

# **CHAPTER 3**

## **Powers and Delegations**

## **Terms of Reference**

### **AUDIT AND SCRUTINY COMMITTEE**

**Number of Members:** 9

**Quorum:** 3

**Substitutes:** From members that have received regulatory training

**Frequency of Meetings:** 4 times in the municipal year

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#### **Main Purpose**

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.

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).

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

#### **1. 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. Regulatory Framework**

- 1) To review any issue referred to it by a Statutory Officer of the Council or any Council body.
- 2) 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.
- 3) To monitor the effective development and operation of risk management and corporate governance in the Council.
- 4) To monitor Council policies and strategies on an Annual basis
  - Whistleblowing
  - Money Laundering
  - Anti-Fraud and Corruption Insurance and Risk Management
  - Emergency Planning
  - Business Continuity
  - Regulation of Investigatory Power Act 2000 (RIPA)
- 5) To monitor the corporate complaints process.
- 6) To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.
- 7) To consider the Council's compliance with its own and other published standards and controls.
- 8) To monitor the Council processes in relation to
  - Freedom of Information
  - Member Enquires
- 9) To monitor the Council's Data Quality arrangements.
- 10) To monitor the Council's Member's Training arrangements.

- 11) To review performance indicators relating to the committee

### **3. Accounts**

- 1) 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.
- 2) To review the Council's Annual Governance Statement.
- 3) To consider the External Auditor's report to those charged with governance on issues arising from the audit of the accounts.

### **4. Scrutiny Activity**

- 1) Responsible to scrutinise any matters as identified and agreed by the Finance, Assets, Investment & Recovery Committee as set out in the Audit and Scrutiny Procedure rules.
- 2) To report to the Finance, Assets, Investment & Recovery Committee or the appropriate committee on the progress of any matters that have been requested and to make relevant recommendations as required.
- 3) To establish working groups as appropriate (in line with agreed protocols) to undertake the scrutiny of any matters requested by the Finance, Assets, Investment & Recovery Committee, including setting their terms of reference, the reporting arrangements, and to co-ordinate and review the work of the working groups.
- 4) 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.
- 5) To review and/or scrutinise decisions made, or other action taken, in connection with the discharge of any functions of the Local Authority.
- 6) To deal with those issues raised through the 'Councillor Call for Action' scheme in line with agreed protocols and procedures.
- 7) 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.

- 8) To make reports or recommendations to the Local Authority with respect to the discharge by the responsible authorities of their crime and disorder functions.

## **Terms of Reference**

### **CHIEF OFFICERS EMPLOYMENT COMMITTEE**

**Number of Members:** 9

**Quorum:** 3

**Substitutes:** Any Member from the same political group

**Frequency of Meetings:** As required

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#### **Main Purpose**

To be responsible for employment matters pertaining to the Chief Officers of the Council, as defined by this Constitution.

To establish a Chief Officers Appointment Sub-Committee for the purposes of conducting interviews and making appointments of the Chief Officers of the Council, except for the Statutory Officers, Strategic Directors and the Chief Executive (if not Head of Paid Service) which will be reserved to the Full Council.

To establish a Chief Officers Disciplinary and Appeals Sub-Committee for the purposes of conducting disciplinary hearings for Chief Officers of the Council and agreeing the dismissal of the Chief Officers of the Council, except for the Statutory Officers, Strategic Directors and the Chief Executive (if not Head of Paid Service) which will be reserved to the Full Council

To ensure the effective operation of the Officer Employment Procedure Rules contained in Part 4 of this constitution.

#### **Responsibility for Functions**

##### **Chief Officers Appointment Sub-Committee**

The Sub-Committee will be formed of 5 Members of the Chief Officers Employment Committee on a case by case basis. The Sub-Committee will, in so far as is practicable, reflect the political balance of the Council.

It will be responsible for:

1. Considering applications and conducting interviews for the Chief Officer roles.
2. Making recommendations to the Full Council for the appointment of Statutory Officers and the Strategic Directors.
3. Agreeing the appointment of all other Chief Officers.

