



# Ordinary Council

## Agenda

### Part One

Town Hall, Brentwood

23 October 2013 at 7.00pm

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 01277 312655

#### **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.

##### 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.

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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.

## **Information for Members of the Public**

### **Access to Information and Meetings**

You have the right to attend all meetings of the Council and its Boards and Committees. You also have the right to see the agenda, which will be published no later than 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at [www.brentwood.gov.uk](http://www.brentwood.gov.uk) or from Democratic Services (01277 312739).

### **Webcasts**

All of the Council's meetings are webcast, except where it is necessary for the items of business to be considered in private session (please see below).

If you are seated in the public area of the Council Chamber, it is likely that your image will be captured by the recording cameras and this will result in your image becoming part of the broadcast. This may infringe your Human Rights and if you wish to avoid this, you can sit in the upper public gallery of the Council Chamber.

### **Private Sessions**

Occasionally meetings will need to discuss some of its business in private. This can only happen on a limited range of issues, which are set by law. When a Board or Committee does so, you will be asked to leave the meeting.

Guidelines on filming, photography, recording and use of social media at council and committee meetings

The council welcomes the filming, photography, recording and use of social media at council and committee meetings as a means of reporting on its proceedings because it helps to make the council more transparent and accountable to its local communities.

Where members of the public use a laptop, tablet device, smart phone or similar devices to make recordings these devices must be set to 'silent' mode to avoid interrupting proceedings of the council or committee.

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**

There is wheelchair access to the Town Hall from the Main Entrance. There is an induction loop in the Council Chamber.

### **Evacuation Procedures**

Evacuate the building using the nearest available exit and congregate at the assembly point in the North Front Car Park.

## **Part I**

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

### **1. Apologies for Absence**

### **2. Mayor's Announcements**

### **3. Minutes of the Ordinary Council meeting held on 10.07.13 and the Extraordinary Council meeting held on 11.09.13**

The Council is invited to approve the Minutes of the Ordinary Council meeting held on 10.07.13 and the Extraordinary Council meeting held on 11.09.13.

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# Minutes

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## Ordinary Council 10.7.2013

### Membership/Attendance

- |                    |                     |
|--------------------|---------------------|
| * Cllr Aspinell    | * Cllr Kerlake      |
| * Cllr Baker       | * Cllr Le-Surf      |
| * Cllr Mrs Beeston | * Cllr Lloyd        |
| * Cllr Braid       | * Cllr McCheyne     |
| Cllr Carter        | * Cllr Mrs McKinlay |
| * Cllr Chilvers    | * Cllr Morrissey    |
| * Cllr G Clark     | * Cllr Mrs Murphy   |
| * Cllr N Clarke    | * Cllr Mynott       |
| * Cllr Mrs Coe     | * Cllr Dr Naylor    |
| * Cllr Mrs Cohen   | * Cllr Parker       |
| * Cllr Mrs Cornell | * Cllr Mrs Pound    |
| * Cllr Mrs Davies  | * Cllr Quirk        |
| * Cllr Ms Golding  | * Cllr Reed         |
| Cllr Mrs Henwood   | * Cllr Russell      |
| * Cllr Hirst       | * Cllr Sapwell      |
| * Cllr Mrs Hones   | * Cllr Sleep        |
| * Cllr Hossack     | * Cllr Sparling     |
| * Cllr Keeble      | * Cllr Tee          |
| * Cllr Kendall     |                     |

\*present

### Officers Present

Jennifer Candler  
Alison Crowe  
Ashley Culverwell  
Saira Karim  
Malcolm Knights  
Bill Newman

Roy Ormsby  
Jean Sharp  
Steve Summers  
Lee Taylor  
Eric Whitfield

### **83. Apologies for Absence**

Apologies for absence were received from the Mayor – Cllr Madeline Henwood and Cllrs Ross Carter.

### **84. Deputy Mayor's Announcements**

All present stood for minute's silence in memory of former councillor Michael Copsey.

The Deputy Mayor recounted some of the duties he had undertaken since May.

### **85. Minutes of Ordinary Council 20.3.13 and Annual Council 15.5.13**

Resolved to approve as a true record the minutes of the Ordinary Council meeting held on 20.3.13 and Annual Council held on 15.5.13.

### **86. Public Questions**

Mrs Gearon-Simm had submitted two questions, details of which were before Members. Mrs Gearon-Simm had withdrawn her second question after publication of the agenda but asked to be allowed to put the question.

It was MOVED by Cllr Aspinell, SECONDED by Cllr Quirk and RESOLVED UNANIMOUSLY that Mrs Gearon-Simm should be allowed to ask her second question.

Responses to Mrs Gearon-Simm's questions were given by Cllr Mrs Pound and Cllr Mrs McKinlay.

### **87. Memorials or petitions**

Cllrs Chilvers presented a petition requesting the reinstatement of the one hour parking charge across all Brentwood car parks and Cllr Mrs Cohen presented a petition requesting that proposed plans for Friars Avenue car park be opposed.

Both petitions were referred to the Community Services Committee.

### **88. Chairs Reports**

Chairs' Reports were before Members.

Several issues were raised regarding the accuracy and content of the agenda and the Managing Director agreed to review the agenda and advise Members of the outcome accordingly.



## **89. Members' Questions to Committee Chairs**

In accordance with Rule 7.4 of Council Procedure Rules, 18 written questions had been received from Members and details of these were appended to the minutes. Cllr Quirk withdrew 5 of the questions he had posed.

Following the putting of these written questions to Chairs and receiving responses, oral questions were asked of Chairs and responses given.

(During consideration of this item Cllr Mynott declared a pecuniary interest under the Council's Code of Conduct by virtue of living close to the proposed William Hunter Way development site).

## **90. LDP Draft Plan**

The report before Members sought approval for the Brentwood Borough Draft Local Development Plan. Approval was also sought for public consultation to commence on the Draft LDP on 24 July 2013 or as soon as possible thereafter, for a period of 10 weeks.

The LDP was a statutory document that, once adopted, would guide decisions on the type, level and location of new development in the Borough. The draft LDP covered the period 2015-2030 and would set out the Council's vision and objectives for how the Borough should develop and contain policies and land allocations to achieve this vision. The draft LDP set out the Council's preferred approach and the purpose of the proposed consultation was to seek views on this approach and alternatives. It was proposed that the title of the LDP would be "Brentwood Borough Local Plan."

The draft Local Plan had been drawn up in light of national policy; public consultations (2009, 2010 and 2011); feedback from the Local Development Plan Working Group; discussion with stakeholders, technical evidence; and legal advice.

Following the consultation and analysis of consultation responses, the Council would then need to produce and publish a submission draft Local Plan for consideration by a Planning Inspector. Members were advised that formatting of the draft LDP document would be completed before it was published for consultation.

Cllr Mrs Coe MOVED and Cllr Mrs McKinlay SECONDED and it was RESOLVED that:

1. The Council approves Brentwood Borough Draft Local Plan for publication.
2. The Public consultation be carried out on the Draft Local Plan commencing 24th July 2013, or as soon as possible thereafter, for a period of 10 weeks.

3. A detailed plan be circulated with the consultation documents
4. A consultation programme would be published
5. Details of the consultation would be included on the Members' Portal

## **91. Lower Thames Crossing**

The report before Members sought delegated authority for the Managing Director to prepare and submit a consultation response, through consultation with cross party group leaders, to the consultation on Options for a New Lower Thames Crossing.

The Government was consulting until 16<sup>th</sup> July 2013 on the preferred location for additional road based river crossing capacity in the Lower Thames area. Evidence of the need for additional road-based capacity in the area was presented in the consultation document, together with three different location options for a new crossing and a further variant on one of the options.

Cllr Mrs McKinlay MOVED and Cllr Parker SECONDED and it was RESOLVED that:

1. The Council approves delegation to the Managing Director, through consultation with group leaders, to agree and submit the Borough Council's response to the Options for a New Lower Thames Crossing Consultation Document.
2. The response would be circulated to all Members and be published.

Cllrs Mrs Beeston and Mrs Cornell left during the meeting and were not present during consideration of the following items.

## **92. Notice of Motion – Welfare Reform Act 2012**

Cllr Le-Surf had submitted a notice of motion and he MOVED and Cllr Morrissey SECONDED the following:

*"In an attempt to mitigate the effects of the coalition government's Welfare Reform Act 2012 in relation to the "under-occupancy penalty" more commonly known as the "bedroom tax", Brentwood council will follow Leeds council's fine example and where possible reclassify "spare" rooms within our housing stock as "non-specific rooms", saving the council the cost of potentially having to evict and re-house tenants who cannot pay this draconian under-occupation charge."*

*It is, therefore, proposed that the Council should, where possible, reclassify 'spare' rooms within its housing stock as 'non-specific rooms'."*

Following a full discussion a Member requisitioned pursuant to Part 4.1 of the Constitution, Rule 9.5, that voting on the Motion be recorded.

Members voted as follows:

FOR: Cllrs Aspinell, Chilvers, Clark, Clarke, Mrs Cohen, Mrs Davies, Keeble, Kendall, Le-Surf, Lloyd, Morrissey, Mynott, Quirk and Sapwell (14)

AGAINST: Cllrs Baker, Braid, Mrs Coe, Ms Golding, Hirst, Mrs Hones, Hossack, Kerlake, McCheyne, Mrs McKinlay, Mrs Murphy, Dr Naylor, Parker, Mrs Pound, Reed, Russell, Sleep, Sparling and Tee (19)

ABSTAIN: None

The Motion was LOST.

### **93. Motion – Night Time Economy**

Cllr Aspinell had submitted a notice of motion and he MOVED and Cllr Mynott SECONDED the following:

*“We call upon the council to implement an urgent strategy to manage Brentwood's night time economy.*

*We ask for an investigation of other councils' strategies and for Brentwood Council to consider issues and solutions such as night time car parking charges, toilet facility provision, licensed premises contributions and other anti social issues.”*

Following a full discussion a Member requisitioned pursuant to Part 4.1 of the Constitution, Rule 9.5, that voting on the Motion be recorded.

Members voted as follows:

FOR: Cllrs Aspinell, Baker, Chilvers, Clark, Clarke, Mrs Cohen, Mrs Davies, Keeble, Kendall, Le-Surf, Lloyd, Morrissey, Mynott, Quirk and Sapwell (15)

AGAINST: Cllrs Braid, Mrs Coe, Ms Golding, Hirst, Mrs Hones, Hossack, Kerlake, McCheyne, Mrs McKinlay, Mrs Murphy, Dr Naylor, Parker, Mrs Pound, Reed, Russell, Sleep, Sparling and Tee (18)

ABSTAIN: None

The Motion was LOST.

(During consideration of this item Cllr Clarke declared a pecuniary interest under the Council's Code of Conduct by virtue of owning a business in the Town Centre).

#### **94. Notice of Motion – Night Time Parking Charges**

Cllr Kendall had submitted a notice of motion and he MOVED and Cllr Sapwell SECONDED the following:

*“We welcome our visitors to Brentwood in the evening but realise that there is a dichotomy between day time and night time parking charges where you pay £10 for 6 hours of parking during the day but nothing at night, which is unfair to those businesses who operate during the day and our residents who are the most regular supporters of local traders during the day.*

*We ask for some level of fairness and for a charge at night to be introduced ASAP, offsetting the cost to our local residents during the day and aiding our day time operating businesses and local traders.”*

During the ensuing debate, a Member requested further information be provided regarding the financial implications of introducing evening charging in the Council's car parks.

Following a full discussion a Member requisitioned pursuant to Part 4.1 of the Constitution, Rule 9.5, that voting on the Motion be recorded.

Members voted as follows:

FOR: Cllrs Aspinell, Baker, Chilvers, Clark, Clarke, Mrs Cohen, Mrs Davies, Keeble, Kendall, Le-Surf, Lloyd, Morrissey, Mynott, Quirk and Sapwell (15)

AGAINST: Cllrs Braid, Mrs Coe, Ms Golding, Hirst, Mrs Hones, Hossack, Kerlake, McCheyne, Mrs McKinlay, Mrs Murphy, Dr Naylor, Parker, Mrs Pound, Reed, Russell, Sleep, Sparling and Tee (18)

ABSTAIN: None

The Motion was LOST.

#### **95. Notice of Motion – Parking Charges and Provision Review in Shenfield**

Cllr Mrs Cohen had submitted a notice of motion and she MOVED and Cllr Clark SECONDED the following:

*“With the arrival of Crossrail imminent, we call for a strategic parking charges and provision review in Shenfield to protect our residents and businesses throughout the construction period.”*

Cllr Mrs McKinlay MOVED and Cllr Parker SECONDED an AMENDMENT to the Motion as follows:

*“With the arrival of Crossrail expected at the end of 2014/start of 2015, we welcome the Leader's announcement at the Strategy and Policy Board meeting on 22<sup>nd</sup> May that consultation will commence this summer on a strategic parking charges and provision review in shenfield to protect our residents and businesses before, during and after the construction period. We acknowledge that the current work will continue ahead of any final decision being taken by the relevant panel”.*

Following a full discussion a Member requisitioned pursuant to Part 4.1 of the Constitution, Rule 9.5, that voting on the proposed amendment be recorded.

Members voted as follows:

FOR: Cllrs Braid, Mrs Coe, Ms Golding, Hirst, Mrs Hones, Hossack, Kerlake, McCheyne, Mrs McKinlay, Mrs Murphy, Dr Naylor, Parker, Mrs Pound, Reed, Russell, Sleep, Sparling and Tee (18)

AGAINST: Cllrs Aspinell, Baker, Chilvers, Clark, Clarke, Mrs Cohen, Mrs Davies, Keeble, Kendall, Le-Surf, Lloyd, Morrissey, Mynott, Quirk and Sapwell (15)

ABSTAIN: None

The MOTION for AMENDMENT was CARRIED.

Following a full discussion a Member requisitioned pursuant to Part 4.1 of the Constitution, Rule 9.5, that voting on the Motion be recorded.

Members voted as follows:

FOR: Cllrs Mrs Coe, Ms Golding, Hirst, Mrs Hones, Hossack, Kerlake, McCheyne, Mrs McKinlay, Mrs Murphy, Dr Naylor, Parker, Mrs Pound, Reed, Russell, Sleep, Sparling and Tee (17)

AGAINST: Cllrs, Baker, Braid, Clark, Clarke, Mrs Cohen, Keeble, Kendall, Le-Surf, Lloyd, Morrissey, Mynott, Quirk and Sapwell (13)

ABSTAIN: Cllrs Aspinell, Chilvers and Mrs Davies (3)

The MOTION was CARRIED.

