



Extraordinary Council

Agenda

Part One

Town Hall, Brentwood

Monday 7th April 2014 at 7.00pm

Membership (Quorum: 10)

Councillors

Cllrs Mrs Henwood (Mayor), Reed (Deputy Mayor), Aspinell, Baker, Mrs Beeston, Braid, Carter, Chilvers, Clark, Clarke, Mrs Coe, Mrs Cohen, Mrs Cornell, Mrs Davies, Ms Golding, Hirst, Mrs Hones, Hossack, Keeble, Kendall, Kerlake, Le-Surf, Lloyd, McCheyne, Mrs McKinlay, Morrissey, Mrs Murphy, Mynott, Dr Naylor, Parker, Mrs Pound, Quirk, Russell, Sapwell, Sleep, Sparling and Tee.

Committee Co-ordinator: Mrs J Sharp, Ext 2655

Additional Information:

Notice of an Amendment

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.

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Questions to a Committee Chair

A brief written report by each Committee Chair covering their area of responsibility will be circulated with the agenda for each Council meeting.

Any member may ask a Chair written or oral questions 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.

The period allowed for written and oral questions and answers will not exceed **80 minutes** without the leave of the Mayor and such leave will only be granted in exceptional circumstances.

Written questions to a Committee Chair

A member may ask a written question 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.

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.

Each questioner is entitled to ask one supplementary question arising directly out of either the reply to the original question or where the questioner considers that the reply requires clarification.

Oral questions

After questions and answers under Rule 7.4 have been dealt with, any member may ask one question of a Chair under Rule 7.2.

No supplementary question shall be put except if the questioner considers that the

reply requires clarification and the Mayor gives leave to the questioner to ask a supplementary question.

Point of Order/Personal explanation/Point of Information

For clarity, relevant sections of Rule 8 of the Council's Procedure Rules (Part 4.1 of the Constitution) are set out for Members' information below:

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/Chair 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.

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Private Sessions

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If you wish to record the proceedings of a meeting and have any special requirements or are intending to bring in large equipment then please contact the Communications Team before the meeting.

The use of flash photography or additional lighting may be allowed provided it has been discussed prior to the meeting and agreement reached to ensure that it will not disrupt proceedings.

The Chair of the meeting may terminate or suspend filming, photography, recording and use of social media if any of these activities, in their opinion, are disrupting proceedings at the meeting.

Access

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Part I

(During consideration of these items the meeting is likely to be open to the press and public)

Contents

Agenda Item No.	Item	Ward(s) Affected	Page No.
1	Apologies for Absence		-
2	Mayor's Announcements		-
3	Memorials or Petitions: Cllrs Kerlake and Mrs Coe have given notice that they each intend to present a petition.		No report
4	Chairs reports and Member's Questions to Committee Chairs	All	9
5	LGA Peer Review Action Plan	All	19
6	O and S Annual Report	All	41
7	Review of Constitution	All	49
8	Members Complaints and code of conduct procedural rules	All	158
9	Appointment of Independent Persons for Purpose of the Localism Act 2011	All	167
10	Old Chapel Masterplan	Brentwood North and Brentwood South	174
11	William Hunter Way Options	All	183
12	Notice of Motion from Cllr Tee	All	211
13	Notice of Motion from Cllr Mrs Davies	All	213
14	Notice of Motion from Cllr Kendall	All	215

- | | | | |
|----|---------------------------------|-----------------|-----|
| 15 | Notice of Motion from Cllr Reed | Brentwood South | 217 |
| 16 | Urgent Business | | |

An item of business may only be considered where the Chair is of the opinion that, by reason of special circumstances, which shall be specified in the Minutes, the item should be considered as a matter of urgency.



Managing Director

Town Hall
Brentwood, Essex
21 March 2014

Extraordinary Council 7th April 2014

4. Chairs Reports

Committee: Strategy and Policy Board

Chair: Councillor Louise McKinlay

1. Budget:

The main focus of the Strategy and Policy panel has been on the budget for 2014/15. Investment has been agreed in the following areas:

- Funding pre-emptive tree work
- Supporting recycling and green initiatives arising from DCLG funding
- Implementing reviewed parking charges to promote shopping areas and encourage support for local businesses
- Investing in the Renaissance Group to work across the Borough, promoting all shopping centres: Brentwood, Shenfield, Warley, Ingatestone, West Horndon
- Increasing resource to support community safety initiatives
- Capital investment in refurbishing our play areas

1.1 Medium Term Financial Plan (General Fund) 2014/15 – 2016/17

Members resolved:

1. To recommend a proposed Council Tax reduction of 1.5% for 2014/15.
2. To note the key assumptions that underpin the Medium Term Financial Plan and the associated risks.
3. To note the projected outturn for a balanced budget in 2013/14.
4. To recommend to Council the new investment areas for 2014/15 of:
 - i. Street Scene and Environment - £90,000
 - ii. A Prosperous Borough - £181,500
 - iii. Localism - £30,000
 - iv. A Safe Borough - £25,000
5. To recommend to Council that any costs arising from the development of William Hunter Way (up to a maximum of £1.2 million) will be met from the General Fund Working Balance, subject to the Working Balance not falling below the £2.5 million level.
6. To agree that a report be presented to Council should the minimum balance of £2.5 million be breached.
7. To take into consideration the Section 151 Officer's Assurance Statement on the robustness of the estimates and adequacy of the reserves.

1.2 Medium Term Financial Plan (Housing Revenue Account) 2014/15 – 2016/17

Members considered the medium term Housing Revenue Account (HRA) budget, together with a revised HRA Business Plan which covered the period up to 2043/44. This included results of the tenant consultation and the consideration of the Community Services Committee with regards to proposed rent levels for 2014/15.

Members recommended to Full Council on 5 March 2014:

1. That the revised HRA Business Plan for the period 2014/15 to 2043/44 was approved for publication.
2. That the level of rent increase for 2014/15 be recommended as RPI + 0.5

1.3 Capital Programme 2014/15 – 2016/17

Members considered the proposed Capital Programme and supporting Strategy for the period 2014/15 – 2016/17 and recommended the proposed Capital Programme and Funding for 2014/15 – 2016/17 to full Council for approval.

1.4 Treasury Management Strategy Statement 2014/15

Members considered the Treasury Management Strategy for 2014/15 and associated Prudential Indicators.

Members recommended that:

1. The Treasury Management Strategy and Prudential Indicators for 2014/15 –2016/17 be recommended to Council for approval.
2. The Minimum Revenue Provision (MRP) Statement be recommended to Council for approval.
3. The framework and criteria for determining counterparties and the Schedule of Approved Bodies for Investment be recommended to Council for approval.

2. Transformation:

Stage 1 of the process is moving ahead ambitiously, now preparing for delivery.

3. Delivery:

A large amount of time has been taken up focusing on delivery of priorities . This has been an ambitious year for the Council.

Chairs Reports to the Council 7.4.2014

Committee: Performance and Resources Committee
Chair: Councillor John Kerlake

Public Information Panel (PIP)

In early Summer 2013, the Council's Communications Protocols were updated to reflect the most recent guidance from the Secretary of State and include new technologies such as social media and digital communications.

The sole function of the PIP is to meet and agree any amendments to the current protocol for communications prior to the final document being approved by the Performance and Resources Committee. It will not look at individual press releases or other forms of communications from the Council or by individual Councillors.

The Public Information Panel Working Group will consist of the Leader, Chair of Performance and Resources and a Member of the Lead Opposition.

Union Recognition

As part of the Single Status project it became apparent that there was no formal record of the Council recognising the Trade Union for the purposes of negotiation on behalf of employees. Therefore, following advice from Counsel it was determined that the best way forward was to undertake individual employee consultation with the support of a Single Status Representative Group (SSRG) made up of local and area representatives from UNISON and 2 Staff Forum representatives. As part of the Single Status project, a letter of intent was shared with UNISON that confirmed that the Council would seek to recognise UNISON for the purposes of collective bargaining once the Single Status project had been concluded.

A Trade Union is said to be recognised once the parties agree with the Trade Union to negotiate with it on behalf of a particular group of workers. The scope of the agreement will need to be defined but could include pay, hours and holidays, together with other such matters as discipline, membership and facilities for Trade Union representatives.

The Members of the Committee agreed to consult with staff regarding voluntary recognition of UNISON as the Trade Union for the purpose of negotiation on behalf of employees and that, subject to the formal recognition of the Trade Union, the Staff Forum be disbanded from the point Union recognition commences.

Papworth Trust – Town Hall Office Lease

Papworth Trust have been occupying offices on the third floor of the Town Hall since 2011 under a two-year licence agreement.

Papworth Trust provides a Home Improvement Agency service to the residents of Brentwood, Basildon and Thurrock. This service has been in operation since 2011, when the contract was awarded by Supporting People at Essex County Council.

The Members of the Committee approved the renewal of this arrangement in the form of a lease granted until June 2015 to enable Papworth Trust to continue to operate from the Town Hall.

The report requested Members to agree that officers negotiate a new short-term lease with Papworth Trust to occupy offices on the third floor of the Town Hall to 30th June 2015. The lease will be granted and completed outside the Landlord and Tenant Act 1954.

Procurement Strategy

A new Procurement Strategy has been drafted which sets out the Council's procurement objectives and provides an Action Plan on how these are going to be delivered. This document is a result of a comprehensive review of all procurement working practices and which has been undertaken since August 2013.

The current Contract Standing Orders include reference to the use of Approved Supplier Lists. As part of the Procurement Review undertaken last year, the option of developing the Approved Supplier Lists was explored.

In order to develop an Approved Supplier List, the opportunity to apply has to be advertised and then providers are asked basic questions around issues such as finances, quality assurance, environment, sustainability, declaration of business interests, capacity to complete the works and Disclosure Barring Services (DBS) checks. Providers may also be interviewed and visits undertaken to their premises. In summary, the review identified that Approved Supplier Lists are very resource intensive to set up and manage. The process itself does not necessarily promote local businesses and indeed can penalise suppliers that are weak on administration arrangements. Fundamentally, the operation of an Approved Supplier List can create a "closed shop" perception and does not necessarily promote local business. As an alternative, the new Procurement Strategy includes a system whereby potential suppliers have access to all contract opportunities valued between £10,000 and £50,000. This is designed to promote transparency and opportunities with all potential suppliers, particularly local ones.

Currently, all opportunities over £50,000 are advertised via the Delta sourcing portal and the Council's website. Whilst this will not change, all opportunities valued between £10,000 and £50,000 are now being placed on the Council's website, allowing potential suppliers the opportunity to provide a quotation. This means that all contract opportunities valued between £10,000 and £50,000 will need to be sent to all prospective suppliers and not just 3 as per the current Standing Orders relating to Contracts. The Standing Orders will be amended and presented to full Council in April to support this.

Brent Hall – Relocation of Access

The Council has been approached by Alliance Planning acting on behalf of the owners of Brent Hall to relocate the existing access to the Hall from the disused access from Warley Gap to a point 150 meters further north due to current nuisances that render the existing access difficult to use.

The existing access currently runs through part of Little Warley Common which is in the Green Belt, A 'Special Landscape Area' and also designated a 'Country Wildlife Site'. The owners now wish to relocate this access way 150 metres further up on the Little Warley Hall Common, the works will involve removing a strip of vegetation through the site and establishing a permanent vehicle access way to the property adjacent to the site.

As the proposal would be considered as Restricted works and therefore require a section 38 applications or Section 16/17 Deregistration and Exchange application under the Commons Act 2006. Such an application will involve significant consultation with a number of different statutory consultees following an informal and formal consultation process which may lead to an inquiry or hearing.

Members of the Committee agreed to commence the consultation process, with all costs including legal and associated consultation costs funded by the applicant. If successful, the Committee will consider a further report outlining the detail of any planning conditions and any uplift in the value of the property that a new access would provide.

Assets

Town Hall

- Progressing legal agreements to secure lettings and development agreement to ensure delivery of the Town Hall Refurbishment project.

Brentwood Golf Course Complex

- Officers and members are engaging with interested parties to develop a business plan for Brentwood Golf Course and Complex.
- Officers are progressing proposals for the adventure golf site

Old House

- We have recently received notification that the sale of Old House has fallen through. Whilst there are a number of economic factors which appear to have contributed to this decision, it is also important to note that the release of confidential material relating to the prospective purchaser's business plan to the press has also played a part in this. This is extremely disappointing news. The Council will be taking immediate steps to readvertise this asset for sale.

Hutton Community Centre

- Good progress has been made with refurbishing this property for community use.
- The project is on programme and the final outturn will be within budget.

Property sales:

- Swan Pond – Close to Legal Completion.

- Bell Mead – Developer refining development proposals following facilitated consultation events with Parish Council. Sale progressing subject to a development agreement.
- Crown Street small parking area – Sale Completed
- Hutton Parish Hall – Sale Completed

Garden Land Sales:

- We are progressing 4 applications.

Sites being marketed:

- Hallsford Bridge Industrial Estate – we have had a good response to marketing and have firm interest from local and regional businesses to take forward to best offers.

Options Appraisal

- Warley Training Centre – we are evaluating offers for the site and assessing opportunities for maximising affordable housing provision and entrepreneurial working.

Work Programme:

- We are at an advanced stage recruiting the permanent Strategic Asset Management Team.
- Corporate Landlord – In accordance with the approved Asset Management Plan we are developing our approach to Corporate Landlord.
- Work is being progressed to refresh the Asset Management Plan, Implementation Plan and delivery milestones.
- We are establishing a rolling asset challenge programme across the entire Property Portfolio as part of the Corporate Transformation Programme. As part of this project our in house legal team have started to review title information.
- We have procured valuers to negotiate rent reviews and lease renewals.
- Good progress has been made with rating appeals.
- Bill Boards – We are recovering outstanding rents and negotiating new agreements.
- We supported delivery of the Repairs & Maintenance project and have established the operating relationship between Strategic Asset Management and R&M Client function.
- We have completed condition and compliance checks across the corporate portfolio.
- We have refreshed Strategic Asset Management Risk Assessments.
- We provided professional advice and support to William Hunter Way and Crossrail Corporate Projects.
- Action has been taken to support the housing team to grant licences of garden land at Bardswell Close, Brentwood.
- We have provided an interface with Essex County Council with regard to enquiries and issues raised by residents and members in relation to a range of Highways Matters.

Chairs Reports to the Council 7.4.2014

Committee: Community Services Committee

Chair: Councillor Jan Pound

Food Safety

Brentwood Council came second in the Country and first in Essex with regard to the food safety compliance levels it has achieved within Brentwood food businesses. The 'Which' survey concerned measured; the proportion of premises ranked as high or medium risk in a local authority; the percentage of premises yet to receive a risk rating, and the amount of inspections and other follow-ups required but not carried out by inspectors. The results of the survey show that Brentwood is inspecting all its food premises and to their correct frequencies. It also showed that all planned sampling was carried out and properly followed up where substandard results were found. Most importantly over 97% of Brentwood's food premises are broadly compliant with food hygiene law demonstrating the high quality of our food business operators making Brentwood such an attractive place to eat drink and socialize.

Renaissance Group & Town Centre Management

Renaissance Group has appointed a new chair Clive Othen from Chamber of Commerce. Improvements to the public realm including improved signage and initiatives to support business such as Small Business Saturday will be delivered.

The Council is working with Visit Essex to deliver workshops with key organisations to develop a brand to promote Brentwood.

Hutton Community Centre

The building works started in January and are due to be completed in early summer. The Business Plan has been approved and the recruitment of staff to support the running of the centre is underway. A dedicated webpage is provided on the Council's website providing details of rooms that can be booked. A launch event will take place to tie in with a Family Fun Day.

Events

After a very successful series of free community events last year another 8 Family Fun Days, Strawberry Fair (21st June) and Lighting Up Brentwood (29th Nov) in 2014 will be delivered. Last year approximately 18,000 people attended the events, The 2014 Events Guide details of the Council's events.

Partnership working

- Active Brentwood

An Active Brentwood Networking event took place on 7 March. Health and sports providers were present with presentations by Active Essex, Brentwood Borough Council and Local By Social looking at the key issues such as funding, Health and Wellbeing Board priorities and utilising Social Media as a tool to engage, promote and increase support for local organisations.

- **Health and Wellbeing Board**
The Board has agreed to 3 key priorities Improving Older people's health-fuel poverty/independent living/falls prevention/physical activity; increase the update in MMR vaccination; reducing cardiovascular disease through reduction in obesity exercise/ improved diet
- **Youth Strategy Group (YSG)**
Over the last year the Council has worked closely with the Essex County Council-led Youth Strategy Group in assisting with distributing funding and ensuring that priorities for young people are aligned to local need. The Council will work closely with the group as changes to Youth Services are implemented to ensure that our young people receive the best service available.
- **South West Children's Partnership Board**
Stakeholder event was held 28 February in Castlepoint to determine the new priorities for children and young people, for both the South West and the South East locality boards
- **Local Support Services Framework**
Working in partnership with CAB, JCP and DWP and other voluntary sector organisations to develop a localised claimant support framework who need extra help.
- **Fairtrade Fortnight**
The Fairtrade Steering Group delivered an event at United Reform Church with Holly Trees Primary School on 8 March to promote their work and Fairtrade Fortnight.
- **Brentwood Arts Festival**
Over the past year Brentwood Arts Council has been working hard on the plans for its 2 week festival from 5th-12th July. Supported by Brentwood Borough Council, the Festival will showcase the best arts our community has to offer. The festival is themed in commemoration of World War 1 and will encompass concerts, workshops, exhibitions, musicals, recitals and yarn bombing amongst many other exciting events.

Community Safety

It has been an encouraging year for Brentwood in terms of community safety and here a few headlines worth note:

- Brentwood achieved a 19% reduction in all burglary in 2013, 175 less burglaries
- In quarter 4 of 2013 (Oct 13- Dec 13) Brentwood saw the largest reduction in anti-social behaviour in the County.
- Improved Neighbourhood Watch locally with a dedicated Borough Co-ordinator (volunteer) who attends the CSP Strategy Panel meetings and continues to promote NHW though attending various events such as family fun days, High Street and Sainsbury's. A new Scary Be Wary campaign has been launch through NHW whereby information leaflets are in prominent locations with safety information as well as positive updates. The expansion of

Neighbourhood Watch schemes with 14 active groups across the borough, 4 using social media to create online profiles through Facebook etc.

- Development of the Life Choices Project which is a new initiative aimed at young people aged 12-15. A pilot was run from Nov 2013 to Jan 2014 and a further course has been funded by the CSP for March 2014. The project has already received excellent feedback from the young people, schools and parents. It has also received the attention of the Police & Crime Commissioner who will be receiving a presentation shortly with a view to consider the project pan Essex.
- Delivery of the 2013-14 Community Safety Commissioning Plan which provided the opportunity to fund 10 project/initiatives, engage and work with nearly 1400 young people, provide support to 10 families with complex needs and will be providing a unique event for elderly/vulnerable residents around community safety issues on 25th March at Sawyers Hall Church.

Assets of Community Value

The Brave Nelson PH has been added to the Council's register of Assets of Community Value. The Tower Arms PH has also just been nominated as an Asset of Community Value

Community Fund

In 2013/14, 26 organisations received a total of £49,304 funding towards supporting local initiatives.

Comments/Feedback from events

'Good fun, so important to have things which are free/ low cost – good emphasis on activities and the community'

'Fantastic, free, and plenty for the kids to do. Thank you Brentwood Council'

'Absolutely brilliant. Should happen every year. Brill community spirit.'

'My children really enjoyed it and I got to find out some really useful information'

Fantastic! Well done to all those involved. Wonderful that these events have taken place,,, more next year please!'

'Well done Brentwood Council. Lovely day for the children and adults'

Pollution Control

The Council will partner various initiatives to reduce litter and waste being dumped in the Borough. The Clean Essex 'Vogue' Campaign is being co-ordinated and supported by all 14 Local Essex Authorities, and working alongside Keep Britain Tidy Group, Essex County Council, local McDonald's and KFC franchises, and aims to reduce litter, improve behaviour and raise awareness of litter especially car litter, and of the effects of litter on the environment. It also wants to raise awareness that there is a risk of fines for those who offend. The launch week for the campaign commences 2nd June 2014.

Officers from Street Scene are currently running litter awareness campaigns in schools and have recently given presentations at Brentwood County High, St Martins, and Trinity School, and shortly will be working with Shenfield School

Where there are more persistent problems Fixed Penalty Notices (FPN's) are being introduced for fly tipping and litter. The focus of activity is on the Crown Corner recycling centre which has been the target of numerous flytips of material dumped by

commercial operators and is also being used to dispose of non-recyclable waste. FPN's are appropriate for smaller amounts of waste, e.g. a black sack without having to initiate legal proceedings which are both costly and time consuming. The FPN's can be used for various offences from flyposting to litter, dog fouling and transporting waste without proper documentation as an alternative to prosecution, although other enforcement powers will still be used where appropriate.

Inexpensive motion sensor cameras have been installed to obtain evidence of fly-tips to support enforcement action.

Housing

Following the decision to award our new repairs and maintenance contracts made by the Community Services Committee on 26th March, the so called "Alcatel" or standstill period, where unsuccessful bidders can discuss the results with us and issue notice of any challenge to the proposals and / or part of the process has now completed. We have had no challenge issued, which evidences the robustness of the tendering process that we have followed.

We now enter the three month period of mobilisation of the new contracts to ensure they are ready to commence in June 2014.

7 April 2014

Agenda Item: 5

Extraordinary Council

LGA Peer Review – Action Plan

Report of: *Alison Crowe, Managing Director*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

- 1.1 Brentwood Borough Council invited the Local Government Association to conduct a follow up Peer Review in November 2013.
- 1.2 The Peer review team issued their outcome letter on 13 February 2014, which has been published and is attached at Appendix 1.
- 1.3 In order to move forward on the recommendations included in the outcome letter an action plan has been drawn up to address the recommendations contained within the letter (attached as Appendix 2).

2. Recommendation

- 2.1 **Members agree the action plan (attached at Appendix 2) committing themselves and Officers to the investment in and delivery of the actions and that an update be brought to Council in six months' time.**

3. Introduction and Background

- 3.1 Brentwood Borough Council invited the Local Government Association to conduct a follow up Peer Review in November 2013.
- 3.2 Peer reviews are conducted by experienced Member and Officer peers from across local government who are chosen to reflect the requirements and focus of the review.
- 3.3 The Peer Team considered:
 - The progress the council has made since the 2011 peer review;

- The impact and effectiveness of the council re-structure, including Phase 2;
 - The impact and effectiveness of the new governance arrangements;
 - How the council might adopt a more entrepreneurial and commercial approach.
- 3.4 The team were provided with a suite of self assessment documents and were on site from 25 to 27 November 2013, conducting interviews and group discussions with a range of Members, staff and partners.
- 3.5 Immediate feedback was provided at the end of the visit on 27 November and the outcome letter issued on 13 February 2014.

4. Issue, Options and Analysis of Options

- 4.1 The outcome letter highlighted a number of positive areas since the last peer review in 2011:
- Major projects have been advanced.
 - Finances are much improved, with a clean bill of health for the accounts and less dependency on reserves in setting the revenue budget.
 - Efficiency savings have been delivered.
 - Our staff are loyal and committed.
- 4.2 However there were a number of areas of concern that the Council needs to address in order to meet the challenge of delivering on our commitment to change:
- Poor ethical behaviour
 - Leaders of the organisation need to display respect for each other and demonstrate that values are being upheld throughout the organisation.
 - Develop constructive relationships between Officers and Members and CLB
 - Disproportionate amount of time spent on Member issues; Officers need to be released to focus on the needs of the business rather than day to day involvement in governance issues.
 - CLB need to act as a single team with a strategic focus
- 4.3 An Organisational Development Strategy has been developed with supporting action plans and it is suggested that the action plan for the Peer Review forms part of this, alongside the action plan for the Staff Survey in order that similar issues can be addressed holistically.

5. Reasons for Recommendation

- 5.1 The areas of consideration that the Peer Review letter highlights sit in both the Member and Officer arena.

- 5.2 The attached action plan commits both Members and Officers to activities that will address the issues identified in the outcome letter.
- 5.3 The action plan itself is a catalyst for a change in culture and not a tick box exercise; it will therefore require commitment and investment both in terms of time and financial resources.
- 5.4 In agreeing the recommendation Members are asked to commit to their engagement in moving the action plan forward.

6. References to Corporate Plan

- 6.1 The Peer Review assessed the impact and effectiveness of the Council to deliver on its commitments as a whole.
- 6.2 However, in order to become a modern Council the issues identified in the action plan will need to be progressed.

7. Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Director of Strategy and Corporate Services
Tel & Email: 01277 312712, jo-anne.ireland@brentwood.gov.uk

- 7.1 The commitment to deliver development and training programmes for both Members and Officers will need to be funded.
- 7.2 Funding for these initiatives will be met from both the Corporate Training Budget and the Organisational Transformation Reserve.

Legal Implications

Name & Title: David Lawson, Monitoring Officer
Tel & Email: 01277 312860, david.lawson@brentwood.gov.uk

- 7.3 The report's recommendations will contribute to effective, clear and high quality governance arrangements.

8. Appendices to this report

- Peer Review Outcome Letter – Appendix 1
- Peer Review Action Plan – Appendix 2

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Alison Crowe
Managing Director
Brentwood Borough Council
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Essex, CM15 8AY

13 February 2014

Dear Alison

Brentwood Borough Council – Corporate Peer Challenge

On behalf of the peer team, I would like to say what a pleasure and privilege it was to be invited into Brentwood Borough Council to deliver the recent corporate peer challenge as part of the LGA offer to support sector led improvement.

Peer challenges are delivered by experienced elected member and officer peers. The make-up of the peer team reflected your requirements and the focus of the peer challenge. Peers were selected on the basis of their relevant experience and expertise and agreed with you. The peers who delivered the peer challenge at Brentwood were:

- John Jory – Chief Executive, Reigate & Banstead District Council
- Cllr William Nunn (Conservative) – Councillor and Former Leader of the Council, Breckland District Council
- Cllr Colin Ross (Liberal Democrat) – Deputy Group Leader, Sheffield City Council
- Kirsty Cole – Deputy Chief Executive, Newark & Sherwood District Council
- Peter Rentell – Programme Manager, LGA

Scope and focus of the peer challenge

You asked the peer team to consider:

- The progress the council has made since the 2011 peer review
- The impact and effectiveness of the council re-structure, including Phase 2 which should be implemented by December 2013
- The impact and effectiveness of the new governance arrangements
- How the council might adopt a more entrepreneurial and commercial approach

In addition the peer team considered the ability and capacity of the council to deliver its future ambitions by briefly looking at:

- Understanding of the local context and priority setting
- Financial planning and viability
- Political and managerial leadership
- Governance and decision-making
- Organisational capacity to deliver your priorities

The peer challenge process

It is important to stress that this was not an inspection. Peer challenges are improvement-focussed and tailored to meet individual council's needs. They are designed to complement and add value to a council's own performance and improvement focus. The peer team used their experience and knowledge of local government to reflect on the information and views shared by the people they met, the things they saw and the material they read.

The peer team prepared for the peer challenge by reviewing a range of documents and information in order to ensure they were familiar with the council and the challenges it is facing.

This letter provides a summary of the peer team's findings. It builds on the feedback presentation provided by the peer team at the end of their on-site visit (25th to 27th November 2013). In presenting feedback to you, they have done so as fellow local government officers and members, not professional consultants or inspectors. By its nature, the peer challenge is a snapshot in time. We appreciate that some of the feedback may be about things you are already addressing and progressing. It was unfortunate that the opposition members didn't attend the feedback presentation in order to kick-start a process of relationship building across all political parties and with officers for the benefit of the council and its residents. LGA would be pleased to be involved with any further support to facilitate this issue.

We also hope the feedback provided will help stimulate further debate and thinking about the transformational change programme for Brentwood and how it might develop and evolve.

Summary of feedback: overall observations and messages

A Peer Review was undertaken in 2011. It identified some serious concerns about the Council and recommended a number of actions. Since the Peer Review, the Council has made good progress in several key areas. A Corporate Plan has been developed by members across the Council setting out some clear priorities and key actions. The Plan was subsequently adopted by the Council. There is evidence that progress has

been made against the Corporate Plan and its key actions. Work has begun to modernise the Council and activity has started to implement changes in the way services are delivered from the Town Hall (the new ways of working project) to drive out efficiency savings in mainly back office areas. A customer contact centre is to be established at the end of the financial year. Some major projects have also been progressed such as transforming the Town Hall site where the quality of the office environment will be transformed and a tenant secured for unwanted space. Some services have been improved such as in recycling. There is evidence that members and staff have a very good understanding of the key priorities and actions in the plan. The Administration and managers are proud of the progress made on this direction of travel.

Much improved finances have been achieved since the last Peer Review. The Council has achieved a clean bill of health with its accounts with an unqualified opinion from its external auditors. There is less dependency on reserves in setting the revenue budget and the extent of reserves has been enhanced. Planned efficiency savings have been delivered. These achievements have been made despite falling grant support from central government over the period.

The Council has begun to explore new funding streams such as taking a more commercial approach to the use of its assets. Additional resources were secured to undertake this work. This work stream is expected to identify some potential opportunities for members to consider around the end of the financial year.

A new Constitution has been developed by a cross party group of members giving greater clarity around the functioning of the Council's committee style of governance arrangements. It has been adopted by the Council. The new Constitution, though, is being repeatedly used by opposition members to seek to interrupt the working of the Council and this behaviour is impacting on the pace of progress of the Council, and on other matters discussed later. The peer team believe that the council need to look at the root cause behind this behaviour. There is a perception that committee papers are being published without all necessary information and too many are in "pink". This could be rectified if there was a system of cross-checking amongst officers so that obvious errors were spotted. At present opposition members feel they have to resort to FOI requests as information is being denied to them.

Furthermore, a number of the actions identified by the Peer Review in 2011 have either not been progressed or only limited progress has been made as identified in the document you provided as part of the peer challenge pre-reading. This is a reflection of the continuing and deteriorating way member to member and member to officer relationships are operating within the council.

Members, officers and stakeholders all identified a mismatch between the workload of the Council and available staff resources. Relative to elsewhere, managers and other staff are spending a disproportionate amount of time responding to member enquiries, including a high level of Freedom of Information Act requests exacerbated by repeat requests and continual challenge over the same request from different members. The

extent of such enquiries is accompanied by particularly poor behaviour between political groups and between predominantly opposition members and officers. External partners beyond the Borough boundary recognise the mismatch between workload and staff resources, the high volume of member enquiries and inappropriate member behaviour all of which does little to engender confidence. They are reluctant to work in partnership with the Council because of its perceived dysfunctional reputation which appears to be largely based on the member arena. In turn, this makes effective partnership working difficult for Brentwood and negates opportunities to build capacity. Partners told us that the council don't appear to bid for future funding like other councils and they could learn better practice from neighbouring authorities.

We believe these issues have deteriorated since the last peer review and have not been properly addressed though we acknowledge attempts have been made to rectify the situation. They are having a serious destabilising effect of the working of the Council. We believe the Council's managers and staff cannot continue to work to deliver Corporate Plan key priorities and other agreed activity, and respond to the scale of enquiries from members. Staff cannot be expected to continue to work in such an environment.

The Administration and management team need to urgently take action to ensure those member/officer relations continue to be strong with visible confidence in one another. The Administration and management team also need to identify the steps to be taken to ensure that officers provide a consistent and proportionate amount of time to support all members and communicate that this level of support will be less than for those members leading the organisation. This action will help the Administration and the management team to be much more confident that there is a reasonable and realistic balance between workload and officer capacity and resources. In that way the Council's Corporate Plan, service plans and budgets can reasonably be expected to be delivered. Managers and staff will much more clearly understand what is expected of them. If this action is not taken, the Councils service and financial plans will not be achieved and the Borough's residents and businesses will suffer.

