

A.1 APPENDIX A

Article 6 – Overview and Scrutiny Committees (changes shown in red text)

6.02 Terms of Reference:

The terms of reference for each Overview and Scrutiny Committee are set out below:

(i) **Community Leadership Overview and Scrutiny Committee**

Meetings of the Committee will be held in accordance with the programme of meetings normally approved at the Annual Meeting of the Council. In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting may be called by the Chairman of the Committee, or by the Head of Democratic Services & Elections. If considered necessary or appropriate. Meetings of Task and Finish Groups can be called as required, following the terms of reference being agreed by the Committee.

To perform the role of Overview and Scrutiny and its functions in relation to

- Community Leadership developing the external focus of overview and scrutiny on “district-wide” issues’ (and where appropriate sub regional, regional and national issues), in particular through collaborative work with local partner authorities, providers, stakeholders and members of the public.
- Approval of discrete researched and evidenced reviews on the effectiveness of partnership operating in the area with particular focus on:
 - Community Safety
 - Health and Well-being
 - Economy, Skills and Educational Attainment
- Community engagement, development and empowerment
- **Economic Development, Regeneration and Freeport East**
- Leisure and Tourism (except matters relating to budgets)
- ~~Housing Strategy and Homeless Service (except the Housing Revenue Account)~~
- **Planning & Building Control and Strategic Planning (including the Local Plan)**
- Emergency Planning

- **To scrutinize/review the outcomes and implications for the Council of its financial support to community organisations and also from its receipt and use of funds received from local partner organisations**

The Community Leadership Overview & Scrutiny Committee will also act as the Council's designated "crime and disorder committee" for the purposes of Section 19 of the Police and Justice Act 2006 and will have the power –

- to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities[*] of their crime and disorder function;*
- to make reports or recommendations to the local authority with respect to the discharge of those functions.*

** "The responsible authorities" means the bodies and persons who are responsible authorities within the meaning given by section 5 of the Crime and Disorder Act 1998 (c.37) (authorities responsible for crime and disorder strategies) in relation to the local authority's area.*

In fulfilling that function the Community Leadership Overview & Scrutiny Committee will have the power (whether by virtue of section 9F(2) or 21(2) of the Local Government Act 2000 or regulations made under section 9JA(2) or 32(3) of that Act or otherwise) to make a report or recommendation to the local authority with respect to any matter which is a local crime and disorder matter in relation to a member of the authority.

The crime and disorder committee shall meet to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder function as the committee considers appropriate but no less than once in every twelve month period.

(ii) Resources and Services Overview and Scrutiny Committee

- The Chairman and the Vice-Chairman of the Committee will normally be Members of a political group that is not represented on the Cabinet. Meetings of the Committee will be held in accordance with the programme of meetings approved at the Annual Meeting of the Council. In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting may be called by the Chairman of the Committee, or by the Head of Democratic Services & Elections, if considered necessary or appropriate. Meetings of Task and Finish

Groups can be called as required, following the terms of reference being agreed by the Committee.

- To perform the role of Overview and Scrutiny and its functions in relation to the effective use of the Council's resources including approval of discrete researched and evidenced reviews on the effectiveness of:

Financial Forecast Budget setting and monitoring (including General Fund & Housing Revenue Account **but excluding those budgetary matters delegated to the Community Leadership Overview and Scrutiny Committee**)

**Colchester/Tendring Borders Garden Community
Housing Strategy and Homeless Service**

Service Delivery and Performance (where not delegated to the Community Leadership Overview and Scrutiny Committee)

Procurement and Contract Management

Transformation and Digital Strategies

Customer Service and Standards

A.1 APPENDIX B

Part 3 – Schedule 2 – Licensing & Registration Committee Functions and Terms of Reference

Committee	Functions and Terms of Reference	Delegated Functions
<p>Licensing and Registration Committee</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>Additional roles and functions of the Committee are as set out below:</p> <ul style="list-style-type: none"> • Deciding whether to make a change to the Hackney Carriage Fare Scale operative within the Tending District having considered the representations received in response to the Public Notice duly given pursuant to Section 65 of Part II of the Local Government (Miscellaneous Provisions) Act 1976; • Recommending the Licensing Policy Statement to full Council and the Gambling Statement of Licensing Policy to Cabinet; • 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 • 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. <p><i>The discharge of the following Part II – Miscellaneous Functions as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended)</i></p>	<ol style="list-style-type: none"> 1. All licensing and registration functions are delegated to the Miscellaneous Licensing Sub-Committee or the Premises/Personal Licences Sub-Committee as detailed below and otherwise to the Assistant Director (Governance) except for determining standard licensing conditions and determining or recommending proposed policies, which remain with the Committee. 2. All functions relating to Health and Safety at Work and Smoke Free Premises are delegated to the Corporate Director (Operations and Delivery). 3. The initial, in principle, consideration of a proposal received for a change to the Hackney Carriage Fare Scale operative within the District and decision to give public notice (pursuant to Section 65 of Part II of the Local Government (Miscellaneous Provisions) Act 1976)

	<p><i>and as detailed in Appendix 1 to Part 3 of the Constitution:</i></p> <ul style="list-style-type: none">• Power to make closing order with respect to take away food shops; and• Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption. <p>In addition the following powers and duties:</p> <ul style="list-style-type: none">• The setting of any fees and/or charges payable to the Council for the issue of any licences where the Council has discretion over such fees and/or charges) or otherwise in relation to any of the functions falling within the remit of the Licensing and Registration Committee and its Sub-Committees.• The consultation on draft policies relating to matters within the remit of this Committee and the development of proposals to be submitted for determination of Cabinet and/or Council.	<p>of the Council's intention to amend the Fare Scale is delegated to the Assistant Director (Governance) in consultation with the Chairman of the Committee.</p> <p>4. While not limiting the delegation in 1. above, the Assistant Director (Governance) shall be authorised to:-</p> <ul style="list-style-type: none">(a) make minor changes to relevant policies arising from legislation, changes to the organisational structure of the Council, or decisions of the Council;(b) make such arrangements in respect of the exercise by the Licensing Authority of licensing and registration functions in its role as a Responsible Authority; and(c) suspend a licence for the non-payment of fees or issuing of a Closure Order for a premises under Section 19 of the Criminal Justice and Police Act 2001 (sale of alcohol otherwise than in accordance with an authorisation)
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A.1 APPENDIX C