During discussion of this item, Cllr Lloyd requested that his belief that certain rules in Part 4.1 of the Council's Constitution had been breached be recorded, ie:

## **Amendments**

3.3 Subject to Rule 3.4, notice of an amendment to a recommendation or motion on the agenda for a Council meeting may be given by two members to the Monitoring Officer by 10.00 am **four working days** before the day of the meeting but amendments arising from the debate at the Council meeting on a motion or recommendation will always be considered.

### 8.2 Amendment without notice

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

#### 8.3.7 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.

## **96. Notice of Motion – Right to Record Proceedings**

Cllr Lloyd had submitted a notice of motion and he MOVED and Cllr Chilvers SECONDED the following:

*“Brentwood Borough Council believes in the freedom and right for residents and the press to attend Council and committee meetings in our Town Hall.*

*We believe that residents and the press should have the right to record the proceedings of any such meeting using whichever form of media they wish as long as such media does not disturb the meeting itself. This would include the use of audio and visual recording with flash turned off and devices switched to silent.*

*This Council will therefore amend all existing restrictions in place which currently prohibit such electronic recording equipment. This change would ensure that our Council truly embraces the belief of being open and transparent in the modern age*

*and meets both the statutory requirements of the The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.”*

Cllr Mrs McKinlay MOVED and Cllr Hirst SECONDED an AMENDMENT to the Motion as follows:

*“Brentwood Borough Council believes in the freedom and right for residents and the press to attend Council and committee meetings in our Town Hall.*

*We believe that residents and the press should have the right to record the proceedings of any such meeting except where the law requires the public to be excluded from that meeting, and that they should be entitled to use whichever form of media they wish as long as such media does not disturb the meeting itself.*

*This would include the use of audio and visual recording with flash turned off and devices switched to silent.*

*This Council therefore resolves to amend existing restrictions as necessary and charges the constitution working group with the support of the Council's legal officer to ensure these rights are included in the constitution and that these changes will be introduced in time for the next cycle of meetings starting in September 2013.*

*This change ensures that our Council truly embraces the belief of being open and transparent in the modern age and goes well beyond both the statutory requirements of the The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.”*

Cllrs Lloyd and Chilvers accepted the AMENDMENT and the MOTION was RESOLVED UNANIMOUSLY.

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# Minutes

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## Extraordinary Council 11.9.2013

### Membership/Attendance

- |                    |                   |
|--------------------|-------------------|
| * Cllr Aspinell    | * Cllr Kerlake    |
| * Cllr Baker       | * Cllr Le-Surf    |
| Cllr Mrs Beeston   | * Cllr Lloyd      |
| * Cllr Braid       | * Cllr McCheyne   |
| * Cllr Carter      | Cllr Mrs McKinlay |
| * Cllr Chilvers    | * Cllr Morrissey  |
| * Cllr G Clark     | * Cllr Mrs Murphy |
| * Cllr N Clarke    | * Cllr Mynott     |
| * Cllr Mrs Coe     | * Cllr Dr Naylor  |
| Cllr Mrs Cohen     | * Cllr Parker     |
| * Cllr Mrs Cornell | * Cllr Mrs Pound  |
| * Cllr Mrs Davies  | * Cllr Quirk      |
| * Cllr Ms Golding  | * Cllr Reed       |
| * Cllr Mrs Henwood | * Cllr Russell    |
| * Cllr Hirst       | * Cllr Sapwell    |
| * Cllr Mrs Hones   | Cllr Sleep        |
| * Cllr Hossack     | * Cllr Sparling   |
| * Cllr Keeble      | * Cllr Tee        |
| * Cllr Kendall     |                   |

\*present

### Officers Present

Jennifer Candler  
Alison Crowe  
Chris Gill  
Jo-Anne Ireland

David Lawson  
Philip Ruck  
Jean Sharp  
Lee Taylor

Also ex-officer Brian Partridge

**154. Apologies for Absence**

Apologies for absence were received from Cllrs Mrs Beeston, Mrs Cohen, Mrs McKinlay and Sleep.

**155. William Hunter Way**

The report before Members sought agreement to note the report and the verbal update given by Chair of the Planning and Development Committee, Cllr Mrs Coe, on the outcome of the Planning and Development Committee meeting held immediately before the current full council meeting.

Cllr Hirst MOVED and Cllr Parker SECONDED the recommendation and following a full discussion a Member requisitioned pursuant to Part 4.1 of the Constitution, Rule 9.5, that voting on the Motion be recorded.

Members voted as follows:

FOR: Cllrs Braid, Mrs Coe, Mrs Cornell, Ms Golding, Mrs Henwood, Hirst, Mrs Hones, Hossack, Kerlake, McCheyne, Mrs Murphy, Dr Naylor, Parker, Mrs Pound, Reed, Russell and Sparling (17)

AGAINST: Cllrs Aspinell, Baker, Chilvers, Clark, Clarke, Keeble, Kendall, Le-Surf, Lloyd, Morrissey, Mynott, Quirk and Sapwell (13)

ABSTAIN: Cllrs Carter, Mrs Davies and Tee (3)

The Motion was CARRIED and it was RESOLVED to note the report and the verbal update on the outcome of the planning committee meeting which took place immediately before the current meeting.

(Cllr Lloyd declared a non-pecuniary interest under the Council's Code of Conduct by virtue of a family member working at Marks and Spencer and Cllr Mynott declared a pecuniary interest under the Council's Code of Conduct by virtue of living adjacent to the proposed development site. However, the Interim Monitoring Officer had granted a dispensation for Cllr Mynott to participate in the Extraordinary Council Meeting on the grounds that it was in the interests of persons living in the authority's area that he be able to put their views and concerns).

**156. The Town Hall**

The report before Members was provided for information to enable consideration of options for the future of the Town Hall following approval of the Outline Business Case (OBC) by Council in July 2012.

Members were reminded that, at the Ordinary Council meeting in July 2011, it was reported that the Town Hall in its current state:

- Was not fit for purpose
- Was barely Disability Discrimination Act (DDA) compliant
- Required modernisation
- Had high energy usage

The outline business case (OBC) made it clear that to do nothing was not an option as the building would fall into further disrepair, with potential failure of infrastructure affecting service.

The aim of the proposed scheme was in line with the OBC in that it

- Provided a modern, economic civic office building
- Created business opportunities within Brentwood (via the availability of flexible commercial office space)
- Provided flexible office space for community sector use
- Improved the overall utilisation of space within the Town Hall

Cllr Kerslake MOVED and Cllr Quirk SECONDED the recommendations included in the report. Members of the Town Hall Delivery Group and relevant officers were thanked for their work in progressing the Town Hall project, also Chromex and CAN for their co-operation.

During the debate, in relation to recommendation 2.5 in the report, Cllr Hirst advised that the Administration proposed that any further decision needing to be made should be considered by Full Council.

Following a full discussion a Member requisitioned pursuant to Part 4.1 of the Constitution, Rule 9.5, that voting on the Motion be recorded.

Cllr Russell left the meeting before the vote was taken.

Members voted as follows:

FOR: Cllrs Aspinell, Baker, Braid, Carter, Chilvers, Clark, Clarke, Mrs Coe, Mrs Cornell, Mrs Davies, Ms Golding, Mrs Henwood, Hirst, Mrs Hones, Keeble, Kendall, Kerslake, Le-Surf, Lloyd, Morrissey, Mrs Murphy, Mynott, Dr Naylor, Parker, Mrs Pound, Quirk, Reed, Sapwell, Sparling and Tee (30)

AGAINST: Cllrs Hossack and McCheyne (2)

ABSTAIN: None

The Motion was CARRIED and it was RESOLVED

1. That the Chromex proposal be approved, detailed Heads of Terms be agreed, and to authorise conclusion of a lease with Iridium Assets with a parent company guarantee to be provided by the Chromex Group and that delegated authority to take appropriate decisions to conclude the lease be granted to the Managing Director in consultation with the Leader of the Council and the Chair of the Town Hall Delivery Group.
2. That the CAN proposal be approved, detailed Heads of Terms be agreed, and to authorise conclusion of a lease with CAN and that delegated authority to take appropriate decisions to conclude the lease be granted to the Managing Director in consultation with the Leader of the Council and the Chair of the Town Hall Delivery Group.
3. Prior to the conclusion of leases at 1 and 2 above, a surrender be sought of the County Council lease
4. That authority is given to formally appoint the design team and to tender the works to the Council part of the building
5. That authority is given to incur capital and revenue expenditure on the project up to a maximum as previously agreed by Council (a capital cost envelope of £3,571,794 and a one off revenue budget of £35,000). If the final estimates are greater than 5% different to the agreed levels, a further report to be brought back to Full Council for approval.

- 157. Urgent Business – Appointment of Monitoring Officer** (The following item was considered by the Mayor to be urgent business pursuant to Section 100B(4)(b) of the Local Government Act (as amended) in order that Members could consider the matter without further delay).

A Monitoring Officer needed to be appointed for Brentwood Borough Council since the previous Monitoring Officer left the Council's employ on 30<sup>th</sup> August 2013.

Cllr Hirst MOVED and Cllr Aspinell SECONDED and it was RESOLVED UNANIMOUSLY that:

1. David Lawson is appointed as the Council's Monitoring Officer in accordance with Section 5 of the Local government and Housing Act 1989.
  2. Fiona Taylor and Alison Stuart are appointed as the Council's Deputy Monitoring Officers.
-

## Ordinary Council 23.10.2013

### 4. QUESTIONS ASKED BY MEMBERS OF THE PUBLIC

**Report of** *Managing Director*

**Author** *Jean Sharp*

**Telephone Number** 01277 312655

**Email** *jean.sharp@brentwood.gov.uk*

#### 1. Executive Summary

1.1 In accordance with Part 4.1 of the Constitution, Rule 10, para 10.1, questions are allowed to be asked by residents and responded to by a named Member.

1.2 Mrs Gearon Simm has submitted two questions as follows:

1. "On Wednesday 13th June 2013, the Gazette reported that the charity Brentwood Food Bank hopes to be allowed to use the town hall instead of the Doddinghurst Road Church.

"A nominal rent of £100 will be charged for the charity to use this site".

The Doddington Church Food Bank is not a profit making organisation and I fail to understand why any rent, albeit nominal, is being charged. It seems that the powers that be in Brentwood Borough Council have no compassion and probably engage in blaming the people who are dependent on this facility.

Who was on the working group that made this decision?

An explanation of the reason for this heartless gesture would be appreciated. England is the fifth richest country in the world and it is difficult to understand why food banks exist here".

2. "In Section 28(1) of the Localism Act 2011, the Nolan Principles outline objectives for Members' behaviour.

Under the heading 'Selflessness', Members are expected "to serve only the public interest and never improperly confer an advantage or disadvantage on any person".

Does this mean that Members will not be allowed to bid for and obtain Council Contracts and thus receive financial remuneration personally for such work?"



**Ordinary Council 23.10.2013**

**6. CHAIRS REPORTS  
(Appendix 1)**

**Report of** Managing Director

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1. Executive Summary

1.1 A brief report by Committee Chairs covering their area of responsibility can be found at Appendix 1.





## **Chairs' Report - Strategy and Policy Board for Ordinary Council 23.10.2013**

### **New Ways of Working (NWOW)**

As you are aware, each of the support service functions have been earmarked for the Back Office Review. Since the Summer, we have been reviewing the Services to evaluate the best way to progress, taking into consideration the current skills, capacity, and software and whether these will meet the increasing demands and challenges.

After careful consideration, the remaining elements of the review will now be split into 2 separate phases as follows:-

**Phase 1: Finance**

**Procurement**

**Facilities Management (Caretakers)**

**Phase 2: HR**

**Payroll**

**Legal (including Debt Recovery)**

The consultation for Phase 1 will commence in October.

For Phase 2 – alternative service delivery models are currently being reviewed. The findings and subsequent recommendations will be the subject of a report to Strategy & Policy Board on the 20<sup>th</sup> November 2013. Consultation with staff will commence immediately after this date.

### **Medium Term Financial Plan (MTFP)**

The headline planning assumptions have been agreed in order that the detailed work on the MTFP can commence.

The Summer Spending Review highlighted a number of key important issues:

- Council Tax Freeze Grant funding will be made available for 2014/15 and 2015/16.
- There will be a Council Tax referendum threshold in 2014/15 and 2015/16 of 2%.
- There could be a potential further 10% cut to Local Government funding for 2015/16.

- There could be a reduction in New Homes Bonus (NHB) Grant funding if the proposals to pool £400m of funding within Local Enterprise Scheme Partnership areas should go ahead.

Consultation on the NHB closed on 19<sup>th</sup> September and it is anticipated that the final outcome of this will be announced in line with the provisional finance settlement report in December.

Based on this current information, the Council could face a shortfall in funding for 2015/16 of some £494,000.

### **Housing Revenue Account Property Acquisitions Through Mortgage Rescue Scheme**

In September the Strategy and Policy Board agreed to take advantage of the Government's Mortgage Rescue Scheme to support families at risk of repossession due to mortgage arrears. Officers are working up a longer term Policy as part of next year's budget setting. I am pleased to advise Members that following the Committee agreeing that as an interim measure cases are assessed on their merit and that £100,000 should be made available for this purpose, officers are currently working with a family in the borough to acquire a property and avoid a costly homelessness situation.

### **Crossrail**

Under the Crossrail Act the local authority will be determining the Schedule 7 application (Planning Application) . This will focus on assessing the mitigation on elements around construction such as hours or works, amenity, works traffic, etc. This application was anticipated to come to the authority for determination this year, however there has been a delay with the cross rail team due to negotiations with the rail franchisees. It is now anticipated that we will have the authority early next year.

The Chairman of Crossrail (Terry Morgan) is committed to engaging with local groups. A meeting with Crossrail, Members and local business representations is scheduled to take place on 23<sup>rd</sup> October. A verbal update can be provided at the meeting.

