

REVIEW OF THE CONSTITUTION

1 PURPOSE OF REPORT

- 1.1 This report contains proposed changes to the Council's Constitution following meetings between the Review Committee project team and the Monitoring Officer.

2 INTRODUCTION

- 2.1 It had been agreed by the Committee that a project team would look at issues that had arisen with some of the sections of the Constitution. In addition, the Monitoring Officer had the aim of completing a comprehensive review of the Constitution as this had not happened since 2007. Under the circumstances it was agreed that the Monitoring Officer undertake a comprehensive review, submitting changes to the project team for discussion and to obtain its input.
- 2.2 The Monitoring Officer is engaging and working with the Leadership Team and other relevant officers to ensure that views and issues are considered by the project team.

3 GENERAL

- 3.1 The project has three objectives:
- To conduct a review of the Council's Constitution and recommend amendments to Full Council to ensure the efficient, economic and effective functioning of the Council so that it can meet its objectives.
 - To update the language used so that the Constitution is easier to read by both Members and residents.
 - To address and incorporate relevant concerns raised by Members.

Progress of the Review

- 3.2 The review commenced during the 2016-2017 Municipal Year and the first report was submitted to Council on 25 April 2017. Unfortunately, the project team did not meet again until the 27 March 2018 due to time constraints on the Monitoring Officer.
- 3.3 Since this time there have been two scheduled meetings of the project team with an agreement that the team will meet every month on an ongoing basis until the review has been completed. The team have also agreed that they will work methodically through the rest of the Constitution taking each section in order rather than jumping from one section to another.
- 3.4 The project team have completed their initial review of Part 2 of the Constitution and their suggested amendments are appended.

- 3.5 In addition, the appointment of substitute members, questions by the public and the Overview and Scrutiny Procedure Rules have been amended and updated, as appended to this report.
- 3.6 At the February meeting of the Review Committee it was agreed that:
- (1) the wording in the Constitution associated with the Council's petition process be reviewed by the Review Committee's Constitution Project Team as soon as possible, with recommendations made to the Review Committee.
 - (2) the next meeting of the Project Team be provided with a draft of revised wording that could be included in the Constitution with a view to the process being clear and understandable. Legislation associated with the petitions process to be referenced.
 - (3) the Project Team consider the inclusion of an opportunity within the petitions process for the petition organiser, or their representative, to ask supplementary questions following his/her presentation at a meeting of Full Council and the inclusion of references to appropriate legislation in some other parts of the Constitution.
- 3.7 The team have since approved a draft of a new petitions scheme for the Constitution which covers the above recommendations; this is also appended to this report.
- 3.8 The team looked at the wording in paragraph 6 of the Review Committee (Overview & Scrutiny) procedures relating to the appointment of the Chairman. A suggested wording, reflecting minute 149/07, was put forward but the team could not come to an agreement. It was agreed to put forward the options of stating the chairman should come from the main opposition group or be nominated by the opposition groups as well as the original suggestion and let the Members of the Review Committee decide which option to recommend to Council.

4 RISK IMPLICATIONS

- 4.1 The review of the Constitution is necessary to ensure good governance, to avoid any unlawful decisions being taken and to reflect any changes to Council business and legislation.

5 CRIME AND DISORDER IMPLICATIONS

- 5.1 None

6 ENVIRONMENTAL IMPLICATIONS

- 6.1 None

7 RESOURCE IMPLICATIONS

7.1 None

8 LEGAL IMPLICATIONS

8.1 The Local Government Act 2000 requires the Council to have and maintain a Constitution that is fit for purpose and the business of the Council.

9 PARISH IMPLICATIONS

9.1 None

10 EQUALITY AND DIVERSITY IMPLICATIONS

11 There are no equality implications of the recommendations within this report

12 RECOMMENDATION

12.1 It is proposed that the Committee **RECOMMENDS** that Council adopts the proposed changes attached to this report.



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Assistant Director (Legal) and Monitoring Officer

Background Papers:-

None.

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If you would like this report in large print, Braille or another language please contact 01702 318111.