Part 3 – Schedule 2 – Planning Committee Functions and Terms of Reference

Committee	Functions and Terms of Reference	Delegated Functions
<p>Planning Committee</p>	<p><i>The discharge of the Town and Country Planning and Conservation functions as specific 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>Additional roles and functions of the Committee are as set out below:</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>1. All planning (including all prior approval applications), enforcement, building control and conservation matters delegated to the Assistant Director (Planning) except in relation to the determination of certain planning applications as detailed below for determination by the Committee:</p> <p>(i) Officer recommendations for approval materially contrary to adopted national and/or adopted local policy, with the exception of where the initial departure within two years has already been agreed by reason of a previous grant of planning permission or prior approval (extant and not extant) and the application represents a subsequent application for either the same, similar or alternative development on the same red line site which would not be considered by the Director (Planning) to alter the previous material planning considerations.</p> <p>(ii) Officer recommendation of approval is contrary to a previous refusal by the Planning Committee in the last two years, where the policies, site and proposed development 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 unless the application is recommended for refusal.</p>

		<p>(v) The applicant is a Member of the Council, Planning Officer or a Senior Officer, member of permanent staff employed by TDC and there is an Officer recommendation for approval.</p> <p>(vi) Within 35 days of the commencement of formal consultation, a written request is received from a Tendring District Councillor, who is not a serving member of the Planning Committee (unless the member of the Planning Committee is making that request solely in their capacity as a Ward Member for the application in question), in accordance with the Member Referral Scheme(*), requesting that the planning application should be brought before the Planning Committee for determination and giving material planning reasons for that request. Call in arrangements do not apply to householder applications and any application type that would result in deemed approval if not determined in time, including prior approval applications.</p> <p>(vii) Within 35 days of the commencement of formal consultation, a written request is received from a serving member of the Planning Committee, in accordance with the Member Referral Scheme(*), requesting that the planning application should be brought before the Planning Committee for determination and providing compelling reasons why it could be considered of significant importance to the wider District or planning policy. Call in arrangements do not apply to householder applications and any application type that would result in deemed approval if not</p>
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		<p>determined in time, including prior approval applications.</p> <p>(*) Scheme to be approved by Full Council</p> <p>(viii) The Director (Planning), or other authorised Officer, in consultation with the Chairman of the Planning Committee and the Planning Solicitor, may allow a Member’s referral request that is received after the 35 day cut-off if they are satisfied that the request could not have reasonably been submitted before the deadline and that in all other respects it meets the requirements for a valid referral.</p> <p>(ix) Any application which the Assistant Director (Planning) in their professional opinion, taking into account the written representations received, plans and policies and other material considerations to be referred to the Planning Committee because it raises more than significant local issues.</p> <p>2. The Director (Planning), in consultation with the Chairman of the Planning Committee, may extend the time for the completion of a Section 106 Agreement for two further periods of six months at which point it would need to return to the Planning Committee for a decision as to whether to further extend the time or instead to now refuse planning permission on the grounds that the Section 106 Agreement had not been completed.</p>
	<p><i>The discharge of the</i> Miscellaneous functions – Part 1 – relating to Public Rights of Way, within the</p>	<p>All public rights of way matters delegated to the Corporate Director} (Operations and Delivery)</p>

	<p>District Council's responsibility 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.</p> <p><i>The discharge of the following</i> 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.</p>	<p>All hedgerows, trees and hedges matters delegated to the Assistant Director (Planning)</p>
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A.1 APPENDIX D

Part 3 – Schedule 2 – Standards Committee Functions and Terms of Reference

Committee	Functions and Terms of Reference	Delegated Functions
Standards Committee	<ol style="list-style-type: none"> 1. To promote and maintain high standards of conduct by Members and Co-opted Members of the authority; 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 of the Council; 3. To advise the Council on the adoption or revision of the Members' Code of Conduct; 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; 5. To approve procedures for the conduct of hearings into complaints against Members; 	<p>Delegation to Monitoring Officer:</p> <ol style="list-style-type: none"> 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.
	<ol style="list-style-type: none"> 6. To advise the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council; 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; 8. To inform Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints; 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 	<ol style="list-style-type: none"> 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"> • Merits no further action • Merits early informal conciliation • Merits further investigation • Should due to exceptional circumstances be

	<p>10. To maintain oversight of the Council's arrangements for dealing with complaints delegated to Standards Town and Parish Sub-Committee.</p>	<p>referred to the 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>Proceedings:</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>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>3. In accordance with the Hearings Procedure, 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>	<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 the promotion and maintenance of high standards of conduct.</p>

A.1 APPENDIX E

Part 3 – Schedule 4 – Proper Officers

STATUTORY REFERENCE	FUNCTION	PROPER OFFICER	Officer to act in event of Proper Officer being unable to
Representation of the People Act 1983 cont			
Section 8(2) and Section 52(3)	Appointment of Electoral Registration Officer (automatically acting Returning Officer in Parliamentary elections)	Chief Executive	Head of Democratic Services & Elections
Sections 18B and 31	Designation of Polling Districts and Places (Parliamentary and Local Government Elections)	Chief Executive	Head of Democratic Services & Elections
Section 52 (3) (2)	Deputising for Registration Officer	Deputy Chief Executive Head of Democratic Services & Elections	Head of Democratic Services & Elections Elections Manager
Sections 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	Head of Democratic Services & Elections

Section 128	Publication of election Petition	Chief Executive	Head of Democratic Services & Elections
Section 131	Provision of accommodation for election court	Chief Executive	Head of Democratic Services & Elections

A.1 APPENDIX F

Access to Information Procedure Rules

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

New Rule 10.5 as follows:-

10.5 Hearings under Regulations made pursuant to the Licensing Act 2003

Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 presumes that hearings shall take place in public. However, the licensing authority may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public. For that purpose, a party and any person assisting or representing a party may be treated as a member of the public.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Proper Officer (Monitoring Officer) 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 category of information likely to be concerned. **The report will also include a Review Date at which time the contents of the report will be re-assessed in order to determine whether the report can now be placed into the public domain.**

14. GENERAL EXCEPTION

Subject to Rule 15, if publication under Rule 13 above is impracticable, a key decision may only be made:

- (a) where the Proper Officer has informed the Chairman of the relevant Overview and Scrutiny Committee in writing of the matter about which the decision is to be made:
- (b) notice is given and published on the Council's website 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.

