

A.4 APPENDIX A

ARTICLE 2 – MEMBERS OF THE COUNCIL

2.01 Composition and Eligibility

(a) Composition

The Council comprises 48 members, otherwise called Councillors. One or more Councillors will be elected by the voters in Wards in accordance with a scheme drawn up by the Local Government Boundary Commission for England, and approved by the Secretary of State.

(b) Eligibility

Only registered voters of the District, or those living or working there, will be eligible to hold the office of Councillor.

2.02 Election and Terms of Councillors

The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2003. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular elections.

2.03 Roles and Functions of all Councillors

(a) Key roles. All Councillors will:

- (i) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) Represent their communities and bring their views into the Council's decision-making process, i.e. become an advocate for their communities;
- (iii) Effectively represent the interests of their ward and of individual residents;
- (iv) Respond to residents' enquiries and representations, fairly and impartially and assist in the resolution of concerns and grievances;
- (v) Be involved in decision-making for the people of the District as a whole;
- (vi) Be available to represent the Council on other bodies; and
- (vii) Contribute to the governance and effective management of the Council's business at meetings of the Council, Cabinet and other Committees and Sub-Committees, maintaining the highest standards of conduct and ethics.

(b) Rights and Duties

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

- (ii) Members are entitled to receive information from Officers in a timely manner to reasonable requests for the purposes of undertaking their role as Ward Councillors, decision makers and performing functions, such as overview and scrutiny (**this is referred to as the common law ‘need to know’ principle**). Under common law principles councillors have the right to access information held by their authority where it is reasonably necessary to enable the member to properly perform their duties as a councillor.

However, if the member’s motive for seeing documents is indirect, improper or ulterior, this may be raised as a bar to their entitlement. Members are not, therefore, allowed to go off on ‘fishing expeditions’ through their council’s documents. If a councillor is a member of a particular committee or sub-committee then they have the right to inspect documents relating to the business of that committee or sub-committee. If not a member of that committee or sub-committee, the councillor would have to show good cause why sight of them is necessary to perform their duties (See R V Clerk to Lancashire Police Committee ex parte Hook [1980] Q.B. 603).

- (iii) Councillors will not make public information that is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iv) For these purposes “confidential” and “exempt” information is defined in the Access to Information Rules in Part 5 of this Constitution.
- (v) **It is a duty of Councillors to undertake all relevant training and to keep themselves up-to-date on such training.**

2.04 Conduct

Councillors will at all times observe the Members’ Code of Conduct and protocols set out in Part 6 of this Constitution.

Councillors are also expected to comply with the requirements of any risk assessments issued by the Council in performance of their functions

2.05 Allowances

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 7 of this Constitution.

2.06 Members’ Training / Development Records

The training / development records of Members will be centrally held by the Council’s Monitoring Officer through the Leadership Support Team. Members’ training / development will be organised and facilitated through that Team.

A.4 APPENDIX B

ARTICLE 3 – CITIZENS AND THE COUNCIL

3.01 Citizens' Rights

The rights to information are explained in more detail in the Access to Information Rules in Part 5 of this Constitution. Other rights include:

(a) **Voting and petitions:**

People on the Electoral Register for the District have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.

(b) **Information**

The public have a right to:

- (i) Attend meetings of the Council and its Committees and Sub-Committees except where confidential or exempt information is likely to be disclosed (Committees for this purpose do not include Working Parties/Groups and/or Task and Finish Review Groups);
- (ii) Attend meetings of the Cabinet when key decisions are being considered;
- (iii) Find out from the Council's website what key decisions will be taken by Cabinet and when;
- (iv) See reports and background papers, and any records of decisions made by the Council and the Cabinet; and
- (v) In accordance with the published timescales inspect the Council's accounts and make their views known to the external auditor.

(c) **Participation**

The public have a right to participate by submitting written questions to Full Council meetings and contribute to investigations by the Overview and Scrutiny Committees. The public can also participate at meetings of the Planning Policy & Local Plan Committee and the Planning Committee in accordance with the relevant Public Speaking Schemes. **The public can also submit a petition to the Council under the Council's adopted Scheme for dealing with Petitions.**

(d) **Complaints**

The public have a right to complain to:

- (i) A Ward Councillor;
- (ii) The Council itself under its Complaints Scheme, details of which are available on the Council's website;

- (iii) The Local Government and Social Care Ombudsman, after using the Council's own Complaints Scheme;
- (iv) The Housing Ombudsman;
- (v) The Monitoring Officer about a breach of the Council's Code of Conduct (which sets out the standards of behaviour expected of a Councillor and is contained within Part 6 of this Constitution). The Complaints Procedure is available on the Council's website.

3.02 Citizens' Responsibilities

At meetings of the Council, its Committees or Cabinet, members of the public must treat Councillors and Officers with respect and courtesy and must not wilfully harm the property of the Council, Councillors or Officers.

