with Notices claiming and responding to right to buy; 2) to deal with Notices relating to purchase price, right to a mortgage and deferred completion; 3) to declare rates of interest to be charged on all variable interest loans including those to which S438 of the Act applies; 4) service of Notices pursuant to S83 of the Act (proceedings for possession on termination) and S102 (variation of terms of secure tenancy).		1) HoH 2) HoH  3) DoF  4) HoH

	<b>Housing (cont)</b>		
<b>HO7</b>	<b>Housing Advances</b>		
HO7/1	<u>Recovery of mortgage arrears</u> To authorise the commencement of Court proceedings for recovery of mortgage arrears, subject to the Chairman of the H&HP Panel being informed if it becomes necessary to bring a case before the Courts.		HoLG subject to the concurrence of the Chairman of Policy and Resources Board, or in his absence, the Vice Chairman
<b>HO8</b>	<b>Housing Maintenance and Housing Investment Programme</b>		
HO8/1	<u>Hardstandings</u> Determination of application from Tenants for hard standing in front garden.		HoH
	<b>LICENSING</b>		
<b>LI</b>	<b><u>Licensing</u></b>		
LI/1	<u>House to House Collection</u> (S2 House to House Collections Act 1939)		1 & 3)The HoEHL or duly authorised nominees  2) & 4)Planning Development Control & Licensing Committee in respect of applications which the HoPMor and HoEHL duly authorised nominees considers should be refused, except in cases of an urgent refusal which shall be after consultation with the Chairman or Vice Chairman of the Committee.
LI/2	1) To grant a licence. 2) To refuse and/or revoke a licence.  <u>Street Collections</u> (S5 Police Factories (Misc Provisions) Act 1916) – 3) To grant. 4) To refuse permits in accordance with the Street Collection Regs adopted by the Council.		

	<b>Licensing (cont)</b>		
LI/3	<u>Riding Establishments</u> 1) Issue of licences in accordance with recommendations of Veterinary Surgeon's Reports. 2) to refuse and revoke a licence.		The HoEHL or duly authorised nominees  Planning Development Control & Licensing Committee in respect of applications which the HoP/HoEHL considers should be refused, except in cases of an urgent refusal which shall be after consultation with the Chairman or Vice Chairman of the Committee.
LI/5	<u>Public Transport Services</u> Lodging of objection with Traffic Commissioners (if insufficient time for Panel consideration).		HoEHL in consultation with Chairman or Vice Chairman EP Panel
LI/6	<u>Dogs – Breeding (The Breeding of Dogs Act 1973)</u> 1) Authority to issue licences in accordance with recommendations of Veterinary Surgeon's report in each case. 2) to refuse and revoke a licence.		The HoEHL or duly authorised nominees  Planning Development Control & Licensing Committee in respect of applications which the HoP/HoEHL considers should be refused, except in cases of an urgent refusal which shall be after consultation with the Chairman or Vice Chairman of the Committee.
LI/7	<u>Dangerous Wild Animals Act 1976</u> 1) to grant or determine (subject to conditions and to satisfactory reports by a Veterinary Surgeon or practitioner and to no adverse report by the police or fire authority), licences for the keeping of dangerous wild animals as defined by the Act or any subsequent Order made by Sec of State.		1) EH&EM or duly authorised nominees

	Licensing (cont)		
L1/7 (cont)	<ol style="list-style-type: none"> <li>2) to authorise a Veterinary Surgeon or practitioner or other such person pursuant S3 of the Act, to inspect the premises where any animal will normally be held and animal or other thing found there.</li> <li>3) to vary or revoke any condition attached to the licence, subject to the provisos contained in S1 (9) of the Act.</li> <li>4) to refuse or revoke licenses.</li> <li>5) to authorise action under S4 of the Act to seize, destroy or detain an animal and recover the cost.</li> </ol>		<p>2 EH&amp;EM or duly authorised nominees</p> <p>3) EH&amp;EM or duly authorised nominees</p> <p>4) Planning Development Control and Licensing Committee</p> <p>5) Planning Development Control and Licensing Committee considers should be refused, except in cases of an urgent refusal which shall be after consultation with the Chairman or Vice Chairman of the Committee.</p>
LI/8	<p><u>Animal Boarding Establishments Act 1963</u></p> <ol style="list-style-type: none"> <li>1) To grant a licence on application subject to certain conditions.</li> <li>2) May authorise an officer or Veterinary Surgeon or practitioner to inspect the premises.</li> <li>3) To refuse or revoke a licence.</li> </ol>		<ol style="list-style-type: none"> <li>1) HoEHL or duly authorised nominees</li> <li>2) HoEHL or duly authorised nominees</li> <li>3) Planning Development Control and Licensing Committee considers should be refused, except in cases of an urgent refusal which shall be after consultation with the Chairman or Vice Chairman of the Committee.</li> </ol>
LI/9	<p><u>Scrap Metal Dealers –</u></p> <ol style="list-style-type: none"> <li>1) <u>To grant a registration</u></li> <li>2) <u>Authorise officers to maintain register</u></li> <li>3) <u>To institute legal proceedings against individuals failing to register</u></li> </ol>	) )	<p>1&amp;2) The HoEHL or duly authorised nominees</p> <p>3) HoP or HEHL</p>



Licensing (cont)			
LI/10	<u>Pet Animals Act 1951</u> . (Pet Shops) 1) To grant a licence on application subject to certain conditions. 2) May authorise an officer or Veterinary Surgeon or practitioner to inspect the premises. 3) To refuse or revoke a licence.	) )	1&2)The HoEHL or duly authorised nominees 3) Planning Development Control and Licensing Committee considers should be refused, except in cases of an urgent refusal which shall be after consultation with the Chairman or Vice Chairman of the Committee.
LI/11	<u>Caravan Sites and Control of Development Act 1960</u> - exercise of Powers under the Act 1) To grant a licence on application subject to certain conditions. 2) To refuse or revoke a licence.	) )	1) The HoEHL or duly authorised nominees 2) Planning Development Control and Licensing Committee considers should be refused, except in cases of an urgent refusal which shall be after consultation with the Chairman or Vice Chairman of the Committee.
LI/12	<u>Control of Sex Establishments Local Government (Misc Prov) Act 1982</u> . 1) Delegation of Powers contained in Sch 3. 2) Power to authorise an Officer of the Council to exercise powers of entry and inspection.		1) Planning Development Control and Licensing Committee 2) HoEHL or duly authorised nominees

Licensing (cont)			
LI/13	<u>Control of Street Trading</u> Local Government (Misc Prov) Act 1982. 1 Delegation of powers contained in Schedule 4. 2 Officer responsible for administering those powers and recommending action. 3 To determine applications for street trading consents and to issue such consents with appropriate conditions, including positioning and type of stalls. 4 To institute legal proceedings against individuals trading without the appropriate street trading consent or in prohibited streets.		1) to 3). HoEHL or duly authorised officers  4) HoEHL or duly authorised officers
LI/14	<u>Local Government (Misc Prov) Act 1982. Registration of persons carrying out Acupuncture, Tattooing, Ear Piercing and Electrolysis</u> 1 To grant a registration 2 Officer authorised to maintain the Register and issue certificates.		1) HoEHL or duly authorised nominees 2) HoEHL or duly authorised officers
LI/15	<u>Hackney Carriages</u> (a) approval of design and content of exterior advertising;  (b) refusal of same.		HoEHL, Principal Licensing Officer or duly authorised nominees
LI/16	<u>Hackney Carriages, Private Hire Vehicles, Drivers and Operators</u> Power to:- (1) To issue licences. (2) To suspend licences. (3) To revoke licences.  (4) To refuse licences.		1) & 2) HoEHL or duly authorised officers  3),4),5)&6) Planning Development Control & Licensing Committee in respect of applications which the HoP/HoEHL/PLO considers should be refused, ) )

