

CHANGES TO THE CONSTITUTION

1 SUMMARY

- 1.1 This report invites the Council to agree changes to the Constitution to reflect the outcome of the Leadership and Organisational Redesign 2014, including the appointment of a Section 151 Officer and a Monitoring Officer. The report also covers an addition to the procedure rule relating to notice and summons to meetings and seeks to insure that the Code of Good Practice for Planning matters, contained in the Constitution, is suitable for purpose.

2 DISCUSSION

Organisational Redesign 2014

- 2.1 Following organisation redesign adjustments are required to the following parts of the Constitution to reflect new managerial arrangements: Article 11 (Officers); Article 13 (Finance, Contracts and Legal Matters); Article 15 (Interpretation and Publication of the Constitution); Part 4 (Financial Regulations and Contract Procedure Rules); Part 5 (Codes and Protocols) and Part 7 (Management Structure).
- 2.2 The specific required changes are appended to this report and shown by way of track changes to specific pages within the current version of the Constitution. Once agreed, Members will be provided with replacement pages for their own copy of the Constitution.
- 2.3 The Council is required to formally recognise appointees to the statutory posts of Monitoring Officer and Section 151 Officer. Technically, Albert Bugeja and Yvonne Woodward will continue in these roles until departure arrangements consequent to the leadership and organisational redesign are finalised. Following this point the roles will fall to the Assistant Director – Legal, Angela Law (Monitoring Officer) and the Assistant Director – Resource Services, Joseph Raveendran (Section 151 Officer) on an interim basis in line with their contracts of employment. Council is asked to note this position. Revised Constitution pages reflecting the new postholders to the statutory positions will be issued once the current postholders stand down.

Notice of and Summons to Meetings

- 2.4 With the publication of the Local Government (Electronic Communications) (England) Order 2015, the summons for meetings can now be issued electronically. It would be appropriate for that provision to be included within paragraph 6 of the Council Procedure Rules (page 4.6). The change is shown by way of track changes.

Code of Good Practice for Planning Matters

- 2.5 The Code of Good Practice for Planning Matters has discretionary elements and this would be an opportune time to make changes to reflect practice at Rochford District Council. Suggested changes are shown as track changes on pages 15.38 to 15.46 of the appendix.

Contract Procedure Rules

- 2.6 Some statutory changes that will mean adjustment to parts of the Council's Contract Procedure Rules, such as contracting thresholds, are imminent. It is anticipated that these will be factual rather than discretionary. If this is the case, in line with usual practice, automatic changes will be made to the appropriate sections. Otherwise, a report will be brought before Council.

3 RISK IMPLICATIONS

- 3.1 The Council's Constitution needs to be as up to date as possible to facilitate good governance. There is a need to demonstrate appointment to specific statutory posts.

4 RECOMMENDATION

- 4.1 It is proposed that Council **RESOLVES**

- (1) That the proposed changes to the Constitution emanating from the Leadership and Organisation Redesign 2014 be adopted. These to include Albert Bugeja and Yvonne Woodward continuing in their roles of Monitoring Officer and Section 151 Officer respectively until departure arrangements consequent to the redesign are finalised. Following this point the roles will fall to the Assistant Director – Legal, Angela Law (Monitoring Officer) and the Assistant Director – Resource Services, Joseph Raveedran (Section 151 Officer) on an interim basis in line with their contracts of employment.
- (2) That the proposed change to paragraph 6 of Council Procedure Rules, notice of summons to meetings, be adopted.
- (3) That the proposed changes to the Code of Good Practice for Planning Matters to reflect District Council Practice be adopted.
- (4) To note that factual changes to the Contract Procedure Rules to reflect statutory change are imminent.



Amar Dave

Chief Executive

Background Papers:-

None.

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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 ~~Head of Legal, Estates and Member Services~~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 ~~Head of Legal, Estates and Member 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 ~~Head of Legal, Estates and Member 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 ~~Head of Legal, Estates and Member 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 ~~Head of Legal, Estates and Member Assistant Director, Legal Services~~ should be sealed. The affixing of the Common Seal will be attested by the ~~Head of Legal, Estates and Member Assistant Director, Legal Services~~ or some other person authorised by him/her.

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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 ~~Head of Legal, Estates and Member~~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 ~~Head of Legal, Estates and Member~~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 ~~Head of Legal, Estates and Assistant Director, Legal Member~~ Services will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

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Function	Decision Making Body	Delegation of Functions
The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land	Executive	Head of Planning & Transportation <u>Assistant Director, Planning Services</u> and/or Head of Legal, Estates and Member <u>Assistant Director, Legal Services</u>
The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Executive	Head of Legal, Estates and Member <u>Assistant Director, Legal Services</u>
The appointment of any individual:- - To any office other than an office in which he is employed by the Authority. - To anybody other than:- (i) A joint Committee of two or more authorities; or (ii) To any Committee or Sub-Committee of such a body and the revocation of any such appointment.	Executive	Chief Executive
Making agreements with other local authorities for the placing of staff at the disposal of those other authorities.	Executive	Chief Executive

Onward Delegations	Responsible Officers	Functions
<p>Any decision which an officer takes under delegated powers must:-</p> <p>a) Implement a policy or decision previously approved or taken by the Executive or a Committee;</p> <p>b) Facilitate or be conducive or incidental to the implementation of a policy or decision previously taken by the Executive or a Committee;</p> <p>This delegation does not include the authority to confirm any order or issue any permission, consent, licence or similar determination that is the subject of a statutory right of appeal that has been duly exercised or a substantive objection that has been raised.</p>	<p>Chief Executive,</p> <p>Head of Legal, Estates & Member Assistant Director, Legal Services</p> <p>HAssistant Director, Resource Services Head of Finance</p> <p>Head of Planning & Transportation Assistant Director, Planning Services</p> <p>Head of Assistant Director, Environmental Services</p> <p>Head of Assistant Director, Community and Housing Services</p> <p>Assistant Director, Commercial Services</p> <p>Assistant Director, Democratic Services</p> <p>Assistant Director, Customer, Revenues & Benefits Services</p>	<p>To do all things necessary for the proper management and administration of the Council's services and functions as set out in and subject to the Scheme of Delegation to Officers contained within Part C of this Part of the Constitution and approved annually by Full Council</p>

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		Assistant Director, Transformational Services	
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To be Emergency Controller for the District of Rochford and with the agreement of the Leader of the Council and appropriate Executive Members and Chief Officers (or in their absence deputy) to take any action that cannot reasonably be delayed until the next available Council, Executive, Committee or Sub-Committee meeting, subject to a report on such action being made to the next practicable meeting of the appropriate body.

3.3 **To the Head of Legal, Estates and Member Services
Directors**

To deputise for the Chief Executive and be the Responsible Officer and take decisions and exercise discretion on all corporate management issues affecting the Council.

3.4 **To the Head of Legal, Estates and Member Services**

To be Monitoring Officer pursuant to Section 5 of the Local Government and Housing Act 1989, as amended by Schedule 5 paragraph 24 of the Local Government Act 2000 and to grant dispensations under Section 33 of the Localism Act 2011.

To be Proper Officer for all statutory purposes and Standing Orders except where a specific appointment has been delegated to another officer.

To be the Solicitor to the Council.

To deputise for the Chief Executive and be the Responsible Officer for and take decisions and exercise discretion on all corporate management issues affecting the Council's all corporate management issues affecting the Council's Services.

To authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal, including the making of appeals.

To give necessary legal authorisation to officers of the Council, including authorisation to appear before the Magistrates' Courts, to serve notices to ascertain interests in land and to enter upon land in connection with the discharge of any of the functions of the Council.

To authenticate documents on behalf of the Council.

3.54 **To the Head of Finance**

To exercise the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972 and Section 114 of the Local Government and Finance Act 1988.

To be the Proper Officer under Section 115 of the Local Government Act 1972.

To have responsibility for accounting records and control systems, the form of the Statement of Accounts, its preparation, audit and inspection in accordance with the provisions of the Accounts and Audit Regulations 2003.

To update financial limits within the Financial Procedures Rules from time to time broadly in line with inflations.

To have responsibility for the execution and administration of treasury management decisions.

To deputise for the Chief Executive and be the Responsible Officer for and take decisions and exercise discretion on all Corporate Management issues affecting the Council's on all Corporate Management issues affecting the Council's Services. Services.

To determine the Council Tax base figure each year.

3.65 To the Head of EnvironmentalAssistant Director, Commercial Services

To deputise for the Chief Executive and/or the Directors and be the Responsible Officer for and take decisions and exercise discretion on matters within Commercial Services.

3.7 To the Assistant Director, Community and Housing Services

To deputise for the Chief Executive and/or the Directors and be the Responsible Officer for and take decisions and exercise discretion on matters within Community and Housing Services.

3.8 To the Assistant Director, Customer, Revenues and Benefits Services

To deputise for the Chief Executive and/or the Directors and be the Responsible Officer for and take decisions and exercise discretion on matters within Customer, Revenues and Benefits Services.

3.9 To the Assistant Director, Democratic Services

To deputise for the Chief Executive and/or the Directors and be the Responsible Officer for and take decisions and exercise discretion on matters within Democratic Services.

3.10 To the Assistant Director, Environmental Services

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To determine and issue licences and permits for all applications under the Licensing Act 2003 for which valid representations have not been made and to determine whether representations are relevant within the meaning given by section 18(6) of the Act.