Appendix

| CONSTITUTION | CURRENT | RECOMMENDED CHANGE | REASONS |
|--|---|--|---|
| PART 2 ARTICLES OF THE CONSTITUTION | | | |
| Article 4 | Paragraph a (i) (ii) | Amendment to policy framework to delete: Best Value Performance Plan Sustainable Community Strategy to add: Community Safety Partnership Action Plan Local Code of Corporate Governance Corporate Equality Policy | No longer statutory requirement and to update Council's policy framework |
| Article 14 | Article 14 (a) | To add: "Such other changes of a factual nature as may seem appropriate to make the Constitution internally consistent and up to date may be made by the Monitoring Officer in consultation with the Standards Committee." | To allow for efficiency of amendments to the Constitutional that are factual and minor in nature. |
| Article 15 | Article 15.01 (a) | To add: except for 23.1, 17.5 and 18.2 | For clarification and reflect Council procedure rule 23.1 on page 4.17 |
| PART 4 RULES OF PROCEDURE | | | |
| | Council Procedure Rules 4. Appointment of Substitute Members of the Committees and | Changes as per appended | To allow for efficiency and clarity of procedure for the running of Committees and Members. |

| | | | |
|-------------------------------|--|---|--|
| | Sub- Committees | | |
| | Council Procedure Rules 10. Questions by the public | Changes as per appended | To allow for efficiency and clarity of procedure for the public. |
| | Overview an Scrutiny Procedure Rules | Changes as per appended Working group recommends that the Chairman of Review should be drawn from either the main opposition group or nominated by the opposition groups. It should be noted that Council decision (min 149/07) is that the Chairman of Review should be a Member from the opposition. | To amend and update. Overview and Scrutiny now Review Committee |
| Part 5 Codes and Protocols | | | |
| | Petitions | Changes as per appended | For clarity of procedure for the public and for Members |

Article 4 – The Full Council

4.01 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:-
- (i) those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) to be adopted by the Council:-
- ~~Best Value Performance Plan;~~
 - ~~Sustainable Community Strategy;~~
 - ~~Community Safety Partnership Action Plan~~~~Crime and Disorder Reduction Strategy;~~
 - Development Plan documents¹
 - Licensing Authority Policy Statement
 - Plans and alterations which together comprise the Development Plan;
 - Plans or strategies for the control of the Council's borrowing or capital expenditure;
 - Plans or strategies or draft plans or strategies of any of the above descriptions which have to be submitted to the Secretary of State or a Minister for approval.
- (ii) other plans and strategies of a kind recommended by guidance to be adopted by the Council as part of the Policy Framework:-
- ~~Council's Business Plan (if any);~~
 - Local Code of Corporate Governance
 - ~~The plan and strategy which comprise the Housing Investment Programme;~~
 - Corporate Equality Policy
- (b) **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, but does not include the approval of supplementary estimates, the setting of fees and charges and other minor variations to budget or capital programme, so far as these are delegated to an officer, the Executive or a Committee.

Comment [AL1]: No longer a statutory requirement

Comment [AL2]: The Sustainable Community Strategy was a compulsory document when having a LSP was a statutory requirement.

This statutory obligation ceased around 2011 when the Castle Point and Rochford LSPs merged under a new arrangement. So we no longer have a Sustainable Community Strategy in place.

¹ Functions relating to local development documents which are not development plan documents are the responsibility of the executive of an authority. Development plan documents include core strategy, site-specific allocations of land and area action plans.

Article 14 – Review and Revision of the Constitution

14.01 Duty to Monitor and Review the Constitution

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

14.02 Protocol for Monitoring and Review of Constitution by Monitoring Officer

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:-

1. observe meetings of different parts of the Member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

14.03 Changes to the Constitution

- (a) **Approval.** Changes to the Constitution will only be approved by the Full Council after consideration of the proposal by the Monitoring Officer. Such other changes of a factual nature as may seem appropriate to make the Constitution internally consistent and up to date may be made by the Monitoring Officer in consultation with the Standards Committee.
- (b) **Change within a mayoral form of Executive.** Unless the change relates only to the operation of Overview and Scrutiny Committees, any resolution of the Full Council to approve a change will have no effect without the written consent of the Mayor.
- (c) **Change from a mayoral form of Executive to another form of Executive.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum. The change will not take effect until the end of the Mayor's term of office.

Article 15 – Interpretation and Publication of the Constitution

15.01 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles in Part 2 of this Constitution may not be suspended. The Rules in Part 4, except for 23.1, 17.5 and 18.2 may be suspended to the extent permitted within those Rules and the law. Other parts of the Constitution may be suspended in any lawful manner from time to time.
- (b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors are present. 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.

