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## REPORTS FROM THE EXECUTIVE AND COMMITTEES TO COUNCIL

### REPORT OF THE REVIEW COMMITTEE

#### 1 Review of the Constitution

- 1.1 This item of business was referred by the Review Committee on 10 January 2017 to Full Council with a recommendation on alterations to the Council's Constitution. An extract of the key elements of the report of the Assistant Director, Legal Services and Monitoring Officer to the Committee is attached at Appendix 1.
- 1.2 The Committee noted that the majority of the changes proposed were to bring the Constitution in line with current legislation and present day practice and to enable the use of plain English.
- 1.3 All Members of the Council should take the opportunity to read the detail of the proposed changes.
- 1.4 The Committee recognised that the review was a substantial and detailed task and that the original timescale of April for completion would not be achievable. This was in line with the experience of other local authorities.
- 1.5 The Committee project team should be in a position to complete the review of Parts 1 and 2 of the Constitution at its next meeting. Part 3 would be broken down into a series of milestones, with the Monitoring Officer keeping Members updated on progress.
- 1.6 It is proposed that Council **RESOLVES**:-
  - (1) That the proposed alterations to Parts 1 and 2 of the Council's Constitution and the Officers' Code of Conduct, as detailed in Appendices A and B of the officer report, be adopted, whilst noting that further amendments may need to be made to these sections and submitted to Council as the review progresses.
  - (2) That the proposed alterations to the Whistleblowing Policy and Procedure in the Constitution be adopted and that this section be removed from the Constitution and replaced by a reference to the Policy, which will be kept up to date by the Council's Human Resources department.

#### 2 Annual Report

- 2.1 The Constitution states that 'the Review Committee must report annually to Full Council on its workings and make recommendations for future work programmes and amended working methods, if appropriate'.

- 2.2 At its meeting on 4 April 2017 the Review Committee approved its Annual Report for submission to Council. This is attached at Appendix 2.
- 2.3 It is proposed that Council **RESOLVES** to receive the Annual Report, as attached at Appendix 2.

## REVIEW OF THE CONSTITUTION

### 1 SUMMARY

- 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. In addition, the Monitoring Officer is keeping the Leader of the Council and the Managing Director informed and up to date on the progress of the review.

### 3 GENERAL

- 3.1 The project has three objectives:
- To conduct a review of the Council 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.
- 3.2 Due to the size and complexity of the subject the project has been split into 3 phases:
- Phase 1
- Part 1 – Summary and Explanation
  - Part 2 - The Articles
  - Whistleblowing Policy
  - Officer Code of Conduct

Phase 2

- Member Code of Conduct (amendments to be referred to the Standards Committee in the first instance)
- Protocol Member on Officer and Member relations
- Contract Procedure Rules
- Code of Good Practice for Planning
- Scheme of delegation in relation to Planning

Phase 3

- Rules of procedure
- Part 3 of the Constitution
- Part 5 – Petitions
- Part 6
- Part 7
- Contents Page
- Updating the language used to make the Constitution easier to read

- 3.3 Phase 1 has been almost completed apart from a couple of areas, which are currently being investigated.
- 3.4 The main proposed changes include the replacing of references to “citizen” with “resident” and the general amendments to make the sections more readable and clear. The proposed amendments to each section are attached as track changes on the Appendices to this report.
- 3.5 Other Councils do not usually include the whole whistleblowing policy in their Constitutions as it is regarded as a Human Resources document. The team were happy with the amendments that had been suggested due to changes in the law but felt that the policy document itself should be removed from the Constitution.
- 3.6 It was felt that reference to the whistleblowing policy should be included in the Constitution, including that it will be kept up to date by Human Resources and that Members should refer to the Monitoring Officer for advice on whistleblowing if necessary.
- 3.7 The intention is for the review to be completed by April 2017 and for all changes to have been submitted to Council for approval in time for the 2017/18 Municipal Year.
- 3.8 As mentioned earlier, Phase 1 has almost been completed and a document summarising the proposed changes is attached as Appendix A with copies of the amended sections of the Constitution attached as Appendix B. The following areas are still being reviewed / investigated:

- A process whereby minor alterations to the Constitution, such as role changes or changes brought about by legislation, can be made without reference to Full Council.
- Possible options around public speaking at Council meetings.

3.9 It is recommended that the areas of the Constitution that are not in need of amendment or change will not be reviewed.

#### **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 RESOURCE IMPLICATIONS**

5.1 None.

#### **6 LEGAL IMPLICATIONS**

6.1 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.

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

**(Appendix A)**

<b>CONSTITUTION</b>	<b>CURRENT</b>	<b>RECOMMENDED CHANGE</b>	<b>REASONS</b>
PART 1 SUMMARY AND EXPLANATION			
	Delete “Rochford District Council adopted a new Constitution in 2002. This has subsequently been reviewed on an annual basis to take into account changes made to the way the Council conduct its business.”	Replace with “The Local Government Act 2000 requires the Council to prepare, keep and up to date and publicise a document known as the Constitution.”	Plain English and up to date.
	Delete references to “Citizens”	Replace with “Residents”	Plain English and user friendly terminology.
	Delete Paragraph 4.2 “board of 8”	Amend with “up to 9”	In accordance with legislation. It is within the gift of the Leader to appoint up to 9 Cabinet members
	Delete “Overview and Scrutiny”	Replace with “Review Committee (Overview and Scrutiny)”	Up dating
	Delete Paragraph 5.1 “ There is one Overview and Scrutiny Committee, the Review committee, which supports the work of the Executive, the other Committees and the Council as a whole”	Replace “The Review Committee carries out a supportive and investigative role, overseeing and scrutinizing the work of the Executive, other committees and the Council as a whole”	Summarizing terms of reference for the committee and updating.
	Delete Paragraph 7.1 “The local Citizens’ Advice Bureau can advise	Delete	Due to changing circumstances in their resources – CAB is not the only

**(Appendix A)**

<b>CONSTITUTION</b>	<b>CURRENT</b>	<b>RECOMMENDED CHANGE</b>	<b>REASONS</b>
	on the individuals legal rights”		option for legal advice for our residents.
	Amend Paragraph 7.3 “Complaint o the Council’s Standards Committee....”	Replace Standards Committee with Monitoring Officer	All complaints are referred to the Monitoring Officer and can be referred to the Standards committee.
	Paragraph 7.4	Deletion of fax number Add postcode	No longer in use
<b>PART 2 ARTICLES OF THE CONSTITUTION</b>			
Article 1 – The Constitution		None	None
Article 2 – Members of the Council	“The ordinary election of a third (or as near as may be) of all Councillors will be held on the first Thursday in May in each year beginning in 2003, except that in 2005 and every fourth year after there will be no regular election. The terms of office of Councillors 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.”	Replace with “The regular election of all Councillors will generally be held on the first Thursday in May each year (for three out of four years, with the County Council elections being held on the fourth year). The terms of office of Councillors, subject to them making a declaration of office, will start on the fourth day after their election and will finish on the fourth day after the date of the regular election four years later.”	Up to date

(Appendix A)

CONSTITUTION	CURRENT	RECOMMENDED CHANGE	REASONS
Article 3 – Citizens and the Council	Delete references to “Citizens”	Replace with “Residents”	Plain English and user friendly terminology.
	Voting and Petitions - no signpost to procedure	Add “The Council’s petitions scheme (Part 5, page 5.37) enables residents’ in the District to submit a petition on an issue of concern.”	Clarity for residents.
	Amend 3.01(b)(iii) reference to “forward plan”	Replace with “Key Decision Document”	Update
	Amend 3.01 (d)(iii) “The Standards Board For England or the Council’s Standards Committee about a breach of the Councillor’s Code of Conduct.”	Replace with “ <u>The Council’s Monitoring Officer</u> about a breach of the Councillor’s Code of Conduct.2	Update. The Standards Board is obsolete and the procedure is to report any complaint to the MO.
Article 4 – The Full Council	Delete reference to ‘Corporate Plan’	Replace with ‘Business Plan’	Up date.
	Delete paragraph C -	None	No longer relevant as the Stock Transfer was completed in 2007.
	Amend paragraph 4.02 (a) “adopting and changing the Constitution”	Replace with “ adopting and changing the Constitution <u>other than set out in Article 14</u> ”	Consistency.
	Amend paragraph 4.02 (g) “ adopting an allowances scheme under Article 2.05”	Replace with “adopting an allowances scheme under Article 2.05 ( <u>details of which can be found under Part 6 of this Constitution</u> )”	Transparency and consistency



(Appendix A)