To determine and issue licences and permits for all applications under the Gambling Act 2005 for which valid representations have not been made, or have been made and withdrawn, or have been made and all parties agree that a hearing is unnecessary, but excluding:-

- a) any application for a premises licence involving the removal or variation of any of the default conditions prescribed by regulations made under section 168 of the Act; or
- b) any application for a gaming machine permit in respect of which the Authority considers refusing the application or of granting the application for a lesser number of machines than applied for; or
- c) where the Authority considers withdrawing the automatic entitlement for an alcohol-licensed premises to provide 2 gaming machines.

To make representations in respect of premises licence applications and the making of applications for review of premises licences under the Gambling Act 2005 and to determine whether:-

- a) representations fall within those defined under section 162(3) of the Act or
- b) an application for review of a premises licence should be rejected in accordance with section 198 of the Act.

To determine all applications for registration by a society to promote a small society lottery.

To deputise for the Chief Executive and/or the Directors and be the Responsible Officer for and take decisions and exercise discretion on matters within Environmental Services.

3.116 To the Head of Community Assistant Director, Transformational Services

To deputise for the Chief Executive and/or the Directors and be the Responsible Officer for and take decisions and exercise discretion on matters within Community Transformational Services.

To be the Responsible Officer for and take decisions and exercise discretion on matters within Customer Services and Information Services.

To be Data Protection Co-ordinator for the purposes of the Data Protection Act 1984 (as amended).

3.128 To the Head of Assistant Director, Planning & Transportation Services

To deputise for the Chief Executive and/or the Directors and be the Responsible Officer for and take decisions and exercise discretion on matters within Planning and Transportation Services except for the determination of planning applications when the following categories only will be determined under delegation:-

- i. Applications determined in accordance with the Weekly List procedure.
- ii. Private garages within the curtilage of established residential properties.
- iii. New or altered means of access to existing developments subject to the necessary consultations with the Highway Authority.
- iv. Shop fronts relating only to shopping uses outside and not affecting designated Conservation Areas.
- v. Fences, boundary walls and other means of enclosure to residential properties.
- vi. The approval of reserved matters relating to landscaping and external materials.
- vii. Minor amendments to approved plans not determined by the Development Committee.
- viii. The temporary siting of caravans where an approved building is in the course of construction.
- ix. All extensions to residential buildings.
- x. Refusal because of Metropolitan Green Belt policy.
- xi. Changes of use in accordance with an appropriate formal planning policy or plan.
- xii. Applications for changes of use of land to private residential gardens.
- xiii. Advertisements outside Conservation Areas and/or which do not affect the character or setting of Listed Buildings.
- xiv. Listed Building Consent where a concurrent planning application is within the existing delegation scheme.
- xv. Listed Building Consents where the building work involved does not require planning permission.
- xvi. Applications under the prior notification procedures in Part 6 (agricultural development), Part 7 (forestry development) and Part 24 (telecommunications development) of Schedule 2 to the Town & Country Planning (General Permitted Development) Order 1995.
- xvii. Applications under the prior notification procedures in Part 31 (Demolition of Buildings) of Schedule 2 to the Town & Country Planning (General Permitted Development) Order 1995.

- xviii. Response to consultations on County Matter applications in consultation with the Chairman of the Development Committee and the Ward Members.
- xix. Response to consultations on Deemed County Council consent applications.
- xx. Response to consultations from neighbouring authorities unless the proposed development would have a major environmental impact on the District.

Exceptionally, where a delegated application raises controversial issues or significant community concern, the ~~Head of Planning and Transportation~~ Assistant Director, Planning Services shall advise the Chairman of the Development Committee, the Portfolio Holder for Planning, Transport and Heritage and the Chairman of the Council, who may require that the application be reported to that Committee for determination.

~~The Head of Planning and Transportation will also be the Responsible Officer for and take decisions and exercise discretion on matters relating to car parking operation and management, on street parking enforcement, local highway matters and other transportation issues which fall within the responsibilities of the District Council.~~

~~To exercise discretion on matters relating to information technology.~~

6. NOTICE OF AND SUMMONS TO MEETINGS

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Chief Executive will send a summons signed by him or her by courier or first class post or electronic delivery to every Member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

7. CHAIRMAN OF MEETING

The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to Committee and Sub-Committee meetings, references to the Chairman also include the Chairman of the Committee and Sub-Committee.

8. QUORUM

- 8.1 The quorum of a meeting will be one quarter of the whole number of Members. During any meeting if the Chairman counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

9. DURATION OF MEETING

Unless the majority of Members present vote for the meeting to continue, any meeting that has lasted for 3 hours will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

10. QUESTIONS BY THE PUBLIC

10.1 General

Members of the public may ask questions of Members of the Executive, at ordinary meetings of the Council. The maximum time limit for asking each question is 3 minutes. The maximum time limit for a supplementary question is 1 minute.

In the following Regulations all amounts quoted shall be net of Value Added Tax.

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1. FINANCIAL ADMINISTRATION

- 1.1 The Head of Finance is the Chief Finance Officer in accordance with Article 12 of this Constitution.
- 1.2 The Chief Finance Officer is responsible for the proper administration of the Council's financial affairs for the purposes of Section 151 of the Local Government Act 1972. In the absence of the Chief Finance Officer, the Chief Finance Officer will nominate a deputy.
- 1.3 As the Council's financial and economic adviser, the Chief Finance Officer shall report to the Council with respect to the level of financial resources proposed to be utilised in each financial year and shall keep it informed with respect to the Council's finances and financial performance.
- 1.4 The Chief Executive and ~~Heads of Service~~ the Directors and Assistant Directors (known as ~~Senior~~ the Management Leadership Team 'SMLT') shall be responsible for the accountability and control of staff, and the security, custody and control of all other resources including plant, buildings, materials, cash and stores in accordance with the Scheme of Delegations.
- 1.5 The Chief Executive shall be responsible for ensuring that the ~~Heads of Service~~ Directors and Assistant Directors comply with these Financial Regulations and ~~Heads of Service~~ the Directors and Assistant Directors shall inform the Chief Finance Officer of any matter within their responsibility which is liable materially to affect the finances of the Council before any provisional or other commitment is incurred or before reporting thereon to the Council.
- 1.6 The Financial Regulations will apply to all financial activities carried out by the Council.
- 1.7 Where a member of the SML Leadership Team proposes:-
 - (i) a new policy, or
 - (ii) a variation of existing policy, or
 - (iii) a substantial variation in the means or time-scale of implementing existing policy

which affects or may affect the Council finances, they shall submit a report to the Council.

- 1.8 In these Regulations the term Council shall include any Committee reporting to the Council duly authorised to exercise such functions and the term SMLT will mean any individual member of the SMLeadership Team.
- 1.9 In these regulations, where there is reference to members of the SMLeadership Team, the responsibility may have been delegated.

2. ACCOUNTING ARRANGEMENTS

2.1 The Chief Finance Officer shall:-

- (i) make satisfactory accounting arrangements for all financial transactions of the Council in consultation, where necessary, with the SMLT;
- (ii) make safe and efficient arrangements for the receipt and payment of the Council's money;
- (iii) review such arrangements periodically.

3. FINANCIAL PLANNING AND CONTROL

Capital Programmes

- 3.1 The ~~Senior Management~~Leadership Team shall submit annually to the Council a capital programme for the next five years or longer period if required by the Council.
- 3.2 The Programme shall distinguish between items previously approved and not previously approved by the Council and show the probable additional costs accruing from each scheme. The Programme will indicate the decision making arrangements for each item, including what further approval is required.
- 3.3 The programme shall be submitted to the Council annually, with recommendations as to priorities.
- 3.4 Estimates of capital payments shall be prepared by the LSMT in consultation with the Chief Finance Officer.
- 3.5 Items in an approved Programme, unless reserved to Council, may be proceeded without the further approval of the Council subject to Para 3.6 below. Otherwise, expenditure must not be incurred until the specific approval of the Council has been obtained, following the submission of a report ~~from~~ from Member/s, the SMLT responsible and the Chief Finance Officer upon the capital costs and subsequent revenue costs of the project. For large projects, whole life costings will need to be included.
- 3.6 Following the approval of capital projects in accordance with Para 3.5 tenders may be invited and accepted, (subject to compliance with Contract Procedure Rules), without further reference to the Council.

- 3.7 The substitution of a new capital project for one already included in an approved capital programme shall only be approved by the Executive following the submission of a report by the SMLT and the Chief Finance Officer.
- 3.8 Expenditure on capital projects not included in a capital programme shall not be incurred without the specific approval of the Council, following the submission of a report by SMthe LT and the Chief Finance Officer on the costs, funding and subsequent revenue costs.
- 3.9 The Chief Finance Officer shall advise as to, and in appropriate cases shall determine, the method of financing capital expenditure on approved capital projects, subject to statutory and financial constraints.

Annual Revenue Estimates and Budgetary Control

- 3.10 Draft estimates are to be prepared by the SMLT for submission to Council. Estimates shall be submitted within such limits as may have been previously specified by the Council.
- 3.11 No proposal by an officer to incur any cost, debt or liability or to reduce the amount of any income shall be considered by the Executive unless adequate notice is given to the Chief Finance Officer. The Chief Finance Officer may require the submission of a joint report (including estimated costs) to the Executive based on the information received by him/her.
- 3.12 As soon as practicable after the end of each financial year, the Chief Finance Officer shall submit to the Council the Council's final accounts together with such supporting data as the Chief Finance Officer and the Chief Executive consider necessary and such further information as the Council may require.