Similar action needs to be taken around Constitutional matters. There is recognition by members across the council that changes are needed to the current Constitution. These need to be made quickly so that it becomes a better tool to support the workings of the Council. In the meantime, the Administration and management team need to agree and communicate a simple message that the current disruptive behaviour, particularly in committee meetings, will not be tolerated. Group leaders also need to take responsibility for maintaining discipline within their group.

Whilst some progress has been made since the Peer Review in 2011 to modernise the Council and improve office leadership by beginning to restructure the management team, the pace of improvement in managerial leadership has been limited by the distractions described. The management team told us they have now reached the point where they wish to operate more cohesively as a single team with a strategic focus in order to run the business of the Council better. To do so they recognise they need to develop a narrative with senior members of the Administration about the steps they will

use to better balance workload and staff capacity which must involve spending less time on Constitutional queries and opposition member matters. They then need to communicate their narrative to everyone within the Council and deliver the agreed actions at a crisp pace.

As a consequence of the imbalance between workload and capacity, the management team have been unable to progress important initiatives such as the systematic development of all staff through a workforce strategy. As a consequence many staff we met don't feel valued and morale is low. This stream of work now needs to be actioned urgently so that steps can be taken to develop skills, make the best use of potential and to best manage the Council's change programme. Staff also need to be better supported and recognised for the efforts they make by the Administration and managers.

The management team also need to better evidence visible strategic leadership to staff, members and partner organisations in support of the Leader of the Council and Managing Director. An important step would be to develop a forum of senior members of the Administration and management team which could act as a focal point for sharing and reaching informal agreement on how to progress key business activity including how to better balance workload and capacity. Having done so, the forum needs to keep matters under review to ensure continuous improvement is maintained.

The forum also needs to be the focus for progressing the Council's service and financial plans. Like all local authorities, the Council faces many challenges going forward. Whilst there are plans and strategies in place to better manage the Council's finances over the next couple of years, the Council needs to look beyond that period and consider how it wishes to change and deliver services for residents and business. It is important the Council continues to modernise itself, and the pace of that programme might need to be accelerated if potential new commercial opportunities do not materialise.

Whilst partner organisations within the Borough spoke well of the Council, those beyond the Borough boundary did not. Local government is facing significant challenges and strong relationships with public sector bodies, beyond the Borough, is fundamental. Steps need to be taken to build these relationships. Steps also need to be taken to evidence the use of best practice and benchmarking from elsewhere to continue to ensure value for money is delivered and members can be satisfied with the way managers run the Council day to day.

Finally, we recognise that the Council has made progress since the last Peer Review in 2011 but the pace of much needed progress has been slowed and disrupted by the dysfunctional behaviour and impact of members and a requirement for the management team to take more decisive action to rectify matters. This state of affairs is a reflection of the current culture of the Council which has formed over many years.

We are clear from all of our discussions and from what we have seen, there is now a real desire by the Administration, management team and others to seize the moment

and address these fundamental matters holding back the Council. We recognise that local elections bring with them the chance of a change in political control, therefore, issues raised by this challenge need addressing before the elections to ensure officers and members operate in a different manner to provide the council with more effective leadership both before and after elections in order to meet community expectations. This must be seen as a corporately owned issue, rather than a single party or CLB in isolation, and all sides need to put significant effort into making their council function properly and effectively. We very much hope the Council grasps this opportunity quickly and delivers on the commitment they gave us to change for the better.

Other agreed elements of the corporate peer challenge:

1. Progress since 2011 peer review

Since the peer review in 2011 there has been considerable progress made against recommendations from the review team.

In December 2012 the Council agreed its Corporate Plan for 2013 to 2016. The plan sets out the Council's Vision and Priorities for the Borough and a framework for a modern, efficient, cost effective way of operating. The plan was developed in parallel with the Medium Term Financial Plan in preparation for the 2013/14 budget setting exercise. With the Plan adopted the council now needs to move away from its current operating model to adopt the "New Ways of Working" initiative, in order to position the Council as:

- an excellent provider of services;
- an organisation that secures savings through a lean back office structure;
- an investor in front line services; and
- entrepreneurial in its approach to drive up income and achieve efficiencies.

As part of the Corporate Plan the council recognised the need to move away from their current operating model and have adopted a 'New Ways of Working' model as part of a three year transformation programme. Central to the transformation journey is adopting an entrepreneurial and commercial approach with a leaner organisation that delivers customer excellence through creation of a One Stop Shop (customer hub). We did consider that the business transformation agenda was well resourced with a solid team of business analysts and project managers.

There has been promising progress on finances with less dependency on reserves in setting the revenue budget and the extent of reserves has been enhanced. There is a financial plan for the next three years and the Medium Term Financial Plan (MTFP) confirms a funding gap of £3.7m over that period, which will require further efficiency savings to be made. Almost half of the council's budget is aligned to accommodation and back office functions and these costs and overheads need to reduce with resources channelled into providing excellent front line services. All budgets should be aligned to delivering the Council's priorities as outlined in the Corporate Plan and echoed by

customers. Planned efficiency savings have been delivered. These achievements have been made despite falling grant support from central government over the period.

The council's Corporate Leadership Board (CLB) is being re-invigorated with key appointments creating a catalyst for transformational change e.g. Head of Business Transformation. A new governance system as a fourth option authority was adopted in March 2013 to streamline decision making and improve the quality of debate with a new Constitution also established in May 2013 based on the Model Constitution. However, we have evidence from members across all parties that they are dissatisfied with the way the new Constitution is operating and they believe it is not fulfilling its key objective to improve debate and decision making. Regardless, the peer teams view is that members behaviour is still considered to be the key obstacle to healthy and constructive debate and informed decision making with the constitution acting as the vehicle to deliver that.

Some major projects have also been progressed such as transforming the Town Hall site where the quality of the office environment will be transformed and a tenant secured for unwanted space. Some services have been improved such as recycling.

Despite good progress there are a number of areas that need further consideration and development:

There appeared to be a lack of confidence between officers and members with officers feeling they were not always treated with respect by some members citing overly long meetings, little regard to the impact of this on the officers and challenging behaviours. There appears to be an issue with Planning Committee and members overturning officer recommendations and disregarding officer advice without fully understanding the consequences for the authority and officer challenge being seen as offensive. This has contributed to problems in recruiting planning staff due to low staff morale though this was anecdotal as the team did not observe a Planning Committee meeting.

We saw limited evidence that CLB were standing together collectively to challenge member behaviours and they tended not to operate strategically but focus on operational issues. The CLB agenda we observed was operational not strategic, seemed to be a forum to receive updated information and was potentially too large a group to operate effectively with 11 officers at the meeting we observed. CLB need to stand together against poor member behaviours and re-focus on the 'big issues' such as the transformation agenda, budget savings and demand management. CLB need to create the capacity to effectively lead and manage as a collective and cohesive team with members and delivery of a top team development programme may assist this. Many CLB members appear to be involved in a disproportionately large number of member FOI requests and must be freed from this to lead with a re-focus on looking at the root cause to see if that can be addressed rather than dealing with consequences. We saw clear evidence of a willingness from both CLB and the administration to build relationships and this must be driven through.

There needs to be an injection of pace to corporate improvement as we saw evidence that the council were considerably 'behind the curve' compared to other similar authorities, for example they have only recently embarked on agile working, have very limited work and data on customer insight and we saw little evidence on how you are getting to grips with demand management and the prevention agenda. The authority must be more outward facing in order to compare and learn from others and look at the potential for shared services. One quotation we noted said *"The next step is to get the authority to look outside of the Town Hall. It doesn't happen as fluidly as it should at the moment."* The current evidence of learning from elsewhere was from bringing in external consultants and pro-active recruitment of senior staff e.g. Head of Transformation.

Greater improvement in corporate and service processes is required as we evidenced both Human Resources and Legal Services working on paper based systems with no on-line access to cases, a backlog in invoice payment resulting from the move from FMS to E-financials and performance management within individual service areas not being managed corporately by CLB.

2. Impact and effectiveness of the council re-structure

Efficiency savings have been achieved through a reduction in staffing costs and senior management costs, streamlining the council's depot services and renegotiation of supplier contracts. These savings have been re-invested in frontline services and have been achieved throughout an organisational re-structure without any perceivable impact on service delivery. We saw evidence of actions to meet budget targets, e.g. outsourcing of certain back office functions. Feedback from the initial pilot for customer contact was encouraging with depot staff receiving fewer telephone enquiries and staff generally receptive to the changes.

With the on-going re-structure and New Ways of Working model the council have made significant steps in modernisation of the organisation and better understand what needs to be done to achieve the future funding gap. The authority has recruited interim support to help work through asset management issues and work is underway to recruit a permanent team to focus on strategic asset management, estates management and exploiting development opportunities. Importantly, the council have recruited a Head of Business Transformation with project support to drive the transformation programme and maintain a focus on delivery of key projects. There is also a shared service arrangement with Thurrock and Barking and Dagenham, through a SLA for legal services, which is delivering efficiencies through case management and time recording.

Service level planning and personal appraisals do appear to link to the corporate priorities. We saw evidence that some staff understand the direction of travel for the authority to meet future challenges and it will be critical to identify these staff members as champions for change.

The council are currently in Phase 2 of three phases of a re-structure, mainly around back office functions, and frontline staff acknowledged that lessons had been learnt

from Phase 1 to drive improvements in Phase 2. In contrast, some staff were critical of the lack of consultation and engagement in the Phase 1 work and felt communication could have been better providing greater clarity around future re-organisations.

We evidenced some low staff morale as a result of the changes and the tensions created by working relationships between officers and members, however, this was not universal with some staff confirming the re-structure had given them new opportunities. Areas of dissatisfaction were generally around progress on single status, the perception of extensive use of consultants and agency staff, loss of experienced staff and a presumption in favour of outsourcing denying staff a chance to prove themselves. They did feel they were now “just a number on a payslip rather than a person” and would like an opportunity to make suggestions for improvement that were objectively considered. There is also an issue that Brentwood don’t always pay ‘market rate’ on salaries compounded by the fact they are on the border of London which results in good staff moving away attracted by higher remuneration with a London Allowance. The council needs to consider alternative methods to attract and retain staff.

Generally staff didn’t fully understand the journey for the council with a lack of narrative around the direction of travel. An improved and regular communication strategy would greatly assist which could also help negate the numerous negative press stories often as a result of sensitive details being leaked. For staff moving into new roles there is a need to support them better in developing new skills with improved training. This should include training on the constitution as neither members or staff appear to fully understand it and officers need to better understand delegations. Other than the recruitment of an interim Strategic Asset Manager and Head of Business Transformation, we saw limited evidence that the council had identified what skills it needed to deliver the new agenda and this must be underpinned by a Workforce Strategy. At the moment the council is in a state of transition with regard to HR provision and the development of a workforce development agenda including talent management. This is critical to successful delivery of the transformation programme.

3. Impact and effectiveness of the new governance arrangements

A new governance system as a fourth option authority was adopted in March 2013 to streamline decision making and improve quality of debate with a new Constitution also established in May 2013 based on the Model Constitution. The new Constitution has been developed by a cross party group of members giving greater clarity around the functioning of the Councils formal committee governance arrangements and the day to day operation of the Council. The key principles for the new system were:

- Faster decision-making process
- Quality not quantity of debate
- Regular cycle of meetings
- Strengthening the role of overview and scrutiny
- Governance structure that mirrors the business of the council
- No reduction in democracy
- Delegated powers

- Strengthening the role of Ordinary Council

There are real efforts being made to better engage members with extensive informal member and officer briefings taking place. In addition, the Administration is proud of the council's achievements believing they are 'punching above their weight' for a small council. Aligned to this CLB are being re-invigorated with good key appointments which are creating a catalyst for change to meet future corporate priorities.

We evidenced a real desire on the part of CLB and the Administration to tackle poor member behaviour and to do things differently. CLB and the Administration want to work more closely together to enhance the reputation of the authority with residents and strategic partners alike and we picked up evidence of CLB officers starting to challenge members. Opposition members also told us they wished to address the limitations of the current Constitution and member behaviour.

Despite the changes the new Constitution is being repeatedly used by members to seek to interrupt the working of the Council and this behaviour is impacting on the pace of progress of the Council, and on other matters discussed later. Opposition members told us of their frustration with the new Constitution. Furthermore, a number of the actions identified by the Peer Review in 2011 have either not been progressed or only limited progress has been made. This is a reflection of the continuing and deteriorating way members of the Council are operating. There remains a distrust between officers and certain members who need to understand the damage they are doing to staff and the organisation. In our view your staff can't continue to work in the environment member behaviour is putting them in.

Members, officers and stakeholders all identified a mismatch between the workload of the Council and available staff resources. Managers and other staff are spending a disproportionate amount of time responding to predominantly opposition member enquiries, including a high volume of Freedom of Information Act requests exacerbated by repeat requests and continual challenge over the same request from different members. Members need to be realistic in their demands and CLB firm in delivering messages about what they can do. These issues are having a serious destabilising effect of the working of the Council.

There is an urgent need to develop an understanding between members and officers in order to define mutual expectations and stick rigidly to them. Each side needs to understand and acknowledge what they expect from one another including defining what constitutes acceptable and unacceptable behaviour. There needs to be clear boundaries to avoid lines between officers and members becoming blurred such that members focus on policy issues and avoid getting drawn into detail with officers which in turn will allow officers to be more agile and feel empowered. Agree what is important and have the courage to say 'no' as the current practice of constantly responding to frivolous and vexatious requests for information is draining capacity from the organisation. Regardless of how divergent their views may be the leaders of the various political groups must sit down together with statutory officers to talk openly about the issues that matter most to them and the council and build professional and constructive

working relationships going forward. We note the Leader's commitment to this as evidenced by the establishment of monthly Leaders' meetings, however, attendance from all political groups has not been consistent with subsequent opportunities to improve working relationships lost.

We strongly recommend the council creates a mechanism to review and revise the Constitution so that it becomes a tool for effective decision making and not a weapon. Protocols and procedures could be strengthened to assist in creating a smoother administration (this has already been suggested by Head of Legal) and the need for retention of Overview and Scrutiny could be explored as it is currently being used as a vehicle to slow down decision-making and is seen as divisive. There is also a case for a reduction in the cycle of meetings to avoid reports being taken just to feed the "committee machine". This can result in reports which focus on detail not strategy and can be of poor quality giving opportunities for the opposition to raise numerous constitutional and information queries. Opposition members told us they would support this approach. Reduce these opportunities for challenge and you will reduce the need for call-ins, FOI requests and general frustration, therefore, consider a standard report template to include comments from all relevant officers (Legal, Finance) to avert some difficulties arising at Committee.

4. How the Council might adopt a more entrepreneurial and commercial approach

Building on the opportunities afforded in the Localism Act the council are focusing their efforts over the next three years on:

- Utilising our assets
- Selling our services
- Improving recycling performance
- Exploring opportunities for the council to operate on a commercial basis
- Being a commissioner of services where it makes business sense

A report was commissioned from East of England LGA on options, which was presented to members in November 2013. The report is comprehensive and covers all the potential options for considering a new operating model for the council but it is too early for the peer team to make any further comments as to whether this will achieve the desired savings and efficiencies.

What we did see was a managerial and political consensus being developed around a commercial strategy with a clear recognition that there is a need to consider adopting a more entrepreneurial approach. There are some good early examples such as the Town Hall re-development being agreed by the council with partners from the commercial and voluntary sectors involved in the project, the council securing additional resource to develop a more strategic approach to assets and appointment of a Head of Business Transformation to drive the transformation agenda.

We noted a lack of common understanding on what an entrepreneurial approach actually means with a need to develop a common understanding between officers and members to ensure they have the necessary skills, capacity and courage to deliver. This will require a fundamental shift from a 'risk averse' to 'risk aware' approach in order to secure delivery.

Currently there are different officers delivering the asset strategy and the Town Hall project and another officer looking at agile working and transformation. These individual work strands will need to be joined up and owned at CLB in an integrated strategy. The governance and project management of any transformation programme will need to be clear and robust. You will need to ensure the arrangements you are putting into place enable the linkages, sequencing and inter-dependencies between the various projects and activity to be clear. Robust monitoring and accountability will need to be a key feature of your programme governance to ensure the contribution to the budget strategy. Such an approach will be required for the linkage of asset rationalisation, agile working, digital inclusion and customer access. We acknowledge that the new Head of Business Transformation has already started to look at this.

The new commercial approach will require strategic discussion on outcomes to determine what is driving the approach e.g. efficiency savings, growth and prosperity, housing. We acknowledge the report commissioned from East of England LGA to identify commercial opportunities as a first step towards delivering this commercial approach, however, at the moment there appears to be a lack of clarity and understanding as to what is driving the agenda and how success will be measured. Inevitably there is a need to have a dialogue at political leader level around commercial opportunities to ensure they will be maximised, for example the waste partnership, joint outsourcing and shared services.

Other corporate issues

- Members need to agree what their non-priorities are and stick to them. Members' expectations also need to be managed, for example, the fact that the council has no responsibility for highways should mean that no highways enquires for work should be dealt with by officers. This is as much about taking the gold plating off services as it is about stopping services, or it can be about introducing/increasing charges for non-core services, or delivering services via community resources. If non-priority or lower priority areas can't be identified then everything ends up as equally important and nothing is protected or promoted.
- Look medium to longer term as we saw no strategic plan or horizon scanning beyond 2016. One quotation was "*we don't have an answer beyond the next two years*".
- Ensure plans are evidence based and resourced as future demands need to be better understood and evaluated. We saw limited evidence of customer insight work which led the team to consider how well you know your communities and where future demand is likely to arise and create additional pressures.

- Resilience is a key concern across the council and will become an increasing concern as staff numbers reduce through future re-organisation. We saw no clear evidence of how this is being addressed. Celebrate success to give a more positive vibe across the organisation and generate more positive media coverage.
- Improved performance management with corporate ownership in terms of key performance indicators linked to achievement of the council's priorities to ensure meaningful discussion around key priority outcomes. On key performance indicators members only talked about exception reports and as most were in 'red' we would have expected a more searching analysis. Both CLB and members need to be fully engaged in this development in order to take corrective action early.

Suggestions for consideration

Based on what we saw, heard and read we suggest you consider the following key actions. These are things we think will help you improve the effectiveness and capacity to deliver your future ambitions and plans:

- Develop constructive relationships between officers and members and CLB – Leaders of the organisation need to display respect for each other and demonstrate that values are being upheld throughout the organisation
- CLB need to act as a single team with a strategic focus and run the business better – it is now time for CLB to adopt a unified approach
- Urgently address the workload v capacity issue
- Focused support for members – consider further tailored training and development programmes that result in an effective ruling Administration, committee chairs and opposition. This could include mentoring from an independent LGA opposition peer to work with opposition members over a specific duration.
- Implement an officer development programme for the top team and middle managers, including appropriate support, mentoring and learning from other high performing organisations. This programme will need to be funded.
- Develop a shared narrative, communicate it and deliver it
- Support you staff and develop them – staff we met are loyal and committed
- Review and revise the constitution so it becomes a tool for streamlined decision-making and not a weapon
- Build more effective relationships with other partners and learn more from others on both a regional and national level
- Build on the peer challenge findings and consider an away day for CLB and senior members to agree a fresh approach that puts the council and it's residents first – LGA would be happy to provide experienced and appropriate facilitators to assist you in running such an event

Next steps

You will undoubtedly wish to reflect on these findings and suggestions made with your senior managerial and political leadership before determining how the council wishes to take things forward. As part of the peer challenge process, there is an offer of continued activity to support this. If you wish to discuss in greater detail how this might be utilised please contact me to arrange the detail of such activity.

In the meantime we are keen to continue the relationship we have formed with you and colleagues through the peer challenge to date. Rachel Litherland, Principal Adviser (London and East of England) is the main contact between your authority and the Local Government Association. Rachel can be contacted via email at Rachel.litherland@local.gov.uk or by Telephone (07795 076834) and can provide access to our resources and any further support.

All connected with the peer challenge would like to wish you every success going forward. Many thanks to you and your colleagues for inviting the peer challenge and to everyone involved for their participation. In particular, please pass on our thanks to Lee Taylor for his sterling support in organising the challenge and the onsite visit.

Yours sincerely



Peter Rentell
Programme Manager
Local Government Support Team
Local Government Association

On behalf of the peer challenge team

Draft ACTION PLAN

TITLE: PEER REVIEW LEAD OFFICER: LEE TAYLOR	PROGRESS UPDATE: 08/APR/2014 V 1.0				
	R	Target date likely to be missed. Caution			
	A	On target to meet completion date. Monitor			
	G	Action completed.			
<p>This action plan has been developed from the findings of the peer review 2013 and supports the Council's People and Organisational Development Strategy. Each action can be linked to one or more of the following themes:</p> <p>A - Leadership, Management & Vision * inspirational leadership, strong and consistent management and clear vision.</p> <p>B - People Matter *creating a learning / training environment for employees and Members, offering appropriate career progression and opportunities for personal development, welcoming diversity and new ideas, and providing opportunities for these to be brought forward.</p> <p>C - Workforce / Capacity Planning * recognising the diverse needs of our workforce and planning for staff movement (secondment, retirement, flexible working requests, turnover). Where appropriate, working with a range of partners and key agencies who are central to the improvement and growth of the borough. Influencing decisions that make a difference to our communities.</p> <p>D - Culture * developing and practising the values and behaviours that we need to achieve our vision. Being a role model to communities and enhancing our reputation.</p> <p>E - Communication * keeping good communication at the heart of everything we do, recognising that it is pivotal to our image and reputation both internally (with staff and Members), and externally (with customers, partners, media, stakeholders) and acknowledging that everyone has responsibility in achieving this.</p>					
START DATE:	01/APR/2014	FINISH DATE:	31/MAR/2015	NO. WEEKS	52

REF	TASK DESCRIPTION	RAG	TARGET FINISH DATE	REVISED FINISH DATE	LINK TO ADDITIONAL OD PRIORITIES	RESPONSIBLE	PROGRESS UPDATE
A – Leadership, Management & Vision							
PR1.	Establish regular meetings between Statutory Officers and Group Leaders as part of the annual cycle of meetings.	A	11/06/2014	-	D	Corporate & Democratic Services Manager	
PR2.	Agree and establish with opposition group leaders a system of engagement that meets theirs and the organisation's needs, reducing the need for members' requests and other requests for information.	A	31/05/2014	-	C, D	Managing Director	

PR3.	Develop a comprehensive training programme for Chairs: <ul style="list-style-type: none"> Managing meetings Leading portfolio areas Role of lead members 	A	Agree programme: 30/06/2014 Delivery: 30/09/2014	-	D	Corporate & Democratic Services Manager	
PR4.	Develop a comprehensive training programme for members: <ul style="list-style-type: none"> Induction The Local Government arena Role of the ward member Role of committee members Role of officers and Statutory Officers Role of Administration Role of Opposition Codes of Conduct 	A	Induction agreed and implemented by 11/06/2014 Agree programme: 30/06/2014 Delivery: 30/09/2014	-	D	Corporate & Democratic Services Manager	
PR5.	Review all Member Working Groups: <ul style="list-style-type: none"> Are they effective? Do they deliver clear outcomes? Do they deliver VFM? 	A	30/07/2014	-	C	Monitoring Officer	
B - People Matter							
PR6.	Develop, agree and implement an organisational workforce strategy and talent management strategy that covers: <ul style="list-style-type: none"> Attracting and retaining staff Supporting staff into new roles (secondments etc) 	A	30/04/2014	-	C, D	Head of Business Transformation	
PR7.	Implement and invest in a Strategic Leadership Course for CLB and Middle Managers.	A	30/04/2014	-	C, D	Director of Strategy and Corporate Services	
C - Workforce / Capacity Planning							

PR8.	Produce a refreshed Corporate Plan for 2016-2019 with a supporting delivery plan.	A	(Draft ready) 31/03/2015		A	Policy and Programme Manager	
PR9	Produce a refreshed MTFP that goes beyond 2016 and is line with the Corporate Plan.	A	(Draft ready) 31/03/2015			Director of Strategy and Corporate Services	
PR10	As part of the transformation workstream revisit the operational model as agreed in 2013 and ensure that it is fit for purpose beyond 2016.	A	31/03/2015		A	Head of Business Transformation	
PR11	Introduce a comprehensive Programme and Performance Management framework that relies on relevant PIs and timely data intelligence, including benchmarking data and owned by CLB to better manage and inform the business.	A	30/04/2014		D	Policy and Programme Manager	
PR12	Identify suitable local, county, regional and national partnerships that will add and which the organisation can learn from and commit to resourcing those partnerships.	A	30/06/2014			Policy and Programme Manager	
PR13	Explore available technology that would facilitate the reduction of evening meetings (non-committee).	A	31/07/2014		D	Head of Business Transformation	
D - Culture							

PR14.	Develop agreed values to complement the Member/Officer Protocol and communicate this across the organisation ensuring officer and member sign up.	A	30/06/2014	-	A	Managing Director	
PR15.	Revise Protocol on Member/Staff relations, circulate to all Members and officers and ensure Members/Officers adhere to it.	A	30/06/2014	-	A	Monitoring Officer	
PR16.	Identify and develop champions for change who can role model positive behaviour and be catalysts within service areas.	A	30/06/2014	-	B	Corporate Leadership Board	
E - Communication							
PR17	Deliver a comprehensive comms plan that is based on the Corporate Plan and uses key messages as a basis for all comms.	A	30/04/2014		D	Senior Comms Officer	
PR18	Pro-actively focus on success stories both internally and externally.	A	30/04/2014		D	Senior Comms Officer	
PR19	Review communication channels and exchanges of written information between officers and members to enable the free flow of information to support Members in their role and to free up officers to run the business of the Council.	A	31/05/2014		D, C	Monitoring Officer	

7 April 2014

Agenda Item: 6

Extraordinary Council

Chair's Annual Overview & Scrutiny Report

Report of: *Overview & Scrutiny Chair – Cllr Noelle Hones*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

- 1.1 In accordance with rule 7.3 of Part 4.4 of the Constitution (Overview and Scrutiny Committee Procedure Rules), the Overview & Scrutiny Committee shall produce an Annual Report to be presented to Council summarising its investigation and findings.

2. Recommendation(s)

- 2.1 Council is requested to consider and approve the Annual Report of the Overview & Scrutiny Committee.**

3. Introduction and Background

- 3.1 In accordance with rule 7.3 of Part 4.4 of the Constitution (Overview and Scrutiny Committee Procedure Rules), the Overview & Scrutiny Committee shall produce an Annual Report to be presented to Council summarising its investigation and findings. The Chair's annual report is attached at Appendix 1.

4. Issue, Options and Analysis of Options

- 4.1 The Chair's annual report is attached at Appendix 1.

5. Reasons for Recommendation

- 5.1 The recommendation is made in accordance with rule 7.3 of Part 4.4 of the Constitution.

6. Consultation

6.1 The Overview & Scrutiny Committee received the draft report on 25 February 2014. The committee resolved:

6.2 That the draft Overview and Scrutiny Committee Annual Report is recommended for approval by Ordinary Council at a future meeting.

7. References to Corporate Plan

7.1 The O and S Committee has particular regard to achieving targets for all priorities within the Corporate Plan when proposing its Annual Work Programme:

1. Street Scene and Environment
2. Localism
3. A Prosperous Borough
4. Housing Health and Wellbeing
5. A Safe Borough
6. A Modern Council

8. Implications

Financial Implications

Name & Title: Jo-Anne Ireland – Director of Strategy & Corporate Services
Tel & Email: 01277 312712/ jo-anne.Ireland@brentwood.gov.uk

8.1 There are no financial implications at this time.

Legal Implications

Name & Title: David Lawson – Monitoring Officer
Tel & Email : 01277 312703 /david.lawson@brentwood.gov.uk

8.2 There are no legal implications at this time.

9. Background Papers

Minutes of Overview and Scrutiny Committee meetings during 2013/14.

10. Appendices to this report

Appendix 1 – Annual Report for Overview and Scrutiny Committee 2013/14.

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BRENTWOOD BOROUGH COUNCIL
OVERVIEW AND SCRUTINY COMMITTEE
ANNUAL REPORT 2013/14

In accordance with the Council's Constitution the Overview and Scrutiny Committee reports annually to Council on its work programme and to make recommendations for future work programmes.

Article 6 of the Constitution relates to the role of Overview and Scrutiny and the terms of reference of the Committee. Part 3 of the Constitution sets out the procedural arrangements. Although the Council has a committee structure, it has agreed to confer similar powers to those granted under section 21 of the Local Government Act 2000 to Overview and Scrutiny Committees operating under an executive model.

The Committee conducts its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of the Constitution.

The General role of the Committee is to:

- (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.

In relation to 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.

In relation to scrutiny the 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.

Brentwood Borough Council's Overview and Scrutiny Committee consists of 12 Members. Five committee meetings took place during the 2013/14 municipal year,

Work Programme

In light of the new governance arrangements which commenced following Annual Council 2013, the Centre for Public Scrutiny had been supporting officers and lead Members in considering the Overview and Scrutiny Committee's future workplan to provide effective scrutiny of the Council's services. A workshop involving cross-party Members and officers was held which identified a long list of possible matters to be considered by the Committee. The group also agreed that the 'PICKET' scoring process should be used to prioritise the work programme, as follows:

Public interest	What level of public interest and demand is there? 1= low interest, 2= medium interest, 3=high interest
Impact	What impact could a scrutiny review have? Is there an opportunity to influence? 1= little impact / opportunity, 2= medium impact/opportunity, 3= high impact possible
Council performance	How well does the council perform in this area? 1= high performing, 2= medium performance, 3= poorly performing
Keep in context	How relevant is the topic to the local area and context? 1= little relevance, 2= medium relevance, 3= high relevance

Executive request	Have the administration requested scrutiny do this? 1= no request, 2= request but not urgent, 3= urgent request
Timescale	Is there a deadline that means the scrutiny has to be done now rather than later? 1= no urgency/ deadline, 2= medium level of urgency, 3= urgent, must be done now

After the workshop the Committee agreed the 2013/14 Annual Work Programme at its 18 June 2013 meeting. The work programme aims to guide the Committee's activities and focus over the course of the year. Members are aware that items can be submitted by individual Members or groups to form part of the work plan at any time during the year following the correct procedure. This programme was reviewed and updated at the 18.9.13, 26.11.13, 22.1.14 and 25.2.14 meetings.

The Programme extended into 2015 to provide continuity.

Task and Finish Groups

During the year, six 'Task and Finish Groups' had been formed and reports received by the Committee as appropriate. These were:

1. Review of Outside Organisations

At the Annual Meeting of Council, Councillors are appointed to outside organisations. The Overview and Scrutiny Committee in February 2013 agreed to set up a Task and Finish Group to undertake a comprehensive review of outside organisations in time for Annual Council when Council representatives were nominated to these bodies. Cllr Russell agreed to be chairman of the group.

On behalf of the group Cllr Russell produced a report at the Overview and Scrutiny Committee on 18 June 2013 which included proposals to reviewing Outside Organisations.

As a result, all Members appointed to outside bodies have been surveyed to establish whether the organisations still meet and whether it is still appropriate for the Council to be represented on the groups. All outside bodies have been similarly written to to ask if they consider the involvement of the Council to be beneficial to them. A report making recommendations will be submitted to a future Full Council meeting.

2. Member Training

The Overview and Scrutiny Committee was keen to undertake a survey of members to review the Council's induction arrangements and to establish any development requirements of members. The survey was undertaken and results reported at the February O and S Committee meeting.

Review of Parking Consultation

The Committee had requested a review of the process used when consultations took place for any changes to off street parking.

Members were advised that alterations to the service could occur when a different pricing structure was proposed, or when there were changes in operation and there was a requirement to make changes to the traffic order.

Through the development of their report officers had looked at a number of other authorities, the way they consulted on parking issues, and the return rate from participants. Members noted that this research showed that all authorities had difficulty in generating any real interest in parking consultation, with return rates well below 5% in many cases.

