

<b>Key Decision Required:</b>	<b>NO</b>	<b>In the Forward Plan:</b>	<b>NO</b>
-------------------------------	-----------	-----------------------------	-----------

## **CABINET**

**13 MARCH 2015**

### **REPORT OF THE PLANNING AND CORPORATE SERVICES PORTFOLIO HOLDER**

#### **A.5 AMENDMENTS TO THE COUNCIL'S CONSTITUTION – PHASE 4 – SCHEME OF DELEGATION**

(Report prepared by Lisa Hastings, Monitoring Officer)

#### **PART 1 – KEY INFORMATION**

##### **PURPOSE OF THE REPORT**

This report asks the Cabinet to recommend to Council, proposed changes which have been suggested by Members and Officers as Phase 4 of the Constitution Review.

The final part of the review proposes changes to Part 3 Responsibility of Functions - Scheme of Delegated Powers. The key differences are highlighted within the body of this Report.

In addition, some miscellaneous changes are sought to the Rules of Procedure in Part 5 of the Constitution on the advice of the Council's Statutory Officers.

##### **EXECUTIVE SUMMARY**

The Portfolio Holder for Planning and Corporate Services established a Constitution Working Party ("CWP") which has cross party membership and is supported by the Monitoring Officer, Corporate Director (Corporate Services) and Democratic Services Manager. In August 2014, the CWP considered and agreed the format of the revised Scheme of Delegation for Council, Committees and an example of the Cabinet (Executive) functions relevant to two Portfolio Holders and the delegations for each decision making body. The review took into account the content of Local Authorities (Functions and Responsibilities) Regulations 2000, as amended, ("the Regulations") and the delegations. The agreed revised format has been expanded to cover all Portfolio Holder responsibilities and is contained within the Appendix.

The Scheme of Delegation forms Part 3 of the Council's Constitution and sets out the Responsibility of Functions. The proposal removes unnecessary duplication throughout and provides greater clarity and enhanced general principles when undertaking the responsibilities and delegations for the benefit of Members and Officers, taking into account legislative requirements, best practice and examples used in other local authorities.

A summary of the changes compared to the existing Scheme of Delegation are provided under each heading below and in each case, the content has been streamlined to remove duplication and checked to ensure in accordance with legislation, where necessary. In all instances, the balance between strategic responsibility and operational matters has not been altered and the suggested changes work for the Council and Cabinet as a whole, assisting both Members and Officers in exercising their delegations.

During the review the CWP suggested that the functions of the Regulatory Committee were shared amongst other committees, due to infrequency the committee has met during the last 3 years and to provide greater efficiency and better use of resources. This will have an impact on the allocation of seats and Group Leaders were informed of the proposal at an early stage, although changes will not take effect until the new municipal year.

The current Scheme of Delegation refers to specific pieces of legislation and does not provide any general authorisations, in doing so there is the risk that some legislation is missed or is out of date. The revised Scheme of Delegation has been drafted providing general powers to committees, Portfolio Holders and Officers unless expressly stated. Together with the Officer delegation database (maintained by the Monitoring Officer) and recording of Officers decisions in prescribed formats, this provides greater protection with the exercise of delegated functions and reduces the risk of legal challenges.

The Responsibility for Functions is split into various sections within Part 3, which are specifically referred to below:

### **1. Delegated Powers – General:**

The overall aims are to:

- Refer to the legislation which specifies which functions are not to be the responsibility of the Cabinet and therefore rest with Council and its Committees, Local Choice functions and executive (Cabinet) functions;
- How decisions relating to Council (Non-Executive) Functions can be made;
- How decisions relating to Cabinet (Executive) Functions can be made; and
- Overview and Scrutiny functions are set out in Article 6 of the Constitution.

### **2. Schedule 1 – Responsibility for Local Choice Functions:**

The overall aims are to:

- (i) Provide within a tabular format a list of those functions, which may (but need not) be the responsibility of the Cabinet;
- (ii) The table has been populated with the decision making body already referred to in the existing Scheme of Delegation, with no changes made; and
- (iii) The delegation of the function has been specified, with changes only being made to ensure consistent with the Management Team's responsibilities.

### **3. Schedule 2 – Responsibility for Council (Non-Executive) Functions:**

The overall aims are to:

- (i) Detail the general matters and principles which underpin the Council's Scheme of Delegation in respect of Council functions;

- (ii) List the powers and duties the Council's Committees are subject to when exercising functions delegated to them;
- (iii) Set out the framework in which Officers exercising delegations from Council and Committees must follow;
- (iv) Provide within a tabular format the responsibility for Council functions and Terms of Reference and those delegated to its Committees and Sub-Committees and further delegations to Officers; and
- (v) The majority of terms of reference and delegations have remained the same as approved by Council previously and set out in the current Constitution unless highlighted below.

#### **4. Full Council:**

The terms of reference include the specific functions allocated to Council in accordance with the Regulations in addition to those already agreed and set out in Article 4.

#### **5. Audit, Local Council Tax, Local Plan and Standards Committees and Town and Parish Councils' Standards Sub-Committee:**

No changes to the terms of reference and delegations, but where appropriate, reference is made to the Regulations and the relevant Schedules contained therein.

#### **6. Planning Committee:**

The changes to the terms of reference and delegations include reference to the Regulations and relevant Schedules and to include some miscellaneous functions, which were previously delegated to the Regulatory Committee.

#### **7. Human Resources Committee:**

The overall aims are to:

- (i) refer to the Regulations;
- (ii) align the Terms of Reference to strategic overview and monitoring of general staff profile and data;
- (iii) update the key personnel policies;
- (iv) include recommendations to Council of matters relating to the employment of the Chief Executive; and
- (v) stream-lining delegations to Officers to be specific to the Chief Executive, in consultation with the Human Resources Manager and Corporate Directors in connection with the management of staff.

## **8. Licensing and Registration Committee and General Purposes Sub-Committee:**

The overall aims are to:

- (i) incorporate functions previously delegated to the Regulatory Committee, which related to and are referred to as 'registration' functions under the Regulations;
- (ii) incorporate some miscellaneous functions relating to food and alcohol;
- (iii) rename the Committee and Sub-Committee to the Licensing and Registration Committee and General Purposes Sub-Committee; and
- (iv) in accordance with current working practices, all functions being delegated to officers unless the matter does not meet the policy criteria set by the Council or Committees.

## **9. Regulatory Committee:**

Deleted and functions transferred to Licensing and Registration Committee and Planning Committee

## **10. Appeals Sub-Committee:**

Deleted, as its three functions are solely performed by Officers in accordance with the Housing Acts and prescribed guidance.

## **11. Schedule 3 – Responsibility for Executive Functions:**

Overall aims are to:

- (i) Provide general roles and responsibilities of Cabinet;
- (ii) Provide general principles regarding decision making by the Cabinet;
- (iii) Confirm that the Leader of the Council is responsible for approving the delegation of executive functions and how those powers and duties must be exercised;
- (iv) Provide updated Terms of Reference for Cabinet acting collectively;
- (v) Update and enhance within the tabular format, each Portfolio Holders overall strategic responsibilities, which the Leader of the Council has delegated with reference to specific service areas;
- (vi) Provide a new clear list of the roles individual Portfolio Holders perform, when exercising their overall strategic responsibilities, in addition to the general principles;
- (vii) Realign the individual Portfolio Holders specific responsibilities to those

performed by the Portfolio Holders and removing duplication with the information contained in the table of responsibilities; and

- (viii) Provide a framework in which the delegation of executive functions to officers is performed. The new enhanced framework removes the specific list of delegations to Officers and is replaced by Corporate Directors and the Head of Planning being authorised to discharge executive functions within their areas of service responsibility, unless the Leader has retained functions with the Portfolio Holders, as specified above.
- (ix) The delegation of powers to officers is underpinned by the principle of consultation and liaison with members, as appropriate and the ability for officers to refer matters to the relevant decision maker, i.e. individual Portfolio Holder or a meeting of full Cabinet, where it is felt that this is appropriate due to the nature of an issue.
- (x) The discharge of functions by Portfolio Holders and Officers shall be subject to the Council's Budget and Policy Framework and other Council Policies, Procedures, Protocols and Codes of Conduct.
- (xi) Each Corporate Director and Head of Planning must list their respective functions and associated statutory powers to be exercised and provide these together with written confirmation as to which officers have been provided with delegated authority to operationally perform these on behalf of the Council. This list will be maintained by the Council's Monitoring Officer on a database on the Council's intranet and will be available for inspection.
- (xii) Decisions by individual Portfolio Holders and Officers performing executive functions must be recorded in the prescribed format and published in accordance with the legislation and Part 5 of the Constitution.
- (xiii) Retain a short list of general responsibilities delegated to Corporate Directors and Head of Planning Services. These are in addition to the database of specific authorisations to officers which will be held by the Council's Monitoring Officer.

## **PART 5 – RULES OF PROCEDURE:**

In addition to the Scheme of Delegation, a couple of minor amendments have been requested by the Council's Section 151 Officer and Monitoring Officer to the Procurement and Access to Information Procedure Rules, both contained within Part 5 of the Constitution. The Statutory Officers have advised that the changes are necessary to ensure good governance and new legislative requirements are fulfilled and are referred to separately:

### **12. Part 5 - Procurement Procedure Rules amendment:**

The Council's Section 151 Officer and Finance and Procurement Manager has advised that a small amendment is made to the Procurement Procedure Rules contained within Part 5 of the Constitution. Additional wording is required at the end of **Rule 4.3.9 Tender Evaluation Panel** to ensure that any external consultant or otherwise involved in a tender evaluation process on behalf of the Council, is requested to confirm whether a potential conflict of interests exists. The new wording

to be inserted at the end of 4.3.9 is as follows:

*An external representative can be accepted onto the panel at the discretion of the Chairman of the Tender Evaluation Panel. In all cases where an external representative is accepted onto the panel, they must be asked to declare any potential interests.*

### **13. Part 5 - Access to Information Procedure Rules amendment:**

In accordance with authority that the Council's Monitoring Officer is permitted to make minor changes to the Constitution required to ensure compliance with legislative changes, Rules 3, 11 and 12 of the Access to Information Procedure Rules should be amended.

The changes are necessary due to the Openness of Local Government Bodies Regulations 2014, which require written records to be kept of certain decisions taken by officers and ensure that these are published together with background papers. These Regulations extend the previous provisions (Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, which only applied to Officer Decisions when performing executive functions, now Officers decisions relating to certain Council and Committee non-executive functions must be published.

The amendment in Rule 3 clarifies the position with regards to recording of meetings where the public are excluded.

The changes are shown in red in Appendix B for reference.

### **PROPOSED CHANGES TO ARTICLE 4:**

Completing the final review of the Constitution, the proposed Scheme of Delegation, if approved will require a small amendment to the terms of reference within Article 4, which relate to the appointment of the Independent Remuneration Panel.

### **14. Amendment to Council's Terms of Reference:**

Article 4.02 (13) to include the appointment of the Independent Remuneration Panel within the Council's terms of reference, on the recommendation of the Chief Executive.

## **RECOMMENDATION**

**That Cabinet recommends to Council as follows:**

- 1. That the proposed changes to Part 3 – Responsibility of Functions - Scheme of Delegation as detailed and set out in Appendix A be adopted;**
- 2. Rule 4.3.9 of the Procurement Procedure Rules contained within Part 5 of the Constitution is amended to include additional wording requested by the Section 151 Officer;**

3. That the amendments required to the Access to Information Procedure Rules to ensure compliance with the Openness of Local Government Bodies Regulations 2014 be endorsed; and
4. That Article 4 is amended to include the appointment of the Independent Remuneration Panel within the terms of reference of Council.

## **PART 2 – IMPLICATIONS OF THE DECISION**

### **DELIVERING PRIORITIES**

Agreeing the proposed changes will ensure that the Council operates efficiently in pursuit of its priorities.

### **FINANCE, OTHER RESOURCES AND RISK**

#### **Risk**

Providing clarity through clearer and consistent procedure rules contained within the Constitution prevents confusion and different interpretation and enhances the Council's governance arrangements.

### **LEGAL**

In accordance with Section 37 of the Local Government Act 2000, as amended, a local authority operating executive arrangements must prepare and keep up to date a document which contains a copy of the authority's standing orders for the time being and such other information as the authority consider appropriate.

Local Authorities (Functions and Responsibilities) Regulations 2000, as amended, sets out functions which must not be the responsibility of the Executive and therefore rests with Council or its Committees. The power to make amendments to the standing orders and the Constitution rests with full Council.