	Licensing (cont)		
LI/16 (cont)	<p>(5) To waive and/or vary pre-licensing conditions to the granting of licences and, conditions attaching to any licence.</p> <p>(6) To consider Hackney Carriage Fares for amendments from time to time.</p> <p>Power to:</p> <p>(i) To issue Vehicle Inspection Certificates.</p>		) ) )  2) ) HoEHL or duly authorised officers
LI/17	<p><u>Local Government (Miscellaneous Provisions) Act 1976</u>  <u>Licensing of Private Hire Vehicles, Drivers &amp; Operators</u>  Institution of legal proceedings against owner(s) for using, driving and operating a hackney carriage and / or private hire vehicle within the Brentwood Borough without being licensed for those purposes by the Brentwood Borough Council, subject to the HoG being satisfied with the evidence.</p>		HoP/HoEHL
LI/18	<p><u>Formal Warnings - Hackney Carriage and Private Hire Licences</u></p> <ol style="list-style-type: none"> <li>1. To issue formal written warnings to licence holders who accrue nine penalty points on their DVLA driving licences provided that the total of nine penalty points is reached in increments of no more than three and in periods longer than two years.</li> <li>2. Applying the principles contained in Section 28 Road Traffic Offenders Act 1988 and to deal with the non production of documents subject to the following guidelines: <ol style="list-style-type: none"> <li>(1) On the first occasion a warning letter shall be sent.</li> <li>(2) On the second occasion a formal caution will be given (if an individual does not accept a caution a report is made to Licensing Sub-Committee).</li> <li>(3) On the third occasion, proceedings will normally be instituted subject to the HoG being satisfied as to evidence.</li> </ol> </li> </ol>		<p>HoEHL or duly authorised officers</p> <p>HoEHL or duly authorised officers</p> <p>HoEHL or duly authorised nominees HoP/HoEHL</p>

	Licensing (cont)		
LI/19	<u>Zoo Licensing Act 1981</u> 1) to grant or determine subject to satisfactory report by a veterinary surgeon or practioner and to no adverse report by the police or fire authority.		1) HoEHL or duly authorised nominees
LI/20	<u>Unlawful Parking on Taxi Ranks</u> To take appropriate action such as the issue of fixed penalty notices.		HoP/HoEHL/PLO or duly authorised nominees
LI/21	<u>Registration of Motor Salvage Operators</u> <u>Vehicle Crime Act 2001</u> 1) To determine application for registration of motor salvage operators where there is no impediment to registration. 2) Refusal of registration. 3) Authorise officers to maintain register. 4) To institute legal proceedings against individuals failing to register.		1, 3 & 4) HoEHL or duly authorised officers  3) Planning Development Control & Licensing Committee in respect of applications which the HoP/HoEHL/ Principal Licensing Officer considers should be refused,
LI/22	<u>Licensing Act 2003</u> (1) Grant an application for a Personal Licence if no objection is made.  (2) Grant an application for premises licence/club premises certificate if no relevant representative is made.  (3) Grant an application for a provisional statement if no relevant representation is made.  (4) Grant an application to vary premises licence/club premises certificate if no relevant representation is made.		HoEHL or duly authorised nominees

	Licensing (cont)		
L1/22 (cont)	<ul style="list-style-type: none"> <li>(5) Grant an application to vary designated premises supervisor if no objection is made.</li> <li>(6) Request to be removed as a designated premises supervisor.</li> <li>(7) Grant an application for transfer of premises licence where there is no police objection.</li> <li>(8) Grant an application for interim authority where there is no police objection.</li> <li>(9) Determine whether a representation is irrelevant, frivolous, vexatious etc.</li> <li>(10) To decide that a hearing is not required where all parties agree.</li> <li>(11) To process Temporary Event Notices.</li> </ul>		.
LI/23	<p>Gambling Act 2005</p> <ul style="list-style-type: none"> <li>1. <ul style="list-style-type: none"> <li>a) Grant an application of or variation to a premises licence if no relevant representation is made;</li> <li>b) Grant an application for provisional statement if no relevant representation is made;</li> <li>c) Grant an application for transfer of premises where there is no objection;</li> <li>d) Determine whether a representation is relevant;</li> <li>e) Decision to object when licensing authority is the relevant authority; considering the application;</li> <li>f) Determination of objection to temporary use notice.</li> </ul> </li> <li>2. Determine applications for registration of society lotteries.</li> <li>3. Determine applications for gaming machine permits, provided any new application results in four or less machines in any premises.</li> </ul>		HoEHL or duly authorised nominees.

	<b>PARKS &amp; OPEN SPACES</b>		
<b>PO1</b>	<b>Allotments</b>		
PO1/1	<u>Allotments - non cultivation</u> Authority to serve Notices of re-entry for non-cultivation and for non-payment of rent when requested by HoP.		HoLG
<b>PO2 –</b>	<b>Damage, Trespass etc</b>		
PO2/1	<u>Public Open Spaces - Riding of Motorcycles</u> Authority to take action, including the institution of proceedings on all public open spaces within the Borough.		HoP, HoLG subject to any action taken being reported on the Members' Newsletter
PO2/2	<u>"No Ball Games" Signs</u> To authorise the erection of "No Ball Games" signs where he considered it to be justified on grounds of road safety.		HoP, subject to prior consultation with Ch. or V.Ch. EP
<b>PO3</b>	<b>Events, Lettings, etc.</b>		
PO3/1	<u>Sponsorship and Advertising of Council initiatives/projects/activities by local industry and commerce</u> To take appropriate action.		MD subject to prior consultation with Chairman or Vice Chairman Policy and Resources Board or Ch. or V.Ch. of R,C&CP.