Decisions taken under the General Exception procedure are still subject to call-in unless an exemption has been granted or an exceptions applies under the provisions set out in Overview and Scrutiny Procedure Rule 18.

15. SPECIAL URGENCY

If the general exception rule is impracticable, due to the date by which a key decision must be made, the key decision can only be taken if the decision-maker has received the agreement of the Chairman of the relevant overview and scrutiny committee, or if they are unable to act, the Chairman or Vice-Chairman of the Council and has published a notice on the Council's website, stating that the making of the decision is urgent and the reasons why it cannot reasonably be deferred.

Decisions taken under the Special Urgency procedure are automatically exempted from call-in.

A.1 APPENDIX G

Overview and Scrutiny Procedure Rules

7. WORK PROGRAMME

Each Overview and Scrutiny Committee will submit a work programme for the year ahead and a review of the previous year's activities to the Council for approval. In addition, it will be responsible for co-ordinating and prioritising its work programme on an ongoing basis.

In preparing, co-ordinating and prioritising its programme, each Overview and Scrutiny Committee will take into account:-

- The General Role and Principles of undertaking its functions, as set out in Part 2 Article 6
- the planned work on the preparation of elements of the Budget and Policy Framework;
- **provision for budget scrutiny and scrutiny of the Treasury Management Strategy, as appropriate,**
- the need for statutory timetables to be met;
- the expressed wishes of the members of the committee;
- requests from the Cabinet to carry out reviews and/or suggestions from the liaison meetings held under the Cabinet Overview & Scrutiny Protocol; and
- requests from Members and/or Group Leaders in accordance with Rule 8.

18. EXCEPTIONS TO CALL-IN

The call-in procedure set out above shall not apply in respect of Cabinet decisions regarding the following:

- (i) Urgent Decisions

A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision-making person, or body, the decision is an urgent one and why, and therefore not subject to call-in.

The Chairman of the relevant Overview and Scrutiny Committee must agree that the proposed decision is reasonable in all its circumstances and that it should be treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required.

Decisions taken as a matter of urgency **and exempted from call-in** must be reported by the Leader to the next practicable ordinary meeting of the Council, together with the reasons for urgency.

(ii) Other Exceptions

- (a) "Provisional" or "in principle" decisions where the issue is to be referred to an Overview and Scrutiny Committee for comment.
- (b) **Decisions taken under the "Special Urgency" procedure as provided for in Access to Information Procedure Rule 15.**
- (c) Recommendations from Cabinet to Council.
- (d) Decisions by the Cabinet where the issue has been referred to them by the Council or an Overview and Scrutiny Committee for their view or comment shall not be subject to call-in.
- (e) Unless the decision has taken into account new material considerations arising since the original consultation with the Council or an Overview and Scrutiny Committee a decision by the Cabinet in response to such consultation shall not be subject to call-in.
- (f) Where Full Council has delegated to the Cabinet the ability to approve additional information in respect of the Corporate Plan to ensure that statutory publishing deadlines are met, such decisions shall be

construed as urgent for the purposes of Rule 18(i) above. In such circumstances the Chairman of the relevant Committee, or other Chairman or Vice-Chairman so authorised to act in his absence, will only be required to agree that the proposed decision is reasonable in all the circumstances.

- (iii) The operation of the provisions relating to call-in and urgency shall be monitored in accordance with Article 15 of this Constitution and a report submitted to Council with proposals for review if necessary.

A.1 APPENDIX H

Part 5 - Financial Procedure Rule 6 (Changes to Budgets after approval by Council – Rule 6.1.5(b))

6.1.5 A supplementary estimate can be approved as follows:

- (a) ~~Finance and Corporate Resources~~ **Corporate Finance and Governance** Portfolio Holder may approve a supplementary estimate of any single item (revenue or capital) up to £50,000 subject to a maximum aggregate value of £150,000 for such single items in any one financial year and providing any single supplementary estimate does not cause the total of supplementary estimates approved by the Corporate Finance & Governance Portfolio Holder and Cabinet to exceed £1,000,000 for General Fund Services (capital or revenue) or £1,000,000 in respect of the Housing Revenue Account (capital or revenue) for the financial year concerned.
- (b) **Cabinet** may approve a supplementary estimate of any single item (revenue or capital) up to ~~£500,000~~ **£1,000,000** subject to that supplementary estimate not causing the total of supplementary estimates approved by the Cabinet and the Corporate Finance & Governance Portfolio Holder to exceed ~~£1,000,000~~ **£1,500,000** for General Fund Services (capital or revenue) or ~~£1,000,000~~ **£1,500,000** in respect of Housing Revenue Account (capital or revenue) for the financial year concerned.
- (c) **Council** may approve a supplementary estimate up to any amount for General Fund or Housing Revenue Account. However Council must be advised if any decision is likely to result in the Council's agreed minimum working balance not being maintained for the current financial year and the length of the Council's approved financial strategy. In the case of the Housing Revenue Account, Council must be advised if any decision is likely to result in the Revenue Account balance being in deficit over the same period.