3. Funding Strategy 2013-16

A Task and Finish group was set up to look at the Council's approach to funding. The group examined four areas of funding and the proposed principles and criteria around future funding which was proposed in the Council's Funding Strategy.

The comments received from the Task and Finish Group were fed into the Funding Strategy report that was considered by Strategy and Policy Board on 20.11.2013.

4. Local Council Tax Support Scheme

The Task and Finish Group was set up to review the 2013/14 Local Council Tax Support (LCTS) scheme adopted at the Ordinary Council meeting on 19.12.2012 and which replaced Council Tax Benefit (CTB) from 1.4.2013. The findings of the first year of operation of the Scheme were considered and amendments proposed to the scheme for 2014/15 which were approved at Ordinary Council on 11.12.2013.

5. Planning

The Planning Task and Finish group undertook their main deliberations 2012/13 and continued into 2013/14 to consider the progress of the Local Development Plan, reporting back to the Committee as appropriate. The Committee had requested information on Section 106 agreements and a verbal update was given at the 25.2.2014 O and S meeting with a full report proposed for the 17.6.2014 meeting when the current review had been completed.

6. Member/Officer Communications

Cllr Mynott had agreed to chair this Task and Finish group and an update would be given to the Committee at a future meeting on the outcome of the group's investigations.

Other Reports

1. Budget Scrutiny Role

At the January Overview & Scrutiny Committee meeting, the Committee considered the budget including the medium term financial plan, etc and made a series of recommendations which were approved to be included in the budget proposals by the Strategy and Policy Board on 12 February and then to Council on 5 March 2014.

2. Quarter Performance Indicators

Each quarter the committee considered the quarterly performance indicators.

Committee members met with CLB and discussed proposals raised at previous O and S Committee meetings in regard to the reporting of performance indicators. Improved reporting methods were agreed to be used in future updates to Members.

3. Staff Morale

Members were advised of work that had previously been undertaken in this area which included a Staff Survey undertaken in 2010 and Staff Temperature Gauge exercises in 2011 and 2012. The Committee resolved that a further staff survey be undertaken by the end of January 2014 and the results reported to a future Performance and Resources Committee.

4. Grounds Maintenance

The Committee discussed the current situation whereby the cost of cutting the Borough's grass verges, the responsibility of Essex County Council, was being subsidized by BBC since in an average season there would be a need to cut them 12 times per year but ECC funded only two cuts per year.

The Committee resolved that the Council should take legal advice and pursue ECC for additional funding via Brentwood's County Councillors and the Leader.

5. Customer Service Transformation – Project Update

The Committee was advised the Customer Service Transformation Project remained on target to deliver a fully integrated, scalable and adaptable Customer Contact Service, providing a first class customer experience, value for money and improved access to services. The Committee was commissioned to explore at a future meeting customer satisfaction pre and post Customer Contact Service launch.

6. Community Safety Partnership update

Members received the Brentwood Community Safety Partnership Annual Overview & Scrutiny Report which provided an update on the work of the partnership over the year and gave details of crime figures relating to the CSPs strategic priorities and details of activities undertaken by the partnership. Over the last year there had been some encouraging results.

7. Update on William Hunter Way Working Group

The Overview and Scrutiny Committee was provided with an update of events relating to the William Hunter Way scheme since the 11.12.13 Ordinary Council Meeting.

8. Update on Crossrail working Group

A Crossrail project team had been developed within the Council to ensure that any issues arising from the construction phase of Crossrail can be mitigated, and that Shenfield can take advantage of the long-term benefits that this service could bring to the area.

The Team was currently developing plans in four key areas - parking and the public realm, finance, planning, and communications - which would progress as the project moved forward.

Call In

Two executive committee decisions were called in and additional meetings arranged accordingly, ie:

- 7.10.13 – consideration was given to the decision made at the 4.9.2013 Strategy and Policy Board meeting regarding the Hallsford Bridge Development Brief (Minute 134 refers).
- 16.12.13 - consideration was given to the decision made at the 6.11.2013 Performance and Resources Committee meeting regarding Hutton Community Centre (Minute 237 refers).

Extraordinary Council

Review of Constitution

Report of: *David Lawson, Monitoring Officer*

Wards Affected: *All Wards*

This report is: *Public*

1. Executive Summary

- 1.1 The Council is required by Section 37 of the Local Government Act 2000 to keep its Constitution up to date.
- 1.2 At its October meeting, the Council began a review of its constitution. This report continues that review and sets out proposals to review the Council, Committee and Overview and Scrutiny Procedural Rules, Standing Orders relating to Contracts and related scheme of delegation. Protocols for Licensing Committee and the terms of reference of the Licensing Committee and Sub-Committee, and to include a new section on Politically Restricted posts to comply with legislation.
- 1.3 The cross-party Constitution Working Group and Leaders of the Political Parties were invited to participate in the consultation process.

2. Recommendation(s)

- 2.1 **That the Council approves the changes to its Constitution as set out in the report and appendices to come into force from 1 May 2014 as follows:**
 - a) **Changes to Constitution (Article 12)**
 - b) **Council and Committee Procedural Rules (Part 4.1)**
 - c) **Overview and Scrutiny Procedural Rules (Part 4.3)**
 - d) **Standing Orders relating to Contracts (Part 4.6)**
 - e) **Terms of Reference and Protocols for the Licensing and Licensing Sub-Committee (Part 3.1 and Part 5.5).**
 - f) **Politically Restricted Posts (new part 5.6)**
- 2.2 **The financial threshold set by the Council for key decisions should be amended to £100,000 for goods and services and £500,000 for works.**

3. Introduction and Background

- 3.1 Section 37 of the Local Government Act 2000 requires that the Council has in place a document, known as its Constitution, which contains the Council's standing orders, codes of conduct, and such other information as the Council considers appropriate or required by law.

- 3.2 Following the adoption of the new Constitution in May 2013, a review began in October 2013 to ensure that the Constitution
- (a) set out how the Council works, how decisions are made and the procedures to be followed to ensure that decisions are efficient, transparent and accountable through members to local residents and local communities;
 - (b) be clear about the rules, functions and responsibilities of both members and the council's staff;
 - (c) be clear about the rights which residents have in their dealings with the Council; and
 - (d) be accessible to everyone.
- 3.3 Following the review, the Council agreed amendments to the following Parts of the Constitution:
- (a) Public Questions (Part 4.1);
 - (b) Access to Information Rules (Part 4.2);
 - (c) Budget and Policy Framework Rules (Part 4.3);
 - (d) Financial Regulations (Part 4.5);
 - (e) Staff Employment Procedure Rules (Part 4.7);
 - (f) Members Planning Code of Good Practice (Part 5.2)
 - (g) Staff Code of Conduct (Part 5.3)
 - (h) Member / Staff Relations Protocol (Part 5.4);
 - (i) Delegations to Staff General Principles to Appendix A) and Monitoring Officer (Article 12)
- 3.4 As stated in the October report, further work was still required on the following areas of the Constitution:
- (a) Contract Standing Orders;
 - (b) Proceedings at Council and its Committees;
 - (c) Licensing Committee Procedure Rules;
 - (d) Members' Code of Conduct;
 - (e) Delegations to Staff ;
 - (f) Planning Committee Procedure Rules

This report deals with (a) to (c). The Members' Code of Conduct and Complaints process is a separate report on the agenda for this meeting and (e) and (f) will be submitted to a future meeting of Council.

4. Issue, Options and Analysis of Options

4.1 Council, Committee and Overview and Scrutiny Procedural Rules:

A number of proposed changes have been suggested which aims to clarify the rules, deal with any ambiguity or poor wording, and to ensure effective decision making processes. The peer review pointed out that the Constitution should be reviewed. Experience over the past year has shown that on occasion there is confusion over the interpretation of the Council and Committee procedural rules which has led to questions about the rules on the night which can distract the Council or its Committees from debating the business on the agenda. The tracked changes showing the changes are set out in appendices 1, 2 and 3.

- 4.2 **Key Decisions:** The Local Government Act 2000 when introducing “executive arrangements” defines key decisions as decisions likely to either result in significant expenditure or savings having regard to the budget for the service or function to which the decision relates, or which is likely to be significant in its effect on communities living or working in the local authority’s area.
- 4.3 Under executive arrangements, by law, key decisions must be published in a forward plan and can be called in, with some exceptions. Key decisions do not apply to option 4 councils operating a committee structure. However, Brentwood has decided to include the concept of a key decision for call in purposes as part of open and accountable local government.
- 4.4 The current definition is set out in “the definitions index” of the constitution and states that:
- A key decision is an executive decision which is likely to:*
- *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;*
 - *be significant in terms of its effect on communities living or working in an area comprising two or more electoral divisions in the area of the Council.*
- 4.5 The current OJEU threshold is £172,514.00 and £4,322,012.00 as at January 2014 and has gone down from £173,934.00 for goods and services, and £4,348,350.00 for works. However, for clarity, it is good practice to include either:
- a specific amount or
 - the current legal definition as set out in paragraph 4.2.
- 4.6 It is proposed that the financial threshold be amended to £100,000 for goods and services and £500,000 for works.
- 4.7 **Licensing Committee:** At the October meeting, the Council was advised that the Licensing Committee is regulatory in function and is quasi judicial in nature. Therefore there would be a public and legal expectation that the Council has clearly outlined and transparent procedure rules.
- 4.8 The revised terms of reference and procedures aim to ensure that it is clear about the delegation between the Committee, Sub-Committee and Officers and would be robust enough to resist any legal challenges. It will also mean that any changes to legislation can automatically be included within the scheme. It also provides a simplified yet clear and transparent scheme of delegation. See Appendix 4 which sets out the proposed changes.

4.9 **Contract Standing Orders and Scheme of Delegation:**

Part 4.6 of the Constitution, Standing Orders relating to Contracts, and the related scheme of delegation have been updated (See appendix 5); The main amendments are:

- (a) to reflect the need for all contract opportunities over £10k, previously £50k, to be advertised on the Council's website to make more of the Council's contracts available for companies to quote for.
- (b) to allow a period of no more than 2 weeks for potential tenderers to submit their tenders;
- (c) reference to Approved Lists be removed as the Council does not consider that the use of approved supplier lists promotes a spirit of an open market for all;
- (d) Award Criteria has been amended to reflect the need for all tender and quotation exercises to be evaluated using a minimum weighting of 40% for cost to ensure cost is a significant consideration in all tender evaluations.
- (e) A Council Member to be present at all tender openings for contracts valued over £50k and to be consulted on quotations over £25k.

4.10 **Politically Restricted Posts**

By Law the Council must designate some posts as politically restricted and must maintain an up to date list of those posts which must be available for public inspection.

4.11 There are two types of politically restricted posts, "specified" and "sensitive".

- For **specified posts**, the legislation specifies which posts must be politically restricted.
- For **sensitive posts**, the legislation sets out criteria for Councils to decide which posts fall under the "sensitive" category. For these posts there must be a right of appeal process for staff to appeal against their post being politically restricted. It is proposed that the Head of Paid Services hear any appeals.

4.12 The politically restricted posts scheme and its application to Brentwood Council is set out in Appendix 6.

4.13 **Next Steps**

4.14 A review of the Delegations to Staff and any relevant changes to Committees and of the Planning Committee Procedure Rules will be undertaken and reported to a future meeting.

5. **Reasons for Recommendation**

5.1 Section 37 of the Local Government Act 2000 requires that the Council has in place a document, known as its Constitution, which should be regularly reviewed.

6. Consultation

- 6.1 The cross-party Constitution Working Group and Leaders of the Political Parties were invited to participate in the consultation process.

7. References to Corporate Plan

The Modern Council priority within the Council's Corporate Plan sets out how the Council will be transformed between 2014-2016. One of the short term objectives for 2013-14 states "We will improve our governance arrangements leading to faster, more effective decision making."

8. Implications

Financial Implications

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- 8.1 There are no direct financial implications arising from this report.

Legal Implications

Name & Title: David Lawson, Monitoring Officer

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- 8.2 Local authorities are required to regularly review their Constitution as part of their good governance arrangements.

Other Implications

- 8.3 Not applicable

9. Background Papers - None

10. Appendices to this report

- Appendix 1 - Changes to Constitution (Article 12)
- Appendix 2.1 - Council Procedural Rules (Part 4.1)
- Appendix 2.2 - Committee Procedural Rules (Part 4.1)
- Appendix 3 - Overview and Scrutiny Procedural Rules (Part 4.4)
- Appendix 4 - Terms of Reference and Protocols for the Licensing Committee and Sub-Committee (Parts 3.1 and 5.5)
- Appendix 5.1 - Standing Orders relating to Contracts (Part 4.6)
- Appendix 5.2 - Scheme of Delegation for Contract Standing Orders
- Appendix 6 - Politically Restricted Posts (new part 5.6)

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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) A member, or member of staff, who proposes a change to the Constitution will submit that proposal to the Monitoring Officer.
- (b) The Monitoring Officer will consult with the Constitution Working Group before submitting any proposal to Council.
- (c) Changes to the Constitution will only be approved by the Council after consideration of a proposal by the Monitoring Officer.
- (d) The Monitoring Officer may make changes to the Constitution to give effect to any decisions of the Council and changes in the law and to make minor amendments such as to correct errors and to ensure that the Constitution is maintained up-to-date. Any such changes will be communicated to all Members of the Council.

12.1 Duty to monitor and review the Constitution

- (a) The Council will have responsibility for monitoring and reviewing the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
- (b) Subject to the exceptions set out below, changes to the Constitution will only be effective if approved by the full Council.

(c) Amendments to the Constitution will normally only be considered by the Council following a report and recommendation from the Audit Committee, or Constitution Working Group and having received the advice of the Monitoring Officer.

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12.2 Changes to the Constitution

(a) Subject to paragraph (c) below, changes to the Constitution may only be approved by the full Council after consideration of the proposal by an appropriate Member body (see paragraph 12.(1) (c) above).

(b) -The Council has agreed that there should be a Constitution Working Group appointed by and reporting to the Council to undertake a fundamental review the Constitution and recommend changes to the Council.

(c) -The Member body recommending changes to the Constitution whether it is the Constitution Working Group, or -the Audit Committee will have regard to advice from the Monitoring Officer on any proposals relating to the Constitution. The Monitoring Officer may submit a report direct to the Council in any case where his/her advice is not accepted by the Member body.

3.4 The Monitoring Officer may make changes to the Constitution to give effect to any decisions of the Council and changes in the law and to make minor amendments such as to correct errors and to ensure that the Constitution is maintained up-to-date. Any such changes will be communicated to all Members of the Council.

COUNCIL PROCEDURE RULES

COUNCIL PROCEDURE RULES

All of these procedure rules apply to meetings of the Council.

Rules 5, 8, 9 and 13-28 apply to meetings of committees and sub-committees.

MEETINGS OF THE COUNCIL

1. Types of Council Meeting

1.1 There may be three types of Council meeting:

(a) The Annual Meeting

(b) Ordinary meetings

(c) Extraordinary meetings

Annual Meeting of Council s

1.1 The Council shall hold an annual meeting in the year of ordinary election of Mmembers 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 ~~E~~extraordinary meetings

1.3 Those listed below may require the Proper Officer request(who for this purpose shall be the the Managing Director) to call Council meetings in addition to ordinary meetings:

(a) the Council by resolution, or

(b) the Mayor, or

(c) a Statutory Officer of the authority 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.

(d) Any five Members may together call the meeting and the Managing Director shall~~Director shall~~ make arrangements accordingly provided they have signed a requisition specifying the business to be considered at the meeting and presented the requisition to the Mayor and he/she has refused to call a meeting or has failed within seven days of the presentation of the requisition to call a meeting.

~~———— 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/ her, 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.~~

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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

Agenda for Annual General meeting

2.1 The Annual Meeting will consider the following:

- (a) appoint a person to preside if the Mayor and Deputy Mayor are not present or able to act;
- (b) receive any apologies for absence from Members;
- (c) receive any announcements from the Mayor;
- (d) designate a Mayor for the ensuing municipal year (See Appendix B for process of electing a Mayor and Deputy Mayor);
- (e) designate a Deputy Mayor for the ensuing municipal year;
- (f) receive any declarations of interest from Members and Officers;
- (g) Brentwood Borough Council Elections: The Managing Director will report the results of the elections (election years only);
- (h) Political Groups on the Council: The Managing Director will report receipt of Notices served on him/her by Members under the provisions of the Local Government (Committees and Political Groups) Regulations 1990. (Normally only in election years);
- (i) Designate a Leader and Deputy Leader of the Council from the largest Group in any year in which their term of office expires;
- (j) to receive the Leader’s statement under rule 6;
- (k) establish the following and their size and terms of reference;
 - i. a committee for the purposes of the Licensing Act 2003
 - ii. such other committees as may be necessary for the proper discharge of the functions of the Council;

(l) note the allocation of seats on committees and sub-committees to Members of political groups and those seats to be filled by Members who are not in any political group, appoint Members to those allocated committee seats in accordance with the nominations of the political group Leaders, and appoint Members to the remaining committee seats from among those Members who are not in any political group;

(m) appoint any co-opted Members to the committees, and Independent Persons as appropriate;

(n) determine to which committees substitute Members may be appointed;

(o) appoint such Chairs and Vice-Chairs of committees as it falls to Council to appoint;

(p) receive nominations for, and make appointments to, those outside bodies to which the Council is entitled to appoint except where that right of appointment is exercisable only by the Leader;

(q) approve the Member Allowances Scheme;

(r) agree the date, time and place of ordinary meetings of Council for the coming municipal year;

(s) consider any business set out in the notice convening the meeting.

Agenda for Ordinary meetings of the Council

~~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:

(a) to choose a Member to preside if the Mayor and Deputy Mayor be absent;

(b) any business expressly required by statute to be transacted by the Council;

(c) to receive any items of urgent business (to be agreed by the Mayor by reason of special circumstances which shall be specified in the minutes).

(d) to receive any announcements from the Mayor;

(e) to approve as a correct record the minutes of the last meeting of the Council;

(f) to answer questions asked by members of the public pursuant to Rule 11;

(g) to consider reports of the Overview and Scrutiny Committee;

(h) to receive memorials or petitions (if any);

(i) for Chairs of committees to answer questions from Members pursuant to Rule 7.

(j) to receive and consider reports;

1/05/2014

(k) to authorise the sealing of documents so far as the Council's authority is required by statute or this Constitution;

(l) to consider Notices of Motion in the order in which they have been received;

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.

2.4 The agenda for any Council meetings shall be published no later than ten working days before the day of the Council meeting.

Agenda for Extraordinary meetings

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

(a) to appoint a Member to preside at the meeting if neither the Mayor nor the Deputy Mayor are present and able to preside;

(b) to receive apologies for absence from Members;

(c) to receive any declarations of interest from Members and Officers;

(d) to consider any business set out in the notice convening the meeting;

(e) to consider any matter which, by reason of special circumstances to be specified in the minutes of the meeting, the Mayor considers should be considered at the meeting as a matter of urgency.

No other business will be transacted.

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. A notice of motion may be accompanied by a statement of not more than 200 words setting out the reason for the proposed motion.

3.2 A notice of motion may be in more than one part and contain more than one recommendation, but must all relate to the same subject matter.

3.3 The Monitoring Officer may reject a notice of motion if, in his/her opinion:

(a) it does not comply with the requirements of this Rule;

(b) the notice of motion is defamatory of an individual, offensive, or otherwise infringes the proper conduct of local government; or

(c) the recommendation in the notice of motion would be illegal.

- 3.4 Where the Monitoring Officer rejects a notice of motion, he/she shall inform the Member who submitted the notice as soon as practicable prior to publication of the agenda, and shall not include the rejected notice of motion in the public record or agenda.
- 3.5 The Monitoring Officer shall record all such notices of motion (not including a rejected notice) in the order in which they are received and such record shall be open to public inspection on request.
- 3.6 The Monitoring Officer shall include all notices of motion and accompanying statements in the agenda for the next relevant meeting of Council in the order received, save that:
- (a) where two or more notices of motion are received from a particular Member for the same meeting, that Member's second notice of motion shall be included after all other Members' first notices of motion, that Member's third notice of motion shall be included after all other Members' second notices of motion, and so on.
- (b) where he/she considers that the notice of motion, statement or consideration of the notice of motion is likely to result in the disclosure of confidential or exempt information, in which case he/she may group such notices of motion together with other items of business which are, in his/her opinion, likely to involve the exclusion of press and public during their consideration.
- 3.7 The Council shall not debate any motion which would give rise to a significant change to the income of the Council, to its expenditure or to contract terms, unless it has received a report from the Chief Finance Officer or the Monitoring Officer, as appropriate, setting out the legal or financial effect of the motion.
- 3.8 Where a Member submits a notice of motion which would require an accompanying report under Rule 3.7, he/she shall at the same time provide the Chief Finance Officer and /or the Monitoring Officer with sufficient supporting information to enable them to prepare such an accompanying report.
- 3.9 Where a motion which would require an accompanying report under Rule 3.7 falls to be moved without such accompanying report being made available to all Members of Council, the motion shall stand adjourned without debate to the next available meeting of Council.
- 3.10 There will be no time limit for moving and debating motions on notice.
- 3.11 If any matter arises at a meeting to which the Local Government Act 1972 applies by virtue of section 100 (A) (2) as to the appointment, promotion, dismissal, salary, superannuation, or conditions of service or as to the conduct of any person employed by the Council, such matter shall not be the subject of discussion until the Council or Committee as the case may be, has decided whether or not the power to exclude the public under section 100 (A) (2) of the Local Government Act 1972 shall be exercised.
- 3.12 A motion or amendment to rescind, or which has the effect of rescinding, a decision made at a meeting of Council within the past six months, may not be moved except

in accordance with Rules 8.3.17 and 18 (below) unless upon a recommendation from the Strategy and Policy Board for a variation of the approved Budget or Policy Framework, or where the Monitoring Officer confirms that it is appropriate for the Council to reconsider the matter to comply with law, as a result of a change of law or material change of circumstances.

- 3.13** A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved except in accordance with Rules 8.3.17 and 18 (below) unless upon a recommendation from the Strategy and Policy Board for a variation of the approved Budget or Policy Framework, or where the Monitoring Officer confirms that it is appropriate for the Council to reconsider the matter to comply with law, as a result of a change of law or material change of circumstances.

- ~~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

- 3.14** 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 up to 12 noon on the day of Council. 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 may with the consent of the Mayor be considered or Only amendments to motions which can have been moved without notice, or amendments to recommendations arising from Officers' reports will be accepted without notice.
- 3.15** No amendment shall be considered with regard to the recommendation of the Strategy and 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.

1/05/2014

5.4 Minutes will only be signed at the annual meeting or at ordinary meetings.

6. The Leader's Statement

6.1 The annual meeting of Council may receive:

- (i) an address from the Leader of the Council for up to **15 minutes**;
- (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** 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 Any member may ask a Chair written or oral questions 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 Chairs' reports, written and oral questions and answers will not exceed **60 80 minutes** without the leave of the Mayor and such leave will only be granted in exceptional circumstances.

Written questions

7.4 A member may submit a maximum of 2 written questions 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. A question must relate to a single proposition and may not contain more than one part.

7.5 The Monitoring Officer shall copy the question to the Member to whom it is addressed and place them round the table at the next meeting of Council unless, in his/her opinion:

(a) the request does not comply with the requirements of Rules 7.2 (a) or (b) or 7.4 above;

(b) the question is defamatory of an individual, offensive, discloses confidential or exempt information, or otherwise infringes the proper conduct of local government;

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

7.6 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.

7.7 Each questioner is entitled to ask one supplementary question arising directly out of either the reply to the original question or where the questioner considers that the reply requires clarification.

7.8 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. In that case, the questioner will not be entitled to ask a supplementary question.

7.9 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.

7.10 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.

7.11 A copy of each question and each written answer will be placed with the minutes.

Oral questions

7.12 After questions and answers under Rule 7.4 have been dealt with, any member may ask one question of a Chair under Rule 7.2.

7.13 No supplementary question shall be put except if the questioner considers that the reply requires clarification and the Mayor gives leave to the questioner to ask a supplementary question.

Restriction on number of questions

7.14 A Member may submit a maximum of 2 written questions~~There will be no restriction on the number of written questions which can be submitted by a member.~~

1/05/2014

- 7.15 A member may only ask one oral question of each Chair.
- 7.16 If there are a number of written questions which, in the opinion of the relevant Chair, deal with the same issue, the Chair will provide one answer.

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 any other member to a position of authority, ie Chair of a Committee, where a vacancy exists in such office;
- (6) to appoint a committee or member arising from an item on the agenda for the meeting;
- (7) to withdraw a motion;
- (8) to amend a motion (subject to Rule 3.4);
- (9) that the question be now put;
- (10) to adjourn a debate;
- (11) to adjourn a meeting;
- (12) to suspend a particular Council procedure rule for a period not exceeding the duration of that meeting;
- (13) to exclude the public and press in accordance with the Access to Information Rules;
- (14) 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);
- (15) to give the consent of the Council where its consent is required by this Constitution;
- (16) to move an urgent motion where the Mayor has given consent.

8.2 Amendment without notice

Council may with the consent of the Mayor consider an amendment even though notice of the amendment has not been given in accordance with Rule 3.16, subject to Rule 3.17 providing the amendment arises or emerges from the debate. or

1/05/2014

amendments to motions which have been moved without notice, or amendments to recommendations arising from Officers' reports.
~~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 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~~ 3 minutes.

(c) No speech by any other member may exceed ~~5 minutes~~ 3 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 Lleader 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 Lleader of any other political group may speak for up to 10 minutes after the main opposer's initial speech; any member who is not a member of a political group may speak for up to 3 minutes.

(e) No speech by any other member may exceed 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 Mmember;

(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;
- (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 Rules [3.3 and 3.4](#));
- (c) that the question be now put;
- (d) to proceed to the next business;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) that the meeting continue beyond 3 and half hours for a specified period of time;
- (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) to proceed to the next business

- (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) If a motion that the question be now put or to proceed to the next business 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, or outside of the meeting. The ruling of the Mayor on the admissibility of a personal explanation will be final.

8.3.16 Point of Information or clarification

A point of information or clarification must relate to the matter being debated. If a Member wishes to raise a point of information, he/she must first seek the permission of the Mayor. The Member must specify the nature of the information he/she wishes to provide and its importance to the current debate. If the Mayor gives his/her permission, the Member will give the additional information succinctly. Points of Information or clarification should be used in exceptional circumstances and should not be used to interrupt other speakers or to make a further speech when he/she has already spoken during the debate.

~~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.

1/05/2014

9. Voting

- 9.1 Unless stated elsewhere in this constitution, aAny 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 cCommittees and sSub-cCommittees.
- 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- five members 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.

Voting on the Budget or Council Tax

- 9.6 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 require that immediately after any vote relating to the budget or council tax is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting. A recorded vote will therefore be taken on any decision relating to the budget or council tax and will follow the procedure set out at Rule 9.5 above.

Voting on appointments

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

Voting on changes to the electoral cycle of the Council

- 9.8 -Notwithstanding Rule 9.1, two-thirds of the Members present at an Extraordinary Council mMeeting convened for the purpose of deciding the matter must vote in favour of a recommendation to change to whole-council elections for the resolution to be approved.

Exclusion of Public and Press

9.9 Members of the public and press may only be excluded either in accordance with the Access to Information Rules or Rule 8.5 above.

10. Termination of Meetings

10.1 If the business of the meeting has not been concluded by Three hours two-and fifteen minutes a half hours after its start, the Mayor must interrupt the meeting. The Member speaking must immediately sit down and the Mayor will then immediately and without debate take a vote on the item under discussion (including any amendment) and shall then dispose of the remaining business in accordance with Rule 10.2 below.

Disposal of remaining business

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

10.3 During the process set out in Rule 10.2, the only motions which may be moved are:

(a) that the recommendations be delegated or referred to an appropriate body or individual for decision or report;

(b) that recommendations be deferred to the next meeting;

(c) to move a motion that may be moved during debate, under ~~Rule~~ Rule 8.3.11

10.4 Voting shall be in accordance with these Procedure Rules including those relating to recorded votes.

10.5 When all the other motions or recommendations have been dealt with, the Mayor will close of the meeting.

11. Questions from the Public

11.1 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.

11.2 The following provisions apply in relation to questions from the public:-

(a) 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.

(b) 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.

- (c) Questions given to the Monitoring Officer in accordance with this Procedure Rule shall be submitted to the Council in order of receipt.
- (d) 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.
- (e) The question shall be put to the Member named by the questioner.
- (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 which shall be recorded in the minutes, 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) 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.
- (i) There shall be no public question time at the Annual Meeting or an Extraordinary Meeting of the Council.
- (j) 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. 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.

12. Memorials or Petitions

- 12.1 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.
- 12.2 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.

13. Disability from taking part in debate arising from arrears of council tax payments.

13.1 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.

13.2 Failure to comply with the above provisions renders a Member liable to prosecution.

MEETING OF COMMITTEES AND SUB-COMMITTEES

14. Meetings

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

15. Time and Place

Meetings will be held in appropriate locations for the business as decided by the relevant committee. Meetings will start at 7.00 pm unless the committee **or in exceptional circumstances, the Managing Director/Monitoring Officer in consultation with the Leader of the Council agrees** otherwise.

16. Election of a Chair

- 16.1 Except where Council has appointed a Chair and a Vice-Chair, every body shall elect a Chair and a Vice-Chair at their first meeting after the Council's annual meeting.
- 16.2 In the absence of the Chair, the Vice Chair will be responsible for chairing the meeting. In the absence of the ~~or~~ Chair and Vice Chair, Vice-Chair from a meeting a Chair for the meeting may be elected for that meeting. The election of the Chair or Vice-Chair shall be conducted by the clerk to the meeting.
- 16.3 Where the Vice-Chair takes the chair of the meeting they shall forthwith nominate another Member to act in the role of Vice Chair in assisting with the management of business.
- 16.4 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, or are removed by Council.

17. Openness

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

18. Size

Committee	Membership	Quorum
Strategy and Policy Board	13	4
Community Services	13	4
Performance and Resources	13	4
Overview and Scrutiny	12	3
Planning and Development	15	4
Licensing	15	4
Audit	7	2
Staff appointments*	5	3
Dismissal appeals <u>of statutory officers</u> *	5	3

* These committees meet on demand.

19. 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.

20. Appointments and Substitutes

20.1 Following 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.

20.2 A substitute Member may attend a particular meeting of the committee, and will have full powers of the committee Member where the Member of the committee has notified the Chair by 3pm on the day of the meeting that he/she will be absent and has given the name of the substitute Member.

20.3 The names of substitutes shall be announced at the start of the meeting by the Chair. The substitution shall be for the whole meeting and cease at the end of the meeting. If the Member who has been substituted attends the meeting they will only be allowed to speak with the consent of the Chair in accordance with paragraph 24.2.

~~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.~~

20.3 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.

20.4 Substitutes for quasi judicial/regulatory committees must be drawn from Members who have received training in quasi-judicial/regulatory decision making. If a casual vacancy occurs on a quasi judicial/regulatory committee it will not be filled until the nominated member has been trained.

20.5 All Members are entitled to attend the training provided for members of quasi judicial Committees.

21. Proportionality

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

22. Rules of Debate

The Rules of Debate that apply to Council meetings set out in Chapter 4.1, may be applied to meetings of Committees to the extent that the Chair considers appropriate

23. Motions affecting persons employed by the Council

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

24. Rights to attend and speak

24.1 Any Member may attend any body to which these ~~p~~Procedure ~~r~~Rules apply, and where the committee or sub-committee has excluded the press and public the Chair will assume the Member has a need to know and may remain during consideration of the item.