	<b>Parks &amp; Open Spaces (cont)</b>		
PO3/4	<u>Brentwood Centre Arena Project</u> Rates for advertising space at Brentwood Arena.		Following consultation with Chairmen of Policy and Resources Board and E,H&C, Leader of the Council and Leader of the Opposition.
<b>PO4</b>	<b>Commons - Management etc</b>		
PO4/1	<u>Curtis Mill Green – Encroachment</u> To take all reasonable appropriate action to protect the Common.		Subject to a report on action taken being made on the Members Newsletter
PO4/2	<u>Clean Neighbourhoods and Environment Act</u> Authority to serve notices, institute legal proceedings, make orders or gain entry under relevant powers introduced by the Clean Neighbourhood and Environment Act 2000.		HoP and/or officer nominated by him
	<b>PERSONNEL MANAGEMENT</b>		
<b>PM1</b>	<b><u>Statutory Duties &amp; Delegations of the Executive Director (Customer Services) as Head of Paid Service</u></b>		
PM1/1	<u>Statutory Duties &amp; Delegations of the Executive Director (Customer Services) as Head of Paid Service</u> The MD, as the Head of the Paid Service, and being provided with such staff, accommodation and other resources as are, in his opinion, sufficient to allow him to perform his duties, has a statutory duty under S4(2) of the Local Government and Housing Act 1989 to:		MD Ms A Crowe

	<b>Personnel Management (cont)</b>		
PM1/1 (cont)	<p>(a) co-ordinate the discharge of this authority's functions;</p> <p>(b) determine the number and grades of staff required by the authority for the discharge of their functions;</p> <p>(c) determine the organisation of the authority's staff; and</p> <p>(d) determine the appointment and proper management of the authority's staff.</p> <p>(e) to report, as he considers it appropriate to do so, on any of the matters listed above.</p> <p>In these respects, and in accordance with the Council's Standing Order No.46 (Appointment of Chief Officers), and within the framework of prevailing employment legislation, it shall be deemed that such duties as identified in (a) to (d) inclusive above shall include the following duties and delegated authority as described in PM2 to PM15 inclusive.</p>		
<b>PM2</b>	<p><b>Organisational Development</b></p> <p>To review and restructure the organisation of the authority's staff to enable the authority to discharge its functions in the face of legislative, policy and other requirements.</p>		MD subject to a report on any major changes to Policy and Resources Board
<b>PM3</b>	<p><b>Appointment, Recruitment &amp; Retention of Staff</b></p> <p>(i) To identify, negotiate and implement such contractual terms and conditions of employment as he considers appropriate for the recruitment and retention of staff;</p> <p>(ii) To identify and implement procedures for recruitment and selection of staff as he considers appropriate, to include Member involvement in the selection process for the appointment of Chief Officers in accordance with the Act and SO46.</p>		<p>MD, subject to a report on major changes to Policy and Resources Board</p> <p>MD, subject to a report on major changes to Policy and Resources Board</p>



	Personnel Management (cont)		
<b>PM3 (cont)</b>	<ul style="list-style-type: none"> <li>(iii) To appoint such staff on permanent, fixed or temporary contracts as he considers appropriate, to include the offers of commitment contracts to staff whose retention would be valuable to the Council's service delivery.</li> <li>(iv) To engage casual workers and consultants, to include former staff where necessary, in individual and applicable circumstances as he considers appropriate.</li> <li>(v) To identify, implement and review a system of Performance Related Pay, as he considers appropriate, consistent with the particular needs of this Council, the cost of which shall be met from within existing budget provision.</li> <li>(vi) To consider the effects, costs and affordability of changes to National Agreements in all respects and take all appropriate action in respect of introducing such changes as he considers appropriate in the circumstances.</li> <li>(vii) To reaffirm the existing delegated authority and to confirm the practice in exercising the delegation whereby the appropriate value of benefits in kind may be included in any employees superannuable remuneration in accordance with the definition of remuneration as defined by the Local Government Pension Scheme Regulations and employment law.</li> <li>(viii) To finalise and maintain a list of politically restricted posts under Section 2 of the Local Government &amp; Housing Act 1989.</li> <li>(ix) To ensure that the Council's recruitment policies and practices give effect to the principle of appointment on merit in accordance with Section 7 of the Local Government &amp; Housing Act 1989.</li> <li>(x) To monitor, maintain and review, and action as appropriate, the agreed scheme for payment of professional fees to all appropriate staff.</li> </ul>		<p>MD, subject to a report on major changes to Policy and Resources Board</p> <p>MD</p> <p>MD following consultation with Chairman &amp; Vice Chairman of Policy and Resources Board</p> <p>MD in conjunction with respective Chief Officers and with the concurrence of the Chairman of Policy and Resources Board.</p> <p>MD</p> <p>MD</p> <p>MD</p> <p>MD</p>

	<b>Personnel Management (cont)</b>		
<b>PM3 (cont)</b>	<p>(xi) To identify, negotiate, implement, monitor and review such code of conduct for staff as he considers appropriate and in accordance with any relevant legislation and codes of guidance.</p> <p>(xii) To agree with employees entitled to receive an essential user car allowance, an appropriate lump sum allowance in lieu of a mileage based allowance, or vice versa (except for Chief Officers, for whom any car allowance shall always be by lump sum).</p> <p>(xiii) To monitor, maintain and review agreed suitable leasing arrangements for vehicles as appropriate within approved overall budget provisions, including the detailed agreement to be made between the Council and its staff.</p> <p>(xiv) To monitor, maintain and review agreed Relocation Expenses Scheme as appropriate within approved overall budget.</p> <p>(xv) To monitor, maintain, review and action the agreed Property Purchase Assistance Scheme.</p> <p>(xvi) To implement the Equal Opportunities Policy ensuring compliance at a practical level in respect of the Council's employment procedures.</p>		<p>MD, subject to a report on action taken to be placed on the Members Newsletter</p> <p>MD</p> <p>MD</p> <p>MD following consultation with Ch. &amp; V.Ch. of Policy and Resources Board</p> <p>MD</p> <p>MD</p>
<b>PM4</b>	<b>Staff Performance and Appraisals</b>		
	<p>(i) To identify negotiate and implement staff appraisal procedures for the setting and review of performance targets for individual staff and for staff groups, as he considers appropriate, and in accordance with any relevant legislation and codes of guidance.</p>		MD

	<b>Personnel Management (cont)</b>		
<b>PM4 (cont)</b>	<p>(ii) In respect of Chief Officers' performance to implement recommendations of the Review Board, following review of each Chief Officer's performance, in respect of</p> <p>(a) an award of additional increments where appropriate to reflect outstanding performance during the year;</p> <p>(b) an extension of the term of the Chief Officer's period of commitment to the service of the Council, with appropriate proportional adjustments to allowances etc; and</p> <p>(c) such other changes as may be necessary. (NB: The MD is not a member of the 'Review Board' for the purposes of his own review.)</p>		MD, following consultation with the Leader of the Council and Chairman of Policy and Resources Board or in the absence of either the Deputy Leader of the Council or Vice Chairmen of the Committee or as appropriate and report thereon to the Policy and Resources Board.
<b>PM5</b>	<b>Staff Training and Development</b>		
	<p>(i) To identify, implement and review staff training and development programmes.</p> <p>(ii) To establish, review and maintain the Council's Career Development Scheme.</p>		MD MD
<b>PM6</b>	<b>Employee and Industrial Relations</b>		
	<p>(i) To identify, implement and review procedures and machinery for the development and maintenance of effective employee and industrial relations.</p> <p>(ii) To identify, implement and review staff local agreements.</p> <p>(iii) To establish and maintain local staff consultation forum for respective staff groups, to include settling the practical make-up of the representation of staff sides of respective Consultation Forum on the basis of the relationship of the members of staff who are members of a union and those who were not members of a Union, and further to make appropriate arrangements for non-Union staff to elect their representatives, and that the operation of the Forum be in accordance with procedures to be established by the DCE.</p>		MD  MD MD