A.4 APPENDIX C

4.2.2 Role of Leader and Individual Portfolio Holders

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

1. To have overall responsibility for the development, implementation and review of Strategies and District Council Policy in relation to their portfolios and to be the main Council spokesperson thereon.
2. To monitor service performance regarding progress towards achieving strategies and objectives and delivery of service performance targets within approved budgets.
3. To satisfy themselves as the integrity of financial information and the adequacy of financial controls and risk management arrangements.
4. To represent and speak on behalf of the Cabinet at the Overview and Scrutiny and Audit Committees when they are dealing with issues in their portfolio.
5. To be a member of the Cabinet and exercise collective responsibility in decision making and in making recommendations to the Council.
6. To consult with the Committees, other Members, partners and stakeholders including the public as appropriate in the formulation and development of Council policy within their portfolio.
7. To inform and consult relevant ward Members when making formal decisions.
8. To make decisions in accordance with the Council's Strategies, Policies, Procedures, Protocols and Codes of Conduct or as otherwise required by the Constitution.
9. **To undertake all relevant training provided to aid them in carrying out their duties and responsibilities as Portfolio Holders and to keep themselves up to date on such training.**

A.4 APPENDIX D

COUNCIL PROCEDURE RULES

11. QUESTIONS BY MEMBERS

11.1 On Statements made by the Leader or a Member of the Cabinet to the Council, Reports or References from the Cabinet or Minutes of Committees

A Member of the Council may ask the Leader or a Member of the Cabinet any question without notice about any statement made by the Leader or a Member of the Cabinet to the Council when that item is being received.

A Member of the Council may ask the Leader or a Member of the Cabinet or the Chairman of a Committee any question without notice upon a report or recommendation of the Cabinet or the minutes or reference from a Committee when that item is being received by the Council.

Supplementary Questions will not be permitted under this rule.

11.2 Scope of Questions on Notice at Full Council and Time Allocated in the Meeting

Subject to Rules 11.3, 11.4 and 11.5 a Member of the Council may ask:-

- the Chairman;
- a Member of the Cabinet; and
- the Chairman of any Committee;

a question on any matter, which is within their area of responsibilities as set out in Part 3 of the Constitution, in relation to which the Council has powers or duties or which affects the Tendring District.

Only the text of the Questions will be included within the full Council Agenda and in the order in which the questions from Members were received. None of the accompanying preamble or explanatory statements (if any) submitted by the Questioner(s) will be so included.

The time allocated for receiving and disposing of questions shall be a maximum 30 minutes. Any question not disposed of at the end of this time shall be the subject of a written response, copied to all Members the following working day unless withdrawn by the questioner. The Question(s), together with the relevant written response(s), will also be published to the Council's website and will also be reported to the next meeting of the Council, as an "information only item", by the Committee Services Manager. The provisions of this paragraph will also apply in those instances when the full Council meeting has had to be cancelled.

Questions shall not be submitted to the Annual Meeting of the Council or to an Extraordinary Meeting of the Council or to the Budget and Council Tax setting meeting of the Council.

11.3 Notice of Questions

A Member may only ask a question under Rule 11.2 if either:

- (a) notice has been given by delivering it in writing (or by personal e-mail) to the Committee Services Manager no later than midday 8 (eight) working days before the day of the meeting; or
- (b) the question relates to urgent matters, he has the consent of the person to whom the question is to be put and the content of the question is given to the Committee Services Manager by noon on the day of the meeting.

11.4 Number of Questions

At any one meeting no Councillor may submit more than two questions.

11.5 Reasons for rejection of Questions

- (a) the question is not about a matter for which the local authority has responsibility or which affects the District;
- (b) The Monitoring Officer will reject a question if in their judgement it could be considered to be defamatory or offensive or requires the disclosure of confidential or exempt information (as defined in the Access to Information Procedure Rules);
- (c) the Monitoring Officer will reject a question if in their judgment it is substantially the same as a question already received to be put to the ordinary meeting of the Council in question;
- (d) The Monitoring Officer will reject a question if in their judgement it is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (e) The Monitoring Officer will reject a question if in their judgement it is likely to lead to a breach of the Members' Code of Conduct~~or~~; or
- (f) the question is about a matter that is subject to call in or ongoing legal proceedings.

11.6 Response

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where a reply cannot conveniently be given orally, a written answer given later to all Members.

The Member giving the response must provide an electronic or written copy of that response to the Committee Services Manager by Noon on the day of the meeting in order to enable the

response to be circulated to the Questioner, the Chairman of the Council, the Leader of the Council and relevant Officers.