24.2 With the exception of statutory committees which have separate procedural rules and with the consent of the Chair, a Member who is not a member of the committee or sub-

committee may speak at the meeting with the consent of the Chair. The Member should if they have given prior notification by no later than one working day before the meeting to the Chair and have advised them of the substance of their proposed contribution. The Chair has an inherent discretion to allow Members to speak without notice and their decision is final.

- 24.3 Subject to 24.2 above, 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.

25. Co-option

Generally a committee or a sub-committee may co-opt a person or persons onto the Committee. Any person so co-opted may speak but not vote.

26. 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. The Chair's decision is final.

27. Outside Bodies

- 27.1 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.

- 27.2 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.

28. Termination of Meeting

- 28.1 If the business of the meeting has not been concluded by two hours after its start, the Chair must interrupt the meeting. The Chair will then and without debate take a vote as to whether to continue with the meeting for a specified period of no longer than 30 minutes.

- 28.2 Unless a majority of Members vote to continue with the meeting, the meeting shall be adjourned and any remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next meeting.

28.3 If the majority of Members vote to extent the meeting for up to thirty minutes and after that time the business of the meeting is not concluded, the Chair will repeat the process set out in 28.1 until the business is concluded or dealt with in accordance with 28.2

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 appointed at 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 At the beginning of the municipal year, the Overview and Scrutiny Committee will be responsible for setting its agreeing its own work programme for the year which should relate to its pre-scrutiny role and based on agreed criteria. The Overview and Scrutiny Committee will have particular regard to the Budget, Corporate Plan, Forward Plan, Council policy and significant national issues. The Committee will also seek to include the scrutiny of external facing matters that are of significant interest to local communities. It should not include management or staffing issues which is the responsibility of the Head of Paid Service, except where standing orders state otherwise. Once the work programme has been agreed for the year, if a Member wishes to add an item to the programme, the Committee must agree to the addition after considering a report by the relevant Officers on its feasibility and the resource implications of its inclusion.
- 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 Statutory Officer or Head of Service 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.

Its remit does not include management or staffing issues which is the responsibility of the Head of Paid Service.

6.5 The Member, or Statutory Officer or Head of Service ~~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 Statutory Officer or Head of Service 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, then a substitute may be asked to attend or 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. Members must comply with the Member Code of Conduct with regard to not sharing confidential information. 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?

15/05/2013

- 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 key 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 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) decisions to award a contract following a lawful procurement process
- (8) a decision that has gone through pre-scrutiny, except for where there is evidence that due process has not been followed.
- (9) Where the Monitoring Officer, after consultation with the Chair of the relevant Overview and Scrutiny Committee, considers the Call-In to be frivolous, vexatious or not a proper use of the Call-In taking into account the rules set out in the procedural rules.

- 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.

- 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 key 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 by Governance Democratic Services.~~

- 9.12 Minutes of the committees will be ~~published~~ published no later than three clear working days after the meeting, on the Friday of the week in which the decision was taken. This means that the ~~normal~~ call-in period will expire at 4:30pm five clear working days after the publication of the minutes on the following Friday (adjusted for bank holidays as appropriate). Call in requests received after this will not be accepted. For example if the minutes were published by 9am on Monday, the call in period would expire at 4.30pm on the following Monday assuming there were no bank holidays in that week.

- 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 provide evidence in accordance with paragraph 910 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 Chairperson 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. Guidance Procedure for Call-in hearings

12.1 The following guidance set out in paragraph 12-14 protocol is intended to assist 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 Chairperson and Vice Chairperson of the Overview and Scrutiny Committee, Chairperson of the relevant committee, relevant officers, Head of Legal and Democratic Services the Corporate & Democratic Services Manager and the caller-in, at which a definitive list of witnesses for the call-in hearing will be drawn up, together with a list of questions question plans for each witness, as appropriate.

12.3 A statement from the 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 Chairperson 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, or as soon as possible thereafter. If a list of questions 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 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 have reserved seats 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 ~~councillor~~Councillors. Question and answer sessions will follow.
- 13.6 ~~Any other relevant internal or external~~ ~~W~~witnesses will be invited to make a presentation to the Committee without ~~interruption, for~~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>If the answer to any of questions 1(a)-(g) is "yes" then the decision can NOT be called-in.</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>

3. Was the decision in accordance with the agreed budget or budget procedures?	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?
4. Was the decision taken in accordance with the Council's Constitution and the principles of decision-making?	a) Does the decision comply with the Council's Constitution, ie <ul style="list-style-type: none"> • Articles of Constitution • Scheme of Delegation • Rules of Procedure • Codes and Protocols b) Did the decision taken show a reasonable regard for the following: <ul style="list-style-type: none"> • The presumption in favour of openness and transparency. • The need for consultation with interested parties. • The need to take account of relevant professional advice from appropriate officers. • The need for clarity of aims and desired outcomes. • The need to identify the range of options considered. • The need to give reasons and explanation for a decision.

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 ~~councillor~~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~~Councillor can refer it to the Overview and Scrutiny Committee as a 'Councillor Call for Action'. To do this the ~~councillor~~Councillor should firstly speak to the relevant Chairperson about their intention to see if any other route can be taken etc. If not, complete and submit to the Governance and Member Support Officer ~~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~~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 Governance and Member Support~~ 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 and 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~~ Governance and Member Support Officer, 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 Governance and Member Support~~ Officer will inform the Chairperson of the Overview and Scrutiny Committee that the item will be included on the next Committee agenda. The ~~councillor~~Councillor will be informed whether or

15/05/2013

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 ~~C~~eouncillor has done in relation to this matter.
- Representations made by the ~~C~~eouncillor 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 ~~c~~ouncillorCouncillors 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 ~~c~~ouncillorCouncillor? And do the responses received by the referring ~~c~~ouncillorCouncillor 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 ~~c~~ouncillorCouncillor 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~~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~~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 ~~Committe~~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 3.1

7. Terms of Reference of the Licensing Committee

- 1) Except in relation to the statement of Licensing Policy, to discharge all functions conferred upon the council as licensing authority under the Licensing Act 2003.
- 2) Except in relation to the statement of Licensing Policy, to discharge all functions conferred upon the council as licensing authority under the Gambling Act 2005.
- 3) To determine all fees and charges relevant to matters disposed by the Licensing Committee.
- 4) To be responsible for all the Council's licensing and registration functions as detailed in Part B of Schedule 1 Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) in so far as they pertain to matters concerned with:
 - i) Trading Requirements
 - ii) All functions relating to hackney carriage drivers and vehicles and private hire drivers vehicles and operators
 - iii) Animal Welfare and Security
 - iv) Skin Piercing, Acupuncture, Electrolysis and Tattooing
 - v) Sex establishments (including Sex Entertainment Venues (SEV))
 - vi) Pavement Permits
 - vii) Charitable Collections
 - viii) Camping and Caravan Sites
 - ix) Scrap Metal
 - x) Game Dealers
- 5) Any other matters relating to licensing as may be referred to the Committee for consideration.
- 6) To hear and determine licensing applications and appeals where objections and /or representations have been received in relation to any of the above functions.

8. Terms of Reference of Licensing Sub- Committees

To hear and determine applications that do not sit within the scope of delegation to officers, usually where representations have been received either by a third party against grant of a licence, or from the applicant against intended refusal or revocation of a licence.

Licensing Committee has delegated all functions other than relevant policies and fees setting to officers, with the exception of those other matters as indicated below, which are heard by licensing sub-committee unless otherwise indicated:

Licensing Act 2003 and Gambling Act 2005

- Determination of any application type where a representation has been received in accordance with the legislation
- Determination of applications for review or expedited review

Hackney Carriage vehicles and drivers (including enforcement of ranks) and Private Hire vehicles, drivers and operators, with the exception of:

- Suspension or revocation of drivers' licences (save for initial suspension under provision of Local Government (Miscellaneous Provisions) Act 1976 S61 (2B) if it appears that the interests of public safety require the suspension to have immediate effect)
- Where representation has been submitted by the applicant/licence holder against refusal of any application
- Where representation has been received from an applicant to vary a licensing or pre-licensing condition.

Scrap Metal Dealing

- Determination of applications where representations have been received against refusal in accordance with legislative requirements; and
- Consideration of revocation of a licence where representations have been received in accordance with legislative requirements

Street Collections and House to House Collections

- Appeals against refusal to grant or renew a licence

Licensing of sex establishments

- Determination of all applications

Street Trading

- Determination of applications where representation(s) has been received
- Determination of applications that fall outside of current policy
- Determination of matters relating to revocation of a licence

Acupuncture, Tattooing, Skin and Ear Piercing and Electrolysis

- Appeals against refusal to grant or renew a licence
- Revocation of a licence

Animal Welfare and Security, except for the following:

- Appeals against refusal to grant or renew a licence
- Revocation of a licence

Exercise of Powers under Caravan Sites and Control of Development Act 1960, except for:

- Refusal and revocation of licences, (other than urgent refusals which are delegated to officers)

INTRODUCTION

Under the Local Government Act 1972 the Council is required to establish committees to undertake non-executive functions under powers delegated from full Council. Licensing is not an executive function.

As required under S6 (1) Licensing Act 2003, the Council has delegated its licensing functions to the Licensing Committee. In addition the licensing committee has been delegated responsibility for undertaking all other licensing functions. Some functions, such as agreement of policy and fees, will remain with licensing committee, although the committee has delegated a number of its functions to officers

The Licensing Committee has delegated to Sub-Committees of the Licensing Committee authority to hear and determine applications that may arise in a variety of circumstances under the Licensing Act 2003, the Gambling Act 2005 and a variety of other functions, such as Taxi Licensing and Market Trading. Meetings of Sub-Committees are referred to in these Procedure Rules as Hearings.

Sub-Committee meetings in relation to Licensing Act 2003 matters will comply at all times with The Licensing Act 2003 (Hearings) Regulations 2005 (“the Hearings Regulations”). Sub-Committee meetings in relation to Gambling Act 2005 matters will comply with The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees)(Premises Licences and Provisional Statements)(England and Wales) Regulations 2007 (“the Proceedings Regulations”).

Brentwood Borough Council as the licensing authority wishes to ensure that all parties receive a fair hearing. The purpose of the Committee hearing is to enable an open and transparent process of determination of applications and to allow relevant parties to express their views.

1. Application of the Meetings General Procedure Rules

The Council Procedure Rules shall apply to all meetings of the Licensing Committee and Licensing Sub-Committees except where otherwise determined by statute, which will take precedence over the constitution.

Hearings will take the form of a structured discussion, led by the Members of the Committee. All parties will be given opportunity to make a statement.

2. Composition of the Licensing Committee

- 1) The Licensing Committee sitting in determination of policy and procedural matters, including the setting of fees and charges shall comprise of fifteen

(15) Councillors all of whom have undertaken suitable training in accordance with the criteria set out in paragraph (6) below.

- 2) The composition of the Licensing Committee shall reflect the balance of the various political groups having seats on full Council. Whilst this is not a legal requirement it is considered to be good practice especially in lieu of the fact that under provision of S7 (5) Licensing Act 2003, the Council may arrange for the discharge of other functions by the Licensing Committee. Such other functions may be of a nature where political balance would usually be required.

The quorum for the Licensing Committee shall be four Members which must be maintained for the duration of the meeting.

3. Composition of Licensing Sub-Committees

- 1) Licensing Sub-Committees will be established to consider Licensing Act 2003 and Gambling Act 2005 applications and reviews in respect of both premises and individuals and shall comprise of three Councillors drawn from the main Licensing Committee.

The quorum for Licensing Sub-Committees shall be three Members which must be maintained for the duration of the Hearing.

- 2) Licensing Sub-Committees, when meeting to hear and determine hackney carriage and private hire vehicle, driver or operator appeals and applications shall comprise of three Councillors.

The quorum for the Licensing sub-committee when determining hackney carriage and private hire appeals shall be ~~two-three~~ Members which must be maintained for the duration of the meeting, ~~although preference should always be to sit with three members given the quasi-judicial nature of proceedings. Any occasion where it is necessary to sit with two Members should only occur with full agreement of all parties to the hearing otherwise the hearing should be adjourned.~~

- 3) No Member of the Licensing Committee shall be eligible to be a member of a Licensing Sub-Committee which is determining an application based in the Ward which that Councillor represents.

4. Member Training

- 1) No Member may sit on any Licensing Committee or Licensing Sub-Committee unless they have first received full training in accordance with the terms as laid out below.

The following criteria shall apply in respect of training:

- a) Attendance must be at the training session provided within the context of the Members' training programme;

- b) Attendance must be for the duration of each training session
- c) Members' who have received full training must attend refresher training at least every three years ;

Training sessions may be conducted either 'in House' or externally and must cover the following:

- i) The roles and responsibilities of the Licensing Committee with regard to policy, administration and fee setting of the various licensing functions;
- ii) Conduct of Committee meeting and Members' attending such meeting;
- iii) The roles and responsibilities of Licensing Sub-Committees in hearing cases relating to the grant, continuance, review, variation, transfer etc of licences;
- iv) Conduct of Licensing Sub-Committee hearings and the Members' in attendance at such hearings
- v) General requirements of a quasi-judicial function, including such matters as convention rights, matters that may/may not be considered, evidential requirements, recording of relevant information and rights of appeal

5. Licensing Committee meetings and Sub-Committee Hearings – when and where?

- 1) Meetings may be called from time to time as and when appropriate. The Licensing Committee and Licensing Sub-Committees shall meet at the Town Hall, Ingrave Road, Brentwood or another location to be agreed by the Chair of the Licensing Committee.
- 2) Meetings of the Licensing Committee shall be arranged by normally giving a minimum of five clear working days' notice and will comply with the Access to Information Rules set out in the Council Constitution.
- 3) Licensing Sub-Committee Hearings may be called as and when required and shall conform to the requirements as laid down in the relevant regulations namely The Licensing Act 2003 (Hearings) Regulations 2005 and the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees)(Premises Licences and Provisional Statements)(England and Wales) Regulations 2007 ("the Proceedings Regulations"). The current notice period for most hearings is 10 clear working days although some, such as Temporary Event Notices are less as determined by legislation.
- 4) There may be the need to convene more than one Licensing Sub-Committee on a particular day depending on the amount or urgency of business to be transacted.
- 5) Hearings shall be arranged by the Proper Officer in accordance with the appropriate statutory notice periods as prescribed by the above Regulations.

6. Public or private meetings of the Licensing Committee and Licensing Sub-Committees?

- 1) Meetings of the Licensing Committee will be held in public except in so far as the matters for decision relate to issues which can be dealt with in private in accordance with the Access to Information Rules set out in the Council Constitution.
- 2) Licensing Sub-Committee Hearings will ~~normally~~ be held in public except that the Sub-Committee may decide to exclude the public from all or part of its proceedings if it is in the public interest in accordance with the Hearings Regulations and Proceedings Regulations (as appropriate).

7. Voting

- 1) All Members of the Licensing Committee and Licensing Sub-Committees are entitled to vote.

HOW ARE LICENSING COMMITTEE AND LICENSING SUB-COMMITTEE HEARINGS CONDUCTED?

8. Who presides?

- 1) Licensing Committee meetings will be chaired by a Member who shall be appointed by the Committee on an annual basis. In the absence of the Chair the Members present may appoint a Chair for the meeting from those present.
- 2) Licensing Sub-Committee Hearings will be chaired by a Member who shall be appointed from those Members present at the Hearing.

9. Who may attend Licensing Committee and Licensing Sub-Committee Hearings?

- 1) Members of the public may attend meetings of the Licensing Committee except:
 - a) When they are in closed session in their quasi-judicial capacity to consider any evidence for the purpose of formulating a decision.
 - b) when exempt confidential information is being considered where the press and public, may be excluded by resolution of the Committee in accordance with the Access to Information Rules contained in the Council Constitution or where it is in the public interest in accordance with the Hearings Regulations or the Proceedings Regulations (as appropriate)

- 2) Members of the public may attend Licensing Sub-Committee Hearings except:
 - a) they may not address the Sub-Committee unless they have previously submitted a valid representation; or
 - b) the public (including a party and any person assisting or representing a party) may be excluded from all or part of a Hearing where the Sub-Committee considers that the public interest in doing so outweighs the public interest in the Hearing, or that part of the Hearing, taking place in public.

10. What business?

(1) Meetings of the Licensing Committee will include the following business:

- (a) Consideration of the minutes of the last meeting;
- (b) Urgent Items;
- (c) Declarations of interest, if any;
- (d) Consideration of any matter within the Committees Terms of Reference.

11. Recording of Decisions of the Licensing Committee

- 1) All decisions will be made by a simple majority of the Members of the Committee present at the meeting.
- 2) Following a meeting of the Committee at which a report (whether oral or in writing) has been received and a recommendation has been made, the appropriate Officer shall ensure that a written statement is kept which must include the following:-
 - (a) record of the decision;
 - (b) record of reasons for the decision;
 - (c) record of any conflict of interest declared; and
 - (d) any dispensation granted by the Monitoring Officer, where appropriate.

12. Licensing Sub-Committee Hearing Determinations

- 1) All determinations shall be made in accordance with the Hearings Regulations and the Proceedings Regulations (as appropriate) and the appropriate Officer shall ensure that a permanent record of the Hearing shall be taken.
- 2) Where a Hearing is in relation to:-
 - (a) counter notice following police objection to a temporary event notice;
 - (b) review of a premises licence following closure order;

the Sub-Committee will make its determination at the conclusion of the Hearing.

- 3) For other Hearings the Sub-Committee will make its determination within the period of five working days beginning with the day or the last day on which the Hearing was held. This does not however preclude the right for determination to be made at the conclusion of the hearing.
- 4) Notification of the Sub-Committees determination shall be given in accordance with the Hearings Regulations or the Proceedings Regulations (as appropriate).

13. Procedure for the determination of licence applications

- 1) The Licensing Act 2003 and the Hearings Regulations and the Gambling Act 2005 and the Proceedings Regulations provide that the Council as Licensing Authority may determine its own procedures to be followed at a Hearing. Sub-Committee Hearings are required to observe the rules of natural justice and the parties are entitled to a fair hearing under the Human Rights Act 1998. The Licensing Authority is required to explain to the parties the procedure which it proposes to follow at the hearing. The Licensing Authority will permit the parties to have an equal maximum period of time in which to exercise their rights to:
 - give further information and call any witness in support of their application, representations or notice (as applicable);
 - question any other party or witness
 - address the sub-committee
- 2) Those present at a Hearing under the Licensing Act 2003 may be the Applicant, any person representing or supporting the Applicant, plus any witnesses; the Council's Licensing Officer, representatives from Responsible Authorities and their witnesses; objectors to the application, a Legal Advisor and Committee Administrator for the Council. In addition members of the public and press may attend but not address the Sub-Committee.
- 3) Those present at a Hearing under the Gambling Act 2005 may be the Applicant, any person representing or supporting the Applicant, plus any witnesses; the Council's Licensing Officer, representatives from Responsible Authorities and their witnesses; objectors to the application, Ward Councillors who have submitted representations (in accordance with the Proceedings Regulations in writing beforehand; a Legal Advisor and Committee Administrator for the Council. In addition Members of the public and press may attend but not address the Sub-Committee.
- 4) Meetings of the Licensing Committee will normally be held in public unless it decides to exclude the public and the press from all or part of the proceedings by resolution of the Committee in accordance with the Access to Information Rules contained in Part 4 of this Constitution. If any other Councillors are present who are not Members of the Committee they must withdraw as well.

- 5) Licensing Sub-Committees will follow the procedure set out in Schedule A when hearing and determining Licensing Act 2003 applications.
- 6) Licensing Sub-Committees will follow the procedure set out in Schedule B when hearing and determining Gambling Act 2005 applications.
- 7) The Licensing Sub-Committee will follow the procedure set out in Schedule C when determining sex establishment and sexual entertainment venue applications
- 8) The Licensing Sub-Committee will follow the procedure set out in Schedule D when hearing hackney carriage and private hire applications and appeals.
- 9) In all cases, the Committee will allow parties an equal period of time, if they so wish, to make representation, give supporting information or to ask questions. The Chair of the Committee will be able to determine the maximum period of time available to the parties.
- 10) Any party may be represented by another person(s) whether that person be legally qualified or not.
- 11) Legal advice to the Committee will either be given in open session or, where given to Members when they have withdrawn to make their decision, will be repeated afterwards in open session to those in attendance.
- 12) Where multiple representations have been received from individual members of the public, the Committee would encourage such groups to nominate a spokesperson to make oral submissions on behalf of the group. All valid representations will still be taken into account regardless of whether an individual speaks in person. This does not remove the right of any individual to speak should they desire to do so provided that they have submitted a valid representation within the consultation period.
- 13) The Committee may take into account, documentary or other information produced by a party in support of their application, representation or notice either before the hearing or, with the consent of other parties (or at the discretion of the Chair), at the hearing.
- 14) Representations are restricted in the case of matters heard under provision of the Licensing Act 2003, to one or more of the four licensing objectives. In the case of the Gambling Act 2005 matters are restricted to the concerns in relation to the codes of practice and guidance issued by the home office and to the three licensing objectives. In all other licensing regimes any reasonable and relevant matters may be considered when making determination.
- 15) Hearsay evidence is admissible although the committee may determine that such evidence should be given less weight than that of a first –hand testimony.

14. Licensing Sub-Committee General Powers

- 1) Any time limit provided for in the Hearings Regulations or the Proceedings Regulations may be extended for a specified period where the Licensing Authority or a Sub-Committee considers this to be necessary in the public interest. In this instance notice to all parties will be given forthwith.

- 2) A Sub-Committee may adjourn a Hearing to a specified date or arrange for a Hearing to be held on specified additional dates where it considers this necessary for its consideration of any representations or notice made by a party. The Sub-Committee must give notice forthwith of its decision to all parties of the date, time and place to which the Hearing has been adjourned or the additional date at which the Hearing is to be held. Provided that a Sub-Committee shall not exercise the powers referred to in paragraphs (1) and (2) above where the effect would be that an application would fail to reach a determination on a review under section 167 of the Licensing Act 2003 (review of premises licence following closure order) within the 28 day period specified in subsection (3) of that section or the determination of an application or a review under sections 162(1) or 201(4) of the Gambling Act 2005

Schedule A

Licensing Sub-Committee Hearing Procedure for Hearings under the Licensing Act 2003

- 1) All questions and statements will be directed through the Chair.
- 2) The Chair will at the beginning of the Hearing explain to the parties the procedure to be followed and shall consider any request made by a party for permission for another person to appear at the Hearing.
- 3) The Hearing shall take the form of a discussion led by the Council's representative.
- 4) Cross examination shall not be permitted unless the Sub-Committee considers that cross-examination is required for it to consider the representations, application or notice as the case may be.
- 5) The Chair of the Sub-Committee may require any person attending the Hearing who in his opinion is behaving in a disruptive manner to leave the Hearing and may:
 - (a) refuse to permit that person to return, or
 - (b) permit him to return only on such conditions as the Sub-Committee may specify.Provided that any such person may before the end of Hearing submit to the Council in writing any information which they would have been entitled to give orally had they not been required to leave.
- 6) A party who wishes to withdraw any representations they have made may do so:
 - (a) by giving notice to the Council no later than 24 hours before the day or first day on which the Hearing is to be held, or
 - (b) orally at the hearing
- 7) The Sub-Committee in considering any representations or notice made by a party may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the Hearing, or with the consent of all other parties, at the Hearing.
- 8) The Sub-Committee shall disregard any information given by a party or any person to whom permission to appear at the Hearing had been given which is not relevant to:
 - (a) their application, representations or notice(as applicable) or in the case of another person, the application representations or notice of the party representing their appearance, and

- (b) the promotion of the licensing objectives or, in relation to a Hearing to consider a notice given by a chief officer of police, the crime prevention objective.
- 9) If a party has informed the Council that he does not intend to attend or be represented at a Hearing, the Sub-Committee may decide to proceed with the Hearing in his absence.
- 10) If a party has not informed the Council that he does not intend to attend or be represented at a Hearing and fails to attend or be represented at a Hearing, the Sub-Committee may:
- a) where it considers it to be necessary in the public interest adjourn the Hearing to a specified date (notice being given forthwith to the parties concerned of the date, time and place to which the Hearing has been adjourned), or
 - b) hold the hearing in his absence

Where the Sub-Committee agrees to hold the Hearing in the absence of a party, the Sub-Committee shall consider at the Hearing the application, representations or notice made by that party.

The Council's case:-

- 11) The Chair will invite the Council's representative to summarise the report relating to the application under consideration.

The Applicant's case:-

- 12) The Applicant and/or representative will begin with their opening remarks and present their case.
- 13) The Applicant's witnesses (if any) will give evidence in support of the Applicant's case.
- 14) The Applicant and/or representative may question the Applicant's witness again to clarify any points which may have arisen.

Submissions from other persons or their representatives and from Responsible Authorities:-

- 15) Each party will present their case.
- 16) Each party's witnesses (if any) will give evidence in support of the party's case.
- 17) Each party and their witnesses may be questioned by the Chair and Members of the Sub-Committee.

- 18) Each party may question their witness again to clarify any points which may have arisen.
- 19) If the Applicant or other parties wish to question each other, questions may be directed through the Chair.
- 20) Closing Statements may be made by the Applicant and/or representative.
- 21) The Chair will ask the Legal Advisor whether there is anything else to be raised or settled before the proceedings are closed.

Determination of the application by the Sub- Committee

- 22) The Sub-Committee will always discuss their decision in closed session. The preferred method is that they will retire to a separate venue/room and they may be joined by the democratic services officer (for the purpose of recording proceedings) and by the legal representative (for the purpose of giving advice on points of law). In some cases the applicant and/or their representative, other persons, Responsible Authorities and the Members of the public and the press may be asked to leave the room to allow the Sub-Committee to determine the application. During this process the Sub-Committee Members may ask for legal advice from the Legal Advisor.
- 23) Once a decision is reached all parties will reconvene in public and the Sub-Committee's determination will be announced. Any legal advice given will be made public either verbally upon delivery of the decision or in writing soon after the hearing. In any event, written details of the determination and the grounds upon which it is based will be sent to all parties concerned in accordance with the Hearings Regulations.

Schedule B

Licensing Sub-Committee Hearing Procedure for Hearings under the Gambling Act 2005

- 1) The Hearing shall take place in public unless the Sub-Committee is satisfied, having regard to all the circumstances of the case, that it is necessary to hold all or part of the hearing in private. The Sub-Committee shall have regard to any unfairness to a party that is likely to result from holding the Hearing in public and the need to protect as far as possible the commercial or other legitimate interests of a party.
- 2) All questions and statements will be directed through the Chair.
- 3) The Chair will at the beginning of the Hearing explain to the parties the procedure to be followed and shall consider any request made by a party for permission for another person to appear at the Hearing.
- 4) The Hearing shall take the form of a discussion led by the Council's representative.
- 5) Cross examination shall not be permitted unless the Sub-Committee considers that cross-examination is required for it to consider the representations, application or notice as the case may be.

Exclusion of Disruptive Persons

- 6) The Chair of the Sub-Committee may require any person attending the Hearing who in his opinion is behaving in a disruptive manner to leave the Hearing and may:
 - (a) refuse to permit that person to return, or
 - (b) permit him to return only on such conditions as the Sub-Committee may specify.

Provided that any such person may before the end of Hearing submit to the Council in writing any information which they would have been entitled to give orally had they not been required to leave.

Failure of Parties to attend the Hearing

- 7) The Sub-Committee may proceed with a Hearing in the absence of a party or party's representative if the party has-
 - (a) informed the Council that they do not intend to attend or be represented at the Hearing (and has not subsequently advised the Council otherwise);

- (b) failed to inform the Council whether they intend to attend or be represented at the hearing;
 - (c) left the Hearing in circumstances enabling the Sub-Committee reasonably to conclude that they do not intend to participate further.
- 8) If a party has informed the Council that they intend to attend or be represented but fail to attend or be so represented, the Sub-Committee may:
- (a) adjourn the hearing to a specified date if it considers it to be in the public interest, or
 - (b) proceed with the Hearing in the absence of that party.

Where the Hearing is adjourned notice shall be given forthwith to the parties concerned of the date, time and place to which the Hearing has been adjourned.

- 9) Where the hearing proceeds in the absence of a party, the Sub-Committee shall consider at the Hearing the application or representations made by that party.

The Council's case:-

- 10)The Chair will invite the Council's representative to summarise the report relating to the application under consideration.

The Applicant's case:-

- 11)The Applicant and/or representative will begin with their opening remarks and present their case.
- 12)The Applicant's witnesses (if any) will give evidence in support of the Applicant's case.
- 13)The Applicant and/or representative may question the Applicant's witness again to clarify any points which may have arisen.

Submissions from other parties (these will include interested parties, Ward Councillors (who are an interested party themselves or are acting in the capacity as a representative of an interested party) and representatives from responsible authorities:-

- 14)Each party will present their case.
- 15)Each party's witnesses (if any) will give evidence in support of the party's case.
- 16)Each party and their witnesses may be questioned by the Chair and Members of the Sub-Committee.

- 17) Each party may question their witness again to clarify any points which may have arisen.
- 18) If the Applicant or the interested parties wish to question each other, questions may be directed through the Chair.
- 19) Closing Statements may be made by the Applicant and/or representative.
- 20) The Chair will ask the Legal Advisor whether there is anything else to be raised or settled before the proceedings are closed.

Determination of the application by the Sub- Committee

- 21) The Sub-Committee will always discuss their decision in closed session. The preferred method is that they will retire to a separate venue/room and they may be joined by the democratic services officer (for the purpose of recording proceedings) and by the legal representative (for the purpose of giving advice on points of law). In some cases the applicant and/or their representative, other persons, Responsible Authorities and the Members of the public and the press may be asked to leave the room to allow the Sub-Committee to determine the application. During this process the Sub-Committee Members may ask for legal advice from the Legal Advisor.
- 22) Once a decision is reached all parties will reconvene in public and the Sub-Committee's determination will be announced. Any legal advice given will be made public either verbally upon delivery of the decision or in writing soon after the hearing. In any event, written details of the determination and the grounds upon which it is based will be sent to all parties concerned in accordance with the Hearings Regulations.

Schedule C

Licensing Committee Procedure relating to Sex Establishment Licences made under the Local Government (Miscellaneous Provisions Act 1982

- 1) All questions and statements will be directed through the Chair.
- 2) The Chair will make opening remarks which introduce those present and ensuring that all those present understand the procedure.
- 3) The Chair will invite the Council's Licensing Officer to summarise the report relating to the application under consideration.

The Applicant's case:-

- 4) The Applicant and/or representative will begin with their opening remarks and present their case.
- 5) The Applicant's witnesses (if any) will give evidence in support of the Applicant's case.
- 6) The Applicant and/or representative may question the Applicant's witness again to clarify any points which may have arisen.

Submissions from Objectors (including Councillors who have made written objections to the Council stating in general terms the grounds of their objection to the grant, renewal or transfer of the licence not later than 28 days after the date of the application).

The Applicant and/or representative may address the Committee on a point that arisen on their case following the submissions by the Objectors.

- 7) The Applicant and their witnesses and the Objectors may be questioned by the Chair and Members of the Committee.
- 8) Each party may question their witness again to clarify any points which may have arisen.
- 9) If the Applicant or the objectors wish to question each other, questions may be directed through the Chair.
- 10) Closing Statements may be made by the Applicant and/or representative.
- 11) The Chair will ask the Legal Advisor whether there is anything else to be raised or settled before the proceedings are closed.

Determination of the application by the Committee

- 12) The Committee will always discuss their decision in closed session. The preferred method is that they will retire to a separate venue/room and they may be joined by the democratic services officer (for the purpose of recording proceedings) and by the legal representative (for the purpose of giving advice on points of law). In some cases the applicant and/or their representative, other persons, Responsible Authorities and the Members of the public and the press may be asked to leave the room to allow the Committee to determine the application. During this process the Committee Members may ask for legal advice from the Legal Advisor.
- 13) Once a decision is reached all parties will reconvene in public and the Committee's determination will be announced. Any legal advice given will be made public either verbally upon delivery of the decision or in writing soon after the hearing. In any event, written details of the determination and the grounds upon which it is based will be sent to all parties concerned in accordance with the Hearings Regulations.

