
BRENTWOOD BOROUGH COUNCIL

CONSTITUTION

15 May 2013

The Constitution of the Brentwood Borough Council was adopted by the Council at a meeting held on 15 May 2013 and became effective from 16 May 2013. This version incorporates amendments agreed by the Council at the following meetings:

Year	Date (s) of Meetings (s)
2013	23 October
2014	7 April
2014	11 June
2014	2 July

2015	20 May
2016	18 May
2017	17 May
2018	16 May
2019	26 June - Amendments following a Full Council motion
2020	29 th April – Amendments following Extra Ordinary Council
2020	2 nd December – Amendments following a Full Council motion
2021	20 th January – Amendments following a Full Council motion

CONTENTS

CHAPTER 1 - SUMMARY AND EXPLANATION OF THE COUNCIL'S CONSTITUTION	5
CHAPTER 2 - ARTICLES OF THE CONSTITUTION	7
ARTICLE 1 - THE CONSTITUTION	7
ARTICLE 2 - MEMBERS OF THE COUNCIL	8
ARTICLE 4 - THE COUNCIL	12
ARTICLE 5 - ELECTION, ROLE AND FUNCTION OF THE MAYOR	14
ARTICLE 6 - AUDIT AND SCRUTINY COMMITTEE	15
ARTICLE 7 - COMMITTEES	17
ARTICLE 8 - JOINT ARRANGEMENTS	18
ARTICLE 9 - STAFF	19
ARTICLE 10 - DECISION MAKING	23
ARTICLE 11 - FINANCE, CONTRACTS AND LEGAL MATTERS	25
ARTICLE 12 - REVIEW AND REVISION OF THE CONSTITUTION	26
ARTICLE 13 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION	27
CHAPTER 3 - POWERS AND DELEGATIONS	29
PART 3.1 - POWERS AND DUTIES OF THE COUNCIL AND ITS COMMITTEES	29
CHAPTER 4 - PROCEDURAL RULES	49
PART 4.1 - COUNCIL PROCEDURE RULES	49
PART 4.2 - ACCESS TO INFORMATION PROCEDURE RULES	76
PART 4.3 - BUDGET AND POLICY FRAMEWORK PROCEDURE RULES	83
PART 4.4 - OVERVIEW AND SCRUTINY PROCEDURE RULES	85
PART 4.5 - FINANCIAL REGULATIONS	102
PART 4.6 RISK MANAGEMENT AND CONTROL OF RESOURCES	148
PART 4.7 - STANDING ORDERS RELATING TO CONTRACTS	155
PART 4.8 - STAFF EMPLOYMENT PROCEDURE RULES	179
CHAPTER 5 - CODES AND PROTOCOLS	182
PART 5.1 - MEMBERS' CODE OF CONDUCT	182
PART 5.2 - MEMBERS' PLANNING CHAPTER AND PLANNING CODE OF GOOD PRACTICE	198
PART 5.3 - STAFF CODE OF CONDUCT	213
PART 5.4 - PROTOCOL ON MEMBER/STAFF RELATIONS	225
PART 5.5 - PROTOCOLS FOR LICENSING COMMITTEE	237
PART 5.6 - POLITICALLY RESTRICTED POSTS	255
CHAPTER 6 - MEMBERS' ALLOWANCES SCHEME	265
PART 6.1 - MEMBERS' ALLOWANCE SCHEME	265
PART 6.2 - INDEPENDENT REMUNERATION PANEL	269

CHAPTER 7 - GOVERNANCE STRUCTURE	270
PART 7.1 - GOVERNANCE STRUCTURE	270
CHAPTER 8 - GLOSSARY OF TERMS	272
APPENDIX A - DELEGATIONS TO STAFF	275
APPENDIX B - PROCESS FOR ELECTION OF MAYOR AND APPOINTMENT OF DEPUTY MAYOR	382

CHAPTER 1 - SUMMARY AND EXPLANATION OF THE COUNCIL'S CONSTITUTION

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 committees. It also agrees the membership of the committees/sub-committees.

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

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

What's in the Constitution?

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

How the Council Operates

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

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

How Decisions are Made

Most decisions are made by committees. The Audit and Scrutiny Committee is responsible for all overview and scrutiny functions on behalf of the Council.

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

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

Overview and Scrutiny

There is an Audit and Scrutiny Committee that supports the work of the policy committees and the Council as a whole. They allow residents to have a greater say in Council matters by holding public inquiries into matters of local concern. These can lead to reports and recommendations which advise the policy committees and the Council as a whole on its policies, budget and service delivery. The Audit and Scrutiny Committee can also monitor the decisions of the policy committees. They can 'call-in' a decision made by a policy committee but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the policy committee or council reconsider the decision. They may also be consulted by policy committees on forthcoming decisions and the development of policy. Further details about the overview and Scrutiny Process is set out in Part 4 of the constitution.

The Council's Staff

The Council has people working for it to give advice, implement decisions and manage the day-to-day delivery of its services. Staff may be given delegated powers by the Council to make decisions on its behalf. Some staff have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol on member/staff relations governs the relationships between staff and members of the council. (Chapter 5 of this Constitution)

Residents' Rights

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

CHAPTER 2 - ARTICLES OF THE CONSTITUTION

ARTICLE 1 - THE CONSTITUTION

1.1 Powers of the Council

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

1.2 The Constitution

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

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

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

1.4 Interpretation and Review of the Constitution

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

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

ARTICLE 2 - MEMBERS OF THE COUNCIL

2.1 **Composition and eligibility**

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

2.2 **Election and terms of members**

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

2.3 **Roles and functions of all members**

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

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

2.3.2 **Rights and duties**

- (a) Members will have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

- (b) Members will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a member or member of staff entitled to know it. For these purposes, “confidential” and “exempt” information are as defined in the Access to Information Rules in Chapter 4 of this Constitution.
- (c) Members have a duty to declare pecuniary and non-pecuniary interests as well as any gifts and hospitality they have received.

2.4 **Conduct**

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

2.5 **Allowances**

Members will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Chapter 6 of this Constitution

ARTICLE 3 - RESIDENTS AND THE COUNCIL

3.1 Residents' rights

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

3.1.1 Voting and Petitions

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

3.1.2 Information

Residents have the right to:

- (a) attend meetings of the Council, its committees and sub-committees except where confidential or exempt information is likely to be disclosed, and the public is therefore excluded;
- (b) report on meetings, which is defined in The Openness of Local Government Bodies Regulations 2014 as:
 - (i) filming, photographing or audio recording of proceedings;
 - (ii) using any other means for enabling people not present at the meeting to see or hear proceedings as it takes place or at a later date;
 - (iii) reporting or providing commentary on proceedings orally or in writing so that the report or commentary is available as the meeting takes place or later to persons not present;
- (c) inspect agendas and reports of Council, its committees and sub-committees;
- (d) see and request copies of background papers, and any records of decisions made by the Council its committees and sub-committees; and
- (e) inspect certain officer decisions together with background papers. (See Access to Information Rules under Chapter 4 of this Constitution.
- (f) inspect the Council's accounts and make their views known to the external auditor.

3.1.3 Participation

Residents have the right to participate in the Council's question time in accordance with Rule 11 in the Council Procedure Rules, at meetings of the

Planning and Development Committee and to contribute to investigations by the Audit and Scrutiny Committee.

3.1.4 **Complaints**

Residents have the right to complain:

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

3.2 **Residents' responsibilities**

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

3.3 **Contacting their local member**

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

3.4 **Contacting the Council**

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

ARTICLE 4 - THE COUNCIL

4.1 Policy Framework and Budget

4.1.1 Policy Framework

The policy framework includes the following plans and strategies:-

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

4.1.2 Budget

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

4.2 Functions of the Council

Only the Council will exercise the following functions:-

- (a) adopting and changing the Constitution;
- (b) approving or adopting the 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 Chapter 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 elect from its Members a Leader and Deputy 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.

4.3 **Council meetings**

There are three types of Council meeting:-

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings;

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

ARTICLE 5 - ELECTION, ROLE AND FUNCTION OF THE MAYOR

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

5.1 Ceremonial role

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

5.2 Chairing the Council Meeting

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

5.3 Other Responsibilities

The Mayor will have the following responsibilities:

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

ARTICLE 6 - AUDIT AND SCRUTINY COMMITTEE

6.1 Terms of reference

The Council will appoint an Audit and Scrutiny Committee to discharge the functions conferred by section 21 of the Local Government Act 2000 and set out in detail in Chapter 3 of this Constitution.

6.2 General role

Within their terms of reference, the Audit and Scrutiny Committee will:

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

6.3 Specific functions

6.3.1 Policy development and review

The Audit and Scrutiny Committee may:

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

6.3.2 Scrutiny

The Audit and Scrutiny Committee may:

- (a) review and scrutinise the decisions made by and performance of committees and council staff both in relation to individual decisions and over time;

- (b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (c) question members of committees and staff about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (d) make recommendations to the appropriate committee and/or Council arising from the outcome of the scrutiny process;
- (e) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Audit and Scrutiny Committee and local people about their activities and performance; and
- (f) question and gather evidence from any person with their consent.

6.3.3 **Annual report**

The Audit and Scrutiny Committee will report annually to Council on their work programme and make recommendations for future work programmes.

6.4 **Proceedings of the Audit and Scrutiny Committee**

The Audit and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Chapter 4 of this Constitution.

ARTICLE 7 - COMMITTEES

7.1 Committees

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

ARTICLE 8 - JOINT ARRANGEMENTS

8.1 Joint arrangements

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

8.2 Access to information

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

8.3 Delegation to and from other local authorities

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

ARTICLE 9 - STAFF

9.1 Management Structure

(a) **General**

The Council may engage such staff as it considers necessary to carry out its functions.

(b) **Chief Officers**

The Council will engage persons for the following posts, who will be designated chief officers in accordance with the relevant legislation.

Head of Paid Service	<p>Overall corporate management and operational responsibility (including overall management responsibility for all staff).</p> <p>Provision of professional advice to all parties in the decision making process.</p> <p>Together with the Monitoring Officer, responsibility for a system of record keeping for all of the Council's decisions.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p>
Chief Finance Officer	<p>Ensuring lawfulness and financial prudence of decision making.</p> <p>Administration of financial affairs.</p> <p>Contributing to corporate management.</p> <p>Providing advice to the Council.</p>

(c) **Head of Paid Service, Monitoring Officer and Chief Financial Officer**

The Council will designate staff to fulfil the following functions:

Head of Paid Service
 Monitoring Officer
 Chief Finance Officer (S151 Officer)

Such posts will have the functions described below.

(d) Structure

The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure on the Council's website.

9.2 Functions of the Head of Paid Service**(a) Discharge of functions by the Council**

The Head of Paid Service will report to Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of staff required for the discharge of functions and the organisation of staff.

(b) Restrictions on functions

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

9.3 Functions of the Monitoring Officer**(a) Maintaining the Constitution**

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.

(b) Ensuring lawfulness and fairness of decision making

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Council if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) Proper officer for access to information

The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant reports and background papers are made publicly available as soon as possible.

(d) Providing advice

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all members.

(e) Restrictions on posts

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

- (f) The statutory duty of the Monitoring Officer shall be performed personally or, where he/she is unable to act owing to absence or illness, personally by such member of their staff as he/she has for the time being nominated as his/her deputy for the purposes of s5 Local Government and Housing Act 1989.

9.4 Functions of the Chief Finance Officer (section 151 officer)**(a) Ensuring lawfulness and financial prudence of decision making**

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council and the Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

(b) Administration of financial affairs

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

(c) Contributing to corporate management

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) Providing advice

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all members and will support and advise members and staff in their respective roles.

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

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

9.6 Conduct

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

9.7 **Employment**

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

ARTICLE 10 - DECISION MAKING

10.1 Responsibility for decision making

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

10.2 Principles of decision making

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

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

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

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

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

10.4 Decision making by Audit and Scrutiny Committees

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

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

- (a) Whenever the Council, or a member or a member of staff considers or determines the civil rights or obligations or the criminal responsibility of any person they will follow a proper procedure.

- (b) This procedure will accord with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

ARTICLE 11 - FINANCE, CONTRACTS AND LEGAL MATTERS

11.1 Financial management

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

11.2 Contracts

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

11.3 Legal proceedings

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

11.4 Authentication of documents

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

11.5 Common Seal of the Council

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

ARTICLE 12 - REVIEW AND REVISION OF THE CONSTITUTION

12.1 Duty to monitor and review the Constitution

- (a) The Council will have responsibility for monitoring and reviewing the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
- (b) Subject to the exceptions set out below, changes to the Constitution will only be effective if approved by the full Council.
- (c) Amendments to the Constitution will normally only be considered by the Council following a report and recommendation from the Audit and Scrutiny Committee, or Constitution Working Group and having received the advice of the Monitoring Officer.

12.2 Changes to the Constitution

- (a) Subject to paragraph (c) below, changes to the Constitution may only be approved by the full Council after consideration of the proposal by an appropriate Member body (see paragraph 12.1 (c) above).
- (b) The Council has agreed that there should be a Constitution Working Group appointed by and reporting to the Council to undertake a fundamental review the Constitution and recommend changes to the Council.
- (c) The Member body recommending changes to the Constitution whether it is the Constitution Working Group, or the Audit and Scrutiny Committee will have regard to advice from the Monitoring Officer on any proposals relating to the Constitution. The Monitoring Officer may submit a report direct to the Council in any case where his/her advice is not accepted by the Member body.
- (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.
- (e) Any Member of the Council may, in writing, request that the Monitoring Officer take a proposed amendment to the appropriate Member body for discussion. The appropriate Member body having regard to the advice of the Monitoring Officer (or in their absence their nominated deputy), may determine to make the necessary proposed amendments to Full Council.

ARTICLE 13 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

13.1 Suspension of the Constitution

13.1.1 Limit to suspension

The Articles of this Constitution may not be suspended.

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

13.1.3 Procedure to suspend

A motion to suspend any Rules will not be moved without notice and with at least three-quarters of the whole number of members being present.

13.1.4 Rules capable of suspension

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

13.2 Interpretation

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

13.3 Publication

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

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

SCHEDULE 1: DESCRIPTION OF ARRANGEMENTS

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

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

CHAPTER 3 - POWERS AND DELEGATIONS

PART 3.1 - POWERS AND DUTIES OF THE COUNCIL AND ITS COMMITTEES

1. Matters Reserved to meetings of Council

1.1 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 committees. It also agrees the membership of the committees/sub-committees.

1.2 **Functions of the Council**

Only the Council will exercise the following functions:-

- (a) adopting and approving changes to the Constitution;
- (b) adopting and amending Contract Standing Orders and Financial Regulations;
- (c) 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;
- (d) appointing representatives to outside bodies and consultative groups unless the appointment has been delegated by the Council;
- (e) adopting and amending a members' allowances scheme under Chapter 6;
- (f) to elect the Leader and Deputy Leader of the Council;
- (g) to designate the Chairs and Vice Chairs of the Council;
- (h) adoption of the Code of Conduct for Members;
- (i) electoral and ceremonial matters relevant to the Council

- (j) changing the name of the area, conferring the title of honorary alderman or freedom of the borough;
- (k) setting the Council's Budget and Council Tax;
- (l) approving the making of a virement or payment from the Council's reserves for values exceeding £200,000; approving of the Council's Corporate Plan;
- (m) approving or adopting the Council policies and strategies which form the policy framework;
- (n) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (o) confirming the appointment or dismissal of the Head of Paid Service; Monitoring Officer; and Section 151 Officer;
- (p) to consider reports on cross cutting matters not expressly delegated to another committee;
- (q) all other matters which by law must be reserved to Council;

2. General Powers of Committees

This scheme of delegation sets out the functions of the Council to be discharged by its committees and sub-committees and includes the terms of reference of statutory and non statutory bodies set up by the Council.

Each committee or sub-committee will have the following general powers and duties:

- (a) To carry out the duties and powers of the Council within current legislation;
- (b) To comply with the Council's standing orders and financial regulations;
- (c) To operate within the budget allocated to the committee by the Council.
- (d) To guide the Council in setting its policy objectives and priorities including new initiatives, and where appropriate make recommendations to Council.
- (e) To develop, approve and monitor the relevant policies and strategies relating to the Terms of Reference of the committee;
- (f) To secure satisfactory standards of service provision and improvement, including monitoring of contracts, Service Level Agreements and partnership arrangements;

- (g) To consider and approve relevant service plans;
- (h) To determine fees and charges relevant to the committee;

2.1 Policy, Resources and Economic Development Committee

The committee shall consider all matters of policy and strategic importance to the Council including matters referred to it by other Committees and/or Chief Officers.

- 2.1.1 The function within the remit of the Policy, Resources and Economic Development Committee include all financial matters relating to the budget, (and for avoidance of doubt, being the superior Committee on all such matters including capital, revenue and the Housing Revenue Account (HRA) except where the law otherwise requires), and without prejudice to the generality of this, include the specific functions which are set out below.

2.1.2 Policy

Generally, to review and oversee the co-ordination and governance of all functions of the Council. To undertake and discharge any functions in relation to strategic policies including periodic reviews of the policy framework adopted by full Council from time to time except where required by law to be undertaken elsewhere.

2.1.3 Finance

- (a) Financial Services
- (b) Contracts, commissioning, procurement
- (c) Legal services
- (d) Health and safety at work (in so far as it relates to the Council as an employer)
- (e) Corporate communications and media protocols
- (f) Corporate and Democratic services
- (g) Human resources
- (h) Information Communication Technology
- (i) Revenues and Benefits

(j) Customer Services

(k) Assets (strategically)

- 2.1.4 Overall responsibility for monitoring Council performance.
- 2.1.5 To formulate and develop relevant corporate policy documents and strategies including the Corporate Plan.
- 2.1.6 To formulate the budget proposals in accordance with the Budget and Policy Framework, including capital and revenue spending, and the Housing Revenue Account Business Plan (including rent setting for Council homes), in accordance with the Council's priorities and make recommendations to Council for approval.
- 2.1.7 To formulate the Council's Borrowing and Investment Strategy and make recommendations to Council for approval.
- 2.1.8 To take decisions on spending within the annual budget to ensure delivery of the Council's priorities.
- 2.1.9 To approve the write off of any outstanding debt owed to the Council above the delegated limit of £5,000.
- 2.1.10 To determine capital grant applications.
- 2.1.11 To make recommendations on the allocation and use of resources to achieve the council's priorities.
- 2.1.12 To manage and monitor the Council approved budgets and allocation of resources.
- 2.1.13 To provide the lead on partnership working including the joint delivery of services.
- 2.1.14 To consider any staffing matters that are not delegated to Officers, such as proposals that are not contained within existing budgetary provision.
- 2.1.15 To strategically manage any lands or property of the council and provide strategic property advice relating to the council's Housing Stock and without prejudice to the generality of this, to specifically undertake the following-

2.1.16 The Council's Asset Management Plan

- (a) The acquisition and disposal of land and property and taking of leases, licenses, dedications and easements.
- (b) The granting variation renewal review management and termination of leases, licenses, dedications and easements.
- (c) Promoting the use of Council owned assets by the local community and other interested parties.
- (d) To manage any lands or property of the Council;
- (e) To include properties within the council's Asset Management Portfolio including Halls etc.
- (f) To take a strategic approach to asset management, ensuring that the use of all of the Council's Property assets achieves Value for Money and supports the achievement of the Council's corporate priorities.
- (g) To review the corporate Asset Management Plan annually.
- (h) The acquisition of land in advance of requirements for the benefit, improvement or development of the Borough.
- (i) Disposal of land surplus to the requirements of a council function.
- (j) Appropriation of land surplus for the requirements of another Council function.
- (k) Promote the use of Council owned assets by the local community and other interested parties where appropriate.
- (l) Property and asset management, including acquisitions and disposals not included in the approved Asset Management Plan.
- (m) To receive updates reports on the Asset Development Programme and the work of the Asset Development Programme and Project Board.
- (n) To take a strategic approach to commercial activity, both existing and new, ensuring the Council realises revenue generation opportunities and supports the achievement of the Council's corporate priorities.
- (o) To agree and monitor the governance arrangements for any commercial and/or partnership arrangement with the Council.

- (p) Promoting a culture of entrepreneurialism and building the required skills and capacity.
- (q) To consider and approve business cases and commercial business plans for commercial activity.

2.1.17 To consider and propose matters concerning the promotion of economic development throughout the Borough and the interface with countryside or regional economic development initiatives.

Economic Development

- (a) To lead, consider and propose matters concerning the promotion of economic development throughout the Borough and the interface with countryside or regional economic development initiatives.
- (b) To promote and encourage enterprise and investment in the Borough in order to maintain and sustain the economic wellbeing and regeneration of the area.
- (c) To develop climate where businesses and individuals can innovate, compete and contribute to the economic development and regeneration of the area; and excellence in local business.
- (d) To encourage the growth of existing businesses in the borough and access to the skills and training necessary to support them.
- (e) To develop and deliver a Borough wide initiative on apprenticeships.
- (f) To consider and determine matters relating to the promotion, maintenance and enhancement of the vitality and viability of shopping centres within the Borough.
- (g) To consult with the Chamber of Commerce, Federation of Small Businesses, residents and other interested third parties.
- (h) To maintain a special interest in promoting employment in the Borough.
- (i) To promote and encourage tourism and heritage.
- (j) Parking (off street parking provision in Council owned/leased off-street parking places).
- (k) Any matters relating to Crossrail.

2.1.18 To consider a report from the Monitoring Officer at the beginning of the Municipal Year, for the Committee to appoint the membership of the Constitution Working Group, in order for the Monitoring Officer to consult with such Members on the regular review of the Constitution documentation in accordance with Article 12 of the Constitution during the year.

2.1.19 To review and facilitate the transformation of delivery of services.
Transformation

(a) To approve and facilitate the transformation of delivery of services.

2.1.20 Projects

(a) To identify, monitor and oversee the implementation of those Corporate Projects that have been agreed by the committee to be major.

2.1.21 Scrutiny

(a) To advise the Audit & Scrutiny Committee of any matters that require scrutiny in accordance with the Audit and Scrutiny Procedure Rules.

(b) To receive requests and determine on matters that require scrutiny from the Audit and Scrutiny Committee in accordance with the Audit and Scrutiny Procedure Rules.

(c) To receive requests and determine on matters that require scrutiny from any Committee in accordance with the Audit and Scrutiny Procedure Rules.

2.1.22 To consider any requests for sponsorship and use of the Council's Coats of Arms and logos.

2.2 Environment, Enforcement and Housing Committee

2.2.1 The functions within the remit of the Environment, Enforcement and Housing Committee are set out below:

(a) Waste management, refuse collection and recycling

(b) Environmental improvement schemes

(c) The quality of the public realm, including street services and grounds maintenance

(d) Highway matters that are the responsibility of the Borough Council (including highway closures under the Town Police Clauses Act 1847) and drainage

- (e) Public conveniences
- (f) Cemeteries and closed churchyards
- (g) Unlawful incursions
- (h) Affordable housing
- (i) Housing strategy and investment programme where the Policy, Resources and Economic Development Committee does not decide to exercise such functions as the superior Committee.
- (j) The Housing Revenue Account Business Plan where the Policy, Resources and Economic Development Committee does not decide to exercise such functions as the superior Committee
- (k) Housing standards, homelessness, homelessness prevention and advice
- (l) Housing needs assessment
- (m) Housing benefit - welfare aspects
- (n) Private sector housing and administration of housing grants
- (o) Tenancy Management and landlord functions
- (p) To make recommendations to Policy, Resources and Economic Development Committee on the setting of rents for Council homes.
- (q) Operational facilities management (including maintenance) of the Town Hall and the Depot
- (r) Oversee and monitor the enforcement activities of the Council
- (s) Community Safety (including Community Safety Partnership) and CCTV
- (t) To implement working parties as required

2.3 Community and Health Committee

2.3.1 The functions within the remit of the Community and Health Committee are set out below

- (a) Community and Localism Initiatives including Assets of Community Value

- (b) The Voluntary Sector and community partnerships
- (c) Leisure and cultural initiatives.
- (d) Parish Council liaison
- (e) Health and Wellbeing
- (f) Grants to organisations/voluntary organisations.
- (g) Parks, open spaces, countryside, allotment
- (h) Environmental Health
- (i) Environmental nuisance and pollution controls
- (j) Other miscellaneous powers enforced by Environmental Health
- (k) Food safety and health and safety

2.3.2 To take the lead on community leadership and consultation with stakeholders.

2.3.3 To implement working parties as required.

2.4 Audit and Scrutiny Committee

2.4.1 The Audit and Scrutiny Committee provides advice to the Council and the committees on the effectiveness of the arrangements for the proper administration of the Council's financial affairs, including all relevant strategies and plans.

2.4.2 It also acts as the Council's Overview and Scrutiny Committee with all the powers under Part 3 of the Local Authorities (Committee System) (England) Regulations 2012, and discharges the functions under section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters).

2.4.3 Without prejudice to the generality of the above, the terms of reference include those matters set out below.

2.4.4 Audit Activity

- (a) To approve the Annual Internal Audit risk based plan of work.
- (b) To consider the Head of Internal Audit's annual report and opinion, and a summary of Internal Audit activity and the level of assurance it can give

over the Council's corporate governance, risk management and internal control arrangements.

- (c) To consider regular progress reports from Internal Audit on agreed recommendations not implemented within a reasonable timescale.
- (d) To consider the External Auditor's annual letter, relevant reports, and the report to those charged with governance.
- (e) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- (f) To consider the arrangements for the appointment of the Council's Internal and External Auditors.

2.4.5 Regulatory Framework

- (a) To review any issue referred to it by a Statutory Officer of the Council or any Council body.
- (b) To monitor the effective development and operation of risk management and corporate governance in the Council.
- (c) To monitor Council policies and strategies on an Annual basis
 - (i) Whistleblowing
 - (ii) Money Laundering
 - (iii) Anti-Fraud and Corruption
 - (iv) Insurance and Risk Management
 - (v) Emergency Planning
 - (vi) Business Continuity
- (d) To monitor the corporate complaints process.
- (e) To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.
- (f) To consider the Council's compliance with its own and other published standards and controls.
- (g) To monitor the Council processes in relation to
- (h) Freedom of Information
- (i) Member Enquires
- (j) To monitor the Council's Data Quality arrangements.

- (k) To monitor the Council's Member's Training arrangements.

2.4.6 Accounts

- (a) To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- (b) To review the Council's Annual Governance Statement.
- (c) To consider the External Auditor's report to those charged with governance on issues arising from the audit of the accounts.

2.4.7 Scrutiny Activity

- (a) Responsible to scrutinise any matters as identified and agreed by the Policy, Resources and Economic Development Committee as set out in the Audit and Scrutiny Procedure rules.
- (b) To identify and recommend any matters that need to be scrutinised to the Policy, Resources and Economic Development Committee for approval as set out in the Audit and Scrutiny rules.
- (c) To report to the Policy, Resources and Economic Development Committee or the appropriate committee on the progress of any matters that have been requested and to make relevant recommendations as required.
- (d) To establish working groups as appropriate (in line with agreed protocols) to undertake the scrutiny of any matters requested by the Policy, Resources and Economic Development Committee, including setting their terms of reference, the reporting arrangements, and to co-ordinate and review the work of the working groups.
- (e) Responsibility for the monitoring of Council service performance, including Performance Indicators and, Formal Complaints, making reports if required to any committee, or subcommittee, any officer of the Local Authority, or any joint committee on which the Local Authority is represented, or any sub-committee of such a committee.
- (f) To review and/or scrutinise decisions made, or other action taken, in connection with the discharge of any functions of the Local Authority.

- (g) To deal with those issues raised through the 'Councillor Call for Action' scheme in line with agreed protocols and procedures.
- (h) To review and/or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions.
- (i) To make reports or recommendations to the Local Authority with respect to the discharge by the responsible authorities of their crime and disorder functions.

2.5 Planning and Licensing Committee

2.5.1 Planning

- (a) Town and Country Planning Act 1990 and any related legislation including:
 - (i) determination of planning applications;
 - (ii) enforcement of planning control;
 - (iii) waste land notices, purchase notices, etc.
- (b) Listed Buildings and Conservation Areas Act 1990
 - (i) determination of applications for Listed Buildings and Conservation Area consent;
 - (ii) enforcement of Listed Building and Conservation Area legislation.
- (c) To consider and determine the Council's comments where appropriate on major development outside the Borough when consulted by other Local Planning Authorities.
 - (i) To guide the Council in setting its policy objectives and priorities.
 - (ii) To carry out the duties and powers of the Council under current legislation;
 - (iii) To develop, implement and monitor the relevant strategies and polices relating to the Terms of Reference of the committee.
 - (iv) To secure satisfactory standards of service provision and improvement, including monitoring of contracts, Service Level Agreements and partnership arrangements;

- (v) To consider and approve relevant service plans;
- (vi) To comply with the standing orders and financial regulations of the Council;
- (vii) To operate within the budget allocated to the committee by the Council.
- (viii) To determine fees and charges relevant to the committee;
- (d) To review and monitor the operational impact of policies and to recommend proposals for new initiatives and policy developments including new legislation or central government guidance
- (e) Powers and duties of the local planning authority in relation to the planning of sustainable development; local development schemes; local development plan and monitoring reports and neighbourhood planning

2.5.2 Licensing

- (a) Except in relation to the statement of Licensing Policy, to discharge all functions conferred upon the council as licensing authority under the Licensing Act 2003.
- (b) Except in relation to the statement of Licensing Policy, to discharge all functions conferred upon the council as licensing authority under the Gambling Act 2005.
- (c) To determine all fees and charges relevant to matters disposed by the Planning and Licensing Committee.
- (d) To exercise all other functions relating to licensing and registration including
 - (i) Trading Requirements
 - (ii) All functions relating to hackney carriage drivers and vehicles and private hire
 - (iii) drivers vehicles and operators
 - (iv) Animal Welfare and Security
 - (v) Skin Piercing, Acupuncture, Electrolysis and Tattooing
 - (vi) Sex establishments (including Sex Entertainment Venues (SEV))
 - (vii) Pavement Permits
 - (viii) Charitable Collections
 - (ix) Camping, Caravan Sites and Mobile Homes

- (x) Scrap Metal
- (xi) Game Dealers

- (e) Any other matters relating to licensing as may be referred to the committee for consideration.
- (f) To hear and determine licensing applications and appeals where objections and /or representations have been received in relation to any of the above functions.
- (g) To manage and monitor the budgets in respect of licensing and vehicle licensing.

2.6 Licensing Sub-Committees

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

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

2.6.1 Licensing Act 2003 and Gambling Act 2005

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

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

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

2.6.3 Scrap Metal Dealing

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

2.6.4 Street Collections and House to House Collections

- (a) Appeals against refusal to grant or renew a license.

2.6.5 Licensing of sex establishments

- (a) Determination of all applications, revocations and appeals.

2.6.6 Street Trading

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

2.6.7 Acupuncture, Tattooing, Skin and Ear Piercing and Electrolysis

- (a) Appeals against refusal to grant or renew a registration.
- (b) Revocation of a registration.

2.6.8 Animal Welfare and Security, except for the following:

- (a) Appeals against refusal to grant or renew a license.
- (b) Revocation of a license.

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

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

2.6.10 Mobile Homes

- (a) Appeals against revocation of a license and/or conditions attached to the grant of a license.

2.7 Staff Appointments Committee (to meet on demand) has the following functions:

- (a) To appoint the following designated officers:

Head of Paid Service
Section 151 Finance Officer
Monitoring Officer

and such other posts as may be determined from time to time by Group Leaders in consultation with the Head of Paid Service.

- (b) To comply with the requirements set out in Chapter 4 of the Constitution (Staff Employment Procedure Rules).
- (c) To agree, review and amend to salary and grading structures for chief officer posts in line with the agreed remuneration policy.

2.8 Dismissal Appeals Committee (to meet on demand) has the following functions:

- (a) To consider and determine any appeal by the Head of Paid Service, Section 151 Officer or Monitoring Officer against dismissal.
- (b) To consider and determine any allegation or issue of misconduct, incapability or breakdown in trust against the Head of Paid Service, Section 151 Finance Officer, Monitoring Officer or a Deputy Monitoring Officer.

2.9 Dismissal Advisory Panel (to meet on demand) has the following functions:

- (a) To advise full Council on matters relating to the dismissal of the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer

NB. This Panel comprises three independent persons who are not Members of the Council.

2.10 Emergency Committee

- (a) To enable the Council to function in emergency situations when fewer Councillors and /or Officers are available to attend meetings.
- (b) There will be no informal meetings of the Emergency Committee called.
- (c) The Committee will be convened, as required, as part of the Borough Council's Major Incidents and Emergency Planning process.

- (d) The decision to convene the Committee will be made by the Chief Executive through consultation with the Leader and after the Monitoring Officer has assessed the appropriateness of taking a particular report to the Committee. The decision will be recorded on the agenda. Only decisions that cannot be deferred will be taken to the Committee.
- (e) The Agenda will include a Statement of Purpose for the Committee being convened and will record reasons why the decision being sought could not be deferred, there will be a clear statement of what the Committee will be discussing.
- (f) Equally a proposal to stand down the Committee will be brought by the Chief Executive through consultation with the Leader to each Committee, and after obtaining such advice as necessary from the Monitoring Officer or their deputy as appropriate, such proposal to stand down the Committee will be decided by a majority vote of members at the meeting. All members of the council will also have the ability to influence the decision to stand down the committee. This can be undertaken by at least a third of councillors writing to the Chief Executive and the Monitoring Officer requesting the committee stands down. If this action is taken, then the reinstatement of the full committee structure will take place or an extraordinary council meeting can be called to debate any other emergency governance models required to enable the council to function lawfully.
- (g) Once the Committee is convened it can take on the role of the delegations afforded to the following:
 - (i) Council emergency functions only:
 - (i) Policy Resources & Economic Development,
 - (ii) Environment, Enforcement & Housing,
 - (iii) Community & Health,
 - (iv) Planning & Licensing
 - (v) Audit & Scrutiny Committee – ONLY with regard to the development of any emergency budget that may be required or to sign off the Annual Accounts if this could not be bought to Audit & Scrutiny Committee.
- (h) The intention, where possible, is to still undertake Planning & Licensing and Audit & Scrutiny Committees separately when required and appropriate. This will be decided by the Chief Executive through

consultation with the Leader, and Monitoring Officer. These powers can be in full or in part.

- (i) All members sitting on the Committee will have the appropriate Planning and Licensing Training prior to the consideration of any item, relating to planning and licensing, being presented at this committee.
- (j) The Committee will only undertake decisions that relate to the budgetary function of the Council and if there is a statutory reason that an urgent decision is needed and the Audit & Scrutiny Committee cannot be convened for whatever reason.
- (k) Any decisions made by the Emergency Committee may be subject to the scrutiny of the Audit & Scrutiny Committee when it is next convened.
- (l) Officer delegations will remain as per the Constitution.
- (m) The Committee will also meet as required and consider the immediate strategic issues for the Borough Council arising from the incident, having received reports from the Chief Executive.
- (n) The Emergency Committee may authorise action affecting any of the Borough Council's functions if the urgency of the situation demands this. Subject to such action being reported, together with the Committee's reasons for acting, to the next meeting of Full Council.
- (o) The Committee must ensure that steps are being taken to provide, to members of the public and the press, regular communications on the incident and the action being taken.
 - (i) Members of the Committee are to be suitably briefed and prepared to make appropriate statements to the media if required in consultation with the Councils' communications manager.
 - (ii) The Committee should consider the longer-term implications arising from the incident and the impact these may have on the Borough Council.
 - (iii) Emergency Committee may not change the decisions made at the meeting of Extraordinary Council on 29 April 2020.
 - (iv) The minutes to any Emergency Committee will be published no later than three working days after the meeting.

2.10.1 Membership

- (a) The Committee shall consist of 10 named Members of the Borough Council, to include:
 - (i) Leader of the Council and Chair of Policy, Resources & Economic Development (who will be the Chairman of this Committee)
 - (ii) Vice-Chairman of Policy, Resources and Economic Development
 - (iii) The Chairman of the Community & Health Committee
 - (iv) The Chairman of the Environment, Enforcement & Housing Committee
 - (v) The Leaders of all groups
 - (vi) Other named members to achieve a political balance
- (b) If there is a change of political balance on the Council, this composition will be recalculated by the Proper Officer and amended accordingly.
- (c) Succession arrangements are key and for clarity it is confirmed that formal delegations between Councillors will ensure continuity of the Committee. Substitutes for this committee will be submitted in writing by Group Leaders to the Chief Executive and Monitoring Officer ahead of the first meeting and updated for future meetings where necessary.

2.10.2 Quorum

- (a) The minimum number of members to transact any business shall be one third (3) of the committee.

PART 3.2 - DELEGATIONS TO STAFF

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

CHAPTER 4 - PROCEDURAL RULES

PART 4.1 - COUNCIL PROCEDURE RULES

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

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

1. **Meetings of the Council**

1.1 **Types of Council Meeting**

There may be three types of Council meeting:

- (a) The Annual Meeting
- (b) Ordinary meetings
- (c) Extraordinary meetings

1.2 **Annual Meeting of Council**

The Council shall hold an annual meeting in the year of ordinary election of Members not earlier than the eighth day and not later than the twenty first day of the date of retirement of members.

In any one year where there are no elections to the Council, the annual meeting will be held on a date in May to be fixed by the Council.

1.3 **No requirement to hold an Annual Meeting of the Council**

The Requirement to hold an Annual Meeting is to be disregarded and, prior to 7 May 2021, an Annual Meeting of the Council may only take place:

- (a) where Called by the Mayor; or
- (b) following a resolution calling for an Annual Meeting being passed at an ordinary or extraordinary meeting of the Council.

1.4 **Extraordinary meetings**

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

- (a) the Council by resolution, or
- (b) the Mayor, or

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

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

The Council may go beyond formal meetings, to which these rules of procedure apply and may move to "In Assembly" to which these rules of procedure do not apply.

This will enable members to invite presentations by other bodies and also enable general discussions, workshop events and opportunities to engage with the public, partners in the public and private sectors and other organisations.

2. **Agenda**

2.1 **Agenda for Annual Meeting**

The Annual Meeting will consider the following:

- (a) appoint a person to preside if the Mayor and Deputy Mayor are not present or able to act;
- (b) receive any apologies for absence from Members;
- (c) receive any announcements from the Mayor;
- (d) designate a Mayor for the ensuing municipal year (See Appendix B for process of electing a Mayor and Deputy Mayor);
- (e) designate a Deputy Mayor for the ensuing municipal year;
- (f) receive any declarations of interest from Members and Officers;
- (g) Brentwood Borough Council Elections: The Chief Executive will report the results of the elections (election years only);
- (h) Political Groups on the Council: The Chief Executive will report receipt of Notices served on him/her by Members under the provisions of the Local Government (Committees and Political Groups) Regulations 1990. (Normally only in election years);

- (i) Elect from its members a Leader and Deputy Leader of the Council in any year in which their term of office expires;
- (j) to receive the Leader's statement under rule 6;
- (k) establish the following and their size and terms of reference;
 - (i) a committee for the purposes of the Licensing Act 2003
 - (ii) such other committees as may be necessary for the proper discharge of the functions of the Council;
- (l) note the allocation of seats on committees and sub-committees to Members of political groups and those seats to be filled by Members who are not in any political group, appoint Members to those allocated committee seats in accordance with the nominations of the political group Leaders, and appoint Members to the remaining committee seats from among those Members who are not in any political group;
- (m) appoint any co-opted Members to the committees, and Independent Persons as appropriate.
- (n) determine to which committees substitute Members may be appointed;
- (o) appoint such Chairs and Vice-Chairs of committees as it falls to Council to appoint;
- (p) receive nominations for, and make appointments to, those outside bodies to which the Council is entitled to appoint except where that right of appointment is exercisable only by the Leader;
- (q) approve the Member Allowances Scheme;
- (r) agree the date, time and place of ordinary meetings of Council for the coming municipal year;
- (s) consider any business set out in the notice convening the meeting.

2.2 Agenda for Ordinary meetings of the Council

Following consultation with the Chief Executive, the order of the agenda will be agreed by the Mayor having regard to the following:

- (a) to choose a Member to preside if the Mayor and Deputy Mayor be absent;
- (b) any business expressly required by statute to be transacted by the Council;

- (c) to receive any items of urgent business (to be agreed by the Mayor by reason of special circumstances which shall be specified in the minutes).
- (d) to receive any announcements from the Mayor;
- (e) to approve as a correct record the minutes of the last meeting of the Council;
- (f) to answer questions asked by members of the public pursuant to Rule 11;
- (g) to consider reports of the Audit and Scrutiny Committee;
- (h) to receive memorials or petitions (if any)
- (i) for Chairs of committees to answer questions from Members pursuant to Rule 7.
- (j) to receive and consider reports;
- (k) to authorise the sealing of documents so far as the Council's authority is required by statute or this Constitution;
- (l) to consider Notices of Motion in the order in which they have been received.

2.3 When considering the budgetary framework at its February meeting, no other business will be considered by Council other than the budget and related proposals.

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

2.5 Agenda for Extraordinary meetings

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

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

No other business will be transacted.

3. Motions and Amendments

- 3.1 Any one or more Members of the Council may, by notice received by the Monitoring Officer no later than 10.00 am eleven working days before the day of the Council meeting, require the Council to consider a motion about a matter relating to which the Council has powers or duties or which affects the Council's area. A notice of motion may be accompanied by a statement of not more than 200 words setting out the reason for the proposed motion.
- 3.2 A notice of motion may be in more than one part and contain more than one recommendation but must all relate to the same subject matter.
- 3.3 The Monitoring Officer may reject a notice of motion if, in his/her opinion:
 - (a) it does not comply with the requirements of this Rule;
 - (b) the notice of motion is defamatory of an individual, offensive, or otherwise infringes the proper conduct of local government; or
 - (c) the recommendation in the notice of motion would be illegal.
- 3.4 Where the Monitoring Officer rejects a notice of motion, he/she shall inform the Member who submitted the notice as soon as practicable prior to publication of the agenda and shall not include the rejected notice of motion in the public record or agenda.
- 3.5 The Monitoring Officer shall record all such notices of motion (not including a rejected notice) in the order in which they are received, and such record shall be open to public inspection on request.
- 3.6 The Monitoring Officer shall include all notices of motion and accompanying statements in the agenda for the next relevant meeting of Council in the order received, save that:
 - (a) where two or more notices of motion are received from a particular Member for the same meeting, that Member's second notice of motion shall be included after all other Members' first notices of motion, that Member's third notice of motion shall be included after all other Members' second notices of motion, and so on.
 - (b) where he/she considers that the notice of motion, statement or consideration of the notice of motion is likely to result in the disclosure of confidential or exempt information, in which case he/she may group such notices of motion together with other items of business which are, in his/her

opinion, likely to involve the exclusion of press and public during their consideration.

- 3.7 The Council shall not debate any motion which would give rise to a significant change to the income of the Council, to its expenditure or to contract terms, unless it has received a report from the Chief Finance Officer or the Monitoring Officer, as appropriate, setting out the legal or financial effect of the motion.
- 3.8 Where a Member submits a notice of motion which would require an accompanying report under Rule 3.7, he/she shall at the same time provide the Chief Finance Officer and /or the Monitoring Officer with sufficient supporting information to enable them to prepare such an accompanying report.
- 3.9 Where a motion which would require an accompanying report under Rule 3.7 falls to be moved without such accompanying report being made available to all Members of Council, the motion shall stand adjourned without debate to the next available meeting of Council.
- 3.10 The rules of debate at 8.3.4 of this Constitution apply when moving and debating motions on notice.
- 3.11 If any matter arises at a meeting to which the Local Government Act 1972 applies by virtue of section 100 (A) (2) as to the appointment, promotion, dismissal, salary, superannuation, or conditions of service or as to the conduct of any person employed by the Council, such matter shall not be the subject of discussion until the Council or committee as the case may be, has decided whether or not the power to exclude the public under section 100 (A) (2) of the Local Government Act 1972 shall be exercised.
- 3.12 A motion or amendment to rescind, or which has the effect of rescinding, a decision made at a meeting of Council within the past six months, may not be moved except in accordance with Rules 8.3.17 and 18 (below) unless upon a recommendation from the Finance and Resources Committee for a variation of the approved Budget or Policy Framework, or where the Monitoring Officer confirms that it is appropriate for the Council to reconsider the matter to comply with law, as a result of a change of law or material change of circumstances.
- 3.13 A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved except in accordance with Rules 8.3.17 and 18 (below) unless upon a recommendation from the Finance and Resources Committee for a variation of the approved Budget or Policy Framework, or where the Monitoring Officer confirms that it is appropriate for the Council to reconsider the matter to comply with law, as a result of a change of law or material change of circumstances.