Comment [AL1]: Reference to part 4 page 4.17, rule 23.1

15.02 Interpretation

The ruling of the Chairman of the Council 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 purposes of this Constitution contained in Article 1.

15.03 Publication

- (a) The Assistant Director, Legal, Services will give a printed copy of this Constitution to each Member of the Authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.
- (b) The Assistant Director, Legal Services will ensure that copies are available for inspection at Council offices, libraries, online and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Assistant Director, Legal Services will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

4. **APPOINTMENT OF SUBSTITUTE MEMBERS OF THE ~~REGULATORY AND PROBITY~~ COMMITTEES AND SUB-COMMITTEES**

4.1 Substitute Members may be nominated for ~~Regulatory and Probity~~ Committees or their Sub-Committees by each political group represented on the Committee or Sub-Committee and shall comprise a number no greater than the number equal to the number of ordinary Members nominated by a political group to that Committee or Sub-Committee.

~~4.2~~ A Substitute Member attending a ~~Meeting-meeting~~ of a Committee or Sub-Committee has the same powers and responsibilities as a full Member of the Committee or Sub-Committee.

~~4.24.3~~ A Substitute Member attending a meeting is expected to have read all relevant papers and to be fully prepared to participate in the meeting.

~~4.4~~ A Member or Substitute Member first in attendance at a meeting of a Committee or Sub-Committee cannot be substituted or replaced during the course of that meeting.

~~4.5~~ Substitute members may attend meetings in that capacity only:
(i) to take the place of the ordinary member for who they are the designated substitute and
(iii) after the ordinary Member of the Committee or Sub-Committee has notified Member Services in writing or by email confirming who will be their nominated substitute and specifying the Committee or Sub-Committee 24 hours before the date of the meeting, at the latest.

In the event of the ordinary Member of the ~~Ce~~ommittee or Sub-Committee being present at the start of the meeting, the ordinary Member may advise, prior to the start of the meeting, that the substitution shall not take place.

~~4.3~~ A list of substitutes nominated in accordance with Rule 4.1 should be supplied to the Proper Officer at any time up to the commencement of the meeting to which it relates and substitutions shall be made by the political group in order of precedence so that when a substitution is made the Member in attendance at the meeting and highest on the list of substitutes will be the next substitute for his/her political group.

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10. QUESTIONS BY THE PUBLIC

10.1 General

Members of the public may ask 1 questions of Members of the ~~Executive~~Council at the direction of the Chairman, at ordinary meetings of the Council. The maximum time limit for asking each question is 3 minutes. ~~The maximum time limit for a supplementary question is 1 minute. The total time for public questions shall not exceed 15 minutes with a maximum of 5~~people.

10.2 Order of Questions

Questions will be asked in the order notice of them was received, ~~except that the Chairman may group together similar questions.~~

10.3 Notice of Questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Managing Director no later than midday ~~7 days before on~~ the day of the meeting. Each question must:

- I. ~~give the name and address of the questioner, and must and~~
- II. ~~name the Member of the Council to whom it is to be put and,~~
- III. ~~be relevant to items on the published agenda.-~~

10.4 Number of Questions

At any one meeting no person may submit more than ~~2-1~~ questions and no more than 2 such questions may be asked on behalf of one organisation.

10.5 Scope of Questions

The Managing Director in consultation with the Chairman may reject a question if it:-

- is not about a matter for which the local authority has a responsibility or which affects the district;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- requires the disclosure of confidential ~~or exempt~~ information.

10.6 Record of Questions

The Managing Director will enter each question in a book open to public inspection and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions will be circulated to all Members and will be made available to the public attending the meeting.

10.7 Asking the Question at the Meeting

The Chairman will invite the questioner to put the question ~~to the Member named in the notice~~. If a questioner who has submitted a written question is unable to be present, they may ask the Chairman to put the question on their behalf. The Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given or

decide, in the absence of the questioner, that the question will not be dealt with.

~~10.8~~ **~~Supplemental Question~~** 10.8 No supplemental questions may be asked.

~~A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question.~~

~~A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 10.5 above.~~

10.9 Written Answers

Any question which cannot be dealt with during public question time, ~~either because of lack of time or because of the non-attendance of the Member to whom it was to be put,~~ will be dealt with by a written answer within 5 working days of the date of the meeting.

10.10 Reference of Question to the Executive or a Committee

Unless the Chairman decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Executive or the appropriate Committee or Sub-Committee. Once seconded, such a Motion will be voted on without discussion.