Schedule D

Licensing Committee Procedure relating to Hackney Carriage Licences and Private Hire Vehicle Licences made under the Local Government (Miscellaneous Provisions) Acts.

- 1) All questions and statements will be directed through the Chair.
- 2) The Chair will make opening remarks which introduce those present and ensuring that all those present understand the procedure.

The Council's case:-

- 3) The Council's representative will begin with their opening remarks and present their case.
- 4) The Council's witnesses (if any) will give evidence in support of the Council's case.
- 5) The Council's representative and/or representative may question the Council's witness again to clarify any points which may have arisen.

Submission from the Applicant:-

- 6) The Applicant and/or representative will begin with their opening remarks and present their case.
- 7) The Applicant's witnesses (if any) will give evidence in support of the Applicant's case.
- 8) The Applicant and/or representative may question the Applicant's witness again to clarify any points which may have arisen.

Submissions from any other witnesses/parties:-

- 9) Each party and their witnesses will present their case and may be questioned by the Chair and Members of the Committee.
- 10) Each party may question their witness again to clarify any points which may have arisen.
- 11) If the Applicant or the objectors wish to question each other, questions may be directed through the Chair.
- 12) Closing Statements may be made by the Council and/or representative.
- 13) The Chair will ask the Legal Advisor whether there is anything else to be raised or settled before the proceedings are closed.

Determination of the application by the Committee

- 14) The Sub-Committee will always discuss their decision in closed session. The preferred method is that they will retire to a separate venue/room and they may be joined by the democratic services officer (for the purpose of recording proceedings) and by the legal representative (for the purpose of giving advice on points of law). In some cases the applicant and/or their representative, other persons, Responsible Authorities and the Members of the public and the press may be asked to leave the room to allow the Sub-Committee to determine the application. During this process the Sub-Committee Members may ask for legal advice from the Legal Advisor.
- 15) Once a decision is reached all parties will reconvene in public and the Sub-Committee's determination will be announced. Any legal advice given will be made public either verbally upon delivery of the decision or in writing soon after the hearing. In any event, written details of the determination and the grounds upon which it is based will be sent to all parties concerned in accordance with the Hearings Regulations.

PART 4.6

STANDING ORDERS RELATING TO CONTRACTS

STANDING ORDERS RELATING TO CONTRACTS

Document History

Version	Date	Author	Review Date	Circulation	Approved
Nov 2013		Procurement Officer	Jan 2015	Internal	

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Contents

1. Introduction
 2. Scope
 3. Responsibility of Staff, Heads of Service and Directors
 4. Procurement Guidance
 5. Procurement Principles
 6. Code of Ethics
 7. Aggregation and Disaggregation
 8. Requirements to Ensure Competition
 9. Competitive Tendering Process
 10. Partnerships
 11. Waiver of Contract Procedures
 12. Requirements for all Contracts
 13. Framework Agreements
 14. Award Criteria
 15. Invitations to Tender/Quotations
 16. Submission, Receipt and Opening of Tenders/Quotations
 17. Clarification Procedures
 18. Tender Evaluation
 19. Contract Documents
 20. Race, Disability and Gender Equality
 21. Bonds and Parent Company Guarantees
 22. Award of Contract
 23. Sealing a Contract
 24. Prevention and Detection of Corruption
 25. Managing Contracts
 26. Contracts Register
 27. Post Contract Monitoring, Evaluation and Review
 28. Termination of Contract
 29. Appointment of Consultants to Provide Services
 30. Technical Amendments
 31. Asset Disposals (Other Than Land or Property)
- Definitions Index
- Appendix 1: Record of Waivers from Contract Procedures

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 the Council 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 Standing Orders. Employees have a duty to report breaches to an appropriate senior manager.
- 1.4 The Contract Standing Orders 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 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.

November 2013

Extraordinary Council 7 April 2014

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 Section 151 Officer. Any substantial or material amendment shall on the advice of the Monitoring Officer be referred to Full Council.

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 Section 151 Officer through the financial scheme of management delegation. An Authorised Signatory List 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 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.
- 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.
- 3.1.6 Staff must keep records to show a clearly documented audit trail. It will be the Authorised Officer's role to provide the contract details and the Procurement Officer's role to ensure that those details are recorded on the Contracts Register. A copy of all contracts to be kept by the Authorised Officer or Head of Service.
- 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 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 comply with the Contract Standing Orders.

4. Procurement Guidance

- 4.1 Procurement guidance shall be in electronic form on the Council's Intranet. The guidance will contain all Council documents which are relevant to and assist with the procurement process.
- 4.2 The Section 151 Officer will review the guidance as required. No alteration will be made to the guidance unless agreed by the Section 151 Officer.

5. 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.
- 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.
- 6.2 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.
- 6.3 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 Officer.

November 2013

Extraordinary Council 7 April 2014

6.4 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 Procurement Regulations. It is an offence under the EU Procurement Regulations to disaggregate the value of a contract so as to deliberately avoid the EU Procurement Regulations.

8. Requirements to Ensure Competition

8.1 Collaborative frameworks and partnership options must be considered in principle as part of the procurement process regardless of the estimated value of the contract.

8.2 Thresholds

8.2.1 Estimated contract value up to £10,000

No specific written quotation is required. The aim of the officer responsible for the contract shall be to obtain the best value for money for the Council. Any Authorised Officer can approve a contract.

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

Three written quotations are required and the contract opportunity must be

provided to the Procurement Officer so that it can be advertised on the Council's website. Collaborative framework agreements must also be considered. 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 and the relevant Chair should be advised of any quotes over £25,000 prior to the contract being awarded

8.2.3 Estimated contract value between £50,000 and the current OJEU threshold of £173,934.00 for goods and services, and £4,348,350.00 for works (due to be revised January 2014)

As per 8.2.2 above but a formal tendering process utilising the e-procurement portal must be undertaken. The Managing Director or Section 151 Officer must sign/approve the contract.

In either case the Officer must use the Council's conditions of contract or appropriate professional institute conditions of contract or conditions of contract which have been approved by the Monitoring Officer.

8.2.4 Estimated contract value over OJEU Threshold

Contracts must be advertised according to EU procurement regulations. The officer responsible for the contract **must**, before starting the contract process, obtain advice from the Procurement Officer.

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.

9. Competitive Tendering Process

9.1 Where the total value of the contract is more than **£10,000**, staff must ensure there is sufficient competition and that the contract is appropriately advertised. Any tender or quotation 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 **£10,000** and there is no corporate contract, staff must invite either quotations or tenders by public advertisement. Public advertisement **must** include advertising the contract on the Council's website.

9.3 A period of no less than two weeks must be allowed for potential tenderers to receive and submit their completed quotation or tender for any Council contract. Where EU Procurement regulations are applicable relevant time limits will apply.

10. Partnerships

10.1 Staff considering a partnership arrangement must, before starting any contract

November 2013

Extraordinary Council 7 April 2014

process, obtain advice from the Monitoring Officer and the Procurement Officer. The Monitoring Officer 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 Procurement Rules apply ie the estimated value of the contract exceeds the thresholds prevalent at the time.
- 11.2 All waivers must be signed by the Officer and countersigned by either the Managing Director, the Section 151 Officer or the Monitoring Officer. Only one signature is required.
- 11.3 Waivers will be granted in the following circumstances only:
- 11.3.1 The subject matter of the contract can only be supplied by one specialist contractor.
 - 11.3.2 There is an unforeseen emergency involving immediate risk to persons, property or serious disruption to Council services.
 - 11.3.3 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.
- 11.4 In addition to the signature of the Managing Director, Section 151 Officer or the Monitoring Officer
- 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.
 - 11.4.3 The Procurement Officer must be consulted prior to commencing any procurement process using any Government Procurement Service framework agreement, 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 must be in writing.

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.;

- 12.2 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.

- 12.3 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.
- 12.4 Every contract must comply with Financial Regulations and any corporate procurement guidance, including EU Procurement Regulations, where appropriate.

13. Framework agreements

- 13.1 The term of any framework agreements may be for any period but in the majority of cases they must not exceed 4 years (EU Procurement Rules requirement). There are certain exceptions to this rule and advice should be sought from the Procurement Officer before proceeding down this route.

14. Award criteria

- 14.1 Staff must ensure that award criteria selected are appropriate to the contract and that these are signed off by the appropriate officer.
- 14.2 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 goods.
- 14.3 When evaluating tender submissions the minimum weighting to be used for cost must be 40%. There will be exceptions to this eg where the terms of a framework agreement state a different weighting. In any event approval must be sought from the Section 151 Officer to use a weighting below 40% for cost.
- 14.3 The pre-agreed award criteria for assessing the bid must not be changed after tender proposals have been opened.

15. Invitations to Tender/Quotations

- 15.1 The relevant officer must ensure that Invitations to Tender (ITT) and Invitations to Quote (ITQ) 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.
- 15.2 The Invitation to Tender/Quote must state that the Council is not bound to accept any quotation or tender.
- 15.3 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.
- 15.4 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 procedures laid out in Section 8.
- 15.5 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

November 2013

Extraordinary Council 7 April 2014

candidates must be invited to bid.

15.6 The Invitation to Tender/Quote must specify the award criteria, any weighting to be used and the procedure to be adopted.

15.7 All Invitations to Tender/Quote must be advertised on the Council's website.

16. Submission, Receipt and Opening of Tenders/Quotations

16.1 Candidates invited to bid must be given adequate time in which to submit a quotation or tender. At least two weeks must be allowed for submission of tenders. Note that the EU Procurement Regulations set out specific time periods.

16.2 All tenders submitted to the Council, should be undertaken 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 the Procurement Officer and should indicate the subject of the contract. The e-tendering system is the preferred option and approval to use the envelope system should be sought from the Section 151 Officer.

16.3 The Procurement Officer shall be responsible for the safekeeping of tenders until opening. Receipt of each tender must be initialled and dated by the appropriate receiving officer. This must include the Procurement Officer and at least one Council Member or appropriate individual as approved by the Section 151 Officer.

16.4 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.

16.5 In the event of a marked or late tender then the Procurement Officer must be advised and a decision made by the Monitoring Officer on whether the tender can be accepted.

17. Clarification Procedures

17.1 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 the Procurement Officer as to whether all the contractors should be provided with revised specifications and given the opportunity to revise their tender.

18. Tender Evaluation

18.1 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.

18.2 This includes the situation where one department of the Council is tendering for a contract with another department 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.

18.3 Staff must evaluate and award the contract in accordance with the agreed award

November 2013

Extraordinary Council 7 April 2014

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 preferred contractor. There is also a form that requests the Monitoring Officer to seal the contract.

- 18.4 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.

19. Contract Documents

- 19.1 Every contract must be recorded in writing, and must state clearly:

19.1.1 What is to be supplied.

19.1.2 Payment provisions (amount and when).

- 19.2 All contracts with a value over £50,000 must adhere to the Council's standard terms and conditions where possible. Approval of any other alternative terms and conditions should be sought from the Section 151 Officer.

20.0 Race, Disability and Gender Equality

- 20.1 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.

- 20.2 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.

- 20.3 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.

21. Bonds and Parent Company Guarantees

- 21.1 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 Section 151 Officer 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.

21.2 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 Section 151 Officer 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.

22. Award of Contract

22.1 All candidates must be notified in writing, simultaneously and as soon as possible, as to the outcome of the tender exercise.

22.2 Where a full EU Procurement Regulations' compliant tender exercise has been carried out, a statutory minimum standstill period of 10 days must apply between the electronic notification to the tenderers of the award decision and the successful candidate signing the contract. 15 days must apply if notification is given by post.

22.3 The contract can only be signed by an officer who has the authority to do so.

23. Sealing a Contract

23.1 Where a contract has a bond or guarantee or is over the OJEU threshold, it shall be sent to the Monitoring Officer with a completed Sealing Form and shall be sealed on behalf of the Council.

24. Prevention and Detection of Corruption

24.1 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.

24.2 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 Strategy;
violate the Council's Anti-Bribery Policy.*

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

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

25. Managing Contracts

- 25.1 The Head of Service 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. Contracts Register

- 26.1 The Council is required to maintain a Contracts Register. It is the responsibility of the relevant officer to provide all contract details to the Procurement Officer. It is the Procurement Officer's responsibility to ensure that all contracts are included on the Council's Contract Register.

27. Business case, risk assessment and business continuity planning

- 27.1 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.

- 27.2 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 Strategy & Policy Board is aware of the existence of such contracts and regularly inform them on such matters.

- 27.3 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.

- 27.4 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.

28. Post Contract Monitoring, Evaluation and Review

November 2013

Extraordinary Council 7 April 2014

28.1 All contracts which have a value higher than the EU Procurement Rules' threshold limits, or, which are high-risk, are to be subject to regular formal review with the contractor.

28.2 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. Termination of Contract

29.1 An officer shall not terminate a contract with a value over **£10,000** prior to its expiry date without first obtaining advice from the Monitoring Officer.

29.2 Where there is an intention to terminate a contract early, the Officer shall report the reasons for this termination to the Monitoring Officer at the earliest opportunity.

29.3 Staff must seek advice from the Monitoring Officer 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.

30. Appointment of Consultants to Provide Services

30.1 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 Standing Orders:

30.1.1 Consultants, whether technical or professional, must be selected, and any commissions awarded, in accordance with the Contract Standing Orders.

30.1.2 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.

30.1.3 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. Technical Amendments

31.1 The Section 151 Officer has the delegated authority to make technical amendments, when necessary, to ensure that these Contract Standing Orders 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 Monitoring Officer and Procurement Officer.

31.2 Financial thresholds as set out in Section 8 may only be altered or amended following consultation and agreement of the Performance and Resources Committee and the Section 151 Officer.

32. Asset Disposals (Other than Land or Property)

- 32.1 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.
- 32.2 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.
- 32.3 Any disposal must be authorised by the Section 151 Officer or Managing Director.
- 32.4 Disposal must be either by public auction or by obtaining three quotes from suitable contractors.
- 32.5 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.
- 32.6 Items for disposal must not be given to any member of staff without suitable authorisation from the Section 151 Officer or Managing Director.

Definitions Index

Agent	A person or organisation acting on behalf of the Council or on behalf of another organisation.
Award Criteria	The criteria by which the successful quotation or tender is to be selected.
Best Value	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).
Bond	If the contractor does not meet the requirements of any 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).
Business Continuity Plan (BCP)	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.
Code of Conduct	The Council’s code regulating conduct of staff.
Committee	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.

Constitution	<p>The constitutional document approved by the Council which: allocates powers and responsibility within the Council and between it and others;</p> <p>delegates authority to act to the Executive, Committees, Portfolio Holders and staff;</p> <p>regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.</p>
Consultant	<p>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.</p>
Contracting Decision	<p>Any of the following decisions:</p> <p>composition of approved lists;</p> <p>withdrawal of Invitation to Tender;</p> <p>whom to invite to submit a quotation or tender;</p> <p>short listing;</p> <p>award of contract;</p> <p>any decision to terminate a contract.</p>
Corporate Contract	<p>A contract let by the Council which provides goods or services for more than one service eg insurance.</p>
Council	<p>For the purposes of these Rules "Council" refers to Brentwood Borough Council (BBC).</p>
OJEU Threshold	<p>The contract value at which the EU public procurement legislation must be applied.</p>
Evaluation Report	<p>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.</p>
High Profile	<p>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.</p>
High Risk	<p>A high-risk purchase is one which presents the potential for substantial exposure on the Council's part should it fail or go wrong.</p>
High Value	<p>A high-value purchase is one where the value is greater than that of the EU threshold values.</p>
Invitation to Tender	<p>Invitation to Tender documents in the form required.</p>
Key Decision	<p>A key decision is an executive decision which is likely to:</p> <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 thresholds.</p> <p>be significant in terms of its effect on communities living or</p>

working in an area comprising two or more electoral divisions in the area of the Council.

Line Manager

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.

Nominated Suppliers and Sub-contractors

Those persons specified in a main contract for the discharge of any part of that contract.

Non-Commercial Considerations

Except as provided below, the following matters are non-commercial considerations:

(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");

(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;

(c) any involvement of the business activities or interests of contractors with irrelevant fields of government policy;

(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");

(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;

(f) any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees;

(g) financial support or lack of financial support by contractors for any institution to or from which the Council gives or withholds support;

(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.

Officer

The officer designated by the Managing Director to deal with the contract in question.

OJEU

OJEU - the Official Journal of the European Union This is the publication in which all contracts from the public sector which are valued above EU thresholds must be published.

Parent Company Guarantee

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.

Portfolio Holder	A member of the Executive to whom political responsibility is allocated in respect of specified functions.
Procurement Officer	The Council's corporate procurement officer charged with providing strategic direction, support and advice to secure value for money in the Council's procurement activities.
Procurement Strategy	The document setting out the Council's approach to procurement and key priorities for the next 2 - 3 years.
Purchase Card	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.
Quotation	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Relevant Contract	A contract to which these Contract Procedures apply.
Section 151 Officer	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.
Tender	A candidate's proposal or offer submitted in response to an Invitation to Tender.
TUPE Transfer of Undertakings (Protection of Employment)	TUPE refers to the Transfer of Undertakings (Protection of Employment) Rules, 1981. Broadly, TUPE rules ensure that the rights of employees are transferred along with the business.
Whistle Blowing Policy	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	<p>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:</p> <ul style="list-style-type: none">• 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.

November 2013

Extraordinary Council 7 April 2014

Appendix 1 - Record of Waivers from Contract Procedures

Completion is not required for purchases using the Procurement Agency for Essex, Government Procurement Service, Pro5 or any other national or regional framework agreements. Dispensation is not permissible for contracts exceeding the EU Procurement Rules' thresholds. Please complete and return one authorised copy to the originating officer and a photocopy to the Section 151 Officer.

Brief Overview of Goods, Services or Works Required (including name of contractor):	
Total Contract Value:	£
Contract Period:	
Terms and Conditions to be Used: Brentwood Borough Council / Contractor * <i>(delete as appropriate)</i>	
Evidence of Value for Money Obtained:	
Waiver is required for the following reason: (please tick box)	
The Contract can only be supplied by one specialist organisation.	
There is an unforeseen emergency with potential risk to persons, property or Council Services	
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	
Reasons to Support and Evidence the Waiver (including supporting documents):	
Name of Officer Requesting Approval:	
Date:	
Approved by Section 151 Officer, Monitoring Officer <u>or</u> Managing Director:	
Signed:	Date:

November 2013

Extraordinary Council 7 April 2014

	Council and Member Administration (cont)		Delegated to
CA5	<u>Contracts</u>		
CA5/1	<u>Interests of Officers</u> Pecuniary Interests of an Officer in a contract – Officer to keep records.		HeLG Monitoring Officer/HOL
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> 1. To enter into a contract for more than £10,000 but less than £350,000 provided that:- (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 (ii) at least three quotations have been sought in accordance with the procedure defined under Standing Order (Contracts) 48.2.2-ii- (iii) if the contract is over £25,000, the relevant Chair should be advised prior to the contract being awarded. 2. To enter into a Contract in the following exceptional circumstances i) For the supply of goods where in the officer's 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. ii) For the supply of goods and for services, which in the officer's professional judgement, is required in an emergency <u>involving immediate risk to persons, property or serious disruption to Council services</u> . A record of such judgement shall be made, and a report made to the next appropriate Committee. iii) Carrying out security works when the publication of documents in the tendering process could prejudice the security of the work to be done. 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.		Appropriate Heads of Service. Appropriate Heads of Service, Section 151 Officer, Managing Director or Monitoring Officer/HOL

	Council and Member Administration (cont)		Delegated to
CA5/4	<u>Nomination of Sub-Contractors</u> Nomination (subject to provisos) of Sub-Contractors and Suppliers to Main Contractor.		<u>Appropriate Heads</u> 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 <u>The Procurement Officer and nominated Member</u> (for contracts over £350K) 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 <u>economically advantageous tender.</u>		MD <u>Section 151 Officer</u> in consultation with Head of Service concerned and Chairman and Vice Chairman of Policy and Strategy and Policy Board or Committee Resources Board or Executive Panel. <u>with a report on any action taken being made to Members via the Members' Newsletter.</u> <u>Where a tender is submitted by a Member of the Council, Section 151 Officer and Monitoring Officer in consultation with Head of Service concerned and the Chair or Vice Chair of Strategy and Policy Board or Committee</u>
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. <u>Section 151 Officer</u>

	Council and Member Administration (cont)		Delegated to
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).		

Part 5.6 – Politically Restricted Posts

1 Introduction

- 1.1 This guidance applies to employees who occupy or are appointed to politically restricted posts and sets out the application process for exemption from or inclusion on the list of politically restricted posts maintained by the Council, and the process of appeal for a direction on whether a post is politically sensitive.
- 1.2 The main provisions regarding politically restricted posts are set out in Part I of the Local Government and Housing Act 1989 (the LGHA 1989) as amended by the Local Democracy, Economic Development and Construction Act 2009. The law aims at ensuring the political impartiality of local government staff.
- 1.3 Posts will only be considered to be politically restricted if they fall into the following two broad categories:
 - Specified Posts
 - Sensitive Posts

Specified Posts

- 1.4 Specified posts are automatically subject to restrictions on public political activity and as such, there is no right of appeal. These posts are listed as follows:
 - The Head of Paid Service
 - The statutory Chief Officers
 - Non-statutory Chief Officers
 - Deputy Chief Officers
 - The Monitoring Officer
 - The Chief Finance Officer
 - Officers exercising delegated powers, i.e. persons whose posts are for the time being specified by the Council in a list maintained in accordance with S100G(2) of the Local Government Act 1972
 - Assistants to political groups

Sensitive Posts

- 1.5 A sensitive post is one which meets one or both of the following duties-related criteria:
 - giving advice on a regular basis to the authority itself, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented; or where the authority are operating executive arrangements, to the executive of the authority; or any committee of that executive; or to any member of that executive who is also a member of the authority; and / or

- speaking on behalf of the authority on a regular basis to journalists or broadcasters.
- 1.6 The effect of including a Council employee on the list of politically restricted posts debars that individual from having any active political role either in or outside the workplace, in particular:
- (a) standing for candidature for public elected office, unless the employee resigns prior to announcing his/her candidature in accordance with paragraph 4 below;
 - (b) acting as an election agent or sub-agent for any candidate for election;
 - (c) holding office in a political party;
 - (d) canvassing at elections (not restricted to Brentwood Council);
 - (e) speaking or writing publicly (other than in an official capacity) with the intention of affecting public support for a political party (does not include the display of a poster or other document at the postholder's home or in their car or other personal possessions)
- 1.7 The cumulative effect of these restrictions is to limit the incumbents of politically restricted posts to bare membership of political parties, with no active participation within the party permitted.

2 Categories of politically restricted posts requiring political neutrality

- 2.1 The Council is required to maintain an up to date list of its politically restricted posts which fall into the following categories. The list is open to public inspection:
- (a) posts individually identified in the legislation, either by name or by their relationship to other senior officers;
 - (b) posts where the duties of the post include giving advice on a regular basis to the authority themselves, to the executive, to any committee or sub-committee of the Council or any joint committee on which the Council is represented and/or speaking on behalf of the Council on a regular basis to journalists or broadcasters;
 - (c) posts to which duties have been delegated under the Scheme of Delegations to Officers.
- 2.2 In practical terms, the best way for the Council to maintain clarity in respect of politically restricted posts is to annotate a full staff list to show those posts restricted. The benefit of a list of this type is that it greatly facilitates the role of Head of Paid Service in the adjudication process.
- 2.3 Secretarial, clerical and support staff, even if they report to the Chief Executive or to Directors, are not regarded as Chief or deputy Chief Officers for the purposes of political restriction. They may however, be deemed to be in politically restricted

posts if their duties fall within the definition referred to in the table at paragraph 2.4 below.

Specified Posts: These are listed below:

Description of post in the Local Government and Housing Act 1989	Council's Designated Post
The Head of Paid Service	Managing Director
Monitoring Officer	Monitoring Officer or Head of Legal
Chief Finance Officer (Section 151 Officer)	Director of Strategy & Corporate Services
Statutory Chief Officers	None
<p>Non-Statutory Chief Officers</p> <p>(a) an employee for whom the Head of Paid Service is directly responsible</p> <p>(b) an employee who, as regards all or most of his/her duties, reports directly to, or is directly accountable to, the Head of Paid Service and/or the Council, or any committee or subcommittee of the Council</p>	<p>Head of Borough Health, Safety & Localism</p> <p>Head of Business Transformation</p> <p>Head of Planning</p> <p>Head of Housing</p> <p>Head of Street Scene</p>
<p>Deputy Chief Officers</p> <p>An employee who, as regards all or most of his/her duties, reports directly to, or is directly accountable to, one or more of statutory officers or non-statutory officers</p>	Any such posts will be recorded on the list of politically restricted posts held by the Council
Posts with functions delegated to them under the Scheme of Delegation to Officers	Posts with functions delegated to them under the Scheme of Delegation to Officers set out in the Constitution, or, that may be set out in the individual schemes of delegation of each Head of Service

2.4 Posts set out in the following table must be recorded on the list of politically restricted posts and the post holder may apply for exemption from political restriction if they can demonstrate that the criteria set out in the table do not apply to their posts.

Sensitive posts:

Description of post in the Local Government and Housing Act 1989	Council's Designated Post
Posts whose duties include giving advice on a regular basis to the authority themselves, to the executive to any committee of that executive, or to any member of that executive who is also a member of the authority, to any committee or sub-committee of the authority or any joint committee on which the authority is represented and/or speaking on behalf of the authority on a regular basis to journalists or broadcasters	Posts whose duties include (a) giving advice on a regular basis to the Council, to the Leader or any spokespersons, to any committee or sub-committee of the Council, to any local committee or any joint committee on which the Council is represented and/or (b) speaking on behalf of the Council on a regular basis to journalists or broadcasters

3 Terms and Conditions of Employment

- 3.1 Section 1(5) LGHA 1989 states that ‘the terms of appointment or conditions of employment of every person holding a politically restricted post under a local authority (including persons appointed to such posts before the coming into force of this section) shall be deemed to incorporate such requirements for restricting his political activities as may be prescribed for the purposes of this subsection by regulations made by the Secretary of State.’

4 Employees standing for election

- 4.1 Notwithstanding the period of notice referred to in contracts of employment, prior to announcing their candidature for election as a Member of the House of Commons, the European Parliament, the Scottish Parliament, Welsh Assembly or any Local Authority (excluding parish/town Councils), holders of politically restricted posts must, by notice in writing, addressed to their Manager and the Head of Paid Service, resign with immediate effect. It is left to the discretion of the Head of Paid Service whether or not to reinstate an employee who resigns his/her post, and then consequently fights and loses an election.
- 4.2 If standing for election, it is in the interests of those applying to the Head of Paid Service for exemption from political restriction or appealing for a direction as to whether their post is politically sensitive, to ensure that they make an application for a Certificate of Opinion (Appendix A) and then to submit their application/appeal to the Head of Paid Service, at least two months before they intend to stand for election.

5 Head of Paid Service's role

- 5.1 The Head of Paid Service will, in consultation with the Monitoring Officer, consider applications from employees for exemption from political restriction or applications for a direction as to whether a post is politically sensitive, provided that the post is included in the list of politically restricted posts maintained by the Council or the Council proposes to specify the post as being politically restricted.
- 5.2 It is the post to which the exemption is granted, not the postholder (although in the majority of cases, the application will be made by a post holder who wants to carry out political activities).
- 5.3 If the Head of Paid Service, in consultation with the Monitoring Officer, determines that the duties of the post do not fall within the remit of section 2(3) of the LGHA 1989, the Head of Paid Service will direct that the post is not to be regarded as politically restricted and that the post be removed from the list of politically restricted posts maintained by the Council.
- 5.4 The Head of Paid Service in consultation with the Monitoring Officer may, on application from any person, review any post not included in the list of politically restricted posts. If the Head of Paid Service considers that the duties of the post fall within section 2(3) of LGHA 1989 and that the post is not currently included in either the list of politically restricted posts or in the Scheme of Delegations to Officers, then the Head of Paid Service may issue a directive that it be included in the list of politically restricted posts.
- 5.5 The Head of Paid Service will give priority according to the time available before any election, to any application for removal from the list of politically restricted posts by an employee who certifies that it is for the purpose of enabling him/her to be a candidate in a forthcoming election. Subject to section 6 below, the Head of Paid Service, in consultation with the Monitoring Officer, will give general advice on the application of criteria for designation of a politically restricted post.

6 Head of Paid Service's discretion

- 6.1 The only area over which the Head of Paid Service has discretion is whether or not a post falls within the parameters set out in section 2(3) LGHA 1989. Otherwise, the Head of Paid Service is entirely guided by legislation in determining whether applications for exemptions made to him should be granted – there is no scope for discretionary approvals, or for exemptions to be granted conditionally.

7 Section 2(3) of LGHA 1989 guidance

- 7.1 Although adjudication of matters arising as a result of differing interpretations of section 2(3) LGHA 1989 remains the prerogative of the Head of Paid Service, the following guidance aims to assist the Head of Paid Service in its decisions as to whether or not a post is politically restricted. The guidance is not binding on either the Council or the Head of Paid Service and is intended to offer assistance in decision-making without fettering the discretion of either party.
- 7.2 Section 2(3) of LGHA 1989, states:

'The duties of a post under a local authority fall within this subsection if they consist in or involve one or both of the following, that is to say –

- (a) giving advice on a regular basis to the authority themselves, to any Committee or Sub-Committee of the authority or to any Joint Committee on which the authority are represented, or, where the authority are operating executive arrangements, to the executive of the authority, to any Committee of that executive, or to any Member of that executive who is also a Member of the authority;
- (b) speaking on behalf of the authority on a regular basis to journalists or broadcasters.'

7.3 There are several questions raised by the wording of section 2(3) LGHA 1989:

- (a) Is a 'post under a local authority' limited to a post held by an employee of the Council?
- (b) What do the words 'consist in or involve' imply?
- (c) What constitutes 'advice'?
- (d) What constitutes 'on a regular basis'?
- (e) Does advice have to be proffered to the whole authority, executive, Committee, Sub-Committee or Joint Committee or to any one Member of such a body?
- (f) Does speaking mean giving formal presentations or does it include answering telephone queries? Would distributing a written press release constitute speaking to journalists and broadcasters?

7.4 In interpreting the provisions of section 2(3) LGHA 1989, the following may be taken into account:

- (a) 'Post under a local authority' - in this context, may be taken to mean any post established by the Council, whether the incumbent is a permanent full or part time employee, a temporary employee, a person seconded to the Council from another body or a consultant under contract to the Council.
- (b) 'Consist in or involve' - in this context, may be taken to mean that either giving advice to the Council/Cabinet etc or speaking to the media, or both, constitute a recognised part of the postholder's activities.
- (c) 'Advice' - in this context, may be taken to mean information provided with the intention that it should influence:
 - (i) the policy adopted by the Council in respect of any matter properly before it;
 - (ii) any strategic decisions made by or on behalf of the Council.

- (d) 'Regular basis' - in this context, may be taken to mean that the activity to which it refers is:
- (i) incorporated in the job profile for the post; or
 - (ii) undertaken as an expected part of the postholder's normal duties (example postholder is required to draft reports containing advice and/or recommendations; postholder is required to attend Committee meetings; postholder is required to speak at meetings);
 - (iii) undertaken on more than an occasional basis, though not necessarily frequently.
- (e) 'The body to whom the advice is offered' - may in this context, consist of any number of Members from one upwards, as long as the Member or Members concerned, are acting in their official capacity as Members of the Council/Cabinet or any of its Committees, Sub-Committees or Joint Committees.
- (f) 'Speaking' - in this context, may be taken to mean the passing of any information, whether verbally or through the written word, to a journalist or broadcaster when it is reasonable to assume that the postholder knows that the information so provided is likely to be disseminated to the public at large.