Supplementary Estimates

- 3.13 No officer or Committee of the Council shall incur expenditure which cannot be met from the amount provided in the revenue estimates under a head of estimate (including any virement) unless a supplementary estimate has been approved.
- 3.14 Supplementary Estimates may be used where additional financial commitments cannot be met from virements and arise from the following:-
- Unavoidable legal requirements arising from current service plans, including the need to publish statutory notices.
 - External legal costs arising from actions brought by or against the Council or incurred in respect of public enquiries.

- Other inescapable costs or income reductions that could not have been foreseen and arise from current service plans.
- 3.15 Requests for supplementary estimates shall be submitted to the Chief Finance Officer and:-
- The Chief Finance Officer shall have the authority to grant approval for sums up to £15,000.
 - The Chief Finance Officer shall have authority to grant approval, following consultation with the Leader of the Council, for sums up to £50,000.
- 3.16 Any decisions on Supplementary Estimates will be reported to the Executive with the quarterly budget monitoring reports.

Virement

- 3.17 Virement' is the financing of an increase in expenditure or a reduction in income in one head of the approved revenue budget from another head in the revenue budget.
- 3.18 An Assistant Director Head of Service, in consultation with the Chief Finance Officer, may approve aggregate virements of up to £5,000 within an Head of Service Assistant Director's budget.
- 3.19 The Chief Finance Officer, may approve aggregate virements of up to £10,000.
- 3.20 Virement outside these limits up to £50,000 is a matter for the Chief Executive and Chief Finance Officer in consultation with the Leader of the Council or, in the Leader's absence, the Deputy Leader. Virements above £50,000 must be referred to the Executive.
- 3.21 No proposal for virement between the revenue estimates for which different Heads of Servicemembers of the Leadership Team are responsible shall take place unless the Heads of ServiceDirectors/Assistant Directors whose estimates will be affected have been consulted and agree or the virement has been approved by the SMT in accordance with the limits within this regulation.
- 3.22 The Chief Finance Officer may approve virements between capital projects up to 25% (maximum £50,000) of the capital programme budget. Any decisions on virements will be reported to the Executive with the quarterly budget monitoring reports.
- 3.23 All proposals for virement shall be put in writing.
- 3.24 Written details of any virement authorised by the LSMT shall be sent to the Chief Finance Officer within 10 working days of their authorisation.

- 3.25 Nothing in these rules shall prevent the Executive when dealing with an emergency planning situation from incurring expenditure which is essential to meet any immediate needs created by a sudden emergency or which is referable to S138 of the Local Government Act 1972 or the Civil Contingencies Act 2004, subject to such action being reported to Council as soon as appropriate.

Maintenance of Reserves

- 3.26 It is the responsibility of the Chief Finance Officer to advise the Council on prudent levels of reserves for the Authority, including those earmarked for specific services.

Carrying Forward Revenue Provisions

- 3.27 The Chief Finance Officer may authorise the carrying forward of any unspent budget into the next financial year if satisfied that it has not been possible to incur the estimated expenditure during the year. The Chief Finance Officer shall report the budgets carried forward to the Council as soon as is practicable after the end of each financial year.

4. ORDERS FOR WORKS AND GOODS

- 4.1 Every ~~Head of Service~~member of the Leadership Team shall be responsible for all orders issued on their behalf.
- 4.2 Official orders shall be issued for all work, goods or services to be supplied to the Council except for supplies of public utility services, for periodical payments such as subscriptions, rent or rates, for petty cash purchases or such other exceptions as the Chief Finance Officer may approve.
- 4.3 Petty cash reimbursements can be made through payroll and will be paid with the monthly salary or claimed at the Cash Office. Claims from the Cash Office are limited to amounts up to £35.
- 4.4 Approval must be obtained from the Chief Finance Officer for exceptions to para 4.2 and 4.3.
- 4.5 All orders shall be made using the procurement system prescribed by the Chief Finance Officer in accordance with approved procedures.
- 4.6 Orders shall indicate clearly the nature and quantity of the works, goods or services required and any contract, estimate and authorisation.
- 4.7 All orders shall be authorised in accordance with the Scheme of Delegations, as set out in the Authorised Signatories Lists.

- | 4.8 Before authorising an order, the ~~Head of Service~~Assistant Director or authorised officer shall be satisfied, by means of competitive quotations or otherwise, that it will obtain the best value for the price to be paid, that the order complies with the Contract Procedure Rules and that there is sufficient budget to cover the costs.

5. PAYMENT OF ACCOUNTS

- 5.1 There are two processes for authorising payments, depending on whether the on-line procurement system was used. In all cases, the following apply:
- 5.2 The Chief Finance Officer shall be responsible for the examination, verification and certification of the related invoices. The Chief Finance Officer shall make such checks, arithmetical and otherwise, as are deemed necessary and shall be given all information and explanations as are required.
- 5.3 The Chief Finance Officer shall be responsible for ensuring that internal controls and procedures are in place for the payment of accounts.
- 5.4 The Chief Finance Officer shall be responsible for ensuring that duplicate payments are not made.
- 5.5 All invoices for payment shall be certified by the Chief Finance Officer or other authorised officer.
- 5.6 Only invoices which the Chief Finance Officer is satisfied are in order shall be paid.
- 5.7 The Chief Finance Officer is responsible for providing advice and instruction on the most economical means of making payment, including by electronic transfer or procurement cards.
- 5.8 Payment of Accounts where on-line procurement system used
- | 5.9 Each ~~Head of Service~~Assistant Director shall be responsible for ensuring that all discounts have been recorded in the order.
- | 5.10 Each ~~Head of Service~~Assistant Director shall be responsible for ensuring that the electronic order is updated when goods or services are received in line with the current procedures.
- 5.11 Payment of Other Accounts
- | 5.12 Each ~~Head of Service~~Assistant Director shall be responsible for the examination, verification and certification of the related invoices.

- | 5.13 Each ~~Head of Service~~Assistant Director shall be responsible for ensuring that all discounts have been deducted.
- | 5.14 Each ~~Head of Service~~Assistant Director shall be responsible for showing on each invoice, in a manner approved by the Chief Finance Officer, the relevant order number, the estimate head to be charged and the initials of the persons responsible for checking (a) the prices charged, (b) that goods have been received, and (c) that payment has not previously been authorised.
- | 5.15 All invoices for payment shall be certified by an ~~Head of Service~~Assistant Director or other officer authorised by the ~~Head of Service~~Assistant Director to the extent approved by the Chief Finance Officer in writing. The Chief Finance Officer shall maintain an up to date list of officers authorised to certify invoices for payment.
- | 5.16 Each ~~Head of Service~~Assistant Director is responsible for ensuring that invoices are sent for payment within the prescribed deadlines.

6. TRAVELLING, SUBSISTENCE AND OTHER ALLOWANCES

- 6.1 Payments to Members, including co-opted Members of the Council or its Committees who are entitled to claim allowances, will be made by the Chief Finance Officer upon receipt of the prescribed form duly completed by the Member.
- 6.2 All claims by employees for payment of car allowances, subsistence allowances, travelling and incidental expenses shall be submitted, duly certified, in a form approved by the Chief Finance Officer.
- | 6.3 For employees, the certification by or on behalf of an ~~Head of Service~~Assistant Director shall be taken to mean that the certifying Officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.

7. IMPREST ACCOUNTS (PETTY CASH FLOATS/CASH FLOATS)

- 7.1 The Chief Finance Officer shall provide such imprests as she/he considers appropriate for such employees of the Council as may need them for the purposes of defraying petty cash and other expenses.
- 7.2 No income received on behalf of the Council may be paid into an imprest account but must be banked or paid to the Council as provided elsewhere in these Regulations.
- 7.3 Payments shall be limited to minor items of expenditure and to such other items as the Chief Finance Officer may approve and shall be supported by a receipted voucher to the extent that the Chief Finance Officer may require.

- 7.4 An employee responsible for an imprest account or cash float shall, if so requested, give to the Chief Finance Officer a certificate as to the state of the account or float.
- 7.5 The Chief Finance Officer shall be responsible for checking from time to time that there are arrangements for cash floats to be properly and securely maintained.
- 7.6 Before leaving the employment of the Council or otherwise on ceasing to hold an imprest or float, an employee shall account to the Chief Finance Officer for the amount advanced and the ~~Head of Service~~ Assistant Director shall ensure that this happens.

8. CONTRACTS AND PAYMENTS

- 8.1 ~~Heads of Service~~ Assistant Directors shall inform the Chief Finance Officer as soon as possible of all contracts, agreements, awards, or other instruments involving the payment or receipt of money by the Council.
- 8.2 Where contracts provide for payment to be made by instalments, the Chief Finance Officer shall arrange for the keeping of a contract register to show the state of account on each contract between the Council and the contractor, together with any other payments and any relating professional fees.
- 8.3 Payments to contractors on account of contracts shall be made only on a certificate issued by the ~~Head of Service~~ Assistant Directors supervising the contract.
- 8.4 Subject to the provisions of the contract in each case, every extra or variation shall be authorised in writing by the appropriate ~~Head of Service~~ Assistant Director.
- 8.5 Any variation or other increase in cost in excess of £10,000 shall be reported to the Chief Finance Officer and Chief Executive as soon as practicable.
- 8.6 The ~~Head of Service~~ Assistant Director, in consultation with the Chief Finance Officer and Chief Executive, shall report to the Executive as soon as possible on any capital project over £10,000 which is likely to exceed the approved cost by more than 25% or £40,000, whichever is less.
- 8.7 Where the contract includes a retention, the final payment for the contract shall not be made until the ~~Head of Service~~ Assistant Director has produced to the Chief Finance Officer a detailed statement of account and all relevant documents required and the Chief Finance Officer has approved the amount to be certified.