Amendments

3.14 Subject to Rule 3.3, notice of an amendment to a recommendation or motion on the agenda for a Council meeting may be given by two members to the Monitoring Officer up to 12 noon on the day of Council. Only motions which can be moved without notice or amendments to recommendations arising from Officers' reports will be accepted without notice.

3.15 No amendment shall be considered with regard to the recommendation of the Finance and Resources Committee for the setting of the Council's budget unless notice of the amendment has been given by two members to the Monitoring Officer by 10.00 am **five working days** before the day of the meeting.

4. Quorum

4.1 The quorum of a meeting of the Council will be one quarter of the whole number of members i.e. no less than 10 members.

4.2 If during any meeting of the Council the Mayor counts the numbers of members present and declares that there is not a quorum present then the meeting will adjourn. Remaining business shall be adjourned to the next ordinary meeting of the Council or to such other time and date as may be fixed by the Mayor.

5. Signing the Minutes

5.1 The Mayor will sign the minutes of the proceedings at the next suitable meeting.

5.2 The Mayor will move that the minutes of the previous meeting be signed as a correct record.

5.3 The only part of the minutes that can be discussed is their accuracy and any question as to their accuracy shall be raised by motion.

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

6. The Leader's Statement

6.1 The annual meeting of Council may receive:

(a) an address from the Leader of the Council for up to **15 minutes**;

(b) a response from the Leader of the main Opposition Group for up to **10 minutes**;

(c) a response from each of the leaders of the other political groups for up to **5 minutes** per speaker;

- (d) a response from any member who is not a member of a political group for up to **3 minutes**.

7. Chair Reports and Questions

- 7.1 A brief written report by each committee Chair covering their area of responsibility will be circulated with the agenda for each Council meeting.
- 7.2 Any member may ask a Chair written or oral questions on:
- (a) any matter included in a Chair's written report; or
 - (b) any matter in relation to which the Council has powers or duties or which affects the Council's area and which falls within the area of responsibility of the Chair's committee.
 - (c) No question should be put to the Chair if it relates exclusively to a ward, operational or resident matter that could have otherwise been resolved by reasonable use of the casework system.
- 7.3 The period allowed for Chairs' reports, written and oral questions and answers will not exceed **60 minutes** without the leave of the Mayor and such leave will only be granted in exceptional circumstances.

Written questions

- 7.4 A member may submit a maximum of 2 written questions under Rule 7.2 if notice in writing of the question has been received by the Monitoring Officer no later than 10.00 am **four working days** before the day of the Council meeting. Questions will be dealt with in the order in which notice was received. A question must relate to a single proposition and may not contain more than one part.
- 7.5 The Monitoring Officer shall copy the question to the Member to whom it is addressed and place them round the table at the next meeting of Council unless, in his/her opinion:
- (a) the request does not comply with the requirements of Rules 7.2 (a) or (b) or 7.4 above;
 - (b) the question is defamatory of an individual, offensive, discloses confidential or exempt information, or otherwise infringes the proper conduct of local government;
 - (c) question is substantially the same as a question which has been previously received and answered within the past year, and there has been no significant and relevant change of circumstances since the previous question was answered.

- 7.6 An answer may take the form of:
- (a) a direct oral answer; or
 - (b) a reference to a publication, where the information is in a publication of the Council or other published work; or
 - (c) where the reply cannot conveniently be given orally (for example if it is in the form of diagrams), a written answer will be circulated to all Members at the meeting.
- 7.7 Each questioner is entitled to ask one supplementary question arising directly out of either the reply to the original question or where the questioner considers that the reply requires clarification.
- 7.8 If the member who has given written notice of the question is not present when the question is to be put that question may, with the consent of the Mayor, be asked by any other member present. In that case, the questioner will not be entitled to ask a supplementary question.
- 7.9 If the member who has given written notice of the question is not present when the question is to be put, and that question is not put by another member then the Mayor will put the question.
- 7.10 If written notice of a question has been given in accordance with these Rules and the committee Chair is not present when the question is to be put, then either:
- (a) a written answer will be provided subsequently to all members and placed with the minutes; or
 - (b) that question may, with the consent of the questioner, be answered by another committee Chair.
- 7.11 A copy of each question and each written answer will be placed with the minutes.

Oral questions

- 7.12 After questions and answers under Rule 7.4 have been dealt with, any member may ask one question of a Chair under Rule 7.2.
- 7.13 No supplementary question shall be put except if the questioner considers that the reply requires clarification and the Mayor gives leave to the questioner to ask a supplementary question.

Restriction on number of questions

- 7.14 A Member may submit a maximum of 2 written questions.
- 7.15 A member may only ask one oral question of each Chair.
- 7.16 If there are a number of written questions which, in the opinion of the relevant Chair, deal with the same issue, the Chair will provide one answer.

8. **Rules of Debate**

8.1 **Motions without notice**

The following motions may be moved without notice:

- (a) to appoint a Chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint any other member to a position of authority, ie Chair of a committee, where a vacancy exists in such office;
- (f) to appoint a committee or member arising from an item on the agenda for the meeting;
- (g) to withdraw a motion;
- (h) to amend a motion (subject to Rule 3.3);
- (i) that the question be now put;
- (j) to adjourn a debate;
- (k) to adjourn a meeting;
- (l) to suspend a particular Council procedure rule for a period not exceeding the duration of that meeting;
- (m) to exclude the public and press in accordance with the Access to Information Rules;
- (n) to not hear further a member named under Rule 8.4.1 (improper or offensive behaviour) or to exclude them from the meeting under Rule 8.4.2 (continuing improper behaviour);

- (o) to give the consent of the Council where its consent is required by this Constitution;
- (p) to move an urgent motion where the Mayor has given consent.

8.2 **Amendment without notice**

Council may with the consent of the Mayor consider an amendment even though notice of the amendment has not been given in accordance with Rule 3.14, subject to Rule 3.15 providing the amendment arises or emerges from the debate or amendments to

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

8.3 **Rules of Debate**

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

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

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

8.3.4 **Content and length of speeches**

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

(b) The seconder may speak for up to **3 minutes**.

(c) No speech by any other member may exceed **3 minutes**.

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

8.3.5 When Council is considering its strategic and budgetary framework:

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

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

(c) the Leader of the Main Opposition Group may speak, initially, for up to **10 minutes** and for up to **10 minutes** prior to the mover's right of reply at the close of the debate;

(d) the Leader of any other political group may speak for up to 10 minutes after the main opposer's initial speech; any member who is not a member of a political group may speak for up to 3 minutes.

(e) No speech by any other member may exceed 3 minutes.

8.3.6 **When a member may speak again**

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

(a) to speak once on an amendment moved by another Member;

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

8.3.7 Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words; as long as the effect of (ii) to (iv) is not to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If the proposer and seconder of a motion accept an amendment then the motion will be debated as amended.
- (d) If an amendment is not carried, other amendments to the original motion may be moved.
- (e) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (f) After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, and, if there are none, put it to the vote.

8.3.8 Alteration of motion

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

8.3.9 Withdrawal of motion

A member may withdraw a motion which they have moved.

8.3.10 Right of reply

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

8.3.11 Motions which may be moved during debate

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

- (a) to withdraw a motion;
- (b) to amend a motion (subject to Rules 3.3 and 3.4);
- (c) that the question be now put;
- (d) to proceed to the next business;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;

- (g) that the meeting continue beyond three hours and fifteen minutes and for a specified period of time;
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) not to hear further a member named under Rule 8.4.1 or to exclude them from the meeting under Rule 8.4.2.

8.3.12 Closure motions

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

8.3.13 Questions about the management of the business in a meeting

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

8.3.14 **Point of order**

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

8.3.15 **Personal explanation**

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

8.3.16 **Point of Information or clarification**

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

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

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

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

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

8.4 **Members' Conduct**

8.4.1 **Member Excluded from the meeting**

Where a member is required to leave the meeting, the means of remote attendance and access is to be severed whilst the discussion and vote takes place in respect of the item or items of business which the member or co-opted member may not participate in.

8.4.2 **Member not to be heard further.**

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

8.4.3 **Member to leave the meeting**

If the Member continues to behave improperly after such a motion is carried, the Mayor may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion. It shall be the responsibility of the relevant Group Leader to ensure that the member leaves the meeting. 8.4.3 General disturbance

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

8.5 **Disturbance by Public**

8.5.1 **Removal of member of the public**

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

8.5.2 **Clearance of part of meeting room**

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

9. **Voting**

9.1 Unless stated elsewhere in this constitution, any matter will be decided by a simple majority of those members present at the meeting and voting at the time the question was put.

- 9.2 If there are equal numbers of votes for and against, the Mayor/Chair will have a second or casting vote. There will be no restriction on how the Mayor/Chair chooses to exercise a casting vote.
- 9.3 The Mayor/Chair has the discretion to conduct a vote by a show of hands or, if there is no dissent, by affirmation of the meeting. A show of hands will be the normal method of voting at all committees and sub-committees. This only applies to non-virtual/hybrid meetings.
- 9.4 Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.
- 9.5 Where any **five members** rise and request it immediately before the vote is taken, the voting on any question shall be recorded so as to show whether each member present gave his vote for or against that question or abstained from voting. The results of any vote so recorded shall be set out in the minutes of the meeting. This is will be taken as a roll call and read out by the Clerk.
- 9.6 Where a member is called to vote they must only state whether they are 'for', 'against' or 'abstaining' on the motion.
- 9.7 Members may not rescind a previous vote once the subsequent member's vote has been cast.

Remote voting

- 9.8 Following a period of debate and where a motion has been moved and seconded the motion will be put. The Mayor/Chair will take the vote by way of:-
- (a) an electronic voting system(s) for remote voting if available or
 - (b) by the affirmation of the meeting there is not dissent [by assent]; If there is no dissent for a period of 30 seconds then the motion and the recommendations will be deemed to have been carried unanimously under tacit acceptance.
 - (c) during the 30 second period members may request a vote either by way of a simple roll call or under rule 9.5.- a formal recorded vote. This request may be made verbally or by indicating on the system. That being so, the Mayor/Chair will instruct the Committee Clerk to take a roll call of members present who will exercise their vote upon being called.

Exclusion of Public and Press

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

10. Termination of Council Meetings

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

Disposal of remaining business

- 10.2 If there are other motions or recommendations on the agenda that have not been dealt with, they are deemed formally moved and seconded and shall be put to the vote by the Mayor without Debate.
- 10.3 During the process set out in Rule 10.2, the only motions which may be moved are:
- (a) that the recommendations be delegated or referred to an appropriate body or individual for decision or report;
 - (b) that the recommendations be deferred to the next meeting;
 - (c) to move a motion that may be moved during debate, under Rule. 8.3.11
- 10.4 Voting shall be in accordance with these Procedure Rules including those relating to recorded votes.
- 10.5 When all the other motions or recommendations have been dealt with, the Mayor will close the meeting.

11. Questions from the Public (also amends any scheme the Council has for public participation in planning, Licensing and any other committee.

11.1 Remote Attendance by Members of the Public

- (a) A member of the public is entitled to attend the meeting in order to exercise a right to speak at the meeting in remote attendance at any time if all three of the following conditions are satisfied, those conditions being that the member of the public in remote attendance is able at that time:

- (i) To hear, and where practicable see, and be so heard and, where practicable, be seen by, Members in attendance;
 - (ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any other member of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
 - (iii) to be so heard and, where practicable, be seen by other members of the public attending the meeting.
- (b) A member of the public in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in 11A (a) above are not met. In such circumstance the Chair may, as he or she deems appropriate:
- (i) adjourn the meeting for a short period to permit the conditions in 11A(a) above be re-established;
 - (ii) suspend consideration of the item of business in relation to the member of the public's attendance until such time as a following item of business on the agenda has been transacted and the conditions for the member of the public's remote attendance have be re-established or, on confirmation that this cannot be done, before the end of the meeting, whichever is the earliest; or
 - (iii) continue to transact the remaining business of the meeting in the absence of the member of the public in remote attendance.
- 11.2 A member of the public resident within the Borough of Brentwood may, through the Mayor, ask any question relating to the business of the Council, provided that notice is received by 10.00 am two working days before the meeting of the question to be asked by the Monitoring Officer at the Town Hall, Ingrave Road, Brentwood, Essex.
- 11.3 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 all questions from members of the public shall be restricted to **15 minutes in total**. At the expiration of that period of time, any questions which have not been asked shall be answered in writing and the answer placed with the minutes.
- (i) There shall be no public question time at the Annual Meeting or an Extraordinary Meeting of the Council.
- (j) The Mayor of the Council at his/her discretion may disallow any question which is scurrilous, vexatious, improper, irrelevant or otherwise objectionable, and shall inform the questioner in writing prior to the meeting with reasons for the decision. Any question requiring the disclosure of "Exempt Information" as defined under Part 1 of Schedule 12A of the Local Government Act 1972 (as amended) shall not be allowed.

12. Memorials or Petitions

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

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

Meetings of the committees and sub-committees

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

15. Time and Place

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

16. Election of a Chair

- 16.1 Except where Council has appointed a Chair and a Vice Chair, every body shall elect a Chair and a Vice Chair at their first meeting after the Council's annual meeting.
- 16.2 In the absence of the Chair, the Vice Chair will be responsible for chairing the meeting. In the absence of the Chair and Vice Chair, a chair for the meeting may be elected for that meeting. The election of the Chair or Vice-Chair shall be conducted by the clerk to the meeting.
- 16.3 Where the Vice Chair takes the chair of the meeting, they shall forthwith nominate another Member to act in the role of Vice Chair in assisting with the management of business.
- 16.4 The Chair or Vice Chair of a committee or sub-committee shall hold office until the next annual meeting unless they resign by giving notice in writing to the Chief Executive or cease to be a member of the committee or sub-committee, or the Council, or are removed by Council.

17. Openness

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

18. Size

* These committees meet on demand.

Committee	Membership	Quorum
Policy, Resources and Economic Development	9	3
Environment, Enforcement and Housing	9	3
Community and Health	9	3
Planning and Licensing	12	4
Audit and Scrutiny	9	3
Staff appointments*	9	3
Dismissal appeals of statutory officers*	9	3
Emergency*	10	3

19. **Quorum**

19.1 **Members in Remote Attendance**

- (a) A Member in remote attendance is present and attends the meeting including for the purposes of the meeting quorum. If at any time all three of the following conditions are satisfied, those conditions being that the Member in remote attendance is able at that time:
- (i) to hear, and where practicable see, and so be heard and, where practicable, be seen by, the other Members in attendance.
 - (ii) to hear, and where practicable see, and so be heard, and where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting, and
 - (iii) to be so heard, and, where practicable, be seen by other member of the public attending the meeting.
- (b) A Member in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in (a) above are not met. In such circumstances the Chair may, as they deem appropriate;
- (i) adjourn the meeting for a short period to permit the conditions for remote attendance of a Member contained in (a) above to be re-established;
 - (ii) count the number of Members in attendance for the purposes of the quorum; or
 - (iii) continue to transact the remaining business of the meeting in the absence of the Member in remote attendance.

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

20. **Appointments and Substitutes**

- 20.1 Following Annual Council, the Chief Executive on the nomination of Group Leaders, or in their absence, Deputy Group Leaders, appoints and removes members of committees and sub-committees.

- 20.2 A substitute Member may attend a particular meeting of the committee, and will have full powers of the committee Member, provided that the Member is a specified nominated substitute for that Member of the particular political group and in a list agreed by full Council. In the event that the absent committee Member is a non-aligned Member, the specified substitute for the Member can be any Member of the Council.
- 20.3 The names of substitutes shall be announced at the start of the meeting by the Chair. The substitution shall be for the whole meeting and cease at the end of the meeting.
- 20.4 Substitutes for regulatory committees must be drawn from Members who have received training in regulatory decision making. If a casual vacancy occurs on a regulatory committee it will not be filled until the nominated member has been trained.
- 20.5 All Members are entitled to attend the training provided for members of regulatory committees.

21. **Proportionality**

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

22. **Rules of Debate**

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

23. **Motions affecting persons employed by the Council**

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

24. **Rights to attend and speak**

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

24.2 With the exception of statutory committees which have separate procedural rules and with the consent of the Chair, a Member who is not a member of the committee or sub-committee may speak at the meeting. The Member should give prior notification by no later than **one working day** before the meeting to the Chair and have advised them of the substance of their proposed contribution. The Chair has an inherent discretion to allow Members to speak without notice and their decision is final.

24.3 Subject to 24.2 above, the Member may speak at the Chair's discretion, it being the expectation that a member will be allowed to speak on a ward matter.

25. **Co-option**

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

26. **Interpretation of Rules of Procedure and Notices**

Except where otherwise provided, the Monitoring Officer will consult with the Chair, Group Leaders and Chief Officers over matters of interpretation and is responsible for making a determination if necessary. The Chair's decision is final.

27. **Outside Bodies**

27.1 Any person appointed by the Council to serve as our representative to an outside body shall be appointed until they resign, are dismissed or their successor is appointed. Members shall cease to hold appointments on the fourth day after the ordinary day of election unless they are re-elected as a Borough Member at the Election.

(a) The Council should not appoint where there is a conflict of office or interest

(b) The Council should not appoint where the appointment holds a risk that insolvency of the body would render the appointee debarred from office i.e. where the appointment is an effective directorship listed at Companies House.

27.2 The Chief Executive will:

(a) in consultation with the appropriate Group Leaders, revise as necessary appointments to outside bodies arising as a result of a vacancy or otherwise;

(b) in consultation with the Leader of the Council and the Group Leaders, agree the allocation of appointments to any new outside bodies or organisations.

(c) ensure that the body meets the criteria for an appointee

27.3 The Appointee will:

(a) ensure a good flow of communication between the outside body and the council. This will include non-confidential matters that the appointee may consider to be of interest or significance to either party.

(b) upon request of the Chief Executive, provide an update on any disclosable matters pertaining to the outside body.

(c) be prepared to provide a brief report to the Audit & Scrutiny committee when requested to do so under the work programme.

28. **Termination of Committee and Sub-Committee Meeting**

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

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

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

PART 4.2 - ACCESS TO INFORMATION PROCEDURE RULES

Introduction

The access to information rules which apply to council meetings, committees and sub-committees of the Council are set out in sections 100A-K and Schedule 12A of the Local Government Act 1972 as amended by the Openness of Local Government Bodies Regulations 2014. 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. Scope

- 1.1 These rules cover all meetings of the Council, its committees and the sub-committees and certain officer decisions.
- 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. Public access to meetings

2.1 Access to Information

For all purposes of the Constitution, the terms "notice", "summons", "agenda", "report", "written record", and "background papers" when referred to as being a document that is:

- (a) "open" to inspection" shall include for these and all other purposes as being published on the Council's website; and
- (b) to be published, posted, or made available at offices of the Council shall include publication on the Council's website.

- 2.2 Members of the public may attend all meetings subject only to the exceptions in these rules. They have the right to report on meetings, which is defined in The Openness of Local Government Bodies Regulations 2014 as:

- (a) filming, photographing or audio recording of proceedings;
- (b) using any other means for enabling people not present at the meeting to see or hear proceedings as it takes place or at a later date;

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

3. **Public Notice of Meetings**

3.1 Remote access to meetings

- (a) For all purposes of the Constitution the term “meeting” is not limited in meaning to a meeting of persons all of whom, or any of whom, are present in the same place, for which purposes any reference to:

- (i) “place” is to be interpreted as where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers; and

- (ii) “open to the public” includes access to the meeting being through remote means including (but not limited to) video conferencing, live webcast, and live interactive streaming and where a meeting is accessible to the public through such remote means the meeting is open to the public whether or not member of the public are able to attend the meeting in person; and

- (b) If the Chair is made aware that the meeting is not accessible to the public through remote means, due to any technological or other failure of provision, then the Chair shall adjourn the meeting immediately. If the provision of access cannot be restored within in a reasonable period, then the remaining business will be considered at a time and date fixed by the Chair. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

3.2 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.

3.3 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.

3.4 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.

3.5 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. **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. **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. **Public access to minutes etc after 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. **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) 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. **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. **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. **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:
- (a) Information relating to any individual
 - (b) Information which is likely to reveal the identity of an individual.
 - (c) Information relating to the financial or business affairs of any particular person (including the authority holding that information)
 - (d) 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.
 - (e) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
 - (f) Information which reveals that the authority proposes –
 - (i) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (ii) To make an order or direction under any enactment.
 - (g) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

10.5 **Qualifications**

10.5.1 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

10.5.2 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.

10.5.3 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. **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. **Public Rights to access - officer decisions**

12.1 Under the Openness of Local Government Bodies Regulations 2014 Officers must record the following types of officer decisions which must then be published on the website, together with any background papers.

12.2 These include Officer delegations:

- (a) under a specific express authorisation; ie where delegated by the Council, Committee or Sub-Committee, or
- (b) under a general authorisation to officers to take such decisions and, the effect of the decision is to:

- (i) grant a permission or licence;
- (ii) affect the rights of an individual; or
- (iii) award a contract or incur expenditure which, in either case, materially affects that relevant local government body's financial position.

12.3 The above does not include confidential information referred to elsewhere in this section.

13. **Member access to information**

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

13.2 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.

13.3 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.

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

14. **Member access to exempt or confidential documents**

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

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

14.3 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.

14.4 Any Member wishing to receive or inspect a report or document containing information referred to in Rule 14.3 must demonstrate a 'need to know' in accordance with the process set out in Rule 13.3 above.

PART 4.3 - BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. Decision making framework

1.1 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.

1.2 Developing the Budget and Policy Framework

The Finance and Resources Committee 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.

- (a) After consulting stakeholders in a manner appropriate to the matter under consideration, the Finance and Resources Committee draws up initial principles and assumptions in relation to any plan, strategy or budget which forms part of the Budget and Policy Framework.
- (b) Once drawn up, the Proper Officer sends copies of the document to the Chair of the Audit and Scrutiny Committee together with dates when the Finance and Resources Committee is to consider them further.
- (c) The Audit and Scrutiny Committee will be convened to formulate responses to the Finance and Resources Committee's initial principles and assumptions and whether any consultation by it, is appropriate.
- (d) The Finance and Resources Committee will finalise its proposals for submission by way of recommendation to the Council taking into account the comments from the Audit and Scrutiny Committee. The report to Council must show the Finance and Resources Committee's response to those comments.
- (e) The Council considers the proposals of the Finance and Resources Committee and may adopt them, amend them or substitute its own proposals in their place.
- (f) The Council's decision shall be approved by a simple majority of votes cast at the meeting.
- (g) The decision must then be made public in accordance with the Council's Procedures and must be implemented immediately.

1.3 **Decisions which are exceptions to the Budget or Policy Framework**

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

1.4 **Virement Arrangements**

- (a) Virements by the Finance and Resources Committee must be taken in accordance with the Procedures.
- (b) 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 Finance and Resources Committee 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.

PART 4.4 - OVERVIEW AND SCRUTINY PROCEDURE RULES

THE AUDIT AND SCRUTINY COMMITTEE

1. Composition of the Audit and Scrutiny Committee Audit

- 1.1 The Council has established an Audit and Scrutiny Committee. In addition to its Audit functions, it undertakes the performance of all overview and scrutiny functions on behalf of the Council.
- 1.2 The Audit and Scrutiny Committee shall be chaired by a Member appointed at Council.
- 1.3 No member may participate in the scrutiny of a decision in which he/she has been directly involved unless he/she attends a meeting for the purpose of making representations, answering questions or giving evidence.
- 1.4 Up to three non-voting co-optees can be appointed to assist the work of the Audit and Scrutiny Committee.

2. Composition of Task and Finish Groups

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

3. Meetings of the Audit and Scrutiny Committee

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

4. Quorum

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

5. Work Programme

- 5.1 At the beginning of the municipal year, the Audit and Scrutiny Committee will be responsible for agreeing its own work programme for the year which should relate to its pre-scrutiny role and based on agreed criteria. The Audit and

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

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

6. **Consultation and attendance**

- 6.1 The Audit and Scrutiny Committee, or a Task and Finish Group, may invite any person to attend a meeting to address the committee or Task and Finish Group, raise issues of local concern and/or answer questions.
- 6.2 The Audit and Scrutiny Committee, or a Task and Finish Group, may consult and involve the local community and other local public, private and voluntary bodies and organizations.
- 6.3 The Audit and Scrutiny Committee, or a Task and Finish Group, may hear from Councillors, residents, stakeholders, staff, people with specific knowledge or experience, and other persons as it is considered appropriate.
- 6.4 As well as reviewing documentation in fulfilling the Audit and Scrutiny Committee role, the Committee may require any Member of a Committee, the Chief Executive and/or any other Statutory Officer or Head of Service to attend before it to explain in relation to matters within their remit:

(a) any particular decision or series of decisions;

(b) the extent to which the actions taken implement Council policy.

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

- 6.5 The Member, or Statutory Officer or Head of Service shall be given not less than 10 working days notice in writing of the meeting at which he/she is required

to attend and whether any papers are required to be produced to the committee. When the account to be given to the committee requires the production of a report then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.

- 6.6 It is the duty of any Council member or Statutory Officer or Head of Service to comply with any request to attend and answer questions. Reasonable notice will be given by the committee, and in exceptional circumstances where attendance is not possible on the required date, then a substitute may be asked to attend or the committee shall, in consultation with the person(s) concerned, arrange an alternative date.

7. **Reports from Audit and Scrutiny Committee**

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

8. **Rights of Audit and Scrutiny Committee Members to Documents**

- 8.1 The Audit and Scrutiny Committee has the right to inspect any part of a document that contains exempt or confidential information provided the information is relevant to an action or to a decision being reviewed or scrutinised or intended to be scrutinised by the Audit and Scrutiny Committee. Members must comply with the Member Code of Conduct with regard to not sharing confidential information. This provision is not intended to override the restrictions that apply where a Councillor has a prejudicial interest in a matter or document.

9. **Call-in**

- 9.1 All of the rules and procedures relating to call-in seek to recognize that in a Committee System every non-delegated decision is taken in a politically balanced committee, where all Councillors who are members of that committee have the opportunity to question and debate the issues in hand in public forum and participate in the decision-making process. Call-in procedures and practices should recognise this, and the procedures set out intend to allow decisions to be swiftly implemented.
- 9.2 Call-in is intended to be used only in exceptional circumstances, the procedure being seen as a last resort through which Councillors may request scrutiny of a decision they believe to be contrary to the authority's decision making

principles. The process cannot be used simply because members disagree with a decision that has been taken.

What is a call-in?

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

Who can call in a decision?

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

What can be called-in?

- 9.5 Call-in powers relate to non-statutory decision making functions. Subject to the exceptions listed below, any key decision made by the Council’s non statutory decision making committees or a key decision made by an officer with delegated authority may be called-in.

What can’t be called-in?

- 9.6 The following categories of decision cannot be called-in:
- (a) a decision which is not a key decision, and which has been taken by an officer under delegated powers;
 - (b) a decision which the decision-taker has certified as urgent (giving reasons) in accordance with the Council’s Rules of Procedure;
 - (c) a decision relating to a matter which has already been the subject of a call-in during the previous six months;
 - (d) a decision by, or to be taken by, the full Council; or
 - (e) a decision taken at stage 4 of the call-in procedure (see below);
 - (f) decisions to award a contract following a lawful procurement process
 - (g) a decision that has gone through pre-scrutiny, except for where there is evidence that due process has not been followed.
 - (h) Where the Monitoring Officer, after consultation with the Chair of the

relevant Audit and Scrutiny Committee, considers the Call-In to be frivolous, vexatious or not a proper use of the Call-In taking into account the rules set out in the procedural rules.

- 9.7 In particular, it should be noted that the Audit and Scrutiny Committee cannot scrutinise individual decisions made by, or on behalf of, the regulatory / quasi-judicial committees of the Council, eg decisions relating to development control, licensing, registration, consents and other permissions. Nor can it scrutinise decisions taken by committees or sub-committees relating to individual members of staff, or recommendations by the Independent Remuneration Panel.
- 9.8 Furthermore, although they may be key decisions (and included in the Forward Plan), decisions taken by the committees when preparing annual budget or new policy proposals for submission to the full Council will not be subject to call-in. In these circumstances the full Council is responsible for the final decision and the Audit and Scrutiny Committee will be consulted, even if it has been involved earlier in the process.

When can a decision be called-in?

- 9.9 It is important that the call-in process is not abused, nor causes unreasonable delay; the main tool of the Audit and Scrutiny Committee to improve the delivery of policies and services should be detailed reviews, rather than call-ins.
- 9.10 Call-ins should be reserved for exceptional circumstances. Broadly, a decision can be called-in when Councillors:
- (a) have evidence that it may be contrary to the normal requirements for decision- making;
 - (b) have evidence that it may be contrary to the Council's agreed policy framework and/or budget;
 - (c) lack reasonable and significant information from the decision-taker to explain why it was taken.
- 9.11 Any key decision which is subject to potential call-in cannot be implemented until the end of the call-in period. The call-in period lasts for **five working days** after relevant minutes are published by Governance Services.
- 9.12 Minutes of the committees will be published no later than three clear working days after the meeting. This means that the call-in period will expire at 4:30pm five clear working days after the publication of the minutes (adjusted for bank holidays as appropriate). Call in requests received after this will not be accepted. For example, if the minutes were published by 9am on Monday, the call in period would expire at 4.30pm on the following Monday assuming there were no bank holidays in that week.
- 9.13 Call-in requests may be submitted prior to publication of the minutes, however

validity will not be determined until the minutes are available for consideration alongside the call-in request.

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

STAGE 1

10.1 A valid call-in request must be submitted in accordance with the current rules in the Constitution. The request must say who is making the call-in and to which decision it relates. It must also give:

- (a) reasons and provide evidence in accordance with paragraph 9.10 to support why the decision is being submitted for call-in;
- (b) what action the caller-in would like to see the decision-maker take to address the concerns outlined in the call-in, or how the original decision should be varied; and
- (c) details of attempts the caller-in made to discuss the issue with the relevant Chairperson in advance of calling the decision in. If reasonable attempts were not made in advance, the call in will not be accepted.

A pro-forma will be made available.

10.2 Requests may also be submitted by electronic mail, fax or by telephone. If the call-in is to be submitted by e-mail, only one Councillor need submit the actual form/request. However, individual e-mails (or letters) in support of the request must also be submitted by the other Councillors specified on the form before the end of the call-in period. Call-ins submitted by fax or telephone must be followed up in writing with the required number of signatures before the end of the call-in period.

10.3 In the event of lack of clarity about the validity of a call-in; the Monitoring Officer (in consultation with the Chair of Audit and Scrutiny Committee and the Chief Executive) will decide.

10.4 In exceptional cases, where there is clear evidence that a delay to the implementation of a decision would lead to a specific and significant financial or reputational harm to the Council, a call-in request may be refused.

10.5 Where a submitted call-in request is considered as invalid, the Councillors requesting the call-in will be written to by the Monitoring Officer explaining the reasoning for the decision.

STAGE 2

10.6 When the officers receive a valid call-in request with respect to a decision, then that decision may not be implemented until that decision has completed the call-in procedure. The officers will convene a meeting of the Audit and Scrutiny Committee to take place within 10 working days of the receipt of a valid call-in

request. In setting the date of the call-in hearing, all efforts will be made to maximize attendance by Audit and Scrutiny Committee members, relevant committee chairs and required officers and other witnesses. The chair of the relevant committee will be kept informed and invited to address the Audit and Scrutiny Committee. Councillors who have requested the call-in will have the right to address the committee when it deals with the issue.

STAGE 3

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

STAGE 4

Reference back to Committee

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

Reference to Monitoring Officer and/or Section 151 Officer

- 10.10 The Audit and Scrutiny Committee may, in exceptional circumstances, refer the called-in decision to the Monitoring Officer (S106 officer) and/or the S151 Officer if it considers it to be contrary to the policy framework or budget. This should only refer to complex matters that cannot be adequately examined within the call-in hearing itself. The relevant officer(s) will then submit a report on the matter to the next meeting of the relevant committee. A copy of this report will be sent to all members of the Council. No action may be taken in respect of the decision or its implementation pending that meeting. If, in that report, the

Monitoring Officer (S106 officer) and/or the S151 Officer is of the view that a decision referred to him/her by the Audit and Scrutiny Committee is not a departure from the policy framework or budget, the decision may be implemented immediately. A report to this effect will be submitted to the Audit and Scrutiny Committee for information. If, however, a referred matter is deemed to be a departure from the policy framework or the budget by the Monitoring Officer (S106 officer) and/or the S151 Officer, the relevant committee has two options.

- 10.11 Firstly, it may choose to adjust its decision to bring it within the policy framework or budget, in which case it can then be implemented. In these circumstances, the committee would submit a report to the next meeting of the Audit and Scrutiny Committee explaining its actions.
- 10.12 Secondly, if the committee does not wish to adjust its original decision, it must prepare a report for the full Council. This report must include the views of the Audit and Scrutiny Committee. No action may be taken in respect of the decision or its implementation until the Council has met to consider the matter.

11. **Reference to Full Council**

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

12. **Guidance for Call-in hearings**

- 12.1 The following guidance set out in paragraph 12-14 is intended to assist the conduct of call-in hearings and the preparation work carried out in the run-up to such a hearing.

Prior to the Call-in

- 12.2 A meeting will take place between the Chairperson and Vice Chairperson of the Audit and Scrutiny Committee, Chairperson of the relevant committee, relevant officers, the Corporate & Democratic Services Manager and the caller-in, at which a definitive list of witnesses for the call-in hearing will be drawn up,

together with a list of questions for each witness, as appropriate.

- 12.3 A statement from the Chair of the decision-taking committee may be published with the agenda for the meeting.
- 12.4 A caller-in's statement will be published with the agenda for the meeting, should the caller-in wish to provide such a statement.
- 12.5 The caller-in and relevant committee Chairperson will be invited to the meeting, together with any other parties relevant to the decision-making process, for example Chairs of other committees or officers.
- 12.6 Any other relevant internal or external witnesses will be invited to the meeting.
- 12.7 Five working days notice of a request to attend the meeting will be given to all witnesses, or as soon as possible thereafter. If a list of questions is to be produced, five working days notice of the questions planned will also be given to witnesses.
- 12.8 Any witness at a call-in will be invited to speak for no more than three minutes.
- 12.9 Prior to the meeting any Councillor who may have a conflict of interest should declare that conflict and will be given relevant advice by the Monitoring Officer.

13. **The Call-in meeting**

- 13.1 The call-in will be the first item of business on the agenda, in order that witnesses are not kept waiting.
- 13.2 Witnesses will have reserved seats around the table with the committee if space permits, but if there are a large number of witnesses or other attendees at the meeting; they may be required to wait in a separate seating area or the public gallery.
- 13.3 The caller-in will be invited to make a presentation outlining his or her main reasons for calling in the decision. A question and answer session will follow.
- 13.4 The decision-taker will be invited to make a presentation outlining his or her main reasons for making the decision. A question and answer session will follow.
- 13.5 Any other parties relevant to the decision-making process, for example Chairs of other committees, or officers, will be invited to make presentations outlining their reasons for any recommendations on the issue concerned, or in the case of officers their reasons for any recommendations or advice to Councillors. Question and answer sessions will follow.
- 13.6 Witnesses will be invited to make a presentation to the committee without interruption for up to three minutes each, following which there will be a question and answer

session.

13.7 Witnesses will be given the opportunity to add any points of clarification before any resolution or recommendation is moved.

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

14. **Call-in Checklist**

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

<p>1. Can the decision actually be called- in?</p> <p>If the answer to any of questions 1(a)-(g) is “yes” then the decision can NOT be called-in.</p>	<p>a) Does it relate to a statutory function? b) Was it a non-key decision taken by an officer under delegated powers? c) Was it classified as an urgent decision? d) Has this issue been called-in in the last 6 months? e) Does the decision relate to an existing call-in (ie decisions taken in relation to a reference back)? f) Does the decision relate to the formulation of a policy or budget matter which requires full Council approval? g) Was it a decision taken by, or to be taken by, full Council?</p>
<p>2. Was the decision in accordance with the Council’s policy framework?</p>	<p>a) What is the relevant policy or strategy? b) Is the decision contrary to that policy? c) If yes, how? (Evidence must be provided at the time of the call in.)</p>
<p>3. Was the decision in accordance with the agreed budget or budget procedures?</p>	<p>a) Is there funding for the proposal in an agreed budget/capital programme? (If yes, no call in can be evoked on this ground) b) If no, have the rules for virement and supplementary estimates been observed?</p>

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

Introduction

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

Limitations

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

Issues excluded from referral as a CCfA

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

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

- 16.1 Prior to a Councillor referring a matter as a CCfA to the Audit and Scrutiny Committee, a Councillor **must** have tried to resolve the issue/problem themselves using all mechanisms and resources available to them at ward level. Councillors should:
- (a) If a local crime and disorder matter, raise the issue through the Community Safety Partnership to find a way to resolve the issue.
 - (b) Ensure that all relevant partner organisations have been informed of the issue and given enough time to resolve it, for example through formal letters written on behalf of constituents, discussion at public meetings, petitions, communication with local MPs and Councillors in other authorities and so on.
 - (c) Ensure that all relevant internal potential routes to solution have been followed, for example specific discussions with officers and/or members, questions at committees, motions on the agenda at full Council and so on.
 - (d) Ensure that this is not an issue that is currently being or should be pursued via the council's complaints procedure.
 - (e) Ensure this is not a matter which has previously been ruled out by the Administration (in the last 12 months).
 - (f) Ascertain whether or not any other form of local scrutiny is investigating the issue, for example Essex County Council.

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

- 17.1 If the issue/problem is still not resolved the Councillor can refer it to the Audit and Scrutiny Committee as a 'Councillor Call for Action'. To do this the Councillor should firstly speak to the relevant Chairperson about their intention to see if any other route can be taken etc. If not, complete and submit to the Corporate and Democratic Services Manager a CCfA Request Form outlining what the issue is and what steps have been taken towards a resolution. The request form for a CCfA includes:
- (a) The name of the Councillor and ward they represent.
 - (b) Title of the CCfA and date of submission.
 - (c) A brief synopsis of what the main areas of concern are.
 - (d) Which organisations have been contacted in trying to resolve the issue and people and timeframes to respond.
 - (e) Responses received from those organizations.

- (f) Whether the committee has considered a similar issue within the last 12 months and how this issue differs from that.
 - (g) Whether the issue should be considered through the council's complaints procedure.
 - (h) Whether the issue relates to a quasi-judicial matter such as development control or licensing.
 - (i) Whether a similar or related issue is the subject of a review on the current work programme.
 - (j) Whether the issue is currently being looked at by another form of local scrutiny.
 - (k) The potential for scrutiny of the issue to produce real improvements.
 - (l) Whether the CCfA is currently the subject of legal action by any party (to your knowledge) or is being examined by a formal complaints process.
 - (m) Whether there are any deadlines associated with the CCfA of which the Audit and Scrutiny Committee needs to be aware.
- 17.2 Members are required to produce all their evidence regarding actions already taken in relation to the issue, and responses received from organisations contacted, at the time of submitting the CCfA Request Form.
- 17.3 The Corporate and Democratic Services Manager will receive the referral form, log it to track its progress and assess the issue to ensure that it is not a matter excluded from referral to Audit and Scrutiny Committee.
- 17.4 The Corporate and Democratic Services Manager, if necessary, advise the member that more evidence should be added in any section of the CCfA submission, although it will be the decision of the referring Councillor as to whether he or she chooses to provide more evidence, or wishes to submit the form in its original state.
- 17.5 The Corporate and Democratic Services Manager will inform the Chairperson of the Audit and Scrutiny Committee that the item will be included on the next committee agenda. The Councillor will be informed whether or not their referral has been successful. Officers and Chairs of cited in the submission will be contacted to notify them of the CCfA, and given the opportunity to respond to any statements made about their involvement in the matter.
- 17.6 In the event of lack of clarity about the validity of a CCfA submission; the Monitoring Officer (in consultation with the Chair of Audit and Scrutiny Committee and the Chief Executive) will decide.
- 17.7 A successful referral will ensure that the CCfA will be placed on the next agenda of the Audit and Scrutiny Committee. It is then up to the members of the

committee to decide whether or not to take the matter further.

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

18.1 In deciding whether or not to take the matter further the committee will consider:

- (a) Anything that the Councillor has done in relation to this matter.
- (b) Representations made by the Councillor as to why the committee should take the matter up. (Councillors have the option of either presenting their CCfA form without supporting papers, or of preparing a report setting out their views. Any reports prepared by Councillors will be circulated with the agenda alongside the CCfA referral form).
- (c) The Council's Corporate Plan and priorities and whether the matter / proposals contravene these, along with financial implications of the proposals.

18.2 The criteria the committee will use to decide whether or not to take the matter further include:

- (a) Is the committee satisfied that all reasonable attempts have been made to resolve the issue by the ward Councillor? And do the responses received by the referring Councillor demonstrate that the matter is not being progressed?
- (b) Has the Council considered a similar issue in the last 12 months – if yes have the circumstances or evidence changed?
- (c) Is there a similar or related issue which is the subject of a review on the current work programme? It may be more appropriate to link the new issue to an existing review, rather than hold a separate CCfA hearing. Relevant time pressures on resolving the CCfA should be taken into account.
- (d) Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response has the Councillor received?
- (e) Is this a case that is being or should be pursued via the council's corporate complaints procedure?
- (f) Is it relating to a 'quasi-judicial' matter or decision such as planning or licensing?
- (g) Is the issue part of an individual's own personal agenda (an issue of genuine local concern should have an impact on the local community).
- (h) Is this an issue currently being looked at by another form of local scrutiny, for example Essex County Council?

- (i) And, as with all scrutiny, does the matter referred have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the referring member's ward?
- 18.3 In considering the CCfA, the Audit and Scrutiny Committee may invite the relevant lead member, Chief Executive, Director, Head of Service or external organisation to discuss the issue with the committee and answer any questions.
- 18.4 If the committee decides not to accept the CCfA referral it must inform the Councillor and provide reasons.
- 18.5 If the committee decides to accept the CCfA referral, it must decide how it intends to take the matter forward and include the CCfA in its work programme. This could include:
- 18.6 Before holding a formal hearing:
- (a) Asking the service area(s)/partner organisation(s) to respond to the CCfA.
 - (b) Setting up a research group to undertake a more in-depth review.
- 18.7 At formal hearing
- (a) Asking for further evidence and/or witnesses to be brought to a future meeting then making recommendations to the relevant committee / partner organisation.
- Potential outcomes
- 18.8 Following a formal hearing, there are a number of potential outcomes from the Audit and Scrutiny Committee meeting:
- 18.9 The committee could determine not to make a report or recommendations (perhaps because it is not considered the right time to consider a particular issue), with the ward Councillor notified in writing;
- 18.10 The committee could determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue.
- 18.11 The committee could write a report and make recommendations on the CCfA to a committee and/or relevant partners.
- 18.12 Once the committee has completed its work on the CCfA referral the member who made the CCfA referral will receive a copy of any report or recommendations made. The report will also be made available on the council's website, unless the matter was an exempt item, in which case the report cannot be made public.

19. Timescales

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

PART 4.5 - FINANCIAL REGULATIONS

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.

The Financial Regulations provide clarity about the financial accountabilities of individuals - Members, the Head of Paid Service, the Monitoring Officer, the Section 151 Officer (Chief Financial Officer), other Service Managers and all staff in general. These Regulations are therefore formally endorsed by the Council as a key part of its Constitution.

Another key purpose is to support and protect Members and staff in the performance of their duties where financial issues are involved. The Finance Director (as Section 151 Officer) is authorised to provide, in addition, a comprehensive set of Financial Procedure Notes (FPNs) to support the formal Regulations and to facilitate the operation and application of the Council's financial management arrangements. Like the Regulations themselves, the FPNs are regularly reviewed and updated to meet changing circumstances and the changing requirements of the Council. The FPNs are available on the Council's intranet.