8 How to apply for an exemption – (sensitive duties posts only)

- 8.1 The postholder may apply to the Head of Paid Service to be exempted from the third category list (sensitive duties post).
- 8.2 All applications require a letter from the postholder addressed to the Head of Paid Service. The application will state the title of the post, the basis upon which the post is currently deemed to be politically restricted and the reason why the postholder considers that political restriction is no longer appropriate e.g. they no longer influence policy or that the Council has incorrectly applied the duties criteria to the post (see section 7 above). The application will be accompanied by a certified job profile of the post.
- 8.3 The Head of Paid Service may provide the postholder with an opportunity to make oral representations in support of their application. The postholder may be accompanied by an accredited trade union representative or work colleague.
- 8.4 Prior to issuing a direction in accordance with 8.5 below, the Head of Paid Service must consult the Monitoring Officer.
- 8.5 The Head of Paid Service will issue a direction in the form of a Certificate of Opinion (Appendix A), as to whether or not, in his opinion, the duties of the post meet the section 2(3) LGHA 1989 criteria, for politically restricted posts.
- 8.6 If the Head of Paid Service directs that the duties of the post are not to be regarded as a politically restricted post, the Head of Finance and Human

Resources will comply with the direction and remove the post from the third category list.

- 8.7 The postholder will be notified by the Head of Finance and Human Resources of the Head of Paid Service's decision, within five days' of the date of the Certificate of Opinion.
- 8.8 The decision of the Head of Paid Service is final. There is no right of internal appeal.

9 Directions to include a post in the list of politically restricted posts

- 9.1 An application may be made to the Head of Paid Service by the incumbents of posts or any person for a direction that a post be included in the list of politically restricted posts. This would apply in a case where the Council had not designated a post as politically restricted and may be unwilling to do so.
- 9.2 The procedure detailed in section 8 above will apply. The Head of Paid Service may only give a direction where he determines that the post satisfies the test referred to in section 2(3) LGHA 1989 AND the post is neither referred to in the Scheme of Delegations to Officers nor listed as a politically restricted posts.

10 Applications for exemption from persons not yet in post

- 10.1 The Head of Paid Service will only consider applications for exemption from persons who have received formal job offers from the Council. The Head of Paid Service will not consider applications from persons who are only considering applying for a Council post, but who have not received a job offer.

11 New employee appointments

- 11.1 Where new appointments are made to posts included in the third category list, the Council's letter of appointment must refer to the fact that the post is politically restricted.

12 Transferring exemptions to another local authority or post

- 12.1 The LGHA 1989 requires an application for exemption to be made by the post holder in respect of a particular post and accompanied by a Certificate of Opinion relating to the duties of the post at the time of the application for exemption. An original exemption cannot therefore be transferred to another local authority or to another post.

13 Amendments to this Procedure

The Head of Paid Service has delegated authority to amend this Procedure.

APPENDIX A - Politically Restricted Posts - Certificate of Opinion

BRENTWOOD BOROUGH COUNCIL

LOCAL GOVERNMENT AND HOUSING ACT 1989

Section 2(3) of the Local Government and Housing Act 1989 states that political restriction applies where the postholder:

- (a) gives advice on a regular basis to the authority themselves, to any Committee or Sub-Committee of the authority or to any Joint Committee on which the authority are represented, or, where the authority are operating executive arrangements, to the executive of the authority, to any Committee of that executive, or to any Member of that executive who is also a Member of the authority;
- (b) speaks on behalf of the authority on a regular basis to journalists or broadcasters.

HEAD OF PAID SERVICE'S STATEMENT

This is to certify that it is Brentwood Borough Council's opinion that the duties of the under mentioned post:

(*Please tick appropriate box)	
do fall within section 2(3) of the Local Government and Housing Act 1989*	<input type="checkbox"/>
do not fall within section 2(3) of the Local Government and Housing Act 1989*	<input type="checkbox"/>
Post Title:	
Full Name of Current Postholder :	
Postholder's salary: £	Grade
Job Profile (please attach)	
It is a requirement that the job profile contains adequate information. For filled posts, the information provided needs to show to what extent, over the past twelve months, the postholder has advised the General Assembly of the Council, its Committees or Sub-Committees, or Joint Committees or a Lead Member and/or spoken regularly for Brentwood Borough Council, to journalists and broadcasters.	
For new posts, it will be necessary to state to what degree it is anticipated the postholder will be carrying out the duties as outlined above.	
Head of Paid Service:	
Name:	Signature

Date:

Extraordinary Council

Members' Code of Conduct and Complaints Procedure

Report of: *David Lawson, Monitoring Officer*

Wards Affected: *All Wards*

This report is: *Public*

1. Executive Summary

- 1.1 Under the Localism Act 2011 (the Act), Councils must have in place “arrangements” for investigating and making decisions about allegations that a Member or Co-opted Member of the Authority or Parish Council has breached the Code of Conduct.
- 1.2 This report proposes a revised procedure for dealing with such complaints to replace Appendix 2 of Part 5.1 of the Constitution for the reasons set out in the report.

2. Recommendation(s)

- 2.1 **That from 1 May 2014, the Council adopt a revised Member complaints process as set out in Appendix 1 to the report to replace Appendix 2 of Part 5.1 of the Council's Constitution.**

3. Introduction and Background

- 3.1 Under Section 28(6) and (7) of the Localism Act 2011, Councils must have in place arrangements for investigating and making decisions about allegations that a Member or Co-opted Member of the authority or of a committee or sub-committee of the principal authority or parish council has failed to comply with the Member code of conduct.
- 3.2 Part 5.1 of the Constitution sets out the Members' code of conduct and Appendix 2 sets out the current procedure for dealing with complaints where a complainant believes that a Member has breached the code. In the light of experience over the past year, it is proposed that a revised complaints process is introduced to clarify the different stages of the process and the role of the Monitoring Officer, the Independent Person, the Group Leader and Council at each stage of the process.

4. Issue, Options and Analysis of Options

- 4.1 Local Authorities have a legal responsibility to put in place arrangements for (a) investigating allegations, (b) for decisions to be made upon allegations, and (c) to appoint at least one independent person. The independent person's views may be sought by the local authority before a decision is made about an allegation, and at various stages of the process or by the Member who is the subject of the complaint. Any process must comply with the principles of natural justice.
- 4.2 The current procedure is unclear about the purpose of the investigation meeting and the respective roles of the Monitoring Officer, Group Leader, and Independent Person at this stage and at subsequent stages. The revised process set out in Appendix 1 of the report introduces the following 3 stage process and clarifies the role of the above persons and the role of the Council.
- 4.3 **Filter Stage:** In view of the number of complaints received over the past year it is proposed to introduce a filtering process. Upon receiving a complaint, the Monitoring Officer in consultation with the Independent Person will decide whether the complaint warrants investigation. Save where the Monitoring Officer accepts there are exceptional circumstances, it is unlikely that in the circumstances listed in paragraph 3.3 of Appendix 1 would be investigated. At the filter stage, the Monitoring Officer, in consultation with the Independent Person, will decide either:
- (a) that the complaint is not suitable for investigation, or
 - (b) the allegations are of a criminal nature and therefore, the matter should be referred to the Police, or
 - (c) that the complaint should be investigated further and should move to the next stage of the complaints procedure.

Throughout the process, the Monitoring Officer will try to seek an informal resolution where possible. The Group Leader will be informed of the complaint and of the Monitoring Officer's decision.

- 4.4 **Investigations and decision making process:** If the Monitoring Officer decides that an investigation is warranted, he/she may investigate or appoint someone to investigate. This is optional. The new legislation does not require an investigation stage and it would be possible in appropriate cases for the Monitoring Officer to move straight to a hearing where a complaint progresses beyond the first stage.
- 4.5 A hearing would then be conducted by the Monitoring Officer in consultation with the Independent Person at which the parties would submit their evidence in accordance with the principles of natural justice.
- 4.6 **Sanction:** The Monitoring Officer's and Independent Person's findings would be reported to the Group Leader who will decide on an appropriate sanction in consultation with the Independent Person. If the Independent

Person is satisfied with the Group Leader's response and the Member complies with the sanction, the Monitoring Officer will take no further action.

4.7 If the Independent Person is dissatisfied with the Group Leader's response or the Member does not comply with the agreed sanction, the Independent Person would prepare a report to Council for decision.

4.8 The advantages of the proposed revised procedure are:

- the Monitoring Officer would filter complaints in consultation with the Independent Person – this would filter over 90% of the recent complaints and would be very quick;
- if a complaint passes the initial assessment filter criteria it can be investigated and if necessary, heard by the Monitoring Officer and the Independent Person;
- on current experience we would only expect 1 or 2 such hearings a year;
- the onus will be on the Group Leader to ensure his or her party Member act reasonably and that appropriate sanctions are carried out where necessary. Failure to do so would result in a public report to Council.
- It complies with legislation and the principles of natural justice;
- It is cheaper and quicker than having a Standards Committee investigating and hearing complaints;

5. Reasons for Recommendation

5.1 Section 37 of the Local Government Act 2000 requires that the Council has in place a document, known as its Constitution, which should be regularly reviewed. The Localism Act 2011 requires Councils to put in place processes for investigating and making decisions on complaints about breaches of the code of conduct, and to appoint Independent Persons to advise on such matters.

6. Consultation

6.1 The cross-party Constitution Working Group, Leaders of the Political Parties and Parish Councils were invited participate in the consultation process.

7. References to Corporate Plan

The Modern Council priority within the Council's Corporate Plan sets out how the Council will be transformed between 2014-2016. One of the short term objectives for 2013-14 states "We will improve our governance arrangements.

8. Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Director of Strategy and Corporate Services

Tel & Email 01277 312712 / jo-anne.ireland@brentwood.gov.uk

8.1 There are no direct financial implications arising from this report.

Legal Implications

Name & Title: David Lawson, Monitoring Officer

Tel & Email 01277 312860/david.lawson@brentwood.gov.uk

8.2 The legal position is set out in the report. The relevant extract from the Localism Act 2011 is as follows:

(6) A relevant authority other than a parish council must have in place— .

- (a) arrangements under which allegations can be investigated, and
- (b) arrangements under which decisions on allegations can be made.

(7) Arrangements put in place under subsection (6)(b) by a relevant authority must include provision for the appointment by the authority of at least one independent person— .

(a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and

(b) whose views may be sought— .

(i) by the authority in relation to an allegation in circumstances not within paragraph (a);

(ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation; and

(iii) by a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority.

8.3 **Other Implications** – None

9. **Background Papers**

None

10. **Appendices to this report**

Appendix 1 – Revised Appendix 2 of Chapter 5 of the Constitution

11. **Report Author Contact Details:**

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THE CONDUCT COMPLAINT PROCESS

1. Introduction

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

Complainant	the person making the complaint
Member	the elected Councillor or Co-opted Member subject to the complaint (and Parish Councillors)
Investigator	either an officer of the Council and/or an independent Investigator whom the Monitoring Officer has asked to investigate a complaint
Monitoring Officer	The Council officer with statutory responsibilities under section 5 of the Local Government and Housing Act 1989 and as set out below in this Code
Independent Person	A person or persons appointed by the Council to advise it or the Member on the determination of complaints.
Hearing	A hearing is a ad hoc meeting of the Council's Monitoring Officer and Independent Person who will conduct a local hearing to consider whether the Member has failed to comply with the Code of Conduct
Appellant	the person appealing a decision under this Procedure
Respondent	the person responding to an appeal.

2. How to make a complaint

2.1 Any person may make a complaint under the Code of Conduct.

Complaints must:

2.1.1 be made in writing using the Complaints against Members form available on the Council website and should be submitted via the website;

2.1.2 include the full name and address of the Complainant;

2.1.3 identify the Member complained of;

2.1.4 set out the nature and substance of the alleged breach of the Code of Conduct for Members and attach evidence to support the allegation; and

2.1.5 indicate the remedy or remedies the Complainant would hope to achieve by submitting the complaint.

2.2 Upon receipt of a complaint complying with 2.1 above, the Monitoring Officer will send a copy of the Complaint to the Member and the Group Leader (or Chair in the case of a Parish Councillor) and the Independent Person. If the Leader or an Independent Member is the subject of the complaint, the Mayor will be notified and replace the Group Leader in this process.

3. Initial assessment

3.1 The Council's Monitoring Officer will receive and assess all complaints to determine whether the complaint should be investigated. If the Monitoring Officer considers that s/he can resolve the complaint through informal mediation or discussion, s/he may take this step before determining whether a complaint should be investigated. If the allegations appear to be of a criminal nature, the Monitoring Officer may prepare a file of papers and refer the matter to the Police, He/she will take no further action until the referral has been disposed of. A criminal matter is one where an offence appears to have been committed under the Localism Act 2011 or under any other relevant legislation. Under Section 34(l) of the Localism Act 2011, an offence is committed if a Member fails without reasonable excuse to notify the Council of the relevant Disclosable Pecuniary Interest as required under the code and as described in the Act or participates in a debate and votes on a matter having disclosed relevant Interests without prior dispensation. Such action carries with it the prospect of criminal prosecution.

3.2 In making his/her decision, the Monitoring Officer will consult the Council's Independent Person (or where it has more than one Independent Person, one of the Independent Persons).

3.3 The following complaints are normally not suitable for investigation, save where the Monitoring Officer accepts there are exceptional circumstances:

3.3.1 Complaints that are really about Council services, its policies or performance. Such complaints will be referred to the relevant service area in accordance with the Council's Complaints Policy.

- 3.3.2 Complaints that are really about the political policies or performance of a councillor in their role. Such complaints will be referred to the councillor and / or their political group for response.
 - 3.3.3 Complaints that relate to another authority or an alleged breach of another authority or body's Code of Conduct.
 - 3.3.4 Vexatious or frivolous complaints or complaints which are intended to insult individuals.
 - 3.3.5 Minor complaints that do not justify the time and resources of an investigation.
 - 3.3.6 Complaints made after one year of the matter or event being complained about and the Complainant has not brought it to the attention of the Monitoring Officer within 3 months of first becoming aware of it.
 - 3.3.7 Complaints by a Member against another Member will not normally be investigated until the Monitoring Officer considers that other processes, e.g. informal mediation or political group processes have been exhausted.
 - 3.3.8 Complaints by officers should be first made under the Member/Officer Protocol.
 - 3.3.9 Complaints that are already subject to other internal or external processes will not be investigated until those other processes have been completed to enable the complaint to be resolved by other means. Determination of such complaints will be suspended until the other process is finalised.
- 3.4 The Monitoring Officer may require further evidence or information from the Complainant. The Monitoring Officer may request an initial response from the Councillor complained of (or any other person) or take any other steps s/he considers reasonable to assist his/her determination.
 - 3.5 The Monitoring Officer will inform the Complainant, Member and Member's Group Leader (or Chair in the case of a Parish Councillor) in writing of his/her decision within 30 days of receipt of the complaint. Where the Monitoring Officer is not able to respond within this time, s/he will inform the Complainant, Member and Member's Group Leader (or Chair in the case of a Parish Councillor) of the date by which a decision will be made. The decision would be kept on file and only released to a wider audience with the consent of the accused.
 - 3.6 The Complainant will have 7 days from the date of the Monitoring Officer's letter to ask for a review of a decision not to investigate a complaint. The application for review must be submitted in writing to the Monitoring Officer setting out the reasons for the review. The review will be determined by the Council's Managing Director. If the Managing Director considers the review should be upheld, the complaint will be investigated in accordance with Section 4.

4. Investigation

- 4.1 If the Monitoring Officer decides an investigation is necessary, he/she may arrange for the complaint to be investigated by either an officer of the Council and / or an independent investigator. This will focus on investigation of the factual evidence in support or against the allegation. There is an expectation that the Member concerned will co-operate with the investigation.

5. Hearing

5.1 Unless the Monitoring Officer is of the opinion, after consultation with the Independent Person and the Member's Group Leader (or Chair in the case of a Parish Councillor), that an informal or conciliated outcome may be reached to the satisfaction of the parties, the Monitoring Officer in consultation with the Independent Person will hold a local hearing. The hearing will consider whether the Member has failed to comply with the Code of Conduct and will take account of whether the Member co-operated in the investigation. The hearing will be held within 30 days of the conclusion of any investigation.

5.2 The Hearing will normally take the following order:

- **The Complainant's Case**

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

- **The Member's Case**

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

- **Final Submissions**

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

5.3 The Monitoring Officer and Independent Person may ask questions of any person at any time.

5.4 After the hearing, the Monitoring Officer in consultation with the Independent Person will decide whether there has been a breach of the code.

5.5 After reaching a decision, all parties will be informed of the decision in writing to them within 7 days. Any verbal decision must be followed by written confirmation of the Monitoring Officer's decision and his/her reasons within 7 days.

6. Sanction

6.1 The Monitoring Officer's findings would be reported to the Group Leader (or Chair in the case of a Parish Councillor) who has one month to decide on an appropriate sanction and to advise the Monitoring Officer and Independent Person of his/her decision.

6.2 Where the Independent Person is dissatisfied with the Group Leader's response (or the Chair's response in the case of a Parish Councillor), or the Group Leader (or Chair in the case of a Parish Councillor) fails to respond within one month or the Member does not comply with the agreed sanctions within one month, the Independent Person would prepare a report to Council for decision.

6.3 Where a Member is found in breach of the Code of Conduct, there is no statutory power to sanction the Member. The sanctions that may be considered by Council will

include one or more of the following (or any other lawful sanction as advised by the Monitoring Officer):

- 6.3.1 publish the Monitoring Officer's findings in respect of the Member's conduct;
- 6.3.2 censure or reprimand the Member;
- 6.3.3 recommend to the Member's Group Leader (or in the case of an un-grouped Member, recommend to Council or to committees) that he/she be removed from any or all committees or sub-committees of the Council;
- 6.3.4 instruct the Monitoring Officer to arrange training for the Member;
- 6.3.5 remove the Member from all outside appointments to which he/she has been appointed or nominated by the authority;
- 6.3.6 withdraw facilities provided to the Member by the Council, such as a computer, website and/or email and internet access; or
- 6.3.7 exclude the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, committee and sub-committee meetings or where the Managing Director has given prior consent.

7. Appeals against a determination hearing decision

- 7.1 With the exception of appeals regarding the Monitoring Officer's decision not to investigate at the initial assessment stage, there is no right of appeal by either party against a decision of the Monitoring Officer.
- 7.2 If the Complainant feels that the authority has failed to deal with the complaint properly, a member of the public may make a complaint to the Local Government Ombudsman where they feel an injustice has been caused. The Law does not provide for councillors to complain to the Local Government Ombudsman in that capacity.

8. Governance

- 8.1 The hearings are not subject to the Council's Procedure Rules as they apply to committees save as required by law.
- 8.2 The Council's Access to Information Rules will not apply and the Monitoring Officer's hearings will not normally be held in public.

7 April 2014

Extraordinary Council

**Appointment of Independent Persons for Purpose of the
Localism Act 2011**

Report of: *David Lawson Monitoring Officer*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

- 1.1 The Localism Act 2011 requires all principal authorities to have arrangements in place to consider allegations of breaches of the Councillors Code of Conduct for that authority and the Code of Conduct for its associated parish councils and to make decisions on those allegations. In doing so, an authority must take account of the views of an Independent Person appointed by the authority under the Localism Act. This report relates to the proposal that Brentwood Borough Council confirms the appointment of three Independent Persons to comply with the statutory requirements of the Localism Act 2011.

2. Recommendation

- 2.1 **This report proposes the confirmation of appointment of Mr John Boylin, Mr Mike Hawkins and Mr Steve Marsh as the three Independent Persons to comply with the statutory requirements of Section 28(7) of the Localism Act 2011 for a period terminating post the first Council after municipal elections 2016 and**
- 2.2 **That a Brentwood Borough Council Independent Person be paid an annual allowance of £500 calculated on a pro-rata 12 monthly basis.**

3. Introduction and Background

- 3.1 The Localism Act 2011 (the "Act") changed the arrangements for dealing with governance issues regarding the conduct of elected and co-opted Members. It abolished the national Standards Board and required that local authorities establish their own Code of Conduct and establish a process for dealing with allegations that elected and co-opted members of the authority and its associated parish councils may have breached their Code of Conduct.

- 3.2 The Localism Act provisions took effect from 1 July 2012. The Council agreed a new Code of Conduct and Complaints Procedure which has been incorporated into the Constitution.
- 3.3 The new Localism Act regime removed the requirement to have an independent chair and a statutory standards committee. Instead to add external input, section 28(7) of the Localism Act requires the Council to appoint at least one “*independent person*” who must be consulted and their views taken into account on all complaints investigated and before a decision on any such complaint is made. The Council may consult with the independent person on other matters relating to an allegation and any Member subject to allegations complained about can also seek the independent person’s views.
- 3.4 To ensure independence, *independent persons* are not to have links to the Council, councillors or officers or have been members including co-opted membership. Unfortunately, this means that the previous independent Members of the statutory Standards Committee were disqualified from applying for the role as they were co-opted members of the Council.

4. Issues and/or Options:

Statutory Compliance

- 4.1 The Localism Act 2011 requires that a formal appointment be made therefore there is not an alternative of no action.

Need to Avoid Conflicts of Interest

- 4.2 The conflict of interest arises because the legislation requires the independent person to take on three specific tasks:
- *firstly* to give a view that must be taken into account before an authority makes a decision on an allegation that it has decided to investigate;
 - *secondly* to be available to give a view to a member whose behaviour is subject to an allegation; and
 - *finally* giving a view about allegations which have not yet reached the stage of determination.
- 4.3 While it may be possible for the Independent person to assist with giving a view on allegations against a Member, it would create a conflict if they were then consulted by that Member. For example if they had formed a the view that the Member was probably guilty of the accusation because they had been consulted by the authority prior to being contact by the Member then it will be difficult for them to give a view to the Member without disclosing at least in part what they might have been told by the authority. For the same reason if they were consulted by the Member and then were asked for a view by the authority they face the dilemma for how do they put aside what they have learnt from the Member. This conflict means that the process cannot function satisfactory unless there are at least two Independent persons readily available because one cannot give a view to Members and the authority at the same time.
- 4.4 Furthermore even with two independent persons there is the risk of an absence of one effectively preventing the whole process from functioning and as the legislation creates an entitlement for the Member to have an

Independent Person to consult and an obligation for the authority to consult before it makes a decision. If a member does not have an independent person to consult it will mean that unless they waive their right the process will come to a halt pending availability.

Need for Three Appointments

- 4.5 For the above reasons it is recommended establishing a compliment to be maintained of three Independent persons. The allocation of roles in terms of the practices of the Independent Persons would be in accordance with best practice utilising a rota arrangement ensuring that all got experience in the various stages of the complaints process.
- 4.6 Going forward the availability of independent persons is being addressed by inter authority working and the option of cross borough training and sharing of independent persons is being considered.

5. Appointment of Independent Persons

- 5.1 To meet the risks outlined in the previous section of this report a recruitment exercise was carried out by the former head of Brentwood Borough Council Legal Services. Confirmation of selection was made to Mr John Boylin, Mr Mike Hawkins and Mr Steve Marsh as the three Independent Persons.
- 5.2 The process was reviewed by the Current Monitoring Officer and it is his opinion confirmed by the acting Head of Legal Services that certain statutory formalities are necessary to confirm appointment including a Council resolution of appointment.
- 5.3 To ensure sound governance the Monitoring Officer has met with the three individuals and proposes in due course to place them under an Agreement as set out in the Appendix to this report which is utilised as best practice by other boroughs. Subject to the recommendation being agreed the appointments will commence forthwith subject to satisfactory references and an induction process has being arranged, which will allow the independent persons to function according to the Localism Act.
- 5.4 The role of Independent Person in adjacent Boroughs attracts an annual nominal allowance of £500. It would be suggested that Brentwood Council reflects this nominal payment which can be met from existing budgets. The Independent Persons may also claim reasonable expenses for attendance, travel and subsistence. The Independent Persons are not Co-Opted Members and therefore the inclusion of such an allowance provision will not engage any need to have it approved / reviewed by a Members Remuneration Panel.
- 5.5 It is the recommendation of the Monitoring Officer that the Council agrees to:
 - 5.5.1 Confirmation of appointment of Mr. John Boylin, Mr. Mike Hawkins and Mr. Steve Marsh as the three Independent Persons to comply with the statutory requirements of Section 28(7) of the Localism Act 2011 for a period terminating post the first Council after municipal elections 2016;

5.5.2 That a Brentwood Borough Council Independent Person be paid an annual allowance of £500 calculated on a pro-rata 12 monthly basis.

1. Reasons for Recommendation

6.1 The key reasons are set out in the body of the report in summary it is a statutory requirement on Brentwood Council as a principal Council to appoint Independent persons for the purpose of the Localism Act.

2. Consultation

It is a statutory requirement that Council is consulted and approves the appointments.

3. Implications

Financial Implications – Comment from S151 Officer

8.1 Financial

Name & Title: Jo-Anne Ireland, Director of Strategy and Corporate Services

Tel & Email 01277 312712 / jo-anne.ireland@brentwood.gov.uk

The proposed allowance is met by the Members Allowance Budget

8.2 Legal

Legal Implications by: Alison Stuart, Legal Services Manager

Telephone and email: 01277 312680

alison.stuart@Brentwood.gov.uk

The statutory requirements on the Council are set out in the body of the report and the recommendation sets out the necessary steps to ensure compliance.

4. Background Papers

Localism Act 2011 and Secretary of State for Local Government and Communities Guidance.

5. Appendices to this report

Appendix 1 – Independent Person Agreement

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DRAFT

DATED of 2014

INDEPENDENT PERSON AGREEMENT¹

BETWEEN

- (1) of
(the **Independent Person**); and
- (2) **BRENTWOOD BOROUGH COUNCIL** of The Town Hall, Ingrave Road
Brentwood, Essex CM15 8AY (the **Council**);

Introduction

The purpose of this document is to set out the terms upon which an Independent Person and the Council has agreed that he /she will be appointed as an Independent Person pursuant to the Localism Act 2011.

The terms are agreed as follows:

1 Definitions

1.1 In this document

“**Act**” means the Localism Act 2011.

“**Give a View**” means an informed observation of the issues and the facts which relate to a complaint and to establish a sense of perspective. It does not require specific professional advice or interpretation of legislation or the local code

“**Independent Person**” means a person appointed for the purposes of section 28 under the Act

“**Member**” means the elected councillor or co-opted member subject to the complaint

“**Monitoring Officer**” means the Council officer with statutory responsibilities under section 5 of the Local Government and Housing Act 1989 and as set out

below in this Code. The Monitoring Officer is currently the Head of Legal & Democratic Services.

2 Defined Role

You will carry out the role of an independent person in accordance with Section 28(7) of the Localism Act 2011 for the Council by:

- 2.1 being available within a reasonable time period for consultation to give a view as to the merits of a complaint against an elected Member of the Council to the Monitoring Officer or their representative;
- 2.2 putting the view in writing if requested within a reasonable time;
- 2.3 being available for contact by a Member of the Council to give a view on a complaint if requested;
- 2.4 attending meetings with the Monitoring Officer and their team from time to time;
- 2.5 attending meetings of Council Committee(s) to give a view if requested

3. Period

- 3.1 The period of the independent persons shall commence with immediate effect until the Assembly meeting following the next municipal elections in 2016

4. Termination

- 4.1 This Agreement can be terminated by either party at a period of 28 days by written notice or shorter if both parties agree

5. Data Protection

- 5.1 You agree to keep any information acquired while carrying out the role of independent person strictly confidential and agree not to disclose, communicate or otherwise make public the same to anyone (save to professional advisers bound by a duty of confidence, the relevant tax authorities, the DSS, immediate family members and otherwise as may be required to be disclosed by law).

6 Council Property

6.1 On conclusion of the period of action as an independent person you undertake to return to the Monitoring Officer all property acquired during the service as independent person, including any passes or equipment, records, correspondence, documents, files and other information (whether originals, copies or extracts and whether on paper or on tape computer disc or other magnetic media) generated during the role or belonging to the Council and that you will not retain any copies.

7 Fees and Expenses

7.1 You will be paid £500.00 gross of taxes per annum in twelve monthly payments.

7.2 The Council shall on the production of an appropriate copy invoice pay to such reasonable sums in respect of your expenses (including any disbursements) incurred only in connection with the role of independent person.

8. Agreement

8.1 For avoidance of doubt this agreement does not create a contract of service

8.2 We confirm that this document accurately sets out the agreement between us.

.....
For and on behalf of the BRENTWOOD BOROUGH COUNCIL

Dated.....

Signed.....
Independent Person

Dated.....

7th April 2014

Agenda Item: 10

Extraordinary Council Meeting

Old Chapel Master Plan

Report of: *Acting Head of Planning*

Wards Affected: *Brentwood North and Brentwood South*

This report is: *Public*

1. Executive Summary

- 1.1. The promotion and implementation of an Old Chapel Master Plan as a planning framework for the redevelopment of the William Hunter Way car park and the Baytree Centre is proposed, so ensuring a co-ordinated and concerted public/private approach to the regeneration of Brentwood town centre.
- 1.2. Members are asked to endorse the strategic objectives of such a master plan set out in the report; invite all owners in the defined area to support these objectives and work with the Council to strive to meet them.

2. Recommendation(s)

- 2.1 **That the Council works with other land owners in an area encompassing redevelopment sites at William Hunter Way and the Baytree Centre, to deliver upon an agreed master plan for the regeneration of the High Street, William Hunter Way and the wider town centre.**
- 2.2 **That the Council promotes the following draft strategic objectives for an Old Chapel master plan:**
 - **Enhancement of the public realm and setting of the Old Chapel of St Thomas A Becket, including new, active spaces and street life**
 - **Complementary redevelopment of sites that are integrated by new and improved public realm**
 - **Increased connectivity with Brentwood train station and local community facilities**
 - **New residential life to the town centre**
 - **Provision of larger shops and stores**
 - **Provision of a new cinema complex**
 - **'Smarter', easier parking to support local businesses and visitors to the town centre.**

3. Introduction and Background

- 3.1 The owners (Westbrook Properties) of the Baytree Centre have approached Council planning officers with aspirations and intentions to redevelop substantially their property interest in a phased manner over future years. This significant investment in the town centre coincides with the Council reviewing its procurement of a development partner for its site at William Hunter Way.
- 3.2 In view of the complementary nature of the proposals and their likely strategic impact on Brentwood, members are asked to consider the suitability of a master planning approach.

4. Issue, Options and Analysis of Options

- 4.1 The issues raised by the coincidence of major development proposals either side of the High Street are co-ordination of design and construction to minimise disturbance; shared provision of uses and facilities and seizing opportunities to improve the public realm, transport and parking arrangements.
- 4.2 A masterplan should address these by consideration of the following aspects that make this important part of the town centre a successful place:
- the quality of the buildings and spaces and their management
 - the way these come together to create a unique place
 - built form in relation to the history, culture and landscape of Brentwood
 - the provision of services
 - the engagement of owners, local people and users in defining and being involved in the process of change
 - the economic and financial realities
- 4.3 It would provide:
- a degree of consensus on a framework for the future planning of the area
 - certainty on the public realm and facilities to support individual developments and
 - encourage further investment by owners
- 4.4 The option of not commissioning a masterplan would save money in the short-term but runs the risk of unco-ordinated development, missed opportunities for improvement to the public realm and unresolved competing claims to spaces and facilities.

5. Reasons for Recommendation

- 5.1 In promoting a masterplan for the area, the Council needs to clarify, in its community leadership role, what strategic objectives it seeks to achieve. This will then provide a clear commitment, or statement of intent, upon which

other owners are requested to align their plans and work together with the Council. The overall aim is to **regenerate the High Street and William Hunter Way**. Proposals must be evaluated primarily by the extent to which they will regenerate the High Street and bring activity and lively street frontages to William Hunter Way.