- 8.8 The Chief Finance Officer shall be entitled to make all such enquiries and receive such information and explanations required in order to be satisfied as to the accuracy of the final accounts to contracts.
- 8.9 Claims from contractors in respect of matters not clearly within the terms of any existing contract shall be referred to the ~~Head of Legal, Estates & Member~~Assistant Director, Legal Services for consideration of the Council's legal liability and the action to be taken decided by the ~~Senior Management~~Leadership Team.
- 8.10 Where completion of a contract is delayed and the contract provides for liquidated damages to be payable for delayed completion, it shall be the duty of the ~~Head of Service~~Assistant Director concerned, after consulting with the ~~Head of Legal, Estates & Member~~Assistant Director, Legal Services and the Chief Finance Officer, to claim the liquidated damages unless it is otherwise agreed by the ~~Head of Legal, Estates & Member~~Assistant Director, Legal Services and the Chief Finance Officer.

9. SALARIES AND WAGES

- 9.1 The payment of all salaries, wages, compensation and other emoluments to all employees or former employees of the Council shall be made by the Chief Finance Officer or under arrangements approved and controlled by him/her.
- 9.2 The relevant ~~Head of Service~~Assistant Director shall notify the Chief Finance Officer and in the prescribed form of all matters affecting such payments, and in particular:-
- (a) appointments, resignations, dismissals, suspensions, secondments, and transfers;
 - (b) absences from duty for sickness or other reasons, apart from normal annual leave;
 - (c) changes in remuneration, other than normal increments and pay awards and agreements of general application;
 - (d) information necessary to maintain records of service for superannuation, income tax, national insurance and the like.
- 9.3 All time records or other pay documents shall be in a form approved by the Chief Finance Officer and shall be certified by the ~~Head of Service~~Assistant Director or authorised Officer. The names of Officers authorised to sign such records shall be sent to the Chief Finance Officer together with specimen signatures by the ~~Heads of Service~~Assistant Directors who shall advise the Chief Finance Officer of any changes.

- 9.4 If payments are to be made for additional duties, e.g. home deliveries, the work must have been completed before payment can be made. All instructions to make such a payment shall be in a form approved by the Chief Finance Officer and shall be certified by the ~~Head of Service~~ Assistant Director or authorised officer.

10. INCOME

- 10.1 The collection of all money due to the Council shall be under the supervision of the Chief Finance Officer.
- 10.2 Each ~~Head of Service~~ Assistant Director shall furnish the Chief Finance Officer with such particulars in connection with work done, goods supplied or services rendered and all other amounts due as may be required by the Chief Finance Officer to record correctly all such income due to the Council and to ensure the prompt rendering of accounts.
- 10.3 Where a credit note is to be issued in order to cancel or reduce an invoice raised by the Council, the Credit Note must be approved by the ~~Head of Service~~ Assistant Director or other officer authorised by the ~~Head of Service~~ Assistant Director to the extent approved by the Chief Finance Officer in writing.
- 10.4 ~~Heads of Service~~ Assistant Directors shall notify the Chief Finance Officer promptly of all income due to the Council and of contracts, leases and other agreements and arrangements entered into by the Council and the Chief Finance Officer shall have the right to inspect all documents or other evidence in this connection in the possession of any employee.
- 10.5 The arrangements for the control of all receipt forms, tickets and other such documents which acknowledge sums received shall be approved by the Chief Finance Officer.
- 10.6 All money received by an employee on behalf of the Council shall without delay be paid to the Chief Finance Officer or, as directed, to the Council's bank account. No deduction may be made from such money save to the extent that the Chief Finance Officer has specifically authorised in writing. Each employee who so banks money shall enter on the paying-in slip a reference to the cheque (such as the receipt number or the name of the debtor) or otherwise indicate the origin of the cheque). On the reverse of each cheque, the employee shall enter such information to identify the transaction as instructed by the Chief Finance Officer.
- 10.7 Cheques for sums exceeding £2,000 shall be paid in at the main Cash Office at the latest on the next working day.

- 10.8 Collecting Officers should immediately pay in all cheques (irrespective of their value) to the main Cash Office, particularly if they have any doubt as to the credibility or credit worthiness of the customer or client making the payment.
- 10.9 The Chief Finance Officer shall ensure that all monies received are collected by the next Security collection, for payment into the Council's bank account.
- 10.10 Personally drawn cheques (and third party cheques) shall not be cashed out of the money held on behalf of the Council.
- 10.11 Every transfer of the Council's cash from one member of staff to another shall be recorded by the signature of the receiving employee to confirm the fact of the transfer and the amount transferred.

Writing off Outstanding Monies

- 10.12 The Chief Finance Officer is authorised to write off amounts due or claimed by the Council up to £5,000 and, after consultation with the Leader of the Council, between £5,000 and £15,000. Amounts over £15,000 must be reported to the Executive.
- 10.13 All proposals to write off monies shall be made in writing with reasons.

11. STOCKS AND STORES

- | 11.1 ~~Heads of Service~~Assistant Directors shall be responsible for the care and custody of the stocks and stores in their respective service divisions or units.
- 11.2 Stocks shall not be in excess of normal requirements except in special circumstances with the approval of the Chief Finance Officer.
- | 11.3 ~~Heads of Service~~Assistant Directors shall arrange for periodical test examinations of stocks by persons other than storekeepers and shall ensure that all stocks are checked in accordance with the programme approved by the Chief Finance Officer.
- | 11.4 ~~SMT~~The Leadership Team shall give the Chief Finance Officer such information as is required in relation to stores for the accounting, costing and financial records. Surplus materials, stores or equipment shall be disposed of by competitive tender or public auction except with the approval of the Chief Finance Officer in the case of items not exceeding £1,000 in value or that of the Chief Executive in any other case.

12. INVENTORIES

- 12.1 Inventories shall be maintained by the Leadership SMT Team and therein shall be recorded a sufficient description of furniture, fittings and equipment, plant and machinery, for which they are responsible. The extent to which the property of the Council shall be so recorded and the form in which the inventories shall be kept is to be determined by the Chief Finance Officer.
- 12.2 ~~SMT~~The Leadership Team shall be responsible for maintaining an annual check of all items on the inventory, for taking action in relation to surpluses or deficiencies and noting the inventory accordingly.
- 12.3 The Council's property shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the ~~SMT~~Leadership Team

13. ESTATES

- 13.1 The ~~Head of Legal, Estates & Member~~Assistant Director, Commercial Services will maintain a record of all properties owned by the Council

14. SECURITY

- 14.1 Each ~~Head of Service~~Assistant Director is responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc under his/her control. The Chief Finance Officer shall be consulted in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 14.2 Maximum limits for cash holdings shall be agreed with the Chief Finance Officer.
- 14.3 Keys to safes and similar receptacles are to be carried on the person of those responsible at all times. The loss of any such keys must be reported to the Chief Finance Officer and relevant ~~Head of Service~~Assistant Director immediately.
- 14.4 Each ~~Head of Service~~Assistant Director in conjunction with the ~~Head of Information and Customer~~Assistant Director, Legal Services shall within their department be responsible for maintaining proper security and privacy in respect of information held in any computer system or physical filing system.

15. INSURANCES

- 15.1 The Chief Finance Officer shall be responsible for the maintenance of insurance cover wherever appropriate for the Council's activities, the negotiation of premiums and the keeping of such records as are necessary.

- 15.2 Each ~~Head of Service~~Assistant Director shall tell the Chief Finance Officer of the extent and nature of all new risks to be insured, and of any alterations affecting insurable risks including partnership or contractual arrangements and the Chief Finance Officer shall notify the ~~Head of Service~~Assistant Director immediately the insurance has been effected.
- 15.3 Each ~~Head of Service~~Assistant Director shall immediately notify the Chief Finance Officer and the ~~Head of Legal, Estates & Member~~Assistant Director, Legal Services in writing of any loss, liability or damage.
- 15.4 The ~~Head of Legal, Estate & Member~~Assistant Director, Legal Services shall negotiate all claims in which legal issues are involved unless the Council's insurers are acting.

16. AUDIT

- 16.1 A continuous internal audit shall be arranged to carry out an examination of accounting, financial and other operations of the Council. The internal audit shall be under the control of the Chief Finance Officer who shall ensure it meets the requirements of Section 151 of the Local Government Act 1972.
- 16.2 The Chief Executive, Monitoring Officer and Chief Finance Officer or their authorised representative shall have authority to:-
- (a) enter at all reasonable times on any Council premises or land;
 - (b) have access to all records, documents and correspondence relating to any financial and other transactions of the Council;
 - (c) require and receive such explanations as are necessary concerning any matter under examination and
 - (d) require any employees of the Council to produce cash, stores or any other Council property under their control.
- 16.3 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the Council or any suspected irregularity in the exercise of the functions of the Authority, ~~SMT~~the Leadership Team shall forthwith notify the Chief Executive, the Chief Finance Officer and the ~~Head of Legal, Estates & Member~~Assistant Director, Legal Services, who shall take such steps as are considered necessary by way of investigation, action and report.
- 16.4 The Chief Finance Officer shall report direct to the Council, the Executive or Audit Committee on any matter which the Chief Finance Officer considers necessary.