Article 15 of the Council's Constitution provides that changes to the Constitution are approved by full Council after receiving a recommendation from the Executive following consideration of a proposal from the Monitoring Officer and a recommendation via the Portfolio Holder with responsibility for corporate governance.

The Openness of Local Government Bodies Regulations 2014 makes provision to allow members of the public to report on public meetings and also require written records to be kept of certain decisions taken by officers.

### **OTHER IMPLICATIONS**

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

**Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.**

There are no other implications arising from this report.

## **PART 3 – SUPPORTING INFORMATION**

### **CURRENT POSITION**

A review of the Council's Constitution has been undertaken in four phases, as follows:

#### Phase 1:

- Procurement Rules;
- Property Dealing Policy;
- Cabinet (Executive) Procedure Rules

All presented to and adopted by Council on 25 March 2014 together with an urgent delegation for emergency planning enforcement.

#### Phase 2:

- Council Procedure Rules
- Overview and Scrutiny Rules
- Access to Information Rules
- Property Management Delegated Powers

All presented to and adopted by Council on 3 June 2014 after some revisions.

#### Phase 3:

Part 2: Articles

Part 3: Scheme of Delegation

Part 5: Rules of Procedure (Budget and Policy Framework and Financial Procedure Rules)

Part 6: Codes and Protocols

Part 7: Members' Allowances Scheme

All presented to and adopted by Council on 25 November 2014.

### **BACKGROUND PAPERS FOR THE DECISION**

There are no background papers (as defined by the Local Government Act 2000) arising from this report.

### **APPENDICES**

**Appendix A: Part 3 – Responsibility of Functions - Scheme of Delegated Powers**

**Appendix B: Part 5 – Access to Information Procedure Rules**



**Part 3**

**Responsibility of  
Functions –  
Scheme of Delegated  
Powers**

# RESPONSIBILITY FOR FUNCTIONS

## DELEGATED POWERS

### GENERAL

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) give effect to section 13 of the Local Government Act 2000 by specifying: -

- (a) which functions are not to be the responsibility of the executive; as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and as detailed in the Appendix to this part of the Constitution.
- (b) functions which may (but need not) be the responsibility of the executive (local choice functions);
- (c) which are to some extent the responsibility of the executive.

All other functions not so specified are to be the responsibility of the executive.

**Every decision of the Cabinet, a Portfolio Holder, Committee, Sub-Committee, Working Party or Officer under delegated powers shall comply with the Council's Constitution and in particular with its budget and policy framework, Council Procedure Rules, Financial Procedure Rules and Procurement Procedure Rules and any expenditure involved is subject to such compliance.**

#### 1. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

Local Choice functions are those, which may (but need not) be the responsibility of the Cabinet. Schedule 1 of Part 3 of the Constitution details the responsibility for those local choice functions as set out in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as determined by the Council.

#### 2. RESPONSIBILITY FOR COUNCIL (NON-EXECUTIVE) FUNCTIONS

The roles and responsibilities of full Council are set out in Article 4 of the Constitution. The specific functions set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 which are retained for determination by full Council are set out in Schedule 2.

The full Council has established those non-executive committees as set out in Schedule 2 of this Part of the Constitution to discharge those functions, which are not to be the responsibility of the executive, as set out in Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and the Appendix to Part 3 of the Constitution. Decisions relating to these functions shall be made in one of the following ways:

- (a) By one of the non-executive committees listed in Schedule 2 of this Part 3 of the Constitution;
- (b) By officers, in consultation with a Member, in accordance with the Scheme of Delegation to Officers;
- (c) By Officers; or
- (d) Where any matter involves amendment to the budget and policy framework, by the Council following the receipt of advice from the relevant non-executive committee and the Cabinet.

Schedule 2 sets out the arrangements for delegation of non-executive functions to the above.

### **3. RESPONSIBILITY FOR EXECUTIVE (CABINET) FUNCTIONS**

The Cabinet is responsible for making all decisions within the budget and policy framework set by full Council, except for decisions in connection with those matters, which cannot be the responsibility of the Cabinet as specified in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. Details of the overall responsibilities of the Cabinet are set out in Schedule 3 of Part 3 of the Constitution. Decisions in respect of executive functions shall be made in one of the following ways: -

- (a) the Cabinet collectively, at public meetings;
- (b) By an individual Member of the Cabinet (Portfolio Holder), within their areas of responsibility and delegated powers;
- (c) An officer, in consultation with a Portfolio Holder;
- (d) An officer; or
- (e) Where the decision is outside the budget and policy framework, by full Council following receipt of advice from the Cabinet collectively.

Schedule 3 sets out the arrangements for delegation of executive functions to the above.

### **4. OVERVIEW AND SCRUTINY FUNCTIONS**

The functions of the Council's overview and scrutiny function are set out in Article 6 of the constitution.

# Schedule 1

## Responsibility for

# LOCAL CHOICE FUNCTIONS

Local Choice Functions are those functions, which may (but need not) be the responsibility of the Executive (the Cabinet). The table below details the responsibility for local choice functions, as determined by the Council.

Function	Decision Making Body	Delegation of the function
1. Any function under a local Act, other than a function specified under Regulation 2 of or Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.	Council	
2. The determination of an appeal against any decision made by or on behalf of the authority	Council	The relevant non-executive committee, unless expressly specified within the terms of reference elsewhere.
3. The conduct of best value reviews in accordance with the provisions of any order for the time being having effect under Section 5 of the Local Government Act 1999	The relevant Overview and Scrutiny Committee	
4. Any function relating to contaminated land	Council	Licensing and Registration Committee and further delegation to Corporate Director (Public Experience)
5. The service of an abatement notice in respect of a statutory nuisance	Council	Licensing and Registration Committee and further delegation to Corporate Director (Public Experience)

6. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 shall apply in the authority's area	Council	Licensing and Registration Committee
7. The inspection of the authority's area to detect any statutory nuisance	Council	Licensing and Registration Committee and further delegation to Corporate Director (Public Experience)
8. The investigation of any complaint as to the existence of a statutory nuisance	Council	Licensing and Registration Committee and further delegation to Corporate Director (Public Experience)
9. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land	Council	Head of Planning
10. The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Council	All Corporate Directors and Head of Planning
<p>11. The appointment of any individual -</p> <p>(a) to any office other than an office in which they are employed by the authority;</p> <p>(b) to any body other than –</p> <p>(i) the authority;</p> <p>(ii) a joint committee of two or more authorities; or</p> <p>(c) to any committee or sub-committee of such a body.</p> <p>and the revocation of any such appointment.</p>	Council	Chief Executive
12. The making of agreements with other local authorities for the placing of staff at the disposal of those authorities.	Council	Chief Executive

# Schedule 2

## Responsibility for Council (Non-Executive) Functions

### GENERAL MATTERS / PRINCIPLES

Detailed below are the general matters/principles which underpin the Council's scheme of delegation in respect of non-executive functions.

1. The Council is responsible for determining the scheme of delegation for all non-executive functions.
  
3. Powers and duties of Non-Executive Committees are subject to the general instructions which contain the framework within which such delegations must be exercised as follows: -
  - (a) Performed on behalf of and in the name of the Council;
  - (b) Within their areas of responsibility and limits as set out in the Constitution subject to the action being within the Council's budget and policy framework;
  - (c) Subject to the directions of the Council and of the Cabinet or Non-Executive Committee as appropriate;
  - (d) Subject to powers and duties reserved for confirmation by the Council;
  - (e) In accordance with the Council's Financial Procedure Rules and Procurement Procedure Rules
  - (f) Delegate, as appropriate, matters to:
    - (i) a sub-committee or panel;
    - (ii) to an Officer in consultation with the Chairman or Vice-Chairman of a committee, sub-committee or panel, as appropriate; or
    - (iii) an officer.
  
3. Non-Executive Committees have the power to discharge those functions within their areas of responsibility, with the exception of decision-making reserved to full Council.
  
4. The tables within this Schedule detail functions retained for discharge by full Council and which of the Council's Committees are responsible for discharging those functions, set out in the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) which are relevant to the

functions of Tendring District Council, that cannot be the responsibility of the Council's Executive (The Cabinet) and the Appendix to Part 3 of the Constitution. These tables also identify those functions which have been delegated to officers.

5. The Council may by resolution at any time vary, enlarge, restrict, or reduce any non-executive function, power or duty referred to a Committee, Sub-Committee or Officer.
6. The delegation of powers to officers is underpinned by the principle and culture of consultation and liaison with Members, as appropriate and the ability for officers to refer matters to the relevant decision making body, where it is felt that this is appropriate due to the nature of an issue.
7. The express authorisations to officers set out in this Schedule are in addition to the normally accepted powers and duties of officers to deal with matters of routine occurrence falling within the scope of their departmental responsibilities as set out in Article 12 which includes all present and future legislation related to the functions of the service and nothing in this Schedule shall derogate from any statutory powers or duties conferred or imposed directly on an officer of the Council.
8. In cases where matters are delegated to officers, but must also be discharged in consultation with the Chairman of the relevant committee, and in cases where the Chairman is not available, the Vice-Chairman of the committee is to be consulted. In instances, where there is disagreement between the officer and the Chairman the matter should be reported to a meeting of the relevant committee for consideration and determination. Furthermore, an officer with delegated powers to discharge a function, or the Member being consulted has the option to refer the matter to a meeting of the relevant committee for determination where this is felt to be necessary and/or appropriate.
9. All delegations to officers are made to Corporate Directors, unless expressly indicated otherwise. Any Corporate Director is empowered to exercise any of the powers of another Corporate Director, where this is necessary, subject to the provisions set out in paragraph 10.
10. Corporate Directors are Designated Officers for the purposes of legislation within their respective service areas as set out in Part 8 of the Constitution and have the power to authorise other officers of the authority, as Designated Officers and authorised persons for purposes, relating to present and future legislation falling within their areas of responsibility.
11. Any authority granted to the Chief Executive, Corporate Director or Head of Planning Services, unless otherwise indicated, may be exercised by an officer with appropriate qualifications authorised by the Corporate Director in writing for that purpose. The relevant Corporate Director will maintain a record of such authorisations, a central record of which will be kept by the Monitoring Officer and available for inspection.

12. Any authority which under statute or best practice guidance should only be discharged by officers with a specific level of qualification must only be conferred to and discharged by such officers. Furthermore, where the matter relates to a statutory power or duty conferred or imposed directly on an officer of the Council, only that officer may discharge the function.
13. The Chief Executive has authority to exercise any function delegated to officers, except where an officer with appropriate qualifications must only discharge such a delegation or where the matter relates to a statutory power or duty conferred or imposed directly on an officer of the Council.
14. The delegation of powers to officers is underpinned by the principle and culture of consultation and liaison with Members, as appropriate and the ability for officers to refer matters to the relevant decision maker, where it is felt that this is appropriate due to the nature of an issue.
14. The Monitoring Officer shall: -
  - (i) Determine any conflict between any two or more officers acting under any authorisation; and
  - (ii) In any case of uncertainty, and having considered relevant legislation, determine whether any matter falls within the remit of the Council, the Cabinet, a committee or an officer of the Council
15. In the event of a change to the corporate structure of the Council, the responsibility for issues delegated to each Corporate Director shall be amended accordingly and will take immediate effect. The relevant amendments to this scheme of delegation should be made in the Constitution as soon as possible.