## **Report to the Council**

**Committee: Performance and Resources Committee**

**Chair: Councillor John Kerlake**

### **Single Status**

At the 5<sup>th</sup> August 2013 Performance & Resources Committee Members received a report for the agreement to the implementation of Single Status at the Council following consultation with the Single Status Representative Group (SSRG) and employees. It set out in detail the background proposals for pay, grading and terms and conditions of service together with specific implementation proposals and implications.

Members were reminded that the Council had a legal obligation to implement Single Status and bring about the introduction of an equitable and consistent pay and grading structure and to harmonise terms and conditions of service for all Brentwood Borough Council employees.

Following consideration of the report the Committee resolved that new arrangements for pay, grading, harmonised terms and conditions of employment and the implementation thereof be approved.

Members are advised that to complete the Single Status Project there are two distinct processes which need to be undertaken as set out below. These processes will be run in parallel.

1. The notification of the final job evaluation outcome for jobs and the appeals process. This has been provided to all employees on the 2<sup>nd</sup> October 2013.
2. The statutory requirement for a 45 day consultation on the changes to employee's terms and conditions of employment will take place through October and November 2013.

Further communication and road shows have been held for staff to explain the above processes with further 'drop in' sessions planned.

### **Assets**

Progress continues to be made in establishing a Strategic Asset Management Team. Recruitment of a permanent Strategic Asset Manager is underway. Good work has been undertaken in establishing an asset register which provides us with a firm foundation from which we can further develop our strategic asset management plans.

Short term Interim resource has been brought in to support the asset management team in progressing current projects including land sales, major projects and developing budgets. The interim officer is also introducing asset management systems, templates and procedures to provide a good foundation for our permanent team. He is also undertaking a first phase of asset reviews and supporting the recruitment of our permanent Strategic Asset Manager.

**Property sales currently progressing to contract include:**

Hutton Parish Hall, Swan Pond, Crown Street small parking area, Bell Mead.

**Garden Land Sales:**

We are progressing 14 applications.

**Bid being presented to Committee for Approval:**

Old House.

**Sites being marketed:**

Warley Training Centre.

Work over the next 12 months will include:

- Supporting the Repairs and Maintenance Procurement and developing a building maintenance strategy.
- Refreshing the Councils Asset Management Plan, Action Plan and delivery milestones.
- Further developing the asset register and property data.
- Developing a Disposals Guidance Note.
- Implementing a rolling asset challenge process.
- Refining performance reporting.
- Progressing development opportunities including those that may emerge through LDP consultation.

**Council's Budget**

The Committee received a report in August on the Provisional Outturn for 2012/13.

The findings from the Outturn will inform the Half Year Budget Review for 2013/14 in a number of key areas including:

- Reprofiling of the Capital Programme (to take account of the slippage from 2012/13)
- Direct comparison of outturn income and expenditure against current year budgets.

The Council has some challenging savings targets, with some £500,000 worth of savings anticipated for 2013/14 alone. Early indications are that good progress is being

made with regards to these savings which are largely centred around the New Ways of Working (Back Office Review) and Procurement.

### **Procurement Review**

Work is underway to capture and record savings which deliver both cash savings for the Council and also value for money (i.e. areas where we get more for the same cost).

We are also developing our processes for purchases from £10,000 to £50,000 to give more local people the opportunity to bid for Council work. This will involve the development of a live web page which provides details of goods and services the Council is seeking to procure. Alongside this, we are promoting the use of Procurement Cards. These cards are a quick and convenient method of making low-value purchases and have considerable benefits to the Council and Suppliers who receive cleared funds in their accounts within four working days.

This review is not just focused on ensuring that the Council achieves value for money in its procurement, but to also help and support local businesses.



## **Report to the Council 23 October 2013**

**Committee: Community Services Committee**

**Chairperson: Councillor Pound**

### **Housing and Health**

#### **Tender of Repairs and Maintenance Contracts**

The repairs and maintenance contracts for the Council's Housing Services and Corporate Buildings are out to tender, with a return date of 6 November 2013. The new contracts aim to streamline the entire service providing the Council with more consistency and better value for money.

Since the last Council meeting, officers have evaluated initial expressions of interest from 32 companies. The shortlist of those invited to tender numbers 14 firms.

The first meeting of the cross-party Member Working Group, set up to oversee the procurement process met on Thursday 12 September 2013. The Group will continue to meet at regular intervals throughout the procurement process.

The final decision about contract awards is scheduled to be taken by Community Services Committee in February 2014, and the new contracts are scheduled to commence in June 2014.

#### **Draft Tenancy Agreement**

Following the adoption of the consultation and draft of the new Tenancy Agreement, officers will shortly be sending the proposed agreement to all of our tenants to consult them on the proposals.

Whilst the vast majority of our Council tenants are socially responsible and good neighbours, it is sad that a small minority can ruin the local community for others. Our new agreement proposes strengthened clauses on anti-social behaviour and tenancy fraud.

#### **Tenant involvement continues to progress**

I am delighted that the new Tenancy Agreement received the support of Tenant Talkback, our advisory group of tenant representatives who have been so important over the last few years in helping us shape the future direction of the Council's Housing Service.

It was a particular pleasure that when this item was debated at the Council's Community Services Committee on 8<sup>th</sup> October, representatives from Tenant Talkback participated as co-opted members of the Committee for the first time.

We look forward to continued involvement of our Talkback co-optees in debating housing related items at future committees. This is all part of developing different ways of working with and involving our tenant representatives to provide the best outcomes for the Borough's housing service.

## **Community Services**

### **Family Fun Days**

Community Services delivered 6 successful Family Fun Days this Summer. The team worked with local community groups and activity providers to bring free events for our local residents and park users, which included Punch and Judy, bouncy castles, small children's rides, face painting and sports and arts workshops. The events supported the Corporate Plan's priorities by working cross-departmentally with our parks and recycling teams, as well as promoting localism. We estimate that the total number of visitors to our Family Fun Days this summer was over 6000.

### **Lighting Up Brentwood**

The Community Services team is busy planning this year's Lighting Up Brentwood event, which will take place from 12 noon – 6pm on Saturday 30 November. Once again, the department is working with a strong group of representatives from the local community to make the event a success.

The team has had a great response from the community so far, with an abundance of stall and performer applications and many requests from businesses for advertising and sponsorship opportunities.

Plans so far for the event include some hilarious street performers, a full sized pod puppet polar bear, choirs, bands, children's rides, market stalls, a children's secret santa treasure hunt, Father Christmas' Grotto and the candle-lit parade and light switch –on at 5pm.

The team is still looking for volunteer stewards, addresses to host an advertising board, and there is still some space left in the programme for advertisers. For all information, please email [lightingup@brentwood.gov.uk](mailto:lightingup@brentwood.gov.uk)

## **Environmental Health**

Environmental Health has been working closely with Network Rail and their contractors to minimize noise disturbance from the night time essential works to the rail tracks. These works, which are part of a major upgrade of overhead power lines between



Liverpool Street and Chelmsford including the installation of new gantries and recabling, together with 'Access for All' works to update stations to accommodate disabled people, vegetation trimming and other general maintenance works. As the works have to be carried out at times when the contractors can get access to the track this does require work at night and weekends which can cause disturbance to nearby houses.

A communication system has been set up between our Environmental Health team and Network Rail Senior Officers to enable us to deal with any issues caused by the works directly and to provide contact points for members of the public.

Officers have also been working with the Crossrail project to ensure that contractors are employing the best methods to reduce disturbance to residents during their current works which will include improvements to Shenfield and Brentwood station.

We have also liaised with Clancy Docwra regularly to minimize noise disturbance for residents from cable laying works throughout the Borough.

Officers have also been involved in collaboration with the police and RSPCA to deal with problems caused by a resident keeping four dogs in a private house which was causing complaint; this required a warrant to be issued by the Magistrates' Court for officers to gain entry to the property in order to ensure the welfare of the animals and get the house and garden cleaned up.

On a more unusual note, Environmental Health officers have also been involved with the filming of the zombie movie 'Welcome To Essex' which attracted hordes of zombie extras to an early morning film shoot in Brentwood High Street as the climax of the film, where actors were chased by zombies through the town. Officers worked with the film producers and crew to ensure that the event took place without incident despite the 4am Sunday morning setup, which resulted in a successful operation to close the High Street during the filming.

The excellent rate of food hygiene compliance within the Borough holds steady at over ninety seven percent. This is reflective of the good working relationship the Council has developed with food businesses and their willingness to constantly strive to improve standards to safeguard our residents..

## **Community Safety**

Following approval of the Community Safety Commissioning Plan at Community Services Committee on 23<sup>rd</sup> July 2013 the delivery of the Plan is fully under way.. The first Firebreak course is taking place on 21<sup>st</sup> October. Funding has been released to deliver the Strengthening Families Programme and to Neighbourhood Watch in order to assist them in launching their Scary be Wary Scheme. Monthly bulletins will be placed in various locations around the Borough including banks, large retail and other stores. These will provide advice and information on particular crimes and also positive stories

about successes achieved. Dates are also being agreed for the various other projects such as the Youth Engagement Project, Prison Me No Way, and the Crime & Safety Awareness Day for Elderly/Vulnerable residents.

Following the public meeting on 10<sup>th</sup> June to discuss licensing issues and concerns regarding anti-social behaviour in the Town Centre the Brentwood Nightlife Action Group (BNAG) has been established to bring together key agencies and representatives, including local residents. A 30 point action list has been developed. Their second meeting is taking place on 10<sup>th</sup> October which will be followed by a public meeting on 14<sup>th</sup> October 5-6pm in the Council Chamber to update on what has been achieved. In addition, the Police & Crime Commissioner is returning to Brentwood on the same day immediately after the public meeting. His second public meeting is at Brentwood County High School 6.30-8.30pm.

As a result of the Council's commitment to tackle issues within our communities, particularly those affecting young people, a new and innovative project Life Choices – Last Chances has been developed. An initial pilot was held in September with great results. It was well received by the young people who took part, with excellent feedback. Referrals are now being sought from local secondary schools for the first participants in the full project. The young people will receive a high impact and visual presentation from several experienced volunteers ranging from ex-gang members to recovering addicts. The project has been developed following recognition of gaps within current available projects aimed at tackling maladaptive behaviours. It is unique in so many ways and has received praise from ECC Youth Service and High Sheriff following her visit on 26<sup>th</sup> September.

### **Street Scene**

There has been another successful round of ward visits by the Neighbourhood Action Team, with numerous compliments for the work they are doing. This has ranged from general grounds maintenance, small tree works, clearing pathways, and painting a pavilion. All the work has made a difference to the local community, and it is important that Members continue to work with community groups to identify issues that are impacting on their community.

There has been a number of recycling awareness days held, including at the fun days in King George Playing Fields, and at Ingatestone. These have been well attended, with free bags given out and information on the need to recycle more in the future. Other days are planned, with litter awareness programmes with schools in place for November and December.

The Countryside volunteers have made some good progress through their Wednesday programme, and are currently renovating the access trail in Hartwood, which will allow more people to enjoy the woodland.

## **Report to the Council 23 October 2013**

### **Committee: Licensing**

#### **Chairperson: Councillor McCheyne**

Multiagency cooperation continues to play a major role in licensing enforcement, where much of the work that is undertaken is done in full cooperation with other key authorities, not least of which are the Police, Trading Standards and the Councils own environment team.

Information has recently been passed to Trading Standards by the licensing team following complaints relating to alleged under age sale of alcohol. This will be followed up with a test purchase operation conducted by Trading Standards with a report back to the licensing team and appropriate action to be taken in the event of any sale of alcohol being made to a minor.

A further example of an initiative that will include close partnership with the Police and potentially with officers from trading standards, will involve checks on taxi and private hire vehicles and drivers. This will take the form of spot checks on licensed vehicles for purpose of safety and roadworthiness as well as identifying any vehicles or drivers that may be operating otherwise than in accordance with a licence.

The Taxi and Private Hire service in the Borough is both efficient and safe with proprietors generally working with the Council for the mutual benefit and safety of the travelling public. Whilst these checks will ensure that drivers and their vehicles are achieving the required standards that both the respective companies and the Council would expect, the main purpose is to ensure that there are no unlicensed vehicles or drivers operating in or through the Borough. Unlicensed activity is not only unlawful but may pose a risk to the public on the basis that the vehicles may be unsafe and the drivers may not have been vetted to ensure that they are fit and proper persons.

Similar checks on premises licensed to sell alcohol continue to be made on a regular basis to ensure that licence terms and conditions are complied with. These are conducted both unilaterally by the licensing team and on occasions jointly with the Police, who share enforcement responsibilities under provision of the Licensing Act.



## **Report to the Council – 23.10.13**

### **Committee: Overview & Scrutiny**

#### **Chair: Councillor Chilvers**

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### **Annual Work Programme**

At the Overview & Scrutiny Committee on the 18<sup>th</sup> September the Committee considered the Annual Work Programme for the coming year as set out below.

Task & Finish Groups have been completed or are in progress for the following item.

- Localisation of Council Tax
- Approach to Grants

Task & Finish Groups will be put in place for the following items.

- Customer Transformation Project (subject to clarity from the Monitoring Officer)
- Consultation process on parking
- Member/Officer communications

And the committee will also be considering the following matters

- The proposals for the 2014/15 Budget
- The work of the Community Safety Partnership in 2013/14
- Quarterly Performance Indicators
- William Hunter Way Working Group
- Crossrail Working Group

In addition the O&S Committee will be operating an 18 month rolling programme and items currently for 2014/15 include

- Housing Repairs and Maintenance Review
- Use of Assets

In addition at its meeting on the 18<sup>th</sup> September the Overview & Scrutiny Committee considered the following matters.

First Quarter 2013-14 Performance Indicators – The committee considered the 1<sup>st</sup> quarter performance for 2013-14 and, due to a number of concerns raised, agreed that a special Corporate Leadership Board meeting be set up as part of the review of

performance indicators to involve the Chair and Vice Chair and representatives from other parties.

Local Council Tax Support Scheme – Members considered the findings of the first year of the operation of the scheme and were provided with and agreed proposals from the Task and Finish Group for amendments to the Scheme for 2014/15.

Staff Morale – The committee received a report on previous staff surveys and temperature check exercises. Following discussions the committee agreed to recommend to the Performance & Resources Committee that consideration is given to the undertaking of a Staff Survey by the end of January 2014.