<b>Personnel Management (cont)</b>			
<b>PM6 (cont)</b>	(iv) To negotiate and settle general conditions of employment, salaries and payments etc., providing the cost thereof can be met from within the approved budget.		MD subject to a report on any action taken to Members through the Members' Newsletter.
<b>PM7</b>	<p><b>Grievance and Disciplinary Procedures</b></p> <p>(i) Discipline, to include suspension and dismissal, of all staff* is a matter for the DCE through the exercise of the Council's disciplinary procedures, which are founded on the ACAS Code of Practice and incorporating provisions prescribed by National Conditions of Service and prevailing legislation.</p> <p>(ii) The act of suspension and/or dismissal may be delegated by the DCE.</p> <p>(iii) Hearing and determination of any Appeal by any employee* against suspension, dismissal or relegation.</p> <p>* For clarity, disciplinary action in respect of the DCE, Monitoring Officer and Section 151 Officer shall be in accordance with SO47 founded on and incorporating provisions prescribed by National Conditions of Service for Chief Executives, and Part II of the Local Authorities (Standing Orders) Regulations 1993 and other provisions contained in individual contracts of employment.</p>		<p>MD</p> <p>MD following consultation with C. &amp; V.Ch. of Policy and Resources Board</p>
<b>PM8</b>	<b>Terminations of Employment</b>		
	(i) To identify and negotiate with individuals and their representatives, and action all individual and collective terminations of employment made for economic, technical, organisational and disciplinary reasons, to include redundancies and early retirements either on grounds of efficiency of the authority's service or ill-health.		MD subject to a report on major changes to Policy and Resources Board

	<b>Personnel Management (cont)</b>		
<b>PM8 (cont)</b>	<ul style="list-style-type: none"> <li>(ii) To identify, negotiate and agree with individuals and their representatives termination terms (to include the exercise of maximum discretion in respect of terminations on grounds of redundancy and/or early retirement on the grounds of efficiency of the authority's service, and ill-health) within the legislative framework of prevailing compensation and superannuation regulations and other statutory provisions, and to implement accordingly.</li> <li>(iii) To extend sickness payments to employees as appropriate pending final reports from the Community Physician and conclude matters accordingly.</li> <li>(iv) To make an appropriate gratuity payment in accordance with Part 'K' of the Local Government Superannuation (Miscellaneous Provisions) Regulations 1987, S.1. 293, or as amended, to any retiring long-serving employee who does not qualify for pension benefits arising from the Local Government Scheme.</li> <li>(v) To exercise discretion to pay a gratuity to long-serving employees for such period of service not covered by the Superannuation Scheme.</li> <li>(vi) To report annually the total sum paid if any in gratuities under the above delegation.</li> <li>(vii) To consider and agree as appropriate the exercise of discretions available under the provisions of the Local Government Pension Scheme Regulations 1997.</li> </ul>		<p>MD following consultation with Chairman &amp; Vice Chairman of Policy and Resources Board in respect of Heads of Service and above.</p> <p>MD following consultation with Chairman &amp; Vice Chairman of Policy and Resources Board MD following consultation with Chairman &amp; Vice Chairman of Policy and Resources Board</p> <p>MD following consultation with Chairman &amp; Vice Chairman of Policy and Resources Board</p> <p>MD</p> <p>MD</p>
<b>PM9</b>	<p><b>Employment Regeneration</b></p> <ul style="list-style-type: none"> <li>(i) To take all appropriate action to evaluate and bid for any additional resource allocation which may be available and/or to identify any local job regeneration initiatives which would benefit Brentwood's unemployed, its business community and its workforce.</li> <li>(ii) To take all necessary action to identify and submit any appropriate bids for Government or EU funding.</li> </ul>		<p>MD following consultation with Ch. &amp; V.Ch. of Policy and Resources Board</p> <p>MD following consultation with Ch. &amp; V.Ch. of Policy and Resources Board</p>

	<b>Personnel Management (cont)</b>		
<b>PM9 (cont)</b>	(iii) Advising on regeneration, economic development and enterprise initiatives.		MD
<b>PM10</b>	<p><b>Use of Council Offices</b></p> <p>(i) To authorise the use for meetings by such of those official bodies upon which the Council has direct representation for which another reasonably suitable meeting place is not normally available.</p> <p>(ii) To authorise any alterations to the Council Offices accommodation which he considers appropriate.</p> <p>(iii) To approve the use of the Council Offices Car Park for vehicle pollution days or other similar events subject to any conditions considered appropriate.</p>		<p>MD</p> <p>MD in consultation with Chairman or Vice Chairman of Policy and Resources Board</p> <p>MD</p>
<b>PM11</b>	<b>Miscellaneous</b>		
	<p>(i) <u>Project Trident and Work Experience</u> To make some form of payment to young people taking part in the above schemes subject to the Council having the necessary power to make such payments.</p> <p>(iii) <u>Civic Car</u> To select and acquire under the Council's leased car scheme or through outright purchase an appropriate vehicle for use as the Civic car at the end of each lease term.</p> <p>(iv) <u>Essex Local Area Agreement</u> To take all necessary and appropriate action to ensure the Council and the Brentwood Local Strategic Partnership contribute to the achievement of the agreed local LAA priorities. (Min 503, 15.2.2006)</p>		<p>MD</p> <p>MD subject to consultation with the Leader of the Council and the Mayor and to a report on action taken to Members</p> <p>MD HoLP</p>

	<b>PLANNING &amp; BUILDING CONTROL</b>		
<b>PB1</b>	<b><u>General</u></b>		
PB1/1	<u>Requisitions for Information - Generally</u> 1. To serve requisitions for information where required as preliminary to the service of any notice or document under the service of any notice or document under the general provisions of the TCP Acts.  2. Prosecutions in all cases where enforcement action authorised and preliminary S.330 TCP ACT 1990 Requisition Notice not complied with in whole or in part within one month from the date of service.		HoLG  HoLG subject to a report on any action taken being included in the Members' Newsletter.
PB1/2	<u>L G (Misc Provisions) Act 1976</u> 1. To serve notices purs S16 as the same may from time to time be amended requiring information as to the ownership, occupation or control of land, or interests in and in connection with any legal action or legal proceedings authorised by Planning DC & L Committee; and  2. To authorise the institution of legal proceedings against any person who fails to comply with the requirements of any such notice or whom he believes to have knowingly or recklessly made a statement false in a material particular in response thereto.		HoLG  HoLG subject to a report on any action taken being made to the relevant Committee
<b>PB2</b>	<b><u>Building Regulations</u></b>		
PB2/1	1) <u>Building Regulations - Generally</u> Determine all plans, notices and certificates deposited and submitted to the Council (including applications for relaxations and dispensation). Implement and serve as appropriate notices, all action necessary to ensure compliance with the Building Regulations, the Building (Approved Inspectors) Regulations, and the Building (Prescribed Fees) Regulations together with those sections of legislation		HoP