## RESPONSIBILITY FOR COUNCIL – NON EXECUTIVE FUNCTIONS

Committee	Functions and Terms of Reference	Delegated Functions
<p><b>Full Council</b></p>	<p>Those functions retained for responsibility by Full Council as set out in Article 4 of the Constitution and the following specific functions as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in the Appendix 1 to Part 3 of the Constitution.</p> <p><b>D. Discharge the following Functions Relating to Elections:</b></p> <ul style="list-style-type: none"> <li>• Duty to appoint an Electoral Registration Officer</li> <li>• Power to dissolve parish councils</li> <li>• Power to make orders for grouping parishes, dissolving groups and separating parishes from groups.</li> <li>• Duty to appoint returning officer for local government elections</li> <li>• Duty to provide assistance to European Parliamentary elections.</li> <li>• Power to fill vacancies in the event of insufficient nominations.</li> <li>• Power to submit proposals to Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.</li> <li>• Duty to consult on change a scheme for</li> </ul>	<p><b>Chief Executive in consultation with the Council Chairman:</b></p> <ol style="list-style-type: none"> <li>1. Agreeing the scale of fees payable at elections at district and parish councils, referenda and parish Polls.</li> </ol> <p><b>Chief Executive:</b></p> <ol style="list-style-type: none"> <li>1. Returning Officer at Local Elections</li> <li>2. Power to assign officers in relation to requisitions of the registration officer.</li> <li>3. Actions required meeting the duty to provide assistance at European Parliamentary elections.</li> <li>4. To divide constituency and electoral divisions into polling districts.</li> <li>5. Powers in respect of holding of elections.</li> </ol>

	<p>elections and associated powers under the Local Government Public Involvement and Health Act 2007.</p> <p><b>E. The discharge of the following functions relating to the Name and Status of Areas</b></p> <ul style="list-style-type: none"> <li>• Power to change the name of the district or parish</li> <li>• Power to petition for a charter to confer borough status</li> </ul> <p><b>EB. Discharge the Duties, Functions and Powers relating to Community Governance</b></p> <p><b>F. Power to Amend, Revoke or Re-enact Byelaws</b></p> <p><b>G. Power to Promote or Oppose Local or Personal Bills</b></p> <p><b>Discharge of the following miscellaneous functions – part II:</b></p> <ul style="list-style-type: none"> <li>• Power to make standing orders (this includes amendments to the Constitution)</li> <li>• Power to make standing orders as to contracts</li> <li>• Duty to make arrangements for the proper administration of financial affairs.</li> <li>• Power to appoint officers for particular purposes (appointment of “proper officers”)</li> <li>• Duty to designate officer as the head of the authority’s paid service, and to provide staff, etc.</li> <li>• Duty to designate officer as the</li> </ul>	<p>6. Power to pay expenses properly incurred by electoral registration officers.</p> <p>7. Duty to declare vacancy in office in certain cases.</p> <p>8. Duty to give public notice of a casual vacancy.</p> <p>9. Power to make temporary appointments to parish councils.</p> <p>10. Regrading posts, restructuring and determining staffing levels (except where Section 4 of the Local Government and Housing Act 1989 applies and it is appropriate for the full Council to consider any specific proposals of the Head of Paid Service in this regard).</p> <p><b>Chief Executive or Monitoring Officer:</b></p> <p>1. The Proper Officer before whom a Member’s formal Declaration of Acceptance of Office may be made.</p> <p>2. The appointment or removal of any</p>
--	---	---

	<p>monitoring officer, and to provide staff, etc.</p> <ul style="list-style-type: none"> <li>• Duty to provide staff etc. to person nominated by monitoring officer.</li> <li>• Power to make payments or provide other benefits in cases of maladministration.</li> </ul> <p><b>Other matters</b></p> <p>Those as set out in Article 4 of the Constitution together with:</p> <ul style="list-style-type: none"> <li>• Prepare and approve a Pay Policy Statement for the financial year in accordance with Chapter 8 of the Localism Act 2011.</li> <li>• The appointment of the Chief Executive</li> <li>• On the recommendation of the Human Resources Committee: <ul style="list-style-type: none"> <li>(a) The dismissal including redundancy, in accordance with the statutory provisions, of the Chief Executive</li> <li>(b) The voluntary early retirement and voluntary redundancy of the Chief Executive</li> <li>(c) The retirement on grounds of ill health of the Chief Executive on the recommendation of the Council's medical advisor</li> <li>(d) The terms and conditions of service of the Chief Executive</li> </ul> </li> </ul>	<p>individual to/from a committee, sub-committee, panel or working party at the request of the relevant Group Leader.</p> <p>3. The advertisement of vacancies for the position of Independent Person(s) and the Independent Remuneration Panel, the review of applications received; the interview of suitable candidates and the making of recommendations to Council as to who should be appointed.</p>
<b>Committee</b>	<b>Functions and Terms of Reference</b>	<b>Delegation of functions</b>
<b>Audit Committee</b>	<p><i>The discharge of the following <b>miscellaneous functions – part II</b> as set out in Schedule 1 to the Local Authorities (Functions and Responsibility Regulations) (England) 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.</i></p> <p><b>Duty to approve the authority's</b></p>	<p><b>Section 151 Officer and Audit and Governance Manager:</b></p> <p>The Provision of advice and support to the Audit Committee on all</p>

	<p><b>statement of accounts, income and expenditure and balance sheet or record of receipts or payments (as the case may be).</b></p> <p><b>Additional roles and functions of the Committee are as set out below:</b></p> <ol style="list-style-type: none"> <li>1. To provide independent assurance of the adequacy of the risk management framework and the associated control environment;</li> <li>2. To provide independent scrutiny of the Council's financial and non-financial performance to the extent that it affects the Council's exposure to risk and weakens the control environment;</li> <li>3. Considers the annual budget for the Internal audit Service as part of the Council's budget setting process; and</li> <li>4. To oversee the financial reporting process:</li> </ol> <p><b>Audit Activity</b></p> <ol style="list-style-type: none"> <li>1. Considering the Audit and Governance Manager's annual report and opinion and a summary of internal audit activity (actual and proposed), and the level of assurance it can give over the Council's corporate governance arrangements.</li> <li>2. Considering reports on the operation of internal audit and summaries of specific internal audit reports where requested.</li> <li>3. Considering reports from internal audit on agreed recommendations not implemented within a reasonable timescale.</li> <li>4. Considering external auditor and</li> </ol>	<p>aspects of its functions and duties</p>
--	--	--

	<p>inspection reports and providing comments on these to Cabinet as appropriate.</p> <p>5. Commenting on the scope and depth of external audit work and ensuring it gives value for money.</p> <p>6. Liaising with the Audit Commission in regard to the appointment of the Council's external auditor.</p> <p><b>Regulatory Framework</b></p> <p>7. Reviewing significant issues referred by the Chief Executive, Cabinet or any Council committee (subject to the availability of resources within the approved audit plan).</p> <p>8. Monitoring the effective development and operation of risk management and corporate governance.</p> <p>9. Monitoring Council policies on 'Raising Concerns at Work', the whistleblowing policy and the anti-fraud and corruption strategy.</p> <p>10. Overseeing the production of the Code of Corporate governance, including the Statement of Internal Control.</p> <p>11. Considering the arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.</p> <p>12. Considering the Council's compliance with its own and other published standards and controls (other than those covered by the Standards Committee).</p> <p><b>Accounts</b></p> <p>13. Reviewing and approving the annual statement of accounts.</p> <p>14. Considering whether appropriate</p>	
--	---	--

	<p>accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.</p> <p>15. Receiving the external auditor's report to those charged with governance.</p>	
<b>Committee</b>	<b>Functions and Terms of Reference</b>	<b>Delegation of functions</b>
<b>Council Tax Committee</b>	<p>To exercise the Council's functions relating to the formal acceptance of Council Tax precepts from the major precepting authorities.</p> <p>The exercise of the Council's functions, powers and duties in relation to the Terms of Reference.</p>	
<b>Committee</b>	<b>Functions and Terms of Reference</b>	<b>Delegation of functions</b>
<b>Local Plan Committee</b>	<p>To exercise the Council's functions relating to overseeing the preparation of the Local Plan and ensuring it meets the 'tests of soundness' from national and planning policy.</p> <p>The exercise of the Council's functions, powers and duties in relation to the following:</p> <ol style="list-style-type: none"> <li>1. To oversee the preparation of the new Tendring District Local Plan* to ensure that it meets the 'tests of soundness' set out in the National Planning Policy Framework.</li> <li>2. To ensure that the Local Plan* is "positively prepared", based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development.</li> <li>3. To ensure the Local Plan* is "justified", promoting the most appropriate strategy for growth, when considered</li> </ol>	

	<p>against reasonable alternatives, based on proportionate evidence.</p> <ol style="list-style-type: none"><li>4. To ensure that the Local Plan* is “effective”, being deliverable over the plan period and based on effective joint working on cross-boundary strategic priorities.</li><li>5. To ensure that the Local Plan* is “consistent with national policy” enabling the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework.</li><li>6. To ensure that the Council effectively complies with the statutory duty to co-operate.</li><li>7. To consider and recommend the content of the Local Plan*, in consultation with the Cabinet, for consideration and formal approval by Full Council for either public consultation (preferred options or pre-submission versions), submission to the Secretary of State (to be examined by a Planning Inspector), or final adoption (following receipt of the Planning Inspector’s report).</li><li>8. To formally approve Supplementary Planning Documents (SPDs) and other planning documents for public consultation and final adoption.</li><li>9. To approve the preparation, commissioning and subsequent publication of studies, surveys and other technical documents that form part of the “evidence base” needed to justify the content of the Local Plan*, Supplementary Documents (SPDs) and other planning documents.</li><li>10. To scrutinise, note and understand the recommendations and conclusions of the “evidence base” to ensure that it provides a robust platform upon which</li></ol>	
--	---	--

	<p>to base policies and proposals in the Local Plan*,SPDs and other planning documents.</p> <p>11. To approve the publication of the Annual Monitoring Report (AMR) each year and to consider whether or not it highlights development trends that may or may not require changes to policies or proposals in the Local Plan*, SPDs or other planning documents.</p> <p>12. To consider representations submitted in response to public consultation exercises on the Local Plan*, SPDs or other planning documents and consider the need for any changes to these documents in response to any issues that they raise.</p> <p>13. To consider and agree responses to consultation exercises on national, regional and sub-regional planning policy issues and on other authorities' planning documents.</p> <p>14. Approve the work programme required for the Committee to undertake its functions effectively and in a timely manner.</p> <p>15. Refer to Cabinet and/or Council any recommendations in respect of the Council's overall strategy and policies.</p> <p><i>* The Local Plan can consist of one or more 'Development Plan Documents' which could include one document for the majority of the Tendring District and a separate document, if necessary, prepared jointly with Colchester Borough Council, for any major development crossing the Tendring/Colchester border</i></p>	
<b>Committee</b>	<b>Functions</b>	<b>Delegation of functions</b>
<b>Planning Committee</b>	<b><i>The discharge of the Town and Country Planning and Conservation functions as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations</i></b>	All planning and conservation matters delegated to the Head of Planning except in relation to the



	<p><b><i>2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.</i></b></p> <p><b>Additional roles and functions of the Committee are as set out below:</b></p> <p>1. Any formal comment or view on applications or proposals to be determined by Essex County Council, any Statutory Body and government departments relating to matters within the remit of the Committee.</p>	<p>determination of certain planning applications as detailed below for determination by the Committee:</p> <p>(i) Officer recommendations for approval materially contrary to national or local policy.</p> <p>(ii) Officer recommendation of approval contrary to a previous refusal by the Planning Committee, where the policies remain substantially unchanged.</p> <p>(iii) Officer recommendation of approval and the application should be referred to the Secretary of State under a Direction(s) or “call in”.</p> <p>(iv) The applicant is the Council or someone acting as applicant on the Council’s behalf or in respect of Council owned land.</p> <p>(v) The applicant is a Member of the Council, Planning Officer or a Senior Officer and there is an Officer recommendation</p>
--	--	--

	<p><i>The discharge of the <b>Miscellaneous functions – Part I – relating to Public Rights of Way, within the District Council’s responsibility</b> as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.</i></p>	<p>for approval.</p> <p>(vi) Within 28 days of the commencement of formal consultation, a written request is received from a District Councillor requesting that the application should be brought before the Planning Committee for determination giving material planning reasons for that request.</p> <p>(vii) Any application which the Head of Planning in their professional opinion, taking into account the written representations received, plans and policies and other material planning considerations be referred to the Planning committee because it raises more than significant local issues.</p> <p>All public rights of way matters delegated to the Corporate Director (Public Experience)</p>
--	---	--