11.7 Recording of Questions and Responses and Questions of Clarification

After the response has been given to a Question on Notice, the Member who asked the question may ask one question, of which no notice is required. That question must solely relate to clarifying the response received. No statements or other form of question will be allowed. The ruling of the Chairman on the admissibility of the question is final.

The minutes of the meeting will record the text of the question plus any preamble or supporting statement (if any) together with the response given thereto and that, if appropriate, a question of clarification and a response was asked and given, without detailing the content.

11.8 Time Limits for Asking/Answering Questions

The time limit for asking each question (including any preamble or statements in support) is two minutes and the time limit for each reply is three minutes.

11.9 Withdrawal of Question

A Member may withdraw their question by giving notice of their wish to do so to the Committee Services Manager prior to the commencement of the meeting at which their question is to be put.

Once the meeting has commenced a Member may withdraw their question with the consent of the Chairman.

A.4 APPENDIX E

COUNCIL PROCEDURE RULES

16. RULES OF DEBATE

16.1 No Speeches until Motion Seconded

No speeches may be made after a motion has been proposed and explained until it has been seconded. However, a motion that the recommendations from Cabinet or references from the relevant Committee shall be adopted need not be seconded.

A Member when seconding a motion or amendment may, if he then declares his intention to do so, reserve his speech until a later period of debate, subject to Rule 16.10 – Closure Motions.

16.2 Right to Require Motion or Amendment in Writing

Unless notice of the motion or amendment has already been given, the Chairman may require it to be written down and handed to him before it is discussed.

16.3 Content and Length of Speeches

Speeches must be directed to the motion under discussion or to a personal explanation or point of procedure. No speech (including those to move motions) shall exceed three minutes except with the consent of the Council. This does not apply to the statement by the Leader on the State of the District and the Leader's presentation of the budget.

16.4 When a Member May Speak Again

A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another Member;
- (b) to move or second a further amendment if the motion has been amended since he last spoke;
- (c) if his first speech was on an amendment moved by another Member, to speak on the main issue (provided the amendment has not been carried);
- (d) in exercise of a right of reply;
- (e) on a point of procedure; and/or
- (f) by way of personal explanation.

16.5 Amendments to Motions

- (a) An amendment to a motion must be relevant to the motion and either be:

- (i) to refer the matter to the Cabinet or relevant Committee for consultation, further information on the implications of the potential decision to be researched and submitted, consideration or reconsideration;
- (ii) to leave out words;
- (iii) to leave out words and insert or add others; or
- (iv) to insert or add words

as long as the effect of (ii), (iii) or (iv) is not to negate the motion or introduce a new subject matter into the motion before the Council. In addition, any amendment proposed to be made that may have budgetary implications must have been submitted to the Council's Section 151 Officer at least two working days before the Full Council meeting to enable them to consider the implications for the Council's Finances.

Furthermore, no amendment will be accepted that could bind or fetter the Executive or a Committee in relation to matters that are within the responsibility of the Executive or a Committee of the Council.

- (b) Any amendment proposed to be made to the Cabinet's budget proposals must have been submitted to the Council's Section 151 Officer at least two working days before the Budget Full Council meeting(s) to enable them to consider the implications for the budget.
- (c) Any Member wishing to move an amendment or alternative recommendation to those made by the Independent Remuneration Panel in respect of the Members' Scheme of Allowances must have submitted their proposals to the Council's Section 151 Officer and the Monitoring Officer at least two working days before the relevant Full Council meeting to enable them to consider the legal and financial implications. Any such amendment or alternative recommendation must be accompanied by the reasons for departing from the IRP's recommendations. Once deemed to be valid by the Monitoring Officer it will be immediately circulated by email to all Members of the Council. Copies of such amendment or alternative recommendation(s) will also be placed on Members' tables prior to the commencement of the Council meeting.
- (d) Only one amendment may be moved and discussed at any one time. Subject to Rule 16.10 no further amendment may be moved until the amendment under discussion has been disposed of. However the Chairman may permit a Member to give formal notice of the terms of any further amendment which he proposes to move at a later stage in the proceedings.
- (e) A member may withdraw their proposed amendment with the consent of the seconder.
- (f) If an amendment is not carried, other amendments to the original motion may be moved.

- (g) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (h) After an amendment has been carried, the Chairman will read out the substantive motion before accepting any further amendments, or if there are none, put it to the vote.

16.6 Alteration of Motion

- (a) A Member may alter a motion of which he has given notice with the consent of the seconder.
- (b) A Member may alter a motion that he has moved without notice with the consent of the seconder.
- (c) Only alterations that could be made as an amendment may be made. **This includes any amendment made at the meeting by another Member.**

16.7 Withdrawal of Motion

A Member may withdraw a motion that he has moved with the consent of the seconder unless it is the subject of an amendment. No Member may speak on the motion after the mover has withdrawn it.