Planning & Building Control (cont)			
PB2/1 (cont)	<p>which require determination where plans are deposited under the Building Regulations - Building Regulations, Building (Approved Inspectors) Regulations, Building (Prescribed Fees) Regulations, Building Act 1984, Essex Act 1987, Clean Air Acts.</p> <ol style="list-style-type: none"> <li>2) Give and serve notices to revoke plans, and notices deposited under the Building Regulations and Building (Approved Inspectors) Regulations not commenced within 3 years - Building Act 1984, Essex Act 1987.</li> <li>3) Serve notices requiring removal of danger or take emergency action to remove danger resulting from dangerous structures - Building Act 1984 (77&amp;78).</li> <li>4) Serve demolition notices with or without conditions to those undertaken demolition work – Building Act 1984 (Sections 80-82).</li> <li>5) Serve notices under the advance payments code Highways Act 1980.</li> <li>6) Serve notices to obtain particulars of those persons with an interest in premises (Section 16 Local Government Miscellaneous Provisions Act 1976).</li> </ol>		
PB2/2	<p><u>Building Act 1984 - S.16</u> Passing of plans subject to conditions and modifications etc.</p>		HoP
PB2/3	<p><u>Section 77 &amp; 78 Building Act 1984</u> Proper officers for the purpose of Section 77 &amp; 78 Building Act 1984, with powers to take measures in respect of dangerous buildings or structures.</p>		G. Price, Principal Building Surveyor (PBS) R. Farman (PBS) L. Jones (BS) R. Sadler (BS)
PB2/4	<p><u>Building Act 1984 - S.80-82</u> Control of Demolitions. Power to serve Notices pursuant to Section 81 Building Act 1984.</p>		HoP



	<b>Planning &amp; Building Control (cont)</b>		
PB2/5	<u>Sections 35 &amp; 36 Building Act 1984</u> Contravention of Building Regulations. Powers to instigate legal proceedings in respect of contraventions of Building Regulations and associated legislation.		HoP & Officers authorised by them.
<b>PB3</b>	<b><u>Planning Applications</u></b>		
PB3/1	<u>Standard Planning Conditions and Reasons for Refusal</u> - Authority to make such minor amendments and additions as might be necessary in particular circumstances without significantly altering the overall effect of the condition or reason for refusal.		HoP
PB3/2	<u>Approval, with or without conditions, of the matters detailed below</u> 1 Reserved matters, eg materials of construction landscaping details, enclosures etc for <u>all</u> developments, but excluding detailed plans following an outline permission. 2 Sewer connections of individual properties to existing sewers. 3 Cesspools and septic tanks which require planning permission.		HoP subject to the Officer placing before Members those applications under 2 & 3 which he considers could be refused or which appear to him contentious or where a letter of objection has been received
PB3/3	(i) <u>Amendments to approved plans</u> Power to accept and agree to minor amendments to approved plans, including alterations to elevations and materials and minor re-siting of buildings, where it is concluded that the minor amendments are insignificant and have no greater impact on neighbouring residents than the approved scheme. In such cases, the decision to approve such amendments shall be reported on the Weekly Report for Members' information. In all other cases, a planning application will be required and this will be dealt with in the normal manner through the Weekly Report system or by way of report to the Planning DC & L Committee.		HoP

	<b>Planning &amp; Building Control (cont)</b>		
PB3/3 (cont)	<p>(ii) <u>Notification of Planning Applications</u> Notification, and where appropriate, re-notification to neighbours in relation to submitted planning applications shall be at the discretion of the Planning Assistant concerned, such discretion to be exercised in a manner which follows the guidance contained within Circular 15/92 relating to "Publicity for Planning Applications".</p> <p>Parish Councils shall be notified of all planning applications submitted within the area of their Parish Council, and advised of any amended plans received during the course of processing such applications.</p>		HoP
PB3/4	<p><u>Determination of repeat applications</u> Authority to determine as refused any application materially the same as any proposals previously refused where an application is submitted within 12 months of original refusal, subject to no policy changes or changes in circumstances.</p>		HoP subject to a report on any action taken to Planning DC & L Committee or included on the Weekly Report to Members.
PB3/5	<p><u>Requests for Information</u> The exercise of the Council's powers under Articles 3 &amp; 5 of TCP (GPD) Order 1995 (power to request an applicant to furnish information, plans and drawings, to enable an application to be properly determined. Also enables the authority to insist on detailed plans being submitted where it is considered that an application ought not to be considered in outline).</p>		HoP
PB3/6	<p><u>Determination of planning applications and the issue of decision notices</u>, where Committee indicate that it wishes to refuse or approve (subject to conditions) a planning application but does not have available at the meeting the actual wording of the reasons/conditions.</p>		HoP subject to the concurrence of the Ch. or in his absence the Vice Chairman Planning DC & L Cttee., & Ward Member(s)

	Planning & Building Control (cont)		
PB3/7	<p><u>Delegation of certain applications</u>  Delegation, after prior notification to all Members of the Council and to every Parish Council, to Issue Decision Notices in respect of all applications (not covered by other delegations) for planning permission, listed building consent, advertisement consent and consent to carry out works to preserved trees, with the exception of the following types of application:</p> <p>(a) All applications submitted by the Council or involving Council owned land;  (b) Those applications where, in the view of CPO, a full report directly to Planning DC &amp; L Committee for decision is required. CPO will take into account, inter alia, the following considerations in determining whether to report directly to Planning DC &amp; L Committee:</p> <ul style="list-style-type: none"> <li>• whether there are complex and finely balanced policy issues;</li> <li>• whether the development is of a particularly significant scale;</li> <li>• whether a significant amount of background needs to be set out for which a Weekly Report format would be unsuitable (e.g. where appendices to a report may be required).</li> </ul> <p>(c) Applications for Prior Approval of Telecommunications Development.</p> <p>The above delegation is subject to:</p> <p>(i) the CPO recommended decisions being circulated (via the Weekly Report) to all Members of the Council and each Parish Council.</p>		HoP

Planning & Building Control (cont)			
PB3/7 (cont)	<p>(ii) the delegation in respect of any particular application being automatically withdrawn if any Member or Parish Council requests that it be referred for consideration by the Planning DC &amp; L Committee. Such notification must be received by the Planning Office prior to 12 noon on the date set out in the Weekly Report. Any referral received less than 5 full working days preceding a Planning DC &amp; L Committee will be considered at the next subsequent meeting of the Committee;</p> <p>(iii) in those cases where no referral to the Planning DC &amp; L Committee has been notified, the concurrence of the Chairman and Vice Chairman of the Committee (or their nominated substitutes) to each recommendation.</p> <p>Where representations are received after publication of the Weekly Report copies will be forwarded to the appropriate Ward Member(s)*. Where it has not been possible to do so, the Chairman and Vice Chairman will be informed at the time their concurrence to the recommendation is sought.</p> <p>[*The 'appropriate Ward Member' is the Ward Member(s) who sit(s) on the Planning DC &amp; L Committee (or, in their absence, the other Member(s) for the ward) or, where the ward is not represented on the Planning DC &amp; L Committee, the Member(s) for that ward.]</p>		
PB3/8	<p><u>Environmental Impact Assessment</u> To determine whether an Environmental Impact Assessment is required under the Town &amp; Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 or any subsequent re-enacting legislation.</p>		HoP