	<i>The discharge of the following</i> <b>Miscellaneous functions – Part II – relating to hedgerows, trees and hedges as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.</b>	All hedgerows, trees and hedges matters delegated to the Head of Planning
<b>Committee</b>	<b>Functions and Terms of Reference</b>	<b>Delegation of functions</b>
Human Resources Committee	<p><i>The discharge of the following <b>Part II - miscellaneous functions</b> as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended), and as detailed in Appendix 1 to Part 3 of the Constitution.</i></p> <p><b>Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal).</b></p> <p><b>Additional roles and functions of the Committee are as set out below:</b></p> <ol style="list-style-type: none"> <li>1. Decision-making on key Human Resource and Personnel issues not reserved by the Council or delegated to officers.</li> <li>2. Strategic Overview and Monitoring of General Staffing Profile and Data through assessment and consideration of periodical statistical reports.</li> <li>3. Agreement of key personnel policies, including but not exclusively: <ul style="list-style-type: none"> <li>• Recruitment and Selection</li> <li>• Pay and Reward</li> <li>• Performance Management</li> <li>• Flexible Working and Work Life Balance</li> </ul> </li> </ol>	<p><b>Chief Executive:</b></p> <p>Regrading posts, restructuring and determining staffing levels (except where Section 4 of the Local Government and Housing Act 1989 applies and it is appropriate for the full Council to consider any specific proposals of the Head of Paid Service in this regard).</p> <p><b>Chief Executive in consultation with the Manager of Human Resources:</b></p> <ol style="list-style-type: none"> <li>1. The appointment, suspension and dismissal of Corporate Directors and Head of Planning.</li> <li>2. The approval of a redundancy or mutually agreed Settlement Agreement for dismissal of staff up to and including Management Team level.</li> </ol> <p><b>Any Corporate</b></p>

	<ul style="list-style-type: none"> <li>• Equality and Diversity</li> <li>• Discipline and Grievance</li> <li>• Managing Change</li> <li>• Human Resources and Organisation Development Strategy</li> </ul> <p>4. The recommendation to Council of the terms and conditions of service, dismissal including redundancy, voluntary redundancy, and voluntary early retirement of the Chief Executive.</p> <p>5. The recommendation to Council of the retirement on grounds of ill health of the Chief Executive on the recommendation of the Council's Medical Advisor.</p>	<p><b>Director or Head of Planning Services in consultation with the Human Resources Manager:</b></p> <p>3. The exercise and performance of the Council's functions, powers and duties in relation to applications for extensions of sick pay entitlement.</p> <p>4. The recruitment and appointment of permanent staff up to, but not including Corporate Directors or Head of Planning above, in consultation with the Workforce Panel and accordance with the Council's agreed procedures</p> <p><b>Human Resources Manager in consultation with Corporate Director (Corporate Services)</b></p> <p>5. Minor amendments to Human Resources Policies and Procedures necessary as a result of legislation, national guidance</p>
--	---	---

		<p>or best practice.</p> <p>6. Approval of Pension Scheme related matters.</p> <p><b>The Chief Executive and Corporate Directors, Head of Planning shall have authority to act in relation to all matters within their areas of responsibility connected with management of staff including terms and conditions of employment and dismissal in accordance with the Council's Human Resources Policies and Staff Handbook, as maintained on the Council's intranet.</b></p>
<b>Committee</b>	<b>Functions and Terms of Reference</b>	<b>Delegation of functions</b>
<p><b>Licensing and Registration Committee</b></p>	<p><i>Functions relating to licensing, registration (B), Health and Safety at Work (C) and Smoke-free premises (FA) as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.</i></p> <p><b>Additional roles and functions of the Committee are as set out below:</b></p> <ul style="list-style-type: none"> <li>• Recommending the Licensing and Gambling Policy Statements to full Council and Sex Establishment Policy;</li> </ul>	<p>1. All licensing and registration functions (are delegated to the Licensing (General Purposes) Sub - Committee, and Premises/Personal Licences Sub Committee as detailed below and otherwise the Corporate Director (Public Experience) except determining licensing conditions and criteria, and commenting on</p>

	<ul style="list-style-type: none"> <li>• Power to consider consult and consider representations in respect of an Early Morning Restriction Order (EMRO) under Sections 172A to 172E of the Licensing Act 2003 and to recommend implementation or rejection of application for EMRO to Full Council; and</li> <li>• Power to consult and consider representations in respect of Late Night Levy (LNL) Provisions under Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 and to recommend implementation or rejection of an application to introduce LNL TO Full Council.</li> </ul> <p><i>The discharge of the following <b>Part II - Miscellaneous Functions</b> as set out in Schedule 1 to the Functions and Responsibilities Regulations and as detailed in Appendix 1 to Part 3 of the Constitution:</i></p> <ul style="list-style-type: none"> <li>• Power to make closing order with respect to take away food shops; and</li> <li>• Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.</li> </ul> <p>In addition the following powers and duties:</p> <ul style="list-style-type: none"> <li>• The setting of any fees and/or charges payable to the Council for the issue of any licences (with the exception of under the Scrap Metal Act 2013) or otherwise in relation to any of the functions falling within the remit of the Licensing Committee and various sub-committees.</li> </ul>	<p>proposed policies, which remain with the Committee.</p> <p>2. All functions relating to Health and Safety at Work and Smoke Free Premises are delegated to the Corporate Director (Public Experience).</p>
<b>Committee</b>	<b>Functions and Terms of Reference:</b>	<b>Delegation of functions</b>
<b>Licensing</b>	To consider and determine matters relating	

<p><b>and Registration (General Purposes) Sub- Committee</b></p>	<p>to all licences, consents, registrations and certificates that fall within the terms of reference of the Licensing Committee, except where:</p> <ol style="list-style-type: none"> <li>1. The function relates to the Licensing Act 2003 or the Gambling Act 2005</li> <li>2. The function falls within the terms of reference of another committee or sub-committee, board or body; or</li> <li>3. The function has been delegated to officers of the Council</li> </ol> <p>In addition the Sub-Committee will exercise the following powers and duties:</p> <ol style="list-style-type: none"> <li>4. Consideration for recommendations to local Highway Panel and Cabinet on: <ul style="list-style-type: none"> <li>• setting taxi fares</li> <li>• installation of new taxi ranks and amendments/removals to existing taxi ranks.</li> </ul> </li> <li>5. Consider appeals or objections received against the Council's Street Trading Policy or refusal of consent by officers.</li> <li>6. Approval to move Street Collections, except where it is for a recognised carnival for charitable purposes which is currently delegated to officers.</li> <li>7. Consider appeals or objections received against Officers refusal of Street or House Collection applications.</li> </ol>	<p><b>All matters are delegated to the Corporate Director (Public Experience) except in circumstances where the matter:</b></p> <ol style="list-style-type: none"> <li>(i) remains with the Committee or Sub-Committee or</li> <li>(ii) does not meet the policy criteria set by the Council.</li> </ol>
<p><b>Committee</b></p>	<p><b>Functions and Terms of Reference:</b></p>	<p><b>Delegation of functions</b></p>
<p><b>Premises/ Personal Licences Sub- Committee</b></p>	<ol style="list-style-type: none"> <li>1. To consider applications for licences where representations have been received and not withdrawn, and applications for the review of licences, covered by the Licensing Act 2003 as follows:-</li> </ol>	<p><b>To the Corporate Director (Public Experience):</b></p> <ol style="list-style-type: none"> <li>1. The approval or refusal of applications where</li> </ol>

	<ul style="list-style-type: none"> <li>(i) Application for Premises Licence</li> <li>(ii) Application for Provisional Statement</li> <li>(iii) Application for Variation of Premises Licence</li> <li>(iv) Application to vary Designated Premises Supervisor following police objection</li> <li>(v) Application for Transfer of Premises Licence following police objection</li> <li>(vi) Consideration of police objections made to interim Authority Notice</li> <li>(vii) Determination of Application for Club Premises Certificate</li> <li>(viii) Determination of Application to vary Club Certificate</li> <li>(ix) Decision to give counter notice following police objection police or environmental health authority to temporary event notice</li> <li>(x) Application for grant of personal licence following police objection</li> <li>(xi) Revocation of Licence where convictions came to light after grant etc.</li> <li>(xii) Application for review of premises licence.</li> <li>(xiii) Application for review of Club Premises Certificate</li> <li>(xiv) Review following Closure Order</li> </ul> <p>2. To consider applications for licences, where representations have been received and not withdrawn, and applications for the review of licences, covered by the Gambling Act 2005, as follows:</p> <ul style="list-style-type: none"> <li>(i) Application for Premises Licence</li> <li>(ii) Application for Variation of Licence</li> <li>(iii) Application for Transfer of a Licence</li> <li>(iv) Application for a Provisional Statement</li> <li>(v) Review of a Premises Licence</li> <li>(vi) Application for Club Gaming/Club Machine Permit</li> <li>(vii) Cancellation of a Club Gaming/Club Machine Permit</li> <li>(viii) Decision to give a Counter Notice to a Temporary Use Notice (Section 224)</li> <li>(ix) Matters referred to the Sub-Committee</li> </ul>	<p>no representations have been received.</p> <p>2. All other Council functions, powers and duties in relation to the Licensing Act 2003 and the Gambling Act 2005 which do not remain the specific function of the Committee or Sub-Committee.</p>
--	--	---



	<p>by Officers, notwithstanding the delegations set out opposite</p> <p>(x) Application for Prize Gaming Permit</p> <p>(xi) Application for Family Centre Gaming Machine Permit</p>	
<b>Committee</b>	<b>Functions and Terms of Reference</b>	<b>Delegation of functions</b>
Standards Committee	<ol style="list-style-type: none"> <li>1. To promote and maintain high standards of conduct by Members and Co-opted Members of the authority;</li> <li>2. To develop a culture of openness, transparency, trust and confidence between Members and in Member and Officer relationships and to embed a culture of strong ethical and corporate governance at all levels in the Council;</li> <li>3. To advise the Council on the adoption or revision of the Members' Code of Conduct;</li> <li>4. To advise, train or arrange training on matters relating to and assisting Members, Co-Opted Members and Town and Parish Councillors on observing the Members' Code of Conduct;</li> <li>5. To approve procedures for the conduct of hearings into complaints against Members;</li> <li>6. To advise the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council;</li> <li>7. To receive reports from the Monitoring Officer and assess the operation and effectiveness of the Members' Code of Conduct and the other elements of the Standards Framework;</li> <li>8. To inform Council and the Chief Executive of relevant issues arising from</li> </ol>	<p><b>Delegation to Monitoring Officer:</b></p> <ol style="list-style-type: none"> <li>1. Deal with complaints against Members and co-opted Members of the Council and / or any Town or Parish Council in the Tendring District alleging a breach of the Members' Code of Conduct of the Council / Town or Parish Council ("Code") in accordance with the Complaints Procedure.</li> <li>2. Assess complaints in accordance with the Assessment Criteria and may consult with a duly appointed Independent Person and determine whether the complaint: <ul style="list-style-type: none"> <li>• Merits no further action</li> <li>• Merits early informal conciliation</li> <li>• Merits further investigation</li> </ul> </li> </ol>

	<p>the determination of Code of Conduct complaints;</p> <p>9. To hear and determine appeals against refusal to grant dispensations by the Monitoring Officer pursuant to Section 33 of the Localism Act 2011; and</p> <p>10. To maintain oversight of the Council's arrangements for dealing with complaints delegated to Standards Town and Parish Sub-Committee.</p> <p><b>Proceedings:</b></p> <p>1. To conduct proceedings in accordance with the Complaints Procedure, giving due consideration to the Monitoring Officer's advice and guidance, and following the principles of natural justice and innocent until proven otherwise;</p> <p>2. To receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the assessment criteria and Complaints Procedure;</p> <p>3. To hear and determine complaints about Tendring District Council Members and Co-Opted Members referred to it by the Monitoring Officer; and</p> <p>4. Any determination by the Committee which is contrary to the recommendation of the Monitoring Officer will include detailed reasons. The decision of the Committee will also be reported to the next meeting of full Council.</p>	<ul style="list-style-type: none"> <li>• Should due to exceptional circumstances be referred to the Standards Committee or Sub-Committee for consideration for further investigation</li> </ul> <p>3. Determine the format of the Complaints Form, Decision Notices and Procedure Flowchart and review where necessary.</p> <p>4. Commission external resources to investigate, undertake consultation with an Independent Person and report on any complaints relating to Member Conduct.</p> <p>5. Grant dispensations in compliance with Section 33(a) to (e) of the Localism Act 2011.</p> <p>6. Submit reports to the Standards Committee or Sub-Committee on the actions taken under these delegated powers and to provide advice and support making recommendations to the relevant Committee on any matters relating to</p>
--	--	---

		the promotion and maintenance of high standards of conduct.
<b>Committee</b>	<b>Functions and Terms of Reference</b>	<b>Delegation of functions</b>
Town and Parish Councils' Standards Sub-Committee	<p>To advise and assist Town and Parish Councils and Councillors to maintain high standards of conduct and to make recommendations to Parish and Town Councils on improving standards or actions following a finding of a failure by a Parish Councillor to comply with its Code of Conduct.</p> <p><b>Proceedings:</b></p> <ol style="list-style-type: none"> <li>1. To conduct proceedings in accordance with the Complaints Procedure, giving due consideration to the Monitoring Officer's advice and guidance, and following the principles of natural justice and innocent until proven otherwise;</li> <li>2. To receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the assessment criteria and Complaints Procedure;</li> <li>3. To hear and determine complaints about Town and Parish Council Members and Co-Opted Members referred to it by the Monitoring Officer; and</li> <li>4. Any determination by the Sub-Committee which is contrary to the recommendations of the Monitoring Officer will include detailed reasons. The decision of the Sub-Committee will also be reported to the next meeting of full Council.</li> </ol>	<p><b>Delegation to Monitoring Officer:</b></p> <ol style="list-style-type: none"> <li>1. Deal with complaints against Members and co-opted Members of the Council and / or any Town or Parish Council in the Tendring District alleging a breach of the Members' Code of Conduct of the Council / Town or Parish Council ("Code") in accordance with the Complaints Procedure.</li> <li>2. Assess complaints in accordance with the Assessment Criteria and may consult with a duly appointed Independent Person and determine whether the complaint: <ul style="list-style-type: none"> <li>• Merits no further action</li> <li>• Merits early informal conciliation</li> <li>• Merits further investigation</li> <li>• Should due to exceptional circumstances be referred to the</li> </ul> </li> </ol>