Grounds Maintenance – Following an officer recommendation, Members considered the current arrangements with regard to the maintenance of grass verges within the borough which were the responsibility of Essex County Council. The Borough Council currently undertook this work however the payment from ECC did not cover the cost of such work. As such the committee resolved a number of matters to try and address the issue.

Urgent business – Vote of no confidence - The urgency for this item of business was that the next meeting of Overview and Scrutiny did not take place until 25th November 2013 and having had sight of the reports to the Committee on 18th September 2013 and considering Members' concerns as to the seriousness of performance issues and the non-attendance of the leadership and chairs, as Chair I therefore considered it was impracticable to defer this item to the next scheduled meeting of the Committee given the immediate and concerning nature of the reports requiring prompt action. The vote of no confidence was carried.

A decision made at the 4.9.2013 Strategy and Policy Board relating to Hallsford Bridge Development Brief was called in and, in accordance with the Council's constitution, a meeting of the O and S Committee took place on Monday 7<sup>th</sup> October 2013.

All members of the council are reminded that they are able to submit items for consideration as Overview & Scrutiny matters for the rolling programme. The closing date for submission is two weeks before the meeting. Suggestions will not be taken at the meeting unless arising directly from the debate.

## Ordinary Council 23.10.2013

### 8. REVIEW OF THE COUNCIL'S CONSTITUTION

(Appendix 1)

**Report of** *David Lawson, Monitoring Officer*

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#### 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 This report sets out a number of proposals for revising the following Parts of the Constitution: Public Questions (Part 4.1); Access to Information Rules (Part 4.2); Budget and Policy Framework Rules (Part 4.3); Financial Regulations (Part 4.5); Staff Employment Procedure Rules (Part 4.7); Members Planning Code of Good Practice (Part 5.2) Staff Code of Conduct (Part 5.3) Member / Staff Relations Protocol (Part 5.4); Delegations to Staff General Principles to Appendix A) and Monitoring Officer (Article 12)

1.3 The cross-party Constitution Working Group was consulted on the proposed changes and the attached draft reflects the significant and detailed contribution of the Working Group's members.

#### 2. Recommendation

2.1 That Council approves the changes to its Constitution as detailed in the revised documents attached as [Appendix 1](#) to this report.

#### 3. Background

3.1. The review of the Constitution by the Working Group was based on the following general propositions:

That the Constitution should:

(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.

3.2. The Members of the Working Group met on ten occasions between 8 July and 24 September 2013 and considered in detail the Access to Information Rules (Part 4.2); Budget and Policy Framework Rules (Part 4.3); Financial Regulations (Part 4.5); Staff Employment Procedure Rules (Part 4.7); Staff Code of Conduct (Part 5.3) Member / Staff Relations Protocol (Part 5.4); Delegations to Staff General Principles (Appendix A) and Monitoring Officer (Article 12) of the Constitution.

#### **4. Context**

4.1. 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, Code of Conduct, and such other information as the Council considers appropriate or required by law.

4.2. The Constitution Working Group took as its starting point for the review the authority's existing Constitution, last revised on 15 May 2013. It also had regard to the general propositions set out in paragraph 3.1 of this report.

4.3. The Working Group focused its efforts on reviewing the Parts of the Constitution in 3.2 above, as these formed part of its agreed Work Programme for 2013 / 2014 following on from the earlier revisions undertaken and agreed by Annual Council in May 2013.

4.4. However the Contract Standing Orders (Part 4.6); Members Planning Code of Good Practice (Part 5.2); and Recording Proceedings at Council and Committee remain to be finalised together with further work on Delegations to Staff (Appendix A).

Additionally consideration could be given in future to including in the Working Group's 2013 / 2014 programme the following: Licensing Committee Procedure Rules, Planning Committee Procedure Rules, further guidance on motions / recommendations and amendments to motions / recommendations, and a review of the Members Code of Conduct (Part 5.1) and how it has worked in practice after the first year of operation. In



regard to Licensing and Planning Procedure Rules, both these committees are regulatory in function and Licensing is quasi judicial – therefore there would be a public and legal expectation that they have clearly outlined and transparent procedure rules.

4.5 As to motions / recommendations and amendments to them – this is an area that can cause confusion and further guidance in the Constitution could usefully provide a level of agreed clarity. For example it could be clearer that an amendment must not negate the motion that it seeks to alter, because the same effect can be achieved by voting against the motion. It must be pertinent and relevant to the original motion, or otherwise a question may be brought before the council of which the requisite public notice has not been given. It must also be within the scope of the meeting for the same reason. This can at times be a difficult decision on contentious matters and further guidance may be useful including that the amendment must not be ultra vires, i.e. outside the scope of the meeting or beyond the Council's powers; it must not be irrelevant, where it bears no relation to the original motion or subject matter; it must not be inconsistent, where it is incompatible with a decision previously taken at the same meeting; it must not be vexatious and intended only to impede the transaction of business. The discretion remains the Chair's on advice from officers if required.

4.6 Council's attention is also drawn to the proposed General Principles to the officers' delegations at Appendix A of the Constitution. This suggested and short narrative is intended to clarify what happens when an officer is absent or has a conflict of interest and therefore cannot exercise his/her delegations in a timely or compliant manner. It also confirms that whilst delegations can be seen as a "cascade" of authority this does not prevent a decision being referred back to the source of that delegation - when circumstances suggest this is necessary or sensible. What remains to be undertaken is to agree a template for consistently recording, across Heads of Service, the "traditional long list" delegations to officers and the avoidance of delegations to named officers as opposed to posts.

4.7 Another change in this context is the suggested delegation to the Monitoring Officer in Article 12 to make what are known as "consequential amendments" to the Constitution. This would be confined to minor amendments of clear typographical errors such as the mistaken retention of "Chairmen" in the current Overview and Scrutiny section or spelling mistakes. It would also include implementing the consequential changes to the Constitution from a decision of Full Council - without the necessity of taking that change through the Constitutional Working Group and back to Full Council on something it has, by clear implication, already decided to change. Finally it would cover any changes to those parts of the Constitution specified by legal requirements such as mandatory standing orders.

4.8 Finally there is a suggested minor amendment to Part 4.1 Council Procedure Rules, Rule 10.2 (j) where the Mayor can disallow a Question from Public because it is, "scurrilous, vexatious, improper, irrelevant or otherwise objectionable" to delete the

requirement to include such disallowed questions on the Agenda. This is quite simply to protect the authority against legal action for publishing objectionable material which may be defamatory or otherwise found a legal action against the authority.

4.9 The operation of the Constitution will be kept under review by the Monitoring Officer in accordance with Article 12. Any proposed changes put forward by members or staff will be considered by the Constitution Working Group before being submitted to Council for approval.

## **5. Financial Implications – Comment from S151 Officer**

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

## **6. Implications and References to Corporate Plan**

6.1 Improved governance arrangements are one of the short term actions for 2013/14 in the “Modern Council” section of the Corporate Plan.

6.2 The review of the Constitution supports this aim.

## **7. Legal Implications - Comments from the Deputy Monitoring Officer**

7.2 Regular review of the Constitution will contribute to good governance

## **8. Background Papers**

None

**10. Questions from the Public**

- 10.1 A member of the public resident within the Borough of Brentwood may, through the Mayor, ask any question relating to the business of the Council, provided that notice is received by 10.00 am two working days before the meeting of the question to be asked by the Monitoring Officer at the Town Hall, Ingrave Road, Brentwood, Essex.
- 10.2 The following provisions apply in relation to questions from the public:-
- (a) 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. Such questions and decisions, except for disallowed questions shall be included on the agenda for the meeting if received in time or alternatively on an Information Sheet for Members. Any question requiring the disclosure of

“Exempt Information” as defined under Part 1 of Schedule 12A of the Local Government Act 1972 (as amended) shall not be allowed.

Part 4.2 - Access to Information Rules

PUBLIC ACCESS TO INFORMATION PROCEDURE RULES

1	SCOPE
2	PUBLIC ACCESS TO MEETINGS
3	PUBLIC NOTICE OF MEETINGS
4	PUBLIC ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING
5	PUBLIC ACCESS TO COPIES
6	PUBLIC ACCESS TO MINUTES ETC AFTER THE MEETING
7	PUBLIC ACCESS TO BACKGROUND PAPERS
8	EXCLUSION OF PUBLIC ACCESS TO REPORTS
9	CONFIDENTIAL INFORMATION – REQUIREMENT TO EXCLUDE PUBLIC ACCESS
10	EXEMPT INFORMATION – DISCRETION TO EXCLUDE PUBLIC ACCESS TO MEETINGS
11	DISORDERLY CONDUCT OR GENERAL DISTURBANCE – DISCRETION TO EXCLUDE PUBLIC
12	MEMBER ACCESS TO INFORMATION
13	MEMBER ACCESS TO EXEMPT OR CONFIDENTIAL DOCUMENTS

# PUBLIC ACCESS TO INFORMATION PROCEDURE RULES

## INTRODUCTION

The access to information Rules which apply to council meetings and sub-committees of the Council are set out in sections 100A-K and Schedule 12A of the Local Government Act 1972. The Council believes in making information available to residents and will make as much information as possible available as part of its publication scheme.

### **1.0 SCOPE**

- 1.1 These Rules cover all meetings of the Council, its Committees and the Sub-Committees.
- 1.2 These Rules cover Members' rights of access to information and the public's access to information.
- 1.3 These Rules do not cover public rights of access to information under the Freedom of Information Act 2000, and the Data Protection Act 1998.
- 1.4 These Rules do not affect any more specific rights to information contained elsewhere in this Constitution, in any statutory provision or the law.

### **2.0 PUBLIC ACCESS TO MEETINGS**

- 2.1 Members of the public may attend all meetings subject only to the exceptions in these Rules.

### **3.0 PUBLIC NOTICE OF MEETINGS**

- 3.1 The Council will give at least five clear working days' notice of any meeting (excluding the day of publication of notice and the day of the meeting) of the Council, a committee or a sub-committee by posting details of the meeting at Town Hall, Ingrave Road, Brentwood (the designated office) and on its website. The notice will specify the business proposed to be transacted at the meeting.
- 3.2 Members entitled to attend a meeting will receive a summons giving five clear working days' notice to attend and specifying the business proposed to be transacted at the meeting.
- 3.3 A member who has not been appointed as a member of the Staff Appointments Committee or the Dismissal Appeals Committee will not be able to attend meetings of these committees

3.4 Except in the case of an item of business which the Chair is of the opinion that, by reason of special circumstances, should be considered as a matter of urgency, no business shall be transacted at a meeting other than that specified in the summons.

#### **4.0 PUBLIC ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

4.1 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least 5 clear working days before the meeting and on its website.

#### **5.0 PUBLIC ACCESS TO COPIES**

5.1 The Council will supply copies of:

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

5.2 The Council will make available for the use of members of the public present at meetings, a reasonable number of copies of the agenda and of those reports which are open to the public.

#### **6.0 PUBLIC ACCESS TO MINUTES ETC AFTER THE MEETING**

6.1 The Council will make available for inspection copies of the following after a meeting electronically:

- (a) the minutes of the meeting excluding any part of the minutes of proceedings when the meeting was not open to the public or which discloses confidential or exempt information (as defined in Rules 9 and 10);
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public

## **7.0 PUBLIC ACCESS TO BACKGROUND PAPERS**

### 7.1 List of Background Papers

The author of a report will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

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

but this does not include published works or those which disclose confidential or exempt information (as defined in Rules 9 and 10).

### 7.2 Public Inspection

- (a) A copy of each of the documents listed will be available for inspection at the same time as the report is available for public inspection.
- (b) The Council will make available for public inspection for six years after the date of the meeting one copy of each of the documents on the list of background papers.

## **8.0 EXCLUSION OF PUBLIC ACCESS TO REPORTS**

8.1 The Monitoring Officer will exclude access by the public to reports which in his/her opinion contain confidential information as defined in Rule 9.

8.2 If the Monitoring Officer thinks fit, access by the public may also be excluded to reports which in his/her opinion relate to items during which, in accordance with Rule 10 (Exempt Information) the meeting is likely not to be open to the public.

8.3 Such reports will be marked "Not for publication" together with "confidential information" or the exemption relied upon.

8.4 Where an exemption is relied upon, any such report must contain the reasons why, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **9.0 CONFIDENTIAL INFORMATION – REQUIREMENT TO EXCLUDE PUBLIC ACCESS**

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

9.2 Confidential information means



- (a) information given to the Council by a Government Department on terms which forbid its public disclosure or
- (b) information the disclosure of which to the public is prohibited by or under another Act or by Court Order.

**10.0 EXEMPT INFORMATION – DISCRETION TO EXCLUDE PUBLIC ACCESS TO MEETINGS.**

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

- (a) the meeting resolves so to exclude the public, and that resolution identifies the proceedings or part of the proceedings to which it applies;
- (b) that resolution states, by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (RULE 10.4 below), the description of the exempt information giving rise to the exclusion of the public; and
- (c) that resolution states, by reference to reasons given in a relevant report or otherwise, that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

10.2 In these circumstances, public access to reports, background papers and minutes will also be excluded.

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

10.4 Exempt information means information falling within the following categories (subject to any qualification) set out in paragraphs 1-7 below:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes –
  - (a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) To make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

#### 10.5 Qualifications

1. Information falling within paragraph 10.4.3 above is not exempt information by virtue of that paragraph if it is required to be registered under –
  - (a) the Companies Act 1985;
  - (b) the Friendly Societies Act 1974;
  - (c) the Friendly Societies Act 1992;
  - (d) the Industrial and Provident Societies Acts 1965 to 1978
  - (e) the Building Societies Act 1986; or
  - (f) the Charities Act 1993
2. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
3. Information which –
  - (a) falls within any of paragraphs 1 to 7 above; and
  - (b) is not prevented from being exempt by virtue of Rule 10.5 (paragraphs 1 or 2) above, is exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **11.0 DISORDERLY CONDUCT OR GENERAL DISTURBANCE – DISCRETION TO EXCLUDE PUBLIC**

11.1 The public may be excluded from a meeting in accordance with Rule 8.5 of the Council's Procedure Rules (Part 4.1 of the Constitution)

## **12.0 MEMBER ACCESS TO INFORMATION**

12.1 A Member has the same power of inspection of documents that members of the public possess.

12.2 A Member also has a statutory right of access to documents provided by section 100F of the Local Government Act 1972. This provides that any document which is in the possession or under the control of the Council and contains material relating to any business to be transacted at a meeting of the council or a committee or a sub committee must be open to inspection by a member of the council.