	<b>Planning &amp; Building Control (cont)</b>		
<b>PB4</b>	<b>Public Authority Development</b>		
PB4/1	<u>Neighbouring Authority Consultation - Local Plan etc.</u> To respond to neighbouring authority consultations within the time limit for such consultations.		HoP following consultation with Ch. of the Planning DC & L Cttee and Ward Members.
<b>PB5</b>	<b><u>Permitted Development</u></b>		
PB5/1	<u>Determination of whether planning permission required</u> Determination as to whether in any particular case any proposal constitutes “development” requiring planning permission.		HoP in consultation with HoLG
PB5/2	<u>Agricultural Permitted Development Rights</u> To make all determinations as to whether the ‘prior approval’ of the Council is required for development affecting agricultural units above 5 hectares, pursuant to the Town and Country Planning General Development (Amendment) (No. 2) and (No. 3) Orders 1991.		HoP following consultation with the Ch. or V.Ch. of the Planning DC & L Committee
<b>PB6</b>	<b>Stop Notices, Enforcement and Appeals</b>		
PB6/1	<u>Planning Appeal Procedure.</u> Written Reps, Informal Hearing or Public Inquiry - (Min. 741 8.1.75)		HoP, subject to liaison with the Ch or V.Ch Planning DC & L Committee in the case of particularly significant or contentious cases.
PB6/2	<u>Planning Enforcement Notices</u> Authority to add additional breaches of planning control to enforcement Notices authorised but not yet served. (Min. 837 16.3.77)		HoP in consultation with Ch. or V.Ch. Planning DC & L and to inform Ward Members of any action taken

Planning & Building Control (cont)			
PB6/3	<u>Stop Notices and Enforcement Notices</u> Service of requisitions for Information for the purposes of S.330 TCP Act 1990. (Min. 413 28.9.74)		HoLG
PB6/4	<u>Evidence</u> Authority to adduce evidence at Appeals not specifically referred to in the Decision Notices. (Min. 482 25.9.74)		HoLG/HoP
PB6/5	<u>Entry to land</u> In respect of enquiries prior to enforcement matters being reported to Planning DC & L Committee - Power to serve Notices of Intended Entry under S324 TCP Act 1990 in cases where access to land during the course of Prelimin. Invest. is refused. (Min. 664 9.2.83)		HoLG
PB6/6	<u>Planning and Compensation Act 1991</u> (1) To issue Planning Contravention Notices pursuant to Sections 171C and 171D of Part VII of Town & Country Planning Act 1990. (2) To deal with representations made by a recipient of a Planning Contravention Notice (Section 171C (4) Town & Country Planning Act 1990).		HoLG HoLG
PB6/6	<u>Planning and Compensation Act 1991</u> (1) To issue Planning Contravention Notices pursuant to Sections 171C and 171D of Part VII of Town & Country Planning Act 1990. (2) To deal with representations made by a recipient of a Planning Contravention Notice (Section 171C (4) Town & Country Planning Act 1990). (3) To enter land specifically for enforcement purposes pursuant to Sections 196A 196B and 196C Town & Country Planning Act 1990. (Min. 635, 15.1.92)		HoLG/HoP HoLG HoP and all Officers authorised by him

	<b>Planning &amp; Building Control (cont)</b>		
PB6/7	<p><u>Planning Contravention Notices</u></p> <p>Authority to prosecute in instances where there is a failure to response to Planning Contravention Notice. (Min. 392 3.10.95)</p>		HoLG
PB6/8	<p><u>Decisions to take enforcement action</u></p> <p>Delegation, after prior notification to all Members of the Council and to every Parish Council, to request the HoG to take legal action in respect of Planning Control contravention, subject to the HoG being satisfied with the evidence, and subject to the following:</p> <ul style="list-style-type: none"> <li>(i) the HoP&amp;R recommended decisions being circulated (via the Weekly Report) to all Member of the Council and each Parish Council;</li> <li>(ii) the delegation in respect of any particular case being automatically withdrawn if any Member or Parish Council request that it be referred for consideration by the Planning DC &amp; L Committee. Such notification must be received by the Planning Office prior to 12 noon on the date set out in the weekly Report. Any referral received less than 3 full working days preceding a Planning DC &amp; L Committee will be considered at the next subsequent meeting of the Committee;</li> <li>(iii) in those cases where no referral to the Planning DC &amp; L Committee has been notified, the concurrent of the Chairman and Vice Chairman of the Committee (or their nominated substitutes) to each recommendation.</li> </ul>		HoP
<b>PB7</b>	<b>Building Preservation</b>		
PB7/1	<p><u>Temporary Listing - Building Preservation Notices</u> <u>Planning (Listed Buildings and Conservation Areas) Act 1990</u> To issue notices pursuant to Section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990.</p>		HoP/HoLG following consultation with the Ch. Or V.Ch. of the Planning DC & L Committee.

	<b>Planning &amp; Building Control (cont)</b>		
<b>PB8</b>	<b>Tree Preservation</b>		
PB8/1	<u>Orders</u> Authority to:- 1 Consider whether a TPO should be served; 2 To serve a TPO. Confirm without modification any TPO which is not opposed 3 To withdraw a TPO.		1) HoP 2) HoLG 3) HoLG
PB8/2	<u>Confirmation of Orders</u> Power to confirm TPOs with or without modification in the light of objection.		Planning Development Control and Licensing Committee
PB8/3	<u>Action to prevent felling</u> Empowered to authorise necessary action to prevent felling.		HoLG in consultation with Ch. & V.Ch. Planning DC & L Committee
<b>PB9</b>	<b>High Hedges Complaints</b>		
	To determine Complaints and to take all legal action on non compliance with a High Hedges Remedial Notice.		HoP, following consultation with the Chairman of the Planning Development Control and Licensing Committee and the prior notification through the High Hedges Delegation Decision List.
<b>PB10</b>	<b>Local Development Framework Working Party</b>		
	Approve each stage of the preparation of the Local Development Documents.		HoP in consultation with the LDF Member Working Group



PUBLIC HEALTH			
<b>PH1</b>	<b><u>General</u></b>		
PH1/1	<p><u>S16 L G (Misc Provs) Act 1976. Requisitions for Information</u></p> <p><u>L G (Misc Provisions) Act 1976</u></p> <ol style="list-style-type: none"> <li>1. To serve notices purs S16 as the same may from time to time be amended requiring information as to the ownership, occupation or control of land, or interests in and in connection with any legal action or legal proceedings authorised by Planning DC &amp; L Committee; and</li> <li>2. To authorise the institution of legal proceedings against any person who fails to comply with the requirements of any such notice or whom he believes to have knowingly or recklessly made a statement false in a material particular in response thereto.</li> </ol>		<p>HoEHL or duly authorised officers</p> <p>HoEHL in consultation with HoG MD</p>
PH1/2	<p><u>Criminal Justice Act 1994</u> To serve appropriate directions.</p> <p>Institute legal proceedings under the provisions of the Criminal Justice Act 1994 relating to unauthorised campers.</p>		<p>HoEHL or duly authorised officers</p> <p>HoEHL in consultation with HoG</p>
PH1/3	<p><u>Loading Control Area - Sunday Trading Act 1994</u> To determine an application for consent to load and unload earlier than 9am on a Sunday within a Loading Control Area.</p>		HoEHL or duly authorised officers

