

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.
2. 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) (England) 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 Chief Executive is authorised to deal with any matter on exceptional grounds of urgency, following consultation with the Leader of the Council or Deputy, the Chairman and Vice-Chairman of the appropriate Committee in respect of non-executive matters.
7. 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.
8. 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.
9. 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.
10. All delegations to Officers are made to the 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 13.
11. The 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.
12. Any authority granted to the Chief Executive or a Corporate Director, unless otherwise indicated, may be exercised by an officer with appropriate qualifications authorised by a 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.
13. 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.
14. 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.

15. 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.
16. 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.
17. All Corporate Directors are authorised in consultation with the Assistant Director (Governance) 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.
18. All Corporate Directors are authorised in consultation with the Assistant Director (Governance) to appear on the Council's behalf in any legal proceedings, under the jurisdiction of a Portfolio Holder, before all courts, tribunals and inquiries.

RESPONSIBILITY FOR COUNCIL – NON EXECUTIVE FUNCTIONS		
Committee	Functions and Terms of Reference	Delegated Functions
Full Council	<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 Appendix 1 to Part 3 of the Constitution.</p> <p>D. Discharge the following Functions relating to Elections:</p> <ul style="list-style-type: none"> • Duty to appoint an Electoral Registration Officer • Power to dissolve Parish Councils • Power to make orders for grouping parishes, dissolving groups and separating parishes from groups • Duty to appoint Returning Officer for local government elections • Power to fill vacancies in the event of insufficient nominations • 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 • Duty to consult on change of scheme for elections and associated powers under the Local Government Public Involvement and Health Act 2007 	<p>Chief Executive in consultation with the Council Chairman:</p> <ol style="list-style-type: none"> 1. Agreeing the scale of fees payable at elections at District and Parish Councils, referenda and Parish Polls. <p>Chief Executive:</p> <ol style="list-style-type: none"> 1. Returning Officer at Local Elections 2. Power to assign Officers in relation to requisitions of the Registration Officer. 3. To divide constituency, electoral divisions and wards into polling districts and designate their polling places 4. Powers in respect of holding of elections 5. Power to pay expenses properly incurred by Electoral Registration Officers 6. Duty to declare vacancy in office in certain cases

	<p>E. The discharge of the following functions relating to the Name and Status of Areas</p> <ul style="list-style-type: none"> • Power to change the name of the district or parish • Power to petition for a charter to confer borough status <p>EB. Discharge the Duties, Functions and Powers relating to Community Governance</p> <p>F. Power to Amend, Revoke or Re-enact Byelaws</p> <p>G. Power to Promote or Oppose Local or Personal Bills</p> <p>Discharge of the following miscellaneous functions – Part II:</p> <ul style="list-style-type: none"> • Power to make standing orders (this includes amendments to the Constitution) • Power to make standing orders as to contracts • Duty to make arrangements for the proper administration of financial affairs • Power to appoint Officers for particular purposes (appointment of “Proper Officers”) • Duty to designate Officer as the head of the authority’s Paid Service, and to provide staff, etc. • Duty to designate Officer as the Monitoring Officer, and to provide staff, etc. • Duty to provide staff etc. to person nominated by Monitoring Officer • Power to make payments or provide other benefits in cases of maladministration <p>Other matters</p> <p>Those as set out in Article 4 of the Constitution together with:</p> <ul style="list-style-type: none"> • Prepare and approve a Pay Policy Statement for the financial year in accordance with Chapter 8 of the Localism Act 2011. 	<ol style="list-style-type: none"> 7. Duty to give public notice of a casual vacancy 8. Power to make temporary appointments to parish councils 9. Regrading posts, restructuring and determining staff levels (except where Section 4 of the Local Government Act 1989 applies and it is appropriate for the full Council to consider any proposals of the Head of Paid Service in this regard) 10. Power to authorise compensation payments up to a maximum of £5,000 as a result of Local Governance & Social Care Ombudsman or Housing Ombudsman recommendations or by virtue of the Corporate Complaints Procedure <p>Chief Executive or Monitoring Officer:</p> <ol style="list-style-type: none"> 1. The Proper Officer before whom a Member’s formal Declaration of Acceptance of Office may be made. 2. The appointment or removal of any individual to/from a Committee, Sub-Committee, panel or working party at the request of the relevant Group Leader. 3. The advertisement of vacancies for the position of Independent
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	<ul style="list-style-type: none"> • The appointment of the Chief Executive • On the recommendation of the Human Resources and Council Tax Committee: <ul style="list-style-type: none"> (a) the dismissal including redundancy, in accordance with the statutory provisions, of the Chief Executive, Chief Finance Officer or Monitoring Officer (following the outcome of an Independent Panel) (b) The voluntary early retirement and voluntary redundancy of the Chief Executive (c) The retirement on grounds of ill health of the Chief Executive on the recommendation of the Council's medical advisor (d) the terms and conditions of the Chief Executive 	
Committee	Functions and Terms of Reference	Delegated Functions
Audit Committee	<p><i>The discharge of the following miscellaneous functions – Part II as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities Regulations) (England) 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.</i></p> <p>Duty to approve the authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be).</p> <p>Additional roles and functions of the Committee are as set out below:</p> <ol style="list-style-type: none"> 1. To provide independent assurance of the adequacy of the risk management framework and the associated control environment; 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; 3. Considers the annual budget for the internal audit service as part of the Council's budget setting process; and 4. To oversee the financial reporting process: <p>Audit Activity</p> <ol style="list-style-type: none"> 1. Considering the Internal Audit Manager's annual report and opinion and a 	<p>Section 151 Officer and Internal Audit Manager</p> <p>The provision of advice and support to the Audit Committee on all aspects of its functions and duties</p>