12.3 A member has a common law right to be provided with or to inspect council documents that it is reasonably necessary for them to see in order to carry out their duties as a councillor. A member wishing to exercise this 'need to know' right must inform the Monitoring Officer in writing of the document they wish to see together with information in support of their claim to have a 'need to know'. The decision of the Monitoring Officer as to whether or not the right is demonstrated shall be final.

12.4 All Members of the Council shall have access to all minutes and records of decisions.

## **13.0 MEMBER ACCESS TO EXEMPT OR CONFIDENTIAL DOCUMENTS**

13.1 This Section deals with Member access to documents which contain confidential or exempt information, including agenda papers, background documents and minutes.

13.2 Members of a committee or sub-committee will be provided with, and are entitled to receive, copies of confidential or exempt reports.

13.3 Subject to Rule 13.4 any Member of the Council may, upon request, receive a copy of a confidential or exempt report or agenda, or inspect an associated background document, on any matter except where the report or document contains information relating to staffing information, where the identity of individual staff would be revealed.

13.4 Any Member wishing to receive or inspect a report or document containing information referred to in Rule 13.3 must demonstrate a 'need to know' in accordance with the process set out in Rule 12.3 above.

## Budget and policy framework procedure rules

### DECISION MAKING FRAMEWORK

#### **(a) Budget and Policy Framework**

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

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

- i) The Strategy and Policy Board is responsible for the formulation of the policy and budgetary framework for approval by Council. It makes recommendations to Council on all strategic financing matters including proposing an overall revenue budget and capital programme and recommending the amount of Council Tax to be set..
- ii) After consulting stakeholders in a manner appropriate to the matter under consideration, the Strategy and Policy Board draws up initial principles and assumptions in relation to any plan, strategy or budget which forms part of the Budget and Policy Framework.
- iii) Once drawn up, the Proper Officer sends copies of the document to the Chair of the Overview and Scrutiny Committee together with dates when the Strategy and Policy Board is to consider them further.
- iv) The Overview and Scrutiny Committee will be convened to formulate responses to the Strategy and Policy Board's initial principles and assumptions and whether any consultation by it, is appropriate.
- v) The Strategy and Policy Board will finalise its proposals for submission by way of recommendation to the Council taking into account the comments from the Overview and Scrutiny Committee. The report to Council must show the Strategy and Policy Board's response to those comments.
- vi) The Council considers the proposals of the Strategy and Policy Board and may adopt them, amend them or substitute its own proposals in their place.
- vii) The Council's decision shall be approved by a simple majority of votes cast at the meeting.

- viii) The decision must then be made public in accordance with the Council's Procedures and must be implemented immediately.

**(b) Decisions which are exceptions to the Budget or Policy Framework**

- i) No changes to any policy and strategy which make up the Budget and Policy Framework may be made by the Strategy and Policy Board unless they involve changes necessary to ensure compliance with the law, ministerial direction or government guidance;

**(c) Virement Arrangements**

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

## **FINANCIAL REGULATIONS**

### **Background**

- 1.1 The Council is committed to providing good quality services to the residents of the area and has a requirement for strong financial governance and must ensure that we deliver value for money.
- 1.2 The Council's governance structure is laid down in its constitution, which sets out how the council operates, how decisions are made and the procedures to be followed. As part of the constitution this document explains the financial controls in place for the Council.

### **Status of Financial Regulations**

- 2.1 Financial regulations provide the framework for managing the Council's financial affairs. They apply to every Member and Officer of the Council and anyone acting on its behalf.
- 2.2 The regulations identify the financial responsibilities of Council, Strategy and Policy Board, Overview and Scrutiny and Audit Committees, the Managing Director (Head of Paid Service), the Director of Strategy and Corporate Services (Section 151 Officer) and Heads of Service.
- 2.3 These responsibilities can be delegated. Where this is the case Officers shall maintain a written record. Where decisions have been delegated or devolved to another Officer reference in the regulations shall be read as referring to them.
- 2.4 All Members and staff have a general responsibility for taking reasonable action to provide for the security of the resources under their control, and for ensuring that the use of these resources is legal, is properly authorised, and provides value for money.
- 2.5 The Director of Strategy and Corporate Services is responsible for maintaining a continuous review of the financial regulations and submitting any additions or changes necessary to Council for approval. The Director of Strategy and Corporate Services is also responsible for reporting, where appropriate, breaches of these financial regulations to Council and/or Strategy and Policy Board
- 2.6 Heads of Service are responsible for ensuring that all staff in their service areas are aware of the existence and content of the Council's financial regulations, the detailed financial procedures and guidance issued. They must also ensure that staff understand the requirement to comply with these financial rules. The Director of

Strategy and Corporate Services is responsible for ensuring that a current version of the financial regulations and procedures is available for reference on the Council's intranet and public website.

- 2.7 The Director of Strategy and Corporate Services is responsible for issuing advice and guidance to underpin the financial regulations.
- 2.8 Members, officers and others acting on behalf of the Council including contractors and consultants are required to follow all guidance issued.



## **FINANCIAL MANAGEMENT**

### **Introduction**

- 1.1 Financial management describes the system of financial control throughout the Council and covers all financial responsibilities for the Council, including budget setting and integrating medium term policy planning with financial planning.
- 1.2 All staff and Members have a duty to abide by the highest standards when dealing with financial issues. This is helped by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

### **Council**

- 1.3 Council is responsible for agreeing the strategic and budgetary framework for the Council as well as adopting and changing the constitution, of which these regulations form part.
- 1.4 Council also has power to review decisions taken by Strategy and Policy Board or an Officer to ensure that they are not contrary to the budget or previous Council decision.

### **Strategy and Policy Board**

- 1.5 Strategy and Policy Board is responsible for proposing the policy framework and budget to Council, and for discharging its functions in accordance with the policy framework and budget.

### **1.6 Overview and Overview and Scrutiny Committee**

The responsibilities of the Overview and Scrutiny Committee include the scrutiny of the key underpinning principles of the medium term financial plan; to test that all budget and service pressures have been adequately considered and to review the working balance and reserve levels of the Council. The Overview and Scrutiny Committee therefore has a key role in ensuring that the Council is providing value for money, and managing its financial responsibilities well.

### **Audit committee**

- 1.7 The Audit Committee reviews governance and internal control arrangements and will bring any matters requiring further review or action to Council, Strategy and Policy Board or Overview and Scrutiny Committee. The Audit Committee is responsible for monitoring compliance with these financial regulations. The Audit Committee has right of access to all information it considers necessary, approves and monitors the delivery of the internal

audit activity of the council and consults directly with internal and external auditors.

- 1.8 The Audit Committee undertakes the Council's responsibilities under the Accounts and Audit Regulations 2011. This includes approving the statement of accounts. The Committee ensures that the Councils' assurance statements, including the Annual Governance Statement, properly reflect the risk environment and any actions required to improve it. The Committee also monitors the effective development and operation of risk management within the Council.

### **Head of Paid Service (Managing Director)**

- 1.9 The Head of Paid Service (Managing Director) is responsible for the corporate and overall strategic management of the Council. He or she must report to and provide information to Strategy and Policy Board, Council, and Committees to enable them to fulfil their responsibilities. He or she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Managing Director is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all Council's decisions (see below).

### **Monitoring officer (Head of Legal and Support Services)**

- 1.10 The Monitoring Officer (Head of Legal and Support Services) is responsible for promoting and maintaining high standards of probity and the administration of the Council's political management structures. The Monitoring Officer is also responsible (Section 5, Local Government and Housing Act 1989) for reporting on any proposal, decision or omission which has or may give rise to contravention of law or maladministration to the Strategy and Policy Board, and for ensuring that procedures for recording and reporting key decisions are operating effectively.
- 1.11 The Monitoring Officer must ensure that Committee decisions and the reasons for them are made public. He or she must also ensure that Members are aware of decisions made by officers under delegated responsibility.
- 1.12 The Monitoring Officer is responsible for advising all Members and officers about who has authority to take a particular decision.
- 1.13 The Monitoring Officer (together with the Director of Strategy and Corporate Services) is responsible for advising Strategy and Policy Board or Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:

- (a) initiating a new policy
- (b) committing expenditure in the current or future years above the budget level

1.14 The Monitoring Officer is responsible for maintaining the Council's Constitution.

**Section 151 Officer (Director of Strategy and Corporate Services)**

1.15 The Director of Strategy and Corporate Services has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:

- (a) Section 151 of the Local Government Act 1972
- (b) The Local Government Finance Act 1988
- (c) The Local Government and Housing Act 1989
- (d) The Local Government Act 2000
- (e) The Local Government Act 2003
- (f) The Accounts and Audit Regulations 2011

1.16 The Director of Strategy and Corporate Services is responsible for:

- (a) the proper administration of the Council's financial affairs;
- (b) setting and monitoring compliance with financial management standards;
- (c) establishing an adequate and effective system of Internal Audit;
- (d) advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- (e) providing financial information;
- (f) preparing the revenue budget and capital programme;
- (g) treasury management;
- (h) approving accounting policies and ensuring that they are applied consistently;
- (i) approving the accounting procedures and records the Council;
- (j) ensuring that the annual statement of accounts is prepared in accordance with the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom;
- (k) signing and dating the statement of accounts, stating that it presents fairly the financial position of the Council at the accounting date.

1.17 Section 114 of the Local Government Finance Act 1988 requires the Director of Strategy and Corporate Services to report to Council or Strategy and Policy Board and the External Auditor if Council or one of its officers:

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

1.18 Section 114 of the 1988 Act also requires:

- (a) the Director of Strategy and Corporate Services to nominate a properly qualified member of staff to deputise shall he or she be unable to perform the duties under section 114 personally;
- (b) the Council to provide the Director of Strategy and Corporate Services with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under Section 114.

### **Heads of Service**

1.19 Heads of Service are responsible for:

- (a) ensuring that the services under their control are managed to promote value for money and good standards of financial control and accountability
- (b) ensuring that Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Director of Strategy and Corporate Services
- (c) entering into contracts on behalf of the council, in accordance with Procurement Regulations.

## **FINANCIAL PLANNING**

### **Introduction**

- 2.1 A strong planning process expresses the ambition of the Council in clear priorities over the medium term and promotes a wide understanding of these priorities. This is a vital basis for financial planning as it enables limited resources to be used in a way that best delivers the corporate priorities of the Council.
- 2.2 Council is responsible for agreeing the Council's policy framework and budget, which will be proposed by the Strategy and Policy Board. In terms of financial planning, the key elements are:
  - (a) the corporate priorities
  - (b) the medium term financial plan
  - (c) the capital programme.
- 2.3 Council is also responsible for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Decisions shall be referred to Council by the Monitoring Officer.
- 2.4 Strategy and Policy Board is responsible for taking in-year decisions on resources and priorities in order to deliver the policy framework within the financial limits set by the council.

### **Budgeting**

- 2.5 The budget is the financial expression of the Council's plans and policies. The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with priorities.
- 2.6 The budget and Council Tax is approved by Council and proposed by Strategy and Policy Board on the advice of the Director of Strategy and Corporate Services. The draft budget shall include allocations to different service areas, services and to specific projects. The budget will assess the adequacy of contingencies and reserves.
- 2.7 The Director of Strategy and Corporate Services is responsible for ensuring that a revenue budget and medium-term financial plan is prepared on an annual basis for consideration by Strategy and Policy Board, before submission to Council. Council may amend the budget or ask Strategy and Policy Board to reconsider it before approving it.
- 2.8 It is the responsibility of Heads of Service to ensure that draft budgets are prepared for submission to Strategy and Policy Board

and that these budgets are in line with guidance issued by the Director of Strategy and Corporate Services.

- 2.9 Guidelines on budget preparation are issued to Heads of Service by the Director of Strategy and Corporate Services following agreement with Strategy and Policy Board.

### **Budget monitoring and control**

- 2.10 The Director of Strategy and Corporate Services is responsible for ensuring appropriate financial information is available to enable budgets to be monitored effectively. The Director of Strategy and Corporate Services must review expenditure against budget allocations and report to Performance and Resources Committee on the overall position.
- 2.11 It is the responsibility of Heads of Service to control income and expenditure within their area and to monitor budgets, taking account of financial information provided by the Director of Strategy and Corporate Services. They shall report on variances within their own Service areas. They shall also take any action necessary to avoid exceeding their budget allocation and alert the Director of Strategy and Corporate Services to any problems in doing so.

### **Preparation of the capital programme**

- 2.12 Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments that will continue for many years even decades.
- 2.13 Capital expenditure is a key part of the Council's investment strategy. It should therefore be linked to asset management plans and be carefully prioritised in order to maximise the benefit of scarce resources.
- 2.14 The Director of Strategy and Corporate Services is responsible for ensuring that a three year capital programme is prepared on an annual basis for consideration by Strategy and Policy Board before submission to the Council.
- 2.15 The Director of Strategy and Corporate Services must report to Strategy and Policy Board on named schemes or projects in the approved capital programme where the estimated or actual expenditure exceeds the provision by either 10% or £200,000.

### **Maintenance of reserves**

- 2.16 The Council must decide the level of reserves it wishes to maintain before it can decide the level of Council Tax. Reserves are maintained as a matter of prudence. They enable the Council to provide for unexpected events and protect it from overspending,

if such events occur. Earmarked reserves are also maintained for specific purposes such as the purchase or renewal of capital items.

- 2.17 It is the responsibility of the Director of Strategy and Corporate Services to advise Strategy and Policy Board and Council on prudent levels of reserves for the Council.
- 2.18 Virement from reserves for unexpected expenditure must be approved in accordance with the guidelines set out below.

### **Budget Virements**

- 2.19 The overall budget is proposed by Strategy and Policy Board and approved by Council. Heads of Service and Budget Managers are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. The rules below cover virement; that is, switching resources between approved estimates.
- 2.20 A Head of Service may exercise virement on budgets under his or her control during the year, however where a virement of any value reflects a change in policy then it is expected that Heads of Service will consult the appropriate Strategy and Policy Board member/s.
- 2.21 For virements required from the Council's Reserves; these require the approval of Strategy and Policy Board (up to £200,000) or Council (for amounts over £200,000).