- 16.5 The ~~Audit & Performance Manager~~Assistant Director, Legal Services, in consultation with the Monitoring Officer, may report independently to the Executive, the Audit Committee or Council if the ~~Audit & Performance Manager~~Assistant Director, Legal Services should consider this necessary.

17. BANKING ARRANGEMENTS AND CHEQUES

- 17.1 All arrangements with the Council's bankers concerning the Council's banking accounts and the issue of cheques shall be made by the Chief Finance Officer.
- 17.2 All new cheques shall be ordered only on the authority of the Chief Finance Officer, who shall make proper arrangements for their safe custody.

- 17.3 Cheques drawn on the Council's bank accounts shall bear the facsimile signature of the Chief Finance Officer or shall be signed by the Chief

47.3 Finance Officer or any other cheque signatory authorised by the Council.

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- 17.4 The Chief Finance Officer shall be responsible for the negotiation of banking terms on behalf of the Council.

18. TREASURY MANAGEMENT

- 18.1 The Chartered Institute of Public Finance and Accountancy's (CIPFA) Treasury Management in the Public Services Code of Practice ('the Code') has been adopted and is deemed to be incorporated in these Financial Regulations.

The Council will create and maintain as the cornerstones for effective treasury management:-

- A treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury management activities
 - Suitable treasury management practices (TMPs) setting out the manner in which the organisation will seek to achieve those policies and objectives and prescribing how it will manage and control those activities.
- 18.2 The content of the policy statement and TMPs will follow the recommendations contained in sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of this organisation. Such amendments will not result in the organisation materially deviating from the Code's key principles.

ROCHFORD DISTRICT COUNCIL CONTRACT PROCEDURE RULES

INTRODUCTION

These Rules deal with procedures for obtaining quotations and tenders and entering into contracts for work, goods and services. They apply to purchases and sales, hiring, leasing, licensing of, for example, computer software or other intellectual property as well as works contracts and the employment of consultants. The rules do not apply to the acquisition or disposal of land or any interest in land or contracts for the engagement of Counsel. Some contracts, depending on their value, are subject to EU Law on procurement. This is a complex area and if officers are not sure whether the EU regime applies, they should contact the Head of Legal, Estates and Member Assistant Director, Legal Services.

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The current European Union contracting thresholds are:-

	£
1.1 Works Contracts	4,332,012
1.2 Supplies	172,514
1.3 Services	172,514

These limits are changed at regular intervals and details of the latest thresholds can be obtained from the Head of Legal, Estates and Assistant Director, Legal Member Services.

1 GENERAL

1.1 Interpretation

1.1.1 In these Contract Procedure Rules, unless the context requires otherwise, the following words and phrases shall bear the respective meanings set out below:-

'building contract' means any contract for the execution of building or civil engineering works.

'Director/Assistant Director/Head of Service' means the Chief Executive or Head of Service/Director/Assistant Director of the Council or any Officer designated to act on behalf of a Head of Service/Assistant Director for the purpose specified.

'CPR' means Contract Procedure Rules.

'contract' means any contract made by or on behalf of the Council for any of the purposes set out in CPR 1.5.

'Council' means the Full Council, or any Committee authorised to act on behalf of the Council.

"Leader" means the Leader or any Executive Member or Committee authorised by him/her to act on his /her behalf.

'most financially advantageous' means the lowest if payment is to be made by the Council and the highest if payment is to be made to the Council and, in either case, refers to a tender which conforms to the Council's specification and tendering requirements.

'nominated Officer' means an Officer to whom power to act has been delegated by the Scheme of Delegations in Part 3 of this Constitution, or who has been nominated for the purpose of the relevant Rule in writing by a Head of Service/Director/Assistant Director.

'person' or 'persons' shall include a firm, partnership, company or public authority.

'quotation' means a bid for a Council contract to be submitted to the nominated Officer otherwise than under Rule 3.2.

'tender' means a bid for a contract to be submitted in accordance with Rule 3.2 and 3.4.

1.1.2 Where there is a requirement to consult the relevant Member and that Member is unavailable, the Officer concerned shall consult another Member nominated for the purpose by the Leader of the Council.

1.1.3 References to contract values are to the value excluding Value Added Tax (if any).

1.2 Contract Principles to be Applied

All the following principles must be applied to every contract or proposed contract to be entered into by or on behalf of the Council:-

1.2.1 appropriate quality standards should be required;

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- 1.2.2 the cost to be paid or sum to be received by the Council shall be the most advantageous, in terms of price, quality of work and delivery, and be consistent with achieving Best Value;

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15.31

1.5 Rules to Apply to All Contracts

The Contract Procedure Rules apply to every contract or proposed contract to be entered into by or on behalf of the Council for:-

- 1.5.1 the supply of goods, materials, computer software, plant and equipment (including by lease, licence or hire);
- 1.5.2 the carrying out of work;
- 1.5.3 the supply of services including consultancy services; and
- 1.5.4 any combination of these.

UNLESS

- (A) *compliance with the Rules has been waived under 1.6;*
- (B) *The exceptions under Rule 2.3 apply.*

1.6 Waiving Standing Orders

The Council (or the Leader with regard to executive functions) may approve exceptions from Contract Procedure Rules in such cases as they think fit, but only after consideration of a written report submitted by a ~~Head of Service~~ Director/Assistant Director (or another Officer to whom this responsibility is delegated) after consultation with the Monitoring Officer and the Chief Finance Officer.

2 TENDERS AND QUOTATIONS

2.1 Summary of Requirements for Tenders and Quotations

The following table sets out which procedure shall apply to various values of contract:-

Estimated Contract Value	Procedure to Apply	
Up to £10,000	The Procurement Officer is required to demonstrate that best value has been achieved in accordance with Clause 2.6. Alternatively, 3 competitive quotations should be obtained.	2.6
£10,000 - £25,000	At least 3 written quotations	2.7
Between £25,000 and £75,000	Competitive Tender (Minimum of 3)	2.2/2.3

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2.8 Alternative Competitive Tendering Procedures

The ~~Head of Service~~Director/Assistant Director shall decide which of the following procedures is to be used:-

- 2.8.1 tenders invited through a public notice on the Council's website if the contract is likely to be capable of being performed by local contractors and in an appropriate trade journal circulating among persons who could be prospective tenderers; or
- 2.8.2 tenders invited from a shortlist of at least three (four if over £75,000) of the contractors selected by the ~~Head of Service~~Director/Assistant Director from amongst those who replied to a public notice in a trade journal circulating among prospective tenderers (and the Council website, if appropriate) inviting expressions of interest in the proposed contract or, if less than four replying, all of them; or
- 2.8.3 tenders invited from at least three (four if over £75,000) of the contractors included in a standing list of contractors relevant to the proposed contract maintained in accordance with CPR 2.9, such contractors to be invited to tender in turn so that all have a fair chance of winning the Council's contracts save that in addition a maximum of two contractors who have carried out similar work for the Council in the last two years may be nominated by the ~~Head of Service~~Director/Assistant Director from the standing list in agreement with the Chief Finance Officer.

2.9 Standing Lists of Contractors

Standing lists shall be compiled, kept up to date and reviewed by the ~~Head of Service~~Director/Assistant Director for the purpose in accordance with the following rules:-

- 2.9.1 when a standing list is to be prepared or reviewed, public notice shall be placed on the Council's website and a trade journal circulating among prospective applicants inviting suitable contractors to apply within not less than 28 days;
- 2.9.2 standing lists shall be reviewed every four years. Contractors on an existing list shall be invited to apply to remain on the list and shall be allowed not less than 28 days in which to reply, unless the Council has resolved not to invite a contractor to re-apply following consideration of a report from the ~~Head of Service~~Director/Assistant Director or Chief Finance Officer relating to the financial status or performance of a contractor;

the contractor, its employees or agents, with or without its knowledge:-

- (i) directly or indirectly improperly offers, promises or gives anyone anything in order to influence the way in which any contract with the Council is given, completed or carried out; or
- (ii) commits any offence under the Bribery Act 2010 or section 117(2) of the Local Government Act 1972.

3.1.6 Data Protection

All contracts shall require a contractor to comply with the requirements of the Data Protection Act 1998 or any re-enactment of that Act in so far as any Data supplied by the Council or obtained on behalf of the Council is kept secure and is not disclosed to any other party without the express consent of the appropriate ~~Head of Service~~ Director/Assistant Director.

3.1.7 Equalities and Diversity

All contracts should require a contractor to comply with the requirements of the Equalities Act 2010 or any re-enactment of that Act in particular in relation to the behaviour of its staff, its treatment of its staff and in its dealings with residents.

3.2 Invitation to Tender

Every invitation to tender shall be in writing (other than when an e-tendering process is undertaken) and state:-

- (a) that all tenders must be delivered in a plain sealed envelope addressed to the nominated officer and bearing the words 'tender for' and the title of the contract, but without any name or mark from which the sender might be identified; and
- (b) that the Council does not bind itself to accept any tender.

3.3 Tender envelopes/e-tenders received shall remain unopened in the custody of the nominated officer until the time appointed for their opening.

3.4 An e-tendering system is also permissible, which adheres to paragraphs 4.1 to 4.4 inclusive.

4 **RECEIPT AND OPENING OF TENDERS**

4.1 All the tenders/e-tenders for a contract shall be opened together in the same place after the expiration of the time for tendering in the

presence of at least two officers of different disciplines, usually the nominated officer and a Chief Officer who has not been involved in the tender invitation.