REVIEW COMMITTEE (OVERVIEW AND SCRUTINY) PROCEDURE RULES

1. The Council will appoint one Review Committee which will perform all overview and scrutiny functions on behalf of the Council. The Review Committee may appoint Sub-Committees.
 - (a) The Review Committee will consist of fifteen Members of the Council.
 - (b) Within its remit under Article 6 of this Constitution the terms of reference of the Review Committee will be:-
 - i) the performance of all Overview and Scrutiny functions on behalf of the Council.
 - ii) the appointment of such Sub-Committees as it considers appropriate to fulfil those Overview and Scrutiny functions;
 - iii) to receive reports from the Leader/~~Spokesperson~~ at its first meeting after each Annual Council meeting on the Council's priorities for the coming year and its performance in the previous year;
 - iv) to approve an annual ~~Overview and Scrutiny~~Review Committee work programme, including the programme of any Sub-Committees it appoints so as to ensure that the Committee's and Sub-Committee's time is effectively and efficiently utilised;
 - v) where matters fall within the remit of more than one ~~Overview and Scrutiny~~Review Committee Sub-Committee, to determine which of those Sub-Committees will assume responsibility for any particular issue;
 - vi) to put in place a system to ensure that referrals from ~~Overview and Scrutiny~~Review Committee to the Executive either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution;
 - vii) in the event of reports to the Executive exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of the Executive or jeopardises the efficient running of Council business at the request of the Executive, to make decisions about the priority of referrals made.
 - viii) To monitor the Council's budget, both in respect of forward planning and medium term financial strategy, including in depth review and analysis of not just policy issues, but also specific areas of work.

- ix) Where appropriate, to conduct joint reviews with adjoining Councils.

2. **Who May sit on the Review Committee?**

All Councillors except Members of the Executive may be Members of the Review Committee. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

3. **Co-optees**

The Review Committee shall be entitled to recommend to Council the appointment of non-voting co-optees.

4. **Meetings of the Review Committee**

There shall be at least ten ordinary meetings of the Review Committee in each year. Additional meetings may be called from time-to-time as and when appropriate. A Review Committee meeting may be called by the Chairman of the Review Committee, by any four Members of the Committee or by the Proper Officer if he/she considers it necessary or appropriate.

5. **Quorum**

The quorum for a Review Committee shall be as set out for Committees in the Council Procedure Rules in Part 4 of this Constitution.

6. **Who Chairs Review Committee Meetings?**

The Chairman of the Review Committee will be drawn from among the opposition Councillors sitting on the Committee and, subject to this requirement, the Council may appoint such a person as it considers appropriate as Chairman.

Comment [AL1]: FC decision 26.04.07

7. **Work Programme**

The Review Committee will be responsible for setting its own work programme and in doing so it shall take into account the wishes of Members of that Committee.

8. **Agenda Items**

- 8.1 Any Member of the Review Committee shall be entitled to give 5 working days notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.

- 8.2 Any 2 Members of the Council who are not Members of the Review Committee may give 5 working days written notice to the Proper Officer that they wish an item to be included on the agenda of the Review Committee. If the Proper Officer receives such a notification, then he/she will include the item on the first available agenda of the Committee for consideration.
- 8.3 The Review Committee shall also respond, as soon as its work programme permits, to requests from the Council and if it considers it appropriate the Executive to review particular areas of Council activity. Where it does so, the Review Committee shall report its findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the Review Committee at the next available meeting.

9. Policy Review and Development

- (a) The role of the Review Committee in relation to the development of the Council's budget and policy framework is set out in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Review Committee may make proposals to the Executive for developments in so far as they relate to matters within its terms of reference.
- (c) The Review Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. It may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. It may ask witnesses to attend to address it on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

10. Reports from the Review Committee

- (a) Once the Review Committee has formed recommendations on proposals under paragraph 9 above, the Proper Officer will submit its formal report for consideration by the Executive or, if the Review Committee so requests, by the Council (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If the Review Committee cannot agree on one single final report to the Council or the Executive as appropriate, then minority reports may be prepared and submitted for consideration by the Council or Executive with the majority report.

- (c) The Council or Executive shall consider the report of the Review Committee at the next available meeting after it is submitted to the Proper Officer.