Interim appointments of Directors, for 12 months or less are delegated to the Head of Paid Service.

## **Chief Officers Disciplinary and Appeals Sub-Committee**

The Sub-Committee will be formed of 5 Members of the Chief Officers Employment Committee on a case by case basis. The Sub-Committee will, in so far as is practicable, reflect the political balance of the Council.

A Member will be prevented from sitting on the Disciplinary and Appeals Sub-Committee for any particular Officer if that Member was part of the Appointment Sub-Committee for that same Officer.

It will be responsible for:

1. Undertaking disciplinary procedures in relation Chief Officers, including having regard to the recommendations of the Independent Person in relation to disciplinary matters involving the Statutory Officers.
2. Agreeing the dismissal of Chief Officers, other than the Statutory Officers.
3. Reporting the outcome of disciplinary processes and making dismissal recommendations to the Full Council in respect of Statutory Officers.
4. To consider grievances, submitted by Chief Officers, at stage 2 of the Council's grievance policy in circumstances where, in the opinion of the Monitoring Officer, following consultation with the Service Manager – People and OD, it would be prejudicial to the fair consideration of the grievance for it to be considered by a Strategic Director or the Chief Executive.

## **Terms of Reference**

### **CLEAN AND GREEN COMMITTEE**

**Number of Members:** 9

**Quorum:** 3

**Substitutes:** Any Member from the same political group

**Frequency of Meetings:** 4 times in the municipal year

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#### **Main Purpose**

The functions within the remit of the Clean and Green Committee are set out below:

1. Waste management, refuse collection and recycling.
2. Environmental improvement schemes.
3. The quality of the public realm, including street services and grounds maintenance.
4. Highway matters that are the responsibility of the Borough Council (including highway closures under the Town Police Clauses Act 1847) and drainage.
5. Public conveniences.
6. Cemeteries and closed churchyards.
7. Environmental Health.
8. Environmental nuisance and pollution controls
9. Other miscellaneous powers enforced by Environmental Health..
10. Unlawful incursions.
11. Operational facilities management (including maintenance) of the Town Hall and the Depot.
12. Oversee and monitor the enforcement activities of the Council.
13. Community Safety (including Community Safety Partnership) and CCTV.



14. To review performance indicators relating to the committee

15. To implement working parties as required.

## Terms of Reference

### FINANCE, ASSETS, INVESTMENTS & RECOVERY COMMITTEE

**Number of Members:** 9

**Quorum:** 3

**Substitutes:** Any member from the same political group

**Frequency of Meetings:** 4 times in the municipal year

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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.

The function within the remit of the Finance, Assets, Investment and Recovery 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.

#### **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.

#### **Finance**

- 1) Financial Services
- 2) Contracts, commissioning, procurement
- 3) Legal services
- 4) Health and safety at work (in so far as it relates to the Council as an employer)
- 5) Corporate communications and media protocols
- 6) Corporate and Democratic services
- 7) Human Resources
- 8) Information Communication Technology
- 9) Revenues and Benefits
- 10) Customer Services
- 11) Assets (strategically)

2. Overall responsibility for monitoring Council performance.
3. To formulate and develop relevant corporate policy documents and strategies including the Corporate Plan.
4. 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.
5. To formulate the Council's Borrowing and Investment Strategy and make recommendations to Council for approval.
6. To take decisions on spending within the annual budget to ensure delivery of the Council's priorities.
7. To approve the write off of any outstanding debt owed to the Council above the delegated limit of £5,000.
8. To determine capital grant applications.
9. To make recommendations on the allocation and use of resources to achieve the council's priorities.
10. To manage and monitor the Council approved budgets and allocation of resources.
11. To provide the lead on partnership working including the joint delivery of services.
12. To consider any staffing matters that are not delegated to Officers, such as proposals that are not contained within existing budgetary provision.
13. 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-

### **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.
- 14. 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).
16. To review and facilitate the transformation of delivery of services.