		<p>Standards Committee or Sub-Committee for consideration for further investigation</p> <p>3. Determine the format of the Complaints Form, Decision Notices and Procedure Flowchart and review where necessary.</p> <p>4. Commission external resources to investigate, undertake consultation with an Independent Person and report on any complaints relating to Member Conduct.</p> <p>5. Submit reports to the Standards Committee or Sub-Committee on the actions taken under these delegated powers and to provide advice and support making recommendations to the relevant Committee on any matters relating to the promotion and maintenance of high standards of conduct.</p>
--	--	---

# Schedule 3

## Responsibility for Executive Functions

**EXECUTIVE FUNCTIONS ARE THE RESPONSIBILITY OF THE CABINET.**

### **1. ROLE AND RESPONSIBILITIES**

1. The general roles and responsibilities of the Cabinet are as follows: -

- (i) To make recommendations to the District Council with regard to the formulation of its policy framework, including the setting of the budget and council tax levels.
- (ii) To advise the District Council on all matters requiring a decision outside of the Council's agreed budget and policy framework.
- (iii) To discharge in accordance with the District Council's policy framework all functions of the Council, except those functions which cannot, by virtue of the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 and other legislation, be the responsibility of the Cabinet. Such functions are the responsibility of the Council and its various committees as set out in Schedule 2 of Part 3 of the Constitution.
- (iv) To deal with those "local choice functions" which have been delegated to the Cabinet by the Council as detailed in Schedule 1 of Part 3 of this Constitution.

### **2. RESPONSIBILITIES OF THE LEADER OF THE COUNCIL**

1. The Leader of the Council is responsible for the overall operation of the Council's portfolios through effective management of their Cabinet.
2. To ensure effective communication of Cabinet business including appropriate liaison with Overview and Scrutiny.
3. To be the leading voice of the Council on all executive functions and for overall policy.
4. To be the member representative for executive functions of the Council working with the Council's partners and stakeholders, on statutory bodies, the voluntary sector, the business community and other national and local organisations.

5. Ensure that their actions are taken in accordance with Section 3 below when making formal decisions.

### **3. GENERAL PRINCIPLES REGARDING DECISION MAKING BY THE CABINET**

1. The Leader of the Council is responsible for approving the delegation of executive functions to either:
  - (i) The Cabinet collectively (see 4.1 below);
  - (ii) An individual Member of the Cabinet (Portfolio Holder)(see 4.2 below);
  - (iii) A Working Party of the Cabinet (known as a Portfolio Holder Working Party);
  - (iv) An Officer, in consultation with the relevant Portfolio Holder(s);  
or
  - (v) An Officer.

Executive functions can also be delegated to, and discharged by an area committee or another local authority or jointly with one or more local authorities.

No member or committee of the Cabinet to whom the Leader of the Council has delegated a function may delegate the function on to another Member or Committee.

2. Powers and duties of the Cabinet and Portfolio Holders under their delegated authorisation must be: -
  - (i) performed on behalf of and in the name of the Council;
  - (ii) subject to the directions of the Council and of the Cabinet as appropriate;
  - (iii) subject to powers and duties reserved for confirmation by the Council as set out in Article 4 of the Constitution;
  - (iv) within the limits of the Council's approved policy framework and budget;
  - (v) statutory provisions and restrictions;
  - (vi) taking into account Officer's advice; and
  - (vii) in accordance with the Council's approved Policies, Procedures, Protocols and Codes of Conduct.

#### **3. Absence of the Leader of the Council:**

The Portfolio Holder designated by the Leader as their Deputy may exercise the functions of the Leader of the Council in the absence of the Leader.

4. The Leader of the Council may exercise any of the powers delegated to a Portfolio Holder:
  - a. In their absence

- b. At their request
  - c. In cases of urgency, or
  - d. As the Leader so determines.
5. Where decisions are taken by individual Portfolio Holders under delegated powers the following principles and conditions shall apply:
- (a) All delegations to Portfolio Holders will be exercised after consultation and written advice from all relevant officers.
  - (b) In cases where there is a significant difference of opinion between Portfolio Holders, the issue will be referred to the Leader of the Council in consultation with the Chief Executive and if necessary to the Cabinet for decision.
  - (c) The exercise of delegations by Portfolio Holders shall be within the Scheme of Delegated Powers of the Portfolio Holders.
  - (d) A Portfolio Holder shall not delegate any powers to an Officer unless such delegation is approved by the Leader of the Council.
  - (e) A Portfolio Holder may, if they consider it appropriate, elect to refer up to the Cabinet, the exercise of any power delegated to them.
6. In cases where there is an overlap in responsibilities between Portfolio Holders, the Leader of the Council shall determine which Portfolio Holder(s) should make the decision.
7. The Monitoring Officer shall in any case of uncertainty and after having considered relevant legislation, determine whether any matter falls within the remit of the Council, the Cabinet, a Committee or an Officer of the Council.
8. A record of Portfolio Holder decisions shall be maintained and published, as set out in Article 7 of the Constitution.
9. In the event of a change to the delegations of Executive Functions by Leader or to the corporate structure of the Council by the Chief Executive, the changes will take immediate effect. The relevant amendments to this scheme of delegation should be made in the Constitution as soon as practicable.

## 4.1 THE CABINET COLLECTIVELY

The following details the broad principles of issues that are the responsibility of the Cabinet and which shall be considered by the Cabinet collectively at public meetings:

### TERMS OF REFERENCE

To be responsible for Community Leadership for the district of Tendring. To lead the preparation of the District Council's policies and budget. To take decisions on resources and priorities together with other stakeholders and community partners as appropriate, and to deliver and implement the budget and policies decided by full Council. To be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

1. Developing and making recommendations to the Council in respect of the plans and strategies that form the Council's policy framework.
2. Formulation of budgets and other statutory financial requirements for submission to Council.
3. Monitoring the Council's budgetary and overall financial position.
4. Decisions as required by the Council's Financial and Procurement Procedure Rules including transactions in respect of the Final Accounts.
5. Decisions outside of the Budget or Policy Framework in accordance with the Procedure Rules.
6. The approval of strategies, policies, plans and guidance which are the responsibility of the Executive and are not delegated elsewhere within the Constitution.
7. Consideration and approval of the acquisition and disposal of property in accordance with the Property Dealing Procedure, legislation and specific consents.
8. Consideration and approval determination of objections, under Section 123 of the Local Government Act 1972, received in respect of proposed disposals of land used as public open space. All such consideration and determination to be at a public meeting of the Cabinet.
9. Power to consider objections received and then determine proposed Traffic Regulation Orders under the Road Traffic Regulations Act 1984 (as amended). All such objections to be determined at a public meeting of the Cabinet.



10. Issues delegated to individual Portfolio Holders that in their opinion a collective decision by the Cabinet is required.
11. Issues delegated to an Officer that in their opinion of the Management Team a collective decision by the Cabinet is required.
12. Reviewing from time to time the Council's Constitution.

## 4.2 Individual Members of the Cabinet (Portfolio Holders)

### 4.2.1. Responsibilities

The Leader of the Council has delegated overall strategic responsibilities for services areas to members of the Cabinet, known as Portfolio Holders, which are set out in the table below:

<b>Portfolio Holder</b>	<b>Service Area</b>	<b>Overall strategic responsibility for</b>
<b>Environment and Coast Protection</b>	Coastal Protection and Engineering	<ul style="list-style-type: none"> <li>• Coast Protection – Planning and Major Schemes</li> <li>• Coast Protection Maintenance</li> <li>• Minor Engineering Works</li> <li>• Sewerage and Land drainage</li> <li>• Local highways and lighting functions</li> </ul>
	Environment	<ul style="list-style-type: none"> <li>• Household Waste minimisation and collection</li> <li>• Recycling maximisation and Collection</li> <li>• Street Cleansing</li> <li>• Dog Warden Service</li> <li>• Pest Control</li> <li>• Littering, Dog Fouling, Fly-Tipping Enforcement</li> <li>• Food Safety and Hygiene</li> <li>• Corporate Health and Safety</li> <li>• Water Safety/Quality</li> <li>• Pollution</li> <li>• Animal Welfare</li> <li>• Public Protection</li> <li>• Environment Health</li> <li>• Abandoned Vehicles</li> <li>• Port Health</li> <li>• Unlawful car sales</li> </ul>
	Open Spaces and Bereavement	<ul style="list-style-type: none"> <li>• Crematorium and Cemeteries</li> <li>• Horticultural Services</li> <li>• Open Spaces</li> <li>• Recreation Grounds</li> <li>• Children’s Play Areas</li> <li>• Public Halls</li> <li>• Sports Clubs</li> <li>• Fleet Management and Vehicle Workshops</li> </ul>
	Parking and Seafronts	<ul style="list-style-type: none"> <li>• Seafronts Management</li> <li>• Beach Huts</li> </ul>

		<ul style="list-style-type: none"> <li>• Kiosks</li> <li>• Off Street Car Parking Service</li> <li>• Traffic Regulation Orders</li> <li>• Public Conveniences</li> <li>• Strategic parking advice and on street functions as delegated by the Highway Authority</li> </ul>
<b>Finance and Transformation Portfolio</b>	Finance	<ul style="list-style-type: none"> <li>• Annual Budget Strategy</li> <li>• Budget Management</li> <li>• Accountancy</li> <li>• Exchequer</li> <li>• Insurance</li> <li>• Treasury Management and Banking</li> <li>• Internal Audit</li> <li>• Procurement Strategy and Central Purchasing</li> <li>• Big Society Scheme</li> </ul>
	Transformation	<ul style="list-style-type: none"> <li>• Organisational Transformation (including efficiency and effectiveness (shared working, office use, IT and Customer Services)).</li> </ul>
<b>Housing, Benefits and Revenues</b>	Strategic Housing (Private Sector Housing):	<ul style="list-style-type: none"> <li>• Financial Assistance for Private Sector Housing</li> <li>• Houses in Multiple Occupation</li> <li>• Private Sector Housing – regulation and improvement</li> <li>• Tenant Redress Scheme</li> <li>• Private Sector Housing Conditions enforcement and advice</li> <li>• Gypsy / Traveller Liaison</li> <li>• Home Energy Efficiency &amp; Fuel Poverty</li> </ul>
	Strategic Housing (Housing Options and Allocations)	<ul style="list-style-type: none"> <li>• Housing Strategy and Development</li> <li>• Homelessness Policy and advice and assistance to homeless persons and in housing need</li> <li>• Housing Allocation Scheme</li> </ul>
	Commercial	<ul style="list-style-type: none"> <li>• Customer Services</li> <li>• Careline Service</li> <li>• Provision maintenance and development of CCTV systems</li> <li>• Out of Hours Service</li> <li>• Tenant Relations</li> <li>• Contact Centre</li> </ul>