A.1 APPENDIX I

Part 6 – Codes & Protocols - Members' Planning Code & Protocol – Members' Referral Scheme for Planning Applications - Guidance Note

Members' Referral Scheme for Planning Applications

Guidance Note ~~January 2022~~ **XXX 2024**

The Terms of Reference of the Planning Committee as set out in the Constitution delegates all planning and conservation matters to Officers except in relation to certain planning applications, which are for determination by the Committee. ~~One~~ **Two** of the exceptions listed ~~is~~ **are** where Members request that an application should be referred to the Planning Committee. The wording is as follows:

- (vi) *Within 35 days of the commencement of formal consultation, a written request is received from a Tendring District Councillor, **who is not a serving member of the Planning Committee (#)**, in accordance with the Member Referral Scheme requesting that the application should be brought before the Planning Committee for determination **and** giving material planning reasons for that request.*

(#) unless the member of the Planning Committee is making that request solely in their capacity as a Ward Member for the application in question.

- (vii) Within 35 days of the commencement of formal consultation, a written request is received from a serving member of the Planning Committee, in accordance with the Member Referral Scheme, requesting that the application should be brought before the Planning Committee for determination and providing compelling reasons why it could be considered of significant importance to the wider District or planning policy.**

The following caveat applies:-

The Director (Planning), or other authorised Officer, in consultation with the Chairman of the Planning Committee and the Planning Solicitor, may allow a Member's referral request that is received after the 35 day cut-off if they are satisfied that the request could not have reasonably been submitted before the deadline and that in all other respects it meets the requirements for a valid referral.

The MEMBER REFERRAL SCHEME is based on the following principles:

- The Member Referral Scheme is approved by Full Council as part of the Council's Constitution;**
- Elected Members represent their communities and the interests of their ward or of individual residents (in accordance with Article 2 of the Constitution);

- Planning Committee Members are involved in decision-making for the people of the district as a whole (in accordance with Article 2 of the Constitution – 2.03 (a) (v));
- The interests of a ward or individual residents can extend to consideration of planning applications submitted in adjacent wards and those where applications have been made which have a direct impact on other wards;
- A member of the Council's Cabinet may also be permitted to make representations and speak on any application but only if the proposed development has a direct impact on the portfolio for which the Cabinet member is responsible. The Leader of the Council must approve the Cabinet Member making representations to the Planning Committee and requesting the matter to be determined at Committee;
- If an elected Member requests an application to be referred to the Planning Committee for determination, they will be required to personally attend the meeting of the Committee to speak on the item. Planning Services will ensure that the Member is notified when the application is scheduled for determination;
- The Members' Referral Scheme does not apply to a householder application, which is defined as follows:

“A ‘householder’ application is an application to enlarge, expand, improve or alter an existing dwelling, to put up a boundary wall of fence for an existing dwelling or carry out an operation in the curtilage of an existing dwelling that is ancillary to the dwelling-house”.

- Members are ~~requested~~ **required** to use the attached letter when referring an application to the Planning Committee to be determined, for ease of reference.

Date: ~~24th January 2022~~ **19 March 2024**

Chairman of the Planning Committee

LETTER TO THE DIRECTOR (PLANNING)

Date:

Dear Director (Planning),

MEMBER REFERRAL SCHEME: PLANNING APPLICATION REF:

(*) I am the Ward Councillor for [insert the Ward] and in representing the community*/the interests of the ward* or of individual residents* request the above-mentioned application is referred to the Planning Committee for determination. The planning application is located within:

(a) the Ward to which I am elected to(*); or

(b) is adjacent to the Ward to which I am elected to(*); or

(c) directly impacts the Ward to which I am elected to because (*)

.....

in respect of (b) and (c), I can confirm that I have notified the relevant Ward Councillor(s) of my intention to refer this application to the Committee for determination.

(*) I am the Cabinet Member for [insert responsibility] and the proposed development has a direct impact on the portfolio for which I am responsible. The Leader of the Council has approved representations being made to the Planning Committee.

(*) I am a current serving member of the Planning Committee and the proposed development could be considered of significant importance to the wider district or policy because The Planning Committee Chairman has been consulted and approves this matter being determined by the Planning Committee. By making this request I confirm that I am not predetermined and will approach the decision making with an open mind and therefore have not highlighted any relevant material considerations below.

(#) The referral is because of the following material planning considerations (and for the reasons set out hereunder):-

In line with/potentially contrary to* the development plan (Local Plan/LDF) or Government Guidance (please state relevant policies if known)

Negative/Positive* impact on urban design/street scene

Highways impact and/or other traffic issues

Good/Poor* layout and/or density issues

Flood Risk

Positive/Negative* Impact on neighbours

Other material considerations as follows.....

.....
.....
.....
.....

(#) Tick as appropriate.

My reasons for the referral are as follows:-

(>) The referral is for the following compelling reasons why it could be considered of significant importance to the wider District or planning policy.....

.....
.....
.....
.....

If officers are minded to approve/refuse* then there is no need for this application to be referred.

Please ensure that I am notified of the date of the committee meeting at which this application will be considered so that I am able to attend and speak on the item.

Yours faithfully,

Councillor

* Delete as appropriate.

A.1 APPENDIX J

Part 7 – Members’ Allowances Scheme

3.0 CLAIMS AND PAYMENTS

3.2 Documenting Entitlement to Allowances

Following the four yearly local elections and the subsequent Annual Council Meetings at which positions on the Council are filled the annual remuneration entitlement in respect of each Councillor will be calculated and documented. **In between these events the entitlement will be adjusted as necessary based on the prevailing rates of allowances and appointment to roles identified as eligible for an allowance.**

~~Details will be included on a Schedule of Members’ Commitments form (Appendix 1), that will form part of each Member’s Declaration of office and which will provide a public record of an individual’s responsibilities and commitments. These documents will be retained within the Council and will be used to determine the basis of each Councillor’s monthly payment through the Council’s payroll system.~~

~~Any changes to Members’ allowances subsequent to this will be documented separately and individual Schedules of Members’ Commitments will not be updated.~~

When so requested, Members will inform the Council of the allowances and entitlements for which they wish to claim remuneration. That information will be retained within the Council and will be used to determine the basis of their monthly payment through the Council’s payroll system. Arrangements will be made by Officers to ensure that payments are only made in accordance with this Scheme and an express wish for payment from a Member.