CONSTITUTION	CURRENT	RECOMMENDED CHANGE	REASONS
Article 5 – Chairing the Council	None	N A	N\A
Article 6 – O & S Committee	Amend Title “Overview and Scrutiny Committee”	Replace “Review Committee (Overview and Scrutiny Committee)	Up date
	Amend Paragraph 6.01 “The Council will appoint an Overview and Scrutiny Committee to discharge the functions conferred by S21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000. The Overview and Scrutiny Committee will be titled the Review Committee and have eight Members or as the Council shall decide.”	Replace with “ The Council will appoint a <u>Review Committee to overview and scrutinise decisions</u> and to discharge the functions conferred by S21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000. The Overview and Scrutiny Committee will be titled the Review Committee and have <u>fifteen</u> Members or as the Council shall decide.”	Update
Article 7 – The Executive		Add Paragraph 7.03 (d) “They are disqualified”	Update
	Amend paragraph 7.05 (b) “ they are suspended from being Councillors under Part II of the Local Government Act 2000 (although they may resume office at the end of the period of suspension)”	Replace with “They are disqualified”	Update – the law has been repealed on suspension.
Article 8 – Regulatory and other	None	N\A	N\A

(Appendix A)

CONSTITUTION	CURRENT	RECOMMENDED CHANGE	REASONS
Committees			
Article 9 – Standards Committee	Amend paragraph 9.03 “ The Independent Persons will be invited to attend the meetings of the Standards Committee”	Replace with “ The <u>3</u> Independent Persons <u>appointed by the Monitoring Officer</u> will be invited to attend the meetings of the Standards Committee”	Update
Article 10 – Joint Arrangements	None	N\A	N\A
Article 11 - Officers	Delete paragraph 11.03 (d) “ <b>Receiving reports.</b> The Monitoring Officer will receive and act on reports made by Ethical Standards Officers and decisions of case tribunals.”	N\A	Up date -
	Amend paragraph 11.03 (e) “ <b>Conducting investigations.</b> The Monitoring Officer will conduct investigations into matters <u>referred by the Standards Committee or Ethical Standards Officers and make reports or recommendations in respect of them to the Standards Committee.</u> ”	Replace with“ The Monitoring Officer will conduct investigations in to matters of conduct and make report and recommendations to the Standards Committee”	Update
Article 12 – Decision Making	Delete part “decisions relating to the	Replace “decisions relating to the	update

(Appendix A)

CONSTITUTION	CURRENT	RECOMMENDED CHANGE	REASONS
	engagement and payment of staff, <u>unless the Chief Executive determines otherwise</u> ”	engagement and payment of staff”	
Article 13 - Finance, contracts and legal matters	None	N\A	N\A
Article 14 – Review and revision of constitution	None	N\A	Note: It is recommended that amendments merely of a factual basis such as names of Officers, minor administrative or technical legal amendments should be delegated to the Monitoring Officer unless she thinks otherwise.
Article 15 – Interpretation and publication of the Constitution	None	N\A	N\A
Part 5 - Officers Code of Conduct	Amend paragraph 1.1” This Code of Conduct is intended to apply to all employees of the Council. It explains in practical terms the standards of behaviour required under the law, under Conditions of Service, and under Council policy and Procedure Rules”	Replace with “This Code of Conduct <u>applies to</u> all employees of the Council. It explains in practical terms the standards of behaviour required under the law, under Conditions of Service, and under Council policy and Procedure Rules.”	Clarification
	Amend paragraph 3.3 “Employees must report any impropriety, breach of procedure, unlawfulness or	Replace with “Employees <u>must be aware of the Council’s Whistleblowing Procedure</u> and	Update and clarification

(Appendix A)

CONSTITUTION	CURRENT	RECOMMENDED CHANGE	REASONS
	maladministration to the appropriate manager or the Authority’s Monitoring Officer.”	report any impropriety, breach of procedure, unlawfulness or maladministration <u>through the appropriate channels and if necessary to one of the named officers in the Authority’s Whistleblowing Procedure including the Monitoring Officer.</u>	
	Delete part of paragraph 7.1 “Employees involved in appointments should ensure that these are made on the basis of merit. It is unlawful for an employee to make an appointment that is based on anything other than the ability of the candidate to undertake the duties of the post. <u>These principles and the Council’s recruitment procedures are detailed in the Council’s Managers’ Guide”</u>	Replace with “Employees involved in appointments should ensure that these are made on the basis of merit. It is unlawful for an employee to make an appointment that is based on anything other than the ability of the candidate to undertake the duties of the post.”	Update
	Amend paragraph 8.3 “Employees’ off-duty hours are their personal concern but they should not subordinate their duty to private interests to put themselves in a position where duty and private	Replace with “8.3 Employees’ off-duty hours are their personal concern but they should not subordinate their duty to private interests to put themselves	Update and clarification

(Appendix A)

CONSTITUTION	CURRENT	RECOMMENDED CHANGE	REASONS
	<p>interests conflict. The Council will not preclude employees from undertaking additional employment, but any such employment must not, in the view of the Council, conflict with or react detrimentally to the Council's interests, or in any way weaken public confidence in the conduct of the Council's business.”</p>	<p>in a position where duty and private interests conflict; <u>this is not limited to other paid employment and may include issues relating to personal standards of conduct.</u></p> <p>8.4 The Council will not preclude employees from undertaking additional employment, but any such employment must not, in the view of the Council, conflict with or react detrimentally to the Council's interests, or in any way weaken public confidence in the conduct of the Council's business. <u>If in doubt seek the view of the Monitoring Officer.</u>”</p>	
	<p>Amend in paragraph 13.1 nominal value “£25”</p>	<p>Amend “Corruption may include receiving any payment, gift (other than a gift of a nominal value <u>(£25)</u>) hospitality, or any other benefit from any person or organisation who a member of staff deals with in their work, irrespective of what it is in</p>	<p>Clarification</p>

**(Appendix A)**

CONSTITUTION	CURRENT	RECOMMENDED CHANGE	REASONS
		respect of, including tips, and payment for additional 'private work'. It is also irrelevant whether any benefits are directly to an officer or to the officer's family or friends.	
Whistleblowing policy		Amendments were made to the policy due to statutory changes. Policy should also be removed from the Constitution and sit with other HR policies.	Amendments to be approved at Council and recommendation to remove from the Constitution.

## **PART 1**

# **SUMMARY AND EXPLANATION**





## 1. Summary and Explanation

- 1.1 ~~The Local Government Act 2000 requires the Council to prepare, keep up-to-date and publicise a document known as the Constitution. Rochford District Council adopted a new Constitution in 2002. This has subsequently been reviewed on an annual basis to take into account changes made to the way the Council conducts its business.~~ The Constitution sets out how the Council operates, how decisions are made and the procedures followed to ensure that these are efficient, transparent and accountable to local people. Some processes within the Constitution are required by the law, while others are a matter for the Council to choose.
- 1.2 The Constitution is divided into 16 articles that set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

## 2. What's in the Constitution?

- 2.1 Article 1 of the Constitution commits the Council to provide clear leadership, involve ~~citizens-residents~~ and take decisions and deliver services efficiently and effectively to the community. Articles 2 – 15 explain the rights of ~~citizens-residents~~ and how the key parts of the Council operate. These are:-

- Members of the Council (Article 2).
- ~~Citizens-Residents~~ and the Council (Article 3).
- The Council Meeting (Article 4).
- Chairing the Council (Article 5).
- Overview and Scrutiny of Decisions (Article 6).
- The Executive (Article 7).
- Regulatory and Other Committees (Article 8).
- The Standards Committee (Article 9).
- Joint Arrangements (Article 10).
- Officers (Article 11).
- Decision Making (Article 12).
- Finance, Contracts and Legal Matters (Article 13).
- Review and Revision of the Constitution (Article 14).
- Suspension, Interpretation and Publication of the Constitution (Article 15).

## 3. How the Council Operates

- 3.1 The Council is composed of 39 Councillors, with one-third elected three years in four. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them. Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Council has a Standards Committee that offers advice and training on these matters.

#### 4. Decision Making

- 4.1 All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council decides on all major policies affecting the District and the services the Council provides. It also appoints the Executive Leader, sets up Committees and is the final arbiter in any differences between them.
- 4.2 The Executive is the part of the Council responsible for most day-to-day decisions. The Executive comprises the Leader and a Board of 8 up to 9 other Councillors whom he/she appoints. When major decisions are to be discussed or made, these are published in the Executive's Key Decisions Document so far as they can be anticipated. If these major decisions are to be discussed with Council officers at a meeting of the Executive, this will generally be open for the public to attend, except where personal or confidential matters are being discussed. The Executive has to make decisions in line with the Council's overall policies and budget. If the Executive wishes to make a decision that is outside the budget or policy framework, the matter must be referred to the Council as a whole to decide.
- 4.3 A number of Committees carry out specific regulatory functions: a Development Committee, a Standards Committee, an Audit Committee, a Licensing Committee and an Appeals Committee.
- 4.4 The Council is increasingly working in partnership with other agencies to deliver its Community Strategy and the roles and responsibilities of Councillors will continue to develop outside the formal Committee structure in line with this partnership agenda.
- 4.5 Meetings of the Council's Committees are open to the public except where personal or confidential matters are being discussed.