	<p>summary of internal audit activity (actual and proposed), and the level of assurance it can give over the Council's corporate governance arrangements.</p> <ol style="list-style-type: none"> 2. Considering reports on the operation of internal audit and summaries of specific internal audit reports where requested. 3. Considering reports from internal audit on agreed recommendations not implemented within a reasonable timescale. 4. Assessing external auditor and external regulatory reports and monitoring any quality improvement programmes where required. Comments are provided to Cabinet as appropriate. 5. Commenting on the scope and depth of external audit work and ensuring it gives value for money. 6. Liaising with the Audit Commission in regard to the appointment of the Council's external auditor. <p>Regulatory Framework</p> <ol style="list-style-type: none"> 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). 8. Monitoring the effective development and operation of risk management and corporate governance. 9. Monitoring Council policies on "Raising Concerns at Work", the whistleblowing policy and the anti-fraud and corruption strategy. 10. Overseeing the production of the Code of Corporate Governance, including the Statement of Internal Control. 11. Considering the arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice. 12. Considering the Council's compliance with its own and other published standards and controls (other than those covered by the Standards Committee). 	
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	<p>Accounts</p> <p>13. Reviewing and approving the annual statement of accounts.</p> <p>14. Considering whether appropriate 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>	
Committee	Functions and Terms of Reference	Delegated Functions
Planning Policy and Local Plan Committee	<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"> 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. 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. 3. To ensure the Local Plan* is "justified", promoting the most appropriate strategy for growth, when considered against reasonable alternatives, based on proportionate evidence. 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. 	

	<ol style="list-style-type: none"> 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. 6. To ensure that the Council effectively complies with the statutory duty to co-operate. 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), submissions to the Secretary of State (to be examined by a Planning Inspector), or final adoption (following receipt of the Planning Inspector’s report). 8. To recommend Supplementary Planning Documents (SPDs) and other planning documents to Cabinet for public consultation and final adoption. 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 Planning Documents (SPDs) and other planning documents. 10. To scrutinise, note and understand the recommendations and conclusions of the “evidence base” to ensure that it provides a robust platform upon which to base policies and proposals in the Local Plan*, SPDs and other planning documents. 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. 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 	
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	<p>to these documents in response to any issues that they raise.</p> <p>13. Approve the work programme required for the Committee to undertake its functions effectively and in a timely manner.</p> <p>14. Refer to Cabinet any recommendations in respect of the Council's overall strategy, policies and guidance, where functions are the responsibility of the Cabinet, such as Supplementary Planning Documents.</p> <p>15. Approve for recommendation of non-statutory planning policy and guidance to be considered by the Council, the Planning Committee, Cabinet (for executive functions), officers in the discharge of its statutory planning functions, including (but not limited to) avoiding detriment to local neighbourhoods (as long as they are not contrary to the National Planning Policy Framework).</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>	
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Committee	Functions and Terms of Reference	Delegated Functions
<p>Planning Committee</p>	<p>The discharge of the Town and Country Planning Conservation functions 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>Additional roles and functions of the Committee are as set out below:</p> <ol style="list-style-type: none"> 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. 	<ol style="list-style-type: none"> 1. All planning (including all prior approval applications), enforcement, building control and conservation matters delegated to the Director (Planning) except in relation to the determination of certain planning applications as detailed below for determination by the Committee: <ul style="list-style-type: none"> (i) Officer recommendation for approval is 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. (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>(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 or a 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 Tending 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>
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		<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 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>
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		<p>(ix) Any application which the Director (Planning), in their professional opinion, taking into account the written representations received, plans and policies and other material considerations decides should 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 Miscellaneous functions – Part 1 – relating to Public Rights of Way, within the 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.</i></p> <p><i>The discharge of the following 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</i></p>	<p>All public rights of way matters delegated to the Corporate Director} (Operations and Delivery)</p> <p>All hedgerows, trees and hedges matters delegated to the Director (Planning)</p>