Appendix 1 to the Scheme (to be deleted)

~~TENDRING DISTRICT COUNCIL~~

~~Councillors’ Schedule of Commitment~~

~~Councillor [Enter Full Name]~~

~~I wish to claim the allowances set out below which I believe is in accordance with my entitlement under the Member’s Allowances Scheme.~~

	Annual Remuneration
BASIC ALLOWANCE	

SPECIAL RESPONSIBILITY ALLOWANCE		
Special Responsibility Allowance is paid to those Councillors who have significant responsibilities:-		
<p>Leader of the Council Other Members of the Cabinet Group Leader(s) Audit Committee Chairman Community Leadership Overview & Scrutiny Committee Chairman Resources and Services Overview & Scrutiny Committee Chairman Human Resources and Council Tax Committee Chairman Licensing and Registration Committee Chairman Licensing and Registration Sub-Committees Chairman Planning Committee Chairman Planning Committee Vice Chairman Planning Committee Members Planning Policy & Local Plan Committee Chairman Standards Committee Chairman</p>		
Total Annual Allowance £		
Childcare Allowance		
I wish to register my eligibility for this allowance and attach an appropriate written declaration to this effect. ***please delete as appropriate	YES**	NO**
DEPENDENT CARERS' ALLOWANCE		
I wish to register my eligibility for this allowance and attach an appropriate written declaration to this effect. ***please delete as appropriate	YES**	NO**

~~I understand that travel and subsistence and carers' claims need to be submitted by the 2nd working day of each month in order to be paid in that month. I undertake to inform the Head of Democratic Services and Elections of any circumstances that will affect my entitlement to any of the above allowances.~~

Signed _____ Date _____

A.1 APPENDIX K

Tendring
District Council



PROTOCOL FOR WEBCASTING OF FORMAL COUNCIL MEETINGS AND FOR PUBLIC FILMING AND REPORTING OF MEETINGS

This protocol is provided to assist the conduct of webcasting and other filming/recording of meetings and to ensure compliance with its obligations under the Openness of Local Government Bodies Regulations 2014, Data Protection Act 2018 and the Human Rights Act 1998.

Version	Relevant Date	Comment
Original	29 March 2022	N/A
1 st review	19 March 2024	Updated following review – amended retention of videos from up to 2 years to up to 4 years

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Webcasting of public council and committee meetings

Introduction

Tendring District Council is committed to being open and transparent in the way it conducts its business. Most formal meetings of the **Council public** are open to the public to attend and there are schemes covering the submission of petitions and questions to the Council meetings as well as schemes for public speaking at meetings of the Planning Committee. However, some residents may not be able to attend the meetings they are interested in. To ensure that those residents can still engage in the democratic process, the Council films and streams, live, many of its meetings ('webcasting'). These can then be watched online as the meeting happens or up to **24 months four years** after the meeting **(the Council retains three full years of recordings and the relevant proportion of the current Municipal Year)**. In addition to the webcasting service provided by the Council, there are additional legal rights for the public to attend all of our formal public meetings and film, photograph, audio record or report from the meeting using social media or any other means (subject to it not being disruptive). These rights are explained below.

Which meetings are webcast?

The Council aims to webcast all its formal meetings to which the public have a right to attend. This includes meetings of its Council, Cabinet, **Audit Committee, Community Leadership Overview & Scrutiny Committee, Human Resources & Planning Committee, Licensing & Registration Committee, Planning Committee, Planning Policy & Local Plan Committee, Resources and Services Overview & Scrutiny Committee, Standards Committee, Tendring / Colchester Borders Garden Community Joint Committee and the Premises/Personal Licences Sub-Committee. Meetings of the Miscellaneous Licensing Sub-Committee are not normally webcast as the substantive items on its agenda are usually considered in private session. and other committees. Meetings of Working Parties and Task and Finish Groups are not webcast.**

How do we webcast and how long will the recording be available?

Cameras will be located in the Council's Committee Room at the Town Hall/Princes Theatre to provide the webcasting facility. The Council may also hold hybrid meetings, where some participants join the meeting remotely through a video link. The webcast of meetings will be available on the Council's website for a period of up to **24 months four years (the Council retains three full years of recordings and the relevant proportion of the current Municipal Year)** and, after that, the recordings will be deleted.

In so far as individuals can be identified visually on a webcast or they can be heard in a recording, Tendring District Council will use that personal information as part of its official authority/public task and in order to promote engagement, service delivery and democratic responsibilities.

When individuals partake in a meeting that is webcast, the Council may share their information with Elected Members, other Tendring District Council Services, other individuals involved in the meeting and the public through its webcast service. We

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may also provide your information to our suppliers to enable us to deliver this service.

Anyone who does not give their consent to be filmed/recorded as part of a meeting to which this protocol applies must specifically request the Council's Monitoring Officer for an exception to be made in advance of the meeting. The Monitoring Officer will take a view on a case-by-case basis on whether there is sufficient justification for making an exemption.

In relation to these matters, the Council will normally not show camera footage of members of the public who address the formal meeting of Council, Cabinet or a Committee when presenting petitions, asking questions or as part of a public speaking scheme of the Council. Audio of their contributions will be webcast and recorded. However, the camera will, during such public involvement in meetings record either a wide angle view of the Councillors attending or of the Chairman of the meeting. A statement to the effect that a member of the public is speaking shall be displayed on the webcast/recording where this is possible by way of explanation of the audio and video element of the webcast/recording at that time.

In addition to the above, the webcast/recording shall normally not show camera footage of the press and public gallery and those there. It cannot be guaranteed that no footage will be webcast or recorded, however, efforts will be made to minimise or avoid entirely that footage.

Are there any meetings or parts of meetings which the Council may not webcast?