#### 5. Review Committee (Overview and Scrutiny)

- 5.1 The Review Committee carries out a supportive and investigative role, overseeing and scrutinizing the work of the Executive, other Committees and the Council as a whole~~There is one Overview and Scrutiny Committee, the Review Committee, which supports the work of the Executive, the other Committees and the Council as a whole.~~ This Committee allows citizens-residents to have a greater say in Council matters by holding inquiries in public into matters of local concern. This can lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery. The Review Committee also monitors the decisions of the Executive. It can 'call-in' a decision that has been made by the Executive but which has not yet been implemented.

This enables it to consider whether the decision is appropriate. It may recommend that the decision-making body or Full Council re-considers the decision. The Review Committee may also be consulted by the Executive on forthcoming decisions and the development of policy.

## 6. The Council's Staff

6.1 The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A Code of Practice governs the relationships between officers and Members of the Council.

## 7. ~~Citizens' Residents'~~ Rights

7.1 ~~Citizens-Residents~~ have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. ~~The local Citizens' Advice Bureau can advise on individuals' legal rights.~~

7.2 Where members of the public use specific Council services they may have additional contractual rights. These are not covered in this Constitution.

7.3 ~~Citizens-Residents~~ have the right to:-

- Vote at local elections if they are registered;
- Contact their local Councillor about any matters of concern to them;
- Obtain a copy of the Constitution;
- Attend meetings of the Council and its Committees and the Executive when key decisions are to be taken, except where, for example, personal or confidential matters are being discussed;
- Petition to request a referendum on a Mayoral form of Executive;
- Participate in the Council's question time and contribute to investigations by the Review Committee;
- See Council, Executive and Committee reports and background papers, and any record of decisions made by the Council, the Executive and their Committees;
- Complain to the Council when dissatisfied with a service provided or action taken by the Council or on its behalf by a contractor;
- Complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- Complain to the Council's ~~Standards Committee~~ Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- Inspect the Council's accounts and make their views known to the external auditor.

- 7.4 The Council welcomes participation by its citizens-residents in its work. For further information on your rights as a citizen-resident, please contact Member Services, Council Offices, South Street, Rochford, SS4 1BW; Telephone 01702 546366 ~~fax 01702 318154~~; email *memberservices@rochford.gov.uk*. Further information is also available on the Council's website at [www.rochford.gov.uk](http://www.rochford.gov.uk)

## **PART 2**

# **ARTICLES OF THE CONSTITUTION**



## Article 1 – The Constitution

### 1.01 Powers of the Council

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

### 1.02 The Constitution

This Constitution, and all its appendices, is the Constitution of the Rochford District Council.

### 1.03 Purpose of the Constitution

The purpose of the Constitution is to:-

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens in the process of local authority decision making;
3. help Councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no-one will review or scrutinise a decision in which they were directly involved;
7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. provide a means of improving the delivery of services to the community.

### 1.04 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

## Article 2 – Members of the Council

### 2.01 Composition and Eligibility

- (a) **Composition.** The Council will comprise 39 Members, otherwise called Councillors. One or more Councillors 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 District or those living or working there will be eligible to hold the office of Councillor.

### 2.02 Election and Terms of Councillors

**Election and Terms.** ~~The regular election of all Councillors will generally be held on the first Thursday in May each year (for three out of four years, with the County Council elections being held on the fourth year). The terms of office of Councillors, subject to them making a declaration of office, will start on the fourth day after their election and will finish on the fourth day after the date of the regular election four years later. The ordinary election of a third (or as near as may be) of all Councillors will be held on the first Thursday in May in each year beginning in 2003, except that in 2005 and every fourth year after there will be no regular election. The terms of office of Councillors 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.~~

### 2.03 Roles and Functions of All Councillors

- (a) **Key Roles.** All Councillors will:-
  - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision-making;
  - (iii) effectively represent the interests of their ward and of individual constituents;
  - (iv) respond to constituents' enquiries and representations, fairly and impartially;
  - (v) participate in the governance and management of the Council; and
  - (vi) maintain the highest standards of conduct and ethics.
- (b) **Rights and Duties**
  - (i) Councillors will have such 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.



June 2013

- (ii) Councillors will not make public information that is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

#### 2.04 **Conduct**

Councillors will at all times observe the Members’ Code of Conduct and have proper regard for the Code of Conduct on Planning Matters and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

#### 2.05 **Allowances**

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

#### 2.06 **Training**

The Council will ensure that Councillors have the opportunity for adequate training for their roles and duties.

## Article 3 – Citizens-Residents and The Council

### 3.01 Citizens’-Residents’ Rights

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

- (a) **Voting and Petitions.** Citizens-Residents on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected Mayor form of Constitution. The Council’s petitions scheme (Part 5, page 5.37) enables residents’ in the District to submit a petition on an issue of concern.
- (b) **Information.** Citizens-Residents have the right to:-
  - (i) attend meetings of the Council and its Committees, except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) attend meetings of the Executive when key decisions are being considered;
  - (iii) find out from the ~~forward plan~~Key Decision Document what key decisions will be taken by the Executive and when;
  - (iv) see reports and background papers and any records of decisions made by the Council; and
  - (v) inspect the Council’s accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens-Residents have the right to participate in the Council’s question time and to contribute to investigations by the Review Committee.
- (d) **Complaints.** Citizens-Residents have the right to complain to:-
  - (i) the Council itself under its complaints scheme;
  - (ii) the Ombudsman after using the Council’s own complaints scheme;
  - (iii) the ~~Standards Board for England or the Council’s Standards Committee~~Council’s Monitoring Officer about a breach of the Councillor’s Code of Conduct.

### 3.02 Citizens’-Residents’ Responsibilities

Citizens-Residents must not be violent, abusive or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers.

## 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;
  - Crime and Disorder Reduction Strategy;
  - Development Plan documents <sup>1</sup>
  - 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 ~~Corporate Plan~~Business Plan (if any);
  - The plan and strategy which comprise the Housing Investment Programme;
- (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.
- ~~(c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes~~

<sup>1</sup> 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.

~~where approval is required under sections 32 or 43 of the Housing Act 1985.~~

**Comment [AL1]:** N/A – we have already transferred our stock.

#### 4.02 Functions of the Full Council

Only the Council will exercise the following functions:-

- (a) adopting and changing the Constitution other than set out in Article 14;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) appointing the leader ;
- (d) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or budget where the decision-maker is minded to make it in a manner that would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (e) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them (except for authorised substitutions to Committees under Rule 4 of the Council Procedure Rules in Part 4 of this Constitution);
- (f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.05 (details of which can be found under Part 6 of this Constitution);
- (h) adopting a Members' Code of Conduct;
- (i) changing the name of the district;
- (j) conferring the title of Honorary Alderman;
- (k) confirming the appointment of the Head of Paid Service;
- (l) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills; and
- (m) all other matters which by law must be reserved to Council.

#### 4.03 The Full Council is not required to approve:-

- (i) amendments or revocations of any plan or strategy necessary to give effect to the requirements of the Secretary of State or Minister made when he was asked to approve it;

- (ii) amendments or revocations to any plan or strategy if the Council has delegated the power to amend or revoke it to a Committee or Sub-Committee or officer, either in this Constitution or at the time it approved the plan or strategy.

#### 4.04 **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 Part 4 of this Constitution.

#### 4.05 **Responsibility for Functions**

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive.

## Article 5 – Chairing The Council

### 5.01 Role and Function of the Chairman

The Chairman of the Council and, in his/her absence, the Vice-Chairman, will have the following roles and functions:-

#### **CEREMONIAL ROLE**

The Chairman acts in a non-political capacity as a symbol of the Authority. On civic and ceremonial occasions the Chairman represents the District and its inhabitants and fulfils the role of ambassador for the Council in its relationship with society at large.

#### **CHAIRING THE COUNCIL MEETING**

The Chairman will be elected by the Council annually. The Chairman will have the following responsibilities:-

1. to uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary;
2. to preside over meetings of the Council in an impartial fashion so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
3. 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 who are not on the Executive or hold Committee Chairmanships are able to hold the Members of the Executive and Committee Chairmen to account;
4. to promote public involvement in the Council's activities;
5. to be the conscience of the Council; and
6. to attend such civic and ceremonial functions of the Council as he/she determines appropriate.