6. Making Sure that Overview and Scrutiny Reports are Considered by the Executive

The agenda for the Executive meetings shall include an item entitled "Issues arising from the Review Committee". The reports of the Review Committee referred to the Executive shall be included at this point in the agenda (unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda) of the next available Executive or Council after the Review Committee has completed its report/recommendations.

12. Rights of Review Committee Members to Documents

- (a) All Councillors have the right to documents and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution as well as any specific rights they may have as Members.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and Review Committee as appropriate, depending on the particular matter under consideration.

13. Members and Officers Giving Account

- (a) The Review Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the Scrutiny role, it may require any Member of the Executive and/or any senior officer to attend before it to explain in relation to matters within their remit:-
 - i) any particular decision or series of decisions;
 - ii) the extent to which the actions taken implement Council policy; and/or
 - iii) their performanceand it is the duty of those persons to attend if so required.
- (b) Where any Member or officer is required to attend a Review Committee under this provision, the Chairman of the Committee will inform the Proper Officer. The Proper Officer shall inform the Member or officer in writing giving at least 5 working day's notice of the meeting at which he/she is required to attend. The notice will

state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (c) Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, the Review Committee shall, in consultation with the Member or officer, arrange an alternative date for attendance to take place at an agreed date, within a maximum of one working month from the date of the original request.

14. Attendance by Others

The Review Committee may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and officers in other parts of the public sector and shall invite such people to attend.

15. Call-In

Call-in should only be used in exceptional circumstances.

- (a) When a decision is made by the Executive, Investment Board or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available to all Members of the Council within two days of being made.
- (b) The decision notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless called in by the Review Committee.
- (c) During that period, the Proper Officer shall:-
 - (i) call in a decision for scrutiny by the Review Committee if so requested by the Chairman or any 3 Members of that Committee and shall then notify the Chairman of the Executive or Investment Board of the call-in.
- (d) Having considered the decision, if the Review Committee still has concerns, then the Committee may refer the matter back to be re-considered by the Executive or, Investment Board setting out the nature of its concerns in writing or refer the matter direct to the next Full Council also setting out the nature of its concerns.

- (e) Any matter referred to Full Council by the Review Committee shall be included for debate on the agenda of the next ordinary Full Council meeting.

Call-In and Urgency

- (f) The call-in procedure set out above shall not apply where the decision being taken by the Executive or the Investment Board is urgent. A decision will be urgent if any delay likely to be caused would, for example, seriously prejudice the interest of the Council or the public.
- (g) The record of the decision, and notice by which it is made public, shall state whether, in the opinion of the Executive or the Investment Board, the decision is an urgent one and therefore not subject to call-in. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (h) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

16. The Party Whip

When considering any matter in respect of which a Member of the Review Committee is subject to a party whip the Member must declare the existence of the whip, and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

17. Procedure at Review Committee Meetings

- (a) the Review Committee shall consider the following business:-
 - i) minutes of the last meeting;
 - ii) declarations of interest (including whipping declarations);
 - iii) consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
 - iv) responses of the Executive to reports of the Review Committee; and
 - v) the business otherwise set out on the agenda for the meeting.

- (b) Where the Review Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:-
 - i) that the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
 - iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee shall prepare a report for submission to the Executive and/or Council as appropriate and shall make its report and findings public.

September 2014

4.46

PETITIONS SCHEME

1. Introduction

- 1.1 The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement within ~~10-5~~ working days of receipt. This acknowledgement will ~~set out~~ inform and confirm what the Council intends to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition and the organiser agrees.
- 1.2 For practical purposes we will not class it as a petition unless it has reached at least 10 signatures from people who live, work or study in the Rochford District. ~~we set a requirement of at least 10 signatures before we will treat it as a petition. Whilst we like to hear from people who live, work or study in the Rochford District, this is not a requirement.~~
- 1.3 In the following paragraphs details are given on how you can go about submitting a petition, the different types of petition and how, in certain cases, special rules apply.
- 1.4 Petitions will be considered by the Assistant Director, Democratic Services to ensure they are not vexatious, abusive or otherwise inappropriate. ~~which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted.~~

2. Guidelines for submitting a petition

- 2.1 Paper petitions should be sent to:

The Assistant Director,
Democratic Services,
Rochford District Council,
Council Offices,
South Street,
Rochford,
Essex,
SS4 1BW

or, in the case of a consultation petition (see paragraph 3.5 below), to the address given in the consultation.