Tendring District Council wants to make sure meetings are webcast as far as possible to ensure full engagement with the public. However there are instances where it may not be appropriate to webcast a meeting or parts thereof, for example:

- **When an individual, who is presenting at a public meeting, specifically requests not to appear on the public webcast, and we agree with the request.** We will always seek to accommodate such requests and work with that individual to agree an approach that is satisfactory to all parties. Any such part of a meeting that has not been broadcast will not appear online or be available following the meeting. If you are watching from home you will see a notice appearing on the screen to let viewers know what is happening. If you object to appearing in the webcast, you should make this known in writing prior to the meeting by emailing democraticservices@tendringdc.gov.uk and we will contact you to discuss further.
- **In considering whether or not to record contributions by children at meetings** the Council will, for those aged 16 or over check with the young people themselves that they are content to be filmed and, subject to that, record and broadcast them. For children younger than 16, or those who are otherwise thought vulnerable, we will record only with the consent of the appropriate parent or guardian. If we are in any doubt we will stop the webcast whilst children are speaking. If the children are attending as part of an event involving

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stakeholder(s) (for example, a school or schools), the Council will expect the stakeholder(s) to have procured the necessary parents' consents.

- **When Councillors at a meeting pass a resolution to exclude the press and public because there is likely to be disclosure of exempt or confidential information.** The Council will always try to conduct its business in public, however from time to time the press and public may be excluded from meetings in accordance with the rules set out in legislation and the Council's Constitution. You will be notified if watching from home that the webcasting has ceased for this part of the meeting and why. The Chairman of the meeting will be asked to confirm that webcasting has stopped before starting to discuss exempt or confidential information.

Rights of the public to film, record and photograph at any meeting

In addition to the webcasting of meetings hosted by the Council, by law the public also has a right to (subject to it not being disruptive):

- Film, photograph or audio record a meeting or any part thereof
- Use any other means (e.g. tweeting, blogging etc.) to enable those not present to see or hear proceedings as they happen or later
- Report or provide commentary of the proceedings so that the reporting or commentary is available as the meeting takes place or later

Why does the Council allow the public and press to film, record and photograph its meetings?

In 2014, the Openness of Local Government Regulations came into force. This enabled the public to report from all local authority public meetings, in a bid to increase transparency and openness in local decision making.

The provisions only apply to meetings of the Council held in public. You may not film, record or use social media to report from any of the Council's meetings which are private or not open to the public.

Full details of the right of the public to film, record and use social media to report from a meeting, including the exemptions mentioned above, can be found in the [guide](#) issued to accompany these regulations.

Are there any other restrictions if I want to report from a meeting?

You do not have to ask us permission in advance to film, record, photograph or report from the meeting using social media. However, we do ask that you respect the following when recording and otherwise reporting from a meeting of the Council:

- Please do not film, photograph or report the views of children, young people, vulnerable people and other members of the public who actively object to being filmed or photographed

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- Beware that the common law applies – for example laws on public order offences and defamation
- Please exercise your right to freedom of speech with responsibility – this means respecting the views of others when reporting from a meeting and not disrupting the proceedings
- Please do not edit your filming or recording of the proceedings in a way which may lead to misinterpretation
- Please show respect for those that you are filming or reporting on
- Remember you are only permitted to film, record, photograph or report from the public meeting itself (i.e. from the time it is called to order to the time it concludes). Activity and discussion before or afterwards does not fall within the scope of the regulations
- Filming, recording, photographing or reporting is only permitted of the meeting, not of the public gallery

Signage of webcasting and other filming and recording at meetings

Agendas relating to meetings that may be webcast will include a statement to alert the public to the webcast as well as the rights of the public generally to film, record, photograph and use social media to report from the proceedings, as follows:

WEBCASTING NOTICE

This meeting will be filmed by the Council for live and/or subsequent broadcast on the Council's website. The whole of the meeting will be filmed, except where there are confidential or exempt items, and the footage will be on the website for up to four years (the Council retains three full years of recordings and the relevant proportion of the current Municipal Year). A copy of it will also be retained in accordance with the Council's data retention policy.

The Council will seek to avoid/minimise footage of members of the public in attendance at, or participating in the meeting.

In addition, the Council is obliged by law to allow members of the public to take photographs, film, audio-record, and report on the proceedings at public meetings. The Council will only seek to prevent this should it be undertaken in a disruptive or otherwise inappropriate manner.

If you have any queries regarding webcasting or the recording of meetings by the public, please contact Democratic Services on democraticservices@tendringdc.gov.uk

The Chairman of the meeting will also make an announcement at the beginning of the meeting to make sure everyone understands that the meeting will be webcast and that they may also be filmed by others in the Chamber.

Social Media comments during webcasting

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The Council may use generally available platforms to show its webcast footage. When it does so, and if the platform allows for comments to be made by viewers, the Council will provide a message to make it clear that it does not monitor comments and there is no facility to pass those comments on to the attendees of the meeting.

Other provisions

Webcasting

The Chairman of the meeting has the discretion to request the termination or suspension of the webcast if continuing to webcast would prejudice the proceedings of the meeting.

This would include:

- (i) Public disturbance or other suspension of the meeting;
- (ii) Exclusion of public and press being moved and supported;
- (iii) Any other reason supported by the Council/Committee.

Archived webcasts or parts of webcasts shall only be removed from the Council's website if the Monitoring Officer considers that it is necessary because all or part of the content of the webcast is, or is likely to be, in breach of any statutory provision or common law rule, for example Data Protection and/or Human Rights legislation or provisions relating to confidential or exempt information. There may also need to be a temporary removal of webcasts while allegations of breaches are investigated. It is anticipated, however, that meetings will be conducted lawfully and that the need to exercise this power will occur only on an exceptional basis.

Any elected Member who is concerned about any webcast should raise their concerns with the Head of Democratic Services and Elections.

Other filming, recording, photographing or the use of social media for reporting from the meeting

The Chairman of the meeting has the absolute discretion to terminate or suspend filming, recording and use of social media by members of the public during a meeting if, in their opinion, the activity:

- is disrupting the meeting and impeding good decision making;
- is infringing the rights of any members of the public;
- is in danger of repeating a defamatory statement that has been made.