## Article 6 – Review Committee (Overview and Scrutiny Committee) (~~Review Committee~~)

### 6.01 Terms of Reference

The Council will appoint a Review Committee to n-Overview and Scrutinyscrutinise -Committeedecisions and to discharge the functions conferred by S21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000. The Overview and Scrutiny Committee will be titled the Review Committee and have eight-fifteen Members or as the Council shall decide.

### 6.02 General Role

Within this Constitution, the Review Committee may:-

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) make reports and/or recommendations to the Full Council and/or the Executive or any Joint Committee in connection with the discharge of any functions;
- (iii) consider any matter affecting the area or its inhabitants;
- (iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive.

### 6.03 Specific Functions

- (a) **Policy Development and Review.** The Review Committee may:-
  - (i) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
  - (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
  - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
  - (iv) question Members of the Executive and other Committees, Chief Officers and Heads of Service about their views on issues and proposals affecting the area; and
  - (v) 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.
  - (vi) conduct joint reviews, as appropriate, with adjoining Councils.

- (b) **Scrutiny.** The Review Committee may:-
- (i) review and scrutinise the decisions made by and performance of the Executive, other Committees and Council officers both in relation to individual decisions and over time;
  - (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
  - (iii) question Members of the Executive, other Committees and Chief Officers 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;
  - (iv) review and scrutinise the decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions;
  - (v) make recommendations to the Executive and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
  - (vi) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Review Committee and local people about their activities and performance; and
  - (vii) question and gather evidence from any person (with their consent).
- (c) **Finance.** The Review Committee may be allocated funding for its role by the Council and will exercise overall responsibility for the finances made available to it.
- (d) **Annual Report.** The Review Committee must report annually to Full Council on its workings and make recommendations for future work programmes and amended working methods, if appropriate.
- (e) **Officers.** The Review Committee may exercise overall responsibility for the work programme of the officers employed to support its work.

#### 6.04 **Proceedings of the Review Committee**

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



## Article 7 – The Executive

### 7.01 Role

The Executive will carry out all of the local authority's functions that are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

### 7.02 Form and Composition

The Executive will consist of the Leader, together with at least 2 but not more than 9 Councillors, appointed to the Executive by the Executive Leader.

### 7.03 Leader

The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office until:-

- (a) the day when the Council holds its first annual meeting after the Leader's normal day of retirement as a Councillor or
- (b) if the Council becomes subject to whole-Council elections, the day of the annual meeting following the first whole-Council election; or
- (c) they resign from the office; or
- (d) they are disqualified; or
- (e) they are removed from office by resolution of the Council.

7.04 The Leader and any Member of the Executive may attend any Committee to which they have not been appointed by name and may speak but not vote.

### 7.05 Other Executive Members

Other Executive Members shall hold office until:-

- (a) they resign from office; or
- (b) ~~they are disqualified they are suspended from being Councillors under Part II of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or~~
- (c) they are no longer District Councillors; or
- (d) they are removed from office by the Leader who must give written notice to the proper officer. The removal will take effect two working days after receipt of the notice by the proper officer.

**Comment [AL2]:** No longer applicable and repealed in law.

### 7.06 Proceedings of the Executive

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this constitution.

### 7.07 Responsibility for Functions

The Leader will maintain a list in Part 3 of this Constitution setting out which individual Members of the Executive, Committees of the Executive, officers or

joint arrangements are responsible for the exercise of particular Executive functions.

**7.08 Failure to Attend**

- (a) If a Member of the Executive fails throughout a period of 6 months from his last attendance to attend a meeting of the Executive then, unless the failure was due to some reason approved by the District Council, he or she shall cease to be a Member of the District Council.
- (b) the discharge by a Member, acting alone, of any function which is the responsibility of the Executive shall each be deemed to be attendance at a meeting of the Executive.

June 2013

## Article 8 – Regulatory and Other Committees

### 8.01 **Regulatory and Other Committees**

The Council will appoint the Committees set out in Part 3 of this Constitution to discharge the functions under each Committee therein.

## Article 9 - The Standards Committee

### 9.01 Standards Committee

The Council will establish a Standards Committee.

### 9.02 Composition

(a) **Membership.** The Standards Committee will be composed of-

- Eight elected District Members appointed proportionally (of whom one Member may be a Member of the Executive nominated by the Leader of the Council).
- Three Parish Council co-opted, non-voting Members.

### 9.03 Independent Persons

The 3 Independent Persons appointed by the Monitoring Officer will be invited to attend the meetings of the Standards Committee.

### 9.04 Role and Function

The Standards Committee will have the following roles and functions:-

- (a) promoting and maintaining high standards of conduct by Councillors and co-opted Members;
- (b) assisting the Councillors and co-opted Members to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;
- (f) granting dispensations under certain circumstances to Councillors and co-opted Members from requirements relating to interests set out in the Members' Code of Conduct;
- (g) dealing with written allegations that a Member or co-opted Member has failed, or may have failed, to comply with the Members Code of Conduct set out in Part 5;
- (h) determining the annual Member Training Programme.

June 2013

**ADDITIONAL PARISH COUNCIL ROLE IN DISTRICT AND UNITARY  
COUNTY COUNCILS**

- (i) the exercise of (a) to (g) above in relation to the Parish Councils wholly or mainly in its area and the Members of those Parish Councils.

**9.05 Hearings**

Hearings of the Standards Committee will be conducted in accordance with the Procedure for Local Determinations set out in Part 4 of this Constitution.

## Article 10 – Joint Arrangements

### 10.01 Arrangements to Promote Well-Being

The Council or Executive, in order to promote the economic, social or environmental well-being of its area, may:-

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

### 10.02 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more Local Authorities and/or their Executives to exercise functions which are not Executive 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) The Executive may establish joint arrangements with one or more Local Authorities to exercise functions which are Executive functions. Such arrangements may involve the appointment of joint Committees with these other Local Authorities.
- (c) Except as set out below, the Executive may only appoint Executive Members to a Joint Committee and these Members need not reflect the political composition of the Local Authority as a whole.
- (d) The Executive may appoint Members to a Joint Committee from outside the Executive in the following circumstances:-
- (e) The Joint Committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Executive may appoint to the Joint Committee any Councillor who is a Member for a ward which is wholly or partly contained within the area.
- (f) The political balance requirements do not apply to such appointments.
- (g) Details of any joint arrangements including any delegations to Joint Committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

**10.03 Access to information**

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the Members of a Joint Committee are Members of the Executive in each of their participating authorities then its access to information regime is the same as that applied to the Executive.
- (c) If the Joint Committee contains Members who are not on the Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

**10.04 Delegation to and from Other Local Authorities**

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

**10.05 Contracting Out**

The Council may, for non executive functions and the Executive for executive functions, contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

## Article 11 – Officers

### TERMINOLOGY

#### 11.01 Management Structure

- (a) **General.** The Full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The Full Council will engage persons for the following posts, who will be designated Chief Officers:-

Post	Functions and Areas of Responsibility
Managing Director (and Head of Paid Service)	<p>Overall corporate management and operational responsibility (including overall management responsibility for all officers) as set out in the management structure contained in Part 7 of the Constitution.</p> <p>Ensuring appropriate 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 the Council's decisions.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p>

- (c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer.**

The Council will designate the following posts as shown:-

Post	Designation
Managing Director	Head of Paid Service
Assistant Director, Legal Services	Monitoring Officer
Section 151 Officer	Chief Finance Officer

Such posts will have the functions described in Article 11.02 – 11.04 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 and deployment of officers. This is set out at Part 7 of this Constitution.

#### 11.02 Functions of the Head of Paid Service



- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (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 he/she is a qualified accountant.

### 11.03 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 Full Council or the Executive in relation to executive functions if he or 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) **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- ~~(d) **Receiving reports.** The Monitoring Officer will receive and act on reports made by Ethical Standards Officers and decisions of case tribunals.~~
- ~~(e)~~(d) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters ~~of conduct referred by the Standards Committee or Ethical Standards Officers~~ and make reports ~~or and~~ recommendations ~~in respect of them to~~ the Standards Committee.
- ~~(f)~~(e) **Proper Officer for access to information.** The Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly available as soon as possible.
- ~~(g)~~(f) **Advising whether Executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- ~~(h)~~(g) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.

~~(h)~~ **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

~~(i)~~ **Designation of Deputy.** An officer will be designated by the Monitoring Officer to deputise for her during any absence.