	<b>Public Health (cont)</b>		
PH1/3 Duplicate Number	<p><u>Authority for action under specified legislation</u> To gain entry, serve appropriate notices, and carry out miscellaneous powers.</p> <p>To institute legal proceedings and carry out any miscellaneous powers in respect of the following legislation:-</p> <ul style="list-style-type: none"> <li>Animal Boarding Establishments Act 1963</li> <li>Animal Health Act 1981</li> <li>Animal Health and Welfare Act 1984</li> <li>Animal Welfare Act 2006</li> <li>Antisocial Behaviour Act 2003</li> <li>Brentwood Borough Council's Byelaws</li> <li>Breeding and Sale of Dogs (Welfare) Act 1999</li> <li>Breeding of Dogs Acts 1973 and 1991 (as amended 1999)</li> <li>Building Act 1984</li> <li>Caravan Sites Act 1968</li> <li>Caravan Sites and Control of Development Act 1960</li> <li>Charities Act 2006</li> <li>Cinemas Act 1985</li> <li>Clean Air Act 1993</li> <li>Clean Neighbourhoods and Environment Act 2005</li> <li>Control of Dogs Order 1992</li> <li>Control of Pollution Act 1974</li> <li>Criminal Justice &amp; Police Act 2001</li> <li>Criminal Justice &amp; Public Order Act 1994</li> <li>Dangerous Dogs Act 1991 (as amended 1997)</li> <li>Dangerous Wild Animals Act 1976</li> <li>Deer Act 1991</li> <li>Defective Premises Act 1972</li> </ul>		<p>HoEHL or duly authorised officers</p> <p>HoEHL in consultation with HoG</p>

	<b>Public Health (cont)</b>		
PH1/3 Duplicate Number (cont)	Disability Discrimination Act 1995 Dogs (Fouling of Land) Act 1996 Dogs Acts 1871 Environment Act 1995 Environmental Protection Act 1990 (As amended.) European Communities Act 1972 Factories Act 1961 Food and Environment Protection Act 1985 The Food Hygiene (England) Regulations 2006 (as amended) Food Safety Act 1990 Sunday Trading Act 1994 (As amended) Town Police Clauses Act 1847 Town Police Clauses Act 1889 Transport Act 1981 Transport Act 1985 Vehicles ( Crime ) Act 2001 Water Act 1989 Water Industry Act 1991 Wildlife and Countryside Act 1981 Zoo Licensing Act 1981.		

Public Health (cont)			
PH1/4	<p><u>Food Safety Legislation</u>            To enforce relevant powers made under the European Communities Act 1972, Food Safety Act 1990, Food Hygiene (England) Regulations 2006, the Official Feed and Food Control (England) Regulations 2009, the General Food Regulations 2004, the Products of Animal Origin (Third Country Imports) (England) Regulations 2006, the products of Animal Origins (Import and Export) Regulations 1996 and any Regulations, Orders or Byelaws or any subsidiary legislation made under the above and any enactment amending or replacing the same.            (Min 479, 1.2.2006)</p>		HoEHL or duly authorised nominees
PH1/5	<p><u>Smoke Free Legislation</u>            To enforce relevant powers made under Part 1, The Health Act 2006, The Smoke-Free (Premises and Enforcement) Regulations Act 2006, The Smoke-Free (Exemptions and Vehicles) Regulations Act 2007, The Health Protection (Local Authority Powers) Regulations 2010, and The Smoke-Free (signs) Regulations Act 2007.</p>		HoEHL or duly authorised nominees
PH1/6	<p><u>Dispersal of Groups Order</u>            The making of a Dispersal of Groups Orders under Section 30 of the Anti-Social Behaviour Act 2003 in respect of Brentwood Town Centre and Rayleigh Road, Hutton and any further Dispersal Orders for the Borough that might be identified by the Police.</p>		HoEHL/HoP

	<b>Public Health (cont)</b>		
<b>PH2</b>	<b>Food &amp; Drugs</b>		
PH2/1	<u>Deer Act 1991</u> To exercise the powers under Section 10 & 11 of the Deer Act 1991.		HoP&R/EH&EM and/or his nominees
PH2/2	<u>Proper Officers: Public Health (Control of Diseases) Act 1984 (as amended)</u> <u>The Health Protection (Notification) Regulations 2010</u> <u>The Health Protection (Local Authority Powers) Regulations 2010</u> <u>The Health Protection (Part 2A Orders) Regulations 2010</u> To appoint consultants in communicable disease Control and other appropriately qualified individuals employed by the Health Protection Agency to act on behalf of the Council. (Min 193 15.9.2004)		HoEHL or duly authorised officers
<b>PH3</b>	<b>Control of Pollution</b>		
PH3/1	<u>Control of Pollution Act 1974 Part III</u>  1) to serve notices in relation to construction site noise. 2) to approve applications under S61.  2) to serve requisitions for information under S93 of the Act. 3) to exercise the powers granted by S91 (1) of the Act. 4) to approve the making of application for Warrants under S91 (2) of the Act.		1 HoEHL or duly authorised officers 2.HoP/HoEHL and all Officers authorised by him  2) HoEHL or duly authorised officers 3) HoEHL or duly authorised 4) HoP/HoEHL
PH3/2	<u>Control of Pollution Act 1974 S13.</u> To serve Notices in accordance with the provisions of S13 (5) of the Act.		HoEHL or duly authorised officers

	<b>Public Health (cont)</b>		
PH3/3	<u>Control of Pollution Act 1974 - Code of Practice on Noise from Audible Intruder Alarms 1982</u> Power to determine applications for time extensions.		HoEHL or duly authorised officers
PH3/4	<u>Dog Warden Scheme</u> To exercise as necessary the Powers contained in all relevant legislation.		HoEHL in consultation with HoLG
PH3/5	<u>Public Health Act 1936, Highways Act 1980</u> <u>Refuse Disposal (Amenity) Act 1978</u> 1) All necessary action against persons shown to be damaging or obstructing by depositing material, or by burning, or such other actions, following upon the occupation by caravans of the highway verge or associated land. 2) Institute legal proceedings under the Above Acts.		1) HoEHL or duly authorised officers  2) HoEHL in consultation with HoLG
PH3/6	<u>Water Act 1989 - Water Quality</u> To exercise those duties and powers conferred under Sections 56, 57, 58 and 59 of the Water Act 1989.		HoEHL or duly authorised officers
PH3/7	<u>Environmental Protection Act 1990 -</u> 1) Authority to take any appropriate action under Sections 6, 10, 12, 13, 14, 19 and 80 (1) of the Environmental Protection Act 1990. 2) To serve notices under Section 19, 23 and 80 (4) Environmental Protection Act 1990 requiring the provision of information. 3) and to institute legal proceedings that may be necessary for offences under the relevant parts of the Act, subject to him being satisfied with the evidence in each case. 4) To deal with stray dogs found in the area of the Authority pursuant to power contained in Section 149 Environmental Protection Act 1990.		HoEHL or duly authorised officers  HoEHL or duly authorised officers  HoEHL in consultation with HoG HoEHL in consultation with HoG