These Regulations need to be read in conjunction with the remainder of the Constitution and any other regulatory documents of the Council. Please address queries or comments regarding the Council's Financial Regulations and Financial Procedure Notes to the Section 151 Officer.

1. General

Application of Financial Regulations

Financial regulations provide the framework for managing the Council's financial affairs. They apply to every Officer and Member of the Council and anyone acting on its behalf.

- 1.1 The regulations identify the financial responsibilities of Council, all the Council's Committees, the Head of Paid Service, the Section 151 Officer, Service Managers and all staff in general.
- 1.2 References in these Regulations to Service Managers also apply to the Head of Paid Services, and shall in every case be considered as referring to authorised persons acting on their behalf (whether authorised to do so or not). The Section 151 Officer has a nominated Deputy who has authority to act on his behalf. In certain cases as specified in these Regulations, Service Managers are required to maintain a written record where decision making has been delegated to members of their staff, including seconded and temporary staff.
- 1.3 These Regulations apply equally to any service carried out by the Council on behalf of the County Council or any other authority, body or person, and to all external agencies and their employees incurring expenditure or receiving income on behalf of the Council. Accordingly, the Service Managers and Committee Members shall ensure that partnership and other arrangements with external parties are not set up to operate in conflict with these Regulations as far as this Council's involvement is concerned.
- 1.4 Any action, which is an exception to these Regulations, may only be approved in exceptional circumstances by the Section 151 Officer in consultation with the Head of Paid Service and a report setting out the reasons for such action shall be submitted to the next available meeting of the Policy, Projects and Resources Committee.
- 1.5 These Regulations shall apply until such time as they are rescinded, amended or suspended by Ordinary Council.
- 1.6 The Regulations are supported by a set of mandatory Financial Procedure Notes (FPNs) which provide more detailed direction on the arrangements to be complied with.

General Responsibilities

- 1.7 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 that economy, efficiency and effectiveness are secured.
- 1.8 Service Managers and responsible Committee Members are responsible for informing the Section 151 Officer of any matter liable to materially affect the

finances (including any financial irregularities) of the Council including negotiations with government departments, before any commitment is incurred or arrangements reached. This includes the Council becoming a shareholder or owner of any company.

Compliance

- 1.9 Service Managers 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 Section 151 Officer 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.
- 1.10 Compliance with Financial Regulations is mandatory. Breaches of Financial Regulations of a serious nature may result in disciplinary proceedings. Breaches shall be reported in the first instance to the Section 151 Officer who will decide what further action needs to be taken, if necessary in consultation with the Monitoring Officer. Where the Section 151 Officer considers it appropriate he will report to the next meeting of the Council and/or Policy, Projects and Resources Committee.

Review

- 1.11 The Section 151 Officer is responsible for maintaining a continuous review of the financial regulations and, except where provided in (ii) below, submit any additions or changes necessary to Council for approval.
- 1.12 Any financial amounts referred to in these Regulations may be varied by the Section 151 Officer in line with general price inflation or otherwise as required by statute.
- 1.13 The Section 151 Officer will issue from time to time Financial Procedure Notes (FPNs) to support these Regulations. These prescribe more detailed financial controls and procedures consistent with these Regulations and such supplementary controls and procedures shall carry the same status as these Regulations.
- 1.14 The Section 151 Officer is responsible for issuing advice and guidance to underpin the Financial Regulations.

Budget Holder Awareness Training

- 1.15 All officers who have responsibility for a budget shall attend formal training. Attendance for the training is compulsory. Re-attendance is required after three years.

Finance Training for Members

1.16 Officers shall offer training for all Members of the Council.

2. Internal Controls

Introduction

- 2.1 The functions of the Authority are diverse and therefore to ensure delivery of the Council's strategic objectives, a framework of internal controls is required.
- 2.2 The Authority has statutory obligations and therefore requires internal controls to identify, meet and monitor compliance with these obligations.
- 2.3 Moreover the Council is required to produce an Annual Governance Statement (AGS). The Council has adopted a Code of Corporate Governance, which is consistent with the principles of the CIPFA/SOLACE Framework Delivering Good Governance in Local Government. The AGS is produced following a review of the Council's governance, risk management, counter fraud and internal control arrangements and explains how Brentwood Borough Council delivers good governance against the six key principles of good governance. It also reviews the effectiveness of these arrangements and includes an action plan to address any significant governance issues identified.
- 2.4 The Authority faces a wide range of financial, administrative and commercial risks, from both internal and external factors, which need to be managed to enable the Council to achieve its objectives. Internal controls are necessary to manage these risks in line with the Council's risk appetite.
- 2.5 A system of internal controls is established in order to provide measurable achievement of:
- (a) Efficient and effective operations,
 - (b) Reliable financial information and reporting,
 - (c) Compliance with laws and regulations, and
 - (d) Risk management. Advice and guidance on an appropriate internal control environment can be obtained from Internal Audit.
- 2.6 A transparent framework of financial management responsibilities and decision making is essential to the effective management of the Council's financial affairs.
All Members and officers have a common duty to abide by the highest standards of integrity and propriety when making decisions about the use of public money.

Members

2.7 Members' responsibility for the overall management of the Council's financial affairs is exercised through:

(a) Council Meeting– The Council is responsible for:

- (i) Agreeing and approving the budget for the Council
- (ii) Adopting and changing the constitution, of which these regulations form part.

(b) Policy, Projects and Resources Committee – The Policy, Projects and Resources Committee is responsible for:

- (i) Proposing the policy framework and budget to Council
- (ii) Discharging its functions in accordance with the policy framework and budget.

(c) Audit and Scrutiny Committee – The Audit and Scrutiny Committee has right of access to all information it considers necessary. It is responsible for:

- (i) The review of and/or scrutiny of decisions made or actions taken in connection with the discharge of any of the Council's functions.
- (ii) Review decisions taken by Policy, Projects and Resources Committee or an Officer to ensure that they are not contrary to the budget or previous Council decision.
- (iii) Reviewing governance and internal control arrangements and bringing any matters requiring further review or action to Council or Policy, Projects & Resources Committee.
- (iv) Monitoring compliance with these financial regulations.
- (v) Approving and monitoring the delivery of the internal audit activity of the Council and can consult directly with internal and external auditors.
- (vi) Undertaking 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.

Section 151 Officer

2.8 The Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the Authority. This 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 Finance Act 1992.
 - (e) The Local Government Act 2000.
 - (f) The Local Government Act 2003.
 - (g) The Accounts and Audit Regulations 2011.
 - (h) The Localism Act 2011.
 - (i) The Local Government Finance Act 2012.
 - (j) The Audit & Accountability Act 2014.
- 2.9 Guidance on the role of the Section 151 Officer is also given by the Chartered Institute of Public Finance & Accountancy (CIPFA) in the paper entitled 'The Role of the Chief Financial Officer in Local Government'.
- 2.10 The Section 151 Officer shall nominate a qualified member of staff to deputise for them in their absence.
- (a) The proper administration of the Authority's financial affairs.
 - (b) Setting financial management standards and monitoring compliance with them.
 - (c) Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.
 - (d) Providing financial information.
 - (e) Preparing the revenue budget and Capital Programme.
 - (f) Reporting on the robustness of estimates made for the purposes of preparing budgets and the adequacy of the proposed financial reserves.
 - (g) The execution and administration of treasury management decisions in accordance with the Council's policy statement and treasury management practices (TMP's).
 - (h) Preparing the Council's Annual Statement of Accounts in accordance with all applicable codes of practice on Local Authority accounting.

The Section 151 Officer may allocate their day to day responsibilities to an appropriate representative in accordance with the Scheme of Delegation Authority to Officers and the Schedule of Financial Authority to Officers (the Authorised Signatory List).

- 2.11 **Section 114 of the Local Government Act 1988** - The Section 151 Officer shall report to the Council, Policy, Projects & Resources Committee, Audit & Scrutiny Committee and the external auditor in fulfilment of the statutory obligations under Section 114 of the Local Government Finance Act 1988 or otherwise if the Authority or any of its Officers:
- (a) Has made, or is about to make, a decision which involves incurring unlawful or unauthorised expenditure.
 - (b) Has taken, or is about to take, an unlawful or unauthorised action which has resulted or would result in a loss or deficiency to the Authority.
 - (c) Has made or is about to make an unlawful or unauthorised entry in the Authority's accounts.
- 2.12 The Section 151 Officer shall assist the Council to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective operations, financial stewardship, effective risk management, probity and compliance with laws and regulations.
- 2.13 The Section 151 Officer shall ensure that there are effective and properly resourced internal audit and risk management functions, that key controls are operating effectively and that controls are recorded and managed within an effective risk management framework.

Service Managers

- 2.14 Service Managers shall ensure that:
- (a) Managerial control systems operate effectively throughout their directorates. These will include the defining of policies, the setting of objectives and plans, the monitoring of financial and other performance, and the taking of appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities and ensuring staff have a clear understanding of the consequences of any lack of control.
 - (b) Financial and operational control systems and procedures operate effectively throughout their directorates. These will include physical safeguards for assets, segregation of duties, checking and authorisation procedures and information systems.
 - (c) The approval of the Section 151 Officer is sought on any matter liable to affect the Authority's finances materially, before any commitments are incurred.
 - (d) Members of all Committees are advised of the financial implications of all proposals and that these have been previously agreed by the Section 151 Officer (see section 6).

- (e) Contracts are duly signed on behalf of the Authority.
- (f) Key controls and control objectives for internal control systems are reviewed regularly in order to be confident as to the proper use of resources, achievement of objectives and management of risk.
- (g) Processes are managed so as to check that established controls are being adhered to and are effective.
- (h) Existing controls are reviewed in the light of changes affecting the Authority and new controls are established and implemented in line with guidance from the Section 151 Officer.
- (i) Controls which are no longer necessary or no longer cost or risk effective, are removed in consultation with the Section 151 Officer.
- (j) Assurance over the control environment is provided as part of the governance assurance framework.

3. Revenue Budget

- 3.1 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.
- 3.2 Council is responsible for agreeing the Council's policy framework and budget. The purpose of the framework is to explain overall priorities and objectives, and ensure that resources follow the identified priorities, agreed service levels and proposals for improvement. The revenue budget is important in this context because, together with the Capital Programme (see Section 4) and the levels of reserves (see Section 5), it expresses the approved policies and service levels of the Council in financial terms. Once approved, the revenue budget confers authority on the Council's Executive and officers to incur expenditure to achieve the aims and objectives of the Council. If expenditure plans cannot be met within the approved budget, then they can only proceed with an approval to divert funds (as provided for in Section 7).
- 3.3 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.
- 3.4 Policy, Projects and Resources Committee 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.

- 3.5 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.
- 3.6 The budget and Council Tax is approved by Council and proposed by Policy, Projects and Resources Committee on the advice of the Section 151 Officer. 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.
- 3.7 The Section 151 Officer shall:
- (a) with the appropriate Leading Member recommend to the Council appropriate guidelines for preparation of the annual budget and the financial forecast for at least the following three financial years.
 - (b) issue appropriate guidance to Service Managers and Members and prepare a corporate budget timetable.
 - (c) ensure the approved budget guidelines are complied with so that statutory and other deadlines can be met.
- 3.8 Service Managers shall:
- (a) submit to the Section 151 Officer estimates in accordance with the budget guidelines and within agreed time scales.
 - (b) ensure that the estimates are prepared having regard to the Corporate Plan, Local Code of Governance and other corporate aims and objectives.
 - (c) for each subjective element of their budget, supply to the Section 151 Officer an estimated profile of the rate of expenditure or income across the budget year.
 - (d) provide any other information the Section 151 Officer may require.
- 3.9 The Section 151 Officer, shall, with the appropriate Lead Member, report to the Policy, Projects and Resources Committee who shall make recommendations to Full Council on:
- (a) the draft revenue estimates, ensuring that the content and format comply with legal requirements and relevant codes of practice.
 - (b) the robustness of the estimates made for the purposes of calculations and the adequacy (or otherwise) of the Council's reserves.

- (c) any significant surplus or deficit arising on the Collection Fund with a recommended course of action.
 - (d) the final proposed budget to enable the appropriate levels of contingencies & reserves, and Council Tax to be agreed for the year.
- 3.10 Subject to (3.11) below, the approval of a budget for the year by Full Council confers authority to spend in accordance with the budget for that year. Service Managers are responsible for co-ordinating programmes of expenditure and income that will achieve the objectives on which the budget was based. Commitments affecting future financial years may only be made where the provisions of Section 7(6) are satisfied.
- 3.11 Service Managers shall not enter into any new arrangements or other contractual commitments with significant long-term revenue consequences without the prior consent of the Section 151 Officer and subsequently reporting to the Policy, Projects and Resources Committee. Such arrangements may be defined for this purpose as any lease, contract hire or other contract or series of contracts under which the use of an asset is obtained in exchange for a series of revenue payments which extend beyond the end of the following financial year.
- 3.12 If a Service Manager wishes to incur expenditure outside the approved budget provision, or anticipates an under spend against an approved budget, the procedures set out in Section 7(4) and (5) shall apply.
- 3.13 Service Managers shall notify the Section 151 Officer in writing of the names of any Officers in their department authorised to act on their behalf in relation to the specific responsibilities set out in this Section, and details of any limitation on the authority delegated to them (the Authorised Signatory List).

4. Capital Programme

- 4.1 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.
- 4.2 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.
- 4.3 The Section 151 Officer shall:
- (a) issue detailed procedures/guidance on the preparation of Capital Programme.

- (b) prepare annually a rolling Capital Programme (year of budget plus at least the following 3 years) and based on the current Corporate Plan, Asset Management Plan, the Housing Revenue Account Business Plan & other relevant corporate plans & strategies and submit this to the Policy, Projects and Resources Committee who shall make recommendations to Council for approval.
- (c) report to the Policy, Projects and Resources Committee and Council on the overall position and the availability of resources to support the Capital Programme.
- (d) ensure that the revenue implications of the Capital Programme are contained within the Revenue Budget and Medium-Term Financial Strategy.
- (e) ensure that sources of funding (revenue, capital grants, capital receipts, borrowing, etc) are identified for the entire programme and that all schemes are properly appraised and provide value for money.

4.4 Service Managers shall:

- (a) submit to the Section 151 Officer estimates of the cost of capital spending proposals and the estimated amount and timing of any capital receipts, and other contributions receivable.
- (b) ensure that the estimates submitted are prepared having regard to the Corporate Plan and other corporate aims and objectives described in 4.3(ii).
- (c) provide any other information the Section 151 Officer may require for the review, monitoring or control of the Capital Programme.

4.5 In working up any capital scheme, Service Managers shall have regard to the risk of triggering claw back or breaching restrictive covenants or other contractual conditions in relation to land or otherwise.

4.6 The inclusion of a capital scheme within an approved Capital Programme shall confer authority to spend, including expenditure which may fall in a subsequent financial year, subject to the:

- (a) provisions of the Council's Contracts Procedure Rules.
- (b) provisions of (4.7) below.

4.7 If a Service Manager wishes to incur expenditure outside the approved Capital Programme provision, the procedures set out in Section 7(4) and (5) shall apply.

- 4.8 Service Managers shall give the Section 151 Officer early warning of known underspends, overspends and changes to planned resources so that the availability of uncommitted capital resources may be monitored effectively.
- 4.9 Service Managers shall notify the Section 151 Officer in writing of the names of any officers in their department authorised to act on their behalf in relation to the specific responsibilities set out in this Section, and details of any limitation on the authority delegated to them (the Authorised Signatories List).

5. Reserves and Balances Policy

5.1 It is important that the Council has a policy setting out its approach to reserves and balances. It is also a requirement of Sections 32 and 43 of the Local Government Finance Act 1992 that each local authority has regard to the level of resources needed to meet estimated future expenditure when calculating its annual Council Tax requirement. This policy also has regard to LAAP Bulletin 77 'Local Authority Reserves and Balances', issued in November 2008. All reserves and balances form part of the General Fund apart from the Housing Revenue Account balance which is specifically 'ring fenced' for use in connection with that account.

5.2 As there is no specified minimum level of reserves/balances that an authority should hold, it is the responsibility of the Section 151 Officer to advise the Council about the level of reserves.

5.3 Types of Reserves

(a) The Council shall maintain the following reserves:

- (i) General reserves/balances - to manage the impact of uneven cash flows and unexpected events or emergencies. The general reserves/balances do not have any restrictions as to their use.
- (ii) Earmarked reserves - sums set aside from time to time to meet known or predicted specific requirements, exceptional risks and uncertainties.

(b) The Council shall maintain a number of other reserves that arise out of the interaction between legislation and proper accounting practices. These reserves, which are not resource-backed and cannot be used for any other purpose, will be specified by the Section 151 Officer in the Annual Financial Report.

(c) Details of all reserves, including in-year movements and year-end balances shall be contained in the Council's Annual Financial Report.

5.4 Principles to Assess the Adequacy of Reserves/Balances

- (a) The Section 151 Officer will advise the Council on the adequacy of reserves/balances. In considering the level of general reserves/balances, the Section 151 Officer will have regard to:
 - (i) The strategic financial context within which the Council will be operating through the medium-term.
 - (ii) The overall effectiveness of governance arrangements and the system of internal control.
 - (iii) The robustness of the financial planning and budget-setting process.
 - (iv) The effectiveness of the budget monitoring and management process.
- (b) Having had regard to these matters, the Section 151 Officer will advise the Council on the monetary value of the required general reserve/balances.
- (c) In exceptional circumstances, the actual level of the Council's reserves/balances may happen to or may be allowed to fall below the level that was considered appropriate. This may be consistent with the need to meet short-term unforeseen expenditure. However, the actual level will be monitored against reserves/balances outlined in the Council's Medium Term Financial Strategy (MTFS). The MTFS will set out the level of planned balances and if the balance falls outside of the MTFS, a plan shall be agreed by Full Council, on the advice of the Section 151 Officer, to restore balances to the appropriate level.
- (d) In considering earmarked reserves, the Section 151 Officer will have regard to the purpose and usage in respect of each reserve and will advise Members accordingly.

5.5 Establishing and Utilising Earmarked Reserve

- (a) When establishing earmarked reserves, compliance with the Code of Practice on Local Authority Accounting and, in particular, the need to distinguish between reserves and provisions must be complied with.
- (b) The Chartered Institute of Public Finance and Accountancy (CIPFA) publish an annual Statement of Recommended Practice (SoRP), which governs the information to be contained within a local authority's Annual Financial Report. The SoRP states that for each reserve established, the purpose, usage and the basis of transaction should be clearly identified.
- (c) The Council may also create new or add to earmarked reserves at any time.

- (d) In approving the earmarked reserve the following information will be required:
 - (i) Purpose – the reason for creating the reserve should be clearly stated.
 - (ii) Usage – there should be a clear statement of how and when the reserve can be used. Without a clearly defined purpose and clearly defined usage there will be ambiguity over the application of reserves.
 - (iii) Basis of transactions, management and control – the Section 151 Officer will be responsible for managing the earmarked reserve (including altering the year to year profiling if required) and will have delegated authority for approval of expenditure from the earmarked reserve, although day to day management of the reserve may be delegated to a specific officer.
- (e) Once an earmarked reserve has fulfilled the purpose for which it was established the Section 151 Officer shall advise on whether the balance should be reallocated to another similar purpose reserve or surrendered to the Council's reserves/balances.

5.6 Reporting of Reserves

- (a) The Section 151 Officer will monitor the drawdown of reserves and keep Members informed, through normal budget monitoring reports as and when required.
- (b) As part of the budget setting report to Council the Section 151 Officer will include:
 - (i) A statement of movements in reserves for the year ahead and the following 2 years.
 - (ii) A statement of the adequacy of general reserves and provisions in the forthcoming year.

6. Reports to Members

- 6.1 Changes to existing policy and new policy must result from considered decisions of the Council having considered the advice of officers. Policy decisions require information concerning the financial and risk management implications of the Council, therefore:
 - (a) All financial and risk management implications must be detailed within Committee reports and be validated by the Section 151 Officer (for Financial Implications and for Risk Management) prior to their progression

through the approval process. Informal advice to Members shall also have regard to these arrangements.

- (b) Reports shall only be put before the Council, Committees, Sub-Committees, Panels or Members if both the financial implications for the Council have been considered and presented fairly in the report.
- (c) Consultation shall take place as appropriate between the authors of reports, the Section 151 Officer and any other Service Manager affected, in good time for any financial and risk management implications to be properly identified.
- (d) Where there are no financial implications or they are negligible, the report shall say so.

7. Budgetary Control

Budgetary control reports are made to full Council and the Policy, Projects and Resources Committee at various times during the year. Within this framework the section 151 officer has the following responsibilities:

7.1 Overall responsibility for budgetary control

The Section 151 Officer is responsible for:

- (a) the overall financial control of the revenue budget and Capital Programme.
- (b) providing financial information for corporate performance reports.
- (c) subdividing and allocating service revenue budgets and the Capital Programme within the overall budget framework according to the Council structure and services, having regard to relevant Codes of Practice.
- (d) supplying timely information on receipts and payments on each budget and capital scheme, sufficiently detailed to enable managers to fulfil their budgetary control responsibilities.

7.2 Responsibility for control of individual budgets

Service Managers are responsible:

- (a) for the budgets and programmes allocated to them, for delivering the levels of service on which they were based, and for compliance with their financial obligations.

- (b) for monitoring levels of service and performance within services, as measured by expenditure and income incurred against relevant budgets and Capital Programme provision.
- (c) for seeking virements in accordance with (7.4) below, either to increase or to reduce the provision allocated to particular budgets or Capital schemes, including income budgets, in order to maintain budget provisions in line with the service levels required.
- (d) may exercise powers delegated to them to enter into new financial commitments, including commitments relating to recruitment and remuneration of staff, only where adequate provision has been made in the revenue budget or Capital Programme and where the revenue consequences for future financial years comply with (7.6) below.
- (e) shall provide any additional information the Section 151 Officer may require.

7.3 Variances from budget

The Section 151 Officer is responsible:

- (a) for reporting significant variances (defined as 5% or £50,000, whichever is greater) to the Policy, Projects and Resources Committee where a Service Manager fails to take action under (7.4) to (7.6) below.
- (b) for agreeing annually:
 - (i) a list of expenditure proposals for which revenue budget provision had been made in the previous year and for which the particular goods or services had not been supplied before the financial year end (carry forwards).
 - (ii) a list of expenditure proposals on capital schemes for which provision had been made in the total Capital Programme for the previous year but the programme had slipped / or been accelerated so that supplementary estimates may be executed for the ensuing financial year in accordance with (7.5) below. For clarity the approval of items under (ii) does not represent a key decision as the key decision was made when the budget was originally approved.

7.4 Virements between budgets

7.4.1 The overall budget is approved for each year by Full Council following recommendation by Policy, Projects and Resources Committee. Officers are thereby authorised to incur net expenditure in accordance with the estimates that made up the budget for the current financial year. The rule below covers

'virement'; that is switching resources between approved estimates or heads of expenditure and income.

7.4.2 'virement' is 'planned transfer of a budget for use in a different purpose to that originally intended'.

7.4.3 Subject to appropriate consultation, budget allocations may be moved (vired) between revenue budgets or between schemes within the Capital Programme for the purpose of maintaining approved service levels and/or responding to unforeseen budget pressures and/or meeting the efficiencies' target, by each Service Manager in consultation with the Section 151 Officer or Deputy. This will also include technical virements.

7.4.4 However any budget allocation to be moved (vired) from revenue budgets to the Capital Programme (Revenue Contribution to Capital Outlay (RCCO)) will be in accordance with the following scheme of virements:

(a) Up to £75,000 By the Section 151 Officer

(b) Up to £150,000 By the Section 151 Officer in consultation with the Lead Member for Finance

(c) Over £150,000 By the Policy, Projects and Resources Committee

and in making any such decision, due regard shall be made to any budget implications for future financial years.

7.5 Supplementary estimates

(a) Revenue expenditure

Where no provision currently exists in the revenue budget, or where the provision made for an existing budget is insufficient and a virement is not available under (7.4) above, then new or additional budget provision may be established using reserves (general or earmarked) as outlined in the Reserves and Balances Policy section (Section 5). In making any such decision, due regard shall be had to any budget implications for future financial years.

(b) Capital expenditure

Where no provision currently exists in the Capital Programme, or where an existing provision is insufficient and a virement is not available under (7.4) above, then new or additional provision may be established to the extent of any uncommitted capital

resources, using reserves (general or earmarked) or underspends from elsewhere in the Capital Programme in accordance with the following scheme of supplementary estimates:

Up to £50,000

Section 151 Officer

Up to £150,000	By the Section 151 Officer in consultation with the Lead Member for Finance
Over £150,000	By the Policy, Projects and Resources Committee
or where (7.3)(b)(ii) applies	By the Policy, Projects and Resources Committee

In making any such decision, due regard shall be had to any implications for the Capital Programme and revenue budget in future financial years.

Any additional expenditure that cannot be offset as outlined in (7.5) (a) or (b) above cannot be incurred without the approval of full Council.

(c) Partnership Expenditure and External Funding

Where no provision currently exists in the revenue budget or Capital Programme for specific projects or activities which are to be wholly or partly funded by external agencies or partners, then the above criteria for supplementary estimates will apply to the value of the Council's net financial contribution to the revenue or capital cost of the project. The Section 151 Officer is empowered to agree a supplementary estimate where the net cost to the Council is nil (for example, a grant has been authorised by the government) and to adjust the revenue budgets and Capital Programmes to reflect the gross value of all such arrangements and transactions.

Service Managers and Lead Members must liaise with the Section 151 Officer, and refer to Section 9 of these Regulations, prior to undertaking any bidding for external funding or setting up any partnerships.

7.6 Commitments of revenue expenditure affecting future financial years

The following arrangements shall apply in relation to the commitment of expenditure prior to the approval of the revenue budget for the financial year concerned:

- (a) Service Managers may commit expenditure affecting future financial years provided that:
 - (i) the estimated cost in real terms does not exceed the current and future years' budget provision
 - (ii) and the consent of the Section 151 Officer is obtained where Financial Regulations 3 (7.5) and 14 (7.3) apply.
- (b) Service Managers may only commit expenditure on new or extended services:

- (i) With the approval of the Section 151 Officer in consultation with the Lead Member for Finance where the financial commitment in the following financial year does not exceed £50,000 in respect of the proposal and that Financial Regulation 3 is adhered to.
- (ii) Or otherwise with the approval of the Policy, Projects and Resources Committee.
- (c) The Section 151 Officer is authorised to agree the placing of orders for vehicles, plant and equipment before Council approves the budget where this is necessary in order to secure delivery in the required time scale.

7.7 Delegation

Service Managers shall notify the Section 151 Officer in writing of the names of any Officers in their department authorised to act on their behalf in relation to the specific responsibilities set out in this Section, together with specimen signatures and details of any limitation on the authority delegated to them (the Authorised Signatories List).

8. Accounting Records

- 8.1 Maintaining proper accounting records is one of the ways in which the Authority discharges its responsibility for stewardship of public resources. The Authority has a statutory duty to prepare its Annual Statement of Accounts on the basis that they give a true and fair view of the financial position of the Council on the reporting date. The accounts are subject to external audit, which provides assurance that they have been prepared properly, that proper accounting practices and statutory requirements have been followed and that proper arrangements have been made for securing economy, efficiency and effectiveness in the use of the Authority's resources. There is also a statutory right for members of the public to inspect the accounts and relevant supporting documentation.
- 8.2 The Section 151 Officer is responsible for:
 - (a) making arrangements for the proper administration of the Authority's financial affairs.
 - (b) selecting and applying appropriate accounting policies consistently.
 - (c) determining accounting procedures and maintaining proper accounting records.
 - (d) making an annual report to the Audit and Scrutiny Committee on the financial outturn for the previous financial year (also reported to Policy,

Projects and Resources Committee as part of the medium term financial planning report).

- (e) ensuring that the Statement of Accounts for that year is completed, approved by the Audit and Scrutiny Committee and published within the corporate and statutory timetable and in accordance with relevant Codes of Practice.

8.2 Service Managers shall ensure that:

- (a) all the Authority's transactions, material commitments, contracts and other essential accounting information are recorded completely, accurately and promptly.

- (b) in the allocation of accounting duties of any kind:

- (i) the duty of providing information, calculating, checking and recording sums due to or from the Council shall be separated as completely as possible from the duty of collecting or disbursing such sums.

- (ii) Officers charged with the duty of examining and checking the accounts of cash or stores transactions shall not themselves be engaged in any of those transactions.

- (c) any Financial Procedure Notes prescribed by the Section 151 Officer are fully complied with.

- (d) the Section 151 Officer is supplied with such information as may be requested by him from time to time for the purpose of the proper administration of the Council's affairs.

9. **Procuring and Paying for Works, Supplies and Services**

9.1 **Placing Orders for Works, Supplies and Services**

All orders for works, goods and services shall be placed in accordance with the Council's Standing Orders relating to Contracts, and Purchase Ordering Processes. Standing Orders relating to Contracts form part of the Council's Constitution and are available on the Council's intranet. All quotation and tender exercises shall be conducted in accordance with legislation and regulations regarding procurement requirements, including the Public Contracts Regulations 2015.

9.2 Other contract terms

Service Managers shall:

- (a) in consultation with the Section 151 Officer include in every contract appropriate clauses to cover financial and insurance requirements, and to provide sufficient security for due performance.
- (b) put in place adequate procedures for the effective cost control of all contracts.
- (c) ensure all contracts are entered onto the Council Contract Register.

9.3 Receipt of Works, Supplies and Services

Service Managers shall put in place adequate systems for verifying the performance of work or the receipt of supplies and services. In particular controls shall be established to ensure that:

- (a) work done or supplies and services received are as specified.
- (b) quality or workmanship is of the required standard.
- (c) appropriate entries are made in inventory, stock or other records.

9.4 Payment for Works, Supplies and Services

- (a) Service Managers shall make adequate and effective arrangements approved by the Section 151 Officer for checking and certifying invoices and other requests for payment without undue delay.
- (b) unless covered by (c) below or where otherwise approved by the Section 151 Officer, all payments shall be made by automated bank transfer or crossed cheque drawn on a bank account of the Council. Payments may only be made by direct debit with the prior approval of the Section 151 Officer.
- (c) Minor items of expenditure, up to a limit set by the Section 151 Officer, may be paid on procurement cards by officers authorised to hold a card. All cardholders must comply with the Council's Procurement Card Policy, which is available on the Council's intranet.

9.5 Delegation

A list of authorised signatories shall be maintained detailing all officers authorised to make payments for works, goods or services, and details of the limitations set for each officer. These limits will be agreed by the Service

Manager and the Section 151 Officer. New officers shall be given authority to make payments only after their application has been approved by the Service Manager and the Section 151 Officer.

9.6 General

9.6.1 Every Member and Officer engaged in contractual or purchasing decisions on behalf of the Council shall declare any links or personal interests they may have with purchasers, suppliers and contractors and shall comply with the provisions of the appropriate codes of conduct.

9.6.2 Service Managers shall ensure that the duties of ordering works, supplies or services, approving orders, and receipting orders are not performed by the same Officer.

10. Income

10.1 General

Service Managers shall implement arrangements made by them under this Section only with the approval of the Section 151 Officer.

10.2 Prompt identification of sums due to the Council

Service Managers shall make adequate and effective arrangements for the prompt identification of all sums due to the Council.

10.3 Prompt recording in the Council's accounts of all sums due

10.3.1 Service Managers shall make adequate and effective arrangements for recording all sums due in the Council's accounts.

10.3.2 Accounts for sums due may only be raised on the Council's corporate Sundry Debtors system unless alternative arrangements have been approved by the Section 151 Officer.

10.4 Collection and receipting of all income

Service Managers shall make adequate and effective arrangements for the collection and receipting of all income and for the security of all cash and other valuables having regard to agreed insurance limits for locked safes

10.5 Banking of income

Service Managers shall make arrangements, approved by the Section 151 Officer, for the secure transfer of cash and cheques from the Council's offices and facilities to the Council's bankers.

10.6 Reconciliation of income

Service Managers shall make adequate and effective arrangements for the sums collected and banked to be reconciled with the records of sums due.

10.7 Debt recovery

In all cases Service Managers shall co-operate with the relevant Debtors' Team plans to take prompt and appropriate action to recover all sums overdue to the Council.

10.8 Writing off sums due

10.8.1 Service Managers are responsible for recommending the write off of irrecoverable debts to the Section 151 Officer.

10.8.2 Where an individual debtor owes the Council no more than £10,000, the Section 151 Officer may approve the write off of that debt where there is satisfactory evidence that it is irrecoverable. In any other case, where there is satisfactory evidence, the Section 151 Officer shall refer the debt to the Chair of the Policy, Projects and Resources Committee for approval to write off.

10.9 Reviews of fees and charges

Service Managers shall, in consultation with the Section 151 Officer, review all fees and charges at least annually in accordance with guidance issued by the Section 151 Officer.

10.10 Segregation of duties

The duty of providing information, calculating, checking and recording sums due to or from the Council shall be separated as far as is possible from the duty of collecting such sums.

11. Banking, Cheques and Money Laundering

The Council has a duty to ensure that all moneys are properly safeguarded and only utilised for authorised purposes. The Council must also comply with the statutory money laundering regulations. It is therefore necessary to have controls to ensure the proper authorisation and control of all bank accounts, all payments made from them and all income deposited.

11.1 Operation of bank accounts

11.1.1 The Section 151 Officer is responsible for opening, closing and operating all bank accounts and related facilities in the Council's name.

11.1.2 All communications with the Council's bankers concerning its bank accounts and any changes in banking arrangements shall be made under arrangements approved by the Section 151 Officer.

11.2 Authorisation of signatories

Only Officers personally mandated by the Section 151 Officer may sign cheques and other documents transferring funds out of the Council's bank accounts.

11.3 Payments from Council bank accounts

11.3.1 All payments from the Council's bank accounts shall be, so far as is practicable, automated bank transfer or by crossed cheque but the Section 151 Officer may exclude from this regulation such payments as he may consider appropriate.

11.3.2 No payments shall be made from the Council's bank accounts unless approved personally by a signatory authorised in accordance with (11.2) above.

11.3.3 Payment by Direct Debit must be authorised by the Section 151 Officer.

11.4 Custody of cheques

11.4.1 All cheques and paying in books shall be ordered and controlled by the Section 151 Officer.

11.4.2 The safe custody and issue of cheques shall be carried out under arrangements made by the Section 151 Officer.

11.5 Banking of income

Service Managers shall make arrangements, approved by the Section 151 Officer, for the secure transfer of cash from the Council's offices and facilities to the Council's bankers (see Section 10.5).

11.6 Reconciliation

The Section 151 Officer shall regularly reconcile the Council's bank accounts with the accounting records and investigate any discrepancies.

12. Security and Inventories

The Authority holds assets in the form of land and buildings, fixed plant, vehicles and machinery, furniture and equipment, software and data, cash and other items of value (e.g. stocks and stores). It is important that assets are used efficiently in service delivery, that they are adequately insured and that there are arrangements for the security of both assets and information required for service operations. Up to date records are a prerequisite for sound asset management. See also Sections 13 (Stocks and Stores), 15 (IT Systems) and 17 (Insurances).

12.1 Proper use of the Council's resources

Resources are to be used solely for the purposes of the Authority unless authorised otherwise by the Council, and are to be properly accounted for.

12.2 Asset register

The Section 151 Officer is responsible, in consultation with other Service Managers, for the compilation and maintenance of an asset register (in appropriate format for accounting purposes) covering land and property and other fixed assets. The function

of the asset register is to provide the Authority with information about fixed assets so that they are safeguarded, used efficiently and effectively, and are adequately maintained.

12.3 Inventories

12.3.1 Each Service Manager is responsible for maintaining an inventory of moveable assets above a de-minimis value or as determined by other criteria under procedures determined by the Section 151 Officer.

12.3.2 A list of inventories should also be maintained for assets which, although below the de-minimis level, are attractive & desirable and therefore more prone to theft.

12.3.3 Inventories are to be reviewed at least once each year and copies made available to the Section 151 Officer.

12.4 Security

Service Managers shall make proper arrangements for:

(a) The security of all buildings and other assets under their control.

(b) The safe custody of all documents held as security.

13. Stocks and Stores

The Council holds many different types of stocks and stores. It is important that these assets are safeguarded and used efficiently in service delivery. There therefore needs to be adequate arrangements for the receipt, security and issue of stocks and stores and for the disposal of surplus or redundant items.

13.1 Receipt, Control and Custody

Service Managers shall make adequate and effective arrangements for the custody, care and physical control of all stocks and stores in their departments.

13.2 Stocks and Stores Records

13.2.1 In consultation with the Section 151 Officer, Service Managers shall maintain adequate records of all issues and other movements of stocks and stores.

13.2.2 Service Managers shall provide to the Section 151 Officer each year a stock certificate detailing stocks and stores in hand at 31 March.

13.2.3 Service Managers should make provision for regular stock takes and reconciliations to take place during the year.

13.3 Maintenance of stocks

13.3.1 Service Managers shall maintain stocks at reasonable levels and subject them to a regular independent physical check.

13.3.2 Discrepancies shall be appropriately investigated, pursued to a satisfactory conclusion and removed from the Authority's records by making stock adjustments as necessary. Gains and losses resulting from stock adjustments shall only be written off or adjusted in the records under arrangements approved by the Section 151 Officer.

13.4 Disposal of surplus, obsolete or redundant stocks or equipment

Service Managers shall ensure that all stocks and equipment no longer required are disposed of economically under arrangements approved by the Section 151 Officer.

13.5 Delegation (1) Receipt, Control and Custody

Service Managers shall notify the Section 151 Officer in writing of the names of any Officers in their department authorised to sign stock certificates and other related matters on their behalf, together with specimen signatures and details of any limitation on the authority delegated to them (the Authorised Signatories List).

14. Treasury Management and Leasing

Treasury Management is in place to provide assurance that the Authority's money and overall cash flow are properly managed, in a way that balances risk with return but with overriding consideration being given to the security of investments.

The signing of leases and other forms of credit can have a wider financial impact than just the rental payments. It is therefore necessary that the Section 151 Officer be given the opportunity to evaluate the costs of any potential agreement before it is legally binding.

14.1 General

The Section 151 Officer is responsible for all investment, borrowing and leasing undertaken in the name of this Authority.

14.2 Treasury Management

The Section 151 Officer shall:

- (a) keep under review the Council's Treasury Management Policy Statement and submit any amendments to the Policy, Projects and Resources Committee prior to consideration and adoption by Full Council.
- (b) maintain, having regard to the recommendations of the CIPFA Code of Practice and Guidance Notes, a Treasury Manual consisting of Treasury Management Practices (TMP's) setting out the duties of Members and Officers covering all aspects of Treasury Management. The Manual shall be comprehensively reviewed at least once every three years.
- (c) prepare, for adoption before the commencement of each financial year, a Treasury Management Strategy, an Investment Strategy and a Debt Repayment Policy, having regard to any statutory guidance and to the provisions of the CIPFA Code of Practice and Guidance Notes, in respect of the Council's strategy and policies to be set for that financial year. The proposals will be submitted to the Policy, Projects and Resources Committee prior to consideration and adoption by Full Council.
- (d) recommend to the Council before the commencement of each financial year a range of Prudential Indicators, including borrowing limits, to be set for that financial year in accordance with statute and the CIPFA Prudential Code.
- (e) keep the strategies, policies and Prudential Indicators for the current financial year under constant review and submit revised proposals for adoption from time to time as necessary. In any event, present a mid-year review for consideration to the Policy, Projects and Resources Committee.
- (f) arrange all borrowing and investments of the Authority in accordance with the Treasury Management Policy Statement, the approved Treasury Management and Investment strategies for the year the approved Debt Repayment Policy for the year and the current Treasury Manual.
- (g) make all investments, borrowings and other financing transactions only in the name of the Authority or in the name of nominees approved by Full Council.

- (h) ensure that Council Members tasked with Treasury Management responsibilities, including those responsible for scrutiny, have access to training relevant to their needs and those responsibilities.

14.3 Leasing and Similar Arrangements

The taking of a lease or other similar arrangements, including new or extended leases of land and property, may only be entered into with the consent of the Section 151 Officer. Such arrangements may be defined for this purpose as any lease, contract hire or other contract or series of contracts under which the use of an asset is obtained in exchange for a series of payments which extend beyond the end of the following financial year. If the taking of the lease (or other similar arrangement) is in relation to real estate/property (i.e. land or buildings or rights associated) then the method of treatment of the costs may vary depending on the length of the agreement and whether a premium (lump sum) is paid and/or an annual rental/fee. No agreement relating to property or rights over property may be entered into (either taking or granting) without the consent of the Section 151 Officer.

14.4 Delegation

The Section 151 Officer shall maintain in writing a list of the names of any Officers in his department authorised to act on his behalf in relation to the specific responsibilities set out in this Section, together with specimen signatures and details of any limitation on the authority delegated to them (the Authorised Signatories List).

15. Value Added Tax

Value Added Tax (VAT) is a tax applied to many of the goods and services the Council either buys in or supplies to others. VAT therefore impacts on many of the Council's financial transactions. Whilst generally speaking the Council is able to reclaim the VAT it pays on buying in goods and services, this ability is limited in relation to certain types of services made by the Council. VAT is a very complex tax, particularly where it relates to land and property transactions and partnership arrangements. It is essential that the VAT implications of all major projects, partnership arrangements and land & property transactions be evaluated well in advance of commitments being made. If this is not done the Council could be faced with a substantial irrecoverable VAT bill that is both unplanned and unbudgeted. HM Revenues and Customs also have the power to impose penalties (fines) for late or non-compliance with VAT rules.

- 15.1 The Section 151 Officer is responsible for the determination of all arrangements for the collection, recording, payment and recovery of VAT.
- 15.2 The Section 151 Officer shall:
 - (a) maintain complete and accurate accounting records of all the Council's VAT transaction.

- (b) submit the Council's VAT return to HM Revenues and Customs monthly in accordance with statutory deadlines.
- (c) prepare the Council's partial exemption calculation as at the end of each financial year and monitor the Council's partial exemption position as part of the budget setting process.
- (d) submit the Construction Industry Scheme returns monthly in accordance with statutory deadlines.
- (e) prepare and submit Voluntary Disclosure Notices to HM Revenues and Customs and recover any revenues due.
- (f) conduct all negotiations with HM Revenues and Customs in respect of VAT matters affecting the Council and make appropriate decisions as a result of these negotiations.
- (g) exercise as appropriate the Council's option to tax in respect of land and buildings.
- (h) provide guidance, advice and training to Council staff on all aspects of VAT as they affect the Council.
- (i) publish and regularly update appropriate VAT guidance notes internally.

15.3 Service Managers shall:

- (a) properly account for VAT on all transactions under arrangements determined by the Section 151 Officer.
- (b) consult the Section 151 Officer in all cases where the VAT treatment of any transaction is unclear so that the matter can be reviewed and appropriate treatment determined.
- (c) consult the Section 151 Officer in all cases where new projects, schemes or services are proposed, well in advance of commitments being made, so that any impact on the Council's VAT position can be assessed, any necessary action taken to protect the Council's VAT recovery position and the financial implications of the proposal can be properly considered.
- (d) co-operate with any VAT inspector and give access at all reasonable times to premises, personnel, documents and assets which they consider necessary for the purposes of their work.

16. Insurances

The provision of insurance cover is one of the major methods of responding to corporate and service risks identified under the Council's Risk Management arrangements (see Section 21). Cover is arranged externally (with major insurance companies). Accurate record keeping and timely provision of information are essential if the Council's insurance cover is to be effective. This Section should be read in conjunction with that relating to Risk Management (Section 20).

16.1 The Section 151 Officer is responsible for:

- (a) effecting all insurance cover on a corporate basis, through external insurance or through internal self-insurance arrangements as they consider appropriate and maintaining proper records of these arrangements.
- (b) handling, negotiating, processing and settlement of all claims, in consultation with any external insurers where necessary.