	Building Services and Facilities Management	<ul style="list-style-type: none"> <li>• Maintenance of Housing Assets including Sheltered Schemes</li> <li>• Housing investment Programme</li> <li>• Dangerous Structures</li> <li>• Buildings advisory service</li> <li>• Council Office and Buildings Policy, including Facilities Management and Maintenance</li> <li>• Depots</li> <li>• Office Cleaning</li> <li>• Telephony</li> <li>• Switchboard</li> </ul>
	Housing Management	<ul style="list-style-type: none"> <li>• Sheltered Housing</li> <li>• Estates Management</li> <li>• Housing Revenue Account &amp; Business Plan</li> <li>• Supporting People contract with Essex County Council</li> <li>• Local Supporting People</li> <li>• Partnership with Registered Providers</li> <li>• Enable new opportunities to address housing need through partnership working.</li> </ul>
	Revenues and Benefits	<ul style="list-style-type: none"> <li>• Administration of Council Tax and Housing Benefit</li> <li>• Business Rates (NNDR) and Reliefs</li> <li>• Local Council Tax Support Scheme</li> <li>• Cash Collection/PayPoint</li> <li>• Rent Collection</li> <li>• Right to Buy and other disposals</li> <li>• Benefit fraud and compliance</li> </ul>
<b>Planning and Corporate Services</b>	Planning	<ul style="list-style-type: none"> <li>• Strategic Planning Policy</li> <li>• Local Land Charges service, including the setting of appropriate fees.</li> <li>• Building Control service, including the setting of appropriate fees.</li> <li>• Planning pre-application advice service including the setting of appropriate fees</li> </ul>
	ICT Services	<ul style="list-style-type: none"> <li>• ICT Contract and Strategy</li> <li>• Network and Systems Support</li> </ul>

		<ul style="list-style-type: none"> <li>• Data Protection</li> <li>• Information management</li> <li>• Internet</li> </ul>
	Executive Projects	<ul style="list-style-type: none"> <li>• Public Service Reform</li> <li>• Community Leadership</li> </ul>
	Legal Services	<ul style="list-style-type: none"> <li>• Legal Advice and Support to Council (re executive and non-executive functions)</li> <li>• Legal Services to Departments</li> <li>• FOI/EIR Requests for Information</li> <li>• Regulation of Investigatory Powers Act 2000 – Policy (compliance and co-ordination)</li> </ul>
	Human Resources and Business Management	<ul style="list-style-type: none"> <li>• Corporate Strategy and Planning</li> <li>• Performance Management</li> <li>• Intranet</li> <li>• Career Track</li> </ul> <p>(NB other HR functions are non-Executive and are delegated to the Human Resources Committee)</p>
	Democratic Services	<ul style="list-style-type: none"> <li>• Council, Cabinet and Committee Services</li> <li>• Corporate Administration including programming meetings</li> <li>• Printing and Postal Services</li> </ul>
	Chief Executive Office and Member Support	<ul style="list-style-type: none"> <li>• Member Support</li> <li>• Corporate Complaints</li> <li>• Ombudsman Issues</li> <li>• Communications (Press and PR)</li> <li>• Locality Board Support</li> </ul>
<b>Regeneration, Inward Investment and Asset Management</b>	Corporate Asset Management	<ul style="list-style-type: none"> <li>• Overview &amp; Formulation of Assets Strategy and Policy</li> <li>• Assets Service providing property advice and support to service areas</li> <li>• Initiation and Determination of Property matters in accordance with the Property Dealing Procedure</li> </ul>
	Regeneration and Inward Investment	<ul style="list-style-type: none"> <li>• Strategic Regeneration</li> <li>• Economic Growth Strategy</li> <li>• Inward Investment</li> <li>• Business Support (employment and</li> </ul>

		development) <ul style="list-style-type: none"> <li>• Town Centres Support</li> <li>• Policy and Project Development</li> <li>• Funding Bids</li> <li>• Skills and Apprenticeships</li> <li>• Jaywick Team</li> <li>• Job Centre Plus Partnerships</li> </ul>
<b>Tourism, Events and Leisure Services</b>	Leisure Services	<ul style="list-style-type: none"> <li>• Sports Centres and Facilities (including in partnership with schools)</li> <li>• Sports Initiatives and Sports Development</li> <li>• Princes Theatre Management</li> <li>• Arts, Entertainment, Culture, and Heritage Initiatives and Events</li> <li>• Communities of Interest (Children and Young People)</li> </ul>
	Tourism and Events	<ul style="list-style-type: none"> <li>• Tourism Strategy</li> <li>• Tourism Events</li> <li>• Tourism Information and Promotion</li> </ul>
<b>Well-Being and Partnerships</b>	Health and Well-being	<ul style="list-style-type: none"> <li>• Health Service Liaison</li> <li>• Health and Well-being</li> <li>• Community Health</li> <li>• Health Inequalities</li> <li>• Provision of Emergency Planning</li> <li>• Business Continuity</li> <li>• Education</li> </ul>
	Community Services	<ul style="list-style-type: none"> <li>• Community Leadership and Strategy</li> <li>• Community Safety (including Police and Fire Service Liaison)</li> <li>• Crime and Disorder Strategy</li> <li>• Community Engagement, Development and Empowerment (including consultations, advice and support)</li> <li>• Relationships with Public and Third Sector Organisations</li> <li>• Neighbourhood activities</li> </ul>

### **3.2.2. Role of Leader and Individual Portfolio Holders**

In addition to the general principles set out in Section 3 above, the role of individual Portfolio Holders with areas of responsibility is as follows: -

1. To have overall responsibility for the development, implementation and review of Strategies and District Council Policy in relation to their portfolios and to be the main Council spokesperson thereon.
2. To monitor service performance regarding progress towards achieving strategies and objectives and delivering of service performance targets within approved budgets.
3. To satisfy themselves as to the integrity of financial information and the adequacy of financial controls and risk management arrangements.
4. To represent and speak on behalf of the Cabinet at the Overview and Scrutiny and Audit Committees when they are dealing with issues in their portfolio.
5. To be a member of the Cabinet and exercise collective responsibility in decision making and in making recommendations to the Council.
6. To consult with the Committees, other Members, partners and stakeholders including the public as appropriate in the formulation and development of Council policy within their portfolio.
7. To inform and consult relevant ward Members when making formal decisions
8. To make decisions in accordance with the Council's Strategies, Policies, Procedures, Protocols and Codes of Conduct or as otherwise required by the Constitution.
9. To form working parties to examine and advise the Portfolio Holder under specific aspects of the Portfolio Holder's responsibility, for a period limited to delivery of the project. The appointments of Members to serve on working parties will have had regard to the suggestions of the Group Leaders and if necessary, need to maintain a broad political balance within the membership thereof.

## **3.2 Additional Specific Delegations to Individual Portfolio Holders**

### **Environment and Coast Protection Portfolio**

1. To approve the making of car parking regulation orders when requested by Essex County Council;
2. Proposals for and approve the making of traffic regulation orders where no objections are received;
3. The determination of Hackney Carriage stands under Section 63 of Part 2 of the Local Government (Miscellaneous Provisions) Act 1976.

### **Finance and Transformation Portfolio**

1. To oversee the preparation and recommendation of financial forecasts and annual detailed budget;
2. Overview and presentation of financial monitoring reports to Cabinet;
3. The exercise of functions delegated to the Portfolio Holder by the Financial and Procurement Procedure Rules;
4. The approval of the Council's Council Tax Base and the Government's Annual NNDR Forecast Return; and
5. Implementation and monitoring of the Council's Treasury Management Policy Statement and Treasury Management Practices.

### **Housing, Benefits and Revenues Portfolio**

1. The authorisation of delegated budgets to formally constituted stakeholder groups subject to adequate provision having been made in the revenue estimates approved by Cabinet.
2. Oversee the preparation of budgets relating to the Housing Revenue Account, Housing Revenue Account Business Plan, Housing General Fund, Housing Benefits and the Housing Investment Programme, including rent setting and review, within policy guidelines as determined by the Cabinet.
3. The development, implementation and amendment, as required, of the Housing Investment Programme in accordance with the annual budget set by Cabinet.
4. The development and review of the Council's Local Council Tax Support Scheme for presentation to Cabinet for recommendation to Council for approval.



### **Planning and Corporate Services Portfolio**

1. Oversee strategic planning policy issues including the preparation, consideration and review of local policy documents for consideration by the Local Plan Committee, Cabinet and Council as appropriate.
2. Ensuring that there is effective two-way communication between the Executive and the Local Plan and Planning Committees. In particular in relation to the implementation of current Development Plan policies and to drafts of any review of the Development Plan.
3. Approval, where permitted, of Master Plans, Conservation Area Management Plans and Development and Design Briefs prepared to support any Development Plan Documents.
4. To act as lead portfolio holder in respect of all Transport cross-cutting issues;
5. The monitoring and review of the operation of the Council's Constitution and recommending amendments to the Constitution to the Cabinet / Council.

### **Regeneration, Inward Investment and Asset Management Portfolio**

1. Overseeing implementation of the Assets Strategy and Policy in accordance with the Property Dealing Procedure.
2. The exercise of functions delegated to the Portfolio Holder by the Property Dealing Procedure.
3. Engagement with regional and sub-regional partnerships, planning and funding frameworks – including the Haven Gateway Partnership – to promote the interests of the Tendring District and the communities within it.
4. The approval of grants to organisations (including enhanced rate relief and other discretionary benefits)

### 4.3 DELEGATION OF EXECUTIVE FUNCTIONS TO OFFICERS

1. With the exception of the matters which the Leader of the Council has determined are to be discharged by the Cabinet or individual Portfolio Holders, as detailed in the Cabinet Scheme of Delegation, Corporate Directors and the Head of Planning Services have delegated authority to discharge all executive functions within their respective service areas as set out in Article 12, having authority to act on all such matters. The Chief Executive shall determine from time to time what the service responsibilities of each Corporate Director and Head of Service shall be.
2. The delegation of powers to officers is underpinned by the principle and culture of consultation and liaison with Members, as appropriate and the ability for officers to refer matters to the relevant decision maker i.e. individual Portfolio Holder or a meeting of the full Cabinet, where it is felt that this is appropriate due to the nature of an issue.
3. In all cases of delegations to officers where consultation with the relevant Portfolio Holder is necessary, and in cases where the relevant Portfolio Holder is not available, the Leader of the Council is to be consulted.

In instances, where there is disagreement between the officer and the relevant Portfolio Holder the matter should be referred to Cabinet for consideration and determination.

4. The discharge of all such functions by Officers shall be subject to: -
  - (i) actions being taken in accordance with the Council's budget and policy framework and other Council Policies, Procedures, Protocols and Codes of Conduct;
  - (ii) consultation, as appropriate with relevant Portfolio Holder,
  - (iii) the referral of any required decision or action which is controversial in nature to the appropriate Member decision making individual or body; and
  - (iv) recording the decision in the required format.
5. The Leader of the Council has delegated authority for executive functions to Chief Executive, Corporate Directors and the Head of Planning Services, however any authority granted to Chief Executive, Corporate Director or Head of Service, unless otherwise indicated, may be exercised by an officer authorised by the Corporate Director or Head of Service in writing for that purpose. The Monitoring Officer will maintain a record of such authorisations which shall be available for inspection.
6. Corporate Directors and Head of Planning Service are Designated Officers for the purposes of legislation within their respective service areas as set out in Article 12 of the Constitution and have the power to designate officers of the

authority as an authorised person for purposes relating to legislation falling within their areas of responsibility as set out in Article 12.

7. Any authority which can statutorily only be discharged by officers with a specific level of qualification must only be conferred to and discharged by such officers. Furthermore, where the matter relates to a statutory power or duty conferred or imposed directly on an officer of the Council, only that officer may discharge the function.
8. The Chief Executive has authority to exercise any executive function delegated to officers, except where an officer with appropriate qualifications must only discharge such a delegation or where the matter relates to a statutory power or duty conferred or imposed directly on an officer of the Council as referred to in paragraph 6.
9. The delegations to officers include the normally accepted powers and duties of officers to deal with matters of routine occurrence falling within the scope of their departmental and service responsibilities. This includes all present and future legislation related to the functions of the service and nothing in this schedule shall derogate from any statutory powers or duties conferred or imposed directly on an officer of the Council.
10. In accordance with the legislative requirements, any officer making a decision in connection with the discharge of an executive function under their delegated powers shall be responsible for maintaining a record of such decisions and arranging for this to be published on the Council's website.
11. Where functions, which are the responsibility of the Cabinet, are delegated to officers, the Cabinet remain accountable to the Council, through overview and scrutiny committees for the discharge of those functions. That is to say, the Cabinet will be held to account for both its decision to delegate a function and the way that the function is being carried out. Officers may be requested to attend an Overview and Scrutiny Committee, if an Officer's Decision is called in.
12. The Monitoring Officer shall determine in any case of uncertainty whether any matter falls within the remit of the Council, the Cabinet, a committee or an officer of the Council. Such a determination will be having taking account of relevant legislation.