#### 11.04 Functions of the Chief Finance 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 Full Council or to the Executive in relation to executive functions and the Council's external auditor if he or 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, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.
- (e) **Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

#### 11.05 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 officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

#### 11.06 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

#### 11.07 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

## Article 12 – Decision Making

### 12.01 Responsibility for Decision Making

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

### 12.02 Principles of Decision-Making

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

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes;
- (f) consideration of all options available;
- (g) only relevant matters to be taken into account;
- (h) due weight to be given to all material considerations and
- (i) proper procedures shall be followed.

### 12.03 Types of Decision

- (a) Decisions Reserved to Full Council

Decisions relating to the functions listed in Article 4.02 will be made by the Full Council and not delegated.

- (b) Key Decisions

A key decision means an Executive decision that is likely:-

- (i) to result in the local authority incurring expenditure which is, or the making of savings which are significant, having regard to the local authority's budget for the service or function to which the decision related.
- (ii) To be significant in terms of its effects on communities living or working in an area comprising two or more Wards in the area of the District of Rochford.

June 2013

In accordance with section 38 of the 2000 Act, in determining the meaning of “significant” for the purposes of this paragraph regard shall be had to any guidance for the time being issued by the Secretary of State.

For the time being a key decision in terms of expenditure or savings will be an executive decision which exceeds £50,000, excluding the following:-

- decisions relating to borrowing and investment within the Council’s treasury management strategy;
  - decisions relating to the engagement and payment of staff, ~~unless the Chief Executive determines otherwise~~;
  - decision relating to the sale and purchase of land or property below £250,000;
  - decisions about the acquisition of and payment for vehicles, plant, machinery, goods, supplies and services where these can be dealt with within budget and in accordance with existing Council policy, Contract Procedure Rules and Financial Regulations, and where the cost does not exceed £250,000;
  - decisions about capital schemes where these are already contained within the approved capital programme, and can be dealt with in accordance with existing Council policy, contract standing orders and financial regulations, and where the contract does not exceed £250,000 and
- (iii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

#### 12.04 Decision-Making by the Full Council

The Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### 12.05 Decision-Making by the Executive

Subject to Article 12.07, the Executive will follow the Executive Procedure Rules set out in part 4 of the Constitution when considering any matter.

#### 12.06 Decision-Making by the Review Committee

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

**12.07 Decision Making by Other Committees and Sub-Committees Established by this Council**

Other Council Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

**12.08 Decision Making by Council Bodies Acting as Tribunals**

The Council, a Councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords 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 13 – Finance, Contracts and Legal Matters

### 13.01 Financial Management

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

### 13.02 Contracts

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4 of this Constitution.

### 13.03 Legal Proceedings

The Assistant Director, Legal Services 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 Assistant Director, Legal Services considers such action is necessary to protect the Council's interests.

### 13.04 Authentication of Documents

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

Any contract with a value exceeding £30,000 entered into on behalf of the Local Authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the Common Seal of the Council attested by at least one officer.

### 13.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Assistant Director, Legal Services. 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. The Common Seal will be affixed to those documents which in the opinion of the Assistant Director, Legal Services should be sealed. The affixing of the Common Seal will be attested by the Assistant Director, Legal Services or some other person authorised by him/her.

## 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.
- (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 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.

### 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 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.



## Schedule 1: Description of Executive Arrangements

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

- (1) Article 6 (Overview & Scrutiny Committees) and Part 4 (Overview & Scrutiny Procedure Rules)
- (2) Article 7 (The Executive) and Part 4 (Council Procedure Rules)
- (3) Article 10 (Joint Arrangements)
- (4) Article 12 (Decision Making) and Part 4 (Access to Information Procedure Rules)
- (5) Part 3 (Responsibility for Functions)



## Whistleblowing Policy and Procedure

### Contents

#### Section One – Policy and Procedure Overview

- 1 Policy Statement
- 2 Policy Principles
- 3 Procedure Overview
  - Stage 1
  - Stage 2
  - Stage 3
- 4 Scope of this Policy
- 5 Links to other Policies/Procedures
  - Grievance Policy
    - The difference between a Grievance and a Protected Disclosure
    - The Council's Corporate Complaints Policy

#### Section Two – Procedure

- 1 Roles and Responsibilities
- 2 The Procedure
  - Raising a Complaint
    - Stage 1
    - Stage 2
    - Stage 3
  - The types of Misconduct that might justify Whistleblowing
  - The Routes of Disclosure that are protected
  - Disclosures Elsewhere
  - Disclosures in Exceptionally Serious Cases
  - Designated Officers under this Procedure
  - The Responsible Officer

- 3 More Information
- 4 Policy Ownership and Effective Dates

Section One – Policy and Procedure Overview

**1 Policy Statement**

- 1.1 Rochford District Council is committed to the provision of the highest quality services for the benefit of the local community and to full accountability for those services.
- 1.2 Although the Council has set in place rules, regulations, quality standards and procedures to ensure that the highest standards of conduct and commitment to service are observed, it recognises that malpractice can occur.
- 1.3 The Council is not prepared to tolerate any such malpractice in the performance and delivery of its services and will treat any complaints very seriously.
- 1.4 The Council encourages all individuals to raise concerns that they may about the conduct of others in the business or the way in which the business is run.
- 1.5 The whistle-blower's identity will, so far as is possible, be kept confidential.
- 1.6 Any employee who, in good faith, makes allegations that turn out to be unfounded will not be penalised for being genuinely mistaken.
- 1.7 Legislation provides protection for workers who raise legitimate concerns about specified matters. These are called "qualifying disclosures". A qualifying disclosure is one made in good faith by an employee who has a reasonable belief that:-
  - a criminal offence;
  - a miscarriage of justice;
  - an act creating risk to health and safety;
  - an act causing damage to the environment;
  - a breach of any other legal obligation; or
  - concealment of any of the above

is being, has been, or is likely to be, committed. It is not necessary for the worker to have proof that such an act is being, has been, or is likely to be, committed – a reasonable belief is sufficient.

A worker who makes such a protected disclosure has the right not to be dismissed, subjected to any other detriment, or victimised, because he/she has made a disclosure.

**2 Policy Principles**

- 2.1 Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Workers should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of.

- 2.2 Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the worker who raised the issue.
- 2.3 No worker will be victimised for raising a matter under this procedure. This means that the continued employment and opportunities for future promotion or training of the worker will not be prejudiced because he/she has raised a legitimate concern.
- 2.4 Victimisation of a worker for raising a qualified disclosure will be a disciplinary offence.
- 2.5 If misconduct is discovered as a result of any investigation under this procedure the Council's disciplinary procedure will be used, in addition to any appropriate external measures.
- 2.6 Maliciously making a false allegation is a disciplinary offence.
- 2.7 An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, workers should not agree to remain silent. They should report the matter to the Human Resources Business Partner or another named officer.

### **3 Procedure Overview**

#### **Stage 1**

- 3.1 The Council encourages workers to raise their concerns under this procedure in the first instance. If a worker is not sure whether or not to raise a concern, he/she should discuss the issue with his/her line manager or Human Resources.

#### **Stage 2**

- 3.2 The issue will be investigated and necessary action will be taken such as reporting the issue to one of the regulatory bodies. The worker will be advised of the outcome of the investigation (subject to legal constraints).

#### **Stage 3**

- 3.3 The worker can report the issue to the Human Resources Business Partner or another officer designated in this policy if they consider that the issue has not been investigated appropriately or if they consider that they cannot raise the issue with their line manager.
- 3.4 If on conclusion of Stages 1, 2 and 3 the worker reasonably believes that the appropriate action has not been taken, he/she should report the matter to the proper authority (see Section Two – Procedure).

### **4 Scope of this Policy**

- 4.1 ~~This policy applies to all employees of the Council. Other individuals performing functions in relation to the organisation, such as agency workers and contractors, are encouraged to use it.~~ This policy applies to all employees of the Council. Other

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individuals defined as workers are protected by the Public Disclosure Act 1998 (PIDA) although only employees can claim unfair dismissal if dismissed because of whistleblowing. However, both workers and employees can claim detrimental treatment under the legislation. "Workers" include those undergoing training or work experience as part of a training course and agency workers.

4.2 This policy statement covers any malpractice by:-

- Any Member of Rochford District Council.
- Any officer of Rochford District Council.
- Any partner, contractor, supplier or consultant of Rochford District Council in the course of their work for the Council.

## **5 Links to other Policies/Procedures**

### **Grievance Policy**

5.1 If an employee is concerned that his/her own contract has been, or is likely to be, broken, he/she should use the Council's grievance procedure.

### **The difference between a Grievance and a Protected Disclosure**

5.2 The following illustrates the difference between a grievance and a protected disclosure.

5.3 A grievance will concern an employee personally, i.e. the individual may have a complaint about:-

- his or her pay or working hours;
- the amount of work that he or she is expected to do;
- working conditions; or
- being bullied by fellow workers.