- 4.2 All tenders/e-tenders received shall be recorded.
- 4.3 Any tenders/e-tenders received after the expiration of the time for tendering, or which contravene any provision of these Rules, shall not be considered and shall be returned to the tenderer.
- 4.4 All tenders/e-tenders and accompanying documents shall be treated as confidential until their contents become public in the normal course of the Council's business.

5 ACCEPTANCE OF TENDERS

- 5.1 Subject to the provisions of this Rule, the ~~Head of Service~~Director/Assistant Director may accept the most financially advantageous tender.
- 5.2 In the case of contracts to be financed from capital, a tender shall not be accepted unless any necessary Government approvals and borrowing authorisations have been received and, where the tender exceeds the capital programme budget by no more than 10% up to a maximum of £25,000, the Chief Executive and/or Chief Finance Officer approve. In the case of building works, before accepting the tender the ~~Head of Service~~Director/Assistant Director responsible must take appropriate technical and professional advice, and do so in accordance with guidelines (if any) which may be laid down from time to time by the Chief Executive.
- 5.3 In the case of works or services or the supply of goods or materials to be financed from the revenue budget or revenue reserves, authority to accept a tender is subject to sufficient provision existing in the approved revenue budget or approval to spend from a Revenue Reserve.
- 5.4 The following provisions apply to negotiations with tenderers and amending their tenders:-
 - 5.4.1 in exercising the powers contained in CPR 5.1, 5.2 and 5.3 above, the Officer responsible may negotiate with the tenderer submitting the most financially advantageous tender to obtain improvements in terms of price, delivery or content, but shall not alter the original specification unless the revenue budget or capital programme budget is exceeded or the Chief Executive considers other special circumstances exist, in which case all those persons who originally submitted a tender for the contract shall be given an opportunity to re-tender;

5.4.2 negotiation after receipt of formal tenders and before the letting of a contract shall not take place without the written authorisation of the ~~Head of Service~~Director/Assistant Director and shall be undertaken in accordance with arrangements approved by the Monitoring Officer and the Chief Finance Officer. Amendments to tenders, once agreed, shall be put in writing and signed by the tenderer;

5.4.3 In the event of any amendment made under 5.4.1 and 5.4.2 above resulting in a decrease in the total tender of more than 10% for contracts over £25,000, such alteration shall be reported to the next following meeting of the Council;

5.4.4 Notwithstanding any other provision of this Rule persons tendering shall be allowed after the tenders have been opened, on being provided with details of errors of arithmetic discovered in their tenders, to confirm or withdraw their tender.

6 TENDERS OTHER THAN MOST FINANCIALLY ADVANTAGEOUS

6.1 Tenders, other than the most financially advantageous, may only be accepted after consultation with the Leader.

6.2 All tenders accepted after such consultation shall be reported to the next meeting of the Council.

7 RECORDS OF TENDERS

7.1 ~~Heads of Service~~Directors/Assistant Directors shall maintain a record of tenders ~~r~~received, tenders ~~-~~accepted and amendments agreed by them under the powers given to ~~-~~them by these Rules; such record to be in a form agreed with the Chief ~~-~~Finance Officer and copied to the Monitoring Officer.

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8 CONTRACTS TO BE IN WRITING

8.1 Every contract shall be in writing except for purchases using petty cash or other small cash transactions which would not in the normal course of business be reduced to writing.

8.2 Every contract for more than £25,000 in value shall be in a form approved by the ~~Head of Legal, Estates and Member~~Assistant Director, Legal Services and shall either be:-

- (a) sealed with the common seal of the Council; or
- (b) signed on behalf of the Council by the nominated officer, or such officer as the nominated officer has authorised in writing.

- 8.3 Every other contract shall be in a form approved by the ~~Head of Legal, Estates and Member~~Assistant Director, Legal Services or in accordance with guidance as to the form of contracts issued by him/her from time to time and shall be signed by the nominated Officer.

9 SUB CONTRACTORS AND NOMINATED SUPPLIERS

- 9.1 This Rule applies where a sub contractor or supplier is to be nominated to a main contractor by the Council.
- 9.2 Where the estimated cost of the sub-contract or of the goods to be supplied by the nominated supplier is £25,000 or more, competitive tenders shall be invited from at least three (four if over £75,000) tenderers for the nomination unless CPR 2.3 applies.
- 9.3 The terms of the invitation shall require an undertaking that the sub contractor, if selected, will be willing to indemnify the main contractor against the main contractor's obligations under the main contract in relation to the work or goods to be carried out or supplied by the sub-contractor.
- 9.4 The provisions of Standing Orders 4,5,6 and 7 (invitation to tender and receipt, opening and acceptance of tenders) shall apply to tenders received under this Rule.
- 9.5 The ~~Head of Service~~Director/Assistant Director responsible shall nominate to the main contractor the person whose tender is successful but, if that tender is not the most advantageous received, the acceptance shall require the approval of the Monitoring Officer and Chief Finance Officer and the circumstances shall be reported to the Leader.

CODE OF GOOD PRACTICE FOR PLANNING MATTERS

A. Introduction

1. The Aim of this Code of Good Practice

To ensure that in the planning process all decisions are unbiased, impartial, and well founded.

2. Your Role as a Member of the Planning Authority

To control development and to make planning decisions openly, impartially, with sound judgment and for justifiable reasons. You are also a democratically accountable decision taker who has been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies provided that you have considered all material considerations and have given fair consideration to relevant points raised.

3. When the Code of Good Practice Applies

This code applies to Members at all times when involving themselves in the planning process (this includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public, and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

B. Relationship to the Code of Conduct – Points for Members

- Do apply all of the rules in the Code of Conduct for Members first.
- Do then apply the rules in this Code of Good Practice for Planning Matters, which seek to explain and supplement the Code of Conduct for Members for the purposes of planning control.
- Failure to abide by this Code of Good Practice for Planning Matters may put:-
 - the Council at risk of proceedings in respect of the legality or maladministration of the related decision;
 - yourself at risk of a complaint to the Monitoring Officer; and
 - yourself at risk of being named in a report made to the Council, or if the failure is also likely to be a breach of the interest provisions of the Localism Act 2011, a complaint being made to the police to consider criminal proceedings.

C. Development Proposals and Interests under the Members' Code

- Do disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members.
Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter.

- Do then act in accordance with the Code of Conduct for Members.

Where your interest is a Disclosable Pecuniary or Other Pecuniary interest:-

- **Don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.
- **Don't** get involved in the processing of the application, save as mentioned below.
- **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include, where you have an Other Pecuniary Interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.
- Do be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a Disclosable Pecuniary or Other Pecuniary or conflict of interest to an appropriate officer, in person or in writing, the Code places limitations on you in representing that proposal. You may address the Committee but only to make a presentation in the same manner that would apply to a normal member of the public, after which you must leave the room whilst the meeting considers it (you may not remain to observe the meeting's considerations on it from the public gallery).
- Do notify the Monitoring Officer of the details in writing as soon as you become aware where it is clear to you that you have a disclosable pecuniary interest or other pecuniary interest, and note that:-
 - ~~○ You should send the notification no later than submission of that application where you can;~~
 - ~~○ The proposal will always be reported to the Committee as a main item and dealt with by officers under delegated powers;~~
 - ~~○ You must not get involved in the processing of the application; and~~
 - ~~○ It is advised that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and in public speaking at Committee.~~

D. Fettering Discretion in the Planning Process

- **Don't** fetter your discretion and therefore your ability to participate in planning decision making by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the Committee and of your hearing the officer's presentation and evidence and arguments on both sides.

Fettering your discretion in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

- **Do** be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011.
- **Do** keep at the front of your mind that, when you come to make the decision, you
 - are entitled to have and to have expressed your own views on the matter, provided you are prepared to reconsider your position in the light of all the evidence and arguments;
 - must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice, as well as the arguments from all sides;
 - are not required to cast aside views on planning policy you held when seeking election or otherwise acting as a Member, in giving fair consideration to points raised;
 - are only entitled to take account of a material consideration and must disregard consideration irrelevant to the question and legal context at hand; and
 - are to come to a decision after giving what you feel is the right weight to those material considerations.
- **Do** be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal (this is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits).
- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a Member of the Parish Council, for example, or both a District and County Councillor), provided that the proposal does not substantially affect the well being or financial standing of the consultee body, and you make it clear to the consultee body that:-
 - your views are expressed on the limited information before you only;
 - you must reserve judgment and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information;
 - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
 - your membership or role is a Non-Pecuniary Interest
- **Don't** speak and vote on a proposal where you have fettered your discretion. You do not also have to withdraw, but you may prefer to do so for the sake of appearances.

- **Do** explain to the consultee body that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.
- **Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Member where you have represented your views or those of local electors and fettered your discretion, but do not have a disclosable or other pecuniary interest. Where you do:-
 - advise the proper officer or Chairman that you wish to speak in this capacity before commencement of the item;
 - remove yourself from the Member seating area for the duration of that item; and
 - ensure that your actions are recorded.

E. Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Do** contact the ~~Head of Planning and Transportation~~ Assistant Director, Planning Services where you think a formal meeting with applicants, developers or groups of objectors might be helpful. You should never seek to arrange that meeting yourself. If a meeting is organised, officers will ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- **Do** otherwise:-
 - follow the rules on lobbying as set out in part F below;
 - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
 - report to the ~~Head of Planning and Transportation~~ Assistant Director, Planning Services any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

In addition, in respect of presentations by applicants/developers:-

- **Don't** attend a private planning presentation not open to the general public unless an officer is present and/or it has been organised by officers.
- **Do** attend a public meeting or exhibition to gather information about planning proposals.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.