5.2 Enhancement of the public realm and setting of the Old Chapel of St Thomas A Becket, including new, active spaces and street life

The Ancient Monument of the Old Chapel of St Thomas A Becket sets the conservation and heritage standard of any proposals at a very high level. Any opportunity for enhancing its setting and conservation must be explored and fully assessed. This will include surrounding public realm. There are further opportunities for creating public spaces beside William Hunter Way and to the south side of the Baytree Centre. The plan attached at Appendix 1 indicates the centrality of the old chapel ruins and the potential for improvements in this area to benefit the whole town centre.

5.3 Complementary redevelopment of sites that are integrated by new and improved public realm

A masterplan can make more efficient use and location of space and facilities, allowing for multiple use of space and sharing of costs. Every opportunity should be taken to use urban design to integrate new buildings and activity on the William Hunter Way and Baytree Centre sites with each other and with the High Street. A master planning process can set out the principles and options for achieving this and open up local debate. It is likely also to lead to individual development decisions being taken in a more joined up manner, aligning with the wider framework. The plan attached at Appendix 2 shows spatial relationships between the two redevelopment sites.

5.4 Increased connectivity with Brentwood train station and local community facilities

Development intentions could provide for improved pedestrian and cycle routes to and through the masterplan area. Combined with better signage, this will increase connectivity and footfall, improve access and street activity.

5.5 New residential life to the town centre

A key objective should be to extend existing and build new residential communities. This will bring further business and animation to the town centre and assist the Council in meeting local housing needs.

5.6 Provision of larger shops and stores

The retail mix in the town centre is missing large comparison goods stores. The redevelopment of William Hunter Way and the Baytree Centre provides an opportunity for larger retail units. This could include convenience goods in the form of a supermarket.

5.7 Provision of a new cinema complex

There is a strong historical and community interest in the provision of a cinema complex in this central part of Brentwood. It is where the last cinema was located and is now a high public expectation.

5.8 'Smarter' and easier parking and servicing arrangements to support local businesses and visitors to the town centre

Improvements to parking and vehicular access, including servicing arrangements will be critical to the success of a masterplan for this area.

6. Consultation

- 6.1 No specific consultation has been carried out in the preparation of this report. However, several comments in response to the Draft Consultation Local Development Plan expressed concerns or requests which are addressed by the process of producing a master plan for this part of the town centre. Subject to approval, the next step in the process will be to consult all land owners on the draft strategic objectives. This will be followed by wider stakeholder and public consultation in the preparation of the masterplan.

7. References to Corporate Plan

- 7.1 An Old Chapel Masterplan would support the delivery of the emerging Local Development Plan, which, in turn comprises the main workstream of the Prosperous Borough theme of the Corporate Plan. The masterplan could provide the policy framework linking the William Hunter Way project to both the Local Development Plan and the Corporate Plan. It will also supplement and progress many of the policies of the Town Centre Regeneration Strategy 2010 (Essex County Council/Brentwood Borough Council).

8. Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Director of Strategy and Corporate Services

Tel & Email: 01277 312712 / jo-anne.ireland@brentwood.gov.uk

- 8.1 The cost of the masterplan is determined by the quality of the design team brought together in the commission and the scope of the work. On the assumption that individual developers would wish to appoint their own designers for their respective redevelopment schemes, the scope of the commission may be restricted to co-ordinated urban design and the elements of public realm, transport and parking.
- 8.2 Procurement would be through the use of an existing, public agency procurement framework, such as that of the Homes & Community Agency or GLA.

- 8.3 Initial funding is being sought through external bidding to Essex County Council. Any additional funding requirement will be met from within the Council's earmarked £1.2m budget envelope for William Hunter Way and/or developer contributions. The maximum amount to be earmarked for the masterplan is £25,000.

Legal Implications

Name & Title: Philip Cunliffe-Jones, Planning Lawyer

Tel & Email: 01277 312712/p.cunliffe-jones@brentwood.gov.uk

- 8.4 There are no particular legal implications at this stage. The scope of feasibility studies and future implementation of proposals should bear in mind while it is preferable to acquire land interest through negotiation there is no guarantee that such agreements can be reached with all parties in a satisfactory timescale. Where there is a compelling case in the public interest, usually after planning permission has been granted, compulsory purchase may be required to secure new rights over land, or for the acquisition of land, for example for access, or for cycle tracks.

Other Implications

- 8.5 There are no other implications specifically related to this report. Community safety, however, will be a significant issue in the preparation of the masterplan.

9. Background Papers

Brentwood Town Centre Regeneration Strategy, 2010 (Essex County Council/Brentwood Borough Council)

10. Appendices to this report

Appendix 1 – Strategic Framework Plan

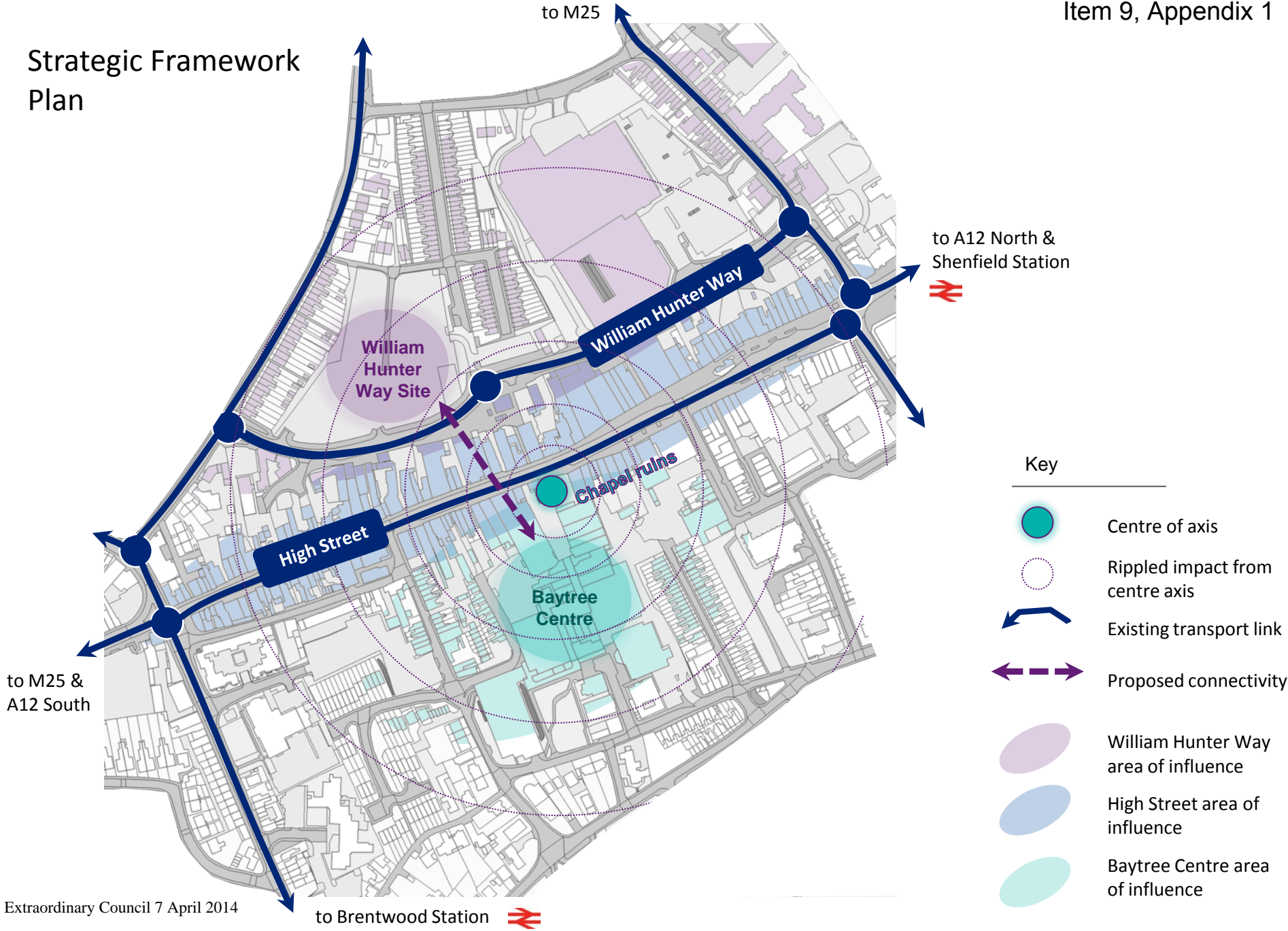
Appendix 2 – Old Chapel Masterplan

Report Author Contact Details:

Name: Tony Pierce, Acting Head of Planning

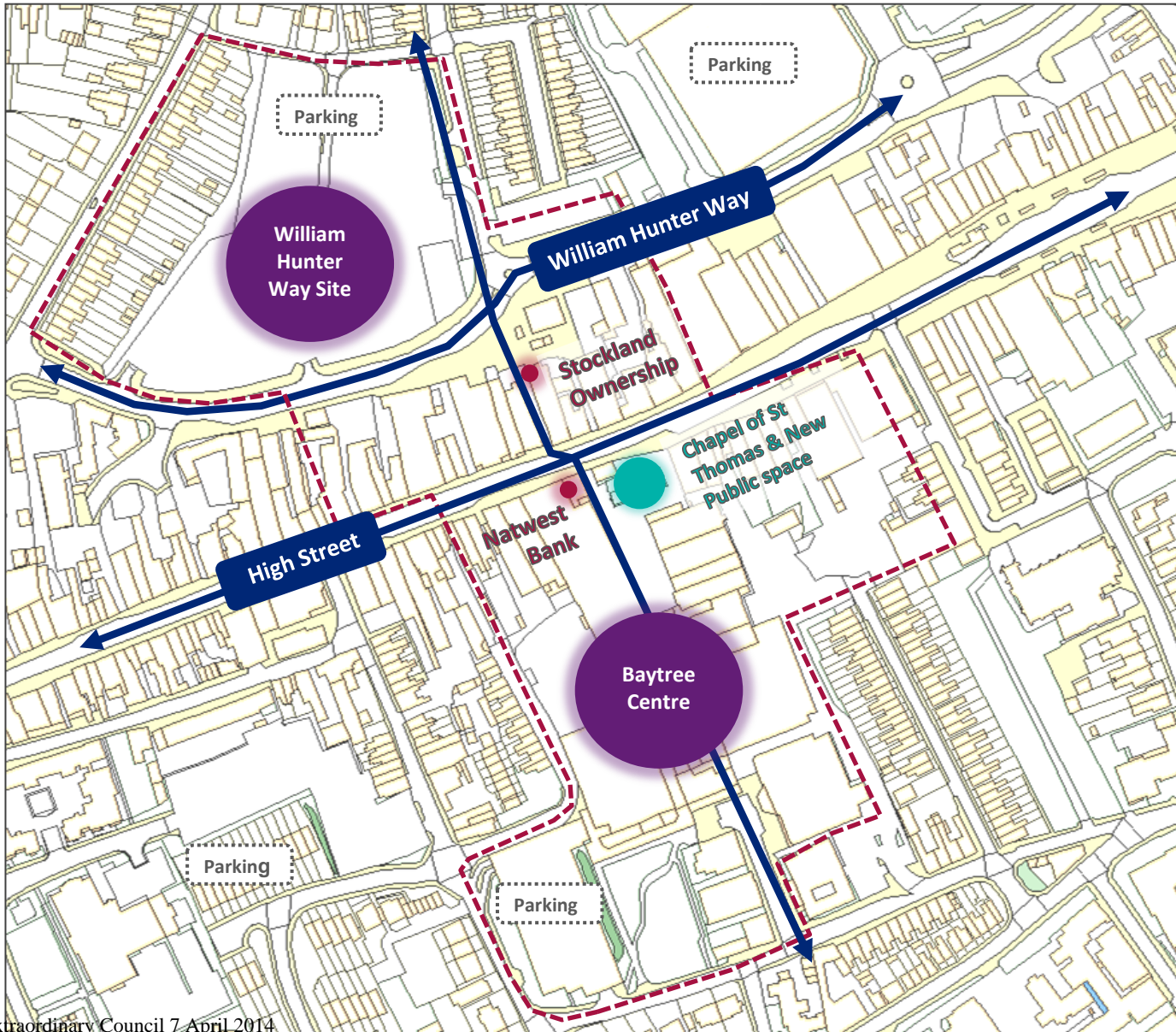
Telephone/ E-mail: 01277 31251/ tony.pierce@brentwood.gov.uk

Strategic Framework Plan







The Town Centre Vision - Chapel Area Masterplan

William Hunter Way Development



Key

-  Strategic Ownership
-  Cycling & Walking Desire lines
-  Notional Boundary
-  Centre of Axis

7 April 2014

Agenda item 11

Extraordinary Council Meeting

William Hunter Way Options

Report of: *Programme and Project Manager*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

- 1.3. The Council terminated the Development Agreement for the William Hunter Way site with Stockland on 6th February 2014 and now needs to consider options for the site.
- 1.4. The attached paper (Appendix 1) considers what options are available to the Council to ensure that it realises the regeneration benefits that the area affords; maximizes the opportunities offered by the improved market conditions and ensures that the Council takes advantage of the work on the scheme performed under the old arrangement (transfer of land title; negotiations and relationships with Barclays re car park site and others).

2. Recommendation(s)

- 2.1. **That the Council proceeds with Option 6 as defined in the attached options paper - "To re-market the site for development using a new refreshed development brief" under a long term lease.**
- 2.2. **To undertake a consultation exercise as defined in Appendix A of the attached options paper. This consultation exercise to be combined with the consultation on the Old Chapel Masterplan if approved.**
- 2.3. **To prepare a refreshed development brief taking into account the outcome of the consultation exercise.**

- 2.4 That the governance of the project be determined by the Performance and Resources Committee who are to ensure that all key stakeholders are involved and that key Ward members are engaged and kept informed of the process as appropriate. The governance to incorporate the Old Chapel Masterplan, if approved, to ensure a common approach.**
- 2.5 That members note that a maximum sum of £1.2 million has been earmarked within the Medium Term Financial Plan (MTFP) 2014/15 – 2016/17 for this project.**

3. Introduction and Background

- 3.1. The Town Centre Renaissance Strategy (May 2010) contains the following statements:

.....to conserve the qualities of Brentwood Town Centre while enhancing and improving the negative aspects of the function and appearance of the town.

To create a vibrant town centre which balances the requirements of retail, residential, office and leisure uses around an efficient network of public transport and a high quality High Street

Following on from the success of the High Street improvement scheme a vision for the future development of William Hunter Way should be produced.....

- 3.2. The above are a clear indication of the stated need to develop the William Hunter Way site. This is also supported by the priorities listed under “A Prosperous Borough” in the Brentwood Borough Council Corporate Plan 2013-2016

4. Issue, Options and Analysis of Options

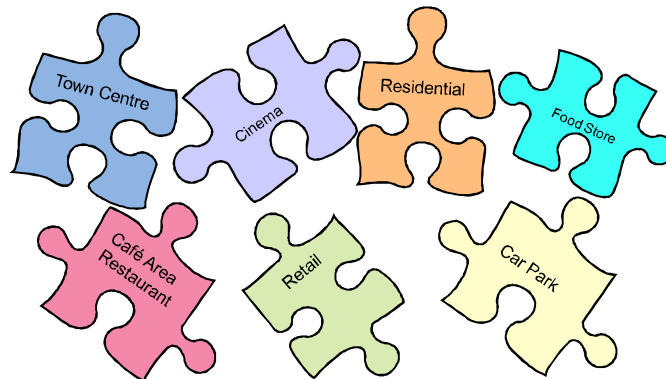
- 4.1 Appendix A considers the following main options:

- 1) Do nothing – retain the site as a car park.
- 2) Consolidate ownership of title of the site – making future schemes less administratively burdensome and thus easier to conclude transactions.
- 3) Sell the freehold of the site.
- 4) Lease the site with no development conditions
- 5) Re-market the site utilising the existing development brief.
- 6) Re-market the site for development using a new refreshed development brief.
- 7)

- 4.2 The options above are not mutually exclusive – as an example Option 1 could be combined with Option 2 and then a decision be made to proceed with

Option 3. To make for easier comparison the number of options have been limited as they could be deemed to be a variation on a theme.

- 4.3 The following schematic depicts an example of the elements that will be included within the consultation



5. Reasons for Recommendation

- 5.1 Option 6 is the recommended option as it provides for regeneration impacts and allows a regular income to the Council as well as providing a level of control of the development of the site.

6. References to Corporate Plan

- 6.1. The William Hunter Way scheme supports the Prosperous Borough theme within the Corporate plan – in particular the following key priority

.....Promote a mixed economic base across the Borough, maximising opportunities in the town centres for retail and a balanced night time economy.....

7. Implications

Financial Implications

Name & Title: Jo-Anne Ireland – Director of Strategy and Corporate Service /S151 Officer

Tel & Email: 01277 312712/Jo-Anne.Ireland@brentwood.gov.uk

- 7.1. A maximum sum of £1.2 million has been earmarked within the Medium Term Financial Plan (MTFP) 2014/15 – 2016/17 for this project.

Legal Implications

Name & Title: David Lawson, Monitoring Officer

Tel & Email: 01277 312860/David.Lawson@brentwood.gov.uk

- 7.2. The report sets out a clear framework for governance of the proposed project.

8. Appendices to this report

Appendix 1 - William Hunter Way Options Analysis

Report Author Contact Details:

Name: Phil Ruck, Programme and Project Manager

Telephone: 01277 312569

E-mail: Philip.Ruck@brentwood.gov.uk



OPTIONS ANALYSIS

WILLIAM HUNTER WAY

Table of Contents

1 EXECUTIVE SUMMARY	3
1.1 Options Considered	3
1.2 Implications of Each Option.....	4
1.3 Recommendation.....	7
2 INTRODUCTION.....	8
2.1 Background	8
2.2 Linkage to the Town Centre (Old Chapel) Masterplan.....	9
2.3 Requirements of the Development	10
2.4 De-risking the Site (Option 2)	11
2.5 Potential Timeline	11
2.6 Procurement.....	12
2.7 Project Values.....	13
2.8 Governance	14
2.9 Estimated Costs.....	15
3 CONSULTATION.....	15
4 APPENDICES.....	16
4.1 Appendix A - Approach to Consultation	17
4.2 Appendix B - Estimated Costs of the Scheme (Assuming Option 6 is chosen)	19
4.3 Appendix C – Procurement Steps	20
4.4 Appendix D – Possible Timeline.....	21
4.5 Appendix E - The Town Centre (Old Chapel) Masterplan.....	22
4.6 Appendix F – Summary of OJEU.....	23
4.7 Appendix G – Project Risks (Initial Draft).....	24

1 Executive Summary

The Council terminated the Development Agreement for the William Hunter Way site with Stockland on 6th February and now needs to consider options for the site.

This paper considers what options are open to the Council to ensure that no opportunities are lost and any work on the scheme (transfer of land title; negotiations and relationships with Barclays re car park site and others) is not wasted. It should be noted that the paper contains the major options.

The William Hunter Way scheme can either be seen as supporting the Town Centre (Old Chapel) Masterplan, to which it is an integral part, or as a stand alone project.

The development of the William Hunter Way site supports the priorities of a “Prosperous Borough” as detailed In the Corporate Plan (2013-2016). in particular the following key priority

.....Promote a mixed economic base across the Borough, maximising opportunities in the town centres for retail and a balanced night time economy.....

The development of the site is also in line with the Renaissance Group Report (May 2010) which stated the following:

Brentwood Town Centre needs to improve its competitiveness, redefine its civic focus and become an economically, socially and environmentally sustainable centre.

1.1 Options Considered

This paper considers the following main options:

- 1) Do nothing – retain the site as a car park.
- 2) Consolidate ownership of title of the site – making future schemes less administratively burdensome and thus easier to conclude transactions.
- 3) Sell the freehold of the site.
- 4) Lease the site with no development conditions.
- 5) Re-market the site utilising the existing development brief.
- 6) Re-market the site for development using a new refreshed development brief.

The options above are not mutually exclusive – as an example Option 1 could be combined with Option 2 and then a decision be made to proceed with Option 3. To make for easier comparison the number of options have been limited as they could be deemed to be a variation on a theme.



1.2 Implications of Each Option

Option	1	2	3	4	5	6
Header	Do nothing – retain the site as a car park	De-risk the site. (Consolidate ownership of title of the site)	Sell the freehold of the site	Lease the site with no development conditions	Re-market the site utilising the existing development brief	Re-market the site for development using a new refreshed development brief
Benefits	Current financial return remained (net income @£340,000 per annum)	This makes the future use of the site less burdened from conditions and thus more attractive to future development Leverages the work done under the agreement with Stockland	The Council receives an immediate cash-inflow. It achieves maximum capital receipt without costs and time constraints of the procurement/development.	The Council receives a regular cash-inflow, without costs and time constraints of the procurement/development.	Re-use of much of the material already gathered. Familiarity with the requirements making the process easier Achieves basic regeneration objectives.	Most likely to achieve design and regeneration objectives.



Option	1	2	3	4	5	6
Header	Do nothing – retain the site as a car park	De-risk the site. (Consolidate ownership of title of the site)	Sell the freehold of the site	Lease the site with no development conditions	Re-market the site utilising the existing development brief	Re-market the site for development using a new refreshed development brief
Negatives	Does not meet the priorities as listed in the Corporate Plan (A Prosperous Borough) Does not provide the regeneration opportunities	Expense is incurred with perhaps no immediate return (As an example acquisition of the Barclays land)	There is a high likelihood that this option will not achieve regeneration objectives. A regular financial income to the Council is harder to realise. Stockland ownership of properties alongside key access area. This may impact any new access to the potential development.	No control over what the site would include. There is a high likelihood that this option will not achieve regeneration objectives. Stockland ownership of properties alongside key access area. This may impact any new access to the potential development.	Design will not meet the new and revised NPPF requirements. Stockland ownership of properties alongside key access area. This may impact any new access to the potential development.	The time and cost of procurement and negotiation on a newly prepared scheme. Stockland ownership of properties alongside key access area. This may impact any new access to the potential development.
Timeline	Not applicable	Achievable by mid 2014 – subject to negotiations.	Achievable by end 2014.	Achievable by end 2014	By 1 st Quarter 2018	
Costs	None (there will however be an impact on Council costs due to maintenance requirements)	Costs relating to the Barclays transaction estimated @£250k.	@ £200k (Legal: Surveyors etc) Costs relating to the Barclays transaction estimated @£250k	@ £200k (Legal: Surveyors etc) Costs relating to the Barclays transaction estimated @£250k	£1.2 M (see separate analysis)	



Option	1	2	3	4	5	6
Header	Do nothing – retain the site as a car park	De-risk the site. (Consolidate ownership of title of the site)	Sell the freehold of the site	Lease the site with no development conditions	Re-market the site utilising the existing development brief	Re-market the site for development using a new refreshed development brief
Planning Considerations	Not Applicable	Not Applicable	Purchaser to resolve	Leaseholder to Resolve	<ul style="list-style-type: none"> a) Requires the council to confirm/agree a Development Brief b) Planning application is the responsibility of the Developer c) The Planning Committee should reference the “Town Centre (Old Chapel) Masterplan” to ensure Development is in line with this 	

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1.3 Recommendation

1. That Option 6 is recommended to the Extraordinary Council 7th April 2014 as the preferred option from this paper.

“To re-market the site for development using a new refreshed development brief” – under a long-term lease agreement.
2. That next steps be agreed as follows
 - a. A draft Design Brief be prepared (to show “lines of thinking” only and will encompass the Town Centre (Old Chapel) Masterplan)
 - b. That a public consultation on William Hunter Way be developed (this will be informed by the Design brief) and conducted by an external organisation.
 - c. That procurement options associated with Option 6 be developed.
 - d. That discussions with other Councils be held to assist in cost and time reductions
 - e. That the proposals for the governance of the project as outlined in section 2.8 of this paper be agreed.

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2 Introduction

2.1 Background

The Town Centre Renaissance Strategy (May 2010) contains the following statements:

.....to conserve the qualities of Brentwood Town Centre while enhancing and improving the negative aspects of the function and appearance of the town.

To create a vibrant town centre which balances the requirements of retail, residential, office and leisure uses around an efficient network of public transport and a high quality High Street

Following on from the success of the High Street improvement scheme a vision for the future development of William Hunter Way should be produced.....

The above are a clear indication of the stated need to develop the William Hunter Way site. This is also supported by the priorities listed under “A Prosperous Borough” in the Brentwood Borough Council Corporate Plan 2013-2016.

Following the termination of the development agreement with Stockland, this options paper has been produced to consider the future of the site.

Due to the strong preference to utilise the William Hunter Way site, the remainder of this paper focuses on Option 6 and the impact of delivering this option.

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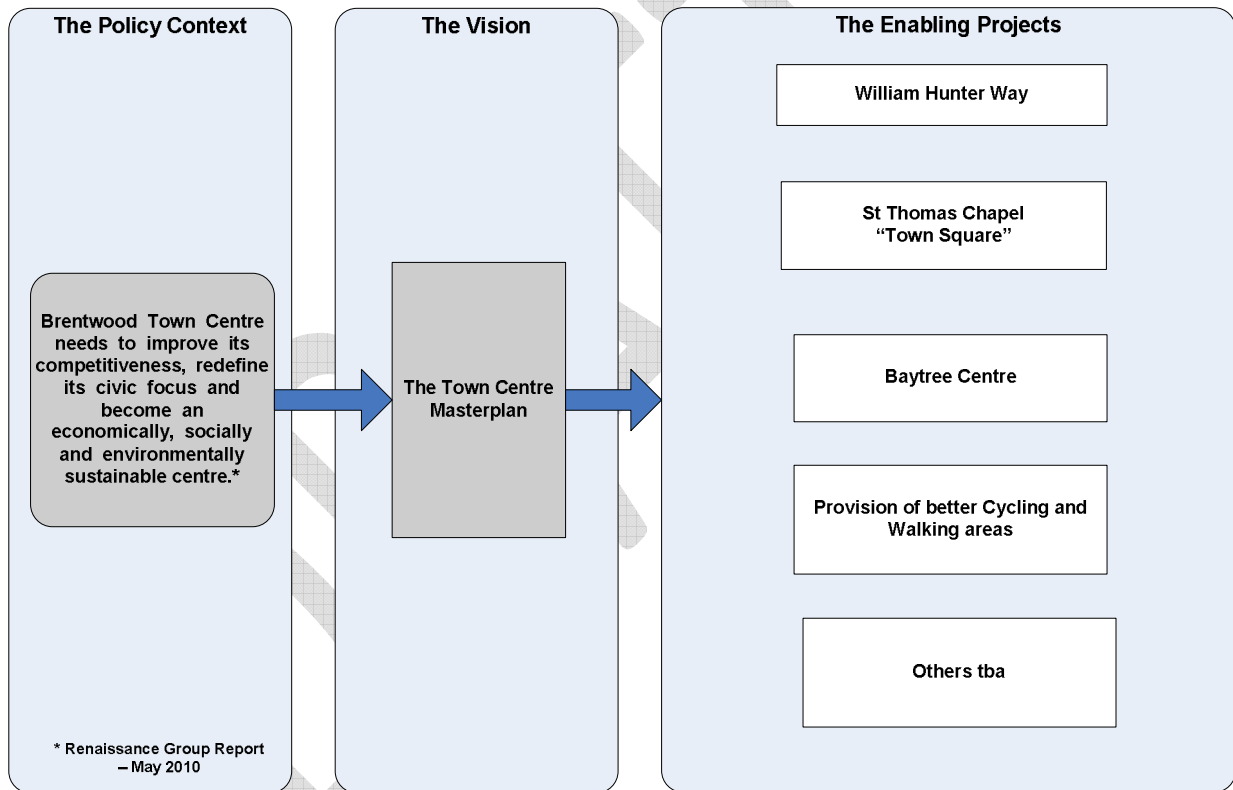
2.2 Linkage to the Town Centre (Old Chapel) Masterplan

The Town Centre (Old Chapel) Masterplan is to be considered at the Extraordinary Council meeting to be held 7th April 2014.

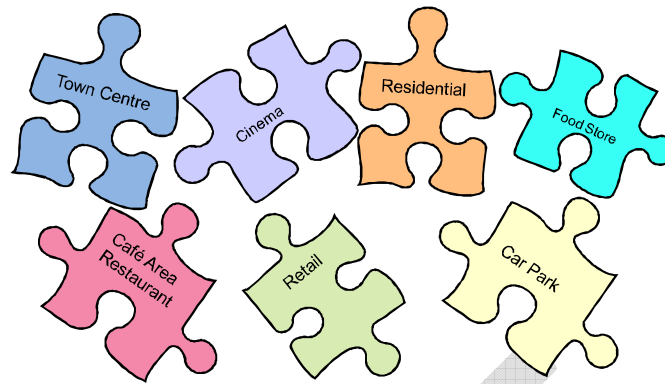
This paper does not seek to justify that Masterplan. However, it should be noted that the William Hunter Way project could be seen as integral to the delivery of the Masterplan.

Readers should note that the development of the William Hunter Way site could also be seen as a discrete project which either supports the Masterplan deliverables or is a standalone project.

The following diagram shows how the William Hunter Way scheme could operate within the context of the Masterplan.



2.3 Requirements of the Development



The requirements of the development will need to be validated during a consultation exercise.

A design brief will need to be prepared, however we need to consider those elements that Members consider should be incorporated into any future development.

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2.4 De-risking the Site (Option 2)

Whatever option is chosen, strong advice has been received to “de-risk” the site prior to proceeding with any new development. This will both maximise market interest and minimise problems later in the legal documentation and pre-development phase. De-risking the site is likely to involve the following:

- Securing Barclays under a binding legal contract.
- Resolving any other title matters and then consolidating the currently fragmented title so that one Land Registry entry covers the entire development site. (The majority of this has already been achieved).
- Reviewing the 2005 planning brief and ensuring that a new brief setting out the key requirements from any new scheme is adopted.
- Commissioning a full site report – this includes a measured survey, soil test information, title report, services report and details of all constraints – this will form the basis of any new tender pack or similar invitation to bid
- Maintaining contact with Sainsbury’s whose involvement cannot be closed out until a final scheme is settled and its value assessed and certified by the District Valuer.

2.5 Potential Timeline

Appendix D provides a view of the suggested timeline of the project, should option 6 be chosen.

This indicates a pessimistic scenario of the completion of the project in the first quarter of 2018.

(Note that this currently excludes any potential planning permission which needs to be determined)

2.6 Procurement

Observance of the strict rules relating to procurement will be followed whatever option/route is taken.

Members will be aware that if Option 6 is chosen then it is highly likely that this will involve the OJEU process and associated rules. (A summary definition of OJEU is provided in Appendix F).

The following table outlines the phases of the OJEU process and is further analysed in Appendix C.