16.2 Service Managers and Members shall notify the Section 151 Officer promptly:

- (a) of all new risks, properties, vehicles or other assets that require insurance
- (b) of any alterations to such risks or assets affecting existing insurances
- (c) should any of the Authority's assets be damaged, lost or stolen
- (d) of any loss, liability, damage or personal injury that may lead to a claim against the Authority. Failure of the Council to appropriately notify the insurer may invalidate cover under the policies and shall provide any related information or explanation required within time scales determined by the Section 151 Officer and/or relevant legislation.

16.3 Service Managers shall ensure that no employee or other person covered by the Authority's insurances admits liability (orally or in writing) or makes any offer to pay compensation, because this may prejudice a proper assessment of the Council's liability.

16.4 Service Managers shall maintain proper records relating to assets which require insurances effected by the Authority, under arrangements approved by the Section 151 Officer.

16.5 Service Managers shall consult with the Section 151 Officer and also seek advice from the Legal team on the terms of any indemnity that the Authority is requested to give.

16.6 Service Managers shall consult with the Section 151 Officer to determine the minimum level of insurance cover required of any person or body (including all Council contractors and those bodies using Council land or facilities) to

indemnify the Council or to effect insurance cover in accordance with the Council's requirements and shall check that appropriate insurance cover is in place.

17. Pay and Conditions of Employment

Staffing costs are the largest single item of expenditure for most Council services. It is therefore important that payments are accurate, timely, made only where they are due and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members' allowances are paid in accordance with the scheme adopted by Full Council. Like all organisations, the Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax can be severe. It is therefore important for all Officers to be aware of their role.

17.1 General

Terms and conditions of employment are a function of the Policy, Projects and Resources Committee. The Head of Paid Services is responsible for the administration of all arrangements for the payment of salaries, wages, pensions and other emoluments to existing and former employees, and for all related matters. The Head of Paid Services is responsible for car loans to eligible employees, travel and subsistence claims.

17.2 Deductions from Pay

The Head of Paid Services shall make proper arrangements for all statutory and other deductions from pay, including tax, national insurance and pension contributions, and payment of such sums to the bodies concerned.

17.3 Terms of employment

Service Managers shall promptly notify the Head of Paid Services of:

- (a) the terms and conditions applying to new contracts of employment.
- (b) any changes or events affecting the salaries, wages or emoluments of the Council's employees.
- (c) all resignations, retirements and terminations of employment.

17.4 Provision of Information

Service Managers shall provide to the Head of Paid Services:

- (a) all relevant information, including notifications of sickness absence, in an agreed format and within agreed time scales to enable the prompt and accurate payment of all elements of pay.
- (b) notification of the impending departure of any employee involved with the custody of cash or stores.

17.5 Members Allowances

Payments to elected Members of the Council shall be made by the Head of Paid Services in accordance with the Council's approved scheme.

17.6 Delegation

Service Managers shall notify the Section 151 Officer in writing of the names of any Officers in their department authorised to act on their behalf in relation to the specific responsibilities set out in this Section, together with specimen signatures and details of any limitation on the authority delegated to them (the Authorised Signatories List).

18. Internal Audit

The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities "make arrangements for the proper administration of their financial affairs". The Accounts and Audit Regulations 2011 more specifically require that a "relevant body shall maintain an adequate and effective system of internal audit". Accordingly, internal audit provides one aspect of an independent and objective assurance in the review of the system of governance, risk management and internal control as a contribution to the proper, economic, efficient and effective use of resources. In fulfilling this responsibility, the internal audit service must comply with the mandatory Public Sector Internal Audit Standards and Code of Ethics and CIPFA's Statement on the role of the Head of Internal Audit.

- 18.1 The Section 151 Officer shall ensure that the Internal Audit Service is available and adequately resourced and independent in its planning and operation.
- 18.2 The Section 151 Officer or his authorised representative shall have authority to enter at all reasonable times any offices, premises or land under the control of the Council and shall have unrestricted access to all records, documents and correspondence relating to any matter under consideration, without limitation.
- 18.3 All staff shall provide such information and explanations as the Section 151 Officer or his authorised representative considers necessary and shall produce upon demand cash, stores, documents or other property of the Council under their control.

- 18.4 Service Managers and the Section 151 Officer shall give appropriate consideration of Internal Audit reports and identified control and governance concerns.
- 18.5 Service Managers and other staff shall immediately notify the Internal Audit Service on behalf of the Section 151 Officer upon discovery or suspicion of any financial irregularity, whether affecting cash, stores, property, financial records or otherwise. Internal Audit have delegated authority to investigate allegations of Fraud, Theft, Corruption, Bribery, Money Laundering and any other financial irregularity on behalf of the Section 151 Officer. The Section 151 Officer shall notify the Head of Paid Services in all significant cases.
- 18.6 The Council shall set out in policy documents its approach to countering fraud, theft, bribery, money laundering and corruption and to “whistle blowing”.
- 18.7 The Internal Audit Service has direct access to the Head of Paid Services, Section 151 Officer, Monitoring Officer and to all levels of management and to elected Members.
- 18.8 As part of the adequate system of internal audit, the Council will maintain an Audit and Scrutiny Committee in line with Codes of Practices.
- 18.9 The Council’s Internal Audit Service will report its findings, assurances and performance to the Audit and Scrutiny Committee in line with the Internal Audit Charter.
- 18.10 Internal Audit will provide an annual opinion on the adequacy and effectiveness of the internal control, governance and risk management arrangements. This opinion will be fed into the Council’s Annual Governance Statement.

19. External Audit and Inspection

The basic duties of the external auditor are governed by statute. In fulfilling his responsibilities, the external auditor works to a code of audit practice issued by the National Audit Office. The Authority may from time to time also be subject to audit, inspection or investigation by various other external bodies. Government department inspectorates and bodies such as HM Revenues and Customs have statutory rights of access. Rights of access are also sometimes granted under contractual arrangements, including partnerships where the Council is not the lead body. It is important that all Officers of the Council respond to external scrutiny in a timely, professional and helpful manner.

- 19.1 The Section 151 Officer shall facilitate the co-ordination of the work of internal and external audit together with ensuring appropriate consideration of External Audit reports by officers and/or Members.
- 19.2 The External Auditor will place reliance on the work of the Internal Audit Service where ever possible to reduce duplication.

- 19.3 The Section 151 Officer shall ensure that the Council's accounts are scrutinised by the External Auditor, who must be satisfied that the statement of accounts 'gives a true and fair view of' the financial position of the Council and its expenditure and income for the year in question and complies with the legal requirements.
- 19.4 Co-ordination of all other inspection and independent review work shall be the responsibility of the Section 151 Officer.
- 19.5 Service Managers and relevant Members shall give external auditors and inspectors access at all reasonable times to premises, personnel, documents and assets which they consider necessary for the purposes of their work.
- 19.6 The External Auditor will report their findings, assurances and recommendations to those charged with the governance (the Audit & Scrutiny Committee).

20. Risk Management

The Council faces numerous risks: to people (including its employees), to property, to its reputation and to continuity of service delivery. Risk is the threat that an event or action will adversely affect the Council's ability to achieve its objectives and to successfully execute its strategies. This will include both external and internal risks. An opportunity is an event or action that will enhance the organisations ability to achieve its objectives and deliver approved strategies. Risk Management is the planned and systematic process by which risks and opportunities are identified, evaluated and controlled. Risk management seeks to protect the Council and enable it to achieve its stated aims and objectives. It also seeks to maximise the rewards that can be gained through effectively managing risk. It is the responsibility of the Regulatory and Governance Committee to approve the Council's risk management policy and strategy and to promote a culture of risk management awareness throughout the organisation.

This Section should be read in conjunction with that relating to Insurance (see Section 16), which is just one tool used in the control of organisational risk.

- 20.1 The Regulatory and Governance Committee shall approve and promote the Authority's corporate risk management policy and strategy.
- 20.2 The Section 151 Officer shall:
- (a) develop risk management processes and procedures to assist in the identification, assessment, reduction and control of material risks and opportunities, in line with Codes of Practice.
 - (b) undertake regular monitoring and review of the corporate, project, partnership and service arrangements for effective risk management.

- 20.3 The Section 151 Officer shall ensure that the Council has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage of its resources.
- 20.4 Service Managers are responsible:
- (a) for risk management within all areas under their control, including service, projects and partnerships, having regard to appropriate advice from the Section 151 Officer.
 - (b) for carrying out regular reviews of risk and opportunity, risk reduction and maximisation strategies and the operation of appropriate controls (including business continuity plans) within their departments.
 - (c) to ensure that their service, project and partnership risk registers are appropriately updated on a regular bases, within the Council's approved system.
- 20.5 Service Managers and lead Members shall promptly notify the Section 151 Officer of all new risks and opportunities that are material, as they are identified.

21. External funding, partnership arrangements and projects.

- 21.1 Partnerships play a key role in delivering Council Services and in helping to promote and improve the wellbeing of the Borough. The Council works in partnership with others - public agencies, private companies, community groups and voluntary organisations – and its distinctive leadership role is to bring together the contributions of the various stakeholders. The Council will mobilise investment, bid for funds, champion the needs and harness the energies of local people and community organisations. It will be measured by what it achieves in partnership with others.
- 21.2 Partnerships can provide ways to access new resources and share risk. They can also lead to innovative and improved ways of delivering services whilst forging new relationships. Whilst external funding is a very important source of income, funding conditions need to be carefully considered to ensure they are compatible with the aims and objectives of the Council. In some instances, tight specifications may not be flexible enough to link to the Authority's corporate plan. Also, new ways of working can increase the Council's exposure to fraud and to irregularities in the operation of, for example, VAT, insurances and pay.
- 21.3 Bidding for external funding
- (a) Service Managers shall seek external resources to further the priorities and aims of the Council's Corporate Plan.
 - (b) Before making a bid for resources which, if successful, would require any financial commitment from the Council. Service Managers shall ensure that

appropriate budgets have been approved or earmarked in accordance with these Regulations.

- (c) In working up bids, Service Managers shall use appropriate project appraisal processes to assess the viability of the project in terms of resources, staffing and expertise, to identify and assess all potential risks and to ensure achievement of the required outcomes.

21.4 Setting up partnerships

- (a) Service Managers shall agree and accept formally the roles and responsibilities of each of the partners involved in a project before the project commences.
- (b) Where the Council is to be the lead partner, or the accountable body where other public funds are involved, the responsibilities of the Council and the obligations of the various partners are to be clearly defined and understood.
- (c) Service Managers shall consult the Section 151 Officer on:
 - (i) any financial control, insurance and audit requirements to be incorporated in the partnership arrangements.
 - (ii) the overall financial implications for the Council.
- (d) Prior to entering into any commitment, the relevant Service Manager shall ensure that any matched funding or other financial obligations of the Council are provided for within the revenue budget or Capital Programmes and that arrangements are made for future years' financial provisions to reflect these obligations. This should include any audit and other consequential fees as appropriate.

21.5 Working with partners

- (a) These Financial Regulations and the Council's Contracts Procedure Rules shall apply equally to any orders for works, goods or services which are the responsibility of the Council under the partnership arrangements.
- (b) The relevant Service Manager shall comply with any key conditions of funding and any statutory requirements.
- (c) Any variation in resources to be contributed by the Council, or in the overall resources of the partnership where the Council is the accountable body,

shall be dealt with in the same way as other budget variations as set out in Section 7 (Budgetary Control).

- (d) The relevant Service Manager shall ensure that any financial control, insurance and audit requirements of the partnership are met.
- (e) The relevant Service Manager shall communicate regularly with the other partners throughout the project so that any problems are identified and shared on a timely basis to achieve their successful resolution.

21.6 Delegation

Service Managers shall notify the Section 151 Officer in writing of the names of any Officers in their department authorised to act on their behalf in relation to the specific responsibilities set out in this Section, together with specimen signatures and details of any limitation on the authority delegated to them (the Authorised Signatories List).

22. Work carried out for others

- 22.1 Legislation enables the Council to provide a range of services to other bodies. Such work may help maintain economies of scale and existing expertise. It may also be helpful to share the Council's facilities, expertise and resources with others under partnership arrangements, mutuals, companies etc. Effective controls should be in place to ensure that any risks associated with such work are appropriately managed and that the work falls within the Council's statutory powers.
- 22.2 Financial Regulations apply equally to any service carried out by the Council on behalf of the County Council or any other Authority, body or person, and Service Managers and Members shall not set up partnership or other arrangements with external parties to operate in conflict with these Regulations as far as this Council's involvement is concerned.
- 22.3 Service Managers shall properly assess the financial implications of the proposal prior to commitment following consultation with the Section 151 Officer and draw up contracts having regard to the Council's powers, relevant policies and protocols and in compliance with any insurance or other requirements of the Section 151 Officer.

23. Trading Arrangements

- 23.1 The Council will at times look for potential trading opportunities. Effective controls should be in place to ensure that any risks associated with trading are appropriately managed.
- 23.2 The Section 151 Officer shall:

- (a) Advise on and approve the financial implications of any proposed trading arrangements between the Council and third parties.
- (b) Advise on the establishment and operation of trading accounts to ensure that the accounting and control processes comply with Council and statutory requirements and that the results of trading operations are properly recorded and reported.

23.3 Service Managers shall:

- (a) Identify potential trading opportunities and evaluate the respective risks and financial benefits.
- (b) Obtain the approval of the Section 151 Officer, in consultation with the relevant Members.
- (c) Maintain a register of contracts entered into.
- (d) Comply with advice issued by the Section 151 Officer in relation to the operation of trading accounts and the proper recording and reporting of trading results.

Glossary

Annual Financial Report

The Council's annual report on its financial position for the year ending 31 March. The report is required to be in a prescribed format and is subject to independent review.

Asset Management Plan

A document setting out the Council's plan for developing systems and internal controls to manage its land, buildings and capital expenditure in the most effective way to achieve its goals.

Asset register

A detailed listing of land, buildings, vehicles and major items of plant and equipment (assets). Asset registers are important because they enable an effective assessment of the management of assets to be made through a comprehensive record of attributes. They are also a useful basis for arranging appropriate insurance cover and substantiating insurance claims in the event of fire, theft or other loss.

Budget

A statement expressing the Council's policies and service levels in financial terms for a particular financial year. In its broadest sense it includes both the revenue budget and the Capital Programme and any authorised amendments to them, and the planned usage of reserves and balances. It does not however include the forward financial forecast, which is for financial planning purposes only.

Budget Book

The publication in which the Council sets out its budget for a particular financial year.

Budgetary control

The continual review of expenditure and income, both revenue and capital, against planned levels of expenditure and income to help ensure that service objectives are achieved and the overall resources of the Council are not over or under spent. This process is aided by the use of budget profiles.

Budget head

For a particular service activity, the level of detail at which revenue or capital budgets are approved by the Council, whether in the Budget Book, the latest approved Capital Programme or as a result of supplementary estimates approved for the budget year.

Budget profiles

As an aid to budgetary control, managers are required to specify before the start of a budget year the rate at which each budget head for which they are responsible is expected to be consumed during the course of the financial year, having regard to seasonal influences, past experience and other factors. This budget "profile" is then used to monitor the actual rate of consumption as the year progresses. The profile for any budget head may be amended in the light of changing circumstances.

Budget provision

The amount approved by the Council for a particular budget head.

Capital contributions

Sums contributed by external persons and bodies towards the cost of capital schemes to be carried out by the Council. These commonly derive from planning agreements with developers but also include government grants and sums recovered from third parties.

Capital expenditure

This generally relates to expenditure on the acquisition or enhancement of fixed assets which will be of use or benefit to the Authority in providing its services for more than one year. It also includes grants to other persons and bodies for spending by them on similar purposes.

Capital Programme

The Council's financial plan covering capital schemes and expenditure proposals for the current year and a number of future years. It also provides estimates of the capital resources available to finance the programme and a statement of any under- or overprogramming.

Capital receipts

The proceeds from the disposal of land and other assets which are available to finance new capital expenditure after deducting any amount required by statute to be paid over to the Secretary of State. Statute prevents capital receipts being used to finance revenue expenditure.

Capital resources

The resources earmarked either by statute or by the Council to meet the cost of capital expenditure instead of charging the cost directly to revenue. The definition covers borrowing, capital receipts and grants and contributions from external persons and bodies given for capital purposes. The Council may also contribute revenue resources to the financing of capital expenditure, and for as long as these are included in the Capital Programme; they are regarded similarly as capital resources.

Carry forwards

Revenue budget provision for specific goods or services which had not been supplied to the Council by 31 March and for which there is inadequate budget provision in the subsequent year. When these budgets are carried forward and added to the budget for that subsequent year in accordance with these Regulations, they are referred to as "carry forwards". A similar principle applies to capital expenditure budgets.

CIPFA

The Chartered Institute of Public Finance and Accountancy (CIPFA) is the leading professional body for accountants employed in the public sector. It issues Codes of Practice and other guidance as appropriate on matters addressed by these Regulations.

CLG

Department for Communities and Local Government, the department of government responsible for local government in England.

Codes of conduct

The protocols within which Members and Officers will work as set out in Part 5 of the Constitution.

Codes of practice

Guidance issued normally by professional bodies in relation to standards which are not regulated by statute. For example, CIPFA have issued Codes of Practice giving detailed guidance on accounting standards, internal audit and treasury management.

Collection Fund

The fund into which Council Tax and Business Rates income is paid and out of which the precepts of Essex County Council, Essex Police Authority, Essex Fire Authority, Brentwood Borough and Local Councils are met. The CLG's central share of Business Rates income is also paid out of the Collection Fund. Any surplus or deficit is shared between the various parties, other than Local Councils, on the basis of precepted amounts and local shares.

Computer systems

Commercially available software which might be acquired for use on Council computers, whether mainframe, local PC or networks. For the purposes of these Regulations, the definition is not intended to cover applications to which such systems might be put.

Contingency provisions

Money set aside in the budget to meet the cost of unforeseen items of expenditure or shortfalls in income and to provide for changes in inflation and interest rates compared with the assumptions on which the rest of the budget was set.

Contract Procedure Rules

The Council's rules relating to the procurement of works, supplies and services as set out in Part 4 of the Constitution. These are supported by Section 7 of these Regulations.

Corporate Governance

Corporate Governance is the system by which local authorities direct and control their functions and relate to their communities. The Council is responsible for ensuring that its business is conducted in accordance with the law & proper standards and that public money is safeguarded, properly accounted for and used economically, efficiently and effectively. It also refers to its duty under the Local Government Act to make arrangements to secure continuous improvement in the way in which its functions are exercised.

Corporate Plan

A statement made by a Local Authority setting out its long-term aims for the community it serves, the organisational aims of the Council and the main values which underpin its work for the community.

Council Tax

A local tax based on the capital value of residential properties as determined by the Valuation Office, a branch of HM Revenues and Customs. The level of Council Tax set by an Authority for a particular year will be broadly determined by its expenditure

on General Fund services less other income, use of Council reserves and government grant.

Council Tax base

A figure calculated annually to represent the number of dwellings over which the Council Tax for the following financial year may be collected. All dwellings within the Borough are valued by the Valuation Office Agency (an agency of HM Revenues and Customs) and classified into one of eight bands (A to H), each of which is expressed as a proportion above or below the value of Band D. The Council Tax base is the number of dwellings expressed in terms of a Band D average, after making allowance for the cost of Council Tax support, other discounts and losses on collection. When the Council sets the level of Council Tax for that year, it is expressed as an amount due per Band D, equivalent properties.

Creditor

A person or body to whom the Council owes money.

Debtor

A person or body who owes the Council money. The debt may derive from a number of sources such as Council Tax, Business Rates or rent arrears, rechargeable works or where an account has been rendered for a service provided by the Council.

Earmarked Reserves

See "Reserves"

Estimates

The amounts which are expected to be spent, or received as income, during an accounting period. The term is also used to describe detailed budgets which are being prepared for the following financial year or have been approved for the current year. The "original estimate" for a financial year is that approved as part of the budget prior to the start of that year and the "revised estimate" is an updated revision for that year.

External Audit

An independent examination of the activities and accounts of local authorities to ensure the accounts have been prepared in accordance with legislative requirements and proper practices and to ensure the Authority has made proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

Fees and charges

Charges made to the public for Council services and facilities.

Financial Regulations

That part of the Council's Constitution which provides an approved framework for the proper financial management of the Authority.

Financial year

The period of twelve months commencing on 1 April.

Forward financial forecast

The estimated value of a revenue budget head for the two financial years immediately following the budget year, or the totals of such estimates. The forecast conveys no authority to spend, and is made for financial planning purposes only.

General Fund

The revenue fund of the Council covering day-to-day expenditure and income on services. The net cost on this account is met by Council Tax.

Housing Business Plan

A document setting out the Authority's purpose or mission as a social housing landlord, its objectives and standards for the service, and a plan demonstrating over the short, medium and long-term how those objectives will be achieved. Of particular importance are the Council's strategies in relation to investment, management and maintenance. The Business Plan is complemented by a Housing Strategy document.

Housing Revenue Account

The revenue account covering day-to-day expenditure and income arising from the provision of Council housing. Whilst technically part of the General Fund, the debits and credits are defined in statute and any balance on the account is only available for spending on the housing stock. Activities relating to the strategic housing function, as opposed to the landlord function for the Council's own housing stock, are accounted for in the General Fund outside of the Housing Revenue Account.

In Consultation With

For the purposes of the Financial Regulations the meaning of 'In Consultation With' means that the officer and member will be in agreement. Where there is disagreement it will be referred to committee.

Insurance Pool

A fund which provides for all insurance cover for the Council. Premiums are charged to the revenue accounts of services and credited to the pool. The pool then reinsures some risks with external insurers while retaining others. The balance on the pool at any time is one of the Council's earmarked reserves.

Internal Audit

Internal Audit is an independent, objective assurance and consultancy activity designed to add value and improve an organisations operation. It helps the organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

Inventory

A detailed listing of all goods, materials, furniture and equipment in the ownership or use of a particular service, other than those held in stocks and stores records. Inventories are normally maintained in sufficient detail as to description, location, age, value etc. to enable any material loss arising from a fire, theft or other event to be identified and to support any insurance claim.

Investment Strategy

A statement of policies for determining the type, value and length of investments that the Council will use to place its surplus funds and also for determining appropriate third parties with whom these investments will be placed.

Lead Member

The lead member reference is usually referring to the chair of the Policy, Projects and Resources Committee, or the chair of the appropriate committee.

Leasing

A method of acquiring the use of capital assets, (normally, but not exclusively), through the payment of a rental sum for a period of years. If the arrangement is for vehicles, plant and equipment, the ownership of the asset remains with the leasing company and the annual rental is charged directly to the Council's revenue accounts. If the lease (or other agreement) is in relation to real estate/property (i.e. land or buildings or rights associated) then the method of treatment of the costs may vary depending on the length of the agreement and whether a premium (lump sum) is paid and/or an annual rental/fee. No agreement relating to property or rights over property must be entered into (either taking or granting) without the agreement of the Section 151 Officer.

Local Councils

Term used in these regulations to refer to Parish Councils, Town Councils and Village Councils.

Medium Term Financial Strategy (MTFS)

The Medium Term Financial Strategy (MTFS) identifies how the Council intends to structure and manage its available resources over the medium term (current plus 3 years), and to ensure that resource allocation is aligned with and supports Council priorities'. It is updated and approved annually as part of the budget process.

Members' Allowances

A scheme of payments to elected Members of the Council in recognition of the duties and responsibilities assumed by them.

Precept

The amount that Councils and certain other public authorities providing services within Brentwood Borough require to be paid from the Collection Fund to meet the cost of their services.

Prudential Indicators

The Prudential Indicators are designed to support and record local decision making regarding capital investment. The CIPFA 'Prudential Code for Capital Finance in Local Authorities' requires each Local Authority to agree and monitor 17 mandatory prudential indicators.

Reserves

A Council's accumulated surplus income in excess of expenditure. Reserves are available at the discretion of the Council to meet items of expenditure in future years and may be earmarked or held for general purposes. An example of an earmarked reserve is the Insurance Pool.

Revenue

A term used to describe the day-to-day costs of running Council services and income deriving from those services. It also includes however charges for the repayment of debt, including interest, and may include direct financing of capital expenditure.

Risk

Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted action, event or occurrence.

Risk management

Risk management is the adoption of a planned and systematic approach to the identification, evaluation and management of risk and opportunity.

Risk Management Policy

This is approved by the responsible Member following review by the Audit & Scrutiny Committee endorsing the commitment of the Council to effective risk management and sets out the responsibility of Members, Service Managers, Corporate Management Team and all staff for the identification, control and reduction of risk and the containment of loss in all aspects of their activities.

Supplementary estimate

The approval of an increase in the level of a particular budget head, or the establishment of a new budget head, under the procedure laid down in Section 7 of these Regulations. Where an existing budget head is involved, a supplementary estimate would not normally be approved where an appropriate virement was available.

Treasury Management

The management of the Authority's cash flows, its borrowings and its investments, the management of the associated risks, and the pursuit of the optimum performance or return consistent with those risks. It includes the setting of Prudential Indicators and monitoring compliance with them.

Treasury Management Policy Statement

A statement approved by the Full Council from time to time setting out the parameters within which treasury activities are to be managed.

Treasury Management Strategy

The strategy for the treasury management activities to be adopted for a particular financial year as approved by the Full Council within the parameters set by the Treasury Management Policy Statement. The strategy needs to be flexible enough to allow the Section 151 Officer to respond appropriately to changing circumstances during the course of the year to the best advantage of the Council.

Virement

The transfer of budget provision from one budget head to another, under the procedure laid down in Section 7 of these Regulations. Virement decisions apply to

both revenue and capital expenditure heads, and between expenditure and income, and may include transfers from contingency provisions. Virements may not however be approved between capital and revenue budget heads. Virements may be approved by Officers within the limits specified in Section 7 of the Financial Regulations.

Write off

The action taken to charge to the Council the amount due from some external party which has been found to be irrecoverable from that party. Whilst the sum remains due to the Council in law, it will no longer be shown as outstanding in the Council's accounts.

PART 4.6 RISK MANAGEMENT AND CONTROL OF RESOURCES

1. Introduction

- 1.1 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.
- 1.2 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

- 1.3 Audit and Scrutiny Committee is responsible for reviewing the Council's Insurance and Risk Management Strategy and for reviewing the effectiveness of risk management.
- 1.4 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

- 1.5 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.
- 1.6 The Director of Strategy and Corporate Services is responsible for ensuring that effective arrangements for insurance are in place.
- 1.7 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

- 1.8 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.
- 1.9 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.
- 1.10 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

- 1.11 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.
- 1.12 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.
- 1.13 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

- 1.14 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.

- 1.15 The Director of Strategy and Corporate Services is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.
- 1.16 Heads of Service are responsible for ensuring that this policy is implemented within their Service areas.
- 1.17 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

- 1.18 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.
- 1.19 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.
- 1.20 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.
- 1.21 Resources no longer required are disposed of in accordance with the law and the Asset Management Plan so as to maximise benefits.

Treasury management

- 1.22 The Council's borrowing and investments comply with CIPFA's Code of Practice for Treasury Management in Local Authorities.
- 1.23 All money controlled by the Council is managed by the Director of Strategy and Corporate Services.
- 1.24 The Director of Strategy and Corporate Services is responsible for reporting to Finance and Resources Committee a proposed Treasury Management Strategy for the coming financial year at or before the start of each financial year.
- 1.25 All Finance and Resources Committee 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.

- 1.26 The Director of Strategy and Corporate Services is responsible for reporting to Finance and Resources Committee 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

- 1.27 The Chief Executive 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.
- 1.28 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

- 1.29 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

2. Introduction

- 2.1 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

- 2.2 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.

- 2.3 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.
- 2.4 Heads of Service shall ensure that their staff receive relevant financial training that has been approved by the Director of Strategy and Corporate Services.
- 2.5 The ICT Manager must ensure that where appropriate computer and other systems are registered in accordance with data protection legislation.
- 2.6 Heads of Service must ensure that staff are aware of their responsibilities under freedom of information legislation.

Income and expenditure

- 2.7 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.
- 2.8 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.
- 2.9 Finance and Resources Committee is responsible for approving procedures for writing off debts over the value of £5,000 as part of the overall control framework.
- 2.10 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.
- 2.11 Heads of Service must comply with the Procurement Strategy and Contract Standing Orders with regards to the ordering of goods and services.

Taxation

- 2.12 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.

- 2.13 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

3. Introduction

- 3.1 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

- 3.2 Finance and Resources Committee is responsible for approving delegations, including frameworks for partnerships. Finance and Resources Committee is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 3.3 The Chief Executive or his or her nominee represents the Council on partnership and external bodies, in accordance with the scheme of delegation.
- 3.4 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.
- 3.5 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

- 3.6 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.
- 3.7 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.

PART 4.7 - STANDING ORDERS RELATING TO CONTRACTS

1. Introduction

- 1.1 Brentwood Borough Council is committed to developing its Procurement Strategy and to raising organisational awareness of its importance.
- 1.2 Procurement decisions are among the most important decisions the Council will make because the money involved is public money, and the Council is concerned to ensure that high quality goods, works and services are provided. Efficient use of resources in order to achieve best value is therefore imperative. The Council's reputation is equally important and should be safeguarded from any imputation of dishonesty or corruption.
- 1.3 For these reasons, it is a disciplinary offence to fail to comply with Contract Standing Orders. Employees have a duty to report breaches to an appropriate senior manager.
- 1.4 The Contract Standing Orders lay down the minimum requirements. A more detailed procedure may be appropriate for a particular contract. If there is any doubt as to how to undertake any procurement then the officer must contact the Procurement Officer to seek guidance.
- 1.5 A contract includes the following:
 - (a) any contract for goods, works or services, including disposals;
 - (b) any order for goods, works or services;
 - (c) a grant given or received by the Council;
 - (d) a contract managed by consultants;
 - (e) a contract appointing consultants;
 - (f) any partnership arrangement;
 - (g) contracts relating to the disposal or purchase of land and buildings;
 - (h) any lease agreements for property and goods.
- 1.6 Both purchasing and disposal procedures must:
 - (a) achieve best value for public money spent;
 - (b) be consistent with the highest standards of integrity;
 - (c) ensure fairness in allocating public contracts;
 - (d) comply with legal requirements;

- (e) ensure that non-commercial considerations do not influence any contracting decision;
- (f) support the Council's corporate and service aims and policies;
- (g) comply with the Council's Procurement Strategy;
- (h) comply with Financial Regulations, Health and Safety, Environmental and Equal Opportunities (Diversity) requirements;
- (i) be able to demonstrate that the Council's interests have not been prejudiced or exposed to undue or unmanaged risks.

2. **Scope**

- 2.1 These Standing Orders are made under the provisions of section 135 of the Local Government Act 1972 and govern the making of contracts for and on behalf of the Council.
- 2.2 These Standing Orders apply to:-
 - (a) all contracts made and to all orders placed by, for or on behalf of the Council for the procurement, hire and commissioning of goods, services and works including where the Council is acting on behalf of other public bodies;
 - (b) all staff of the Council;
 - (c) any person or organisation engaged to manage a contract or undertake work that involves procurement on behalf of the Council. In each case the requirement to comply with the Regulations is to be included in the terms of engagement;
 - (d) the selection of sub-contractors where these are nominated by the Council under a main contract.
- 2.3 Minor amendment to these Contract Standing Orders may be made by the Section 151 Officer. Any substantial or material amendment shall on the advice of the Monitoring Officer be referred to Full Council.

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

Within this framework:-

3.1 **Staff**

- 3.1.1 Every officer dealing with contracts must have authority from their Line Manager to do so. This can be in their job description or in written delegated authority from their Head of Service or the Chief Executive or the Section 151 Officer through the financial scheme of management delegation. An Authorised

Signatory List will be kept and maintained by the Procurement Officer.

- 3.1.2 Staff responsible for purchasing and disposal must comply with Contract Standing Orders, all relevant procedures contained in the Council's Financial Regulations and the Council's Code of Conduct together with all UK and European legal requirements. Where there is conflict between these Standing Orders and any binding rule of law, the law must prevail.
- 3.1.3 Only staff with authorised approval can sign contracts in accordance with their authorisation limits.
- 3.1.4 Staff **MUST** comply with the guidance in the Contract Standing Orders.
- 3.1.5 Staff **MUST** use any relevant Corporate Contract already in place.
- 3.1.6 Staff must keep records to show a clearly documented audit trail. It will be the Authorised Officer's role to provide the contract details and the Procurement Officer's role to ensure that those details are recorded on the Contracts Register. A copy of all contracts to be kept by the Authorised Officer or Head of Service.
- 3.1.7 Each procurement exercise which results in a contract will be managed throughout the procurement process and during the life of the contract by an appropriately skilled officer appointed by the relevant Head of Service. All such contracts will be actively managed against clear outcomes and objectives. Failure by any contractor to meet such outcomes and objectives shall be immediately brought to the attention of the appropriate Head of Service, who shall take whatever action he deems necessary to ensure that so far as possible performance targets are achieved.
- 3.1.8 All staff involved in procurement shall ensure that records of actions and decisions at all stages of the procurement process will be maintained and made available for inspection when required by Internal and External Audit. Rectification action will be taken within the terms of the contract where performance targets are not being met.
- 3.1.9 Staff must ensure that agents and consultants acting on their behalf comply with the requirements referred to in Contract Standing Orders 3.1.2 above. Such consultants must not make any decision as to whether to award a contract or who a contract should be awarded to.

3.2 **Heads of Service must:**

- 3.2.1 Ensure they have the delegated powers for the contract and that the project has the appropriate policy approval.
- 3.2.2 Ensure that there is full budgetary provision (including any maintenance and other charges) for the contract and that the sources of funding are fully detailed and agreed before starting the contract process.

- 3.2.3 Ensure that no tender is accepted where it exceeds the approved budget/cash limit by more than **10%** unless prior written approval is obtained from the Council's Section 151 officer.
- 3.2.4 Ensure that expenditure is fully contained within the approved budget/cash limit and secured.
- 3.2.5 Ensure that they have issued appropriate staff with written delegation of the role that they may take in the contracting process on behalf of the Council.
- 3.2.6 Ensure that their staff comply with the Contract Standing Orders.

4. **Procurement Guidance**

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

5. **Procurement Principles**

The Council will:-

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

5.7 Respect and value good employment practice and comply with all obligations imposed upon the Council, by relevant employment legislation and seek to ensure its provider markets meet the same standards.

6. **Code of Ethics**

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

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

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

6.4 All employees of Brentwood Borough Council are expected to:

- (a) maintain the highest standard of integrity in all business relationships;
- (b) reject any business practice which might reasonably be deemed improper;
- (c) never use their authority or position for personal gain;
- (d) enhance the proficiency and stature of the Council by acquiring and applying knowledge in the most appropriate way;
- (e) foster the highest standards of professional competence amongst those for whom they are responsible;
- (f) optimise the use of resources for which they have influence over for the benefit of the Council;
- (g) comply with both the letter and the intent of agreed contractual obligations;
- (h) declare any personal interest that might affect, or be seen by others to affect, impartiality or decision making;
- (i) ensure that the all information given out in the course of their work is accurate;
- (j) respect the confidentiality of information received and never use it for personal gain;
- (k) strive for genuine, fair and transparent competition;

- (l) not accept inducements or gifts, other than items of small value such as business diaries or calendars;
- (m) always to declare the offer or acceptance of hospitality and never allow hospitality to influence a business decision;
- (n) remain impartial in all business dealing and not be influenced by those with vested interests.

7. Aggregation and Disaggregation

- 7.1 Where the Council requires a single set of goods, works or services to be provided the total contract value is made up of the total value of the smaller sums. This is known as aggregation.
- 7.2 A contract value shall not be divided up into its constituent smaller parts so as to deliberately avoid placing a contract for the full value with one contractor or avoid the requirements set out in the EU Procurement Regulations. It is an offence under the EU Procurement Regulations to disaggregate the value of a contract so as to deliberately avoid the EU Procurement Regulations.

8. Requirements to Ensure Competition

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

8.2 Thresholds

8.2.1 Estimated contract value up to £10,000

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

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

Three written quotations are required and the contract opportunity must be provided to the Procurement Officer so that it can be advertised on the Council's website. Collaborative framework agreements must also be considered. The aim of the officer responsible for the contract shall be to obtain the best value for money for the Council. The Head of Service must sign/approve the contract and the relevant Chair should be advised of any quotes over £25,000 prior to the contract being awarded

- 8.2.3 Estimated contract value between £50,000 and the current OJEU threshold of £189,330 for goods and services, and £4,733,252 for works (due to be revised January 2018).

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

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

8.2.4 **Estimated contract value over OJEU Threshold**

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

Where it can be demonstrated that there are insufficient suitably qualified contractors to meet the competition requirement set out above all suitably qualified contractors should be invited so far as is practical.

9. **Competitive Tendering Process**

9.1 Where the total value of the contract is more than **£10,000**, staff must ensure there is sufficient competition and that the contract is appropriately advertised. Any tender or quotation process must ensure that potential candidates provide sufficient detail to enable staff to determine whether they:

9.1.1 Are financially stable.

9.1.2 Have appropriate technical ability to undertake the sort of contract they wish to be considered for.

9.1.3 Are able to check their health and safety, environmental, equality and diversity and other records.

9.2 Where the total value of the contract is more than **£10,000** and there is no corporate contract, staff must invite either quotations or tenders by public advertisement. Public advertisement **must** include advertising the contract on the Council's website.

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

10. **Partnerships**

10.1 Staff considering a partnership arrangement must, before starting any contract process, obtain advice from the Monitoring Officer and the Procurement Officer. The Monitoring Officer will advise on the partnership options available to ensure a workable solution including appropriate governance arrangements.

11. **Waiver of Contract Procedures**

11.1 A waiver under this Section allows a contract to be placed by direct negotiation with one or more suppliers rather than in accordance with Section 8. No waiver can be used if the EU Procurement Rules apply ie the estimated value of the contract exceeds the thresholds prevalent at the time.

11.2 All waivers must be signed by the Officer and countersigned by the Chief Executive, the Section 151 Officer or the Monitoring Officer. Only one signature is required.

11.3 **Waivers will be granted in the following circumstances only:**

11.3.1 The subject matter of the contract can only be supplied by one specialist contractor.

11.3.2 There is an unforeseen emergency involving immediate risk to persons, property or serious disruption to Council services.

11.3.3 The contract is an extension to an existing contract and a change of supplier would cause technical difficulties, diseconomies of scale or significant disruption to Council services.

11.4 **In addition to the signature of the Chief Executive, Section 151 Officer or the Monitoring Officer**

11.4.1 The Procurement Officer must be consulted where the purchase is to be made using collaborative procurement arrangements i.e. with another local council, government department, statutory undertaking or public service purchasing consortium.

11.4.2 The Procurement Officer must be consulted prior to commencing any procurement process using any Government Procurement Service framework agreement, or, any other local or national framework agreements to ensure best fit for the Council's requirements.

12. **Requirements for All Contracts**

12.1 All contracts must be in writing.

For all contracts with a value of over **£50,000**, contract managers must:

- (a) maintain a risk register during the contract period;
- (b) undertake appropriate risk assessments;
- (c) for identified risks, ensure contingency measures are in place;
- (d) ensure critical support and maintenance arrangements are documented in the specification in order to avoid costly post-tender negotiation.

12.2 Members of the Council may have involvement in commercial transactions and their involvement in such matter is covered by the Council's Protocol on Member Involvement in Commercial Transactions.

12.3 Business continuity is critical to the successful delivery of council services. The officer must ensure that appropriate business continuity arrangements are in place and fully tested to enable services to be delivered in the event of any unforeseen incident occurring.

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

13. **Framework agreements**

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

14. **Award criteria**

14.1 Staff must ensure that award criteria selected are appropriate to the contract and that these are signed off by the appropriate officer.

14.2 Staff must design award criteria to ensure best value for money for the Council. Particular emphasis must be placed on cost, quality and timeliness of the service or goods.

14.3 When evaluating tender submissions the minimum weighting to be used for cost must be 40%. There will be exceptions to this eg where the terms of a framework agreement state a different weighting. In any event approval must be sought from the Section 151 Officer to use a weighting below 40% for cost.

14.4 The pre-agreed award criteria for assessing the bid must not be changed after tender proposals have been opened.

15. **Invitations to Tender/Quotations**

15.1 The relevant officer must ensure that Invitations to Tender (ITT) and Invitations to Quote (ITQ) include a specification. The specification must describe clearly the Council's requirements in sufficient detail to ensure the submission of competitive bids may easily be compared.

15.2 The Invitation to Tender/Quote must state that the Council is not bound to accept any quotation or tender.

15.3 All candidates invited to tender or quote must be issued with the same information at the same time and subject to the same terms. Any additional

information or amendments to the specification must be provided to all candidates on the same basis.

- 15.4 Staff who undertakes procurement of goods and/or services and works with a total value of less than **£50,000** must ensure that they follow the procedures laid out in Section 8.
- 15.5 In cases where it can be demonstrated that there are insufficient suitably qualified candidates to meet the competition requirements set out in Section 8 (above) all candidates must be invited to bid.
- 15.6 The Invitation to Tender/Quote must specify the award criteria, any weighting to be used and the procedure to be adopted.
- 15.7 All Invitations to Tender/Quote must be advertised on the Council's website.

16. **Submission, Receipt and Opening of Tenders/Quotations**

- 16.1 Candidates invited to bid must be given adequate time in which to submit a quotation or tender. At least two weeks must be allowed for submission of tenders. Note that the EU Procurement Regulations set out specific time periods.
- 16.2 All tenders submitted to the Council, should be undertaken using the e-tendering system, or, in a sealed, plain envelope marked 'TENDER'. There must be no indication on the outside of the envelope of who the sender is. The envelope should be clearly addressed to the Procurement Officer and should indicate the subject of the contract. The e-tendering system is the preferred option and approval to use the envelope system should be sought from the Section 151 Officer.
- 16.3 The Procurement Officer shall be responsible for the safekeeping of tenders until opening. Receipt of each tender must be initialled and dated by the appropriate receiving officer. This must include the Procurement Officer and at least one Council Member or appropriate individual as approved by the Section 151 Officer.
- 16.4 A record must be made at the time of opening the tenders showing the name and address of the tenderers, the date and time of opening and the amount tendered (where possible). All those present at the tender opening shall sign the record as evidence that it is correct.
- 16.5 In the event of a marked or late tender then the Procurement Officer must be advised and a decision made by the Monitoring Officer on whether the tender can be accepted.

17. **Clarification Procedures**

- 17.1 After the tender opening it may become apparent that one or more of the potential contractors who have submitted bids have misinterpreted the

specification. If it is clear that this is a result of an error or ambiguity in the specification the responsible officer must consult the Procurement Officer as to whether all the contractors should be provided with revised specifications and given the opportunity to revise their tender.

18. **Tender Evaluation**

- 18.1 Confidentiality of tenders/quotations and the identity of tenderers must be maintained at all times. Information about one tenderer's response must not be given to another tenderer.
- 18.2 This includes the situation where one department of the Council is tendering for a contract with another department of the Council. In such a situation, there must be a clear division between the two parties, with no advantage ensuing for the internal candidate.
- 18.3 Staff must evaluate and award the contract in accordance with the agreed award criteria in the Invitation to Tender/Quote. The officer responsible for evaluating the tenders should complete a tender evaluation sheet recording the details of the tenders and the process for selecting the preferred contractor. There is also a form that requests the Monitoring Officer to seal the contract.
- 18.4 The reasons for the selection of the successful candidate should be recorded on the evaluation report. The officer carrying out the evaluation must sign the report. Authorisation to award the contract must be given in writing by an officer who has written delegated authority to do so.

19. **Contract Documents**

- 19.1 Every contract must be recorded in writing, and must state clearly:
 - (a) What is to be supplied.
 - (b) Payment provisions (amount and when).
- 19.2 All contracts with a value over £50,000 must adhere to the Council's standard terms and conditions where possible. Approval of any other alternative terms and conditions should be sought from the Section 151 Officer.

20. **Race, Disability and Gender Equality**

- 20.1 Staff must note that the Race, Disability and Gender Equality duties require all statutory agencies to eliminate discrimination and promote equality of opportunity. Through a variety of specific duties, the Council is required to ensure services are targeted on the most vulnerable sections of the community and that inclusion/participation rates amongst these groups are increased. Recent access to services legislation makes discrimination on the grounds of religion and belief or sexual orientation illegal.
- 20.2 Legislation such as the Disability Discrimination Act and Race Relations

(Amendment) Act etc, make it clear that when the Council contracts, it still retains responsibility for ensuring that services are provided in an appropriate and non discriminatory way. This requires consideration of equality to be built into all the Council's procurement and contract management processes.