#### **4.3.1 General Responsibilities delegated to Officers:**

1. All Corporate Directors and Head of Planning Services have the authority to incur expenditure (with the exception of external legal resources) in accordance with the budget and Policy Framework, Financial Procedure Rules and Procurement Procedure Rules. Instructing external legal resources remains the responsibility of the Council's Legal Services Manager.
2. All Corporate Directors are authorised to apply for planning permission in respect of land and/or buildings owned by or within the control of the Council and held in respect of the functions of a Portfolio Holder. In such instances, consultation with the relevant Portfolio Holder is mandatory.
3. In consultation with the Corporate Director (Corporate Services), all Corporate Directors are authorised to deal with the assignment of leases and granting, variation and renewal of licences up to a maximum duration of 12 months including annual rights of way within their respective service areas of responsibility.
4. The management and maintenance of all the land holdings occupied or within the control of the service area remit, including health and safety inspections.
5. All Corporate Directors and Head of Planning Services are authorised to issue and serve notices under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 in respect of functions under the control of a Portfolio Holder.
6. All Corporate Directors and Head of Planning Services are authorised in consultation with the Corporate Director (Corporate Services) to take all steps in connection with any legal proceedings, in respect of any function under the jurisdiction of a Portfolio Holder including the commencement or defence of, withdrawal, settlement or compromise of any such proceedings.
7. All Corporate Directors and Head of Planning Services are authorised in consultation with the Corporate Director (Corporate Services) to appear on the Council's behalf in any legal proceedings, under the jurisdiction of a Portfolio Holder, before all courts, tribunals and inquiries.

# Schedule 4

## Schedule of Proper Officers and Related Provisions

**The officers appointed to the statutory positions of Head of Paid Service, Section 151 Officer and Monitoring Officer are set out in Article 12 of the Council's Constitution.**

Proper Officer and Statutory Officer appointments must be distinguished from powers "delegated" to Officers.

1. Delegated powers -
  - (1) are confirmed at the Council's discretion;
  - (2) may be withdrawn or amended; and
  - (3) may be subject to the observance of conditions and/or compliance with Council policy.
  
3. Under certain statutes and guidance, the Council is required to appoint a Proper Officer or Statutory Officers to undertake a specific function. In such cases, the effect of the statutory provision is as follows:-
  - (i) the function can only be dealt with through that Officer;
  - (ii) the function can only be discharged by that Officer in the way prescribed by the statutory provision concerned;
  - (iii) the Council cannot direct the way in which the function is discharged.
  
3. In the absence of the Proper Officers their powers are exercisable by their Deputy or Deputies in absence or by such Officer(s) as the Proper Officer in writing shall appoint.

## SCHEDULE 4 – PROPER OFFICERS

**The Council has appointed the following Proper Officers**

STATUTORY REFERENCE	FUNCTION	PROPER OFFICER	Officer to act in event of Proper Officer being unable to
<b>Local Government Act 1972</b>			
Section 41	Returning Officer at Local Elections	Chief Executive	Corporate Director (Corporate Services)
Section 83	Witness and receipt of Declarations of Acceptance of Office.	Chief Executive	Monitoring Officer
Section 84	Receipt of Notice of Resignation.	Chief Executive	Monitoring Officer
Section 88	Convening of Meeting of council to fill casual vacancy in office of Council Chairman	Chief Executive	Monitoring Officer
Section 89	Receipt of Notice of casual vacancy in the case of councillors.	Chief Executive	Corporate Director (Corporate Services)
Section 100B(2)	Exclusion of Reports from inspection by public	Monitoring Officer	Deputy Monitoring Officer
Section 100B(7)	Provision of copies of documents other than Agenda and Minutes to the Press.	Corporate Director (Corporate Services)	Democratic Services Manager
Section 100C(2)	Provision of a summary of proceedings of a closed meeting.	Monitoring Officer	Deputy Monitoring Officer
Section 100D(5)	Provision of background papers.	Corporate Director (Corporate Services)	Democratic Services Manager

<b>STATUTORY REFERENCE</b>	<b>FUNCTION</b>	<b>PROPER OFFICER</b>	<b>Officer to act in event of Proper Officer being unable to</b>
<b>Local Government Act 1972 cont.</b>			
Section 100F(2)	Disclosure of documents to Members.	Monitoring Officer	Deputy Monitoring Officer
Section 115	Receipt of money due from Officers	Section 151 Officer	Deputy Section 151 Officer
Section 146	Statutory Declarations and Certificates with regard to securities.	Section 151 Officer	Deputy Section 151 Officer
Section 151	Responsibility for provision of adequate and effective Internal Audit function	Section 151 Officer	Deputy Section 151 Officer
Section 191	Functions with respect to Ordnance Survey Act 1841	Head of Planning	Development Manager (Planning Policy)
Section 210	Powers in respect to local charity.	Section 151 Officer	Deputy Section 151 Officer
Section 212	Local Land Charges Register	Head of Planning	Support & Development Manager
Section 225(1)	Deposit of Documents.	Corporate Director (Corporate Services)	Democratic Services Manager
Section 229(5)	Certification of copies of documents intended to be used in legal proceedings	Monitoring Officer	Deputy Monitoring Officer
Section 234(1)	Authentication of Documents	Monitoring Officer	Deputy Monitoring Officer
Section 236 & 238	Certification of Byelaws	Legal Services Manager	an in-house Solicitor

<b>STATUTORY REFERENCE</b>	<b>FUNCTION</b>	<b>PROPER OFFICER</b>	<b>Officer to act in event of Proper Officer being unable to</b>
<b>Local Government Act 1972 cont.</b>			
Schedule 12 – Para 4 (a)	Signature of Council Summons.	Chief Executive	Corporate Director (Corporate Services)
(b)	Receipt of Notice of address for Council summons	Corporate Director (Corporate Services)	Democratic Services Manager
Schedule 14 - Para 25	Certification of Resolutions	Monitoring Officer	Deputy Monitoring Officer
Schedule 16 – Para 28	Receipt on deposit of Lists of protected Buildings	Head of Planning	Development Manager (Planning Policy)
Schedule 22 – Para 17	Authentication of Notices etc. under the Housing Acts	Corporate Director (Life Opportunities)	Strategic Housing and Needs Manager
<b>Local Government (Miscellaneous Provisions) Act 1976</b>			
Section 41	Evidence of Resolutions and Minutes of proceedings	Monitoring Officer	Deputy Monitoring Officer
<b>Representation of the People Regulations 1986</b>			
Regulation 96	Retention of documents relating to Postal voting	Chief Executive	Corporate Director (Corporate Services)



<b>STATUTORY REFERENCE</b>	<b>FUNCTION</b>	<b>PROPER OFFICER</b>	<b>Officer to act in event of Proper Officer being unable to</b>
<b>Representation of the People Act 1983</b>			
Section 8(2)	Appointment of Electoral Registration Officer (automatically Acting Returning Officer in Parliamentary elections)	Chief Executive	Corporate Director (Corporate Services)
Section 52(3)	Deputising for Registration Officer	Corporate Director (Corporate Services)	Election Operations Manager
Section 67 to 70	Appointment etc. of election Agent	Returning Officer	Returning Officer to appoint Deputies at each election, as required)
Sections 75, 81, 82 & 89	Return of election expenses	Chief Executive	Corporate Director (Corporate Services)
Section 128	Publication of election Petition	Chief Executive	Corporate Director (Corporate Services)
Section 131	Provision of accommodation for election court	Chief Executive	Corporate Director (Corporate Services)
<b>Local Elections (Principal Areas) Rules 1986</b>			
Rule 44	Receive notice of Declaration of Result	Chief Executive	Corporate Director (Corporate Services)
Rules 46 to 48	Retention of election documents	Chief Executive	Corporate Director (Corporate Services)

<b>STATUTORY REFERENCE</b>	<b>FUNCTION</b>	<b>PROPER OFFICER</b>	<b>Officer to act in event of Proper Officer being unable to</b>
<b>Local Government Finance Act 1988</b>			
Section 114	Report to Full Council in respect of unlawful expenditure or an unbalanced budget	Section 151 Officer	Deputy Section 151 Officer
Section 116	To inform the Authority's external auditor of the date, time place and outcome of meetings held under Section 115 of the Act.	Section 151 Officer	Deputy Section 151 Officer
<b>Local Government (Committees and Political Groups) Regulations 1990</b>			
Regulations 8-10, 13, 14 & 17	Political balance and appointments to committees	Chief Executive	Corporate Director (Corporate Services)
<b>Local Authorities (Referendums)(Petitions and Directions)(England) Regulations 2000</b>			
Regulations 5 to 8	Functions relating to petitions and referenda for elected mayor	Corporate Director (Corporate Services)	Election Operations Manager
<b>Local Authorities (Standing Orders)(England) Regulations 2001</b>			
Schedule 1 Part II	Functions relating to the appointment and dismissal of a member of staff	Chief Executive	Corporate Director (Corporate Services)
Regulations 5(2) and 6(2)	Functions relating to the appointment and dismissal of a member of staff	Chief Executive	Corporate Director (Corporate Services)

# Schedule 5

## Joint Arrangements

### **NORTH ESSEX PARKING PARTNERSHIP**

Tendring Council is a member of the North Essex Parking Partnership, which includes the Boroughs and Districts of **Braintree, Colchester, Epping Forest, Harlow, Tendring** and **Uttlesford**.

The partnership adopted responsibility for the ongoing maintenance and enforcement of on-street parking restrictions throughout the south of Essex.

The partnership's responsibilities will include the implementation of new parking restrictions and schemes, including ensuring that all existing signs and street lining relating to on-street parking restrictions is in place and is up to standard.

# **Appendix 1 to Part 3 of the Constitution**

**Insert**

**THE LOCAL AUTHORITIES (FUNCTIONS AND RESPONSIBILITIES) (ENGLAND)  
REGULATIONS 2000 (as amended)**

**ACCESS TO INFORMATION PROCEDURE RULES**

---

**ACCESS TO INFORMATION PROCEDURE RULES****1 SCOPE**

These rules apply to all meetings of the Council, its Committees, Overview and Scrutiny Committees, Sub-Committees, and public meetings of the Cabinet (together called meetings).

**2 ADDITIONAL RIGHTS TO INFORMATION**

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

**3 RIGHTS TO ATTEND MEETINGS**

Members of the public may attend all meetings subject only to the exceptions in these rules.

Any person is permitted to film or record any meeting of Council, a Committee, Sub-Committee or the Cabinet, save where the public have been excluded for the consideration of exempt or confidential business. The rules, as prescribed by legislation, will allow for the reporting of meetings via social media of any kind. The Council will provide reasonable facilities to facilitate reporting.

Any person exercising such rights must not disrupt the proceedings. Examples of what will be regarded as disruptive include but are not limited to moving outside the area designated for the public, making excessive noise, intrusive lighting/flash or asking a Councillor to repeat a statement. In addition, members of the public or the public gallery should not be filmed, **as this could infringe an individual's right to privacy, if their prior permission had not been obtained**. Any person considered being disruptive or filming the public will be requested to cease doing so by the Chairman and may be asked to leave the meeting.

Where the public are excluded from a meeting in accordance with Rule 10, the Council, Cabinet or other decision making body may also prevent any person from reporting on the meeting using methods which enable persons not present at the meeting to see or hear the proceedings at the time of the meeting or later.

**4 NOTICES OF MEETING**

The Council will give at least five clear working days notice of any meeting by making the agenda and reports publically available at the Town Hall, Station Road, Clacton-on-Sea, (the 'designated office') and on the Council's website.

**ACCESS TO INFORMATION PROCEDURE RULES**

---

**5 ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The Council will make copies of the agenda, reports and background papers open to the public available for inspection at the designated office on request, at least five clear working days before the meeting. Where a report is added to the agenda after the summons has been sent out, the Democratic Services Manager shall make each such report together with any background papers available to the public as soon as the report is completed and sent to Councillors.

**6 SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda;
- (c) if the Monitoring Officer or Democratic Services Manager thinks fit, any other documents supplied to Councillors in connection with an item; and
- (d) the Forward Plan

to any person on payment of a charge for postage and any other costs.