5.4 A protected disclosure, on the other hand, will concern the conduct of another person in the workplace (whether or not that conduct affects the complainant personally), in circumstances where the complainant genuinely believes that the conduct in question amounts to a criminal offence, a breach of a legal obligation, or something likely to endanger health or safety or damage the environment.

<b>Examples of the difference between a Grievance and a Protected Disclosure</b>	
<b>Grievance</b>	<b>Protected Disclosure</b>
An employee's complaint about the type of work that he or she is being asked to do, for example if it is not covered by his or her contract	A disclosure that an individual has been instructed to carry out actions that he or she genuinely believes to be illegal, e.g. to falsify tax returns
A employee's complaint that he or she has received insufficient safety training	A disclosure that safety rules within the workplace are routinely being flouted, thus endangering safety
An employee's complaint about the hours that he or she is expected to work	A disclosure that the requirements imposed by the company on a group of staff represent a breach of the working time legislation

### **The Council's Corporate Complaints Policy**

5.5 The Council's corporate complaints procedure should be used where any concerns, issues or complaints have been identified that do not fall under the specified scope of the Whistleblowing policy (see Policy statement for details of qualifying disclosures under the Whistleblowing policy).

#### Section Two – Procedure

### **1 Roles and Responsibilities**

1.1 Line Managers are expected to:-

- Be familiar with the policy and be clear on the distinction between a grievance and a complaint raised under the scope of this policy.
- Treat all such disclosures as confidential and seek the advice of Human Resources should they become aware of a complaint raised under this policy.
- Take all complaints raised under this policy or any other complaints policy, seriously and seek to resolve issues as soon as practicable.
- Undertake or participate in an investigation into a complaint raised under this procedure as appropriate.
- Not victimise the employee or worker who has raised an issue under this policy.

1.2 Employees are expected to:-

- Raise any concerns or complaints under this policy as soon as identified.
- Participate in any investigation process as necessary.

August 2012

The Council will regard the failure by an employee to report such malpractice, or the suspicion of malpractice, as a disciplinary matter.

1.3 Human Resources will:-

- In conjunction with the service if appropriate, ensure that any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the worker who raised the issue.
- Provide advice and guidance on the use of this policy.

5.35(a)



## **2 The Procedure**

### **Raising a Complaint**

- 2.1 Concerns may be raised verbally or in writing.
- 2.2 Although employees are not expected to prove beyond doubt the truth of an allegation, employees will need to demonstrate to the person contacted that there are reasonable grounds for their concern.
- 2.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.
- 2.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.
- 2.5 Employees may be accompanied by a trade union representative or a workplace colleague to any meetings or interviews in connection with the concerns raised.

### **Stage 1**

- 2.6 In the first instance, and unless the worker reasonably believes his/her line manager to be involved in the wrongdoing, or if for any other reason the worker does not wish to approach his/her line manager, any concerns should be raised with the worker's line manager. If he/she believes the line manager to be involved, or for any reason does not wish to approach the line manager, then the worker should proceed straight to Stage 3.

### **Stage 2**

- 2.7 The line manager will arrange an investigation of the matter (either by investigating the matter him/herself or immediately passing the issue to someone in a more senior position). The investigation may involve the worker and other individuals involved giving a written statement. Any investigation will be carried out in accordance with the principles set out above. The worker's statement will be taken into account, and he/she will be asked to comment on any additional evidence obtained. The line manager (or the person who carried out the investigation) will then report to the Assistant Director or Managing Director/Executive Director as appropriate, who will take any necessary action, including reporting the matter to any appropriate government department or regulatory agency. If disciplinary action is required, the line manager (or the person who carried out the investigation) will report the matter to Human Resources. On conclusion of any investigation, the worker will be told the outcome of the investigation and what the Council has done, or proposes to do, about it. If no action is to be taken, the reason for this will be explained.

### Stage 3

- 2.8 If the worker is concerned that his/her line manager is involved in the wrongdoing, has failed to make a proper investigation or has failed to report the outcome of the investigations to the Council, he/she should inform the Human Resources Business Partner, who will arrange for another manager to review the investigation carried out, make any necessary enquiries and make his/her own report to the Assistant Director or Managing Director/Executive Director as appropriate, as in Stage 2 above. If for any other reason the worker does not wish to approach his/her line manager he/she should also in the first instance contact the Human Resources Business Partner. Any approach to the Human Resources Business Partner will be treated with the strictest confidence and the worker's identity will not be disclosed without his/her prior consent.
- 2.9 If on conclusion of Stages 1, 2 and 3 the worker reasonably believes that the appropriate action has not been taken, he/she should report the matter to the proper authority. The legislation sets out a number of bodies to which qualifying disclosures may be made. These include:-
- HM Revenue & Customs;
  - ~~the Financial Services Authority~~ the Comptroller and Auditor-General;
  - ~~the Office of Fair Trading~~;
  - the Health and Safety Executive;
  - the Environment Agency;
  - the ~~Director of Public Prosecutions~~ National Crime Agency; and
  - the Serious Fraud Office.

### The Types of Misconduct that might justify Whistleblowing

- 2.10 There are many types of conduct that might justify an employee blowing the whistle. Examples include:
- failure to pay staff rates of pay equivalent to at least the minimum wage;
  - the use of unsafe equipment or unsafe working practices;
  - the employment of illegal immigrants;
  - concealment of a chemical spillage that might damage the environment;
  - false returns to HM Revenue & Customs;
  - falsification of financial records; and
  - bribery.

5.36(a)

## The Routes of Disclosure that are protected

2.11 ~~The law lays down clear principles about how a potential whistle-blower must make a disclosure if the disclosure is to be protected. The purpose of these rules is primarily to encourage workers to raise their concerns through appropriate channels rather than, for example, publicising their allegations in the newspapers. There are six routes that may attract protection, these being a disclosure in good faith.~~ The law lays down clear principles about how a potential whistle-blower must make a disclosure if the disclosure is to be protected. The disclosure will not be protected unless the employee reasonably believes that it is made in the public interest. The purpose of these rules is primarily to encourage employees to raise their concerns through appropriate channels rather than, for example, publicising their allegations via external or social media. There are six routes that may attract protection, these being:

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- to the employer directly;
- to a legal adviser, if made in the course of obtaining legal advice;
- to a Minister of the Crown, where the worker is engaged in Crown or public employment;
- to a 'prescribed person' (see above, Raising a Complaint);
- elsewhere in defined circumstances (see below, Disclosures Elsewhere); and
- elsewhere in exceptionally serious cases (see below, Disclosures in Exceptionally Serious Cases).

### Disclosures Elsewhere

- 2.12 A disclosure made elsewhere – for example, to the police, an elected Member of the Council, an MP, the external audit firm appointed to oversee the Council's affairs, or a non-prescribed regulator – may qualify as a protected disclosure if:-
- the worker reasonably believed, at the time of making the disclosure, that he or she would be subjected to a detriment by the employer if disclosure was made to the employer or to a prescribed body;
  - the worker had previously disclosed his or her concerns to the employer or a prescribed body; or
  - in circumstances where there is no prescribed body, the worker reasonably believed that, if he or she had made the disclosure to the employer, it would have taken steps to conceal or destroy the evidence of malpractice.
- 2.13 Certain other conditions must also be met. These are that:-
- the disclosure must be made in good faith;

5.36(b)

February 2015

- the person making the disclosure must reasonably believe that the information disclosed is substantially true;
- the person making the disclosure must not have done so for personal gain; and
- it must be reasonable in the circumstances for the person to have made the disclosure in that way.

5.36(c)

**Disclosures in exceptionally Serious Cases**

- 2.14 If the wrongdoing or malpractice is of an exceptionally serious nature, this may provide justification for an employee to disclose it to someone else, for example to the media. 'Exceptionally serious' is not defined in the legislation, but is likely to be restricted to matters where disclosure would serve the public interest.
- 2.15 The worker making the disclosure must:-
  - make it in good faith;
  - reasonably believe that the information being disclosed is substantially true; and
  - not be disclosing the information for financial gain.
- 2.16 It must also be reasonable in all the circumstances for the person to make the disclosure.

**Designated Officers under this Procedure**

- 2.17 The following officers are designated contacts under this policy:

**Human Resources Business Partner (Whistleblowing Officer)**

Nicola Amor	01702 546366, Ext. 8810 01702 318162 (Direct Dial) <a href="mailto:nicola.amor@rochford.gov.uk">nicola.amor@rochford.gov.uk</a>
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**Managing Director**

Shaun Scrutton	01702 546366, Ext. 3400 <a href="mailto:shaun.scrutton@rochford.gov.uk">shaun.scrutton@rochford.gov.uk</a>
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**Monitoring Officer**

Angela Law	01702 546366, Ext. 3701 01702 318131 (Direct Dial) <a href="mailto:angela.law@rochford.gov.uk">angela.law@rochford.gov.uk</a>
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**The Responsible Officer**

2.18 The Managing Director has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does not compromise confidentiality) and will report as necessary to the Council.