	<b>Public Health (cont)</b>		
PH3/8	<u>Environment Act 1995</u> Power of Entry Section 108 (4) and 109 Environment Act 1995.		HoEHL or duly authorised officers
<b>PH4</b>	<b>Health &amp; Safety at Work</b>		
PH4/1	<u>Health &amp; Safety at Work etc Act 1974</u> 1 Inspectors under S19 of the Act and authority to exercise all powers in S20 (2). 2 Service of Notices in relation to the above functions.		1) HoEHL or duly authorised officers 2) HoEHL or duly authorised officers
PH4/2	<u>Health &amp; Safety at Work etc Act 1974. Power of Inspectors:-</u> 1) Appointed Inspectors (S19) a) to exercise powers of Inspector of Health and Safety specified in:- 1) S20, 21, 22, 25 & 39 of the Act; 2) any Health & Safety Regulation; 3) the provisions of the Act mentioned in Schedule 1 of the 1974 Act which are specified in the third column of that Schedule and of the Regulations, Orders or other instruments of a legislative character made or having effect under any provisions so specified, as in force from time to time. b) institute proceedings pur. to S38 of the Act. 2) Authority to sign any instrument of appointment issued in accordance with the above Resolution or any future Resolution appointing an Inspector of Inspectors under the 1974 Act as the same may be from time to time amended.		1 to 3 HoEHL or duly authorised officers  HoP/HoEHL or duly authorised officers HoP/HoEHL and all Officers duly authorised by him

	<b>Public Health (cont)</b>		
PH4/3	<p><u>S19 Health &amp; Safety at Work etc Act 1974: appointment of Inspectors of Health and Safety entitled to exercise the powers of Inspectors</u> Specified in:-</p> <p>i) S20 of the Act; ii) Any Health &amp; Safety Regs; iii) the provisions of the Act mentioned in Schedule 1 of the 1974 Act etc.</p>		HoP/HoEHL and all Officers authorised by him
PH4/4	<p><u>Health &amp; Safety at Work etc. Act 1974 - Powers of Inspectors</u> (a) Powers of inspectors under Sections 20, 21, 22, 25 and 39 of the 1974 Act.  (b) Powers of Inspectors under Sections 20, 21, 25 &amp; 39. (c) Powers of Inspectors under Sections 20 &amp; 25. (d) Powers of Inspectors under Section 20.</p>		a) to d) HoEHL or duly authorised nominees
PH4/5	<p><u>Health &amp; Safety (Enforcing Authority) Regulations 1989</u> Designated Officers to undertake the legal requirements in respect of the transfer of premises under the above Regulations.</p>		HoEHL or duly authorised officers
PH4/6	<p><u>Expert Witness Authorisations under the Health and Safety at Work etc. Act 1974</u> To authorise a person or persons to enter any premises accompanied by an inspector duly appointed by the Council under Section 19 of the Act.</p>		HoP/HoEHL and all Officers authorised by him
<b>PH5</b>	<b>House Improvement etc</b>		
PH5/1	<p><u>Housing Grants - Construction and Regeneration Act 1996</u> To approve and pay grants under Sections 34, 35 and 76 of the Act which meet the criteria and policies agreed by Members.</p>		HoEHL or duly authorised nominees
PH5/2	<u>Delete</u>		



	<b>Public Health (cont)</b>		
PH5/3	<u>Discretionary Housing Grants</u> To approve and pay any discretionary grants contained within the Council's Private Sector Renewal Policy.		HoEHL or duly authorised nominees
<b>PH6</b>	<b>Protection of Buildings</b>		
PH6/1	<u>Local Government (Misc Provs) Act 1982, S29 - Protection of Buildings</u> 1 Delegation of Powers. 2 Officer authorised to serve Notices and to arrange carrying out of works in appropriate cases.		1) HoP and his nominees 2) HoP (or duly authorised nominees)
PH6/2	<u>Housing Act 1985, As Amended</u> To serve Notices under Part X (Overcrowding), such authority to include the institution of legal proceedings, carrying out of works in default, should the Notices not be complied with, and the recovery of costs of any works in default.		HoEHL or duly authorised nominees
PH6/3	<u>Housing Act 1985 - Powers of Entry</u> To enter premises for the purposes of Sections 197, 260, 319, 340, 395 and 600 Housing Act 1985.		HoEHL or duly authorised nominees

## APPENDIX B

### PROCESS FOR ELECTION OF MAYOR AND DEPUTY MAYOR

1. The Mayor of the Borough shall be elected annually by the Council from among the Members and, unless he resigns or becomes disqualified, shall continue in office until his/her successor becomes entitled to act as Mayor.
2. The election of the Mayor of the Borough shall be the first item of formal business transacted at the Annual Council Meeting.
3. The Council at the Annual Meeting shall appoint a Member of the Council as Deputy Mayor of the Borough and, unless he/she resigns or becomes disqualified, shall hold office as Deputy Mayor until immediately after the election of a Mayor at the next Annual Council Meeting.
4. Notwithstanding that the election/adoption is a matter for the Council to decide, the following procedure shall be observed for the selection of Members for the offices of Mayor and Deputy Mayor, and their subsequent formal adoption at the Annual Council Meeting:-
  - (i) The Member appointed as Deputy Mayor is to be selected on the understanding that he/she will normally be elected as Mayor the following year.
  - (ii)
    - (a) The nomination for Mayor will normally be that of the retiring Deputy Mayor.
    - (b) Should the Deputy Mayor stand down, lose their seat, or for any other reason there be a contest, the procedure for nominating and selecting the Mayor will be as for the Deputy Mayor, as set out below.
  - (iii)
    - (a) Candidates for the Office of Deputy Mayor (and/or Mayor) and their proposer and seconder shall be Members of the Council.
    - (b) Each nomination and the candidate's consent to nomination shall be submitted in writing, signed by all three Members, to the Managing Director from the first day of May each year.
    - (c) Nominations will close at NOON on the fifth day following ordinary local elections.
    - (d) Should any candidate or subscriber to a nomination cease to be a Member of the Council prior to the close of nominations, then that nomination shall be invalid. Nothing shall prevent a Member being re-nominated before the close of nominations.
  - (iv)
    - (a) A list of validly nominated candidates shall be circulated, in confidence, to all Members of the Council at NOON on the fifth day following the ordinary local elections.

- (b) A candidate may withdraw, by notice given in writing to the Managing Director, by NOON on the seventh day following the ordinary local elections.
- (v) (a) In the event of a contested selection for Deputy Mayor (and/or Mayor), postal ballot papers will be issued to all Members at NOON on the seventh day following the ordinary local elections.
- (b) Ballot papers returned to the Managing Director by NOON on the twelfth day following the ordinary local elections shall be kept in a secure place. Ballot papers received after this time will NOT be counted.
- (c) Should all ballot papers be received by the Managing Director earlier than the twelfth day, then the counting of votes shall take place as soon as practicable.
- (d) The time and place for counting the votes shall be agreed by the Managing Director in consultation with the Leader of the Council and the Leader of the main opposition Group.
- (e) Candidates shall be permitted to attend the counting of votes.
- (vi) Voting shall be on the basis of "one Member, one vote" and the successful candidates identified by simple majority. In the event of an equality of votes for candidates, both names will be notified to Members of the Council, and the selection of the successful candidate shall be a matter for the Council to determine.
- (vii) In the event of the death of a candidate after the close of nominations, the ballot shall become null and void. A further selection timetable will be agreed by the Managing Director in consultation with the Leader of the Council and the Leader of the main opposition Group.
- (viii) The formal adoption of the successful candidate(s) shall take place at the Annual Council Meeting.
- (ix) Provided the above procedures are followed, it will normally be the case that no further nominations will be made at the Annual Council meeting.