**7 ACCESS TO MINUTES ETC AFTER THE MEETING**

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

**8 BACKGROUND PAPERS**

**8.1 List of Background Papers**

Authors of reports will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

**ACCESS TO INFORMATION PROCEDURE RULES**

---

(a) disclose any facts or matters on which the report or an important part of the report is based; and

(b) which have been relied on to a material extent in preparing the report

but do not include published works or those which disclose exempt or confidential information as defined in Rule 10, and in respect of Cabinet reports, the advice of a political advisor.

**8.2 Public Inspection of Background Papers**

The Council will make available for public inspection, for four years after the date of the meeting, one copy of each of the documents on the list of background papers.

**8.2.1** Public reports must include not only a list of background papers but at least one copy of each of the documents in the list for public inspection at the Council's main offices (i.e. the Town Hall, Station Road, Clacton-on-Sea) and on the Council's website.

**8.2.2** The Council may now charge "a reasonable fee" for access to background papers to be inspected at the Council's offices.

**9 SUMMARY OF PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept and be available to the public at the Town Hall, Station Road, Clacton-on-Sea.

**10 EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

**10.1 Confidential Information – Requirement to Exclude Public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted, or the nature of the proceedings, that confidential information would be disclosed.

**10.2 Meaning of Confidential Information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

Confidential information shall include financial information and supporting documentation relating to a company or individual that is provided to the Council for the purposes of an Open Book Financial Appraisal and shall only be available to those who have been authorised to see it by the person submitting it.

ACCESS TO INFORMATION PROCEDURE RULES

---

**10.3 Exempt Information – Discretion to Exclude Public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted, or the nature of the proceedings, that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

**10.4 Meaning of Exempt Information**

Exempt information means any information falling within the following seven categories (subject to any condition)



## ACCESS TO INFORMATION PROCEDURE RULES

Category	Condition
1 Information relating to any individual.	
2 Information which is likely to reveal the identity of an individual.	
<p>3 Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p> <p>4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p> <p>5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p> <p>6 Information which reveals that the authority proposes:-</p> <p>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) To make an order or direction under any enactment.</p>	<p>Information is not exempt information if it is required to be registered under:-</p> <p>(a) The Companies Act 1985;</p> <p>(b) The Friendly Societies Act 1974;</p> <p>(c) The Friendly Societies Act 1992;</p> <p>(d) The Industrial and Provident Societies Acts 1965 to 1978;</p> <p>(e) The Building Societies Act 1986; or</p> <p>(f) The Charities Act 1993.</p>

## ACCESS TO INFORMATION PROCEDURE RULES

Category	Condition
<p>7A Information which is subject to any obligation of confidentiality.</p> <p>7B Information which relates in any way to matters concerning national security</p> <p>7C The deliberations of a Standards Committee or of a Sub-Committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of Section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.</p>	<p>7A-7C apply only to a meeting of the Standards Committee or a Sub-Committee of the Standards Committee</p>

Information falling within any of categories 1-7 is not exempt by virtue of that category if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

Information which:-

- (a) falls within any of categories 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of the condition relating to category 3 or the above paragraph,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## 11 EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Monitoring Officer or Democratic Services Manager thinks fit, the Council may exclude access by the public to reports which, in their opinion, relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be concerned.

**12 RECORDING OF DECISIONS BY OFFICERS****12.01 Written Record**

A written record must be produced, as soon as reasonably practicable, after a decision has been made, which was delegated to an Officer by Council, a Committee or Sub-Committee either:

- (a) under an express authorisation; or
- (b) a general authority to take decisions which grant a permission or licence, affect an individual's rights or award a contract or incur expenditure, which in either case, materially affects the Council's finances.

**12.02 Prescribed Format**

The written record must be in the prescribed format approved by the Monitoring Officer and Democratic Services and contain the following information:

- (a) the date the decision was made;
- (b) a record of the decision taken along with the reasons for the decision;
- (c) details of alternative options, if any, considered and rejected; and
- (d) where relevant, any conflicts of interest declared.

**12.03 Public Inspection of Decision and Background Papers**

The Officer making the decision must ensure that the written record and background papers are made available for inspection by the public and published on the Council's website.

**APPLICATION OF RULES TO THE CABINET**

Rules 13 to 24 apply to the Cabinet. If the Cabinet meets to take a key decision then it must also comply with Rules 1 to 11 unless Rule 15 (general exception) or Rule 16 (special urgency) applies. A "key decision" is defined in Article 13.03 of this Constitution.

If the Cabinet meets to discuss a key decision to be taken collectively, with an Officer other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1 to 11 unless Rule 15 or Rule 16 apply. A key decision is as defined in Article 13.03 of this Constitution. This requirement does not include meetings whose sole purpose is for officers to brief Members.

**13 PROCEDURE BEFORE TAKING KEY DECISIONS**

The following details must be published at least 28 clear days before a **key** decision is to be taken:

- (a) that a key decision is to be made, and details of the matter;
- (b) the decision-maker's name and title, or, if a body, its name and full membership;
- (c) the date on which, or period during which, the decision is to be made;
- (d) the documents to be submitted to the decision-maker for consideration and details of how to receive copies; and
- (e) A note that other documents relevant to the decision may be submitted to the decision-maker and details of how to receive copies.

**14 THE FORWARD PLAN****14.1 Period of Forward Plan**

The Council shall maintain a Forward Plan to include any key and other decisions to be taken over the next two months. It will be prepared on a monthly basis and subsequent Forward Plans will cover a period beginning with the first day of the second month covered in the preceding plan.

**14.2 Contents of Forward Plan**

Each Forward Plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet, individual members of the Cabinet or Officers in the course of the discharge of an Cabinet function during the period covered by the Forward Plan. It will also contain matters which are not the subject of a key decision, where these are known.

It will describe the following particulars insofar as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision-taker is an individual, his or her name and title, if any, and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken; and

ACCESS TO INFORMATION PROCEDURE RULES

---

- (d) a list of the documents submitted to the decision-taker for consideration in relation to the matter.

**14.3 The Forward Plan**

The Forward Plan will be published approximately 14 days before the start of the period covered. The Democratic Services Manager will publish, once a year, a notice in at least one newspaper circulating in the area, stating:

- (i) that key, and other decisions are to be taken on behalf of the Council;
- (ii) that a Forward Plan containing details of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (iii) that the Forward Plan will contain details of the key, and other decisions likely to be made for the two month period following its publication;
- (iv) that where key decisions are to be made and/or meetings of the Cabinet are to be held in private, (1) a notice giving 28 days of this shall be published to allow for any representations, and (2) a further notice giving five days notice of this shall be published to include any representations received, together with the reasons given, in relation to private considerations, as to why the matter is being considered in private;
- (v) that each Forward Plan will be available for inspection at reasonable hours, free of charge, at the Council's Offices;
- (vi) that each Forward Plan will contain a list of the documents submitted to the decision-takers for consideration in relation to the key, and other decisions on the Forward Plan;
- (vii) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
- (viii) that other documents may be submitted to decision-takers;
- (ix) the procedure for requesting details of documents (if any) as they become available; and
- (x) the approximate (week-ending) dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's Offices.

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

ACCESS TO INFORMATION PROCEDURE RULES

---

**15 GENERAL EXCEPTION**

If the timetable referred to in Rule 13 above is impracticable, a key decision can still be taken if:

- (a) the Proper Officer has **informed** the Chairman of the relevant Overview and Scrutiny Committee in writing of the details of the decision to be made (or, if the Chairman is unable to act, each member of the relevant Committee);
- (b) notice is given of the details of the decision to be made and the reasons why it is impracticable to give 28 clear days' notice; and
- (c) at least five clear working days have elapsed between notice being given and the decision being taken.

**16 SPECIAL URGENCY**

If the general exception rule is impracticable, the key decision can still be taken if the decision-maker has **received the permission** of the Chairman of the relevant Overview and Scrutiny Committee, or if he or she is unable to act, the Chairman or Vice-Chairman of the **Council** and has published a notice stating that a decision is urgent and the reasons why it cannot reasonably be deferred.

**17 REPORT TO COUNCIL****17.1 When an Overview and Scrutiny Committee can Require a Report**

If an Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- (a) included in the Forward Plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement under Rule 16;

the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Democratic Services Manager, who shall require such a report on behalf of the Committee when so requested by the Chairman. Alternatively, the requirement may be made by resolution passed at a meeting of an Overview and Scrutiny Committee.

ACCESS TO INFORMATION PROCEDURE RULES

---

**17.2 Rights of Overview and Scrutiny Members**

Upon request from a member of an overview and scrutiny committee, the Cabinet **must** make available any material concerning business relating to past decisions. This must be provided as soon as reasonably practicable and no later than 10 clear days after the request is made.

Exempt information does not need to be provided unless it relates to an action or decision that the Member is scrutinising, or to any review in a relevant overview and scrutiny committee's work programme. Overview and Scrutiny Committee Members are not entitled to any exempt material which contains advice provided by a political adviser or assistant.

If the Cabinet determines that material will not be provided, it must set out, in writing, its reasons for that decision.

**17.3 Cabinet's Report to Council**

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision and, if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.

**17.4 Reports on Special Urgency Decisions**

The Leader will submit a report to the next practicable ordinary meeting of Council on the Cabinet decisions taken in the circumstances set out in Rule 16 since the previous such report. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

**18 RECORD OF DECISIONS**

Records of **any** Cabinet decisions, including those taken by Officers, must state:

- (a) the decision taken and the date it was made;
- (b) the reasons;
- (c) details of options considered and rejected and the reasons why they were rejected; and
- (d) declarations of interest and details of any dispensations granted in respect of interests; and
- (e) details of any consultation.

ACCESS TO INFORMATION PROCEDURE RULES

---

**19 CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

Cabinet meetings relating to matters that are not key decisions will be held in public unless the Cabinet determines otherwise.

**20 NOTICE OF PRIVATE MEETING OF THE CABINET**

Members of the Cabinet will be entitled to receive three clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

**21 ATTENDANCE AT PRIVATE MEETINGS OF THE CABINET**

All Members of the Cabinet will be served notice of, and are entitled to attend, all private meetings of the Cabinet or Committees of the Cabinet.

The Chief Executive and any member of Management Team are entitled to attend any meetings of the Cabinet. The Monitoring Officer and Chief Financial Officer are entitled to attend when presenting a report to fulfil the requirements of their statutory duties.

In addition, where the Cabinet is to consider any financial matter where there is a fundamental disagreement by the Chief Financial Officer on the advice being reported by Management Team, the Chief Financial Officer will have the right to report direct to the Cabinet. The Cabinet may not meet unless the Monitoring Officer has been given reasonable notice that the meeting is to take place.

Determination of the attendance of other Members of the Council at private meetings of the Cabinet will rest with the Cabinet.

**22 DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET****22.1 Reports Intended to be Taken Into Account**

Subject to Rule 16, where an individual member of the Cabinet receives a report which he intends to take into account in making any key decision, then he will not make the decision until at least five clear working days after receipt of that report.

**22.2 Provision of Copies of Reports to Overview and Scrutiny Committees**

On giving of such a report to an individual decision maker, the Democratic Services Manager will give a copy of it to the Chairman of the relevant Overview and Scrutiny Committee as soon as reasonably practicable and make it, together with any background papers, publicly available at the same time.



**22.3 Record of Individual Decision**

As soon as reasonably practicable after a Cabinet decision has been taken by an individual member of the Cabinet or a key decision has been taken by an Officer, he will prepare a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

**23 OVERVIEW AND SCRUTINY COMMITTEES - ACCESS TO DOCUMENTS**

**23.1 Rights to Copies**

Subject to Rule 23.2 below, the Overview and Scrutiny Committees will be entitled to copies of any document which is in the possession or control of the Cabinet, which is relevant to their terms of reference and which contains material relating to:-

- (a) any business transacted at a public or private meeting of the Cabinet; or
- (b) any decision taken by an individual member of the Cabinet.

**23.2 Limit on Rights**

The Overview and Scrutiny Committees will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise;
- (c) the advice of a political adviser; or
- (d) prior access to, or foresight of papers in relation to private decisions of the Cabinet before the decision is made.

**24 ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

**24.1 Material Relating to Previous Business**

ACCESS TO INFORMATION PROCEDURE RULES

---

All Members will be entitled to inspect any document that is in the possession or under the control of the Cabinet and contains material relating to any business previously transacted at a private meeting unless it contains exempt or confidential information, or the advice of a political adviser.

**24.2 Material Relating to Key Decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet, which relates to any key decision unless paragraph 24.1 above applies.

**24.3 Nature of Rights**

These rights of a Member are additional to any other right they may have.