### **Treatment of Year-End Balances**

- 2.22 At the end of each year there will be variations between the budget and the actual spend for the services under each Head of Service's control. The ability to carry-forward unspent budget promotes sound financial management and value for money within the Council.
- 2.23 The Director of Strategy and Corporate Services will have responsibility to ensure appropriate accounting procedures are in operation to ensure carried forward totals are correct, and to report all key variations in spend and income to Performance and Resources Committee.



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

### **Introduction**

- 3.1 All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation
- 3.2 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This shall include the proactive participation of all those associated with planning and delivering services.

### **Risk management**

- 3.3 Audit Committee is responsible for reviewing the Council's Insurance and Risk Management Strategy and for reviewing the effectiveness of risk management.
- 3.4 The Director of Strategy and Corporate Services is responsible for preparing the Council's Insurance and Risk Management Strategy and for promoting it throughout the Council.

### **Insurance**

- 3.5 However well risk is managed by the Council it is not possible to eliminate the possibility of an event that leads to significant financial loss. Insurance arrangements are designed to ensure that if such an event occurs, insurance cover exists so the loss will not impact on the ability of the Council to deliver services.
- 3.6 The Director of Strategy and Corporate Services is responsible for ensuring that effective arrangements for insurance are in place.
- 3.7 Heads of Service are required to notify the Director of Strategy and Corporate Services of all new risks, including equipment, properties and vehicles that require insurance and of any alterations affecting existing insurance

### **Internal control**

- 3.8 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use

of resources and that the Council's assets and interests are safeguarded.

- 3.9 The Head of Internal Audit is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They shall ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with statutory and other approvals that govern their use.
- 3.10 It is the responsibility of Heads of Service to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, value for money and for achieving their financial and other performance targets.

### **Audit requirements**

- 3.11 The Accounts and Audit (England) Regulations 2011 issued by the Secretary of State require the Council to maintain an adequate and effective system of Internal Audit for its accounting records and its system of internal control.
- 3.12 The Council must also appoint External Auditors. The basic duties of the External Auditor are governed by the Local Government Act 1999. The Code of Audit Practice (2010) sets out the auditor's objectives to review and report on:
- (a) the audited body's financial statements and its annual governance statement
  - (b) whether the audited body has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.
- 3.13 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs who have statutory rights of access.

### **Preventing fraud and corruption**

- 3.14 The Council will not tolerate fraud and corruption in the administration of its responsibilities. The Council's expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

- 3.15 The Director of Strategy and Corporate Services is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.
- 3.16 Heads of Service are responsible for ensuring that this policy is implemented within their Service areas.
- 3.17 The Council also expects that individuals and organisations (eg suppliers, contractors, partners and service providers) with whom it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.

### **Assets**

- 3.18 The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It also holds intangible assets such as software licences. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations.
- 3.19 Heads of Service shall ensure that records and assets are properly maintained and securely held. They shall also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.
- 3.20 An asset register is maintained for the Council, assets are recorded when they are acquired by the Council and this record is updated as changes occur.
- 3.21 Resources no longer required are disposed of in accordance with the law and the Asset Management Plan so as to maximise benefits.

### **Treasury management**

- 3.22 The Council's borrowing and investments comply with CIPFA's Code of Practice for Treasury Management in Local Authorities.
- 3.23 All money controlled by the Council is managed by the Director of Strategy and Corporate Services.
- 3.24 The Director of Strategy and Corporate Services is responsible for reporting to Strategy and Policy Board a proposed Treasury Management Strategy for the coming financial year at or before the start of each financial year.
- 3.25 All Strategy and Policy Board decisions on borrowing, investment or financing shall be delegated to the Director of Strategy and Corporate Services, who is required to act in accordance with

CIPFA's Code of Practice for Treasury Management in Local Authorities.

- 3.26 The Director of Strategy and Corporate Services is responsible for reporting to Strategy and Policy Board not less than twice in each financial year on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers.

### **Staffing**

- 3.27 The Managing Director is responsible for providing overall management to staff and determining appropriate officer staffing structures. He or she is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- 3.28 Heads of Service are responsible for managing staffing levels to ensure
- (a) that employee costs remain within the agreed budget;
  - (b) the proper use of human resources policies and procedures.

### **Payments to employees and Members**

- 3.29 The Director of Strategy and Corporate Services is responsible for ensuring arrangements are in place to ensure proper payment to staff and Members and that a framework of policies is in place to provide for the reward, care and management of staff.

## **SYSTEMS AND PROCEDURES**

### **Introduction**

- 4.1 The Council has many systems and procedures relating to the management of the Council's finances and assets. The information must be accurate and the systems and procedures sound and well administered. They shall contain controls to ensure that transactions are properly processed and errors detected promptly. Sound systems and procedures are essential to an effective framework of accountability and control.

### **General**

- 4.2 The Director of Strategy and Corporate Services is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. However, Heads of Service are responsible for the proper operation of financial processes in their own departments.
- 4.3 Any changes to financial procedures or systems by Heads of Service to meet their own specific service needs shall be agreed in advance with the Director of Strategy and Corporate Services.
- 4.4 Heads of Service shall ensure that their staff receive relevant financial training that has been approved by the Director of Strategy and Corporate Services.
- 4.5 The ICT Manager must ensure that where appropriate computer and other systems are registered in accordance with data protection legislation.
- 4.6 Heads of Service must ensure that staff are aware of their responsibilities under freedom of information legislation.

### **Income and expenditure**

- 4.7 It is the responsibility of Heads of Service to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation shall identify staff authorised to act on the Director's behalf, in respect of payments, income collection and placing orders, together with the limits of their authority.
- 4.8 Effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. The Council relies on income it collects to fund the services it provides. Loss of potential income or inability to predict income levels will impact on these vital services.

- 4.9 Strategy and Policy Board is responsible for approving procedures for writing off debts over the value of £5,000 as part of the overall control framework.
- 4.10 Every Officer and Member of the Council engaged in contractual, commercial or purchasing decisions on behalf of the authority must declare any links or personal interests that they may have with tenderers, suppliers and/or contractors.
- 4.11 Heads of Service must comply with the Procurement Strategy and Contract Standing Orders with regards to the ordering of goods and services.

### **Taxation**

- 4.12 The Director of Strategy and Corporate Services is responsible for advising Heads of Service, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council.
- 4.13 The Director of Strategy and Corporate Services is responsible for approving the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

## **EXTERNAL ARRANGEMENTS**

### **Introduction**

- 5.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of the Borough.

### **Partnerships**

- 5.2 Strategy and Policy Board is responsible for approving delegations, including frameworks for partnerships. Strategy and Policy Board is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 5.3 The Managing Director or his or her nominee represents the Council on partnership and external bodies, in accordance with the scheme of delegation.
- 5.4 The Director of Strategy and Corporate Services must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures comply with proper practice.
- 5.5 Heads of Service are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

### **External funding**

- 5.6 The Director of Strategy and Corporate Services is responsible for issuing guidance to ensure that sound financial arrangements are put in place in each circumstance where funding of services is shared or met by external bodies. These arrangements should include proper processes to ensure that all income is recovered and properly recorded in the Council's accounts.
- 5.7 Heads of Service are responsible for ensuring that all external funding arrangements provide value for money and contribute to the published strategies and plans of the Council.





**STAFF EMPLOYMENT PROCEDURE RULES**

1. **Recruitment and appointment**

(a) **Declarations.**

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

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

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

2. **Recruitment of Head of Paid service and Chief Officer**

Where the Council proposes to appoint a chief officer the Council will:-

- (a) draw up a statement specifying:
  - (i) the duties of the officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;

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

- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

3. **Appointment of Head of Paid Service**

The Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a Panel of Members (Staff Appointments Committee) comprising five councillors allocated between political groups in accordance with pro-rata rules.

A report will be made to Full Council following the member panel setting out the voting of the panel and it's recommendation.

4. **Appointment of Statutory Chief Officers (S151 and Monitoring Officer)**

Every appointment of a Statutory Chief Officer shall be made by the Council Following the recommendation of such an appointment by a Panel of Members comprising not less than five councillors allocated between political groups in accordance with Widdicombe pro-rata rules. A report will be made to Full Council following the member panel setting out the voting of the panel and it's recommendation.

5. **Appointment of Non Statutory Chief Officers (Director and Heads of Service)**

Every appointment of a Non Statutory Chief Officer shall be made by a Panel of Members comprising not less than five councillors allocated between political groups in accordance with Widdicombe pro rata rules.

6. **Other appointments**

**Staff below chief officer.** Appointment of staff below chief officer is the responsibility of the Head of Paid Service or their nominee, and may not be made by members unless the Head of Paid Service or Full Council determine that staff below chief officer level be subject to a member panel.

7. **Disciplinary action**

- (a) **Suspension.** The head of paid service, monitoring officer and chief finance officer (Chief Statutory Officers) may be suspended whilst an investigation takes place into alleged misconduct in accordance with Part 4 of the JNC for Chief Officers of Local Authorities Handbook. That suspension will be on full pay and last no longer than two months.
- (b) **Independent person.** No other disciplinary action may be taken in respect of any of those staff except in accordance with a recommendation in a report made by a designated independent person.
- (c) Members will not be involved in the disciplinary action against any member of staff below chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

8. **Dismissal**

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



**PART 5.3**

**STAFF CODE OF CONDUCT**

DRAFT



## STAFF CODE OF CONDUCT

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## **1. INTRODUCTION**

### **Application**

1.1 This Code of Conduct applies to all Brentwood Borough Council employees (including those working within Direct Service Organisations) irrespective of the job that they do or the grade that they are on or, indeed, the status of the contract (e.g. permanent, fixed term, casual). Employees must be aware of and adhere to all the policies of the Council when reading this policy.

1.2 Members, officers and others acting on behalf of the Council including contractors and consultants are required to follow all guidance issued.

### **Purpose of the Code**

1.3 Brentwood Borough Council is a public authority and, as such, the public, and all other individuals and organisations who come into contact with the Council, are entitled to expect from its employees the highest standard of service in terms of integrity, efficiency, impartiality and courtesy.

1.4 This Code sets out the standards of conduct that Brentwood Borough Council employees should adhere to when carrying out their work and duties. In addition, its purpose is to maintain and improve standards and protect employees from misunderstanding or criticism.

1.5 Employees should always bear in mind that it is not enough to avoid actual impropriety or improper conduct. Employees should at all times endeavour to avoid any occasion for suspicion and any appearance of improper conduct or impropriety.

### **Status of the Code**

1.6 This Code has been formally approved and adopted by the Council.

1.7 The Council believes that the Code represents the standard against which the conduct of employees will be judged, both by the public and by their fellow employees. It is not an exhaustive listing of all standards expected of employees.

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

1.8 Failure to adhere to the Code can bring the Council and local government as a whole into disrepute. Such failure could also lead to a finding of maladministration on the part of the Council by the Local Government Ombudsman.

1.9 One of the purposes of the Code is to provide guidance to employees, and protect them from misunderstanding or criticism. It is therefore in each employee's own interest to adhere to the Code.

1.10 Employees also need to bear in mind that there will inevitably be some instances where there is an overlap between the provisions of the Code and the Council's disciplinary procedures. Accordingly, conduct which is contrary to the Code could result in

disciplinary proceedings being instituted against the employee.

- 1.11 Furthermore, employees need to be aware that conduct which is contrary to certain provisions of the Code (e.g. those dealing with unauthorised disclosure of confidential information) could, depending upon the precise circumstances of the case, also amount to an offence under criminal law (e.g. Data Protection Act) and thus result in prosecution of the employee concerned.

### **Interpretation**

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

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

### **General**

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

### **Standards of Dress**

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

### **Alcohol and Drugs**

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

### **Smoking**

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

### **Complaints**

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

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

#### **Disclosure of Information**

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

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

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

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

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

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

### **General**

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

### **Gifts**

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

### **Criminal Law**

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

## **7. HOSPITALITY**

### **Accepting Hospitality**

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

### **Refusing Hospitality**

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

### **Sensitivity as to Timing**

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

### **Giving of Hospitality**

- 7.7 The giving of reasonable hospitality to visiting individuals, and in the course of meetings with outside individuals/organisations which take place off Council premises, is acceptable provided that:
  - (i) the visit/meeting relates to Council business;
  - (ii) such hospitality is of a kind which is appropriate to the circumstances;
  - (iii) The hospitality does not compromise any purchasing decisions; and
  - (iv) the hospitality has been approved by the relevant Head of Service.
- 7.8 In some cases it may well be wrong not to offer hospitality. For example, the failure to offer a visitor basic refreshment (i.e. tea/coffee) would, in certain circumstances, be construed as discourteous, and possibly contrary to the Council's customer care ethos. Similarly, in the case of lengthy meetings the provision of a "working lunch" may well be appropriate.

- 7.9 Hospitality should never be lavish or extravagant. Employees should always have regard to how such hospitality might be perceived by ordinary members of the public - bearing in mind the Council is a public body funded in the main by local and central government taxation, and also the need for impartiality in relations with contractors and potential contractors.

### **Sponsorship**

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



## **5. POLITICAL NEUTRALITY**

### **When Carrying Out Work**

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

### **Dealings with Members**

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

### **Undue Political Pressure**

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

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

### **The Underlying Principle**

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

### **Disclosure Generally**

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

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

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

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

### **Familiarity with Standing Orders Etc.**

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

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

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

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

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

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

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

### **Exceptions**

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

(during its opening hours) goods or services which, at the time of purchase were on display or offer to the general public at the same price and on the same terms.

### **Employees Who Supervise Contracts**

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

## **10. OUTSIDE COMMITMENTS**

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

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

### **Separation of Roles**

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

### **Fairness and Impartiality**

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

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

### **Use of Resources**

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

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

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

### **Security**

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

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

### **Recruitment of Staff**

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

### **Other Employment Matters**

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



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

### **Employees**

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

## **15. GENERALLY**

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

# PROTOCOL ON MEMBER/STAFF RELATIONS

## INTRODUCTION

Mutual trust and respect between Members and staff is at the heart of the Council's good governance. They are essential if the partnership necessary for the effective and efficient running of the Council is to succeed.