- 2.2 You may also use the Council's online e-petitions facility to create, sign and submit a petition by following the link below or going to the Council's petitions page and then accessing the e-petitions website.

2.23.2 It is advised that Councillors should not act as the petitioner for reasons of bias and predetermination. If a Councillor wishes to petition the Council then they will not be allowed to participate on the debate or vote on the matter.

2.3 Petitions [link here](#) can be presented to ordinary meetings of the Council. ~~These meetings take place 5 times a year.~~ Dates and times can be found on the Council's website. If you would like to present your petition to the Council, ~~or would like your Councillor~~ or someone else to present it on your behalf, please contact the Member Services Team at the Council (contact details are given at the end of this document) at least 10 working days before the meeting and they will talk you through the process and help with any questions.

2.4 A petition must include:-

- a clear and concise statement covering the subject of the petition and a statement of what action the petitioners wish the Council to take.
- the name and address and signature of any person supporting the petition.

2.5 Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the website.

2.6 In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply.

3. **Types of Petition**

3.1 There are different types of petition as set out below. How your petition is dealt with depends on which type you submit.

Ordinary petitions

3.2 These are any petition not included in the types below. Please note that a petition which raises issues of possible Councillor misconduct will be dealt with under separate standards procedures, rather than under the petitions scheme.

3.3 Similarly, a petition that makes a complaint about the conduct of a Council Officer may need to be dealt with under the Council's complaints procedure.

3.4 We would let you know how we intend to proceed.

Consultation petitions

- 3.5 These are petitions in response to an invitation from the Council for comments as part of a consultation on a particular matter. For example, on a planning or licensing application or a proposed policy or strategy affecting a community. A petition on such a matter will be reported to the meeting, person or body with responsibility for taking the decision.

Governance petitions

- 3.6 There are certain matters where an Act of Parliament requires the Council to consider a petition from local electors. For example, a petition calling for a referendum on having a directly elected mayor or asking for the creation of a parish or community council in part of the Council's area. This petitions scheme does not apply to such petitions.
- 3.7 Advice about these petitions should be sought from the Member Services Team (contact details are given at the end of this document).

Petitions for debate

- 3.8 In addition to a right for a petition to be presented directly at a Council meeting (see paragraph 2.3), a petition will be debated at a Council meeting if it contains ~~more than 1500~~1500 or more signatures.
- 3.9 ~~A petition receiving fewer signatures may still be the subject of debate at a public meeting of the council, or other council body, if it is decided that this is the best way of dealing with the matter. In such cases, the organiser of the petition will be notified in advance and have the opportunity of speaking at the meeting and being questioned by Councillors. If ayour petition contains at least 750 signatures but less than 1500 it will be debated, at a public meeting of the Council's Review Committee*.~~
- 3.10 More information about petitions for debate at Council meetings is given in section 6 below.

~~Petitions to hold officer to account~~

- 3.11 ~~If a petition asks for a Senior Officer on something for which they are responsible as part of their job to give evidence to a public meeting and it contains at least 750 signatures, the Senior Officer will give evidence at a meeting of the Council's Review Committee*. The officer must be identified in the petition by name or job title.~~

(*The Review Committee is a Committee of Councillors responsible for reviewing and scrutinising the work of the Council and holding decision making and decision makers to account.)

~~More information about this type of petition is given in section 7 below.~~

4. What will the Council do when it receives a petition?

- 4.1 An acknowledgement will be sent to the petition organiser within ~~40~~5 working days of receiving the petition. The acknowledgement will advise on what the Council plans to do with the petition and when the organiser can expect to hear from the Council again. It will also be published on the Council's website.
- 4.2 If the Council can do what the petition asks for, the acknowledgement will confirm that the action requested has been taken and the petition will be closed. If the petition has enough signatures to trigger a debate at a Council meeting, or a senior officer giving evidence, then the acknowledgment will confirm this and advise when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps the Council plan to take.
- 4.3 To ensure that people know what the Council is doing in response to petitions received, the details of all petitions submitted will be published on our website, except in cases where this would be inappropriate. When you sign an e-petition you can elect to receive this information by email. We will not send you anything which is not relevant to the e-petition you have signed, unless you choose to receive other emails from us.