Stage	Action
Phase 1	Appointing External Advisers (further competitions using framework agreements)
	<ol style="list-style-type: none"> 1. Prepare further competitions documents 2. Issue and receive responses to further competition documents 3. Evaluate and award contract
Phase 2	Pre-Dialogue (Competitive Dialogue Procedure)
	<ol style="list-style-type: none"> 1. Draft OJEU Advert, PQQ & Contract Documents 2. Issue OJEU advert and receive PQQ responses 3. Evaluate and shortlist bidders 4. Issue and evaluate Outline Proposals to short listed bidders
Phase 3	Dialogue
	<ol style="list-style-type: none"> 1. Negotiate terms with shortlisted bidders
Phase 4	Post Dialogue
	<ol style="list-style-type: none"> 1. Issue and receive final tender documents 2. Evaluate and clarify responses and appoint Preferred Bidder 3. Fine tune terms with Preferred Bidder 4. Commence and conclude standstill period 5. Provide de-briefs and award contract
Phase 5	Delivery
	<ol style="list-style-type: none"> 1. Planning Process 2. S 106 3. Start on site

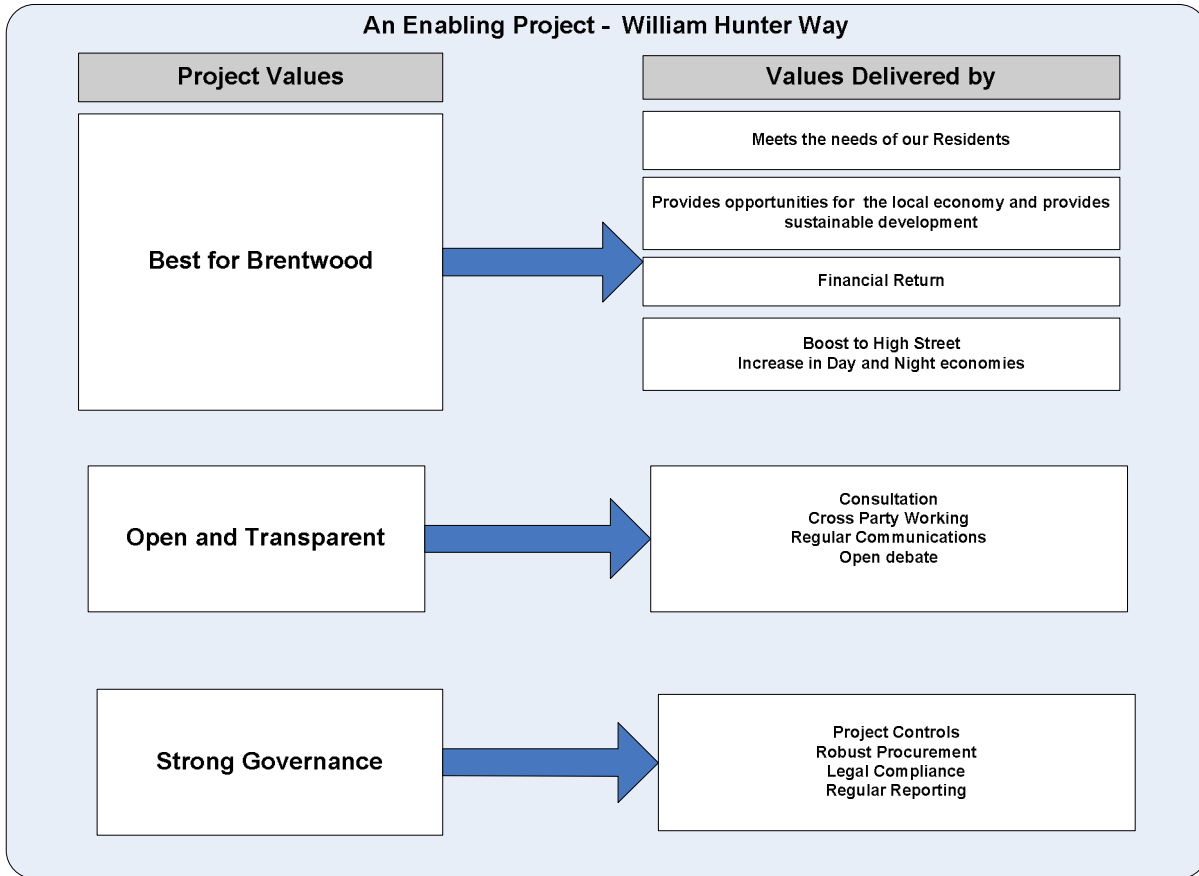
The items in RED are the only statutory defined elements.

It is estimated that in a worst case scenario the above process could take up to 83 weeks. The Council would look to shorten this timescale and have requested information/ assistance from other Councils, who have just undertaken similar (in concept) schemes, as to the learning from their process and any impacts on costs.

2.7 Project Values

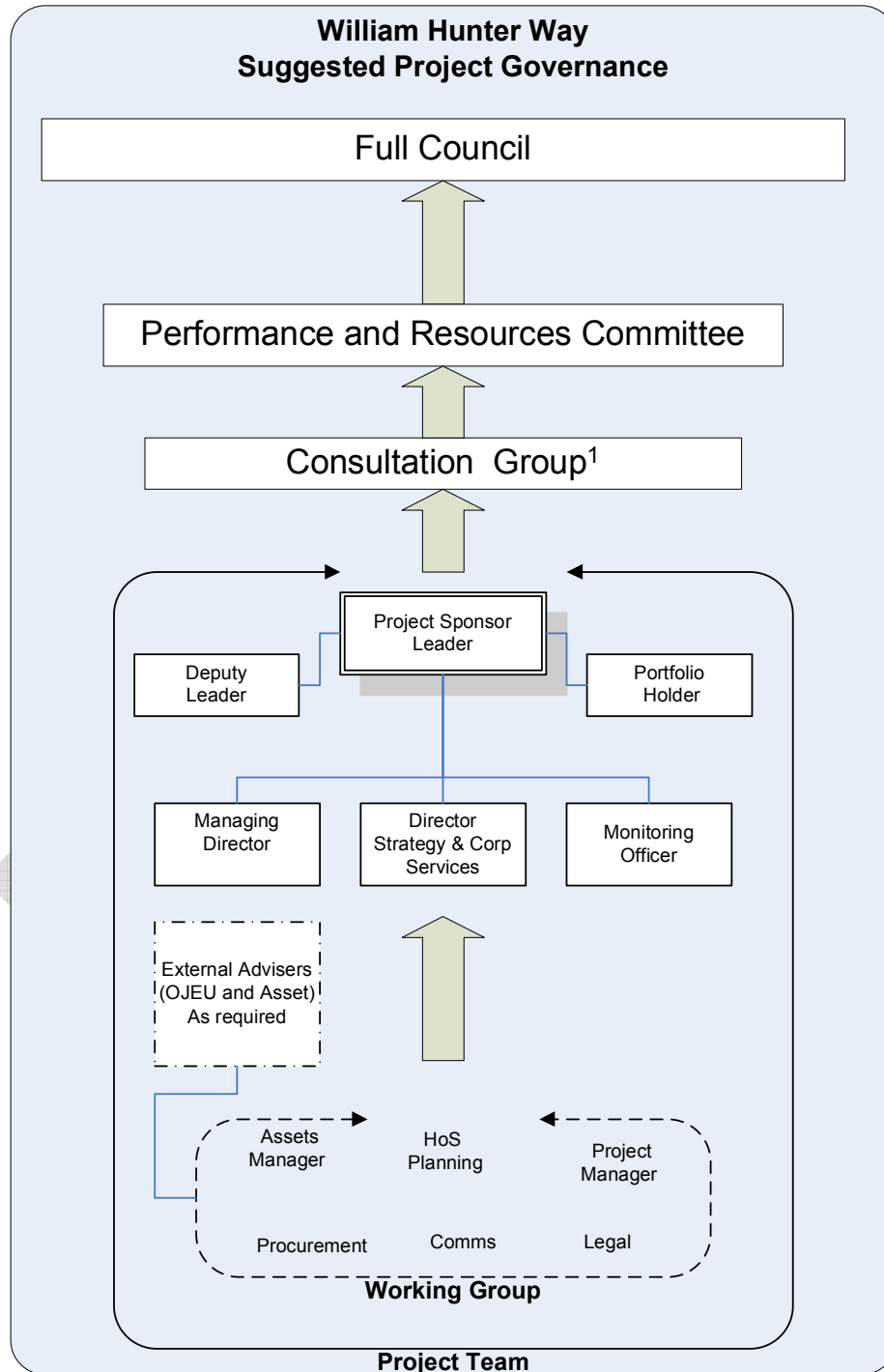
The project will need to be run under robust guidelines. Integral to the way the project will be run will be the values of the project and how these will be seen to be delivered.

The following schematic shows both the project values and how the values are to be delivered.



2.8 Governance

The suggested Governance structure for the project is provided below. The Performance and Resources Committee has been suggested due to its role in the control and monitoring of assets.



¹ the membership and role of this group and terms of reference to be defined by the Performance & Resources Committee but will need to ensure that Ward members are involved and engaged as well as portfolio holders and key stakeholders.

2.9 Estimated Costs

The costs for Options 1 through to 4 are associated with basic legal and (where appropriate) professional fees.

In considering Options involving OJEU the following have been considered. (Appendix B provides further detail).

Main Item	Sub-Heading	£000's	£000's
External Fees	Professional & Legal	380	
	Site Costs	40	420
Internal Costs	Allowance for officer time		180
Property Costs	Barclays	250	
	Sainsbury's	204	454
Contingency	@20%		220
Total Costs			1,274

3 Consultation

Appendix A details the overall approach to Consultation.

In estimating costs (see section 2.9 above) an allowance has been made to cover the cost of consultation in the envelope of the £1.2million earmarked in the MTFP.

The Council has made it clear and it is embedded within the project values that the project must meet the needs of the residents and consultation is seen as the route to achieving this aim.

Due to the complexity and the resource implication it is recommended that we utilise an external body who are expert in the area of Consultation (hence the cost allowance).

As stated in the approach, consultation will deploy various tools which should include (but not limited to)

- 1) "High street" surveys
- 2) Internet questionnaires
- 3) Consultation meetings

The target audience will be defined but will include as many as is feasible. Key groups (amongst which will be those representing the disabled) will be targeted to ensure all have their say.

4 Appendices

Appendix A - Approach to Consultation

Appendix B – Estimation of Costs

Appendix C – Procurement Steps

Appendix D – Potential Timeline

Appendix E - The Town Centre (Old Chapel) Masterplan

Appendix F – Summary of OJEU

Appendix G – Project Risks

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4.1 Appendix A - Approach to Consultation

Whenever the Council makes a decision about a major and long lasting development in the town centre, we need to be confident the decision is properly informed by public opinion. It is vital that on such a major development as William Hunter Way, the Council consult and engage with the people of Brentwood.

All Councils consult on controversial issues and whilst we can't guarantee residents are always going to agree with proposals and policy changes, the Council aim is to improve the way we carry out public consultations, involve residents in decision-making and respond to resident views.

What is consultation?

Consultation is a process of dialogue with citizens and stakeholders, which has a defined start and end date, and informs a decision about a new proposal, policy, service change – this includes major developments (William Hunter Way).

Through effective consultation will aim to achieve:

- The encouragement of greater public involvement and interest in local democracy.
- Stronger community leadership.
- The planning of services and policies based on the needs / views of people.
- The Identification of priorities and improvement of strategies.
- The improvement of the take-up of those services.
- The monitoring of the performance of services over time.

Consultation and the democratic process

Councillors and Council Officers will always need to weigh the views expressed through consultation against a wide range of other factors: such as legislation and government guidance; demographic data; financial costs and environmental impacts.

Consultation rarely throws up a single opinion – Councillors and Officers will often have to make their own judgement about the weight to be given to one or other of the views expressed. They may also have to consider carefully whether the aspirations and needs of future generations - who will perhaps be most affected by any change - might differ significantly from those of today's population.

In other words, the results of consultation are never a substitute for the democratic process – and do not replace the legitimate role of elected representatives in decision-making.

However, effective and consistent consultation can certainly help inform good and responsible decision-making and ensure that, as far as possible, those decisions - and the actions that flow from them - properly reflect and respond to the needs of our city and its people.

Main Consultation Principles

1. Time consultations well and allow sufficient time to respond.
2. Clearly present relevant information and encourage informed opinion.
3. Be well targeted and reach out to seldom heard groups.
4. Offer genuine options and ask objective questions.
5. Be well planned, managed and co-ordinated.
6. Be well communicated.

7. Provide fair, accessible feedback.

We will use these principles whenever we run public consultations.

- 1. Time consultations well and allow sufficient time to respond.**

1. Consultations should be timed to allow the results to influence policy / proposal development.
2. Wide scale public consultations, such as boroughwide or large parts of it, should run for a minimum period of six weeks.
3. The timing of consultations should consider the availability of target groups. Consultations that are primarily focussed on the voluntary and community sector (VCS) should run for a minimum period of 12 weeks.
4. In relation to William Hunter Way we will engage with key groups – particularly the views of the disabled.

- 2. Clearly present relevant information and encourage informed opinion.**

1. The consultation will clearly state: the proposal, why we are consulting, and how we will use the findings.
2. The consultation should provide enough information to enable consultees to give an informed opinion and not simply an instant reaction.

- 3. Be well targeted and reach out to seldom heard groups.**

1. The views of those people / areas most affected by the proposal should be sought.
2. Attempts will be made to listen to the views of non-users.
3. Attempts will be made to include the views of groups frequently excluded or overlooked.
4. Consultations will consider the needs of people with impaired sight or hearing or people whose first language is not English.

- 4. Offer genuine options and ask objective questions.**

1. Where options are offered, they should be realistic and deliverable.
2. Surveys and questions should be written in an objective way allowing people to express their views.

- 5. Be well planned, managed and coordinated.**

1. The Council's consultation should contain a step-by-step instruction to enable managers to effectively manage consultations and avoid unnecessary duplication.

- 6. Be listed on consultation finder and be well communicated.**

1. The Council will publicise consultations and make attempts to let people know they are happening.
2. Major consultations e.g. boroughwide or affecting a large number of people - will be publicised by press release and we will use other media (such as Twitter and Facebook and our main Internet site)

- 7. Provide fair, accessible feedback.**

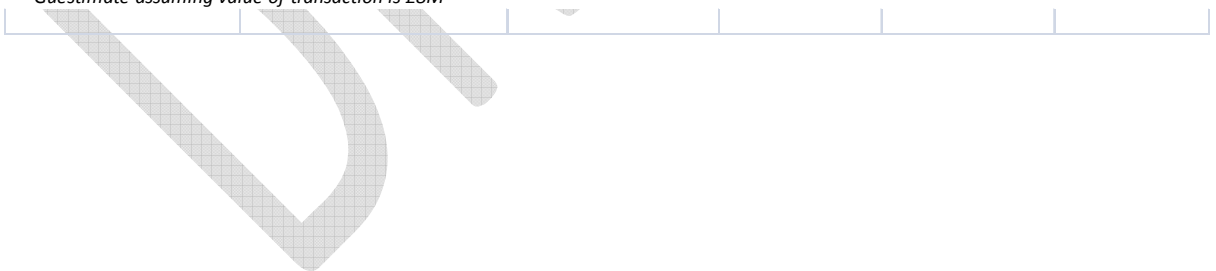
1. The Council will publish the findings of consultations and later how they have been used.
2. The findings will be reported in a balanced way.

4.2 Appendix B - Estimated Costs of the Scheme (Assuming Option 6 is chosen)

		£'s	
External Costs	External Fees	Legal Fees	180,000
		Strategic Advice	100,000
		Disbursements	80,000
		Consultations	20,000
			380,000
	Site Costs	Site De-Risking	10,000
		Site Clearance	30,000
		40,000	
Total "External Costs"			420,000
Internal Costs	Officer Time*	(estimated @800 days)	180,000
Property Costs	Cost of Barclays Land		250,000
	Sainsburys Overage **		204,000
			454,000
Contingency @20%			220,000
Total Costs			1,274,000

* Covers the following areas Project Management: Assets: Legal: Finance: Democratic Services: Planning: Communications

** Guestimate assuming value of transaction is £8M



4.3 Appendix C – Procurement Steps

Stage	Action	Time (weeks)	Time (weeks)
Phase 1	Appointing External Advisers (further competitions using framework agreements)		12
	Prepare further competitions documents	4	
	Issue and receive responses to further competition documents	4	
	Evaluate and award contract	4	
Phase 2	Pre-Dialogue (Competitive Dialogue Procedure)		25.3
	Draft OJEU Advert, PQQ & Contract Documents	8	
	Issue OJEU advert and receive PQQ responses	37 days	
	Evaluate and shortlist bidders	4	
	Issue and evaluate Outline Proposals to short listed bidders	8	
Phase 3	Dialogue		24
	Negotiate terms with shortlisted bidders	24	
Phase 4	Post Dialogue		21.4
	Issue and receive final tender documents	6	
	Evaluate and clarify responses and appoint Preferred Bidder	8	
	Fine tune terms with Preferred Bidder	4	
	Commence and conclude standstill period	10 days	
	Provide de-briefs and award contract	2	
Phase 5	Delivery		tba
	Planning Process		
	S 106		
	Start on site		

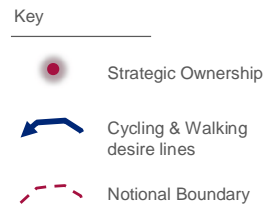
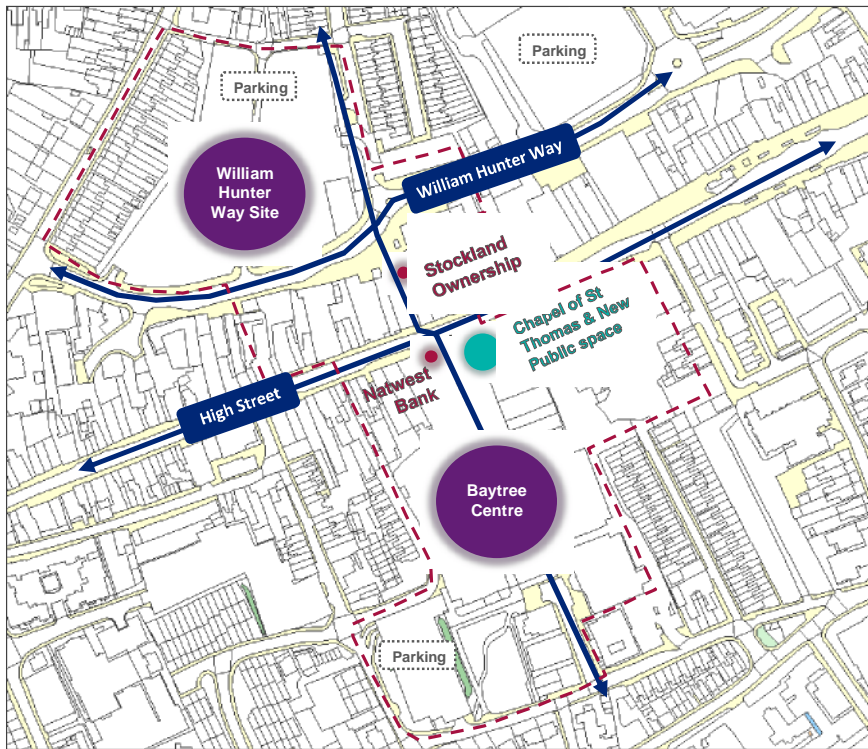


4.4 Appendix D – Possible Timeline

Stage/milestone	2014				2015				2016				2017				2018
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	C
Consideration	█																
Consultation and Decision		█															
De-risking phase		█															
Procurement - a 5 phase approach *			█	█	█	█	█										
Selection of partner							●										
Contractual phase							█	█	█								
Legal sign up									●								
Pre-development phase **									█	█	█						
Start on site												●					
Build												█	█	█	█	█	█
Scheme Open																	
* the 5 phases of procurement are																	
	Appointing External Advisers																
	Pre-Dialogue																
	Dialogue																
	Post Dialogue																
	Delivery																
** <u>Predevelopment phase</u> – Even after the deal goes unconditional and planning permission is in place there is preliminary work for the developer to do – appointing contractors etc and satisfying pre-commencement conditions prior to start on site																	

4.5 Appendix E - The Town Centre (Old Chapel) Masterplan

William Hunter Way Development



4.6 Appendix F – Summary of OJEU

OJEU stands for the Official Journal of the European Union (previously called OJEC - the Official Journal of the European Community). This is the publication in which all tenders from the public sector which are valued above a certain financial threshold according to EU legislation, must be published.

EC Procurement Thresholds

The European public contracts directive (2004/18/EC) applies to public authorities including, amongst others, government departments, local authorities and NHS Authorities and Trusts.

The directives set out detailed procedures for the award of contracts whose value equals or exceeds specific thresholds. Details of the thresholds, applying from 1st January 2014 are given below. Thresholds are net of VAT.

PUBLIC CONTRACTS REGULATIONS 2006 - FROM 1 JANUARY 2014

	SUPPLIES	SERVICES	WORKS
Public Contracts Regulations 2006	£111,676	£111,676	£4,322,0123
Other public sector contracting authorities	£172,514	£172,514	£4,322,0123
Indicative Notices	£625,050	£625,050	£4,322,012
Small lots	£66,672	£66,672	£833,400

Around 2500 new notices are advertised every week - these include invitations to tender, prior information notices, qualification systems and contract award notices. Purchasing Authorities can use the eProcurement portal, to publish OJEU and lower value tenders.

Approximately 160,000 invitations to tender are published each year, of which more than 14,000 are from the UK or Ireland



4.7 Appendix G – Project Risks (Initial Draft)

Number	Risk Description	Priority	Owner	Mitigating Actions	Probability	Impact	Total
1.	Ability to deliver a clean site – this is key to all options (except Option1)	High	Project Manager	Maintain negotiations with Barclays and communication with Sainsbury's.	2	3	6
2.	Stakeholder communication and cross party support is essential to the success of the delivery of any option	High	Project Manager	Engagement with Ward Members and strong cross party communication. Ensure that Consultation exercise engages with key stakeholders.	2	3	6
3.	Non-compliance with all relevant legislation	Medium	Project Manager	Ensure that the legal team is engaged at all key times within the process	2	2	4
4.	Lack of clarity over roles and responsibilities	Low	Project Manager	Project board roles and responsibilities will be identified and agreed in early project stages	2	2	4
5.	Scope of project changes	Low	Project Manager	Any changes to the project scope identified in this proposal will be escalated. It will then be documented and agreed using a Project Change Request procedure	2	4	8
6.	Availability of business resources to support the delivery of the project	Low	Project Sponsor	Project board will identify key business resources and plan appropriately. Any resource constraints will be escalated to the project board and CLB	3	4	12
7.	There is a risk to the reputation of the Council if the project is not managed by all owners in the correct way	Medium	Project Sponsor	The project sponsor to ensure that quality and communications standards are maintained throughout the project.	3	3	9
8.	The right developer is chosen – one who will guarantee delivery	Medium	Project Manager	The procurement process must define clearly what is required using learning from the previous project	2	4	8
9.	Regeneration benefits are realised	Medium	Project Sponsor	The output of the project to be measured at every stage of the project process	2	4	8

Extraordinary Council

Notice Of Motions - Mental Health Challenge

Report of: Managing Director

Ward Affected: All

This report is: Public

1. Executive Summary

1.1 Two Motions have been received from Cllr Tee

2. Context

2.1. Cllr Tee has submitted the following two Motions

1. That Brentwood Council agrees to adopt the Mental Health Challenge
2. That the position of 'Elected Member Mental Health Champion be occupied by Councillor Janet Pound.

Mental Health Challenge

1. Appoint an elected member as 'mental health champion' across the council. This requires one council member to agree to be the 'champion' for mental health. Each member champion will have their own aims, ambitions and priorities. In return for becoming a member champion, they become part of a national network and get advice and information from the six national charities behind the challenge.

2. Identify a 'lead Officer' for mental health to link in with colleagues across the council. A staff member would be required to support member champions in their role. This would not be an onerous responsibility and could be a development opportunity for a staff member with an interest in mental health or responsibilities that include it.

3. Follow the implementation framework for the national mental health strategy where it is relevant to the council's work and local needs. The implementation framework, published in 2012, sets out actions a range of organisations can take to achieve the objectives of the Government's mental health strategy. It includes a range of suggestions for local authorities relating to different areas of responsibility, including in housing.

4. Work to reduce inequalities in mental health in our community. There is clear evidence that some sections of a local community have higher levels of mental ill health and poorer wellbeing than others. Councils can use local needs assessments to identify which groups and which areas are most affected in order to focus efforts to ensure equal access to Council's services.

5. Work with local partners to contribute to better support for people with mental health needs. People with mental health problems often need support from a range of agencies – from health and social care to housing, employment and criminal justice services. Local councils can bring agencies together where appropriate to find ways of working more effectively (and efficiently) to help people to pursue better lives.

6. Promote wellbeing and initiate and support action to promote good mental health. Local councils can do a great deal to enable people to enjoy good mental health as part and parcel of their everyday activities.

7. Tackle discrimination on the grounds of mental health in our community. People living with mental illness continue to experience poorer treatment in many aspects of their lives. Local councils can ensure that they do not discriminate in any aspect of their work (including as an employer).

3. Background

The Mental Health Challenge will improve the way in which local authorities deliver their services to those with mental health issues and will reduce potential discrimination by increasing the awareness of council staff. The 'Mental Health Challenge' was set up by Centre for Mental Health, Mental Health Foundation, Mind, Rethink Mental Illness, Royal College of Psychiatrists and Young Minds. The Challenge is funded by the Department of Health through the Mental Health Strategic Partnership. The Mental Health Challenge considers that in their unique positions local authorities can assist with this work depending upon the type of Authority i.e. County or District and local factors. In their; '**No *Health without Mental Health; Implementation Framework***' document they provide ten challenges. Brentwood Borough Council are in a position to adopt the seven challenges contained within the motion.

4. Financial Implications: **Jo-Anne Ireland, Director of Strategy and Corporate Services** **jo-anne.ireland@brentwood.gov.uk**

There are no direct financial implications arising from this motion.

5. Legal Implications: **David Lawson, Deputy Monitoring Officer** **david.lawson@brentwood.gov.uk**

The Mental Health Challenge is a national initiative which is open to all authorities (with all upper tier Councils being specifically approached to join and given guidance on how their Health and Wellbeing Boards and Overview and Scrutiny Committees can contribute to this challenge). It is an important initiative and one in which District Councils have the remit to play a part so they so choose.

Report Author Contact Details:

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Extraordinary Council

Notice of Motion - Essex County Council

Report of: *Managing Director*

Ward Affected: *All*

This report is: *Public*

1. Executive Summary

1.1 A Motion has been received from Cllr Mrs Davies.

2. Context

2.1. Cllr Mrs Davies has submitted the following Motion:

We call on Brentwood Borough Council to liaise with Essex County Council to identify all ditches and culverts under their ownership and ensure a programme of clearance is carried out as a matter of urgency to help eliminate the recent flooding to roads in the Borough. In addition we request a letter is sent to all appropriate landowners in the Borough highlighting their legal responsibility to maintain their ditches to prevent run off from fields.

3. Background

No Background information has been supplied.

4. Financial Implications:

Jo-Anne Ireland, Director of Strategy and Corporate Services
jo-anne.ireland@brentwood.gov.uk

There are no direct financial implications arising from this motion.

5. Legal Implications:

David Lawson, Deputy Monitoring Officer
david.lawson@brentwood.gov.uk

This Motion is within the remit of the authority's powers.

Report Author Contact Details:

Name: *Jean Sharp*

Telephone Number: *01277 312655*

Email: jean.sharp@brentwood.gov.uk

Extraordinary Council

Notice of Motion - School Crossing Patrols

Report of: *Managing Director*

Ward Affected: *All*

This report is: *Public*

1. Executive Summary

1.1 A Motion has been received from Cllr Kendall.

2. Context

2.1. Cllr Kendall has submitted the following Motion:

Brentwood Borough Council calls on Essex County Council to recognise the level of concern members have with regard to the current review that is being undertaken on the future operation and allocation of School Crossing Patrols across Essex. This Council would be totally opposed to the County Council cutting any funding from the School Crossing Patrols in the Borough of Brentwood because we believe they provide a vital frontline service and help to ensure that children and parents remain safe when crossing the road.

3. Background

No Background information has been supplied.

4. Financial Implications:

Jo-Anne Ireland, Director of Strategy and Corporate Services
jo-anne.ireland@brentwood.gov.uk

There are no financial implications arising from this motion.

5. Legal Implications:

David Lawson, Deputy Monitoring Officer
david.lawson@brentwood.gov.uk

The proposed review to be undertaken by Essex County Council has the potential to impact on Brentwood residents and it is within the remit of Brentwood Council to express its concerns to ECC over how Brentwood residents may be affected.

Report Author Contact Details:

Name: *Jean Sharp*
Telephone Number: *01277 312655*
Email: jean.sharp@brentwood.gov.uk

Extraordinary Council

Notice Of Motion - Proposal for Avenue of Trees on Shenfield Common

Report of: Managing Director

Ward Affected: Brentwood South

This report is: Public

1. Executive Summary

1.1 A Motion has been received from Cllr Reed

2. Context

2.1. Cllr Reed has submitted the following motion:

“This Council proposes that a new avenue of Lime Trees to be planted alongside the existing pathway across Shenfield Common (adjacent to The Toby Carvery) as designed by the Borough's Arboriculturalist, is named The Jill Dimmock Peace Walk, subject to the agreement of the Conservators of Shenfield Common.

3. Background

No background information has been provided.

4. Financial Implications:

Jo-Anne Ireland, Director of Strategy and Corporate Services
jo-anne.ireland@brentwood.gov.uk

There are no financial implications arising from this motion.

5. Legal Implications:

David Lawson, Deputy Monitoring Officer
david.lawson@brentwood.gov.uk

This motion is within the powers and the terms of reference of Full Council to pass, if it so chooses. This remains the case even if there has been a delegation of the relevant function to a committee as section 101 (4) of the Local Government Act 1972 expressly provides that, “Any arrangement made by a local authority... for the discharge of any functions by a committee... shall not prevent the authority...from exercising those functions. The Conservators of Shenfield Common have the management of the common and motion is correctly expressed as subject to their agreement.

Report Author Contact Details:

Name: *Jean Sharp*

Telephone Number: 01277 312655

Email: jean.sharp@brentwood.gov.uk

Members Interests

Members of the Council must declare any pecuniary or non-pecuniary interests and the nature of the interest at the beginning of an agenda item and that, on declaring a pecuniary interest, they are required to leave the Chamber.

- **What are pecuniary interests?**

A person's pecuniary interests are their business interests (for example their employment trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and asset including land and property).

- **Do I have any disclosable pecuniary interests?**

You have a disclosable pecuniary interest if you, your spouse or civil partner, or a person you are living with as a spouse or civil partner have a disclosable pecuniary interest set out in the Council's Members' Code of Conduct.

- **What does having a disclosable pecuniary interest stop me doing?**

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not :

- participate in any discussion of the business at the meeting, or if you become aware of your disclosable pecuniary interest during the meeting participate further in any discussion of the business or,
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

- **Other Pecuniary Interests**

Other Pecuniary Interests are also set out in the Members' Code of Conduct and apply only to you as a Member.

If you have an Other Pecuniary Interest in an item of business on the agenda then you must disclose that interest and withdraw from the room while that business is being considered

- **Non-Pecuniary Interests**

Non –pecuniary interests are set out in the Council's Code of Conduct and apply to you as a Member and also to relevant persons where the decision might reasonably be regarded as affecting their wellbeing.

A 'relevant person' is your spouse or civil partner, or a person you are living with as a spouse or civil partner

If you have a 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.

Powers and Duties of the Council

Matters reserved to meetings of Council

Council

The Council is the ultimate decision making body of Brentwood Borough Council and the principal forum for major political debate. All 37 Councillors who have been elected to represent the borough attend the Council meeting.

The Council decides the overall objectives, major policies and financial strategies of the Council. It also considers recommendations from the Scrutiny and Regulatory Committees on issues of significance.

Through the Constitution, it delegates responsibility for carrying out many of the Borough Council's functions and policies to its Strategy and Policy Board and its Committees. It also agrees the membership of the Board and Committees/Sub Committees.

The Council is responsible for:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the Council policies and strategies which form the policy framework;
- (c) agreeing and approving the budget;
- (d) agreeing and/or amending the terms of reference for committees and any joint committees, deciding on their composition chairmanship 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;
- (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;
- (l) adoption of the Code of Conduct for Members;

- (m) approving the making of a virement or payment from the Council's reserves for values exceeding £200,000; and
- (n) determination of other matters appropriately referred to Council