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

21. **Bonds and Parent Company Guarantees**

- 21.1 A bond is an insurance policy. If the contractor does not do what is agreed under a contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Council against a level of cost arising from a contractor's failure. The officer must consult the Section 151 Officer as to whether a bond is appropriate. Generally a bond will be required:

- (a) Where the total value exceeds **£500,000**;
- (b) Where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract.

- 21.2 A parent company guarantee is a contract which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract with the Council, they can require the parent company to do so instead. The Section 151 Officer must be consulted when:

- (a) a candidate is a subsidiary of a parent company, the officer does not think a parent company guarantee is necessary and any of the following conditions are satisfied;
- (b) the total value exceeds **£50,000**;
- (c) award is based on the evaluation of the parent company;
- (d) there is some concern about the financial stability of the candidate.

22. **Award of Contract**

- 22.1 All candidates must be notified in writing, simultaneously and as soon as possible, as to the outcome of the tender exercise.
- 22.2 Where a full EU Procurement Regulations' compliant tender exercise has been carried out, a statutory minimum standstill period of 10 days must apply between the electronic notification to the tenderers of the award decision and the successful candidate signing the contract. 15 days must apply if notification is given by post.

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

23. **Sealing a Contract**

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

24. **Prevention and Detection of Corruption**

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

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

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

- (a) Offer, give or agree to give to anyone any inducement or reward in respect of this or any other council contract (even if the contractor does not know what has been done); commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972;
- (b) commit any fraud in connection with this or any other council contract whether alone or in conjunction with council members, contractors or employees;
- (c) violate the Council's Anti-Fraud Strategy;
- (d) violate the Council's Anti-Bribery Policy.

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

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

25. **Managing Contracts**

25.1 The Head of Service is responsible for naming contract managers for all new contracts. All contracts must have a named contract manager for the entirety of the contract.

26. **Contracts Register**

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

27. **Business case, risk assessment and business continuity planning**

27.1 An appropriate business case must be prepared for all procurements over **£10,000**. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.

27.2 For all contracts with a value of over **£50,000**, contract managers must:

- (a) maintain a risk register during the contract period;
- (b) undertake appropriate risk assessments;
- (c) for identified risks, ensure contingency measures are in place;
- (d) ensure critical support and maintenance arrangements are documented in
- (e) the specification in order to avoid costly post-tender negotiation.;
- (f) ensure that the relevant Chair of the regulating committee for their service or in its absence the Finance and Resources Committee is aware of the existence of such contracts and regularly inform them on such matters.

27.3 Members of the Council may have involvement in commercial transactions and their involvement in such matter is covered by the Council's Protocol on Member Involvement in Commercial Transactions.

27.4 Business continuity is critical to the successful delivery of council services. The officer must ensure that appropriate business continuity arrangements are in place and fully tested to enable services to be delivered in the event of any unforeseen incident occurring. The requirement for a Business Continuity Plan must be an integral element of the Council's specification.

28. **Post Contract Monitoring, Evaluation and Review**

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

28.2 During the life of the contract the officer must monitor in respect of:

- (a) performance;
- (b) compliance with specification and contract;

- (c) cost;
- (d) any value for money requirements;
- (e) user satisfaction and risk management.

29. **Termination of Contract**

- 29.1 An officer shall not terminate a contract with a value over **£10,000** prior to its expiry date without first obtaining advice from the Monitoring Officer.
- 29.2 Where there is an intention to terminate a contract early, the Officer shall report the reasons for this termination to the Monitoring Officer at the earliest opportunity.
- 29.3 Staff must seek advice from the Monitoring Officer if payments to a contractor are to be withheld or there is any other problem with the contract which may result in possible early termination.

30. **Appointment of Consultants to Provide Services**

- 30.1 The Council uses the expertise of specialist consultants to undertake a range of procurement exercises on behalf of the Council. Staff must ensure that such consultants are fully briefed as to Contract Standing Orders:
 - 30.1.1 Consultants, whether technical or professional, must be selected, and any commissions awarded, in accordance with the Contract Standing Orders.
 - 30.1.2 The engagement of a consultant shall follow the agreement of a 'brief' that describes the scope of the services to be provided and shall be subject to completion of a formal contract.
 - 30.1.3 Consultants shall be required to provide evidence of, and maintain professional indemnity insurance policies to the satisfaction of the relevant director for the duration of the contract.

31. **Technical Amendments**

- 31.1 The Section 151 Officer has the delegated authority to make technical amendments, when necessary, to ensure that these Contract Standing Orders remain up to date and consistent with legislation, the Council's organisation, structure and generally with best practice. These amendments shall be subject to consultation with the Monitoring Officer and Procurement Officer.
- 31.2 Financial thresholds as set out in Section 8 may only be altered or amended following consultation and agreement of the Finance and Resources Committee and the Section 151 Officer.

32. **Asset Disposals (Other than Land or Property)**

- 32.1 A check should be made to determine whether there is a corporate policy or contract for the disposal of the stock (e.g. IT equipment should be disposed of through the ICT team). If a policy or contract is in place, this must be used.
- 32.2 Office equipment and furniture should first be advertised on the "Office Equipment" section of the Intranet, and communicated to schools and other establishments of the Council. Where this method of disposal is unsuccessful, the goods may be sold according to the paragraphs below.
- 32.3 Any disposal must be authorised by the Section 151 Officer or Chief Executive.
- 32.4 Disposal must be either by public auction or by obtaining three quotes from suitable contractors.
- 32.5 The responsible officer for the disposal must ensure that the Council is receiving value or money, and that the contractor used is reputable and evidence of this must be retained.
- 32.6 Items for disposal must not be given to any member of staff without suitable authorisation from the Section 151 Officer or Chief Executive.

Definitions Index

Agent	A person or organisation acting on behalf of the Council or on behalf of another organisation.
Award Criteria	The criteria by which the successful quotation or tender is to be selected.
Best Value	The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council. (Note: This terminology has now in many instances been superseded with Value for Money).
Bond	If the contractor does not meet the requirements of any contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10% of the contract value).
Business Continuity Plan (BCP)	A BCP is how an organisation prepares for future incidents that could jeopardise the organisation's core mission and its stability. Could include local incidents like building fires, regional incidents like floods, epidemics or national incidents such as a pandemic.
Code of Conduct	The Council's code regulating conduct of staff.
Committee	A committee, which has power to make decisions for the Council i.e. a joint committee with another local council but not a scrutiny committee.
Constitution	The constitutional document approved by the Council which: allocates powers and responsibility within the Council and between it and others; delegates authority to act to Committees and staff; regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.
Consultant	Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the Council has no ready access to employees with the skills, experience or capacity to undertake the work.

Contracting Decision	Any of the following decisions: composition of approved lists; withdrawal of Invitation to Tender; whom to invite to submit a quotation or tender; short listing; award of contract; any decision to terminate a contract.
Corporate Contract	A contract let by the Council which provides goods or services for more than one service eg insurance.
Council	For the purposes of these Rules "Council" refers to Brentwood Borough Council (BBC).
OJEU Threshold	The contract value at which the EU public procurement legislation must be applied.
Evaluation Report	A report produced by the officer detailing the outcome of the evaluation process undertaken, from which a recommendation is put forward for approval by a director.
High Profile	A high-profile purchase is one which could have an impact on functions integral to Council service delivery including publicity and public interest should it fail or go wrong.
High Risk	A high-risk purchase is one which presents the potential for substantial exposure on the Council's part should it fail or go wrong.
High Value	A high-value purchase is one where the value is greater than that of the EU threshold values.
Invitation to Tender	Invitation to Tender documents in the form required.
Key Decision	A key decision is a non statutory decision which is likely to: result in the Council incurring expenditure which is, or, the making of savings which are significant having regard to the Council's budget for the service or function to which the decisions relates. The financial threshold set by the Council for key decisions is £100,000 for goods and services and £500,000 for works. Be significant in terms of its effect on communities living or working in an area comprising two or more electoral divisions in the area of the Council.

Line Manager	The officer's immediate supervisor/manager or, the officer designated by the Chief Executive to exercise the role reserved to the line manager by these Contract Procedures.
Nominated Suppliers and Sub-contractors Non-Commercial Considerations	<p>Those persons specified in a main contract for the discharge of any part of that contract.</p> <p>Except as provided below, the following matters are non-commercial considerations:</p> <ul style="list-style-type: none"> (a) the terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ("workforce matters"); (b) whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only; (c) any involvement of the business activities or interests of contractors with irrelevant fields of government policy; (d) the conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ("industrial disputes"); (e) the country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors; (f) any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees; (g) financial support or lack of financial support by contractors for any institution to or from which the Council gives or withholds support; (h) use or non-use by contractors of technical or professional services provided by the Council under the Building Act 1984 or the Building (Scotland) Act 1959. <p>Workforce matters and industrial disputes, as defined above in paragraphs (a) and (d) of this definition, cease to be non-commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of Undertakings (Protection of Employment) Rules 1981("TUPE") may apply.</p>
Officer	The officer designated by the Chief Executive to deal with the contract in question.

OJEU	OJEU - the Official Journal of the European Union This is the publication in which all contracts from the public sector which are valued above EU thresholds must be published.
Parent Company Guarantee	A contract which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract with the Council, they can require the parent company to do so instead.
Procurement Officer	The Council's corporate procurement officer charged with providing strategic direction, support and advice to secure value for money in the Council's procurement activities.
Procurement Strategy	The document setting out the Council's approach to procurement and key priorities for the next 2 - 3 years.
Purchase Card	A card issued to an officer or member by the Council, to be used for purchasing goods or services of low value or for one-off purchases.
Quotation	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Relevant Contract	A contract to which these Contract Procedures apply.
Section 151 Officer	As identified in the Constitution. This person is nominated to deal with the Council's Finances under Section 151 of the Local Government Act 1972.
Tender	A candidate's proposal or offer submitted in response to an Invitation to Tender.
TUPE Transfer of Undertakings (Protection of Employment)	TUPE refers to the Transfer of Undertakings (Protection of Employment) Rules, 1981. Broadly, TUPE rules ensure that the rights of employees are transferred along with the business.
Whistle Blowing Policy	The Public Interest Disclosure Act 1998 encourages individuals to raise concerns about malpractice in the workplace. This policy document makes it clear that employees can raise serious concerns without fear of victimisation, subsequent discrimination or disadvantage. It's intended to encourage and enable employees to raise those concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside. The policy applies to all employees and those contractors working for the Council on Council premises. For example, agency staff, builders, and drivers. It also covers suppliers and those providing

services under a contract with the Council in their own premises.

Workforce Matters

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

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

Appendix 1 – Request for waiver from competitive tendering process

This form must be completed for all purchases with an estimated value of over £10,000. The contract value must be determined by the maximum potential value of the contract, not the annual figure. If there is an option to extend the contract this must be included.

Completion is not necessary if the purchase is made using a recognised framework. Waivers are not allowed if the contract value is above the European Union threshold, currently £181,302 for goods and services and £4,551,413 for works. (Due to be revised January 2020).

Contract Description	
Contractor	
Purchase Order Number	
Total Contract Value	
Contract Duration	

In accordance with Standing Orders, waivers are allowed under the following circumstances only. Please tick which applies:

<input type="checkbox"/>	The subject matter of the contract can be supplied by one specialist contractor only;
<input type="checkbox"/>	An emergency involving immediate risk to persons, property or serious disruption to Council services;
<input type="checkbox"/>	The contract is an extension to an existing contract and a change of supplier would cause technical difficulties, diseconomies of scale or significant disruption to Council services;
<input type="checkbox"/>	The purchase involves collaborative procurement arrangements with another local authority or government department;
<input type="checkbox"/>	There is any other compelling or practical reason that a competitive exercise should not be run.

Reason for waiver request:

List of documents attached to substantiate the Waiver

Name of originating officer requesting Waiver

Department

Date

Approval --- One signature required of either:
Section 151 Officer;
Monitoring Officer;
Chief Executive.

Approved:

Signature:

Name:

Job Title:

Date:

PART 4.8 - 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**

- 3.1 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.
- 3.2 A report will be made to Full Council following the member panel setting out the voting of the panel and its recommendation.

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

- 4.1 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.
- 4.2 A report will be made to Full Council following the member panel setting out the voting of the panel and its recommendation.

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

- 5.1 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**

- 6.1 **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**

- 7.1 **Dismissal.** The Council shall appoint a committee under section 102(4) of the Local Government Act 1972 known as the Dismissal Advisory Panel (the Panel) for the purposes of advising the Council on matters relating to the dismissal of the Head of Paid Service, Chief Finance Officer (Section 151 Officer) and the Monitoring Officer. Such officer(s) can only be dismissed by full Council. The Council must invite any independent person, being a person appointed under section 28(7) of the Localism Act 2011, appointed by the Council to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel. Where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council consider appropriate may be so invited. The Council is not required to appoint more than two such persons but may do so. Subject to this,

the Council must appoint to the Panel such independent persons who have accepted an invitation issued in accordance with the above in accordance with the following priority order –

- (a) such an independent person who had been appointed by the Council and who is a local government elector in the register of electors for the Borough;
- (b) such other independent person who has been appointed by the Council;
- (c) such other independent person who has been appointed by another authority or authorities.

7.2 Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as an independent person under the Localism Act 2011.

7.3 Such officer(s) may not be dismissed by the Council unless the Panel is duly appointed, and a meeting of the Panel held at least 20 working days before full Council holds its meeting to take a vote on whether or not to approve the relevant dismissal. Before the taking of such a vote, full Council must take into account, in particular –

- (a) any advice, views or recommendations of the Panel;
- (b) the conclusions of any investigation into the proposed dismissal; and
- (c) any representations from the relevant officer;
- (d) any professional advice from corporate human resources and legal officers

7.4 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.

CHAPTER 5 - CODES AND PROTOCOLS

PART 5.1 - MEMBERS' CODE OF CONDUCT

Part 1 – General Provision

Part 2 – Members' Interests

Part 3 – Register of Members' Interests

Appendix 1 – The Nolan Principles

Appendix 2 – The Conduct Complaint Process

PART 1 GENERAL PROVISIONS

Introduction and interpretation

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

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

In this Code-

“meeting” means any meeting of:

- (a) the Authority;
- (b) any of the Authority’s committees, sub-committees, joint committees, joint sub-committees or areas committees; whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Members.
- (c) any briefings by staff and site visits organised by the Authority.

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

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

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

“Member” includes a co-opted member.

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

1.1 This Code applies to all Members of the Authority including co-opted members.

1.2 It is your responsibility to comply with the provisions of this Code.

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

2.1 You must comply with this Code whenever you:

(a) conduct the business of the Authority, or

(b) you are acting as a representative of the Authority.

2.2 This Code has effect in relation to your conduct in your official capacity.

2.3 Where you act as a representative of the Authority:

(a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

(b) on any other body, you must, when acting for that other body, comply with the Authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. **General obligations**

3.1 You must treat others with respect.

3.2 You must uphold the law.

3.3 You must not:

(a) do anything which may cause the Authority to breach any of the equality enactments;

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be:

(i) a complainant;

(ii) a witness; or

(iii) involved in the administration of any investigation or proceedings; in relation to an allegation that a Member (including yourself) has failed to comply with the Authority's code of conduct; or

- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

4. **Confidential Information**

4.1 You must not:

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure reasonable and in the public interest; and made in good faith and in compliance with the reasonable requirements of the Authority.
- (b) prevent another person from gaining access to information to which that person is entitled by law.

5. **Conferring an advantage or disadvantage**

5.1 You must:

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

PART 2 - MEMBERS INTERESTS

6. Disclosable Pecuniary Interests

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

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

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

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

7. **Other Pecuniary Interests**

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

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

8. **Non-Pecuniary Interests**

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

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

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

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

of Interests or for which you have made a pending notification.

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

10. **Effect of Interests on participation**

10.1 **Disclosable Pecuniary Interests**

- (a) If you are present at a meeting of the Authority or of any committee, sub-committee, joint committee or joint sub-committee of the Authority and you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and you are aware of that Interest:
- (i) You must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting;
 - (ii) You must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the Authority's proper officer;
- (b) If you have a Disclosable Pecuniary Interest in any business of the Authority you must not:
- (i) exercise delegated functions in relation to that business; and
 - (ii) seek improperly to influence a decision about that business.

- (c) If a function of the Authority may be discharged by a Member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enable the matter to be dealt with otherwise than by yourself).

10.2 Other Pecuniary Interests

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

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

PART 3 REGISTER OF MEMBERS INTERESTS

11. Registration of Members' Interests

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

- (a) this Code being adopted by or applied to the Authority; or
- (b) your election, re-election or appointment or re-appointment to office (where that is later), or co-opted onto the Authority register in the Authority's Register of Members' Interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:
- (c) Disclosable Pecuniary Interests as referred to in paragraph 6 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner in so far as you are aware of their interests at that time.
- (d) Pecuniary Interests referred to in paragraph 7 that you have.

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

12. Sensitive Information

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

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

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

13. Register of Gifts and Hospitality

13.1 You must within 28 days of receipt, notify the Authority's Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you

have accepted as a member from any person or body other than the Authority.

- 13.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.
- 13.3 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

APPENDIX 1**CODE OF CONDUCT****THE NOLAN PRINCIPLES AND SECTION 28(1) OF THE LOCALISM ACT 2011
SELFLESSNESS**

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

INTEGRITY

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

OBJECTIVITY

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

ACCOUNTABILITY

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

OPENNESS

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

HONESTY

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

LEADERSHIP

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

APPENDIX 2

THE CONDUCT COMPLAINT PROCESS

1. Introduction

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

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

2. **How to make a complaint**

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

Complaints must:

- (a) be made in writing using the Complaints against Members form available on the Council website and should be submitted via the website;
- (b) include the full name and address of the Complainant;
- (c) identify the Member complained of;
- (d) set out the nature and substance of the alleged breach of the Code of Conduct for Members and attach evidence to support the allegation; and
- (e) indicate the remedy or remedies the Complainant would hope to achieve by submitting the complaint.

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

3. **Initial assessment**

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

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

- 3.3 The following complaints are normally not suitable for investigation, save where the Monitoring Officer accepts there are exceptional circumstances:
- (a) Complaints that are really about Council services, its policies or performance. Such complaints will be referred to the relevant service area in accordance with the Council's Complaints Policy.
 - (b) Complaints that are really about the political policies or performance of a councillor in their role. Such complaints will be referred to the councillor and / or their political group for response.
 - (c) Complaints that relate to another authority or an alleged breach of another authority or body's Code of Conduct.
 - (d) Vexatious or frivolous complaints or complaints which are intended to insult individuals.
 - (e) Minor complaints that do not justify the time and resources of an investigation.
 - (f) Complaints made after one year of the matter or event being complained about and the Complainant has not brought it to the attention of the Monitoring Officer within 3 months of first becoming aware of it.
 - (g) Complaints by a Member against another Member will not normally be investigated until the Monitoring Officer considers that other processes, e.g. informal mediation or political group processes have been exhausted.
 - (h) Complaints by officers should be first made under the Member/Officer Protocol.
 - (i) Complaints that are already subject to other internal or external processes will not be investigated until those other processes have been completed to enable the complaint to be resolved by other means. Determination of such complaints will be suspended until the other process is finalised.
- 3.4 The Monitoring Officer may require further evidence or information from the Complainant. The Monitoring Officer may request an initial response from the Councillor complained of (or any other person) or take any other steps s/he considers reasonable to assist his/her determination.
- 3.5 The Monitoring Officer will inform the Complainant, Member and Member's Group Leader (or Chair in the case of a Parish Councillor) in writing of his/her decision within 30 days of receipt of the complaint. Where the Monitoring Officer is not able to respond within this time, s/he will inform the Complainant, Member and Member's Group Leader (or Chair in the case of a Parish Councillor) of the

date by which a decision will be made. The decision would be kept on file and only released to a wider audience with the consent of the accused.

- 3.6 The Complainant will have 7 days from the date of the Monitoring Officer's letter to ask for a review of a decision not to investigate a complaint. The application for review must be submitted in writing to the Monitoring Officer setting out the reasons for the review. The review will be determined by the Council's Chief Executive. If the Chief Executive considers the review should be upheld, the complaint will be investigated in accordance with Section 4.

4. **Investigation**

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

5. **Hearing**

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

- 5.2 The Hearing will normally take the following order:

(a) **The Complainant's Case**

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

(b) **The Member's Case**

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

(c) **Final Submissions**

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

- 5.3 The Monitoring Officer and Independent Person may ask questions of any person at any time.
- 5.4 After the hearing, the Monitoring Officer in consultation with the Independent Person will decide whether there has been a breach of the code.

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

6. **Sanction**

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

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

6.3 Where a Member is found in breach of the Code of Conduct, there is no statutory power to sanction the Member. The sanctions that may be considered by Council will include one or more of the following (or any other lawful sanction as advised by the Monitoring Officer):

(a) publish the Monitoring Officer's findings in respect of the Member's conduct;

(b) censure or reprimand the Member

(c) recommend to the Member's Group Leader (or in the case of an un-grouped Member, recommend to Council or to committees) that he/she be removed from any or all committees or sub-committees of the Council;

(d) instruct the Monitoring Officer to arrange training for the Member;

(e) remove the Member from all outside appointments to which he/she has been appointed or nominated by the authority;

(f) withdraw facilities provided to the Member by the Council, such as a computer, website and/or email and internet access; or

(g) exclude the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, committee and sub-committee meetings or where the Chief Executive has given prior consent.

7. **Appeals against a determination hearing decision**

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

8. **Governance**

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

PART 5.2 - MEMBERS' PLANNING CHAPTER AND PLANNING CODE OF GOOD PRACTICE

PART A - Terms of Reference of the Planning Committee

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

PLANNING COMMITTEE	
Appointed by: The Council under Section 102 of the Local Government Act 1972	Number of elected Members: 12
Chair and Vice-Chair appointed by: The Council	Political proportionality: The elected Members shall be appointed accordingly to Political proportionality.
Quorum: 4	
Code: <ol style="list-style-type: none"> 1. The Planning Committee Procedures in Part B of this Chapter. 2. Code of Practice for Members and Officers – Planning Application, in Part D of this Chapter. 	
Terms of Reference: <ol style="list-style-type: none"> 1. To determine planning and associated or related application for the use or development of land or application for listed building and conservation area consent, to take enforcement or other action, or generally to control the use and development of land. The applications to be considered by the Planning Committee are set out at Part B. 2. To keep under review and make minor alterations as necessary to the Committee's procedures. 3. Without prejudice to the generality of the foregoing, this delegation included the functions as set out in column (1), paragraph A of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, and all legislation appertaining to planning contained in the Planning Acts including changes introduced by the Localism Act 2011 and the Growth Acts and any amendments thereto. 	

PART B – Planning Committee Procedures

1. Interpretation

- 1.1 Subject to paragraphs 1.2 and 1.3 below, these procedures shall be interpreted in accordance with the Council's Constitution.
- 1.2 "Chair" include, in addition to the Vice-Chair any Members of the Planning Committee elected to Chair a particular meeting.
- 1.3 "Application" means an application for the planning permission and associated or related application for the use or development of land or applications for listed building and conservative area consent or applications otherwise within the terms of reference of the Committee.
- 1.4 "Case Officer" means the planner assigned to process the application (and associated or related applications), usually from the Development Management Team, in place to advise the Planning Committee on them, or someone authorised by him/her to act on his/belief.
- 1.5 "Senior Officer" means the Chief Executive/Head of Paid Service, Director/Senior Leadership Team, or Development Management Team Leader employed by Brentwood Borough Council

2. Applications to be considered by the Planning Committee

- 2.1 The following applications will be considered by the Planning Committee:
 - (a) Applications that the Case Officer considers to have significant policy or strategic implications, including departures from the approved development plan which would require referral to the Secretary of State;
 - (b) All applications by or behalf of the Authority in accordance with provisions of the Town and Country Planning General Regulations;
 - (c) All applications by or on behalf of Members, Senior Officer or Officer employed in the Authority's Planning Service (including immediate family of such Members or Officers).
 - (d) Applications that have been referred to the Planning Committee by a Member of the Council that has subsequently been approved by the Chair and/or the Vice Chair of the Committee
 - (e) If a Member of the Planning Committee who is party to a request made under 2.1 (d) for an application to be considered by the Planning Committee subsequently declares a disclosable pecuniary interest in that application, the item will be withdrawn from the agenda and dealt with by Officer under delegated authority.

3. Planning application validation list

- 3.1 The Case Officer shall prepare weekly a list of applications (“Application Validation List”) that will indicate which are to be considered by the Planning Committee and which are likely to be determined by Officers under delegated authority.
- 3.2 The Planning Applications Validation list will be circulated to all Members of the Council and Parish Council once a week by email.

4. Enforcement functions

- 4.1 The decision on whether or not to pursue or vary enforcement action against any breach of planning control is delegated to the Senior Officer.
- 4.2 Enforcement decision and alleged breaches are reported in line with the Council’s approved Enforcement Plan, which may be amended from time to time.

5. The public addressing the Committee

- 5.1 The Planning Committee may allow objectors, supporters, applicants/planning agents, parish council, other formally constituted bodies (e.g. amenity/residents associations) and also owners of premises subject to enforcement action, or their agents to address the Committee.
- 5.2 The rules for the conduct of the public in addressing the Committee are set out at Part C of this Chapter.

6. How decisions are taken at meetings

- 6.1 The normal procedure is:
- (a) The Chair takes the item in order listed on the agenda
 - (b) The Case Officer introduces the item, clarifying any issues as necessary
 - (c) Speaker in opposition (if any) addresses the Committee in accordance with Part C – 3 minutes
 - (d) Speaker in support (if any) addresses the Committee in accordance with Part C – 3 minutes
 - (e) Other bodies (e.g. amenity/residents associations) (if any) address the Committee in accordance with Part C – 3 minutes
 - (f) Applicants or agent/representative (if any) addresses the Committee in support in accordance with Part C – 3 minutes

- (g) Ward Member (if any) that is not a member of the Planning Committee, may address the Committee in accordance with Part C – 3 minutes. If the ward member is also a member of the Planning Committee they will speak under provision (i) only
 - (h) Parish Council (if any) addresses the Committee in accordance with Part C – 3 minutes
 - (i) Members of Planning Committee – 5 minutes
 - (j) Any Member of the Committee who has disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance with the Member's Code of Conduct will withdraw immediately after speaking.
 - (k) The Committee may seek clarification of those who have spoken on any issued raised in their address
 - (l) The Case Officer shall address any issues resulting from the procedure set out in Rule 6.1 (a) to (f) above and the Committee may put questions to the Case Officer
 - (m) The Committee then debates the matter and does not hear any additional representative or comment from the public or non-Committee Members, but may seek further clarification from Officers. Officers may also advise the Committee on relevant planning matters.
- 6.2 When the Chair considers that there has been sufficient debate, he/she will call for a decision. A vote may be taken on the recommendation in the report, once proposed and seconded, or on a motion moved by a Member of the Committee, altering the reports recommendation.
- 6.3 A motion moved by a Member of the Committee that alters the wording of the recommendation of the report must be seconded and be supported by planning reasons for the alteration and those reasons will be set out in the minutes of the meeting.
- 6.4 If the Chair calls for the application to be determined a vote shall be taken on the recommendation as defined in 6.2. If this fails, an alternative motion may be made by any Member of the Committee.
- 6.5 If an alternative motion is moved by a Members of the Committee it must be supported by clear planning reasons and seconded prior to being to the vote. Those reasons will be set out in the minutes of the meeting.
- 6.6 The Case Officer and or the Legal Advisor shall be afforded the opportunity to advise the Committee during the course of debate or any stage of the meeting.
- 6.7 If a member of the Planning Committee has referred an item and the Chair and/or Vice Chair of the committee has allowed it to be heard. Member must

have due regard when making the referral that they must do so with an open mind and ensure they have not shown predetermination, prejudice or bias to towards the referred application.

7. Decision contrary to Officer recommendations

- 7.1 The laws required that where regard is to be held to the Development Plan, decision shall be taken in accordance with it, unless material considerations indicate otherwise (Section 38 (6), Planning and Compensation Act 2004).
- 7.2 If the Planning Committee seek to make a decision contrary to the Case Officer recommendation (whether for approval or refusal), the following will apply:
- (a) The mover of the motion should clearly specify the motion including the planning reasons for the departing from the Officer recommendation. Both the reasons and the motion should be put to the Committee orally and in public. Any such motion must be seconded
 - (b) The Case Officer should always be given the opportunity to explain the implications of what has been proposed to the Planning Committee in public before any vote is taken
 - (c) If the Planning Committee arguments against the Case Officer recommendation are very clear and substantiated on planning grounds the application shall be determined at the meeting. If not, the application should be deferred to enable the Case Officer to draft a further report for the subsequent meeting of the Committee, outlining the implications of making a decision contrary to the Case Officer recommendation. If appropriate, the Legal Advisor's opinion should be sought as to whether a deferral is necessary. The Committee's reasons must be formally recorded in the minutes.
- 7.3 When a planning application has be referred to a future meeting following a resolution of 'mindful to approve' or 'mindful to refuse', contrary to the Case Officer recommendation, then at a subsequent Committee meeting, the Case Officer will prepare a further written report that will include the reasons formulated by the Committee for being mindful to approve or refuse permission.
- 7.4 If the Committee is still of the same view, then it will again consider its reasons for approving or refusing permission, and a summary of the planning reason for the reasons will be given, which reasons must then be formally recorded in the minutes of the meeting. It is important that the justification for the departing from the Officer recommendation that is recorded in the minutes are those reasons given at Committee and in public and that the justification is not subject to later elaboration in the minutes, which is more extensive than the oral presentation.
- 7.5 The Courts have expressed the view that reasons should be clear and convincing. Members must satisfy themselves that where they reach a decision contrary to an Officer recommendation their reasons are substantiated by evidence and that they are able to demonstrate reasonable planning grounds for

taking a decision contrary to Officer advice. Where a decision is taken to refuse an application but the Officer recommendation is to approve, the Committee must consider whether any conditions could have allowed the development to have proceeded. In addition, Members should exercise caution in not giving undue weight to any particular consideration.

- 7.6 In instances where the Planning Committee grants approval of an application against Officer recommendation, the Case Officer shall draft conditions based on the wording expressed by the Committee to be attached to the approval which shall be agreed in writing with the Chair of the Planning Committee, unless the Committee grants delegated authority to the Case Officer. It must be made clear at the Committee which option is taken.
- 7.7 In instance where the Planning Committee refuse an application against Officer recommendation, the detailed reasons for refusal (which shall reflect the minuted reasons provided by the Committee) shall be agreed in writing with the Chair of the Planning Committee, unless the Committee grants delegated authority to the Case Officer.

8. Site visit by the Planning Committee

- 8.1 Prior to any meeting of the Planning Committee, the Case Officer may be of the opinion that a site visit should be arranged to a site that is the subject of a major application of strategic importance to be considered by the Committee to enable Members to become familiar with the issues to be considered. Any site visit arranged to take place prior to a meeting of the Planning Committee shall be arranged in accordance with Rules 8.6 to 8.9 below and at 09.30am on the Saturday preceding the Committee Meeting.
- 8.2 Occasionally the Committee may defer taking a decision on an item in order to make a site visit. Reasons for a site visit being made shall be recorded in the minutes.
- 8.3 The Committee Members who propose and second a site visit should ensure that they attend the visit or arrange for a substituted Member to attend at 09.30am on the Saturday preceding the Committee Meeting.
- 8.4 Site visits are to be held solely for the purpose of informing the Planning Committee Members by way of visual inspection about the nature of the application. No attempt should be made to make representations or lobby the Committee or individual Members during a site visit.
- 8.5 The planning department will contact the applicant and/or their planning agent to arrange access to the site or premises. Invitations will be sent to the Members of the Committee and Ward Members. Applicants and/or their planning agents and any objectors (or representative or sample of such objectors) shall be informed of the visit. The notification shall contain a brief summary of the procedure to be adopted at the site visit.

- 8.6 The Planning Committee, along with the Case Officer, shall carry out the inspection in one group. Planning Committee Members and applicants, agents, objectives and Ward Members present shall not engage in individual discussions.
- 8.7 The Case Officer and any other Officer present shall draw to the Committee's attention any relevant features of the site.
- 8.8 Members will not make any decision during the site visit, but may, through the Case Officer, ask questions or seek clarification, particularly about the characteristics of the site. Members should refrain from the making comments on the merits of the application during the course of the inspection.
- 8.9 The Case Officer will record the date of the visit, Members present (including non- Members of the Committee) and any other relevant information. A record of the Members present will be included in the minutes of the Meeting.

PART C – Public participation at a meeting of the Planning Committee

1. Introduction

- 1.1 The Council wants to provide the opportunity for the Public and the applicants (or their agents) to speak at the meeting of the Planning Committee before Members of the Committee take their decision. Anyone who has written to the Council making representations on a planning application will be contacted by the planning department upon publication of the relevant agenda and will be advised of the relevant process relating to public speaking (see paragraphs Part C 2.4 and 3.1-3.3).
- 1.2 Upon receipt of a request to speak at the meeting of the Planning Committee, the Democratic Service Clerk will organise all such public speaking.

2. Who can speak at a meeting of the Planning Committee?

- 2.1 Only the following may address the Planning Committee:
- (a) In the case of a planning application:
- (i) An objector or their representative
 - (ii) An support or their representative
 - (iii) Other bodies (e.g. amenity/residents associations)
 - (iv) Applicant/Agent or their representative
 - (v) A Ward Member
 - (vi) Parish Council
 - (vii) A Member of the Planning Committee
 - (viii) Any Member of the Committee who has disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance with the Member's Code of Conduct will withdraw immediately after speaking.
- (b) Only one person, in addition to a Ward Member, will be invited to speak in support of, or in opposition to, any application of enforcement matter appearing on the agenda for the meeting the Planning Committee.
- (c) Subject to paragraph 2.2, if a person wishes to speak in objection to an application, the applicant must be allowed to speak. An applicant may speak at a meeting even where there are no objectors or Ward Members wishing to speak.
- (d) All requests to speak to a meeting of the Planning & Licensing Committee, including those from Ward Members or those notified under paragraph 1.2, must relate to a matter to be considered at the forthcoming meeting of the Committee and be accompanied by a written statement sufficiently

setting out the planning matters the speaker wishes to raise at the meeting.

3. How can I speak at a meeting of the Planning Committee?

3.1 All requests to speak including those from Ward Members or those notified under paragraph 1.2, should be received by the Democratic Services Clerk no later than two working days prior to the meeting, (for example, if the Planning Committee is meeting on a Tuesday, the deadline for registration and receipt of a written statement, sufficiently setting out the planning matters the speaker wishes to raise at the meeting, will be before close of play (5pm) on the Thursday before the day of the meeting) in one of the following ways:

(a) In writing, address to the:

Clerk of Planning Committee
Democratic Services
Brentwood Borough Council
Ingrave Road
Brentwood
Essex
CM15 8AY

(b) Via a form on the Council's website at: www.brentwood.gov.uk

(c) By e-mail to the committee clerk

(d) If any assistance in registering to speak at the meeting is required, please telephone (01277) 312500.

3.2 The Chair of the Planning Committee will not normally allow members of the public to speak if they have failed to notify the Council of their wish to do so in one of the ways described above.

3.3 Where there is more one request to speak on a particular application and those parties have not agreed amongst themselves who will be the appointed spokesperson, the request made will be the person who notified the Council they wished to speak first.

3.4 Where a request is made to speak in opposition to an application the applicant or agent shall have the right to reply to the Committee. A copy of the speaker's written objection will be forwarded to the applicant or their agent and, if they wish to speak at the Committee, the applicant or agent must forward their response, in writing, to the Democratic Services Clerk by noon on the working day before the meeting of the Committee.

3.5 Although Democratic Services Clerk will make every effort to advise the applicant/agent where any such notice has been received, it is the responsibility of the applicant/agent to check two working days (excluding the day on which

the Committee is to be held) before the application is be considered as to whether or not anyone has registered to speak.

- 3.6 Chair may agree to accept representations made outside these procedures where there are exceptional circumstance, for example then someone can show that they have been prejudiced by a failure of the Council to follow procedure in this Constitution. The Chair will state the reasons for using his/her discretion in this respect and these will be included in the minutes of the meeting.

4. What happens at the meeting of the Planning Committee?

- 4.1 Application will usually be taken in the order that they appear on the published agenda. However, the Chair may exercise some discretion to allow for those application subject to public participation to be taken first.
- 4.2 For any application that are subject to public participation, the order in which registered speakers will be called to address the committee will be as follows:
- (a) An objector or their representative
 - (b) An support or their representative
 - (c) Other bodies (e.g. amenity/residents associations)
 - (d) Applicant/Agent or their representative
 - (e) A Ward Member
 - (f) Parish Council
 - (g) A Member of the Planning Committee
 - (h) Any Member of the Committee who has disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance with the Member's Code of Conduct will withdraw immediately after speaking.
- 4.3 A person who has registered to speak may address the Committee for a period not exceeding 3 minutes. If the time limit is exceeded the Chair will immediately call for an end to the speech.
- 4.4 If a person who has registered to speak at the meeting does not attend, the application will be dealt with in their absence and will not, for that reason, be deferred.
- 4.5 No documentation may be circulated, or audio or visual material presented to the Members of the Planning Committee at the meeting.

- 4.6 The Case Officer or the Legal Advisor advising the Committee, in consultation with the Chair, may disallow any matter which may give offence, deal with confidential or exempt information or otherwise infringe the proper conduct of local government. In such cases, reason for the disallowance will be given.
- 4.7 If at the start of the meeting, the Committee decided to defer an item to a future meeting, any speaker who have registered to speak prior to the item being deferred will be given first priority to speak when the item is reported back to Committee. In instances, where an application is deferred after speakers have addressed the Committee (for example, to enable a site visit to be undertaken) then when the matter is reported back to Committee there will be no further rights for any party to speak further.

5. What can you speak about?

- 5.1 Speaker can speak for themselves or on behalf of others. Any representations made should relate only to material planning considerations and not matter that fall outside the remit of the Committee.
- 5.2 Speakers are asked where possible not to repeat points made by other speakers.

PART D – Planning Code of Good Practice

1. Introduction

- 1.1 The basis of the planning system is the consideration of private proposals against wider public interests. The key purpose of the planning system is to control development in the public interest.
- 1.2 The aim of this Code of Good Practice is to facilitate good decision making in the planning process and ensure that there are no grounds for suggesting that a decision has been biased, partial or not well founded.
- 1.3 Your role as a Member of the Local Planning Authority is to make planning decisions openly, impartially, with sound judgement and for justifiable planning reasons.
- 1.4 This Code of Good Practice applies to Members at all times when they are involved in the planning process. This includes when taking part in Planning Committee meetings or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings. It also applies to planning enforcement matters or site specific policy issues.
- 1.5 This Code is drafted in terms of what you should do and what you should not do. If you have any doubts about the application of this Code to your own circumstances you should try to seek advice early, from the Monitoring Officer or one of the legal team, and preferably well before any meeting takes place. However, it is better to seek advice late in the day than not at all.

2. Relationship to the Members' Code of Conduct

- 2.1 First, apply the Rules in the Members' Code of Conduct. These must be always be complied with.
- 2.2 Then apply the Rules in this Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not abide by this Code of Good Practice, you may put:
 - (a) the Council at risk of proceedings on the legality or maladministration of the related decision;
 - (b) yourself at risk of either being named in a report made to the Audit and Scrutiny Committee or Council or, if the failure is also likely to be a breach of the Code of Conduct, a complaint being made to the Monitoring Officer;
 - (c) yourself at potential financial risk if the council suffers a challenge due to your non observance of these Rules; and

(d) if the non-observance involves a breach of the Disclosable Pecuniary Interest Regulations, you could be prosecuted.

3. Where you have an interest in a planning matter

3.1 An interest could arise if it is your own application or the application of a family member; a close friend or associate of yours; or that of a company or organisation with which you are closely involved. In some situations, your interest could amount to a Disclosable Pecuniary Interest; in other cases it may be one where you could reasonably be said to be at risk of bias (see below).

3.2 Whilst you are able to discuss your application with officers in advance of committee in the same way that a member of the public can, you should disclose the existence and nature of your interest at all relevant meetings, including informal meetings or discussions with officers and other Members. Your interest should be disclosed at the beginning of the meeting and not just at the commencement of discussion on that particular matter, unless you do not realise that you have an interest beforehand.

3.3 Where your interest is a disclosable pecuniary interest:

(a) *unless you have been granted a dispensation beforehand*, don't participate, or give the appearance of trying to participate, in the making of any decision on the matter by the Planning Authority;

(b) don't try to represent ward views, get another Ward Member to do so instead;

(c) don't get involved in the processing of the application; and

(d) never seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Member. This would include, where you have a disclosable pecuniary interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.

3.4 When you have an interest, you should notify the Monitoring Officer in writing of the existence and nature of your interest and note that:

(a) this notification should be sent no later than submission of the application where possible;

(b) the application will must always be reported to the Committee for decision and not dealt with by officers under delegated powers; and

(c) it is advisable that you employ an agent (either a planning consultant if one is involved or another person) to act on your behalf on the application to deal with officers and to carry out any public speaking at Committee.

(d) See paragraph 2.1 – Planning Chapter- Immediate Family Members

3.5 Whilst you are not prevented from seeking to explain and justify an application in which you have a disclosable pecuniary interest to an appropriate officer the Code places limitations on you in representing that application. You may address the Committee after being granted a dispensation but only to make a presentation in the same manner than would apply to a normal member of the public, after which you must leave the room- including the public gallery- whilst the meeting considers it.

4. Predetermination, predisposition and bias

- 4.1 Bias (or apparent bias which is more usual) is where your interests are such that a member of the public might reasonably think that these will affect your view of the public interest – so for example where a planning application in front of the committee is from a family member or close associate of yours. Predetermination is a form of bias. Whilst you are able to express a view (predisposition), you should not make up your mind, or appear to have made up your mind (predetermination) on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning committee and after hearing the officer’s presentation and evidence and arguments on both sides.
- 4.2 Do not speak and vote on any proposal where you are pre-determined. You do not have to withdraw, but you may prefer to do so. Where you are predetermined but take part in a decision you will put the Council at risk of a finding of maladministration and also of a risk of legal challenge on the grounds of there being a danger of bias or pre-determination or a failure to take into account all relevant factors. In some circumstances you may yourself face a claim if your behaviour led to the challenge.
- 4.3 Where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal, you are likely to be seen as predetermined. (This involves more than a matter of Membership of both the proposing and Planning Committees, but is where through a significant personal involvement in preparing or advocating the proposal you will be, or may be perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- 4.4 You are able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the Parish Council or been part of pre-application discussion as a Ward Member for example, or are both a Borough and County Councillor), provided:

- (a) the proposal does not substantially effect the well-being or financial standing of the consultee body;
 - (b) you make it clear to the consultee body that:
 - (i) your views are expressed on the limited information before you at that point;
 - (ii) you are clear that you are reserving judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, until it comes before the Committee and you hear all of the relevant information; and
 - (iii) you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
 - (iv) you disclose the personal interest regarding your Membership or role when the Committee comes to considers the proposal.
- 4.5 If you are unable to comply with 4.4 above but are present at the Planning Committee you should explain to the Committee that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged the matter elsewhere, so that this may be recorded in the minutes.
- 4.6 You may exercise separate speaking rights as a Ward/Local Member (this is granted by the Procedure Rules via the consent of the Chair) where you have represented your views or those of local electors in a way which could be said to make you pre-determined (not pre-disposed), but only where you do not have a disclosable pecuniary interest.
- 4.7 Where you wish to speak in these circumstances:
- (a) advise the Monitoring Officer or Chair that you wish to speak in this capacity before commencement of the item;
 - (b) remove yourself from the Member seating area for the duration of the item;
 - (c) ensure that your actions are recorded and that if required you have been granted a dispensation to speak in accordance with the Members' Code of Conduct; and
 - (d) do not vote on the matter.

PART 5.3 - STAFF CODE OF CONDUCT

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.

5. **Political neutrality**

When Carrying Out Work

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

Dealings with Members

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

together.