**3 More Information**

**3.1** For more information please contact Human Resources or the Whistleblowing Charity Public Concern at Work. [www.pcaw.org.uk](http://www.pcaw.org.uk) 020 7404 6609 or [GOV.UK](http://GOV.UK) website

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**4 Policy ownership and Effective Dates**

<b>Policy owner:</b>	Human Resources
<b>Approving body:</b>	Leadership Team
<b>Date approved:</b>	11 June 2012
<b>Effective date:</b>	July 2012
<b>Review date:</b>	June 2013
<b>Version:</b>	1

## OFFICERS' CODE OF CONDUCT

### 1 Introduction

- 1.1 This Code of Conduct ~~is intended to apply~~ies to all employees of the Council. It explains in practical terms the standards of behaviour required under the law, under —Conditions of Service, and under Council policy and Procedure Rules.

### 2 Status of the Code

- 2.1 The Code sets out the minimum standards that apply and lays down guidelines that will help improve standards and protect employees from misunderstanding or criticism. The Code will be regularly reviewed and updated.
- 2.2 Inevitably some of the issues covered by the Code will affect senior, managerial and professional employees more than others. The Code covers all employees under a contract of employment within local government.
- 2.3 This Code supplements, and does not replace, any code or recognised standards of conduct promulgated by any professional body of which an employee is a member.

### 3 Standards

- 3.1 Local government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide advice to Councillors and fellow employees with impartiality.
- 3.2 Employees will be expected as part of the drive for a quality service to bring to the attention of the appropriate level of management any deficiency in the provision of service.
- 3.3 Employees must ~~be familiar with~~aware of the Council's Whistleblowing Procedure and report any impropriety, breach of procedure, unlawfulness or maladministration through the appropriate channels and if necessary to one of the named officers in the Authority's Whistleblowing Procedure including~~appropriate manager or the Authority's~~ Monitoring Officer.

### 4 Disclosure of Information

- 4.1 The Council has adopted the principles of open government and seeks to involve the public in the decision making process. The law requires that

certain types of information must be available to Members, auditors, Government departments, service users and the public. In certain circumstances, employees may have a legal or professional duty to disclose information to a third party, (for example, in the course of legal proceedings).

- 4.2 The Council will inform employees of the type of information that must be made available, and to whom; the type of information that has voluntarily been made open, and to whom; and the type of information that the Authority does not wish to be disclosed without specific permission.
- 4.3 Employees should be aware of which information within the Council is open and which is not, and act accordingly. Any officer having custody of documents to which right of access applies commits an offence by obstructing that right.
- 4.4 Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way.
- 4.5 Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the Authority should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

## **5 Political Neutrality**

- 5.1 Employees serve the Authority as a whole. It follows they must serve all Councillors and not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected.
- 5.2 Some employees are required to advise political groups. They must do so in ways that do not compromise their political neutrality.
- 5.3 Employees, whether or not politically restricted, must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work.
- 5.4 Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set in paragraph 5.1.



- 5.5 Where a Local Authority employee holds a politically restricted post such restrictions are deemed to be incorporated in their contract of employment.

## **6 Relationships**

### Councillors

- 6.1 All employees are there to carry out the Council's work. They are responsible to the Council through its senior managers.
- 6.2 The role of some employees is to give advice to Councillors and senior managers. Mutual respect between employees and Councillors is essential to good local Government. Close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other employees and Councillors and should therefore be avoided.

### The Local Community

- 6.3 Employees should always remember their responsibilities to the community they serve and ensure courteous, respectful, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the Council.

### Contractors

- 6.4 All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate Assistant Director. Orders and contracts must be awarded on merit, by fair competition in accordance with Contract Procedure Rules and no special favour should be shown to any businesses and no part of the local community should be discriminated against.
- 6.5 An employee must not seek or receive any gift or personal inducement in connection with the procurement of works, goods or services.
- 6.6 Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors should declare that relationship to the appropriate Head of Service.

## **7 Appointments and Other Employment Matters**

- 7.1 Employees involved in appointments should ensure that these are made on the basis of merit. It is unlawful for an employee to make an appointment that is based on anything other than the ability of the candidate to undertake the

duties of the post. [These principles and the Council's recruitment procedures are detailed in the Council's Managers' Guide.](#)

- 7.2 In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her. Candidates for any appointment with the Council must disclose on their application whether they are related to any member of the Council or to a holder of any senior office.
- 7.3 Employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner, close personal friend etc.

## **8 Outside Commitments**

- 8.1 Employees graded above Scale 6 have conditions of service that require them to obtain written consent to take any outside employment. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the Council's interests, or in any way weaken public confidence in the conduct of the Council's business.
- 8.2 Employees of all grades should not undertake outside work if their official duties overlap in some way with their proposed work, if it causes a conflict of interest, or if it makes use of material to which the employee has access by virtue of his or her position (for example, an architect or planner who draws up plans within the District for an applicant for planning consent.) It is irrelevant whether or not the work is paid.
- 8.3 Employees' off-duty hours are their personal concern but they should not subordinate their duty to private interests to put themselves in a position where duty and private interests conflict; [this is not limited to other paid employment and may include issues relating to personal standards of conduct.](#)
- 8.4** The Council will not preclude employees from undertaking additional employment, but any such employment must not, in the view of the Council, conflict with or react detrimentally to the Council's interests, or in any way weaken public confidence in the conduct of the Council's business. [If in doubt seek the view of the Monitoring Officer.](#)
- 8.4-5** No outside work of any sort should be undertaken in the office, and use of facilities, e.g. telephones, or access to typing facilities for outside work is forbidden. All the resources of the Council including equipment, stationery,

etc, are to be used to further the Council's business and are not for personal use.

## **9 Information Technology and Data Security**

- 9.1 Employees must ensure that they follow the Council's security procedures in relation to the use and storage of computers and the proper management of computer held information. Particular care should be taken to observe established procedures when using passwords and when logging on and off, especially when working with confidential records or sensitive material.

## **10 Personal Interests**

- 10.1 Employees must declare to their Assistant Director any financial interests that could conflict with the Council's interests.
- 10.2 Employees must declare to their Assistant Director (**preferably** in writing), any non-financial interests that they consider could bring about conflict with the Council's interests. This may include membership of outside bodies in a personal capacity. In such cases employees should be mindful not to place themselves in a situation where their involvement or working contribution could compromise their continuing professional duty to the interests of the Council.
- 10.3 On a voluntary basis, employees are encouraged to make declarations of interests by pro forma, based on the same principles as those required of Members, in a register kept for the purpose by the Member Services Manager.
- 10.4 When serving on outside bodies as a Council appointee, employees will be expected to represent and promote the Council's interests and policies as the circumstances dictate.

## **11 Equality Issues**

- 11.1 Employees should ensure that all policies agreed by Council relating to equality issues are complied with in addition to the requirements of the law. All members of the local community, customers, job applicants and other employees have a right to be treated with fairness and equity.

## **12 Separation of Roles During Tendering**

- 12.1 The tendering process must be seen to be open and above board. Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Authority.

- 12.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors, and sub-contractors.
- 12.3 Employees who are privy to confidential information on tenders or costs relating to either internal or external contractors should not disclose that information to any unauthorised party or organisation.

### **13 Corruption**

- 13.1 Corruption may include receiving any payment, gift (other than a gift of a nominal value (£25)) hospitality, or any other benefit from any person or organisation who a member of staff deals with in their work, irrespective of what it is in respect of, including tips, and payment for additional 'private work'. It is also irrelevant whether any benefits are directly to an officer or to the officer's family or friends.
- 13.2 Any case of suspected corruption will be fully investigated and any proven cases will be treated as gross misconduct and criminal prosecutions undertaken.

### **14 Use of Financial Resources**

- 14.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner.
- 14.2 They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

### **15 Hospitality, Gifts and Sponsorship**

- 15.1 Employees must decline gifts other than nominal items such as calendars, diaries, etc.
- 15.2 Employees should treat with caution all offers of hospitality wherever any suggestion can arise of improper influence. Particular care is required where a person or body having or seeking business with, or a decision from the Council, offers hospitality, particularly where the offer is to an individual employee. It should only be accepted where it is on a scale appropriate to the circumstances, reasonably incidental to the occasion and where it is apparent no cause could reasonably arise for adverse criticism about accepting it.
- 15.3 Where an outside organisation wishes to sponsor or is seeking to sponsor a local Government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

15.4 Where the Council wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

## **16 Standard of Dress and Appearance**

16.1 First impressions count and if a member of staff is inappropriately dressed then at best it presents an obstacle to be overcome in the minds of members of the public. At worst it can create the view that the Council is inefficient. There is therefore a general expectation that dress will be appropriate to the nature of the duties and responsibilities undertaken by the individual.