Committee	Functions and Terms of Reference	Delegated Functions
Human Resources and Council Tax Committee	<p><u>Human Resources</u></p> <p><i>The discharge of the following Part II – miscellaneous functions 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>Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal).</p> <p>Additional roles and functions of the Committee are as set out below:</p>	<p>Chief Executive:</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>
	<ol style="list-style-type: none"> 1. Decision-making on key Human Resource and Personnel issues not reserved by the Council or delegated to officers. 2. Strategic Overview and Monitoring of General Staffing Profile and Data through assessment and consideration of periodical statistical reports. 3. Agreement of key personnel policies, including but not exclusively: <ul style="list-style-type: none"> • Recruitment and Selection • Pay and Reward • Performance Management • Flexible Working and Work Life Balance • Equality and Diversity 	<p>Chief Executive in consultation with the Assistant Director (Partnerships):</p> <p>The approval of a redundancy or mutually agreed Settlement Agreement for dismissal of staff up to and including Management Team level.</p> <p>Any Corporate Director in consultation with the Assistant Director (Partnerships):</p> <p>1.The exercise and performance of the Council’s functions, powers and duties in relation to applications for extensions of sick pay entitlement</p>

	<ul style="list-style-type: none"> • Discipline and Grievance • Managing Change • Human Resources and Organisation Development Strategy <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 the grounds of ill health of the Chief Executive on the recommendation of the Council's Medical Advisor.</p> <p>6. The appointment and dismissal of and, disciplinary action against the Corporate Directors, Assistant Directors and Heads of Service.</p> <p>7. Undertake the function of an advisory Independent Panel in accordance with the statutory provisions for the Chief Executive, Chief Financial Officer and Monitoring Officer (together with the Independent Persons).</p>	<p>2. The recruitment and appointment of permanent staff up to but not including the Corporate Directors above, in consultation with the Workforce Panel and in accordance with the Council's agreed procedures.</p> <p>Assistant Director (Partnerships) in consultation with the Corporate Director (Operations and Delivery)</p> <p>1. Minor amendments to Human Resources Policies and Procedures necessary as a result of legislation, national guidance or best practice.</p> <p>2. Approval of Pension Scheme related matters.</p> <p>The Chief Executive and Corporate Directors shall have authority to act in relation to all matters within their areas of responsibility in connection 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.</p>
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	<p><u>Council Tax</u></p> <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>	
<p>Human Resources Sub-Committee</p>	<ol style="list-style-type: none"> 1. Forms part of the recruitment, dismissal and disciplinary process for the appointment of Senior Officers (as defined in Paragraph 3 of Part 11 of Schedule 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended), which includes the following posts: 2. Form a panel to undertake interview of applicants for Senior Officer posts who have successfully been shortlisted and undertaken necessary technical interviews and assessments. 3. The Panel will be comprised of 3 members normally consisting of: <ul style="list-style-type: none"> • a Portfolio Holder, as determined by the Leader of the Council. The Leader will have the right to appoint a substitute for the Portfolio Holder if they will be unable to attend or if otherwise necessary; • the Chairman or Vice-Chairman of the Human Resources & Council Tax Committee; and • a named committee member from a political group that is not represented on the Cabinet. 4. The Panel must take into account the views and professional advice given by the relevant officers before an offer of appointment can be made. 	<p>Assistant Director (Partnerships)</p>