A.1 APPENDIX L

Part 3 – Schedule 3 – Section 4.3 - Additional Specific Delegations to Individual Portfolio Holders

Corporate Finance and Governance

1. The monitoring and review of the operation of the Council's Constitution and recommending amendments to the Constitution to the Cabinet/Council.
2. To oversee the preparation and recommendation of financial forecasts and annual detailed budget, including Housing Revenue Account.
3. In consultation with the Chief Financial Officer, to agree the outturn position/report each year **(including carry forwards)** to provide the necessary flexibility to comply with the new statutory timetable for publishing the Council's Statement of Accounts.
4. Overview and presentation of financial monitoring reports to Cabinet.
5. The exercise of functions delegated to the Portfolio Holder by the Financial and Procurement Procedure Rules.
6. The approval of the Council's Council Tax Base and the Government's Annual NNDR Forecast Return.
7. Implementation and Monitoring of the Council's Treasury Management Policy Statement and Treasury Management Practices.
8. The approval of the draft Annual Capital and Treasury Strategy, in advance of it being formally considered by Cabinet, for consultation purposes with the Resources and Services Overview & Scrutiny Committee. In due course, the Cabinet will then recommend the final version of the Strategy to Full Council for formal adoption.

A.1 APPENDIX M

OFFICER EMPLOYMENT PROCEDURE RULES

Introduction:

In accordance with the **Local Authorities (Standing Orders)(England)Regulations 2001 (as amended)** (“the Regulations”) and subject to the Procedure Rules set out below, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the Council must be discharged, on behalf of the Council, by the officer designated under section 4(1) of the Local Government and Housing 1989 Act (designation and reports of Head of Paid Service) as the Head of Paid Service or by an officer nominated by him. Should any conflict arise between these Officer Employment Procedure Rules and the relevant legislation, the latter will prevail.

Nothing shall prevent a person from serving as a member of a committee or sub-committee established by the Council to consider an appeal by-

- (a) another person against any decision relating to the appointment of that person as a member of staff of the Council, or
- (b) a member of staff of the Council against any decision relating to the dismissal of, or taking disciplinary action against that member of staff.

1. RECRUITMENT AND APPOINTMENT

- (a) Declarations
 - (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or Officer of the Council; or of the partner of such persons (or if they are related in any other way to such persons).
 - (ii) No candidate so related to a Councillor or Officer will be appointed without the authority of the Head of Paid Service or an Officer nominated by him.
 - (iii) A candidate who fails to disclose a relationship as set out in (i) above shall be disqualified for the appointment and, if appointed, shall be liable to dismissal without notice.
- (b) Seeking support for appointment
 - (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillors for any appointment with the

Council. The content of this paragraph will be included in any recruitment information.

- (ii) Subject to paragraph (iii), no Councillors will seek support for any person for any appointment with the Council.
- (iii) ~~Nothing in paragraphs (i) and (ii) above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.~~

2. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS

Where the Council proposes to appoint a ~~Chief Senior~~ Officer (* as defined in Paragraph 3 of Part II of Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2011 (as amended) and any assistant to political groups) and it is not proposed that the appointment will be made exclusively from among its existing Officers, the Council will:

1. (a) Draw up a statement specifying:
 - (i) the duties of the Officer concerned
 - (ii) Any qualifications or qualities to be sought in the person to be appointed
 - (b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it.
 - (c) Make arrangements for a copy of the statement mentioned in (a) above to be sent to the person on request.
2. ~~Where a post has been advertised as provided in 2.1. above, the Council shall –~~
- ~~(a) interview all qualified applicants for the post, or~~
 - ~~(b) select a shortlist of such qualified applicants and interview those included on the shortlist.~~
3. ~~Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with 1. above.~~

3. APPOINTMENT OF HEAD OF PAID SERVICE, MONITORING OFFICER AND CHIEF FINANCIAL OFFICER

- (a) ~~Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the appointment of an officer designated as the head of the authority's paid service, Full Council must approve that appointment before an offer of appointment is made to that person.~~

(Cream)

(May 2022) Part 5.84

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- (b) Full Council will approve the appointment of the Head of Paid Service, Monitoring Officer and Chief Financial Officer following the recommendation of the Human Resources Sub-Committee of the Council. That Sub-Committee must include at least one member of the Cabinet.
 - (c) Full Council may approve and make the appointment of the Head of Paid Service, Monitoring Officer and Chief Financial Officer only where no valid well-founded objection has been made by any member of the Cabinet.

4. APPOINTMENT OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

- (a) The Human Resources Sub-Committee of the Council will appoint the **Chief Officers (*)**; ~~(Corporate Directors, Assistant Directors, other such Senior Officers as defined in Paragraph 3 of Part II of Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2011 (as amended) and any assistant to political groups)~~. That Sub-Committee must include at least one member of the Cabinet.
- (b) An offer of appointment to the post of a **Chief Officer (*)** ~~Corporate Director, or Assistant Director or other such Senior Officer post as defined above~~, shall be made only where no valid well-founded objection from any member of the Cabinet has been received.
- (c) A central record of **Chief Officer** posts covered by Paragraph 3 of Part II of Schedule 2 of the Local Authorities (Standing Orders) Regulations 2001 (as amended) will be produced by the **Head of Paid Service and Monitoring Officer and** held in Human Resources,

5. NOTIFICATION OF APPOINTMENTS

- (a) ~~An offer of appointments can only be made to an individual for by the correct 'appointer', being the Council or a committee, sub-committee or an authorised nominated officer of the Council discharging the function of appointment on behalf of the Council as determined by the Regulations and these Procedure Rules.~~
- (b) No offer of an appointment shall be made to the Head of Paid Service, Monitoring Officer, Chief Financial Officer, ~~Corporate Director, Assistant Director or other such Senior~~ or **Chief Officer post (*) as defined above** until:
 - (i) The Chairman of the Human Resources Sub-Committee (on behalf of the Sub-Committee) has notified the Assistant Director (Partnerships) of the name of the person to whom the post is to be offered and any other **particulars** ~~matter~~ relevant to the appointment **which the Sub-Committee has notified to the Assistant Director (Partnerships)**.