- Do remember that the presentation is not part of the formal process of debate and determination of any subsequent application; this will be carried out by the Development Committee.
- Do be aware that a presentation is a form of lobbying – you can express views, but must not give an indication of how you or other Members might vote.

F. Lobbying of Councillors

- Do explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the Committee's decision making to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.
- Do remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- Do promptly refer to the Head of Planning and Transportation Assistant Director, Planning Services any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- Do copy or pass on any lobbying correspondence you receive to the Head of Planning and Transportation Assistant Director, Planning Services at the earliest opportunity.
- Do inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including offers of gifts or hospitality), who will in turn advise the appropriate officers to investigate.
- Do note that, unless you have a Disclosable Pecuniary Interest or an Other Pecuniary Interest', you will not have fettered your discretion or breached this Code of Good Practice for Planning Matters through:-
 - listening or receiving viewpoints from residents or other interested parties;
 - making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
 - attending a meeting with the developer or applicant organised by the Head of Planning and Transportation Assistant Director, Planning Services that is conducted in accordance with the rules set out in the Code of Conduct and this good practice guide;
 - seeking information through appropriate channels; or
 - being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not

committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

G. Lobbying by Councillors

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals unless it is your intention to openly campaign on the matter. You should have no involvement in the decision-taking process in the matter and you should remove yourself from the Committee for the duration of that item. and will therefore step away from the Committee when it comes to make its decision. If you do, you will have fettered your discretion.
- **Do** feel free to join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, Ramblers Association or a local civic society, but disclose a Non-Pecuniary Interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgment and the independence to make up your own mind on each separate proposal.
- **Don't** excessively lobby fellow Councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

H. Site Visits

- **Do** request an early site visit if you think one is required.
- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:-
 - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- **Do** ensure that you report back to the Committee ~~any~~ information gained from the site visit that you feel would benefit all Members of the Committee.
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.

- **Don't** hear representations from any other party, with the exception of the Ward Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- **Don't** express opinions or views to anyone.
- **Don't** enter a site not open to the public which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:-
 - you feel it is essential for you to visit the site other than through attending the official site visit,
 - you have first spoken to the ~~Head of Planning and Transportation~~Assistant Director, Planning Services about your intention to do so and why (which will be recorded on the file); and
 - you can ensure you will comply with these good practice rules on site visits.

I. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

J. Officers

- **Don't** put pressure on officers to put forward a particular recommendation (this does not prevent you from asking questions or submitting views to the ~~Head of Planning and Transportation~~Assistant Director, Planning Services, which may be incorporated into any Committee report).
- **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a ~~Head of Service~~n Assistant Director or those officers who are authorised by their ~~Head of Service~~Assistant Director to deal with the proposal at a Member level.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

- Do give officers the opportunity to report verbally on all applications reported to the Development Committee for determination.

K. Decision Making

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- Do ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation following a Weekly List report, you discuss your planning reasons with the Head of Planning and Transportation Assistant Director, Planning Services.. A planning officer will then set out these planning reasons ~~and that your planning reasons are recorded and repeated in the report to the Committee.~~
- Do comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan and the National Planning Policy Framework unless material considerations indicate otherwise.
- Do come to your decision only after due consideration of all of the information reasonably required upon which to base a decision, including any information presented through an addendum to a Committee report or reported verbally by officers.
- Don't vote or take part in the meeting's discussion on a proposal unless you have been present during the entire debate on any particular item, including the officers' introduction to the matter.
- Do make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan, that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded.
- ~~Do note note that applications should not generally be deferred. Where they are deferred by Members, the reasons for doing so must be clearly stated. the Committee's decision to defer any proposal and consider that this is in accordance with the Council's protocol on deferrals.~~
- Do be aware that in the event of an appeal the Council will have to justify the resulting decision and that there could, as a result, be a costs award against the Council if the reasons for refusal cannot be substantiated.

L. Training

- Don't participate in a vote at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- Do endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, policy, guidance, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

Updated: ~~May~~ February 2014⁵

- ~~Do participate in the annual review of a sample of planning decisions to ensure that Members' judgments have been based on proper planning considerations.~~

PROTOCOL FOR OUTSIDE BODIES

MEMBERS' AND OFFICERS' RESPONSIBILITIES & LIABILITIES

Members and officers acting on outside bodies may attract personal liability depending on the legal nature of the body and the role fulfilled by the Member or officer. The Council may only delegate its functions to Committees or employees of the Council. This means that Members can only represent the Council on outside bodies as observers or facilitators assisting in the exchange of information. Members cannot make decisions binding the Council unless it is with the authority of the Council in order to implement a decision that the Council has made. Members are therefore not allowed to represent the Council in an Executive capacity on an outside body. Members may serve on outside bodies in their personal capacity, provided that there is no conflict of interest with their duties as a Member.

The following is intended to provide some useful guidelines. It is a Member/officer's responsibility to ensure that they are aware of their liabilities and any insurance arrangements where they participate on outside bodies. Where uncertainty exists, seek guidance from the ~~Head of Legal, Estates and Member~~ Assistant Director, Legal Services or independent legal advice.

1 The Council may only indemnify Members and Officers in Certain Circumstances as Prescribed by the Local Authorities (Indemnity for Members & Officers) Order 2004.

The Council will provide an indemnity in relation to any action or failure to act by any Member or officer which:-

- (a) is authorised by the Council or the Executive and/or;
- (b) forms part of, or arises from, any powers conferred or duties placed upon that Member or officer at the request, or with the approval of, the Authority, including acting as the Council's representative on an outside body;
- (c) arises in respect of the cost of defending any claim for an allegation of defamation by a Member or officer acting in an official capacity (but not in respect of any punitive or exemplary damages or arising from malicious or injurious falsehood);
- (d) is in respect of any investigation, hearing or other proceedings for an alleged failure to comply with the Code of Conduct for Members but, if the Member is found to have breached the Code of Conduct, and where an appeal is unsuccessful, then that Member shall reimburse the Authority or the Insurer for their costs incurred in relation to those proceedings.

The indemnity includes an act or omission subsequently found to be beyond the powers of the Member or officer in question, but only to the extent that the Member or officer reasonably and genuinely believed that the act or omission was within his/her powers at the time he/she acted.

The indemnity does not apply to the defence of any criminal proceedings brought against a Member or officer unless specifically approved by the Council and then

only on similar basis to that relating to proceedings for breaches of the code with regard to reimbursement.

2 A Member's Role on an Outside Body may Occasionally Give Rise to a Conflict of Interest.

If a Member is a director or on the management committee of an outside body, it is likely that their prime duty is to the outside body. Where the Member has been appointed by the Authority as its representative this will not necessarily exclude the Member from participating in Council decision making, even when the outside body is directly affected, as membership of an outside body need not be regarded as a prejudicial interest under the terms of the Code of Conduct. However, there may be circumstances where a prejudicial interest might arise and Members should seek advice if they are unsure of their position.

In some instances a Member may also find that they are unable to properly carry out their functions as a Member of Council and a Member of the outside body. In such a case the Member may consider resigning from one or other body. Members are advised to seek advice from the Chief Executive or Head of Legal, Estates and Member Assistant Director, Legal Services before taking such action.

3 There are General Duties that Apply to Members and Officers Whether They Act in the Role of Company Director or Trustee or Member of an Unincorporated Body.

The Member or officer is under a duty to exercise independent judgment in the interest of the organisation in which they are involved. If the Member or officer is involved in the outside body in a representative capacity, this must be declared to the outside body. A mandate from the Council to vote in one way or another would put the Member or officer in breach of the duty to the organisation.

Members and officers must also ensure that avoidable loss is not incurred in managing the organisation. They must make sure that they have regard to all appropriate reports and papers. They are expected to seek professional advice where appropriate.

The Member/officer must act in accordance with the rules, Constitution and framework set by the outside body.

A report back must be made twice per year into the Members' Bulletin.

At all times Members and officers must behave ethically, taking an informed role in the outside body's affairs.

Members must represent the Council and not the political party to which they owe their loyalty.

4 Before Accepting a Role in a Decision-Making Capacity in Any Outside Organisation Consider the Following:-

How onerous are the responsibilities likely to be? Do you have the time and capacity to take them on?

Updated: 30 JuneFebruary 20105

Is there likely to be any significant conflict of interest between your role in the outside organisation and your Council role? If so, consider refusing the office.

Assess the risk of things going wrong, which might give rise to personal liability. Things to consider include the nature and function of the body and the amount of money with which it deals. Always be aware of the added risks where an organisation employs staff.

In each case the issue of insurance should be considered. Find out if the external body has insurance and if so whether it would cover the key risks of the organisation as well as yourself. Find out if your liability is limited or unlimited.

If not, would the organisation consider taking out insurance. If no insurance exists, and indemnity does not apply, this must be weighed in the decision to accept the appointment. Make sure that you are aware of your major responsibilities and liabilities. A guideline on the respective duties and liabilities in relation to companies, trusts and unincorporated associations, is available from the Assistant Director, Legal Head of Legal, Estates and Member Services.

Contractors

- 6.4 All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate Head of Service 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 Assistant Director..

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. 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.