### **Transformation**

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

## **Projects**

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

## **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 any Committee in accordance with the Audit and Scrutiny Procedure Rules.
17. To consider any requests for sponsorship and use of the Council's Coats of Arms and logos.

## **Terms of Reference**

### **HOUSING, HEALTH AND COMMUNITIES COMMITTEE**

**Number of Members:** 9

**Quorum:** 3

**Substitutes:** Any Member from the same political group

**Frequency of Meetings:** 4 times in the municipal year

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#### **Main Purpose**

The functions within the remit of the Housing, Health & Community are set out below:

1. Community and Localism Initiatives including Assets of Community Value
2. The Voluntary Sector and community partnerships
3. Leisure and cultural initiatives
4. Parish Council Liaison
5. Health and Wellbeing
6. Grants to organisations/voluntary organisations.
7. Parks, open spaces, countryside, allotments
8. Affordable housing
9. Housing strategy and investment programme where the Finance, Assets, Investment & Recovery Committee does not decide to exercise such functions as the superior Committee.
10. The Housing Revenue Account Business Plan where the Finance, Assets, Investment & Recovery Committee does not decide to exercise such functions as the superior Committee
11. Housing standards, homelessness, homelessness prevention and advice

12. Housing needs assessment
13. Housing benefit - welfare aspects (was this going to (Finance, Assets, Investment & Recovery Committee)
14. Private sector housing and administration of housing grants
15. Tenancy Management and landlord functions
16. To make recommendations to Finance, Assets, Investment & Recovery Committee on the setting of rents for Council homes.
17. Food safety
18. Health & Safety
19. To take the lead on community leadership and consultation with stakeholders.
20. To review performance indicators relating to the committee
21. To implement working parties as required



## **Terms of Reference**

### **LICENSING COMMITTEE**

**Number of Members:** 12

**Quorum:** 4

**Substitutes:** From members that have received Licensing training

**Frequency of Meetings:** When required

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#### 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 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 drivers vehicles and operators
  - iii. Animal Welfare and Security
  - iv. Skin Piercing, Acupuncture, Electrolysis and Tattooing
  - v. Sex establishments (including Sex Entertainment Venues (SEV))
  - vi. Pavement Permits
  - vii. Charitable Collections
  - viii. Camping, Caravan Sites and Mobile Homes
  - ix. Scrap Metal

x. 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.

**Licensing Sub-Committee**

The Sub-Committee will be formed of 3 Members of the Licensing Committee. on a case by case basis. The Sub-Committee will, in so far as is practicable, reflect the political balance of the Council.

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.

## **Terms of Reference**

### **ORDINARY COUNCIL**

**Number of Members:** 39

**Quorum:** 10

**Substitutes:** None

**Frequency of Meetings:** As required

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#### **Main Purpose**

#### **Matters Reserved to meetings of Council**

The Council is the ultimate decision making body of Brentwood Borough Council and the principal forum for major political debate. All 39 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. 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) agree the Committee Calendar for the Municipal Year.

- (f) adopting and amending a members' allowances scheme under Chapter 6;
- (g) to elect the Leader and Deputy Leader of the Council;
- (h) to designate the Chairs and Vice Chairs of the Council;
- (i) adoption of the Code of Conduct for Members;
- (j) electoral and ceremonial matters relevant to the Council
- (k) changing the name of the Borough,
- (l) conferring the title of honorary alderman or freedom of the borough and alderman/alderwomen
- (m) setting the Council's Budget and Council Tax;
- (n) approving of the Council's Corporate Plan;
- (o) approving or adopting the Council policies and strategies which form the policy framework;
- (p) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (q) confirming the appointment or dismissal of the Chief Executive; Monitoring Officer; and Section 151 Officer;
- (r) to consider reports on cross cutting matters not expressly delegated to another committee;
- (s) 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.

## **Terms of Reference**

### **PLANNING COMMITTEE**

**Number of Members:** 12

**Quorum:** 4

**Substitutes:** From members that have received Licensing training

**Frequency of Meetings:** Monthly

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#### **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 policies 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.
- (vii) To determine fees and charges relevant to the committee;

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

- (c) 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.