16.2 The Council values and welcomes the ethnic diversity of its workforce and will take account of ethnic and religious dress requirements with sensitivity.



Rochford District Council

April 2017

# Review Committee Annual Report 2016/2017



# 1 Index

1	Index.....	2
2	Glossary.....	2
3	Introduction.....	3
4	Caravan Site Fee Policy and Licensing Fees – Call In.....	4
5	Community Safety Partnership .....	4
6	Overview of the Key Decision Document.....	4
7	Initial 2016/2017 work programme .....	5
8	Regulation of Investigatory Powers Act 2000 (RIPA).....	5
9	Other items considered by the Committee.....	6
10	Topics for future work programme.....	7
11	Performance Measures .....	7

# 2 Glossary

CSP	Community Safety Partnership
ECC	Essex County Council
ICT	Information and Communications Technology

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

### **3 Introduction**

- 3.1 During the 2016-17 Municipal Year the Review Committee has considered a number of topics both as a whole Committee and in smaller teams reporting back to the main Committee once the team has completed its work. Details of the Reviews are outlined further on in this report.
- 3.2 In addition to the Committee's role of conducting Reviews it also has the duty to scrutinise decisions made by the Executive. As part of this role the Committee studies the Key Decisions Document on a monthly basis.
- 3.3 In order to comply with the Council's Constitution, written requests are now being issued to all officers and Members that are required to attend a meeting of the Committee.



## **4 Caravan Site Fee Policy and Licensing Fees – Call In**

- 4.1 In February 2017 the Review Committee called in a decision made by the Portfolio Holder for Community relating to the Caravan Site Fee Policy and Licensing Fees.
- 4.2 Members had concerns that the costings did not adequately take account of staff time and the overheads involved with the inspections.
- 4.3 Following detailed consideration the decision was accepted on the basis that records of time spent were being kept and these would be used to inform the pricing structure for the next municipal year.

## **5 Community Safety Partnership**

- 5.1 Under the Police and Justice Act 2006, every local authority is required to have a Crime and Disorder Committee with the power to scrutinise the local Community Safety Partnership (CSP), as a whole, in terms of how they are tackling crime and disorder for the benefit of the local communities. This function is undertaken by the Review Committee. Under the Act the Committee has to meet at least once a year to fulfil this function.
- 5.2 These requirements were enacted by the Crime and Disorder (Overview and Scrutiny) Regulations 2009 which came into force for local authorities in England on 30 April 2009.
- 5.3 Representatives from the CSP attended the September meeting of the Committee to update Members on developments taking place. Members were keen to understand how the priorities of the CSP were formulated and to this end the CSP were invited back to the March 2017 meeting.
- 5.4 At the March 2017 meeting Members were advised of the three main priorities for the next year along with updates on the CSP's activities during the year.

## **6 Overview of the Key Decision Document**

- 6.1 During the year the Committee continued to monitor the decisions due to be made by the Executive and its Members. The Committee studied the Key Decisions Document on a monthly basis asking for further details as and when they felt it necessary.

- 6.2 The Committee has found this a useful way to explore the reasons behind decisions being made and to reduce the need to consider the call-in of a decision after it has been made.
- 6.3 At the first meeting of the Committee in June 2016 a request was made for more information on an item relating to the Environmental Health Service Plan. At the July meeting the Principal Environmental Health Officer and the Senior Environmental Health Officer gave a presentation on the plan and answered Members' questions.

## **7 Initial 2016/2017 work programme**

- 7.1 At the June 2016 meeting the Committee members considered the list of possible topics for the work plan and agreed the following:-
- Homelessness and the Council's Housing Strategy/Disabled Facilities Grants - The Assistant Director, Community & Housing Services would be invited to attend a meeting.
  - A representative from Southend Hospital Trust would be invited to talk about how Southend Hospital serves the District's residents.
  - Budget process/consultation –the S151 officer would be requested to attend a meeting of the Committee to discuss the process.
  - Air Quality Management Areas – It was agreed that a representative from Environmental Health would attend a meeting of the Committee to discuss this topic.
  - Suitability and relevance of the Constitution – this would be undertaken by a project team, away from Committee meetings. A project team was formed from representatives from all the political parties represented on the Committee and, whilst some changes have already been recommended to Council, this project will carry over into the next Municipal year.

## **8 Regulation of Investigatory Powers Act 2000 (RIPA)**

- 8.1 As part of the Council's procedures around the Regulation of Investigatory Powers Act Members of the Review Committee are given biennial training related to RIPA along with the officers who might have to submit a request to use the powers from the Act. This training last took place in January 2016 and a further training session will be arranged around January 2018.

- 8.2 A report was submitted in October 2016 when the Committee reviewed the Council's policy and use of RIPA.

## **9 Other items considered by the Committee**

- 9.1 It was agreed during 2012 that the Committee would in future be responsible for systematically scrutinising the Treasury Management strategy in advance of this being reported to Council. The Committee received three reports during the year in July 2016, November 2016 and February 2017. It was agreed at the February meeting that, with the aid of the S151 Officer, a working party would be formed to assess whether the contract with Capita relating to fund management should be renewed when the contract comes up for renewal.
- 9.2 At the October meeting of the Committee Members were provided with a summary of local authority responsibilities regarding local air quality management and the Council's progress with the Air Quality Management Area (AQMA) in Rayleigh.
- 9.3 Also at the October meeting Members received a report on Disabled Facility Grants, which was something the Committee had looked at a number of years ago. The report allowed Members to catch up on developments since the in-depth review took place.
- 9.1 In November 2016 the Committee heard from Sue Hardy, Chief Executive, Southend University Hospital NHS Foundation Trust and Ian Stidston, Castle Point and Rochford CCG Accountable Officer on how Southend Hospital serves the residents of the Rochford District.
- 9.2 At the same meeting Members received the first of two reports on Homelessness, the second report in February 2017 being an update to the information in the first.
- 9.3 During the year the Committee received two reports relating to ICT/Third Party Software and at its meeting in February it was decided to set up a project group to look into ICT matters. It is expected that the work this group are undertaking will carry on into the next Municipal Year.
- 9.4 At the February 2017 meeting the Committee heard from Sanctuary Housing with an update on their development programme. The Committee considered the information they had received at the March meeting and a recommendation was made to Council.
- 9.5 The March 2017 meeting received a report on the proposed changes to the Council's Building Control service to try and improve the service in the delivery of its statutory and non-statutory functions. The report pointed out certain risks relating to the

recruitment of certain of the new posts and the Committee requested an interim report for November 2017.

- 9.6 At the April meeting the Committee received a report on the Leisure Contract and also had a presentation from Fusion Lifestyle. The Committee have requested a further report be submitted in June when additional information will be available.

## 10 Topics for future work programme

- 10.1 The following have been identified as possible topics for the work programme for the next Municipal Year:-

- (a) Enforcement of unauthorised adverts
- (b) South Essex Parking Partnership (SEPP)
- (c) Consideration of the new IT Contract
- (d) Policies relating to communications and consultations
- (e) New Website front end
- (f) Charging for bins for new developments

## 11 Performance Measures

- 11.1 The Review Committee has previously agreed a set of performance measures. These are listed below with the results or comments linked to them.

1. Completion of Overview and Scrutiny work programme on time.

<b>Project</b>	<b>Scheduled Completion date</b>	<b>Actual Completion date</b>	<b>Reason for extension of date</b>
Constitution Review	April 2017	-	Scope of the project
Review of Treasury Management advisers	To be agreed	-	
ICT / Telecoms review	To be agreed	-	

2. The percentage of Overview and Scrutiny recommendations approved/rejected/acted upon by the Executive.

The Review Committee has not submitted any reports to the Executive during this Municipal year.

3. Number of external representatives involved in Overview and Scrutiny work per annum.

During this year the Committee has heard from representatives of four different external bodies in relation to the items that have been examined.

4. Number of items on the work programme suggested by the public or in response to issues raised through surveys, comments or complaints.

None

5. Number of call-in notices received per annum.

One item has been called in by the Committee this Municipal Year.

6. The number of times that the Executive states that a decision is urgent and not subject to call-in.

During the year eleven decisions have not been subject to call-in.