- 8.4 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 ~~Head of Service~~Assistant Director any financial interests that could conflict with the Council's interests.
- 10.2 Employees must declare to their ~~Head of Service~~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~~the Assistant Director, Democratic Services.
- 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.

PROTOCOL ON MEMBER/OFFICER RELATIONS

1 Introduction

- 1.1 Member/officer relations at Rochford are generally good and the production of this protocol should further assist in this matter. The purpose of the protocol is to guide Members and officers of the Council in their relations with one another. Production of this protocol should not affect the vast bulk of business that is successfully conducted between officers and Members. It should simply serve to clarify the boundaries of the relationship should particular circumstances so require. For simplicity, the Chief Executive, Directors and Assistant Directors ~~Heads of Service~~ are referred to collectively as the "leadership senior management team".
- 1.2 Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues that most commonly arise. It is hoped, however, that the approach adopted will serve as a guide to dealing with other issues.
- 1.3 This protocol is to a large extent no more than a written statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty. The protocol can, of course, be updated to take on board new issues as they arise.
- 1.4 This protocol also seeks to reflect the principles underlying the respective Codes of Conduct that apply to Members and officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of Local Government and they therefore demand very high standards of personal conduct.
- 1.5 Although no longer in force a relevant extract from the National Code of Local Government for Members is reproduced below:-
 23. "Both Councillors and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, their Committees and Sub-Committees.
 24. Mutual respect between Councillors and officers is essential to good Local Government. Close personal familiarity between individual Councillors and officers can damage this relationship and prove embarrassing to other Councillors and officers.
- 1.6 In line with the principle of "mutual respect", it is important that any dealings between Members and officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.

2 Officer Advice to Party Groups

- 2.1 There is now a statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such

deliberations by party groups but should seek the approval of the Chief Executive and/or ~~Head of Legal, Estates and Member~~Director Services or Head of Finance before accepting any such request.

- 2.2 The support provided by officers can take many forms ranging from a briefing meeting with a Portfolio Holder, Chairman or Spokesman prior to a Committee meeting to a presentation to a full party group meeting. Whilst in practice such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.
- 2.3 Certain points must however be clearly understood by all those participating in this type of process, Members and officers alike. In particular:-
 - (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be present at meetings, or parts of meetings, when matters of party business are to be discussed.
 - (b) party group meetings are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings are not Council decisions and it is essential that they are not interpreted or acted upon as such; and
 - (c) similarly, where officers provide information and advice to a party group meeting in relation to a matter of Council business, this does not substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee or other recognised forum of the Council when the matter in question is considered.
- 2.4 Confidential items of business must not be discussed by or with officers at party group meetings. In such circumstances, officers must also exercise caution as regards matters of a sensitive nature when non-elected representatives, not bound by the provisions of the Members' Code of Conduct, are present.
- 2.5 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussions to another party group.
- 2.6 Any particular cases of difficulty or uncertainty with regard to officer advice to party groups should be raised with the Chief Executive and/or ~~Head of Legal, Estates and Member~~Director Services who will discuss them with the relevant group leader(s).

3 Support Services to Members and Party Groups

- 3.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must only be used for Council business and never in connection with party political or campaigning activity or for private purposes.

4 Members' Access to Information and to Council Documents

- 4.1 Members have a right to inspect any document in the possession or under the control of the Council that contains material relating to any business to be

transacted at a meeting of the Council. This right does not extend to exempt or confidential information.

- 4.2 Members are free to approach any Council Department to provide them with such information, explanation and advice (about that Department's functions), as they may reasonably need to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Department's activities, to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the senior management.

5 Officer/Chairman Relationships

- 5.1 ~~——The Chief Executive and senior management~~Leadership Team are employees of the ~~——whole Council ——~~with overriding responsibility to the Council. Nevertheless, the ~~Chief Executive and ——senior management~~Leadership Team will be expected to work closely with the Administration at ~~——any particular time.~~

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- 5.2 It is clearly important that there should be a close working relationship between the Executive and the ~~senior management~~Leadership Team, and the Lead Officer of a Committee or Sub-Committee and the senior officers who report to that Committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with other Members and other party groups.
- 5.3 Whilst the Leader and any Chairman of a Committee (or Sub-Committee) will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in some situations there will be a duty to submit a report on a particular matter. Similarly, the appropriate member of the ~~senior management~~Leadership Team will always be fully responsible for the contents of any report submitted in his/her name. Any issues arising between the Executive, a Chairman and a Member of the ~~Senior Management~~Leadership Team in this area should be referred to the Chief Executive for resolution in conjunction with the Leader.
- 5.4 In relation to action between meetings, it is important to remember that the Council's arrangements only allow decisions (relating to the discharge of functions) to be taken by the Executive, a Committee, a Sub-Committee or an officer acting under delegated powers in accordance with the Constitution. The law does not allow for such decisions to be taken by a Chairman or any other single Member of a Committee or Sub-Committee. Arrangements currently exist under the Leader and Chief Executive's delegated powers for securing authority to act on any matter that will not admit of delay. This decision-making route will rarely be used but when it is, a report must be prepared and submitted to the next practicable meeting giving an account not only of the action taken, but also of why the procedure was used.
- 5.5 It must be remembered that officers within a department are accountable to their ~~Head of Service~~Assistant Director or Chief Executive and that whilst officers should always seek to assist a Chairman (or indeed any Member) they must not, in doing so, go beyond the bounds of whatever authority they have been given by the ~~Senior Management~~Leadership Team.

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 ~~People and Policy Manager~~Assistant Director, Transformational Services or another named officer.

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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 ~~People and Policy Manager~~Assistant Director, Transformational Services 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).

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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.

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

2.7—obtained. The line manager (or the person who carried out the investigation) will then report to the ~~Head of Service~~Assistant Director or Chief Executive 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.

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Stage 3

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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 ~~People and Policy Manager~~ Assistant Director, Transformational Services, who will arrange for another manager to review the investigation carried out, make any necessary enquiries and make his/her own report to the ~~Head of Service~~ Assistant Director or Chief Executive 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 ~~People and Policy Manager~~ Assistant Director, Transformational Services. Any approach to the ~~People and Policy Manager~~ Assistant Director, Transformational Services 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 Office of Fair Trading;
- the Health and Safety Executive;
- the Environment Agency;
- the Director of Public Prosecutions; 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;

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| February 2015~~August 2012~~

- false returns to HM Revenue & Customs;
- falsification of financial records; and
- bribery.

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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:
- 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;
 - 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.

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:

People and Policy ManagerAssistant Director, Transformational Services **(Whistleblowing Officer)**

Claudia McClellanAndrew Mowbray	01702 546366, Ext. 3202830 01702 31804462 (Direct Dial) andrewclaudia.mowbrayeclellan@rochford.gov.uk
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Chief Executive

Amar Dave	01702 546366, Ext. 3000 amar.dave@rochford.gov.uk
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Monitoring Officer

Albert Bugeja	01702 546366, Ext. 37019 01702 318130 (Direct Dial) albert.bugeja@rochford.gov.uk
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Audit & Performance Manager

	tracey.metcalf@rochford.gov.uk
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The Responsible Officer

- 2.18 The Chief Executive 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 Policy ownership and Effective Dates

Policy owner:	Human Resources Transformational Services
Approving body:	Human Resources Management Team, Full Council
Date approved:	11 June 2012
Effective date:	July 2012
Review date:	June 2013
Version:	1

PETITIONS

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All petitions sent or presented to the Council will receive an acknowledgement from the Council within 10 working days of receipt. This acknowledgement will set out how the petition is to be dealt with. We will treat something as a petition if it is identified as being a petition or if it seems to us that it is intended to be a petition.

Paper petitions can be sent to:-

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

Or, from 15 December 2010, in electronic form if created, signed and submitted online by following a procedure to be introduced for the purpose and to be set out on the Council's website.

Petitions can also be presented to a meeting of the Council. These meetings take place on a regular basis and dates and times are published by Notice and on the Council's website. To present a petition to the Council in person, or to request your Councillor or someone else to present it on your behalf, please contact our Member Services team on 01702 546366 at least 10 working days before the meeting and they will talk you through the process.

If your petition has received 1500 signatures or more it will be scheduled for debate at Full Council in any event. If this is the case we will let you know whether this will happen at the same meeting you present your petition or at a later meeting of the Council.

What are the Guidelines for Submitting a Petition?

Petitions submitted to the Council must include:-

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

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

If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted.

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

Leadership Team

Chief Executive and Head of Paid Service

Amar Dave

Director

Shaun Scrutton

Director

Nicholas Khan

Assistant Director - Commercial Services Matthew Harwood-White	Assistant Director - Community & Housing Services Jody Bridge	Assistant Director - Environmental Services Marcus Hotten	Assistant Director - Planning Services Vacant	Assistant Director - Customer, Revenues & Benefits Services Dawn Tribe	Assistant Director – Democratic Services John Bostock	Assistant Director – Legal Services Angela Law	Assistant Director - Resources Services Joseph Raveendran	Assistant Director - Transformational Services Andrew Mowbray
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Leisure Economic Development Asset Management Procurement	Environmental Health Community Safety Housing	Open Spaces Street Scene Car Parks/Transport Emergency Planning	Planning Building Control	Customer Services Revenues and Benefits Debt	Support Services Elections Member Services	Legal Partnerships Licensing Audit Overview Health & Safety Information	Payments and Income Accountancy Performance and Risk	Human Resources Personal Assistants Communications ICT
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