Undue Political Pressure

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

6. **Acceptance of gifts etc**

General

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

Gifts

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

Criminal Law

- 6.8 Employees should be aware that it is a serious criminal offence for them corruptly to receive any gift, loan, fee, reward or advantage for doing, or not doing anything, or showing favour or disfavour to any person in their official

capacity. If an allegation is made then it is for the employee to demonstrate that any gift, loan, fee, reward actually received has not been corruptly obtained.

7. **Hospitality**

Accepting Hospitality

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

Refusing Hospitality

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

Sensitivity as to Timing

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

Giving of Hospitality

- 7.7 The giving of reasonable hospitality to visiting individuals, and in the course of meetings with outside individuals/organisations which take place off Council premises, is acceptable provided that:
 - (a) the visit/meeting relates to Council business;
 - (b) such hospitality is of a kind which is appropriate to the circumstances;
 - (c) The hospitality does not compromise any purchasing decisions; and
 - (d) the hospitality has been approved by the relevant Head of Service.

- 7.8 In some cases it may well be wrong not to offer hospitality. For example, the failure to offer a visitor basic refreshment (i.e. tea/coffee) would, in certain circumstances, be construed as discourteous, and possibly contrary to the Council's customer care ethos. Similarly, in the case of lengthy meetings the provision of a "working lunch" may well be appropriate.
- 7.9 Hospitality should never be lavish or extravagant. Employees should always have regard to how such hospitality might be perceived by ordinary members of the public - bearing in mind the Council is a public body funded in the main by local and central government taxation, and also the need for impartiality in relations with contractors and potential contractors.

Sponsorship

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

8. Personal interests – disclosure etc

The Underlying Principle

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

Disclosure Generally

- 8.2 Employees should disclose 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 Chief Executive maintains a register for the disclosure of pecuniary

interests. This register is open to inspection by the public.

- 8.6 Employees who are not sure whether disclosure is required in a particular case should initially refer the matter to their manager or Head of Service.

9. **Relations with outside contractors and proposed contractors**

Familiarity with Standing Orders Etc.

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

Awarding of Contracts and Orders

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

Disclosure of Private Work - The General Principle

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

Definition of a Private Business Relationship

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

Exceptions

- 9.6 This part of the Code shall not, however, be taken as requiring an employee to disclose a private business relationship with:
- (a) 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.

- (b) 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.
- (c) any retail store or outlet (e.g. a supermarket or bookshop) where the private business relationship has arisen solely because the employee has purchased from the store/outlet (during its opening hours) goods or services which, at the time of purchase were on display or offer to the general public at the same price and on the same terms.

Employees Who Supervise Contracts

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

10. **Outside commitments**

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

11. **Separation of roles during the tendering process**

Separation of Roles

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

Fairness and Impartiality

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

contractors.

12. **Use of council resources and property etc**

Use of Resources

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

Use of Council Property Etc

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

Security

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

13. **Recruitment of staff and other employment matters**

Recruitment of Staff

- 13.1 Employees involved in appointments should ensure that these are made on the basis of merit and in accordance with the Council's recruitment procedure. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to the applicant, or have a close personal relationship outside work with him or her.
- 13.2 The Council's Standing Orders contain a number of provisions relating to appointments. A copy of the Council's recruitment procedures can be obtained from the Personnel 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.

PART 5.4 - 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. Scope

1.1 This protocol is designed to:-

- (a) promote trust, openness, fairness and honesty by establishing clear ground rules;
- (b) define roles so as to clarify responsibilities
- (c) avoid conflict
- (d) prevent duplication or omission:
- (e) secure compliance with the law, codes of conduct and the Council's own practices and procedures and
- (f) 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. 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. **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 Chief Executive.

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 Audit and Scrutiny Committee or other committees and sub-committees of the Council.

3.6 Members serving on the Audit 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 Chief Executive, 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. **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.

5. **The council as an 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. **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 Members' 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 Chief Executive 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. **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.

7.3 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. **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. **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. **Members of committees or sub committees**

- 10.1 Senior staff (including the Chief Executive, 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. **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. **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 Chief Executive and the relevant party group leader.

13. **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 the Members Portal.

14. **Members access to documents and information**

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

15. **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. **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. **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 Chief Executive

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 Chief Executive 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.

PART 5.5 - PROTOCOLS FOR LICENSING COMMITTEE

Introduction

Under the Local Government Act 1972 the Council is required to establish committees to undertake non-executive/statutory functions under powers delegated from full Council. Licensing is a statutory function.

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

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

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

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

1. Application of the Meetings General Procedure Rules

- 1.1 The Council Procedure Rules shall apply to all meetings of the Licensing Committee and Licensing Sub-Committees except where otherwise determined by statute, which will take precedence over the constitution.
- 1.2 Hearings will take the form of a structured discussion, led by the Members of the Committee. All parties will be given opportunity to make a statement.

2. Composition of the Licensing Committee

- 2.1 The Licensing Committee sitting in determination of policy and procedural matters, including the setting of fees and charges shall comprise of fifteen (15) Councillors all of whom have undertaken suitable training in accordance with the criteria set out in paragraph (6) below.
- 2.2 The composition of the Licensing Committee shall reflect the balance of the various political groups having seats on full Council. Whilst this is not a legal

requirement it is considered to be good practice especially in lieu of the fact that under provision of S7 (5) Licensing Act 2003, the Council may arrange for the discharge of other functions by the Licensing Committee. Such other functions may be of a nature where political balance would usually be required.

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

3. **Composition of Licensing Sub Committees**

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

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

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

- 3.4 The quorum for the Licensing sub-committee when determining hackney carriage and private hire appeals shall be three Members which must be maintained for the duration of the meeting.

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

4. **Member Training**

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

The following criteria shall apply in respect of training:

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

(b) Attendance must be for the duration of each training session

(c) Members' who have received full training must attend refresher training at least every three years ;

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

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

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

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

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

- 6.1 Meetings of the Licensing Committee will be held in public except in so far as the matters for decision relate to issues which can be dealt with in private in

accordance with the Access to Information Rules set out in the Council Constitution.

- 6.2 Licensing Sub-Committee Hearings will be held in public except that the Sub-Committee may decide to exclude the public from all or part of its proceedings if it is in the public interest in accordance with the Hearings Regulations and Proceedings Regulations (as appropriate).

7. **Voting**

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

8. **How are Licensing Committee and Licensing Sub-Committee hearings conducted.**

Who presides:

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

9. **Who may attend Licensing Committee and Licensing sub-committee? Hearings:**

- 9.1 Members of the public may attend meetings of the Licensing Committee except:
- (a) When they are in closed session in their quasi-judicial capacity to consider any evidence for the purpose of formulating a decision.
 - (b) when exempt confidential information is being considered where the press and public, may be excluded by resolution of the Committee in accordance with the Access to Information Rules contained in the Council Constitution or where it is in the public interest in accordance with the Hearings Regulations or the Proceedings Regulations (as appropriate)
- 9.2 Members of the public may attend Licensing Sub-Committee Hearings except:
- (a) they may not address the Sub-Committee unless they have previously submitted a valid representation; or
 - (b) the public (including a party and any person assisting or representing a party) may be excluded from all or part of a Hearing where the Sub-Committee considers that the public interest in doing so outweighs the public interest in the Hearing, or that part of the Hearing, taking place in public.

10. **What business is conducted:**

10.1 Meetings of the Licensing Committee will include the following business:

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

11. **Recording of Decisions of the Licensing Committee**

11.1 All decisions will be made by a simple majority of the Members of the Committee present at the meeting.

11.2 Following a meeting of the committee at which a report (whether oral or in writing) has been received and a recommendation has been made, the appropriate Officer shall ensure that a written statement is kept which must include the following:-

- (a) record of the decision;
- (b) record of reasons for the decision;
- (c) record of any conflict of interest declared; and
- (d) any dispensation granted by the Monitoring Officer, where appropriate.

12. **Licensing Sub-Committee Hearing Determinations**

12.1 All determinations shall be made in accordance with the Hearings Regulations and the Proceedings Regulations (as appropriate) and the appropriate Officer shall ensure that a permanent record of the Hearing shall be taken.

12.2 Where a Hearing is in relation to:-

- (a) counter notice following police objection to a temporary event notice;
- (b) review of a premises licence following closure order;

the sub-committee will make its determination at the conclusion of the Hearing.

12.3 For other Hearings the sub-committee will make its determination within the period of five working days beginning with the day or the last day on which the Hearing was held. This does not however preclude the right for determination to be made at the conclusion of the hearing.

12.4 Notification of the sub-committees determination shall be given in accordance with the Hearings Regulations or the Proceedings Regulations (as appropriate).

13. **Procedure for the determination of licence applications**

13.1 The Licensing Act 2003 and the Hearings Regulations and the Gambling Act 2005 and the Proceedings Regulations provide that the Council as Licensing Authority may determine its own procedures to be followed at a Hearing. Sub-Committee Hearings are required to observe the rules of natural justice and the parties are entitled to a fair hearing under the Human Rights Act 1998. The Licensing Authority is required to explain to the parties the procedure which it proposes to follow at the hearing. The Licensing Authority will permit the parties to have an equal maximum period of time in which to exercise their rights to:

(a) give further information and call any witness in support of their application, representations or notice (as applicable);

(b) question any other party or witness

(c) address the sub-committee

13.2 Those present at a Hearing under the Licensing Act 2003 may be the Applicant, any person representing or supporting the Applicant, plus any witnesses; the Council's Licensing Officer, representatives from Responsible Authorities and their witnesses; objectors to the application, a Legal Advisor and Committee Administrator for the Council. In addition members of the public and press may attend but not address the sub-committee.

13.3 Those present at a Hearing under the Gambling Act 2005 may be the Applicant, any person representing or supporting the Applicant, plus any witnesses; the Council's Licensing Officer, representatives from Responsible Authorities and their witnesses; objectors to the application, Ward Councillors who have submitted representations (in accordance with the Proceedings Regulations in writing beforehand; a Legal Advisor and Committee Administrator for the Council. In addition Members of the public and press may attend but not address the sub-committee.

13.4 Meetings of the Licensing Committee will normally be held in public unless it decides to exclude the public and the press from all or part of the proceedings by resolution of the committee in accordance with the Access to Information Rules contained in Part 4 of this Constitution. If any other Councillors are present who are not Members of the committee they must withdraw as well.

13.5 Licensing Sub-Committees will follow the procedure set out in Schedule A when hearing and determining Licensing Act 2003 applications.

13.6 Licensing Sub-Committees will follow the procedure set out in Schedule B when hearing and determining Gambling Act 2005 applications.

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

14. **Licensing Sub-Committee General Powers**

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

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

Schedule A

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

1. All questions and statements will be directed through the Chair.
2. The Chair will at the beginning of the Hearing explain to the parties the procedure to be followed and shall consider any request made by a party for permission for another person to appear at the Hearing.
3. The Hearing shall take the form of a discussion led by the Council's representative.
4. Cross examination shall not be permitted unless the sub-committee considers that cross-examination is required for it to consider the representations, application or notice as the case may be.
5. The Chair of the sub-c may require any person attending the Hearing who in his opinion is behaving in a disruptive manner to leave the Hearing and may:
 - (a) refuse to permit that person to return, or
 - (b) permit him to return only on such conditions as the sub-committee may specify.

Provided that any such person may before the end of Hearing submit to the Council in writing any information which they would have been entitled to give orally had they not been required to leave.
6. A party who wishes to withdraw any representations they have made may do so:
 - (a) by giving notice to the Council no later than 24 hours before the day or first day on which the Hearing is to be held, or
 - (b) orally at the hearing
7. The sub-committee in considering any representations or notice made by a party may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the Hearing, or with the consent of all other parties, at the Hearing.
8. The sub-committee shall disregard any information given by a party or any person to whom permission to appear at the Hearing had been given which is not relevant to:
 - (a) their application, representations or notice(as applicable) or in the case of another person, the application representations or notice of the party representing their appearance, and

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

The Council's case:-

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

The Applicant's case:-

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

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

15. Each party will present their case.
16. Each party's witnesses (if any) will give evidence in support of the party's case.
17. Each party and their witnesses may be questioned by the Chair and Members of the sub-committee.
18. Each party may question their witness again to clarify any points which may have arisen.

19. If the Applicant or other parties wish to question each other, questions may be directed through the Chair.
20. Closing Statements may be made by the Applicant and/or representative.
21. The Chair will ask the Legal Advisor whether there is anything else to be raised or settled before the proceedings are closed.

Determination of the application by the sub-committee

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

Schedule B

Licensing sub-committee Hearing Procedure for Hearings under the Gambling Act 2005

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

Exclusion of Disruptive Persons

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

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

Failure of Parties to attend the Hearing

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

represented at the hearing;

(c) left the Hearing in circumstances enabling the sub-committee reasonably to conclude that they do not intend to participate further.

8. If a party has informed the Council that they intend to attend or be represented but fail to attend or be so represented, the sub-committee may:
 - (a) adjourn the hearing to a specified date if it considers it to be in the public interest, or
 - (b) proceed with the Hearing in the absence of that party.

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

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

The Council's case:-

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

The Applicant's case:-

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

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

14. Each party will present their case.
15. Each party's witnesses (if any) will give evidence in support of the party's case.
16. Each party and their witnesses may be questioned by the Chair and Members of the sub-committee.
17. Each party may question their witness again to clarify any points which may have arisen.

18. If the Applicant or the interested parties wish to question each other, questions may be directed through the Chair.
19. Closing Statements may be made by the Applicant and/or representative.
20. The Chair will ask the Legal Advisor whether there is anything else to be raised or settled before the proceedings are closed.

Determination of the application by the Sub-Committee

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

Schedule C

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

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

The Applicant's case:-

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

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

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

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

Determination of the application by the Committee

12. The committee will always discuss their decision in closed session. The preferred method is that they will retire to a separate venue/room and they may

be joined by the democratic services officer (for the purpose of recording proceedings) and by the legal representative (for the purpose of giving advice on points of law). In some cases the applicant and/or their representative, other persons, Responsible Authorities and the Members of the public and the press may be asked to leave the room to allow the committee to determine the application. During this process the Committee Members may ask for legal advice from the Legal Advisor.

13. Once a decision is reached all parties will reconvene in public and the committee's determination will be announced. Any legal advice given will be made public either verbally upon delivery of the decision or in writing soon after the hearing. In any event, written details of the determination and the grounds upon which it is based will be sent to all parties concerned in accordance with the Hearings Regulation

Schedule D

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

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

The Council's case:-

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

Submission from the Applicant:-

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

Submissions from any other witnesses/parties:-

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

Determination of the application by the Committee

14. The sub-committee will always discuss their decision in closed session. The preferred method is that they will retire to a separate venue/room and they may be joined by the democratic services officer (for the purpose of recording proceedings) and by the legal representative (for the purpose of giving advice on points of law). In some cases the applicant and/or their representative, other persons, Responsible Authorities and the Members of the public and the press may be asked to leave the room to allow the sub-committee to determine the application. During this process the sub-committee Members may ask for legal advice from the Legal Advisor.

15. Once a decision is reached all parties will reconvene in public and the sub-committee's determination will be announced. Any legal advice given will be made public either verbally upon delivery of the decision or in writing soon after the hearing. In any event, written details of the determination and the grounds upon which it is based will be sent to all parties concerned in accordance with the Hearings Regulations.

PART 5.6 - POLITICALLY RESTRICTED POSTS

1. Introduction

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

(a) Specified Posts

(b) Sensitive Posts

Specified Posts

- 1.4 Specified posts are automatically subject to restrictions on public political activity and as such, there is no right of appeal.

These posts are listed as follows:

(a) The Head of Paid Service

(b) The statutory Chief Officers

(c) Non-statutory Chief Officers

(d) Deputy Chief Officers

(e) The Monitoring Officer

(f) The Chief Finance Officer

(g) Officers exercising delegated powers, i.e. persons whose posts are for the time being specified by the Council in a list maintained in accordance with S100G(2) of the Local Government Act 1972

(h) Assistants to political groups

Sensitive Posts

- 1.5 A sensitive post is one which meets one or both of the following duties-related criteria:

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

2. **Categories of politically restricted posts requiring political neutrality**

- 2.1 The Council is required to maintain an up to date list of its politically restricted posts which fall into the following categories. The list is open to public inspection:
- (a) posts individually identified in the legislation, either by name or by their relationship to other senior officers;
 - (b) posts where the duties of the post include giving advice on a regular basis to the authority themselves, to the executive, to any committee or sub-committee of the Council or any joint committee on which the Council is represented and/or speaking on behalf of the Council on a regular basis to journalists or broadcasters;
 - (c) posts to which duties have been delegated under the Scheme of Delegations to Officers.

- 2.2 In practical terms, the best way for the Council to maintain clarity in respect of politically restricted posts is to annotate a full staff list to show those posts restricted. The benefit of a list of this type is that it greatly facilitates the role of Head of Paid Service in the adjudication process.
- 2.3 Secretarial, clerical and support staff, even if they report to the Chief Executive or to Directors, are not regarded as Chief or deputy Chief Officers for the purposes of political restriction. They may however, be deemed to be in politically restricted posts if their duties fall within the definition referred to in the table at paragraph 2.4 below.

Specified Posts: These are listed below:

Description of post in the Local Government and Housing Act 1989	Council's Designated Post
The Head of Paid Service	Chief Executive
Monitoring Officer	Corporate Director (Law and Governance) and Monitoring Officer
Chief Finance Officer (Section 151 Officer)	Corporate Director (Finance Resources) & Section 151 Officer
Statutory Chief Officers	None
Non-Statutory Chief Officers (a) an employee for whom the Head of Paid Service is directly responsible (b) an employee who, as regards all or most of his/her duties, reports directly to, or is directly accountable to, the Head of Paid Service and/or the Council, or any committee or sub-committee of the Council	Corporate Director, Environment & Communities Corporate Director, Housing & Community Safety Corporate Director, Planning and Economy Corporate Director, Digital & Customer Engagement
Deputy Chief Officers An employee who, as regards all or most of his/her duties, reports directly to, or is directly accountable to, one or more of statutory officers or non-statutory officers	Any such posts will be recorded on the list of politically restricted posts held by the Council
Posts with functions delegated to them under the Scheme of Delegation to Officers	Posts with functions delegated to them under the Scheme of Delegation to Officers set out in the Constitution.

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

Sensitive posts:

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

3 Terms and Conditions of Employment

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

4 Employees standing for election

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

application/appeal to the Head of Paid Service, at least two months before they intend to stand for election.

5. Head of Paid Service's role

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

6. Head of Paid Service's discretion

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

7. Section 2(3) of LGHA 1989 guidance

- 7.1 Although adjudication of matters arising as a result of differing interpretations of section 2(3) LGHA 1989 remains the prerogative of the Head of Paid Service, the following guidance aims to assist the Head of Paid Service in its decisions as to whether or not a post is politically restricted. The guidance is not binding on either the Council or the Head of Paid Service and is intended to offer assistance in decision-making without fettering the discretion of either party.
- 7.2 Section 2(3) of LGHA 1989, states:
'The duties of a post under a local authority fall within this subsection if they consist in or involve one or both of the following, that is to say –
- (a) giving advice on a regular basis to the authority themselves, to any committee or sub-committee of the authority or to any Joint Committee on which the authority are represented, or, where the authority are operating executive arrangements, to the executive of the authority, to any committee of that executive, or to any Member of that executive who is also a Member of the authority;
 - (b) speaking on behalf of the authority on a regular basis to journalists or broadcasters.'
- 7.3 There are several questions raised by the wording of section 2(3) LGHA 1989:
- (a) Is a 'post under a local authority' limited to a post held by an employee of the Council?
 - (b) What do the words 'consist in or involve' imply?
 - (c) What constitutes 'advice'?
 - (d) What constitutes 'on a regular basis'?
 - (e) Does advice have to be proffered to the whole authority, committee, sub-committee or Joint Committee or to any one Member of such a body?
 - (f) Does speaking mean giving formal presentations or does it include answering telephone queries? Would distributing a written press release constitute speaking to journalists and broadcasters?
- 7.4 In interpreting the provisions of section 2(3) LGHA 1989, the following may be taken into account:
- (a) 'Post under a local authority' - in this context, may be taken to mean any post established by the Council, whether the incumbent is a permanent full or part time employee, a temporary employee, a person seconded to the Council from another body or a consultant under contract to the Council.

- (b) 'Consist in or involve' - in this context, may be taken to mean that either giving advice to the Council/Cabinet etc or speaking to the media, or both, constitute a recognised part of the postholder's activities.
- (c) 'Advice' - in this context, may be taken to mean information provided with the intention that it should influence:
 - (i) the policy adopted by the Council in respect of any matter properly before it;
 - (ii) any strategic decisions made by or on behalf of the Council.
- (d) 'Regular basis' - in this context, may be taken to mean that the activity to which it refers is:
 - (i) incorporated in the job profile for the post; or
 - (ii) undertaken as an expected part of the postholder's normal duties (example postholder is required to draft reports containing advice and/or recommendations; postholder is required to attend committee meetings; postholder is required to speak at meetings);
 - (iii) undertaken on more than an occasional basis, though not necessarily frequently.
- (e) 'The body to whom the advice is offered' - may in this context, consist of any number of Members from one upwards, as long as the Member or Members concerned, are acting in their official capacity as Members of the Council/Cabinet or any of its committees, sub-committees or Joint Committees.
- (f) 'Speaking' - in this context, may be taken to mean the passing of any information, whether verbally or through the written word, to a journalist or broadcaster when it is reasonable to assume that the postholder knows that the information so provided is likely to be disseminated to the public at large.

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

- 8.1 The postholder may apply to the Head of Paid Service to be exempted from the third category list (sensitive duties post).
- 8.2 All applications require a letter from the postholder addressed to the Head of Paid Service. The application will state the title of the post, the basis upon which the post is currently deemed to be politically restricted and the reason why the postholder considers that political restriction is no longer appropriate e.g. they no longer influence policy or that the Council has incorrectly applied the duties criteria to the post (see section 7 above). The application will be accompanied by a certified job profile of the post.

- 8.3 The Head of Paid Service may provide the postholder with an opportunity to make oral representations in support of their application. The postholder may be accompanied by an accredited trade union representative or work colleague.
- 8.4 Prior to issuing a direction in accordance with 8.5 below, the Head of Paid Service must consult the Monitoring Officer.
- 8.5 The Head of Paid Service will issue a direction in the form of a Certificate of Opinion (Appendix A), as to whether or not, in his opinion, the duties of the post meet the section 2(3) LGHA 1989 criteria, for politically restricted posts.
- 8.6 If the Head of Paid Service directs that the duties of the post are not to be regarded as a politically restricted post, the Monitoring Officer and Human Resources will comply with the direction and remove the post from the third category list.
- 8.7 The postholder will be notified by the Monitoring Officer and Human Resources of the Head of Paid Service's decision, within five days' of the date of the Certificate of Opinion.
- 8.8 The decision of the Head of Paid Service is final. There is no right of internal appeal.

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

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

10. Applications for exemption from persons not yet in post

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

11. New employee appointments

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

12. Transferring exemptions to another local authority or post

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

13. Amendments to this Procedure

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

APPENDIX A - Politically Restricted Posts - Certificate of Opinion

BRENTWOOD BOROUGH COUNCIL LOCAL GOVERNMENT AND HOUSING ACT 1989

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

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

HEAD OF PAID SERVICE'S STATEMENT

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

(*Please tick appropriate box)

do fall within section 2(3) of the Local Government and Housing Act 1989*

do not fall within section 2(3) of the Local Government and Housing Act 1989*

Post Title:

Full Name of Current Postholder:

Postholder's salary: £ Grade

Job Profile (please attach)

It is a requirement that the job profile contains adequate information. For filled posts, the information provided needs to show to what extent, over the past twelve months, the postholder has advised the General Assembly of the Council, its committees or sub-committees, or Joint Committees or a Lead Member and/or spoken regularly for Brentwood Borough Council, to journalists and broadcasters.

For new posts, it will be necessary to state to what degree it is anticipated the postholder will be carrying out the duties as outlined above.

Head of Paid Service:

Name: Signature

Date:

CHAPTER 6 - MEMBERS' ALLOWANCES SCHEME

PART 6.1 - MEMBERS' ALLOWANCE SCHEME

- 1.1 This scheme is made under the powers conferred by the Local Authorities (Members' Allowances) Regulation 2003 and will be effective on and from 15 May 2013 until 14 May 2014.
- 1.2 Members of Brentwood Borough Council may claim the following allowances as specified in the Appendix to this Scheme:
 - (a) Basic Allowances
 - (b) Special Responsibility Allowance
- 1.3 Generally Travel and Subsistence Allowances will not be paid except in the circumstances set out in this Scheme.
- 1.4 Basic and Special Responsibility Allowances will be paid in equal monthly instalments and will be subject to tax and national insurance deductions. Payments will be made directly to members' bank accounts. Adjustments required, as a result of amendments to the Members' Allowances Scheme or changes affecting a member's eligibility for an allowance, will be made after the affected members have had a written explanation of the change and notification of the date on which it will be implemented.
- 1.5 All claims for Travel and Subsistence, Co-opted Member's Independent Persons and Allowances will be paid retrospectively. Payments will be made monthly to the member's or co-opted member's bank account but, in exceptional circumstances, and subject to approval by the Chief Executive of a properly evidenced claim, a cheque or cash payment can be considered.
- 1.6 The allowances and expenses specified in this Scheme are the only ones that members and co-opted members are entitled to claim from the Council.
- 1.7 Co-opted members representing community or interest groups cannot receive allowances from the Borough Council if they are entitled to claim expenses or allowances from their nominating group for the same duties.
2. **The Basic Allowance**
 - 2.1 The Basic Allowance will be paid to each eligible member in equal monthly instalments and will be subject to tax and national insurance deductions.
 - 2.2 Members will inevitably incur a range of expenses in the course of carrying out council business. The Basic Allowance is intended as a contribution towards those expenses.

3. Special Responsibility Allowances

- 3.1 A Special Responsibility Allowance will be paid to a member who holds any of the offices specified in the Appendix. It will be paid to each eligible member in equal monthly instalments and will be subject to tax and national insurance deductions.
- 3.2 No member may receive more than one Special Responsibility Allowance. Where a member holds more than one post, they will receive the highest of the Allowances appropriate to the posts.
- 3.3 For the purposes of calculating SRAs for the Leader and Deputy Leaders of political groups, a political group is defined as two or more councillors who notify their intention to become a group as required by the Local Government and Housing Act 1989.
- 3.4 The Scheme recognises that there are two minority opposition groups. Should a further minority opposition group be established then the issue of a Special Responsibility Allowance will be referred to the Independent Remuneration Panel.

4. Travel and Subsistence Allowances

- 4.1 Travel and Subsistence Allowances are not payable except as set out in paragraph 4.2.
- 4.2 Members attending conferences/external training sessions will be reimbursed for 'reasonable expenses' including, where necessary, accommodation subject to such expenses being agreed with the Chief Executive in advance.

5. Co-opted Members and the Independent Person

- 5.1 Co-opted members and the Independent Person will be reimbursed for reasonable expenses.

6. Carers Allowance – Child Care/Care of dependents.

- 6.1 Reimbursement of expenditure incurred by members will be payable as set out in the conditions agreed by Annual Council.

7. Claiming Allowances

- 7.1 Claims for Travel, Subsistence, co-opted members' and Independent Persons' allowances and carers allowance must be made within two months of the date on which the expenditure was incurred. Claims submitted by the tenth day of the month will be paid in the same month. In exceptional circumstances, the Council will meet claims submitted later than two months after the event.

8. **Parental Leave**

- 8.1 Members are entitled to maternity, paternity, shared parental and adoption leave and relevant allowances as set out in the Policy agreed by Annual Council.

9. **Taxation**

- 9.1 Allowances are liable for Income Tax and National Insurance contributions.
- 9.2 Members are advised to seek independent advice on their own taxation position.

10. **Renunciation**

- 10.1 A councillor may renounce an entitlement to any or all of these allowances by giving notice in writing to the Chief Executive.

11. **Amendments to the Scheme**

- 11.1 No amendments can be made to the Scheme without prior consultation with the Council's Independent Remuneration Panel and any amendments must have regard to the Panel's recommendations.

Members Allowances 2021-22	Only One SRA Permitted	Number	Allowances 2020-21*	Allowances 2021-22	Previously Recommended 2020-21	Total Recommendation 2021-22	Variance
Basic Allowance		37	6,010.31	6,000.00	222,381.47	222,000.00	-381.47
Leader		1	13,217.11	13,200.00	13,217.11	13,200.00	-17.11
Deputy Leader		1	6,380.68	6,350.00	6,380.68	6,350.00	-30.68
Leader of Main Opposition		1	5,371.94	5,350.00	5,371.94	5,350.00	-21.94
Leader of Minority Opposition		1	2,685.51	2,650.00	2,685.51	2,650.00	-35.51
Chair of Audit & Scrutiny Committee		1	3,581.29	3,550.00	3,581.29	3,550.00	-31.29
Chair of Community and Health Committee		1	3,581.29	3,550.00	3,581.29	3,550.00	-31.29
Chair of Environment, Enforcement and Housing Committee		1	3,581.29	3,550.00	3,581.29	3,550.00	-31.29
Chair of Planning and Licensing Committee		1	3,581.29	3,550.00	3,581.29	3,550.00	-31.29
Chair of Policy, Resources and Economic Development Committee	Leader of the Council	0	3,581.29	3,550.00	0.00	0.00	0.00
Vice Chair of Audit & Scrutiny Committee		1	976.82	950.00	976.82	950.00	-26.82
Vice Chair of Community and Health Committee		1	976.82	950.00	976.82	950.00	-26.82
Vice Chair of Environment, Enforcement and Housing Committee		1	976.82	950.00	976.82	950.00	-26.82
Vice Chair of Planning and Licensing Committee		1	976.82	950.00	976.82	950.00	-26.82
Vice Chair of Policy, Resources and Economic Development Committee	Deputy Leader of the Council	0	976.82	950.00	0.00	0.00	0.00
Sub-total					268,269.15	267,550.00	-719.15
Mayor Duties		1	4,535.00	4,500.00	4,535.00	4,500.00	-35.00
Deputy Mayor Duties		1	1,510.00	1,500.00	1,510.00	1,500.00	-10.00
Contingency					1,500.00	0.00	-1,500.00
Sub-total					7,545.00	6,000.00	-1,545.00
Total					275,814.15	273,550.00	-2,264.15
New Allowances							
Chair Ordinary Council		1	N/A	1,750.00	0.00	1,750.00	1,750.00
Vice Chair of Ordinary Council		1	N/A	500.00	0.00	500.00	500.00
Total Member Allowance Budget					275,814.15	275,800.00	-14.15

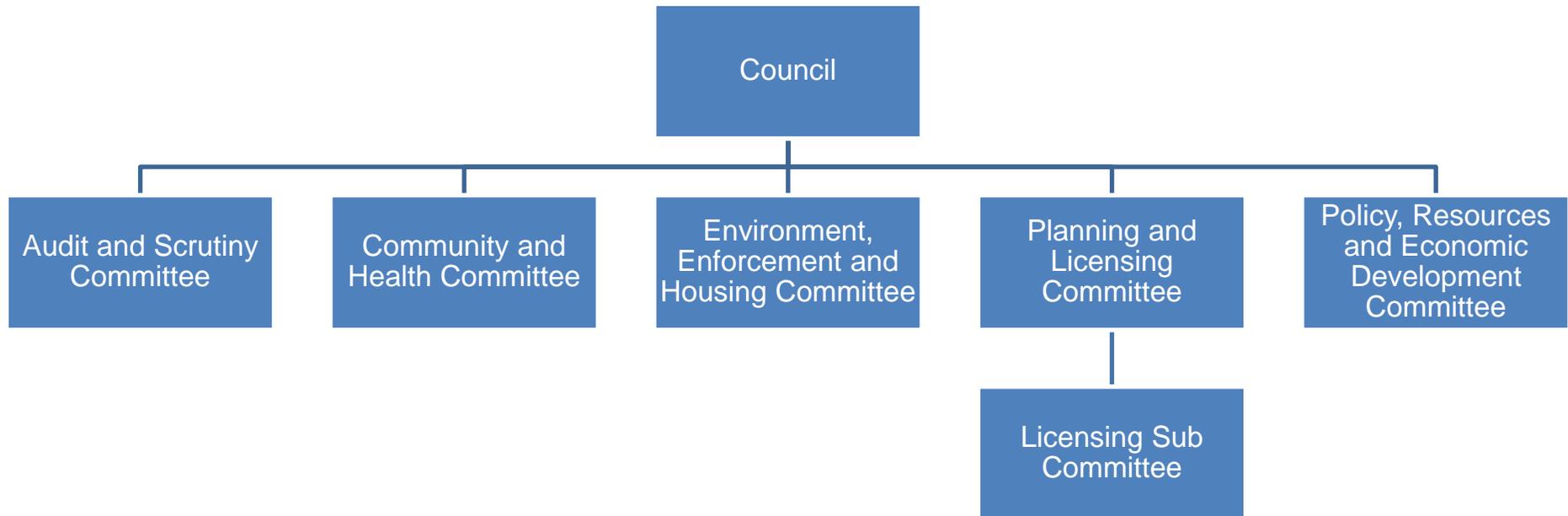
* Member allowances for 2020/21 are the same as 2019/20 as Annual Council was cancelled due to COVID-19

PART 6.2 - INDEPENDENT REMUNERATION PANEL

1. The Borough Council is required to establish and maintain an Independent Remuneration Panel. The purpose of the panel is to make recommendations to the Council about the allowances to be paid to elected Members of the Council.
2. The Council has appointed an Independent Remuneration Panel comprising of three individuals who are independent of the Council.
3. The terms of reference of the Independent Remuneration Panel are:-
4. To review the Council's existing scheme of allowances and to make recommendations to the Council thereon. In accordance with the regulations this incorporates the following functions whether or not covered by the existing scheme:
 - (a) to make recommendations to the authority as to the amount of basic allowance that should be payable to its elected members;
 - (b) to make recommendations to the authority about the categories of members who should receive a special responsibility allowance and as to the amount of such an allowance.
 - (c) to make recommendations to the authority about the duties for which a travelling and subsistence allowance can be paid and as to the amount of this allowance.
 - (d) to make recommendations as to the amount of co-optees allowance.
 - (e) to make recommendations as to whether the authority's allowances scheme should include an allowance in respect of the expenses of arranging for the care of children and dependants and if it does make such a recommendation, the amount of this allowance and the means by which it is determined.
 - (f) to make recommendations on whether any allowance should be backdated to the beginning of a financial year.
 - (g) to make recommendations as to whether annual adjustments of allowance levels may be made by reference to an index, and, if so, for how long such a measure should run.

CHAPTER 7 - GOVERNANCE STRUCTURE

PART 7.1 - GOVERNANCE STRUCTURE



CHAPTER 8 - GLOSSARY OF TERMS

Chief Finance Officer – officer appointed under section 151 Local Government Act 1972.

Chief Officers – members of staff appointed by the Council pursuant to Local Authorities (Standing Orders) (England) Regulations 2001 – the Head of the Paid Service and Chief finance Officer.

Confidential information – information given to the council by a government department on terms that forbid its public disclosure or information that cannot be publicly disclosed by court order.

Constitution Working Group – cross party consultative body consisting of eight Members appointed by the Group Leaders.

Designated Independent Person – person appointed under the Localism Act 2011 to be consulted in cases where there are complaints about the conduct of Members.

Designated Office – Town Hall, Ingrave Road, Brentwood.

Exempt information – information defined in schedule 12A Local Government Act 1972.

Leader of the Council – Leader elected from Members of the Council .

Head of the Paid Service – this has the meaning set out in section 4 Local Government and Housing Act 1989.

Main Opposition Leader – The Leader of the second largest political group on the Council is the Main Opposition Leader.

Chief Executive – the Head of the Paid Service and Chief Officer.

Mayor – ceremonial head of the Council.

Members – persons elected to the Borough council and also known as Councillors.

Monitoring Officer- as defined in section 5 Local Government and Housing Act 1989.

Audit and Scrutiny Committee – Committee appointed pursuant to section 21 Local Government Act 2000.

Petition – request for a referendum for an elected mayor.

Policy framework – the following plans and strategies *[to be completed when Article 4 is agreed]*.

Political Group – this has the meaning set out in the Local Government and Housing Act 1989. Two or more members who give written notice of their wish to be treated as a group.

Proportionality – the allocation of seats on committees to political groups in accordance with the proportion of seats held on the Council by those political groups.

Quasi-judicial – the action taken and discretion exercised by public administrative agencies or bodies that are obliged to investigate or ascertain facts and draw conclusions from them as the foundation for official actions.

Quorum – one quarter of the whole number of members at the meeting provided that at no meeting will a quorum be fewer than two members.

Regulatory – the function of the Council concerned with control or direction in accordance with established rules, principles or the law.

Section 151 Officer – officer appointed under section 151 Local Government Act 1972.

Statutory Officer – Head of Paid Service, Section 151 Officer, Monitoring Officer.

Urgent Business – any item of business that is accepted by the Mayor because of special circumstances which will be specified in the minute recording their decision.

Working days for publication of an agenda for a Council or a committee meeting – a working day excludes the day that the notice is given and the date of the meeting if the provision relates to the date of a meeting. For example if the requirement is to give five working days notice and the notice is given on a Wednesday then five working days will expire on the following Wednesday evening.

APPENDICES

Appendix A Delegations to staff

Appendix B Process for election of Mayor and Deputy Mayor

APPENDIX A - DELEGATIONS TO STAFF

BRENTWOOD BOROUGH COUNCIL

REGISTER OF POWERS DELEGATED

AND

DESIGNATED PROPER OFFICERS

(Section 100G Local Government Act 1972)

NOTES

1. **General authority for delegation** - contained in Section 101 of the Local Government Act 1972.
2. **Delegation to Committees** – See current Constitution/Council Handbook
3. **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 Chief Executive, or to the person or body making the delegation, for their determination. It will be appropriate for the Officer so to refer a matter:

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

4. **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 Chief Executive.

Where the Chief Executive 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 Chief Executive 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 Chief Executive may discharge the matter or may arrange for another Officer to discharge the matter.

5. **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 Monitoring Officer shall authorise or institute any legal proceedings or process or instruct legal agents or Counsel without the prior written consent of the Monitoring Officer. The Chief Executive may allocate or re-allocate responsibility for functions between Officers as necessary for the effective discharge of those functions or to cover absence of particular Officers. Where an Officer is going to be absent for a period of time, he/she or his/her line manager may re-allocate responsibility for that Officer's functions as necessary to ensure the effective discharge of those functions during the Officer's absence. Where the Chief Executive is going to be absent for a period of time then responsibility for the Chief Executive's functions as necessary to ensure the effective discharge of those functions during the Chief Executive's absence shall be allocated to the appropriate Heads of Service, unless otherwise allocated by the Chief Executive.

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 Chief Executive, except the functions of Monitoring Officer and Section 151 Officer. Where a function is stated to be specifically delegated to a particular Officer, that function shall not be exercised by any other Officer, except in accordance with this Scheme.

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

Abbreviations used in the Register are as follows:

CE	Chief Executive
DoSCS	Director of Strategy & Corporate Services
MO/HoL	Monitoring Officer or Head of Legal
HoBHSL	Head of Borough Health, Safety & Localism
Ho CS	Head of Customer Services
HoPD	Head of Planning and Development
HoH	Head of Housing

HoSS	Head of Street Scene
RBM	Revenues and Benefits Manager
PLO	Principal Licensing Officer
PHO(N)	Principal Housing Officer (Needs)
SAM	Strategic Asset Manager

6. 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.
7. 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'.

INDEX – FUNCTIONSCOUNCIL AND MEMBER ADMINISTRATION: (CA):

- CA. 1 Signing and Certification of Documents
- CA. 2 Meetings of the Council, Panels and Committees
- CA. 3 Publication of Information etc.
- CA. 4 Member Administration
- CA. 5 Contracts
- CA. 6 Custody of Seal and Documents
- CA.7 Miscellaneous
- CA.8 Strategic Management
- CA.9 Local Strategic Partnership/Local Area Agreement
- CA.10 Performance

COUNCIL PROPERTY: (CP):

- CP. 1 Leases and Licences
- CP. 2 Land Uses

ELECTIONS: (EL):

- EL. 1 Register of Electors
- EL. 2 District and Parish Elections
- EL. 3 Parliamentary Elections
- EL.4 Fees and Expenses at Elections

EMERGENCY POWERS & ACTION: (EM):

- EM. 1 Emergency Planning
- EM. 2 Emergency Action

FINANCE & RATING: (FR):

FR. 1	Financial Administration
FR. 2	Rating
FR. 3	Debts
FR. 4	Grants & Loans
FR. 5	Borrowing & Banking
FR. 6	Estimates
FR. 7	Charities
FR. 8	Application for Discretionary Rate Relief & Village Shop Rate Relief
FR. 9	Grants to Voluntary Organisations and Miscellaneous Grant Applications
FR.10	I.E.G.
FR.11	Community Initiatives Fund

HIGHWAYS: (HY):

HY. 1	General
HY. 2	Traffic Management
HY. 3	Works etc in/adj. Highway
HY. 4	Street Numbering & Naming
HY. 5	Private & New Streets
HY. 6	Contracts, Tenders, etc.

HOUSING: (HO):

HO. 1	Lettings
HO. 2	Rents and Charges
HO. 3	Squatters/Trespassers
HO. 4	Shops
HO. 5	Housing the Homeless
HO. 6	Council House Sales

- HO. 7 Housing Advances
- HO. 8 Housing Maintenance & Housing Investment Programmes

LICENSING: (LI):

- LI.1 Licensing

PARKS & OPEN SPACES: (PO):

- PO. 1 Allotments
- PO. 2 Damage, Trespass etc.
- PO. 3 Events, Lettings, etc.
- PO. 4 Commons – Management etc.