(Cream)

(July 2020) Part 5.85

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- (ii) The Assistant Director (Partnerships) has notified every member of the Cabinet of the name and of the person to whom the post is to be offered, ~~and~~ any other ~~matter~~ **particulars** relevant to the appointment **and the period for objection**.
 - (c) The Leader of the Council may object, on behalf of the Cabinet, to the appointment within 3 working days of the issue of the notice in (a**b**) above.
 - (d) An offer of appointment may **then only** be made if:
 - (i) The Leader of the Council has notified the Assistant Director (Partnerships) within 3 working days that neither they, nor any other Member of the Cabinet has any objection to the making of the appointment; **or**
 - (ii) The **Assistant Director (Partnerships)** has notified the Sub-Committee that they have not received any objection **from the Leader** ~~with Assistant Director (Partnerships)~~ in the period specified in (b**c**) above.
 - (iii) The Sub-Committee is satisfied that any objection received from the Leader within that period is neither material nor well-founded.

6. OTHER APPOINTMENTS

The appointment of Officers below the **Deputy Chief Officer** ~~Head of Service~~ is the responsibility of the Head of Paid Service or their nominee, and may not be made by Councillors.

7. DISCIPLINARY ACTION IN CONNECTION WITH CHIEF OFFICERS

- (a) The Human Resources Sub-Committee shall deal with disciplinary **action (has the same meaning as defined in the Local Authorities (Standing Orders)(England) Regulations 2001 issues** in connection with the **Council's Chief Officers (*)** and any assistant to political groups and resolve any action which it considers appropriate.
- (b) With regards to disciplinary issues in connection with the **Council's Authority's** statutory officers the Committee can only resolve action short of dismissal. In instances where its recommendation is to dismiss any **Statutory Officer** it must adhere to the processes set out in these **Procedure Rules** and the full Human Resources and Council Tax Committee together with the Independent Persons must refer its recommendation to Full Council.
- (c**b**) The Council's statutory officers are those defined as Head of the **Council's Authority's** Paid Service, Chief Financial Officer and Monitoring Officer.

8. DISCIPLINARY ACTION IN CONNECTION WITH ~~OTHER~~ OFFICERS BELOW DEPUTY CHIEF OFFICER

Members will not be involved in the disciplinary action or dismissal against any ~~other~~ officer **below a Deputy Chief Officer**. The Council's disciplinary, capability and related procedures, as

(Cream)

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adopted from time to time will apply, and may allow a right of appeal to members in respect of disciplinary action.

9. DISCIPLINARY & DISMISSAL CASES INVOLVING THE COUNCIL'S STATUTORY OFFICERS: HEAD OF PAID SERVICE, THE CHIEF FINANCIAL OFFICER AND THE MONITORING OFFICER:

9.1 *In the following paragraphs-*

- (a) *"the 2011 Act" means the Localism Act 2011;*
- (b) *"chief finance officer", "disciplinary action", "head of the authority's paid service" and "monitoring officer" have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;*
- (c) *"independent person" means a person appointed under section 28(7) of the 2011 Act;*
- (d) *"local government elector" means a person registered as a local government elector in the register of electors in the authority's area in accordance with the Representation of the People Acts;*
- (e) *"the Panel" means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;*
- (f) *"relevant meeting" means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and*
- (g) *"relevant officer" means the chief finance officer, head of the authority's paid service or monitoring officer, as the case may be.*

9.2 *A relevant officer may not be dismissed by the authority unless the procedure set out in the following paragraphs is complied with.*

9.3 *The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.*

9.4 *In paragraph 2.3 "relevant independent person" means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.*

9.5 *Subject to paragraph 2.6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 2.3 in accordance with the following priority order-*

(Cream)

(January 2016) Part 5.86

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- (a) a relevant independent person who has been appointed by the authority and who is a local government elector;*
 - (b) any other relevant independent person who has been appointed by the authority;*
 - (c) a relevant independent person who has been appointed by another authority or authorities.*
- 9.6** *The authority is not required to appoint more than two relevant independent persons in accordance with paragraph 2.5 but may do so.*
- 9.7** *The authority must appoint any Panel at least 20 working days before the relevant meeting.*
- 9.8** *Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular-*
- (a) any advice, views or recommendations of the Panel;*
 - (b) the conclusions of any investigation into the proposed dismissal; and*
 - (c) any representations from the relevant officer.*
- 9.9** *Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as an independent person under the 2011 Act.*

10. DISMISSAL

- (a)** Members will not be involved in the dismissal of any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct. The Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to Members in respect of dismissals.
- (b)** Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the dismissal of an officer designated as the Head of Paid Service, Chief Finance Officer, or Monitoring Officer, Full Council must approve that dismissal before notice is given to that person (the statutory procedure set out in 9 above must be followed prior to such dismissal).
- (c)** Where a committee, sub-committee is discharging, on behalf of the Council, the function of the dismissal of a Chief Officer, at least one member of the executive must be a member of that committee or sub-committee.

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- (d) Notices of dismissal can only be made to an officer by the correct 'dismissor', being the Council or a committee, sub-committee or an authorised nominated officer of the Council discharging the function of dismissal on behalf of the Council as determined by the Regulations and these Procedure Rules.
 - (e) Notice of dismissal must not be given to the Head of Paid Service, Monitoring Officer, Chief Financial Officer, or Chief Officer post (*) until:
 - (i) The Chairman of the Human Resources Sub-Committee (on behalf of the Sub-Committee) has notified the Assistant Director (Partnerships) of the name of the person the Sub-committee wishes to dismiss and any other particulars relevant to the dismissal which the Sub-Committee has notified to the Assistant Director (Partnerships).
 - (ii) The Assistant Director (Partnerships) has notified every member of the Cabinet of the name of the person who the dismissor wishes to dismiss, any other particulars relevant to the dismissal and the period for objection.
 - (c) The Leader of the Council may object, on behalf of the Cabinet, to the dismissal within 3 working days of the issue of the notice in (b) above.
 - (d) Notice of dismissal may then only be made if:
 - (i) The Leader of the Council has notified the Assistant Director (Partnerships) within 3 working days that neither they, nor any other Member of the Cabinet has any objection to the dismissal; or
 - (ii) The Assistant Director (Partnerships) has notified the Sub-Committee that they have not received any objection from the Leader in the period specified in (c) above.
 - (iii) The Sub-Committee is satisfied that any objection received from the Leader within that period is neither material nor well-founded.