### **1.0 SCOPE**

This protocol is designed to:-

1. promote trust, openness, fairness and honesty by establishing clear ground rules;
  2. define roles so as to clarify responsibilities
  3. avoid conflict
  4. prevent duplication or omission:
  5. secure compliance with the law, codes of conduct and the Council's own practices and procedures and
  6. to lay down procedures for dealing with concerns by Members or staff.
- 1.2 The protocol represents a central element of the Council's corporate governance and provides a framework for dealing with a wide range of circumstances.

### **2.0 GENERAL PRINCIPLES**

- 2.1 Members and staff must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take unfair advantage by virtue of their position.
- 2.2 Members and staff are servants of the public their responsibilities are distinct.
- (a) Members are accountable to the electorate and serve as long as their term of office lasts. Their role is to provide the political direction and leadership of the Council as well as setting the lawfully agreed policies.
  - (b) Staff are accountable to the Council as a whole. Their role is to give professional advice and provide support and information to Members both individually and collectively and to implement the lawfully agreed policies of the Council.
- 2.3 Staff are bound by the Council's Code of Conduct for staff and in some cases by the codes of their professional associations.

### **3.0 THE ROLE OF MEMBERS**

- 3.1 Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, the relevant senior staff, and/or the Managing Director.
- 3.2 Collectively, Members are the ultimate policy-makers determining the core values of the Council and approving the authority's policy framework, strategic plans and budget.
- 3.3 Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.
- 3.4 Every Member represents the interests of, and is an advocate for, his/her Ward and individual constituents. He/she represents the Council in the Ward, responds to the concerns of constituents, meets with partner agencies and often serves on outside organisations..
- 3.5 Members also have roles relating to their position as members of the Overview and Scrutiny Committee or other committees and sub-committees of the Council.
- 3.6 Members serving on the Overview and Scrutiny Committee monitor the effectiveness of the Council's policies and services and develop policy proposals in accordance with their terms of reference.
- 3.7 Members who serve on other committees and sub-committees collectively have delegated responsibilities, including deciding quasi-judicial or regulatory matters.
- 3.8 Some Members may be appointed to represent the Council on local, regional or national bodies.
- 3.9 Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as Members they have a duty always to act in the public interest.
- 3.10 Members are not authorised to instruct staff other than:
  - (a) through the formal decision-making process;
  - (b) to request the provision of resources provided by the Council for Members' use;
  - (c) where employees have been specifically allocated to give support to a Member or group of Members;
  - (d) where an member of staff is contacted by multiple Members on the same Ward matter the member of staff is entitled to seek clarification from the resident / constituent as to who they wish to nominate as the lead Member for the member of staff to respond to about the matter

- 3.11 Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Members must have regard when reaching decisions, to any advice provided by the Managing Director, Monitoring Officer or the Chief Finance Officer (Section 151 Officer).
- 3.12 Members must respect the impartiality of staff and do nothing to compromise it, e.g. by insisting that an officer change his/her professional advice.

#### **4.0 THE ROLE OF STAFF**

- 4.1 Staff are responsible for giving advice to Members to enable them to fulfil their roles.
- 4.2 Under the direction and control of the Council (including, as appropriate, its committees and sub-committees), staff manage and provide the Council's services within the framework of responsibilities delegated to them.
- 4.3 Staff have a duty to implement decisions of the Council, its committees and sub-committees which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's Constitution and duly minuted.
- 4.4 Staff have a contractual and legal duty to be impartial. They must not allow their professional judgment and advice to be influenced by their own personal views.
- 4.5 Staff must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the council's formal decisions.
- 4.6 Staff must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or the public.
- 4.7 .

#### **5.0 THE COUNCIL AS EMPLOYER**

- 5.1 Staff are employed by the Council as a whole.
- 5.2 Members' roles are:
- (a) the appointment of specified senior posts,
  - (b) determining human resources policies and conditions of employment,

5.3 Participating in the appointment of staff, Members should:

- (a) remember that the sole criterion is merit,
- (b) never canvas support for a particular candidate,
- (c) not take part where one of the candidates is a close friend or relative,
- (d) not be influenced by personal preferences, and
- (e) not favour a candidate by giving him/her information not available to the other candidates

**6.0 THE GENERAL RELATIONSHIP BETWEEN MEMBERS AND STAFF**

6.1 The conduct of Members and staff should be such as to instil mutual confidence and trust.

6.2 The key elements are recognition of and respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.

6.3 Staff serve the Council as a whole. They have a duty to implement the properly authorised decisions of the Council.

6.4 Staff will make every effort to give timely responses to Member's enquiries in accordance with the agreed timescales.

6.5 Informal and collaborative two-way contact between Members and staff is encouraged, but personal familiarity can damage the relationship, as might a family or business connection.

6.6 Members and staff should inform the Managing Director of any relationship which might be seen as unduly influencing their work in their respective roles.

6.7 It is not enough to avoid actual impropriety. Members and staff should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct.

6.8 Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Member should not sit on a body or participate in any decision which directly affects that member of staff on a personal basis.

6.9 Any member of staff shall not discuss with a Member personal matters concerning him/herself or another individual employee. This does not prevent him/her raising on a personal basis, and in his/her own time, a Council service related matter with his/her Ward Member.

6.10 Members and staff should respect each other's free (i.e. non-Council) time.

**7.0 LOCAL MEMBERS AND STAFF**

7.1 To enable them to carry out their Ward role effectively, staff should endeavour to keep relevant Members properly informed about matters affecting their Ward in relation to:

- (a) Significant or sensitive operational matters.
- (b) Whenever any form of public consultation exercise is undertaken,
- (c) During an overview and scrutiny investigation, and
- (d) During the formative stages of policy development where practical

Senior staff must ensure that all relevant staff are aware of this requirement to keep Members informed, thus allowing Members to contribute to the decision making process and develop their representative role..

7.2 :

- (a) ,
- (b)
- (c) .

7.3 Issues may affect a single ward, but where they have a wider impact, a number of local Members will need to be kept informed.

7.4 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the wards affected should be invited to attend the meeting as a matter of course.

7.5 If a local Member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, he/she should inform the relevant officer.

- (a) an officer may attend but is not obliged to do so, and
- (b) the meeting may be held in the Council owned premises

7.6 No such meetings should be arranged or held in the immediate run up to Council elections.

7.7 A member of staff will not attend a public meeting arranged by Member(s) on a party political basis.

7.8 Officers will not normally accompany Members to ward surgeries. However, if they do so:

- (a) the surgeries must be open to the general public and
- (b) staff should not be requested to accompany Members to surgeries held in the offices or premises of political parties.

7.9 Staff must never be asked to attend Ward or constituency political party meetings.

## **8.0 CORRESPONDENCE**

8.1 Correspondence between an individual Member and an officer should not be copied to another Member unless the author expressly intends and states that this is the case or consents. Where correspondence is copied, this should always be made explicit and there should be no 'blind' copies.

- 8.2 Official letters written on behalf of the Council should normally be in the name of the relevant officer.
- 8.3 The Mayor and the Leader may initiate correspondence in his/her own name.
- 8.4 Letters which create legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a Member.
- 8.5 When writing in an individual capacity as a Ward Member, a member must make clear that fact.
- 8.6 Correspondence between Members and staff should reflect the mutual trust and respect which is essential to the relationship

## **9.0 MEDIA RELATIONS**

- 9.1 All formal relations with the media must be conducted in accordance with the Council's agreed Communications Protocol and the law on local authority publicity.
- 9.2 Press releases or statements made by the communications team must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a party group.
- 9.3 Staff will keep relevant members informed of media interest in the Council's activities, especially regarding strategic or contentious matters.
- 9.4 Only the communications team is authorised to respond to enquiries from the media.
- 9.5 Likewise, staff will inform the Council's communications team of issues likely to be of media interest, since that team should be the media's only point of contact.
- 9.6 If a Member is contacted by or contacts the media on an issue, he/she should:
  - (a) indicate in what capacity he/she is speaking (e.g. in a personal capacity or on behalf of a party group).
  - (b) Only designated spokespeople should speak on behalf of the Council and only on issues within their remit.
  - (c) Ward members should not normally speak on behalf of the Council, except if there is an emergency that affects their ward. If there are ward members from different political parties in the same ward, a joint statement should be issued
  - (d) if necessary, and always when he/she would like a press release to be issued, seek assistance from the Council's communications team and/or relevant senior officer; except in relation to a statement which is party political in nature;
  - (e) consider the likely consequences for the Council of his/her statement



- (f) never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
- (g) consider whether to consult other relevant Members; and
- (h) take particular care in what he/she says in the run-up to local or national elections to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or political party activist.

## **10.0 MEMBERS OF COMMITTEES OR SUB-COMITTEES AND STAFF**

- 10.1 Senior staff (including the Managing Director, the Monitoring Officer and the Chief Finance Officer) have the right to present reports and give advice to committees and sub-committees.
- 10.2 Members of a committee or sub-committee shall take decisions within the remit of that committee or sub-committee's Terms of Reference, and will not otherwise instruct staff to act.

## **11.0 OVERVIEW AND SCRUTINY MEMBERS AND STAFF**

- 11.1 The Overview and Scrutiny function is about reviewing the policies and performance of the Council and its services and the Committee may require staff to attend scrutiny meetings for this purpose. However Members should not normally expect junior staff to give evidence and all requests for attendance of staff should be made to senior staff in the first instance.
- 11.2 Staff should be prepared to justify advice given to the Council, its committees and sub-committees.
- 11.3 Staff must also be prepared to justify decisions they have taken under delegated powers.
- 11.4 In giving evidence, staff must not be asked to give their political views.
- 11.5 Members should not question staff in a way which could be interpreted as harassment. Neither should they ask about matters of a disciplinary nature.
- 11.6 Questioning the capability, competence or appraising the personal performance of staff does not come within the Overview and Scrutiny function.

## **12.0 PARTY GROUPS AND STAFF**

- 12.1 Senior staff may properly be asked to contribute to deliberations of matters concerning Council business by party groups.
- 12.2 Staff have the right to refuse such requests, and will normally not attend a meeting of a party group, where some of those attending the meeting are not Members of the Council.

- 12.3 Staff support will not extend beyond providing factual information or professional advice in relation to matters of party business and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.
- 12.4 Party group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal decisions. The presence of a member of staff confers no formal status on such meetings in terms of Council business and cannot be interpreted as doing so.
- 12.5 Where staff provide factual information and advice to a party group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered at the relevant meeting of the Council, its committees or sub-committees.
- 12.6 Staff will respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group will not relay the content of such discussions to another party group or to any other Members. This shall not prevent an officer providing feedback to other senior staff on a need-to-know basis.
- 12.7 In their dealings with party groups, staff must treat each group in a fair and even-handed manner.
- 12.8 Members must not do anything which compromises or is likely to compromise staff' impartiality.
- 12.9 The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave if at any time he/she feels it is no longer appropriate to be there.
- 12.10 An officer who is not a senior officer shall not be invited to attend a party group meeting, but a senior officer may nominate another officer to attend on his/her behalf.
- 12.11 An officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting.
- 12.12 No Member will refer in public or at meetings of the Council to advice or information given by staff to a party group meeting.

- 12.13 At party group meetings where some of those present are not Members of the Council, care must be taken not to divulge confidential information relating to Council business. Persons who are not Members are not bound by the Members' Code of Conduct and they do not have the same rights to council information as Members.
- 12.14 Any particular cases of difficulty or uncertainty in relation to this part of the protocol should be raised with the Managing Director and the relevant party group leader.

### **13.0 MEMBER ENQUIRIES**

- 13.1 Planning applications/planning enforcement enquiries should normally be directed in the first instance to the case officer who will normally reply by email or telephone within five working days. Should the matter be of a particularly sensitive or complex nature the enquiry should be directed to the relevant team leader or manager. Members are encouraged to check the planning section of the Council's website prior to contacting staff when seeking information on live planning applications.
- 13.2 Matters under active consideration by a Council body – enquiries should be directed to the author of the relevant report.
- 13.3 General enquiries should be directed to [memberscasework@brentwood.gov.uk](mailto:memberscasework@brentwood.gov.uk)

### **14.0 MEMBERS' ACCESS TO DOCUMENTS AND INFORMATION**

- 14.1 This is dealt with in Part 4.2 of the Constitution.

### **15.0 CONFIDENTIALITY**

- 15.1 Members and staff must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so.
- 15.2 When requested to do so, staff will keep confidential from other Members advice requested by a Member.

### **16.0 USE OF COUNCIL RESOURCES**

- 16.1 The Council provides all members with services such as printing and photocopying, and goods such as stationary and computer equipment, to assist them in discharging their roles as Members of the Council. These goods and services are paid for from the public purse and they should not be used for private purposes or in connection with party political or campaigning activities.

- 16.2 Members should ensure they understand and comply with the Council's own rules about the use of such resources, particularly:
- (a) where facilities are provided in Members' homes at the Council's expense;
  - (b) regarding ICT security
- 16.3 Members should not put pressure on employees to provide resources or support which staff are not permitted to give. Examples are:
- (a) business which is solely to do with a political party;
  - (b) work in connection with a ward or constituency party political meeting;
  - (c) electioneering
  - (d) work associated with an event attended by a Member in a capacity other than as a Member of the Council;
  - (e) private personal correspondence;
  - (f) work in connection with another body or organisation where a Member's involvement is other than as a Member of the Council; and
  - (g) support to a Member in his/her capacity as a councillor of another local authority.

## **17.0 INTERPRETATION, COMPLAINTS AND ALLEGATIONS OF BREACHES**

- 17.1 Members or staff with questions about the implementation or interpretation of any parts of this protocol should seek the guidance of the Monitoring Officer.
- 17.2 A Member who is unhappy about the actions taken by, or conduct of an officer should:
- (a) avoid personal attacks on, or abuse of, the officer at all times,
  - (b) ensure that any criticism is well founded and constructive,
  - (c) ensure that any criticism is made in private
  - (d) take up the concern with the appropriate Managing Director
- 17.3 A serious breach of this protocol by an officer may lead to an investigation under the Council's disciplinary procedure.
- 17.4 An officer who believes a member may have acted other than in accordance with this protocol should raise his/her concern with the Managing Director who may refer the matter to the Monitoring Officer. He/she will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the leader of the relevant party group. More serious complaints may involve alleged breaches of the Members' Code of Conduct.