PERSONNEL MANAGEMENT: (PM):

- PM. 1 Statutory Duties & Delegations of
Head of Paid Service
- PM. 2 Organisational Development
- PM. 3 Appointment Recruitment & Retention of Staff
- PM. 4 Staff Performance and Appraisals
- PM. 5 Staff Training and Development
- PM. 6 Employee and Industrial Relations
- PM. 7 Grievance and Disciplinary Procedures
- PM. 8 Terminations of Employment
- PM. 9 Employment Regeneration

- PM.10 Use of Council Offices
- PM.11 Miscellaneous

PLANNING & BUILDING CONTROL: (PB):

- PB. 1 General
- PB. 2 Building Regulations
- PB. 3 Planning Applications
- PB. 4 Public Authority Development
- PB. 5 Permitted Development
- PB. 6 Stop Notices, Enforcement and Appeals
- PB. 7 Building Preservation
- PB. 8 Tree Preservation
- PB. 9 High Hedge Complaints
- PB.10 Local Development Framework Working Party

PUBLIC HEALTH: (PH):

- PH. 1 General
- PH. 2 Food & Drugs
- PH. 3 Control of Pollution
- PH. 4 Health & Safety at Work
- PH. 5 House Improvements
- PH. 6 Protection of Buildings

	COUNCIL AND MEMBER ADMINISTRATION		DELEGATED TO
CA1	Signing and Certification of Documents		
CA1/1	<u>Signing of Documents</u> (1) General authority to sign documents on behalf of the Council. (2) Signing of any document required in legal proceedings unless any enactment requires otherwise or authority has been granted to some other person. (3) Signing of Contracts relating to land transactions and Land Charge Certificates on behalf of the Council. (4) Persons to attest the Common Seal of the Council.		(1) & (2) CE, MO/HOL (3) CE, MO/HOL (4) Mayor or Deputy Mayor or Member of the Council, CE and MO/HOL
CA1/2	<u>Certification of Documents</u> (1) Certification of any document or photographic copy of a document required in legal proceedings or of any copy of a document or part of a document which has been destroyed while in the custody of the Council. (2) Certification of a printed copy of a byelaw.		CE and MO/HOL CE and MO/HOL
CA2	Meetings of Council and Committees		
CA2/1	<u>Special Meetings</u> (1) Special Meetings of the Council (or committees) – authority to call. (2) Issue of Summons to attend meetings “Proper Officer”.		Mayor or Chair of committee or requisition of 5 Members. MO/CE

	COUNCIL AND MEMBER ADMINISTRATION		DELEGATED TO
CA2/2	<u>Notices under Standing Orders</u> Notices of Motion and Notices of Questions – Officer to receive.		CE/MO or, in her absence, DSCS

	Council and Member Administration (cont)		Delegated to
CA2/3	<p><u>Head of Paid Services, Monitoring Officer, Proper Officer for the Purposes of the Access to Information Act, Data Protection Officer and Whistleblowing Officer</u></p> <p>(1) Designation as Head of Council's Paid Service in accordance with Section 4 of the Local Government and Housing Act 1989.</p> <p>(2) Designation as Monitoring Officer in accordance with Section 5 of the Local Government and Housing Act 1989.</p> <p>(3) Designation as Proper Officer for the purposes of the Local Government (Access to Information) Act 1985.</p> <p>(4) Designation as Data Protection Officer with authority to take all appropriate action in connection with the Data Protection Act 1984 to ensure that all the Council's operations covered by the Act comply with the statutory requirements.</p> <p>(5) Designation as Freedom of Information Officer with authority to take all appropriate action in connection with the Freedom of Information Act 2000 to ensure that all the Council's operations covered by the Act comply with the statutory requirements.</p> <p>(6) In the absence of the Chief Executive where delegations are granted to the Chief Executive they shall apply and be exercised by such other officer nominated and authorised by the Chief Executive.</p> <p>(7) Whistleblowing Officer.</p>		<p>CE</p> <p>MO</p> <p>CE</p> <p>MO/HOL</p> <p>MO/HOL</p> <p>CE</p> <p>MO/HOL</p>
CA3	<u>Publication of information etc</u>		
CA3/1	<p>Statements/Publications</p> <p>Publication of information by local authorities – to approve all necessary statements/publications and method of distribution.</p>		<p>CE in consultation with Chair or Vice-Chair of the Finance and Resources Committee where it is considered appropriate.</p>

CA3/2	<u>Byelaws</u> Proper Officer to send and receive byelaws in accordance with provisions of S 236 Local Government Act 1972.		CE
CA3/3	<u>Public Information Panel and Tenants News</u> (1) To authorise all appropriate action, including if appropriate, the waiving of Standing Orders – Contracts, to ensure the efficient and economical publication of information services to the press and public in accordance with the Council's policy, and (2) To determine the Council's policy with regard to the publication of newsletters/information for circulation to the Council's tenants.		CE subject to prior consultation with Public Inf. Panel and in the case of (2) with the Chair or Vice-Chair of Community Committee
CA3/4	<u>Media Coverage of Council Activities and Allied Matters</u> (1) To write to the Editor in appropriate cases seeking redress, where inaccurate or unbalanced reports are published; (2) Where an Officer's professional standing or integrity is maligned by deliberately malicious or ill considered comment by individuals or organisations, to take appropriate action including action through the Press Council and the Courts.		(1) CE (2) CE subject to prior consultation with the Chair and Vice-Chair of the Finance and Resources Committee with the Officer's concurrence.
CA4	Member Administration		
CA4/1	<u>Proper</u> Designation of Proper Officer to accept the following (i) Declarations of Acceptance of Office (Mayor, Deputy Mayor and Councillors); <u>Officer Designations</u>		CE, MO/HOL

	(ii) Written Notice of Resignation of Councillors; (iii) Notice of Relationships to Members or Senior Officers given by candidates for any appointment by the Council – report to be made to Finance and Resources Committee; (iv) Request for inspection of documents by Members; (v) Notices under The Local Government (Committees and Political Groups) Regulations 1990.		
CA4/2	<u>Requisition for Special Meetings</u> Requisition for Special Meetings of the Council (or Committees) in accordance with SO 1 – Officer to whom requisition to be made.		CE
CA4/3	<u>Standing Orders – copy to Members</u> Standing Orders – Officer to provide Members with copy.		MO/HOL
CA4/4	<u>Members – Claims for travelling or other allowances</u> Members of Council, including co-opted Members –claims for travelling or other allowances.		DoSCS
CA4/5	<u>Members' Allowances</u> To vary the amounts of each of the Allowances pro rata as may be permitted to the maximum total.		DoSCS /MO/HOL
CA5	<u>Contracts</u>		
CA5/1	<u>Interests of Officers</u> Pecuniary Interests of an Officer in a contract – Officer to keep records.		MO/HOL



CA5/2	<p><u>Appointing Contractors</u></p> <p>(1) To enter into a contract for more than £10,000 but less than £50,000 provided that:-</p> <ul style="list-style-type: none"> (i) the contract forms a continuation of a contract or variation thereto which is based on prices and rates obtained following procedures set out in Standing Orders (Contracts), or (ii) at least three quotations have been sought in accordance with the procedure defined under Standing Order (Contracts) 8.2.2 (iii) if the contract is over £25,000, the relevant Chair should be advised prior to the contract being awarded. 		Appropriate Heads of Service.
	<p>(2) To enter into a Contract in the following exceptional circumstances</p> <ul style="list-style-type: none"> (i) For the supply of goods where in the officer's professional judgement (which shall be recorded) there is only one supplier and no acceptable alternative, (ii) For the supply of goods and for services, which in the officer's professional judgement, is required in an emergency involving immediate risk to persons, property or serious disruption to Council services. A record of such judgement shall be made and a report made to the next appropriate committee. (iii) The Contract is an extension to an existing contract and a change of supplier would cause technical difficulties, diseconomies of scale or significant disruption to Council services. 		Section 151 Officer, Chief Executive or Monitoring Officer/HOL
CA5/3	<p><u>Nomination of Sub-Contractors</u></p> <p>Nomination (subject to provisos) of Sub-Contractors and Suppliers to Main</p>		Appropriate Head of Service

Contractor.

CA5/4	<u>Appointment of Consultants</u> Appointment of Consultants, including Architects, Engineers and QS – compiling and maintaining standing list (of proven competence).		CE
CA5/5	<u>Receipt of Tenders</u> Tenders – receipt and opening.		The Procurement Officer and nominated Member (for contracts over £50K)
CA5/6	<u>Acceptance of Tenders</u> Tenders – acceptance of most economically advantageous tender..		Section 151 Officer in consultation with Head of Service concerned and Chair and Vice Chair of relevant Committee or Committee Panel. Where a tender is submitted by a Member of the Council, Section 151 Officer and Monitoring Officer in consultation with Head of Service concerned and the Chair or Vice Chair of Finance and Resources Committee or relevant committee
CA5/7	<u>Extending Existing Contracts</u> (1) Authority to vary Contracts whose original sum does not exceed £250,000 on original terms and conditions for work of a similar character and nature, the same specification (if any) and at the same rates if any) by anything up to 5% of the original contract price or £10,000 whichever is greater subject to requirements concerning funding defined under Standing Order (Contracts 3.1). (2) Authority to extend contracts whose original sum exceeds £250,000 in respect of work of the same character and nature in accordance with the		Section 151 Officer.

	original specification and schedule of rates or bill of quantities by anything up to 5% or £50,000 whichever is the lesser subject to the requirements concerning funding defined under Standing Order (Contracts 3.2).		
CA6	Custody of Seal and Documents		
CA6/1	<u>Seal</u> Custody of Seal of the Council.		MO/HOL
CA6/2	<u>General Documents</u> (1) Minutes, Contracts, Agreements, Documents of Title, Mortgages, Deeds and other Securities –Custody of, together with maintenance of terrier of property (2) Properties under the Housing Acts.		MO/HOL
CA6/3	<u>Investment Certificates</u> Custody of all investment certificates and other documents relating to loans and investments.		DoSCS
CA7	Miscellaneous		
CA7/1	<u>Subscription to Outside Organisations</u> To determine the renewal of corporate subscriptions to outside organisations.		CE subject to consultation with the Chair and Vice-Chair of the Finance and Resources Committee and where

			appropriate the relevant Committee Chair.
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CA7/2	<u>Consultation Papers</u>		
	(1) To prepare and submit on behalf of the Council responses to Government and other consultation papers of general corporate, Borough or service input. (2) To prepare and submit on behalf of the Council responses to purely technical consultation papers.		(1) CE subject to consultation with Chair and Vice-Chair of the appropriate committee and prior notification to all Members of the consultation papers received, together with officer comments via the Members' Newsletter. (2) CE
CA8	Strategic Management		
CA8/1	Strategic Policy Advisor to the Council.		CE
CA8/2	Responsibility for overall strategic direction of the Authority, including development and implementation of corporate policies and priorities, including the overall car park revenue and capital budget strategies.		CE
CA9	Local Enterprise Partnership		
CA9/1	Responsibility for the development of the Brentwood Local Strategic Partnership/Local Enterprise Partnership, the LSP Community Strategy and the local partnerships.		CE
CA9/2	Relations with the voluntary sector.		CE
CA10	Performance		
CA10/1	Leading on corporate performance improvement strategies and responding to corporate assessments and other inspection regimes.		CE

	COUNCIL PROPERTY		
CP1	Leases and Licences		
CP1/1	<u>Leasehold Reform Act 1967</u> (1) Authority to determine whether tenants' claims to the freehold or an extended lease are valid, to serve landlord's Notices on behalf of the Council under the Act and regulations made thereunder to instruct a valuer to negotiate terms, and to settle the terms (other than the price or rent) on which the grant of the freehold or the extended lease should be made. (2) Where the MO/HOL is satisfied that a tenant's claim is valid – authority to approve the price or rent to be paid by the tenant for the freehold or extended lease of the property.		(1) HoH or SAM in consultation with MO/HoL (2) HoH or SAM in consultation with MO/HoL and Chair of Housing and Health Committee /Asset and Enterprise Committee
CP1/2	<u>Rent reviews</u> Authority in respect of all leases containing rent review clauses to negotiate and determine new rentals as these fall due for periodic review.		SAM in consultation with MO/HoL
CP1/3	<u>Action on renewals</u> (1) Initiation of action for renewal of tenancies, leases, licences and other similar disposals. (2) To approve applications for the renewal of leases of Council land and property where no change of policy is involved subject to advice being obtained from the District Valuer as to rent where appropriate.		SAM in consultation with MO/HoL Heads of Service subject to consultation with MO/HoL, the Chair and the Vice-Chair of the appropriate Committee or Asset and Enterprise Committee
CP1/4	<u>King George's Field</u> - granting of annual licences to occupiers of adjoining dwellings for access		SAM in consultation with MO/HoL, Chair

	COUNCIL PROPERTY		
	to park - power to fix annual licence fee each year.		or Vice Chair, Asset and Enterprise Committee Committee

CP2	Land Uses		
CP2/1	<u>General Authority to protect land etc.</u> Authority to take all appropriate action and legal proceedings to protect land and other property owned, occupied or controlled by the Council as the case may be and/or to claim damages including proceedings for trespass, nuisance and criminal damage.		MO/HOL in consultation with appropriate Head of Service subject to a report on any action taken being made to the next appropriate meeting or via the Members' Newsletter
CP2/2	<u>S.16 Local Government (Misc. Provisions) Act 1976 (Power of Local Authorities to obtain particulars of persons interested in land</u> (a) To serve Notices pursuant to S.16 Local Government (Misc. Provisions) Act 1976; (b) To institute legal proceedings against a person who fails to comply with the notice or knowingly or recklessly makes a statement false in material particular in response thereto.		MO/HOL, HoPD, HoBHSL & duly authorised officers
CP2/3	<u>Metal Detecting on Council Land</u> To grant permission to organised detecting groups and archaeological societies to investigate Council land within parks and open spaces which is about to be relandscaped or developed and in relation to specific housing sites to grant permission to Brentwood & District Metal Detecting Club and Historical or Archaeological Societies, where he/she is satisfied that their activities would not be prejudicial to development of the land and having regard to the interests of any neighbouring residents.		CE
CP2/4	<u>Regulation of Investigatory Powers Act 2000</u> Authority to direct surveillance or covert human intelligence sources in appropriate cases.		CE MO/HOL
CP2/5	<u>General</u> To determine applications for permission for repeat or similar events, activities or uses of Council land or property in accordance with previous decisions of the Council.		CE or Head of Service authorised by

[Redacted]

them.

CP2/6	<p><u>Disposal of Surplus Land for Housing Amenity Purposes</u></p> <p>To approve applications for the disposal of small areas of amenity green or other housing land for garden extensions, etc, subject to advice being obtained from the District Valuer, together with appropriate planning consents.</p>		SAM and HoH subject to consultation with the Chair and the Vice-Chair of the Assets and Enterprise Committee/Housing and Health Committee
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	ELECTIONS		
EL1	Register of Electors		
EL1/1	<p><u>Registration Officer</u> Registration Officer (S.8 Representation of the People Act 1983).</p>		CE
EL1/2	Deputy Registration Officer (S52(2) (Representation of the People Act 1983 as amended.		Electoral Services Manager
EL2	District and Parish Elections		
EL 2/1	<p><u>Returning Officer</u> Returning Officer (S.35 Representation of the People Act 1983</p>		
EL3	Parliamentary Elections		
EL3/1	<p><u>Acting Returning Officer</u> Acting Returning Officer (by virtue as appointment as Registration Officer (S.28 Representation of the People Act 1983.</p>		CE
EL4	Fees and Expenses at Elections		

EMERGENCY POWERS & ACTION			
EM1	Emergency Planning		
EM1/1	Emergency Planning Officer		HoCS
EM2	Emergency Action		
EM2/1	<u>Urgent Action – Standing Orders</u> Urgent exercise of Council's Powers by an Officer – (SO 40).		<p>Any Officer where the exercise of such powers has been sanctioned orally or in writing by the Chair or in his absence the Vice Chair of the Finance and Resources Committee or the committee having control of such powers together with the Mayor of the Borough and Leader of the Council (or in their absence the Deputy Mayor and Deputy Leader respectively).</p> <p>Where authorisation is given orally, it shall be certificated in writing by the Members for record purposes within 7 days of the authorisation.</p> <p>A report will be made on the circumstances which necessitated the exercise of these powers to Members via the Members' Newsletter.</p>
EM2/2	<u>Emergency expenditure</u> (F Regs 2.10)		Finance and Resources Committee, or committee acting through the appropriate ED subject to action being reported

	EMERGENCY POWERS & ACTION		
			forthwith to Finance and Resources Committee.

	FINANCE & RATING	Delegated to
FR1	Financial Administration	
FR1/1	<p><u>Administration of Council's Financial Affairs</u> Officer nominated as having responsibility for the proper administration of the financial affairs of the Council under Section 151 of the Local Government Finance Act 1972, as amended by the Local Government Finance Act 1988, under the general direction of Finance and Resources Committee. .</p> <p>(a) Accounting To determine all accounting procedures, the form of accounts and supporting records of the Council.</p> <p>(b) Objectives and Scope of Internal Audit</p> <p>(c) Banking Arrangements and Cheques All arrangements with Council bankers. Operation of banking accounts including National Giro.</p> <p>(d) Cash Floats</p> <p>(e) Orders for Work, Goods and Services Approval of form of official orders.</p> <p>(f) Payment of Accounts</p> <p>(g) Payment of Employees</p> <p>(h) Prescribed Form for time records</p> <p>(k) Approval of Form of claims for staff car mileage allowance</p> <p>(l) Receipt of Income Control of Collection of all monies due to the Council. Arrangements for acceptance of payments by instalments of any debt not exceeding £1,000 within one year due to the Council and originating from his directorate.</p> <hr/> Acceptance of Payments of Instalments at his discretion.	<p>DoSCS</p> <p>DoSCS where appropriate following discussion with relevant Directors.</p> <p>CE through the DoSCS DoSCS</p> <p>DoSCS DoSCS following consultation with Heads of Service DoSCS CE under arrangements and procedures agreed with DoSCS CE DoSCS CE Heads of Service DoSCS/All Heads of Service</p> <p>DoSCS/Head of Service</p>

	FINANCE & RATING		Delegated to
			DoSCS

	<p>(n) Inventories Agreement as to form of inventory.</p> <ul style="list-style-type: none"> - Arrangements for the disposal of obsolete and redundant equipment. (If equipment is not sold at recognised public auction and market value is likely to exceed £5K at least three quotations must be obtained unless Finance and Resources Committee/Assets and Enterprise Committee decides otherwise). 		<p>DoSCS and appropriate Head of Service</p> <p>Each Head of Service in consultation with DoSCS</p>
	<p>(o) Insurances Responsibility for effecting necessary insurance.</p> <p>(p) Security Arrangements for receipt opening of post.</p>		<p>DoSCS (subject to satisfying relevant Director or officer appointed by him/her as to the level of insurance in appropriate circumstances relating to the services provided by the Directorate)</p> <p>DoSCS following consultation with Head of Service</p>
FR1/2	<p><u>Ex-gratia Payments</u> Employees – damage to clothing etc – Authority to approve ex gratia payment of amounts not exceeding £1,000.</p>		CE
FR1/3	<p><u>Finances, Housing Revenue Account, Capital Programme and Expenditure & Funds and Balances</u></p> <p>(1) To take such action as he/she considers necessary, or appropriate, to conserve and strengthen funds and balances to safeguard and enhance the Council's financial position and Grant entitlements.</p> <p>(2) Authority to complete the necessary financing arrangements and documentation in respect of the capital programme to include the taking of all necessary action to maximise the Council's capital spending ability.</p>		<p>DoSCS in consultation where appropriate with the Chair or Vice Chair of Finance and Resources Committee</p> <p>DoSCS subject to the approved capital programme not being exceeded without specific Council authority.</p>

	(3) To maintain the Collection Fund and to credit to the Fund the items required by law to be so credited and to debit to the Fund the items required by law to be so debited, including interest accruing to the charging authority, payments debited in respect of non-domestic rates transferred to the national pool and payments to the Essex County Council, Essex Police Authority & Fire Authority, Parish Councils and Brentwood Borough Council, payments representing repayment of any government grant and to invest any surplus arising from time to time on the fund.		DoSCS
	(4) To make such adjustments when and wherever appropriate in order to maximise the Housing Revenue Accounts entitlement to subsidy. (5) To take any action considered necessary or appropriate to maximise finances and resources for housing provided that if under current regulations such action increases the net expenditure falling on the General Fund any action taken shall be reported to Members. (6) To make further determinations under Part IV of the Local Government & Housing Act 1989. (7) To invest appropriate Council funds in line with the approved Treasury Management strategy at his/her discretion in: <ol style="list-style-type: none"> 1. The Council's bankers 2. Other local authorities (excluding those who are charge capped). 3. Building Societies (limited to the 20 major societies). 		DoSCS subject to subsequent report being made to Finance and Resources Committee. DoSCS DoSCS DoSCS
FR2	Rating		

FR2/1	<u>Local Government Finance Act 1988</u> To take all appropriate action to implement, including billing, collecting and enforcing as appropriate, all matters arising from the Local Government Finance Act and subsequent regulations etc.		DoSCS
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FR2/2	<p><u>Council Tax/Community Charge & National Non-Domestic Rate</u></p> <p>(1) To maintain the Council Tax/Community Charge Collection Fund and to credit to the Fund the items required by law to be so credited and to debit to the Fund the items required by law to be so debited, including interest accruing to the charging authority, payments debited in respect of non-domestic rates transferred to the national pool and payments to the Essex County Council, Essex Police Authority & Fire Authority, Parish Councils and the Brentwood District Council payments representing repayment of any government grant.</p> <p>(2) Power to vary payment dates in respect of non-domestic rates if the Council is required to make payments into the Non-Domestic Rating Pool before the dates approved in Min. 522 (31.10.89).</p> <p>(3) To institute appeals in respect of the valuation of any Council property (national non-domestic rate purposes) and to take all necessary steps in that connection.</p> <p>(4) To maximise, to the benefit of the Council's Capital Programme, the Aggregate Credit Limit, including the use of other permissible methods of financing as he considers appropriate.</p> <p>(5) To consider and determine any application for transitional relief if it is received six months after the date on which the relevant Council Tax bill was sent out.</p> <p>(6) To determine the Council Tax Collection Fund payment dates.</p> <p>(7) To institute and defend all proceedings and appear on behalf of the Council before any Court of Summary Jurisdiction to recover Council Tax, Penalties, and Non-Domestic Rates remaining unpaid and to take whatever action is necessary for the billing, collection and recovery of the Council Tax, Penalties and National Non-Domestic Rate in accordance with existing and new legislation including applying and quashing penalties, issuing statutory requests for information, applying for Attachment of Earning Orders and deductions from income support, and refunding overpayments with interest where statutorily applicable.</p> <p>(8) To increase the charges for the issue of a summons and issue of a liability order by the amount of any increase(s) in Court charges levied on the</p>	<p>DoSCS DoSCS subject to written prior consultation with Chair & Vice Chair Finance and Resources Committee DoSCS DoSCS subject to any action taken being reported to Finance and Resources Committee DoSCS DoSCS DoSCS</p> <hr/> <p>DoSCS</p>
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	Council effective from the date of such increase(s). (9) To introduce a charge of £25 for an application for a warrant of commitment to be increased as above as and when appropriate and to authorise to levy and collect the charges.		DoSCS
	(10) To borrow as and when required up to the maximum amounts permitted by the Capital and credit controls.		DoSCS subject to a report back on any action taken via the Members' Newsletter.

FR2/3	<p><u>Council Tax</u></p> <ol style="list-style-type: none"> (1) To make any 78 appeals necessary in relation to Council properties and any other proposals on behalf of the Billing Authority, represent the Council at Valuation Tribunal hearings and sign agreements where required to do so. (2) To operate the Council Tax Benefits Scheme and to determine the backdating of benefit for the permitted maximum period of up to 52 weeks where the claimant can show good cause and increase weekly benefits in exceptional circumstances. (3) To increase the Council's costs by the amount of any increases made by the Court effective from the date(s) of such increase(s). (4) To institute and defend all proceedings and appear on behalf of the Council before any court of summary jurisdiction to recover Council Tax, National Non Domestic Rates and take whatever action is necessary for the billing, collection, and recovery of the Council Tax, National Non Domestic Rate and penalties in accordance with existing and new legislation including applying and quashing penalties, issuing statutory requests for information applying for Attachment of Earnings Orders and for deductions from income support and refunding overpayments with interest where statutorily applicable. <p>Note: Delegations to the DoSCS will also apply to other members of the Revenues staff designated by the DoSCS for that purpose.</p>		<p>DoSCS</p> <p>DoSCS</p>
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	FINANCE & RATING		Delegated to
R3 FR3/1	Debts <u>Write-off</u> (a) Amounts up to four weeks for rents of dwellings and other premises, and service charges within the Housing Revenue Account (amount to be self adjusting according to annual rent levels). (b) Amounts above four weeks. (d) National Non-Domestic Rates where the write off is on the grounds of poverty under Section 49 of the Local Government Finance Act 1988, as amended. (e) Cases of bankruptcy and liquidation. (f) All other debts where the amount to be written off does not exceed £5,000. (g) All other cases where attempts to trace the debtor have failed. (Limitations in these Regulations marked * shall be increased by the DoSCS in line with the retail price index effective on 1 st April in each year commencing in 2004).		HoH in consultation with S.151 officer HoH/DoSCS in consultation with Chair and Vice Chair of Housing and Health Committee (and reported to Finance and Resources Committee). DoSCS following consultation with the Chair and Vice Chair of the Finance and Resources Committee DoSCS DoSCS DoSCSF following consultation with Chair and Vice Chair of Finance and Resources Committee
FR3/2	<u>Affidavits</u> Swearing affidavits for proof of debt in cases of bankruptcy etc.		DoSCS, Any other Officer designated by the DoSCS
FR3/3	<u>Representation in the Magistrates Court and County Court</u> Authority to carry out the following duties pursuant to S.223 of the Local Government Act 1972.		

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	FINANCE & RATING		Delegated to
FR3/3	<p>(a) To appear in the Magistrates' Court where prosecutions have been brought or on other matters before the Magistrates' Court.</p> <p>(b) Pursuant to Section 60(2) of the County Court's Act, 1984</p> <ul style="list-style-type: none"> (i) the recovering of possession in the County Court of a house belonging to the Council (house includes a part of a house, a flat or any other dwelling and also includes any yard, garden, outhouse or appurtenance occupied with the house or part of a house or with a flat or other dwelling). (ii) the recovery of any rent, mesne profits, damages or other sum claimed by the Council in respect of the occupation by any person of such a house. <p>(c) Pursuant to the Access to Justices Act 1999 the Courts and Legal Services Act 1990.</p> <ul style="list-style-type: none"> (i) the recovery of possession in the County Court of a house held by the Council for any other purpose by an agreement and the recovery of any rent, mesne profits, damages or other sum claimed by the Council in respect of the occupation by any person of such a house; (ii) all necessary steps for recovery of all arrears (whether Capital or interest), due to the Council in respect of any mortgage granted by them and secured on residential property, including the appearance before the Registrar of the County Court; (iii) recovery of debt and generally on other matters before the County Court and any other Courts of competent jurisdiction. 		MO/HOL or appropriate officers designated by the MO/HOL in writing
FR3/4	<p><u>Representation in all other forms of judicial body or process</u></p> <p>(a) To represent the Council in order to conduct proceedings and act as advocate in connection with any tribunal, panel, board or other judicial or quasi-judicial process.</p>		MO/HOL or appropriate officers designated by the MO/HOL in writing

FR3/5	<u>Council Tax Deceased Chargepayers</u> Not to pursue small debts from the executors of deceased Council taxpayers where the likelihood of recovery of the amount involved was neither worthwhile nor realistic.		DoSCS subject to a report on exercise of such discretion via the Members' Newsletter.
FR4	Grants & Loans		
FR4/1	<u>Ex-gratia payments for financial loss</u> To make ex-gratia payments, without prejudice, or admission of any liability or responsibility on the part of the Council, in settlement of claims submitted by persons where satisfactory evidence of financial loss was shown to exist, and there was reasonable connection between the incident rise to the claim and some action or inaction by the Council not amounting to a legal liability.		CE together with DoSCS, subject to the concurrence of Chair of Finance and Resources Committee or in his absence the Vice Chair for amounts in excess of £500.
FR4/2	To approve interest bearing loans (at no cost to the Council).		DoSCS following consultation with the Chair and V.Chair of Finance and Resources Committee and subject to prior notification to all Members of such applications.
FR5	Borrowing and Banking		
FR5/1	<u>Bonds, Mortgages etc.</u> (i) Register of Bonds, Mortgages and other loans; (ii) To deal with all matters relating to borrowing and leasing arrangements (including negotiations);		DoSCS DoSCS

	<p>(iii) to issue under Para 2 Schedule 13 L G Act 1972 and Regs made thereafter, one to five years Bonds up to the max amount permitted, and to:-</p> <ul style="list-style-type: none"> (a) determine price of issue and rate of interest; (b) approve the organisations by whom and the means by which the issue is to be made; (c) settle any further detailed requirements for the issue of the Bonds; and (d) approve and sign on behalf of the Council any necessary documents to give effect to the above. 		DoSCS subject to report on any action concerning (ii) and (iii) before being made to the Finance and Resources Committee.
FR5/2	<u>Indemnity</u>		

	Signing an indemnity to the Council's designated Bankers acknowledging Council's liability on any instrument (all orders for payment not exceeding £500 on open cheques and £10,000 on crossed cheques).		DoSCS
FR5/3	<u>Overdraft</u> To incur a bank overdraft up to figure permitted from time to time under Agreement between Committee of London Clearing Bankers and Local Authority Associations.		DoSCS subject to a report on whether any action is being made via the Members' Newsletter.
FR6	Estimates		
FR6/1	<u>Virement Policy</u> (1) The Finance and Resources Committee or Committee may divert estimates from one heading of approved revenue estimates to another heading within its control provided that:- (a) No change in Council policy is implied; (b) no variation is made in the staff establishment without the approval of the Finance and Resources Committee and the Council; (c) no increase in the Council's future annual charges to Council Tax Payers or tenants will arise; (d) approval of Finance and Resources Committee (up to £200,000) or Council (over £200,000) is obtained where the diversion exceeds £30,000.		Finance and Resources Committee and Council
	(2) Authority to approve diversions of amounts provided under a service heading of approved Revenue estimates to another purpose where amount does not exceed £30,000 provided:- (a) no change in Council Policy is implied; (b) no variation is made in the establishment of employees except with the approval of the Finance and Resources Committee and the Council; (d) no increase in the Council's future annual charge to Council Tax payers or tenants will arise.		CE or DoSCS

FR6/2	<u>Leasing</u> Vehicles plant and equipment (Standing Orders Waived):- (a) Authority to decide which items in estimates are appropriate for acquisition under leasing arrangements;		(a) CE in consultation with DoSCS

	<p>(b) Authority to select companies to be invited to tender and to accept the most advantageous tenders in connection with such leasing;</p> <p>(c) Authority to enter into any Agreement necessary to give effect to the above.</p>		<p>(b) CE in consultation with DoSCS</p> <p>(c) CE and such other Officers as are authorised by the CE subject to a report on any action taken being made to the Finance and Resources Committee/Asset and Enterprise Committee</p>
FR7	Charities		
FR7/1	<p><u>Proper Officer</u> Proper Officer in who shall vest the powers with respect to Charities described in S210 L G Act 1972.</p>		CE
FR8	Application for Discretionary Rate Relief and Village Shop Rate Relief		
FR8/1	To determine applications for Discretionary Rate Relief and Village Shop Rate Relief in accordance with the criteria adopted by the Council.		HoCS subject to consultation with the Chair and Vice-Chair of the Finance and Resources Committee and prior notification to all Members of the schedules of applications concerned.
FR9	Grants to Voluntary Organisations		
FR9/1	To determine applications for discretionary grants to voluntary organisations.		HoBHSL subject to consultation with the Chair of Community Committee and prior notification to all Members of the Schedules of applications concerned.

HIGHWAYS			
HY1/1	<p><u>Civil Parking Enforcement</u></p> <p>(i) Authority to implement and operate civil parking enforcement.</p> <p>(ii) To exercise discretion and for the avoidance of doubt to rescind parking charge notices in respect of mitigating circumstances put forward by objectors to penalty charge notices having due regard to the Council's policies and procedures for parking enforcement.</p> <p>(iii) Authority to write off Penalty Charge Notices limited to £750 in line with Financial Regulation 18.5.</p> <p>(iv) Authority to grant dispensations in respect of Residents Parking schemes and other waiting restrictions.</p>		<p>CE following consultation with the Chair of the H&PP CE, HoSS, Parking Manager or officer nominated by him/her</p> <p>CE, HoSS, Parking Manger or officer nominated by him/her</p> <p>CE, HoSS, Parking Manger or officer nominated by him/her</p>
HY2	Works etc in/adj Highway		
HY2/1	<p>L G (Misc Provisions) Act 1976 To exercise the Council's powers contained in the following sections: S25 & S26 (Dangerous excavations on land accessible to the public and authority to enter land)</p>		CE
HY3	Street Numbering and Naming		
HY3/1	<p><u>Naming of streets</u> (appropriate Parish Council to be consulted) (S27, 18 & 19 P H Act 1925)</p>		CE
HY3/2	<p><u>Number or re-number buildings</u> (S64 & 65 Town Improvement Clauses Act 1847)</p>		CE

HY3/3	<u>Road Names</u> To object as appropriate to future road naming proposals for the District.		CE
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HY4	<u>Private and New Street Works</u>		
HY4/1	<u>ECC Acts – New Streets</u> Authorise service of Notices.		CE
HY5	<u>Contracts, Tenders etc</u>		
HY5/1	<u>Annual Contracts</u> Acceptance of Annual Tenders for supply of stores, goods and minor highway facilities.		CE
HY5/2	<u>Commercial and Industrial Waste</u> 1. To determine the charges for the collection of commercial and industrial waste where the fixed charge is not appropriate. 2. To adjust charges for bulk container emptying to take account of external charges.		HoSS and DoSCS HoSS

HOUSING			Delegated to
HO1	<u>Lettings</u>		
HO1/1	<u>Redecoration of Council dwellings</u> Prior to re-letting Authority to grant a rent free period (to max of 4 weeks or equivalent decoration voucher) to new tenants undertaking decorations.		HoH
HO1/2	<u>Mutual Exchanges</u> To determine Mutual Exchange applications		HoH
HO1/3	<u>Selection of Tenants – Housing Register and Transfer List</u> (i) Authority to approve tenants for rehousing from the Housing Register and Transfer List in accordance with the Council's published Allocations Policy;		HoH

	HOUSING		Delegated to
	(ii) To determine exceptional cases to the policy;		HoH in consultation with Chair & Vice Chair of Housing and Health Committee
HO1/4	<u>Sheltered Housing for Non-Elderly Applicants</u> To make allocation to applicants considered appropriate.		HoH
HO2	Rents and Charges		
HO2/1	<u>Heating Charges</u> Council Housing – Where heating and hot water supplied from a communal source: (1) Authority to increase heating charges in line with further price rises. (2) Authority to write off any marginal differences at the end of each financial year.		(1) DoSCS in consultation with Chair of Housing and Health Committee (2) DoSCS
HO2/2	<u>Rent arrears</u> (1) Signing of Notices to Quit and of Seeking Possession. (2) To authorise evictions once orders for possession have been obtained.		(1) HoH (2) HoH following consultation with the Chair and Vice Chair of the Housing and Health Committee together with the Leader and Deputy Leader of the Council and relevant Ward Members.
HO2/3	<u>Rent rebates and allowances Schemes</u> (Social Security Act 1986) Authority to back date (max 12 months) rent rebate and housing benefit allowance applications in appropriate cases.		DoSCS
HO2/4	<u>All rent arrears cases</u> To initiate action, use the services of the Council's Bailiffs and to instruct the MO/HOL.		HoH

HO2/5	<u>Leasehold Service Charges</u> To initiate action, including instructions to MO/HOL to recover leasehold service charge arrears including forfeiture of lease and recovery of possession.		HoH
HO3	Squatters/Trespassers		
HO3/1	<u>Legal Proceedings</u> Authority to take all necessary action leading to issue by Court of Warrant of Possession.		MO/HOL subject to action being reported on the Members' Newsletter.
HO4	Shops		
HO4/1	<u>Housing Estate Shops</u> Rent Reviews – authority to negotiate and settle as they become due.		SAM/MO/HOL subject to any action taken being reported on the Members' Newsletter.
HO4/2	<u>Shop Leases</u> (1) Power to approve future applications for consent to the assignment of shop leases where no change in trade is proposed. (2) To approve the change of use of Council owned shops in accordance with Planning and other Policies subject to consultation with adjoining Council tenants.		SAM SAM following consultation with the Chair and Vice-Chair of the Housing and Health/Assets and Enterprises Committees.
HO5	Housing the Homeless		
HO5/1	<u>Variation of Charges</u> Authority to vary the charges according to any future changes in the levels of Social Security benefits.		DoSCS

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HO5/2	<u>Temporary Assistance</u> “Intentionally Homeless” assistance with temp accommodation beyond 28 days – authority to authorise further action (so as to ensure that the actual period for which temp. accommodation is made available is determined by reference to the particular circumstances of each case in accordance with the Act).		HoH
HO5/3	<u>Temporary Accommodation for Homelessness – Private Sector Leasing Arrangements</u> To negotiate arrangements with another agency or agencies to secure temporary homes for the homeless, on the basis that the accommodation is located as close as possible to or within the Borough and the cost is substantially less than for bed and breakfast accommodation.		HoH
HO5/4	Determine applications for assistance under Part VII of Housing Act 1985 (Housing The Homeless)		PHO(N)
HO5/5	Review of Homeless Decisions Determine applications for review of decisions made under Part VII of Housing Act 1985		HoH
HO6	Council House Sales		
HO6/1	<u>“Right to Buy” (Housing Act 1985)</u> (1) to deal with Notices claiming and responding to right to buy; (2) to deal with Notices relating to purchase price, right to a mortgage and deferred completion; (3) to declare rates of interest to be charged on all variable interest loans including those to which S438 of the Act applies;		1) HoH 2) HoH 3) DoSCS

HO7	Housing Advances		
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HO7/1	<u>Recovery of mortgage arrears</u> To authorise the commencement of Court proceedings for recovery of mortgage arrears, subject to the Chair of the Housing and Health Committee being informed if it becomes necessary to bring a case before the Courts.		HoL subject to the concurrence of the Chair of Housing and Health and Finance and Resources Committees, or in his/her absence, the Vice Chair
HO8	Tenancy & Estate Management		
HO8/1	<u>Tenants Improvements</u> Determination of applications from tenants for right to improve		HoH
HO8/2	Service of Notices pursuant to S83 of the Act (proceedings for possession on termination) and S102 (variation of terms of secure tenancy).		HoH
HO8/3	Determine applications to succeed to tenancy		HoH
HO8/4	Determine appeals against repossession action for demoted tenancies or introductory tenancies		HoH

	LICENSING		
LI	<u>Licensing</u>		
LI/1	<u>House to House Collection</u> (S2 House to House Collections Act 1939) (1) To grant a licence. (2) To refuse and/or revoke a licence.		1 & 3)The HoBHSL or duly authorised nominees 2) & 4) Licensing Committee in respect of applications which the HoBHSL and duly authorised nominees considers should be refused, except in cases of an urgent refusal which shall be after consultation with the Chair or Vice Chair of the Committee.
LI/2	<u>Street Collections</u> (S5 Police Factories (Misc Provisions) Act 1916) – (3) To grant. (4) To refuse permits in accordance with the Street Collection Regs adopted by the Council.		

LICENSING			
LI/3	<u>Riding Establishments</u> (1) Issue of licences in accordance with recommendations of Veterinary Surgeon's Reports. (2) to refuse and revoke a licence.		The HoBHSL or duly authorised nominees Licensing Committee in respect of applications which the HoPD/HoBHSL considers should be refused, except in cases of an urgent refusal which shall be after consultation with the Chair or Vice Chair of the Committee.
LI/4	<u>Public Transport Services</u> Lodging of objection with Traffic Commissioners (if insufficient time for Licensing Committee consideration).		HoBHSL in consultation with Chair or Vice Chair for Licensing Committee
LI/5	<u>Dogs – Breeding</u> (The Breeding of Dogs Act 1973) 1) Authority to issue licences in accordance with recommendations of Veterinary Surgeon's report in each case. 2) to refuse and revoke a licence.		The HoBHSL or duly authorised nominees Licensing Committee in respect of applications which the HoPD/HoBHSL considers should be refused, except in cases of an urgent refusal which shall be after consultation with the Chair or Vice Chair of the Committee.

	LICENSING		
LI/6	<p><u>Dangerous Wild Animals Act 1976</u></p> <ol style="list-style-type: none"> 1) to grant or determine (subject to conditions and to satisfactory reports by a Veterinary Surgeon or practitioner and to no adverse report by the police or fire authority), licences for the keeping of dangerous wild animals as defined by the Act or any subsequent Order made by Sec of State. 2) to authorise a Veterinary Surgeon or practitioner or other such person pursuant S3 of the Act, to inspect the premises where any animal will normally be held and animal or other thing found there. 3) to vary or revoke any condition attached to the licence, subject to the provisos contained in S1 (9) of the Act. 4) to refuse or revoke licenses. 		<ol style="list-style-type: none"> 1) HoBHSL or duly authorised nominees 2 HoBHSL or duly authorised nominees 3) HoBHSL or duly authorised nominees 4) Licensing Committee

	5) to authorise action under S4 of the Act to seize, destroy or detain an animal and recover the cost.		5) Licensing Committee considers should be refused, except in cases of an urgent refusal which shall be after consultation with the Chair or Vice Chair of the Committee.
LI/7	<u>Animal Boarding Establishments Act 1963</u> 1) To grant a licence on application subject to certain conditions. 2) May authorise an officer or Veterinary Surgeon or practitioner to inspect the premises. 3) To refuse or revoke a licence.		1) HoBHSL or duly authorised nominees 2) HoBHSL or duly authorised nominees 3) Licensing Committee considers should be refused, except in cases of an urgent refusal which shall be after consultation with the Chair or Vice Chair of the Committee.
LI/8	<u>Scrap Metal Dealers –</u> 1) <u>To grant a registration</u> 2) <u>Authorise officers to maintain register</u> 3) <u>To institute legal proceedings against individuals failing to register</u>		1&2) The HoBHSL or duly authorised nominees 3) HoBHSL
LI/9	<u>Pet Animals Act 1951. (Pet Shops)</u> 1) To grant a licence on application subject to certain conditions. 2) May authorise an officer or Veterinary Surgeon or practitioner to inspect the premises. 3) To refuse or revoke a licence.		1&2)The HoBHSL or duly authorised nominees 3) Licensing Committee considers should be refused, except in cases of an urgent refusal which shall be after consultation with the Chair or Vice Chair of the Committee.

LI/10	<u>Caravan Sites and Control of Development Act 1960</u> – exercise of Powers under the Act 1) To grant a licence on application subject to certain conditions. 2) To refuse or revoke a licence.		1) The HoBHSL or duly authorised nominees 2) Licensing Committee considers should be refused, except in cases of an urgent refusal which shall be after consultation with the Chair or Vice Chair of the Committee.
LI/11	<u>Control of Sex Establishments Local Government (Misc Prov) Act 1982.</u> 1) Delegation of Powers contained in Sch 3. 2) Power to authorise an Officer of the Council to exercise powers of entry and inspection.		1) Licensing Committee 2) HoBHSL or duly authorised nominees
LI/12	<u>Control of Street Trading Local Government (Misc Prov) Act 1982.</u> 1) Delegation of powers contained in Schedule 4. 2) Officer responsible for administering those powers and recommending action. 3) To determine applications for street trading consents and to issue such consents with appropriate conditions, including positioning and type of stalls. 4) To institute legal proceedings against individuals trading without the appropriate street trading consent or in prohibited streets.		1) to 3). HoBHSL or duly authorised officers 4) HoBHSL or duly authorised officers
LI/13	<u>Local Government (Misc Prov) Act 1982. Registration of persons carrying out Acupuncture, Tattooing, Ear Piercing and Electrolysis</u> 1 To grant a registration 2 Officer authorised to maintain the Register and issue certificates.		1) HoBHSL or duly authorised nominees 2) HoBHSL or duly authorised officers
LI/14	<u>Hackney Carriages</u> (a) approval of design and content of exterior advertising;		HoBHSL, Principal Licensing Officer or

	(b) refusal of same.		duly authorised nominees
LI/15	<u>Hackney Carriages, Private Hire Vehicles, Drivers and Operators</u> Power to:-		

	<p>(1) To issue licences. (2) To suspend licences. (3) To revoke licences. (4) To refuse licences. (5) To waive and/or vary pre-licensing conditions to the granting of licences and, conditions attaching to any licence. (6) To consider Hackney Carriage Fares for amendments from time to time.</p> <p>Power to: (i) To issue Vehicle Inspection Certificates.</p>		<p>1) & 2) HoBHSL or duly authorised officers 3),4),5)&6) Licensing Committee in respect of applications which the HoBHSL/PLO considers should be refused, 2)) HoBHSL or duly authorised officers</p>
LI/16	<p><u>Local Government (Miscellaneous Provisions) Act 1976</u> <u>Licensing of Private Hire Vehicles, Drivers & Operators</u> Institution of legal proceedings against owner(s) for using, driving and operating a hackney carriage and / or private hire vehicle within the Brentwood Borough without being licensed for those purposes by the Brentwood Borough Council, subject to the MO/HOL being satisfied with the evidence.</p>		HoPD/HoBHSL
LI/17	<p><u>Formal Warnings – Hackney Carriage and Private Hire Licences</u></p> <p>1. To issue formal written warnings to licence holders who accrue nine penalty points on their DVLA driving licences provided that the total of nine penalty points is reached in increments of no more than three and in periods longer than two years.</p> <p>2. Applying the principles contained in Section 28 Road Traffic Offenders Act 1988 and to deal with the non production of documents subject to the following guidelines:</p> <p>(1) On the first occasion a warning letter shall be sent. (2) On the second occasion a formal caution will be given (if an individual does not accept a caution a report is made to Licensing Committee).</p>		<p>HoBHSL or duly authorised officers</p> <p>HoBHSL or duly authorised officers</p> <p>HoBHSL or duly authorised nominees</p>

	(3) On the third occasion, proceedings will normally be instituted subject to the MO/HOL being satisfied as to evidence.		HoPD/HoBHSL
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LI/18	<u>Zoo Licensing Act 1981</u> 1) to grant or determine subject to satisfactory report by a veterinary surgeon or practioner and to no adverse report by the police or fire authority.		1) HoBHSL or duly authorised nominees
LI/19	<u>Unlawful Parking on Taxi Ranks</u> To take appropriate action such as the issue of fixed penalty notices.		HoPD/HoBHSL/PLO or duly authorised nominees
LI/20	<u>Registration of Motor Salvage Operators</u> <u>Vehicle Crime Act 2001</u> (1) To determine application for registration of motor salvage operators where there is no impediment to registration. (2) Refusal of registration. (3) Authorise officers to maintain register. (4) To institute legal proceedings against individuals failing to register.		1, 3 & 4) HoBHSL or duly authorised officers Licensing Committee in respect of applications which the HoPD/HoBHSL/ Principal Licensing Officer considers should be refused.
LI/21	<u>Licensing Act 2003</u> (1) Grant an application for a Personal Licence if no objection is made. (2) Grant an application for premises licence/club premises certificate if no relevant representative is made. (3) Grant an application for a provisional statement if no relevant representation is made. (4) Grant an application to vary premises licence/club premises certificate if no relevant representation is made. (5) Grant an application to vary designated premises supervisor if no objection is made.		HoBHSL or duly authorised nominees.