5. How will the Council respond to a petition?

- 5.1 The response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:
- taking the action requested in the petition
 - considering the petition at a meeting of the Council or other council body such as the Executive (cabinet), or the Review Committee
 - holding an inquiry into the matter
 - undertaking research into the matter
 - holding a public meeting
 - holding a consultation
 - holding a meeting with petitioners
 - calling a referendum
 - writing to the petition organiser setting out the Council's views about the request in the petition
- 5.2 In addition to these steps, the Council will consider what specific actions are available to address the issues highlighted in the petition.

- 5.3 If a petition is about something over which the Council has no direct control (for example the railway or a hospital) the Council will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and, where possible, will work with appropriate partners to respond to your petition. If we are not able to do this for any reason (such as if what the petition calls for conflicts with Council policy) we will set out the reasons for this to you.
- 5.4 If the petition is about something that a different council is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other council, but could involve other steps. In any event we will always notify you of the action we have taken.

6. **Debates at Council or Review Committee meetings**

- 6.1 A petition containing ~~more than 1,500~~ 1500 or more signatures will be debated at a Council meeting ~~unless it is asking for a senior council officer to give evidence at a public meeting about something for which the officer is responsible for as part of their job~~. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser or their representative will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of 15 minutes. The petition organiser or their representative will be given the opportunity to sum up at the end of the debate for a maximum of 1 minute if they so wish ~~ask supplementary questions following their presentation~~.
- 6.2 The Council will decide how to respond to the petition at the meeting. It may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter. For example by a relevant Committee.
- 6.3 Where the issue is one on which the council's Executive (cabinet) is required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of the decision which will also be published on the Council's website.

7. **~~Officer evidence~~**

- 7.1 ~~Your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible, as part of their job. For example, it may ask the officer to explain progress on an issue, or to~~

~~explain the advice given to Councillors to enable them to make a particular decision.~~

- 7.2 If your petition contains at least 750 signatures but less than 1500 it will be debated, ~~the relevant senior officer will give evidence~~ at a public meeting of the Council's Review Committee. ~~A list of the senior staff which comprise the Council's officer Leadership Team that can be called to give evidence can be found on the Council's website in part 7 of the Council's constitution. You should be aware that the Review Committee may decide that it would be more appropriate for an officer other than the one named in the petition to give evidence — for instance if the named officer has changed jobs.~~ The Committee may ~~also~~ decide to call a relevant Officer or Councillor to attend the meeting. Committee members will ask the questions at the meeting, but you will be able to suggest questions to the Chairman of the Committee by contacting the Member Services Team up to three working days before the meeting.

7.3 The Review Committee will make recommendations to Council or the Council's Executive on how to respond to the petition.

8. **E-petitions**

- 8.1 E-petitions can be created and submitted through the website. E-petitions must follow the same guidelines as other petitions set out above. The petition organiser will need to provide their name, postal address and email address. The organiser will also need to decide how long the petition should be open for signatures. Most petitions run for six months, but a shorter or longer timeframe can be chosen, up to a maximum of 12 months.
- 8.2 When you create an e-petition, it will take five working days before it is published online.
- 8.3 If we feel we cannot publish your petition for some reason, we will contact you within the five working days to explain. You will be able to consider changing and resubmitting the petition if you wish. If this is not done within 10-5 working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the Council's website.
- 8.4 When an e-petition has closed for signature, it will automatically be submitted to the Member Services Team. In the same way as a paper petition the organiser will receive an acknowledgement within 10-5 working days. If you would like to present your e-petition to a meeting of the Council, please contact the Member Services Team within 10-5 working days of receipt of the acknowledgement.
- 8.5 A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on this website.

9 **How do I 'sign' an e-petition?**

- 9.1 You can see all the e-petitions currently available for signature by following [this link](#) to our petitions page and then accessing the e-petitions website.
- 9.2 When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

10 **What can I do if I feel my petition has not been dealt with properly?**

- 10.1 If it is felt that the petition has not been dealt with properly, the petition organiser has the right to request that the Council's Review Committee review the steps that the Council has taken in response to the petition. The petition organiser must give a short explanation of the reasons why the Council's response is not considered to be adequate.
- 10.2 The Review Committee will endeavour to consider the request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Committee determine the petition has not been dealt with adequately, it may use any of its powers to deal with the matter. These include commencing an investigation, making recommendations to the Council or the Executive ~~(Cabinet)~~ and arranging for the matter to be considered at a meeting of the Full Council.
- 10.3 Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results will also be published on the Council's website.

Contact Details:-

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~~This document accords with the Local Democracy, Economic Development and Construction Act 2009 which has since been repealed.~~