## PROTOCOL ON MEMBERS/STAFF RELATIONS

1	SCOPE
2	GENERAL PRINCIPLES
3	THE ROLE OF MEMEBRS
4	THE ROLE OF STAFF
5	THE COUNCIL AS AN EMPLOYER
6	THE GENERAL RELATIONSHIP BETWEEN MEMBERS AND STAFF
7	LOCAL MEMBERS AND STAFF
8	CORRESPONDENCE
9	MEDIA RELATIONS
10	MEMBERS OF COMMITTEES OR SUB-COMMITTEES AND STAFF
11	OVERVIEW AND SCRUTINY MEMBERS AND STAFF
12	PARTY GROUPS AND STAFF
13	MEMBER ENQUIRIES
14	MEMBERS' ACCESS TO DOCUMENTS AND INFORMATION
15	CONFIDENTIALITY
16	USE OF COUNCIL RESOURCES
17	INTERPRETATION, COMPLAINTS AND ALLEGATIONS OF BREACHES

## Appendix A - Statement of General Principles

### NOTES

1. General authority for delegation contained in Section 101 of the Local Government Act 1972.
2. Delegation to Panels/Committees – See current Constitution/Council Handbook

Abbreviations used in the Register are as follows:

Environment Panel	EP
Housing and Health Panel	H&HP
Asset, Infrastructure and Localism Panel	AI&LP
Highways and Parking Panel	H&PP
Planning Development Control and Licensing Committee	Planning DC & L

3. Adoption Authorities:

- (a) Standing Orders for the Regulation of the Proceedings and Business of the Council )
- (b) Standing Orders Relating to Contracts )
- (c) Financial Regulations )

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#### **. Basis of Delegation**

Where the Council, a Committee or Sub-Committee, has delegated a function to an Officer, the person or body making the delegation may at any time resume responsibility for the function either in respect of a particular matter or generally, and so may exercise the function despite the delegation.

An Officer to whom a power is delegated may refer the matter to the Managing Director, or to the person or body making the delegation, for their determination. It will be appropriate for the Officer so to refer a matter:

- (a) To the Managing Director where the determination of the matter raises issues of corporate priorities or the co-ordination of the discharge of various functions of the authority
- (b) To the person or body making the delegation where the determination of the matter is likely to be particularly controversial or raises issues of policy which it would be appropriate for Members to determine; or could, by its scale or complexity expose the Council to major corporate risk which cannot be contained within Budgets

In exercising any delegated powers, Officers should ensure that decisions are consistent with Council policy, within approved spending limits, and in the best interests of residents and the Council as a whole. Elected Members should be informed/consulted as appropriate depending on the nature and sensitivity of the decision.

#### **Conflicts of Interest**

Every Officer is responsible for identifying whether he/she has any conflict of interest in any matter which is under consideration, actual or perceived, within the authority, and notifying the authority (including under section 117 of the Local Government Act 1972).

Where an Officer has a conflict of interest in any matter, he/she shall not participate in that matter in his/her capacity as an Officer except with the prior approval of the Monitoring Officer or the Managing Director.

Where the Managing Director is unable to act on a matter because of a conflict of interest, the matter shall be discharged by the appropriate Head of Service, where the appropriate Head of Service is unable to act the matter shall be discharged by the Heads of Service collectively, or by such Officer as they shall determine for this purpose.

Where a Head of Service is unable to act on a matter because of a conflict of interest, the Managing Director shall discharge the matter him/herself or allocate the matter to another Officer.

Where the Monitoring Officer is unable to act on a matter in his/her statutory capacity under section 5 of the Local Government and Housing Act 1989, the matter shall be discharged by the Officer designated by the Monitoring Officer as Deputy Monitoring Officer.

Where the Monitoring Officer is unable to act on a matter in relation of Member conduct, the matter shall be discharged by the person appointed by the Monitoring Officer for this purpose under section 82A of the Local Government Act 2000.

Where any other Officer is unable to act on a matter that Officer's line manager or the Managing Director may discharge the matter or may arrange for another Officer to discharge the matter

## **General Conditions and Limitations**

In taking any decision, each Officer must ensure that they have acted in a considered, well informed and defensible manner which is in the best interests of the Council and its residents. The more significant the decision, the greater the obligation to demonstrate that appropriate consideration has been given to the way the decision was made.

As a general rule all decisions will need to be made with a full understanding of Council policy relating to the decision, an awareness of relevant legal obligations including equality requirements, and a clear assessment of the impact of the decision on those affected. Decisions will also need to be consistent with the Council's Budget strategy and will need to be effectively risk assessed.

The obligation to ensure that these issues are properly understood rests with decision makers. Where doubt exists advice must be taken from those officers who are professionally qualified to give advice such as the Council's Monitoring Officer. Officers must not commit the Council to a course of action which will entail financial obligations beyond those approved by the Council.

Where the decision is politically sensitive or likely to affect significant numbers of residents, decision makers are under a general obligation to consult with those from whom the decision is delegated and ward Members where appropriate. Where realistic choices exist and where good practice would suggest it to be appropriate public consultation should be undertaken after consulting with appropriate Members.

No Officer other than the Head of Legal Services shall authorise or institute any legal proceedings or process or instruct legal agents or Counsel without the prior written consent of the Head of Legal Services

The Managing Director may allocate or re-allocate responsibility for functions between Officers as necessary for the effective discharge of those functions or to cover absence of particular Officers.

Where an Officer is going to be absent for a period of time, he/she or his/her line manager may re-allocate responsibility for that Officer's functions as necessary to ensure the effective discharge of those functions during the Officer's absence. Where the Managing Director is going to be absent for a period of time then responsibility for the Managing Director's functions as necessary to ensure the effective discharge of those functions during the Managing Director's absence shall be allocated to the appropriate Heads of Service, unless otherwise allocated by the Managing Director.

Where a function is delegated to an officer it shall also be exercisable by his/her Head of Service. Where a function is delegated to a Head of Service it shall also be exercisable by the Managing Director, except the functions of Monitoring Officer and Section 151 Officer. Where a function is stated to be specifically delegated to a particular Officer, that function shall not be exercised by any other Officer, except in accordance with this Scheme.

- 5.
6. Staff exercising delegated papers shall do so with regard to Article 1.3 – Purpose of the Constitution and Article 10.2 – Principles of Decision Making.

A/2



Abbreviations used in the Register are as follows:-

CE	Chief Executive
MD	Managing Director
DoF	Director of Finance
HoLG	Head of Legal and Governance
HoLP	Head of Localism and Partnership
HoPI	Head of Performance and Improvement
HoP	Head of Planning
HoH	Head of Housing
HoSSP	Head of Street Scene (Policy)
HoEHL	Head of Environmental Health and Licensing
HoR	Head of Resources
RBM	Revenues and Benefits Manager
PLO	Principal Licensing Officer

7. Certain legislative changes have occurred since various delegations were originally granted. For the avoidance of doubt all delegations refer to the legislation quoted and any subsequent amendments.
8. Where authority is delegated in the Register to take 'all appropriate action' or 'all necessary action' such action shall be interpreted as 'all reasonable appropriate action' or 'all reasonable necessary action'.

A/3

**Article 12**

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.

## 9. NOTICE OF MOTION - FOULING UNDER RAILWAY BRIDGE, SHENFIELD

Report of *Managing Director*

Author *Jean Sharp*

Telephone Number *01277 312655*

Email *jean.sharp@brentwood.gov.uk*

### 1. Executive Summary

1.1 A Motion has been received from Cllr Quirk.

### 2. Context

2.1. Cllr Quirk has submitted the following motion:

*"This council should encourage clean streets and a generally tidy and sanitary borough. On the boundary of my ward at Alexander Lane, at Shenfield and Hutton is a pavement that sits under a railway bridge and which is frequented by pigeons that heavily defecate on the pavement below. This stretch of street is used by school children daily and is a disgrace, a health hazard and something that this council should be ashamed of in not having rectified despite resident protests. This council therefore agrees to do everything in its power in order to clean this area as frequently as is necessary in the short term but also to formally notify the bridge owner that they must mitigate the effect of the problem permanently so that the council's funds are not expended exhaustively. Accordingly, this council will also take formal action against the bridge owner (should they not put in place a satisfactory, permanent proposal within 28 days of the council's foregoing resolution) to serve notice under the Clean Neighbourhood Act (or similar legislation) in order to compel them to act to remedy this urgent issue'.*

### 3. Background

3.1 No background information has been received.



## Ordinary Council 23.10.13

### 10. NOTICE OF MOTION – DECISIONS ON SENIOR OFFICER SALARY

**Report of Managing  
Director**

**Author Jean Sharp**

Telephone Number 01277 312655

**Email** jean.sharp@brentwood.gov.uk

#### 1. Executive Summary

1.1 A Motion has been received from Cllr Quirk.

#### 2. Context

2.1. Cllr Quirk has submitted the following motion:

*'Government and this council talk much of openness, transparency and scrutiny. As such, as is the guidance of the coalition Government, the remuneration of the most senior public servants within our organisation must be decided in the most democratic and accountable way. For such decisions to ultimately be the gift of just one person is neither balanced nor democratic. This council therefore agrees that from here on the pay of the council's Managing Director and all staff that are set to receive a package that totals above £100,000 per annum in basic salary and bonus provision have their specific pay amount debated and decided by the full membership of this council in open forum before being formally agreed. This does not preclude the existence of a remuneration recommendation panel in this regard however the final decision will be made by council as a whole, not just the leader of the council'.*

#### 3. Background

3.1 No background information has been received.



## Ordinary Council 23.10.2013

### 11. NOTICE OF MOTION - LICENCE FOR TRADING SPACE

Report of *Managing Director*

Author *Jean Sharp*

Telephone Number *01277 312655*

Email *jean.sharp@brentwood.gov.uk*

#### 1. Executive Summary

1.1 A Motion has been received from Cllr Baker

#### 2. Contaxt

2.1. Cllr Baker has submitted the following motion:

*"This council supports an entrepreneurial spirit and will encourage it amongst our local traders. However such initiatives must be within rules and guidelines. But of course, those rules should also be flexible and have regard for common sense. On a daily basis in Brentwood's High Street, an ice cream van pitches outside of Marks and Spencer and receives parking tickets. It is my belief that instead of penalising something that seems to be a popular addition to the town, we should encourage it but within a regulatory framework. I therefore propose that officers investigate granting a pitch licence for this area, in conjunction with the Highways Authority if necessary, to enable all interested parties to bid for a trading space at this site in exchange for a licence fee payable to this council. This would allow an income to mitigate against the taxation burden on Brentwood council tax payers and ensure that local businesses could, if they wish, expand their trading activities within our bustling High Street space legitimately".*

#### 3. Background

No background information has been provided.





## Ordinary Council 23.10.2013

### 12. NOTICE OF MOTION - THE INTRODUCTION OF PART NIGHT LIGHTING TO BRENTWOOD

Report of *Managing Director*

Author *Jean Sharp*

Telephone Number *01277 312655*

Email *jean.sharp@brentwood.gov.uk*

#### 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 has serious concerns about Essex County Council's plans to introduce part night street lighting in Brentwood in February 2014.*

*Members share residents concerns about potential increases in crime and anti social behaviour in the urban areas where the lights are going to be turned off.*

*Members are also very concerned about the number of urban roads that are not on the primary road network that are littered with potholes and footpaths that are in urgent need of repair across the Borough. These hazards will become even more of a danger for motorists and pedestrians when the lights are switched off.*

*This Council calls on Essex County Council to put on hold the roll out of the part night street lighting programme in Brentwood until the following issues have been properly addressed:*

*1) Brentwood Borough Council is given an assurance by the Cabinet member that there will be a full assessment and repair programme instigated as soon as possible to repair all the potholes and footpaths that are in urgent need of attention particularly on the urban roads across the Borough.*

*2) Members would like the County Council to produce a detailed report that fully evaluates LED technology and the impact LED lighting would have on a community like Brentwood.*

*3) Members would like a forum established in Brentwood for key stakeholders from the community to discuss these proposals in detail and decide at the local level the best way forward.*

*4) If part night street lighting is introduced in Brentwood then members believe it should only be during the hours of 1am and 5am.*

### **3. Background**

3.1 No background information has been provided.

## Ordinary Council 23.10.13

### 13. NOTICE OF MOTION – COMMERCIAL VIABILITY OF PRINT UNIT

**Report of** Managing Director

**Author** Jean Sharp

Telephone Number 01277 312655

**Email** jean.sharp@brentwood.gov.uk

Wards Affected *Shenfield*

#### 1. Executive Summary

1.1 A Motion has been received from Cllr Aspinell

#### 2. Context

2.1. Cllr Aspinell has submitted the following motion:

*"The Council requests the Strategy and Policy Board to urgently investigate both the potential for and commercial viability of the Print Unit being reconfigured in order to trade and generate an income. Furthermore, the Council requests that the Strategy and Policy Board prepare a report of its investigations into the viability of the proposal, to include a business case, for consideration by the next Strategy and Policy Board or the earliest available meeting of the Board" .*

#### 3. Background

3.1 No background information has been received.



## Ordinary Council 23.10.13

### 14. NOTICE OF MOTION – CHAIR OF OVERVIEW AND SCRUTINY

Report of *Managing Director*

**Author** *Jean Sharp*

*Telephone Number 01277 312655*

**Email** *jean.sharp@brentwood.gov.uk*

*Wards Affected Shenfield*

#### 1. Executive Summary

1.1 A Motion has been received from Cllr Hirst

#### 2. Context

2.1. Cllr Hirst has submitted the following motion:

*"In the light of the current Chair's poor handling of the business of Overview and Scrutiny Committee at recent meetings it is proposed that Council proceeds forthwith with a vote to remove the current Chair of the Overview and Scrutiny Committee and immediately thereafter to appoint a new Chair of Overview and Scrutiny and at the same time that Rule 1.2 of Part 4.4 of the Constitution be amended to read, "The Overview and Scrutiny Committee shall be chaired by a Member appointed at Council"*

#### 3. Background

3.1 No background information has been received.



## **15. 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.

## **Part II Exempt Items**

**16. William Hunter Way** (Exempt information Paragraph 4 of Schedule 12A of the Local Government Act 1972).



Managing Director

Town Hall  
Brentwood, Essex  
8.10.2013





## **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 discloseable 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 o 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.