- (6) Request to be removed as a designated premises supervisor.
- (7) Grant an application for transfer of premises licence where there is no police objection.

	<p>(8) Grant an application for interim authority where there is no police objection.</p> <p>(9) Determine whether a representation is irrelevant, frivolous, vexatious etc.</p> <p>(10) To decide that a hearing is not required where all parties agree.</p> <p>(11) To process Temporary Event Notices.</p>		
LI/22	<p>Gambling Act 2005</p> <p>(1) a) Grant an application of or variation to a premises licence if no relevant representation is made;</p> <p>b) Grant an application for provisional statement if no relevant representation is made;</p> <p>c) Grant an application for transfer of premises where there is no objection;</p> <p>d) Determine whether a representation is relevant;</p> <p>e) Decision to object when licensing authority is the relevant authority; considering the application;</p> <p>f) Determination of objection to temporary use notice.</p>		HoBHSL or duly authorised nominees.
	<p>(2) Determine applications for registration of society lotteries.</p> <p>(3) Determine applications for gaming machine permits, provided any new application results in four or less machines in any premises.</p>		

	PARKS & OPEN SPACES		DELEGATED TO
PO1	Allotments		
PO1/1	<p><u>Allotments – non cultivation</u> Authority to serve Notices of re-entry for non-cultivation and for non-payment of rent when requested by HoPD.</p>		MO/HOL or appropriate officers designated by the MO/HOL

	PARKS & OPEN SPACES		DELEGATED TO
PO2	Damage, Trespass etc		
PO2/1	<u>Public Open Spaces – Riding of Motorcycles</u> Authority to take action, including the institution of proceedings on all public open spaces within the Borough.		HoPD, MO/HOL subject to any action taken being reported on the Members' Newsletter
PO2/2	<u>"No Ball Games" Signs</u> To authorise the erection of "No Ball Games" signs where he considered it to be justified on grounds of road safety.		HoPD, subject to prior consultation with Chair or Vice Chair of the Community Committee.
PO3	Events, Lettings, etc.		
PO3/1	<u>Sponsorship and Advertising of Council initiatives/projects/activities by local industry and commerce</u> To take appropriate action.		CE subject to prior consultation with Chair or Vice Chair Finance and Resources Committee or . Chair or Vice Chair of the Assets and Enterprise Committee
PO3/4	<u>Brentwood Centre Arena Project</u> Rates for advertising space at Brentwood Arena.		Following consultation with Chairs of Finance and Resources Committee and Community , Leader of the Council and Leader of the Opposition.
PO4	Commons – Management etc		

	PARKS & OPEN SPACES		DELEGATED TO
PO4/1	<u>Curtis Mill Green – Encroachment</u> To take all reasonable appropriate action to protect the Common.		Subject to a report on action taken being made on the Members Newsletter

PO4/2	<u>Clean Neighbourhoods and Environment Act</u> Authority to serve notices, institute legal proceedings, make orders or gain entry under relevant powers introduced by the Clean Neighbourhood and Environment Act 2000.		HoPD and/or officer nominated by him/her
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PERSONNEL MANAGEMENT			
PM1	<p><u>Statutory Duties & Delegations</u></p> <p>The CE, as the Head of the Paid Service, and being provided with such staff, accommodation and other resources as are, in his opinion, sufficient to allow him to perform his duties, has a statutory duty under S4(2) of the Local Government and Housing Act 1989 to:</p> <ul style="list-style-type: none"> (a) co-ordinate the discharge of this authority's functions; (b) determine the number and grades of staff required by the authority for the discharge of their functions; (c) determine the organisation of the authority's staff; and (d) determine the appointment and proper management of the authority's staff. (e) to report, as he considers it appropriate to do so, on any of the matters listed above. <p>In these respects, and in accordance with the Part 4.7 (Appointment of Chief Officers), and within the framework of prevailing employment legislation, it shall be deemed that such duties as identified in (a) to (d) inclusive above shall include the following duties and delegated authority as described in PM2 to PM15 inclusive.</p>		CE
PM2	<p>Organisational Development</p> <p>To review and restructure the organisation of the authority's staff to enable the authority to discharge its functions in the face of legislative, policy and other requirements.</p>		CE subject to a report on any major changes to Finance and Resources Committee
PM3	<p>Appointment, Recruitment & Retention of Staff</p> <ul style="list-style-type: none"> (i) To identify, negotiate and implement such contractual terms and conditions of employment as he considers appropriate for the recruitment and retention of staff; 		CE, subject to a report on major changes to Finance and Resources Committee

	<p>(ii) To identify and implement procedures for recruitment and selection of staff as he considers appropriate, to include Member involvement in the selection process for the appointment of Chief Officers in accordance with the Act and SO46.</p>		<p>CE, subject to a report on major changes to Finance and Resources Committee</p>
	<p>(iii) To appoint such staff on permanent, fixed or temporary contracts as he considers appropriate, to include the offers of commitment contracts to staff whose retention would be valuable to the Council's service delivery.</p> <p>(iv) To engage casual workers and consultants, to include former staff where necessary, in individual and applicable circumstances as he considers appropriate.</p> <p>(v) To identify, implement and review a system of Performance Related Pay, as he considers appropriate, consistent with the particular needs of this Council, the cost of which shall be met from within existing budget provision.</p>		<p>CE, subject to a report on major changes to Finance and Resources Committee</p> <p>CE</p> <p>CE following consultation with Chair & Vice Chair of Finance and Resources Committee</p>

	<p>(vi) To consider the effects, costs and affordability of changes to National Agreements in all respects and take all appropriate action in respect of introducing such changes as he considers appropriate in the circumstances.</p> <p>(vii) To reaffirm the existing delegated authority and to confirm the practice in exercising the delegation whereby the appropriate value of benefits in kind may be included in any employees superannuable remuneration in accordance with the definition of remuneration as defined by the Local Government Pension Scheme Regulations and employment law.</p> <p>(viii) To finalise and maintain a list of politically restricted posts under Section 2 of Part I of the Local Government and Housing Act 1989 (the LGHA 1989) as amended by the Local Democracy, Economic Development and Construction Act 2009</p> <p>(ix) To ensure that the Council's recruitment policies and practices give effect to the principle of appointment on merit in accordance with Section 7 of the Local Government & Housing Act 1989.</p> <p>(x) To monitor, maintain and review, and action as appropriate, the agreed scheme for payment of professional fees to all appropriate staff.</p> <p>(xi) To identify, negotiate, implement, monitor and review such code of conduct for staff as he considers appropriate and in accordance with any relevant legislation and codes of guidance.</p>	<p>CE in conjunction with respective Chief Officers and with the concurrence of the Chair of Finance and Resources Committee.</p> <p>CE</p> <p>CE/MO</p> <p>CE</p> <p>CE</p> <p>CE, subject to a report on action taken to be placed on the Members Newsletter</p>
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	(xii) To agree with employees entitled to receive an essential user car allowance, an appropriate lump sum allowance in lieu of a mileage based allowance, or vice versa (except for Chief Officers, for whom any car allowance shall always be by lump sum).		CE
	(xiii) To monitor, maintain and review agreed suitable leasing arrangements for vehicles as appropriate within approved overall budget provisions, including the detailed agreement to be made between the Council and its staff. (xiv) To monitor, maintain and review agreed Relocation Expenses Scheme as appropriate within approved overall budget. (xv) To monitor, maintain, review and action the agreed Property Purchase Assistance Scheme. (xvi) To implement the Equal Opportunities Policy ensuring compliance at a practical level in respect of the Council's employment procedures.		CE CE following consultation with Chair or Vice Chair of Finance and Resources Committee CE CE
PM4	Staff Performance and Appraisals		
	(i) To identify negotiate and implement staff appraisal procedures for the setting and review of performance targets for individual staff and for staff groups, as he considers appropriate, and in accordance with any relevant legislation and codes of guidance. (ii) In respect of Chief Officers' performance to implement recommendations of the Review Board, following review of each Chief Officer's performance, in respect of (a) an award of additional increments where appropriate to reflect outstanding performance during the year; (b) an extension of the term of the Chief Officer's period of commitment to the service of the Council, with appropriate proportional adjustments to allowances etc; and (c) such other changes as may be necessary.		CE CE, following consultation with the Leader of the Council and Chair of Finance and Resources Committee or in the absence of either the Deputy Leader of the Council or Vice Chairs of the Committee or as appropriate and report thereon to the Finance and Resources Committee.

	<p>(NB: The CE is not a member of the 'Review Board' for the purposes of his/her own review.)</p>		
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PM5	Staff Training and Development		
	<ul style="list-style-type: none"> (i) To identify, implement and review staff training and development programmes. (ii) To establish, review and maintain the Council's Career Development Scheme. 		<p>CE</p> <p>CE</p>
PM6	Employee and Industrial Relations		<ul style="list-style-type: none"> (i) To identify, implement and review procedures and machinery for the development and maintenance of effective employee and industrial relations. (ii) To identify, implement and review staff local agreements. (iii) To establish and maintain local staff consultation forum for respective staff groups, to include settling the practical make-up of the representation of staff sides of respective Consultation Forum on the basis of the relationship of the members of staff who are members of a union and those who were not members of a Union, and further to make appropriate arrangements for non-Union staff to elect their representatives, and that the operation of the Forum be in accordance with procedures to be established by the CE. (iv) To negotiate and settle general conditions of employment, salaries and payments etc., providing the cost thereof can be met from within the approved budget. <p>CE subject to a report on any action taken to Members through the Members' Newsletter.</p>
PM7	Grievance and Disciplinary Procedures		<ul style="list-style-type: none"> (i) Discipline, to include suspension and dismissal, of all staff* is a matter for the CE through the exercise of the Council's disciplinary procedures, which are founded on the ACAS Code of Practice and incorporating <p>CE</p>

provisions prescribed by National Conditions of Service and prevailing legislation.

- (ii) The act of suspension and/or dismissal may be delegated by the CE.
- (iii) Hearing and determination of any Appeal by any employee* against suspension, dismissal or relegation.

CE following consultation with Chair & Vice Chair of Finance and Resources Committee

	<p>* For clarity, disciplinary action in respect of the CE, MO/HOL and Section 151 Officer shall be in accordance with SO47 founded on and incorporating provisions prescribed by National Conditions of Service for Chief Executives, and Part II of the Local Authorities (Standing Orders) Regulations 1993 and other provisions contained in individual contracts of employment.</p>	
PM8	<p>Terminations of Employment</p> <p>(i) To identify and negotiate with individuals and their representatives, and action all individual and collective terminations of employment made for economic, technical, organisational and disciplinary reasons, to include redundancies and early retirements either on grounds of efficiency of the authority's service or ill-health.</p> <p>(ii) To identify, negotiate and agree with individuals and their representatives termination terms (to include the exercise of maximum discretion in respect of terminations on grounds of redundancy and/or early retirement on the grounds of efficiency of the authority's service, and ill-health) within the legislative framework of prevailing compensation and superannuation regulations and other statutory provisions, and to implement accordingly.</p> <p>(iii) To extend sickness payments to employees as appropriate pending final reports from the Community Physician and conclude matters accordingly.</p> <p>(iv) To make an appropriate gratuity payment in accordance with Part 'K' of the Local Government Superannuation (Miscellaneous Provisions) Regulations 1987, S.1. 293, or as amended, to any retiring long-serving employee who does not qualify for pension benefits arising from the Local Government Scheme.</p> <p>(v) To exercise discretion to pay a gratuity to long-serving employees for such period of service not covered by the Superannuation Scheme.</p> <p>(vi) To report annually the total sum paid if any in gratuities under the above delegation.</p>	<p>CE subject to a report on major changes to Finance and Resources Committee</p> <p>CE following consultation with Chair & Vice Chair of Finance and Resources Committee in respect of Heads of Service and above.</p> <p>CE following consultation with Chair & Vice Chair of Finance and Resources Committee</p> <p>CE following consultation with Chair & Vice Chair of Finance and Resources Committee</p> <p>CE following consultation with Chair & Vice Chair of Finance and Resources Committee</p> <p>CE</p>

	(vii) To consider and agree as appropriate the exercise of discretions available under the provisions of the Local Government Pension Scheme Regulations 1997.		CE
PM9	Employment Regeneration		

	<ul style="list-style-type: none"> (i) To take all appropriate action to evaluate and bid for any additional resource allocation which may be available and/or to identify any local job regeneration initiatives which would benefit Brentwood's unemployed, its business community and its workforce. (ii) To take all necessary action to identify and submit any appropriate bids for Government or EU funding. 	<p>CE following consultation with Chair & Vice Chair of Finance and Resources Committee</p> <p>CE following consultation with Chair & Vice Chair of Finance and Resources Committee</p>
	(iii) Advising on regeneration, economic development and enterprise initiatives.	CE
PM10	<p>Use of Council Offices</p> <ul style="list-style-type: none"> (i) To authorise the use for meetings by such of those official bodies upon which the Council has direct representation for which another reasonably suitable meeting place is not normally available. (ii) To authorise any alterations to the Council Offices accommodation which he considers appropriate. (iii) To approve the use of the Council Offices Car Park for vehicle pollution days or other similar events subject to any conditions considered appropriate. 	<p>CE</p> <p>CE in consultation with Chair or Vice Chair of Finance and Resources Committee</p> <p>CE</p>
PM11	<p>Miscellaneous</p> <ul style="list-style-type: none"> (i) <u>Project Trident and Work Experience</u> To make some form of payment to young people taking part in the above schemes subject to the Council having the necessary power to make such payments. (iii) <u>Civic Car</u> To select and acquire under the Council's leased car scheme or through outright purchase an appropriate vehicle for use as the Civic car at the end of each lease term. (iv) <u>Essex Local Area Agreement</u> 	<p>CE</p> <p>CE subject to consultation with the Leader of the Council and the Mayor and to a report on action taken to Members</p>

	<p>To take all necessary and appropriate action to ensure the Council and the Brentwood Local Strategic Partnership contribute to the achievement of the agreed local LAA priorities. (Min 503, 15.2.2006)</p>	CE MO/HOL
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	PLANNING & BUILDING CONTROL	DELEGATED TO
PB1	<u>General</u>	
PB1/1	<p><u>Requisitions for Information – Generally</u> (1) To serve requisitions for information where required as preliminary to the service of any notice or document under the service of any notice or document under the general provisions of the TCP Acts. (2) Prosecutions in all cases where enforcement action authorised and preliminary S.330 TCP ACT 1990 Requisition Notice not complied with in whole or in part within one month from the date of service.</p>	<p>MO/HOL or appropriate officers designated by the MO/HOL MO/HOL subject to a report on any action taken being included in the Members' Newsletter.</p>
PB1/2	<p><u>L G (Misc Provisions) Act 1976</u> (1) To serve notices purs S16 as the same may from time to time be amended requiring information as to the ownership, occupation or control of land, or interests in and in connection with any legal action or legal proceedings authorised by Planning and Development Committee; and (2) To authorise the institution of legal proceedings against any person who fails to comply with the requirements of any such notice or whom he believes to have knowingly or recklessly made a statement false in a material particular in response thereto.</p>	<p>MO/HOL or appropriate officers designated by the MO/HOL MO/HOL subject to a report on any action taken being made to the relevant</p>

	PLANNING & BUILDING CONTROL		DELEGATED TO
			Committee
PB2	Building Regulations		
PB2/1	<p>(1) <u>Building Regulations – Generally</u> Determine all plans, notices and certificates deposited and submitted to the Council (including applications for relaxations and dispensation). Implement and serve as appropriate notices, all action necessary to ensure compliance with the Building Regulations, the Building (Approved Inspectors) Regulations, and the Building (Prescribed Fees) Regulations together with those sections of legislation which require determination where plans are deposited under the Building Regulations – Building Regulations, Building (Approved Inspectors) Regulations, Building (Prescribed Fees) Regulations, Building Act 1984, Essex Act 1987, Clean Air Acts.</p> <p>(2) Give and serve notices to revoke plans, and notices deposited under the Building Regulations and Building (Approved Inspectors) Regulations not commenced within 3 years – Building Act 1984, Essex Act 1987.</p> <p>(3) Serve notices requiring removal of danger or take emergency action to remove danger resulting from dangerous structures – Building Act 1984 (77&78).</p>		HoPD

	PLANNING & BUILDING CONTROL		DELEGATED TO
	(4) Serve demolition notices with or without conditions to those undertaken demolition work – Building Act 1984 (Sections 80-82). (5) Serve notices under the advance payments code Highways Act 1980.		

	(6) Serve notices to obtain particulars of those persons with an interest in premises (Section 16 Local Government Miscellaneous Provisions Act 1976).		
PB2/2	<u>Building Act 1984 – S.16</u> Passing of plans subject to conditions and modifications etc.		HoPD
PB2/3	<u>Section 77& 78 Building Act 1984</u> Proper officers for the purpose of Section 77 & 78 Building Act 1984, with powers to take measures in respect of dangerous buildings or structures.		Principal Building Surveyor Building Surveyor
PB2/4	<u>Building Act 1984 – S.80-82</u> Control of Demolitions. Power to serve Notices pursuant to Section 81 Building Act 1984.		HoPD
PB2/5	<u>Sections 35 & 36 Building Act 1984</u> Contravention of Building Regulations. Powers to instigate legal proceedings in respect of contraventions of Building Regulations and associated legislation.		HoPD & Officers authorised by them.
PB3	<u>Planning Applications</u>		
PB3/1	<u>Standard Planning Conditions and Reasons for Refusal</u> – Authority to make such minor amendments and additions as might be necessary in particular circumstances without significantly altering the overall effect of the condition or reason for refusal.		HoPD
PB3/2	<u>Approval, with or without conditions, of the matters detailed below</u>		HoPD subject to the Officer placing before Members those applications under 2 & 3

	(1) Reserved matters, eg materials of construction landscaping details, enclosures etc for <u>all</u> developments, but excluding detailed plans following an outline permission.		which he considers could be refused
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	<p>(2) Sewer connections of individual properties to existing sewers.</p> <p>(3) Cesspools and septic tanks which require planning permission.</p>		or which appear to him/her contentious or where a letter of objection has been received
PB3/3	<p>(i) <u>Amendments to approved plans</u> Power to accept and agree to minor amendments to approved plans, including alterations to elevations and materials and minor re-siting of buildings, where it is concluded that the minor amendments are insignificant and have no greater impact on neighbouring residents than the approved scheme. In such cases, the decision to approve such amendments shall be reported on the Weekly Report for Members' information.</p>		HoPD
	<p>In all other cases, a planning application will be required and this will be dealt with in the normal manner through the Weekly Report system or by way of report to the Planning and Development Committee.</p> <p>(ii) <u>Notification of Planning Applications</u> Notification, and where appropriate, re-notification to neighbours in relation to submitted planning applications shall be at the discretion of the Planning Assistant concerned, such discretion to be exercised in a manner which follows the guidance contained within Circular 15/92 relating to "Publicity for Planning Applications". Parish Councils shall be notified of all planning applications submitted within the area of their Parish Council, and advised of any amended plans received during the course of processing such applications.</p>		HoPD
PB3/4	<p><u>Determination of repeat applications</u> Authority to determine as refused any application materially the same as any proposals previously refused where an application is submitted within 12 months of original refusal, subject to no policy changes or changes in circumstances.</p>		HoPD subject to a report on any action taken to Planning and Development Committee or included on the Weekly Report to Members.

PB3/5	<p><u>Requests for Information</u> The exercise of the Council's powers under Articles 3 & 5 of TCP (GPD) Order 1995 (power to request an applicant to furnish information, plans and drawings, to enable an application to be properly determined. Also enables the authority to insist on detailed plans being submitted where it is considered that an application ought not to be considered in outline).</p>		HoPD
PB3/6	<p><u>Determination of planning applications and the issue of decision notices,</u> where Committee indicate that it wishes to refuse or approve (subject to conditions) a planning application but does not have available at the meeting the actual wording of the reasons/conditions.</p>		HoPD subject to the concurrence of the Chair. or in his/her absence the Vice Chair Planning and Development Committee, and any appropriate Ward Member(s) , who were voting members of the Committee at the time the planning application was considered.
PB3/7	<p><u>Delegation of certain applications</u> Delegation, after prior notification to all Members of the Council and to every Parish Council, to Issue Decision Notices in respect of all applications (not covered by other delegations) for planning permission, listed building consent, advertisement consent and consent to carry out works to preserved trees, with the exception of the following types of application:</p> <p>(a) All applications submitted by the Council or involving Council owned land;</p> <p>(b) Those applications where, in the view of CPO, a full report directly to Planning and Development Committee for decision is required. CPO will take into account, inter alia, the following considerations in determining whether to report directly to Planning and Development Committee:</p> <ul style="list-style-type: none"> • whether there are complex and finely balanced policy issues; • whether the development is of a particularly significant scale; 		HoPD

- whether a significant amount of background needs to be set out for which a Weekly Report format would be unsuitable (e.g. where appendices to a report may be required).



	<p>(c) Applications for Prior Approval of Telecommunications Development. The above delegation is subject to:</p> <p>(i) the CPO recommended decisions being circulated (via the Weekly Report) to all Members of the Council and each Parish Council.</p> <p>(ii) the delegation in respect of any particular application being automatically withdrawn if any appropriate ward Member or appropriate Parish Council requests that it be referred for consideration by the Planning and Development Committee. Such notification must be received by the Planning Office prior to 12 noon on the date set out in the Weekly Report. Any referral received less than 5 full working days preceding a Planning and Development Committee will be considered at the next subsequent meeting of the Committee;</p> <p>(iii) in those cases where no referral to the Planning and Development Committee has been notified, the concurrence of the Chair and Vice Chair of the Committee (or their nominated substitutes) to each recommendation.</p>		
	<p>Where representations are received after publication of the Weekly Report copies will be forwarded to the appropriate Ward Member(s)*. Where it has not been possible to do so, the Chair and Vice Chair will be informed at the time their concurrence to the recommendation is sought.</p> <p>[*The 'appropriate Ward Member' is the Ward Member(s) who sit(s) on the Planning and Development Committee(or, in their absence, the other Member(s) for the ward) or, where the ward is not represented on the Planning and Development Committee, the Member(s) for that ward.]</p>		
PB3/8	<p><u>Environmental Impact Assessment</u></p> <p>To determine whether an Environmental Impact Assessment is required under the Town & Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 or any subsequent re-enacting legislation.</p>		HoPD
PB4	Public Authority Development		

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PB4/1	<u>Neighbouring Authority Consultation – Local Plan etc.</u> To respond to neighbouring authority consultations within the time limit for such consultations.		HoPD following consultation with Chair of the Planning and Development Committee and any appropriate Ward Member(s) , who were voting members of the Committee at the time the planning application was considered.
PB5	<u>Permitted Development</u>		
PB5/1	<u>Determination of whether planning permission required</u> Determination as to whether in any particular case any proposal constitutes “development” requiring planning permission.		HoPD in consultation with MO/HOL
PB5/2	<u>Agricultural Permitted Development Rights</u> To make all determinations as to whether the ‘prior approval’ of the Council is required for development affecting agricultural units above 5 hectares, pursuant to the Town and Country Planning General Development (Amendment) (No. 2) and (No. 3) Orders 1991.		HoPD following consultation with the Chair & Vice Chair of the Planning and Development Committee.
PB6	<u>Stop Notices, Enforcement and Appeals</u>		
PB6/1	<u>Planning Appeal Procedure.</u> Written Reps, Informal Hearing or Public Inquiry – (Min. 741 8.1.75)		HoPD, subject to liaison with the Chair & Vice Chair of Planning and Development Committee in the case of particularly significant or contentious cases.
PB6/2	<u>Planning Enforcement Notices</u> Authority to add additional breaches of planning control to enforcement Notices authorised but not yet served. (Min. 837 16.3.77)		HoPD in consultation with Chair & Vice Chair of Planning and Development Committee and to inform Ward Members of any action taken
PB6/3	<u>Stop Notices and Enforcement Notices</u> Service of requisitions for Information for the purposes of S.330 TCP Act 1990. (Min. 413 28.9.74)		MO/HOL or appropriate officers designated by the MO/HOL
PB6/4	<u>Evidence</u>		

	Authority to adduce evidence at Appeals not specifically referred to in the Decision Notices.(Min. 482 25.9.74)		MO/HOL/HoPD
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PB6/5	<u>Entry to land</u> In respect of enquiries prior to enforcement matters being reported to Planning and Development Committee– Power to serve Notices of Intended Entry under S324 TCP Act 1990 in cases where access to land during the course of Prelimin. Invest. is refused. (Min. 664 9.2.83)		MO/HOL or appropriate officers designated by the MO/HOL
PB6/6	<u>Planning and Compensation Act 1991</u> (1) To issue Planning Contravention Notices pursuant to Sections 171C and 171D of Part VII of Town & Country Planning Act 1990.		MO/HOL or appropriate officers designated by the MO/HOL
	(2) To deal with representations made by a recipient of a Planning Contravention Notice (Section 171C (4) Town & Country Planning Act 1990).		MO/HOL or appropriate officers designated by the MO/HOL
PB6/6	<u>Planning and Compensation Act 1991</u> (1) To issue Planning Contravention Notices pursuant to Sections 171C and 171D of Part VII of Town & Country Planning Act 1990. (2) To deal with representations made by a recipient of a Planning Contravention Notice (Section 171C (4) Town & Country Planning Act 1990). (3) To enter land specifically for enforcement purposes pursuant to Sections 196A 196B and 196C Town & Country Planning Act 1990. (Min. 635, 15.1.92)		MO/HOL/HoPD MO/HOL or appropriate officers designated by the MO/HOL HoPD and all Officers authorised by him/her
PB6/7	<u>Planning Contravention Notices</u> Authority to prosecute in instances where there is a failure to response to Planning Contravention Notice. (Min. 392 3.10.95)		MO/HOL or appropriate officers designated by the MO/HOL
PB6/8	<u>Decisions to take enforcement action</u>		HoPD

	<p>Delegation, after prior notification to all Members of the Council and to every Parish Council, to request the MO/HOL to take legal action in respect of Planning Control contravention, subject to the MO/HOL being satisfied with the evidence, and subject to the following:</p>		
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	<p>(i) the HoP&D recommended decisions being circulated (via the Weekly Report) to all Member of the Council and each Parish Council;</p> <p>(ii) the delegation in respect of any particular case being automatically withdrawn if any Member or Parish Council request that it be referred for consideration by the Planning and Development Committee. Such notification must be received by the Planning Office prior to 12 noon on the date set out in the weekly Report. Any referral received less than 3 full working days preceding a Planning and Development Committee will be considered at the next subsequent meeting of the Committee;</p> <p>(iii) in those cases where no referral to the Planning and Development Committee has been notified, the concurrent of the Chair and Vice Chair of the Committee (or their nominated substitutes) to each recommendation.</p>		
PB7	Building Preservation		
PB7/1	<p><u>Temporary Listing – Building Preservation Notices</u> <u>Planning (Listed Buildings and Conservation Areas) Act 1990</u> To issue notices pursuant to Section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990.</p>		HoPD/MO/HOL following consultation with the Chair & Vice Chair of Planning and Development Committee.
PB8	Tree Preservation		
PB8/1	<p><u>Orders</u> Authority to:-</p> <ol style="list-style-type: none"> (1) Consider whether a TPO should be served; (2) To serve a TPO. Confirm without modification any TPO which is not opposed (3) To withdraw a TPO. 		<p>1) HoPD 2) MO/HOL or appropriate officers designated by the MO/HOL</p> <p>3) MO/HOL or appropriate officers designated by the MO/HOL</p>
PB8/2	<p><u>Confirmation of Orders</u> Power to confirm TPOs with or without modification in the light of objection.</p>		Planning and Development Committee

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PB8/3	<u>Action to prevent felling</u> Empowered to authorise necessary action to prevent felling.		MO/HOL in consultation with Chair & Vice Chair of Planning and Development committee
PB9	High Hedges Complaints To determine Complaints and to take all legal action on non compliance with a High Hedges Remedial Notice.		HoPD, following consultation with the Chair of the Planning and Development Committee and the prior notification through the High Hedges Delegation Decision List.
PB10	Local Development Plan Working Group Approve each stage of the preparation of the Local Development Documents.		HoPD in consultation with the Local Development Plan Working Group

	PUBLIC HEALTH		DELEGATED TO
PH1	<u>General</u>		
PH1/1	<p><u>S16 L G (Misc Provs) Act 1976. Requisitions for Information</u></p> <p><u>L G (Misc Provisions) Act 1976</u></p> <p>(1) To serve notices purs S16 as the same may from time to time be amended requiring information as to the ownership, occupation or control of land, or interests in and in connection with any legal action or legal proceedings authorised by Licensing Committee; and</p> <p>(2) To authorise the institution of legal proceedings against any person who fails to comply with the requirements of any such notice or whom he believes to have knowingly or recklessly made a statement false in a material particular in response thereto.</p>		<p>HoBHSL or duly authorised 369Officers</p> <p>HoBHSL in consultation with MO/HOL CE</p>
PH1/2	<p><u>Criminal Justice Act 1994</u></p> <p>To serve appropriate directions.</p> <p>Institute legal proceedings under the provisions of the Criminal Justice Act 1994 relating to unauthorised campers.</p>		<p>HoBHSL or duly authorised officers</p> <p>HoBHSL in consultation with MO/HOL</p>

PH1/3	<u>Loading Control Area – Sunday Trading Act 1994</u> To determine an application for consent to load and unload earlier than 9am on a Sunday within a Loading Control Area.	HoBHSL or duly authorised officers
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PH1/3	Animal Boarding Establishments Act 1963 Animal Health Act 1981 Animal Health and Welfare Act 1984 Animal Welfare Act 2006 Antisocial Behaviour Act 2003 Brentwood Borough Council's Byelaws Breeding and Sale of Dogs (Welfare) Act 1999 Breeding of Dogs Acts 1973 and 1991 (as amended 1999) Building Act 1984 Caravan Sites Act 1968 Caravan Sites and Control of Development Act 1960 Charities Act 2006 Cinemas Act 1985 Clean Air Act 1993 Clean Neighbourhoods and Environment Act 2005 Control of Dogs Order 1992 Control of Pollution Act 1974 Criminal Justice & Police Act 2001 Criminal Justice & Public Order Act 1994 Dangerous Dogs Act 1991 (as amended 1997) Dangerous Wild Animals Act 1976 Deer Act 1991 Defective Premises Act 1972	HoBHSL or duly authorised officers HoBHSL in consultation with MO/HOL
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<p>Disability Discrimination Act 1995 Dogs (Fouling of Land) Act 1996 Dogs Acts 1871 Environment Act 1995 Environmental Protection Act 1990 (As amended.) European Communities Act 1972 Factories Act 1961 Food and Environment Protection Act 1985 The Food Hygiene (England) Regulations 2006 (as amended) Food Safety Act 1990</p> <p>Sunday Trading Act 1994 (As amended) Town Police Clauses Act 1847 Town Police Clauses Act 1889 Transport Act 1981 Transport Act 1985 Vehicles (Crime) Act 2001 Water Act 1989 Water Industry Act 1991 Wildlife and Countryside Act 1981 Zoo Licensing Act 1981.</p>		
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PH1/4	<p><u>Food Safety Legislation</u> To enforce relevant powers made under the European Communities Act 1972, Food Safety Act 1990, Food Hygiene (England) Regulations 2006, the Official Feed and Food Control (England) Regulations 2009, the General Food Regulations 2004, the Products of Animal Origin (Third Country Imports) (England) Regulations 2006, the products of Animal Origins (Import and Export) Regulations 1996 and any Regulations, Orders or Byelaws or any subsidiary legislation made under the above and any enactment amending or replacing the same. (Min 479, 1.2.2006</p>		HoBHSL or duly authorised nominees
PH1/5	<p><u>Smoke Free Legislation</u> To enforce relevant powers made under Part 1, The Health Act 2006, The Smoke-Free (Premises and Enforcement) Regulations Act 2006, The Smoke-Free (Exemptions and Vehicles) Regulations Act 2007, The Health Protection (Local Authority Powers) Regulations 2010, and The Smoke-Free (signs) Regulations Act 2007.</p>		HoBHSL or duly authorised nominees
PH1/6	<p><u>Dispersal of Groups Order</u> The making of a Dispersal of Groups Orders under Section 30 of the Anti-Social Behaviour Act 2003 in respect of Brentwood Town Centre and Rayleigh Road, Hutton and any further Dispersal Orders for the Borough that might be identified by the Police.</p>		HoBHSL/HoPD
PH2	Food & Drugs		
PH2/1	<p><u>Deer Act 1991</u> To exercise the powers under Section 10 & 11 of the Deer Act 1991.</p>		HoPD/HOBHSL and/or his nominees

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PH2/2	<p><u>Proper Officers: Public Health (Control of Diseases) Act 1984 (as amended)</u> <u>The Health Protection (Notification) Regulations 2010</u> <u>The Health Protection (Local Authority Powers) Regulations 2010</u> <u>The Health Protection (Part 2A Orders) Regulations 2010</u> To appoint consultants in communicable disease Control and other appropriately qualified individuals employed by the Health Protection Agency to act on behalf of the Council. (Min 193 15.9.2004)</p>		HoBHSL or duly authorised officers
PH3	Control of Pollution		
PH3/1	<p><u>Control of Pollution Act 1974 Part III</u></p> <ol style="list-style-type: none"> 1) to serve notices in relation to construction site noise. 2) to approve applications under S61. 3) to serve requisitions for information under S93 of the Act. 4) to exercise the powers granted by S91 (1) of the Act. 5) to approve the making of application for Warrants under S91 (2) of the Act. 		<ol style="list-style-type: none"> 1) HoBHSL or duly authorised officers 2) /HoBHSL and all Officers authorised by him/her 2) HoBHSL or duly authorised officers 3) HoBHSL or duly authorised 4) HoBHSL
PH3/2	<p><u>Control of Pollution Act 1974 S13.</u> To serve Notices in accordance with the provisions of S13 (5) of the Act.</p>		HoBHSL or duly authorised officers
PH3/3	<p><u>Control of Pollution Act 1974 – Code of Practice on Noise from Audible Intruder Alarms 1982</u> Power to determine applications for time extensions.</p>		HoBHSL or duly authorised officers
PH3/4	<p><u>Dog Warden Scheme</u> To exercise as necessary the Powers contained in all relevant legislation.</p>		HoBHSL in consultation with MO/HOL

PH3/5	<u>Public Health Act 1936, Highways Act 1980</u> <u>Refuse Disposal (Amenity) Act 1978</u> 1) All necessary action against persons shown to be damaging or obstructing by depositing material, or by burning, or such other actions, following upon the occupation by caravans of the highway verge or associated land. 2) Institute legal proceedings under the Above Acts.		1) HoBHSL or duly authorised officers 2) HoBHSL in consultation with MO/HOL
PH3/6	<u>Water Act 1989 – Water Quality</u> To exercise those duties and powers conferred under Sections 56, 57, 58 and 59 of the Water Act 1989.		HoBHSL or duly authorised officers
PH3/7	<u>Environmental Protection Act 1990 –</u> 1) Authority to take any appropriate action under Sections 6, 10, 12, 13, 14, 19 and 80 (1) of the Environmental Protection Act 1990. 2) To serve notices under Section 19, 23 and 80 (4) Environmental Protection Act 1990 requiring the provision of information and to institute legal proceedings that may be necessary for offences under the relevant parts of the Act, subject to him/her being satisfied with the evidence in each case. 3) To deal with stray dogs found in the area of the Authority pursuant to power contained in Section 149 Environmental Protection Act 1990.		HoBHSL or duly authorised officers HoBHSL or duly authorised officers HoBHSL in consultation with MO/HOL HoBHSL in consultation with MO/HOL
PH3/8	<u>Environment Act 1995 Power of Entry</u> Section 108 (4) and 109 Environment Act 1995.		HoBHSL or duly authorised officers
PH4	Health & Safety at Work		
PH4/1	<u>Health & Safety at Work etc Act 1974</u> 1 Inspectors under S19 of the Act and authority to exercise all powers in S20 (2). 2 Service of Notices in relation to the above functions.		1) HoBHSL or duly authorised officers 2) HoBHSL or duly authorised officers
PH4/2	<u>Health & Safety at Work etc Act 1974. Power of Inspectors:-</u>		

- 1) Appointed Inspectors (S19)
 - a) to exercise powers of Inspector of Health and Safety specified in:-

	<ol style="list-style-type: none"> 1) S20, 21, 22, 25 & 39 of the Act; 2) any Health & Safety Regulation; 3) the provisions of the Act mentioned in Schedule 1 of the 1974 Act which are specified in the third column of that Schedule and of the Regulations, Orders or other instruments of a legislative character made or having effect under any provisions so specified, as in force from time to time. <p>b) institute proceedings pursuant to S38 of the Act.</p> <p>2) Authority to sign any instrument of appointment issued in accordance with the above Resolution or any future Resolution appointing an Inspector of Inspectors under the 1974 Act as the same may be from time to time amended.</p>	<p>1 to 3 HoBHSL or duly authorised officers</p> <p>HoPD/HoBHSL or duly authorised officers HoPD/HoBHSL and all Officers duly authorised by him/her</p>
PH4/3	<p><u>S19 Health & Safety at Work etc Act 1974: appointment of Inspectors of Health and Safety entitled to exercise the powers of Inspectors</u> Specified in:-</p> <ol style="list-style-type: none"> i) S20 of the Act; ii) Any Health & Safety Regs; iii) the provisions of the Act mentioned in Schedule 1 of the 1974 Act etc. 	HoPD/HoBHSL and all Officers authorised by him/her
PH4/4	<p><u>Health & Safety at Work etc. Act 1974 – Powers of Inspectors</u> (a) Powers of inspectors under Sections 20, 21, 22, 25 and 39 of the 1974 Act.</p> <p>(b) Powers of Inspectors under Sections 20, 21, 25 & 39. (c) Powers of Inspectors under Sections 20 & 25. (d) Powers of Inspectors under Section 20.</p>	a) to d) HoBHSL or duly authorised nominees
PH4/5	<p><u>Health & Safety (Enforcing Authority) Regulations 1989</u> Designated Officers to undertake the legal requirements in respect of the transfer of premises under the above Regulations.</p>	HoBHSL or duly authorised officers

PH4/6	<u>Expert Witness Authorisations under the Health and Safety at Work etc. Act 1974</u> To authorise a person or persons to enter any premises accompanied by an inspector duly appointed by the Council under Section 19 of the Act.		HoPD/HoBHSL and all Officers authorised by him/her
PH5	House Improvement etc		
PH5/1	<u>Housing Grants – Construction and Regeneration Act 1996</u> To approve and pay grants under Sections 34, 35 and 76 of the Act which meet the criteria and policies agreed by Members.		HoBHSL or duly authorised nominees
PH5/3	<u>Discretionary Housing Grants</u> To approve and pay any discretionary grants contained within the Council's Private Sector Renewal Policy.		HoBHSL or duly authorised nominees
PH6	Protection of Buildings		
PH6/1	<u>Local Government (Misc Provs) Act 1982, S29 – Protection of Buildings</u> 1 Delegation of Powers. 2 Officer authorised to serve Notices and to arrange carrying out of works in appropriate cases.		1) HoPD and his nominees 2) HoPD (or duly authorised nominees)
PH6/2	<u>Housing Act 1985, As Amended</u> To serve Notices under Part X (Overcrowding), such authority to include the institution of legal proceedings, carrying out of works in default, should the Notices not be complied with, and the recovery of costs of any works in default.		HoBHSL or duly authorised nominees
PH6/3	<u>Housing Act 1985 – Powers of Entry</u> To enter premises for the purposes of Sections 197, 260, 319, 340, 395 and 600 Housing Act 1985.		HoBHSL or duly authorised nominees

APPENDIX B - PROCESS FOR ELECTION OF MAYOR AND APPOINTMENT OF DEPUTY MAYOR

1. The Mayor of the Borough shall be elected annually by the Council from among the Members and, unless he resigns or becomes disqualified, shall continue in office until his/her successor becomes entitled to act as Mayor.
2. The election of the Mayor of the Borough shall be the first item of formal business transacted at the Annual Council Meeting.
3. The Council at the Annual Meeting shall appoint a Member of the Council as Deputy Mayor of the Borough and, unless he/she resigns or becomes disqualified, shall hold office as Deputy Mayor until immediately after the election of a Mayor at the next Annual Council Meeting.
4. Notwithstanding that the election/adoption is a matter for the Council to decide, the following procedure shall be observed for the selection of Members for the offices of Mayor and Deputy Mayor, and their subsequent formal adoption at the Annual Council Meeting:-
 - (a) The Member appointed as Deputy Mayor is to be selected on the understanding that he/she will normally be elected as Mayor the following year.
 - (b) The nomination for Mayor will normally be that of the retiring Deputy Mayor.
 - (i) Should the Deputy Mayor stand down, lose their seat, or for any other reason there be a contest, the procedure for nominating and selecting the Mayor will be as for the Deputy Mayor, as set out below.
 - (c) Candidates for the Office of Deputy Mayor (and/or Mayor) and their proposer and seconder shall be Members of the Council.
 - (i) Each nomination and the candidate's consent to nomination shall be submitted in writing, signed by all three Members, to the Chief Executive from the first day of May each year.
 - (ii) Nominations will close at NOON on the fifth day following ordinary local elections.
 - (iii) Should any candidate or subscriber to a nomination cease to be a Member of the Council prior to the close of nominations, then that nomination shall be invalid. Nothing shall prevent a Member being re-nominated before the close of nominations.

- (d) A list of validly nominated candidates shall be circulated, in confidence, to all Members of the Council at NOON on the fifth day following the ordinary local elections.
 - (i) A candidate may withdraw, by notice given in writing to the Chief Executive, by NOON on the seventh day following the ordinary local elections.
- (e) In the event of a contested selection for Deputy Mayor (and/or Mayor), postal ballot papers will be issued to all Members at NOON on the seventh day following the ordinary local elections.
 - (i) Ballot papers returned to the Chief Executive by NOON on the twelfth day following the ordinary local elections shall be kept in a secure place. Ballot papers received after this time will NOT be counted.
 - (ii) Should all ballot papers be received by the Chief Executive earlier than the twelfth day, then the counting of votes shall take place as soon as practicable.
 - (iii) The time and place for counting the votes shall be agreed by the Chief Executive in consultation with the Leader of the Council and the Leader of the main opposition Group.
 - (iv) Candidates shall be permitted to attend the counting of votes.
- (f) Voting shall be on the basis of “one Member, one vote” and the successful candidates identified by simple majority. In the event of an equality of votes for candidates, both names will be notified to Members of the Council, and the selection of the successful candidate shall be a matter for the Council to determine.
- (g) In the event of the death of a candidate after the close of nominations, the ballot shall become null and void. A further selection timetable will be agreed by the Chief Executive in consultation with the Leader of the Council and the Leader of the main opposition Group.
- (h) The formal adoption of the successful candidate(s) shall take place at the Annual Council Meeting.
- (i) Provided the above procedures are followed, it will normally be the case that no further nominations will be made at the Annual Council meeting.