	<ol style="list-style-type: none"> 5. The Panel will notify the Assistant Director (Partnerships) of the name of the person to whom the post is to be offered and any other matter relevant to the appointment. 6. The Panel will determine whether any objection received from Cabinet through the Leader is valid and the offer of appointment should be made. 7. In the case of the Chief Executive and Monitoring Officer, the Panel will recommend to Council to approve the appointment before an offer is made. 	<ul style="list-style-type: none"> • Notify all members of Cabinet of the name of the person to whom the post is to be offered and any other matter relevant to the appointment. • Receive any objection from Cabinet through the Leader to the appointment within the 3 day period for objections.
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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 Tendring 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) and as detailed in Appendix 1 to Part 3 of the Constitution:</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) 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. 4. Whilst not limiting the delegation in 1. above, the Assistant Director (Governance) shall be authorised to:- <ol style="list-style-type: none"> (a) make minor changes to relevant policies arising from legislation, changes

	<ul style="list-style-type: none"> • Power to make closing order with respect to take away food shops <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>to the organisational structure of the Council, or decisions of the Council;</p> <p>(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</p> <p>(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)</p>
Committee	Functions and Terms of Reference	Delegated Functions
Miscellaneous Licensing Sub-Committee	<p>To consider and determine matters relating to all licences, consents, registrations and certificates that fall within the terms of reference of the Licensing and Registration Committee, except where:</p> <ol style="list-style-type: none"> 1. The function relates to the Licensing Act 2003 and/ or the Gambling Act 2005; or 2. The function has been delegated to Officers of the Council. <p>In addition the Sub-Committee will exercise the following powers and duties:</p> <ol style="list-style-type: none"> 3. Consideration for recommendations to local Highway Panel and Cabinet on: <ul style="list-style-type: none"> • installation of new taxi ranks and amendments/removals to existing taxi ranks. 4. Consider appeals or objections received against the Council’s Street Trading Policy or refusal of consent by Officers. 5. Consider appeals or objections received against Officers’ refusal of Street or House Collection applications. 	<p>All matters are delegated to the Assistant Director (Governance) except in circumstances where the matter:</p> <p>(i) remains with the Committee or Sub-Committee or</p> <p>(ii) officers are recommending approval contrary to a relevant adopted licensing policy.</p>

Committee	Functions and Terms of Reference	Delegated Functions
Premises/ Personal Licences Sub- Committee	<p>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:</p> <ul style="list-style-type: none"> (i) Application for Premises Licence (ii) Application for Provisional Statement (iii) Application for Variation of Premises Licence (iv) Application to vary Designated Premises Supervisor following police objection (v) Application for transfer of Premises Licence following police objection (vi) Consideration of police objections made to interim Authority Notice (vii) Determination of application for Club Premises Certificate (viii) Determination of application to vary Club Premises Certificate (ix) Decision to give counter notice following police objection or environmental health authority objection to temporary event notice (x) Application for grant of personal licence following police objection (xi) Revocation of Licence where convictions came to light after grant etc. (xii) Application for review of Premises Licence (xiii) Application for review of Club Premises Certificate (xiv) Review following Closure Order 	<p>To the Assistant Director (Governance):</p> <p>1. All 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>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"> (i) Application for Premises Licence (ii) Application for variation of Licence (iii) Application for transfer of a Licence (iv) Application for a Provisional Statement (v) Review of a Premises Licence (vi) Application for Club Gaming/Club Machine Permit (vii) Cancellation of a Club Gaming/Club Machine Permit (viii) Decision to give a Counter Notice to a Temporary Use Notice (Section 224) (ix) Matters referred to the Sub-Committee by Officers, notwithstanding the delegations set out opposite. (x) Application for Prize Gaming Permit (xi) Application for Family Centre Gaming Machine Permit 	

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 10. To maintain oversight of the Council's arrangements for dealing with complaints delegated to Standards Town and Parish Sub-Committee. 	<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 <p>Should due to exceptional circumstances be referred to the Standards Committee or Sub-Committee for consideration for further investigation</p> 3. Determine the format of the Complaints Form, Decision Notices and Procedure Flowchart and review where necessary.

	<p>Proceedings:</p> <ol style="list-style-type: none"> 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; 2. To receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the assessment criteria and Complaints Procedure; 	<ol style="list-style-type: none"> 4. Commission external resources to investigate, undertake consultation with an Independent Person and report on any complaints relating to Member conduct. 5. Grant dispensations in compliance with Section 33(a) to (e) of the Localism Act 2011.
	<ol style="list-style-type: none"> 3. In accordance with the Hearings Procedure, to hear and determine complaints about Tending District Council Members and Co-opted Members referred to it by the Monitoring Officer; and 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. 	<ol style="list-style-type: none"> 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.