16.8 Right of Reply

- (a) The seconder of a motion (including the seconder of a motion on which an amendment has been moved), the mover of a motion (including the mover of a motion on which an amendment has been moved) and the seconder and the mover of an amendment have a right of reply at the end of the debate on the motion or amendment. Following this, the appropriate Portfolio Holder or the Chairman of the relevant Committee shall have the right to speak on the motion or amendment immediately before it is put to the vote. Where the mover of the motion or amendment was the Leader of the Council, he shall have the final right to speak.
- (b) A Member exercising a right of reply shall confine his remarks to answering the arguments employed or observations made during the debate and shall not introduce any new matter.
- (c) The right of reply of the seconder of a motion or amendment (as referenced in (a) above) will only apply if the seconder has not already spoken during the debate on the motion or amendment in question.

16.9 Motions Which May be Moved During Debate

When a motion is under debate, no other motion may be moved except the following procedural motion:

- (a) to withdraw a motion;

- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to extend the time for speeches;
- (h) to give any consent required by these procedure rules;
- (i) to suspend one or more of the procedure rules;
- (j) to exclude the public and press in accordance with the Access to Information Procedure Rules; and
- (k) that a Member named under Rule 23.3 below (Disorderly Conduct), not to be heard further or to exclude them from the meeting under Rule 23.4.

16.10 Closure Motion

- (a) A Member may move, without comment, the following motions at the conclusion of a speech of another Member;
 - (i) That the Council proceed to the next business;
 - (ii) That the question now be put;
 - (iii) That the debate now be adjourned; or
 - (iv) That the Council does now adjourn; or
 - (v) That the matter be referred to the Cabinet or a Committee(s) in accordance with the responsibility of functions and the defined terms of reference.
- (b) On the seconding of which the Chairman shall, unless in their opinion the matter before the meeting has been insufficiently discussed, proceed as follows:
 - (i) On a motion to proceed to the next business or to refer the matter to the Cabinet or a Committee(s): they shall first give the seconder and the mover of the original motion their right of reply, under Rule 16.8 above, and then put to the vote the motion to proceed to the next business or to refer the matter;
 - (ii) On a motion that the question now be put: they shall put to the vote the motion that the question now be put, and if it is passed then the Chairman will give the seconder and the mover of the original motion their right of reply under Rule 16.8 above before putting their motion to the vote;
 - (iii) On a motion to adjourn the debate or the meeting: they shall put the adjournment motion to the vote without giving the seconder and the mover of the original motion their right of reply on that occasion.

16.11 Point of Procedure

A Member may raise a point of procedure at any time. The Chairman will hear him immediately. A point of procedure may only relate to an alleged breach of these Council Procedure Rules or the law. The Member must indicate the rule or law and the way in which he considers it has been broken. The ruling of the Chairman on the matter will be final.

16.12 Personal Explanation

A Member has the right to make a personal explanation when directly related to some material part of an earlier speech by the Member if it appears to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

A.4 APPENDIX F

COUNCIL PROCEDURE RULES

33. APPOINTMENT OF MEMBERS OF COMMITTEES AND SUB-COMMITTEES/VACANCIES IN CHAIRMANSHIP

33.1 General

Subject to the rules of political proportionality, as provided in the Local Government and Housing Act 1985 (Section 15) and the Local Government (Committees and Political Groups) Regulations 1990, and Rule 33.2 below, Full Council (usually at its Annual Meeting) will appoint Committees and Sub-Committees in accordance with the Local Government Act 1972 (Section 102).

33.2 Eligibility

Subject to the provisions of Rule 33.3 below the eligibility requirements with regard to membership of Committees and Sub-Committees are as follows:-

Overview and Scrutiny Committees

All Councillors except Cabinet members may be members of the Overview and Scrutiny Committees.

Audit Committee, Human Resources and Council Tax Committee, Licensing and Registration Committee, Planning Policy & Local Plan Committee, Planning Committee and Miscellaneous Licensing Sub-Committee

All Councillors may be members of these Committees.

The members of the Miscellaneous Licensing Sub-Committee must also be members of the parent Licensing and Registration Committee.

CIPFA Guidance recommends that the membership of the Audit Committee should not cross-over with either the Executive or Scrutiny functions. However, Officers' advice is that if Members feel that cross membership is necessary then this should be limited to one member from each of the Executive or Scrutiny functions. The Chairman of the Audit Committee should not be a member of the Cabinet.

Standards Committee

All Councillors may be members of this Committee except that no more than one member of the Committee shall be a member of the Cabinet (and that member cannot be the Leader of the Council). In addition, no Leaders of Political Groups can be members of that Committee.

Premises/Personal Licences Sub-Committee

The membership of this Sub-Committee is appointed on an ad hoc basis from the membership of the Licensing and Registration Committee.

33.3 Training Members of the Audit, Human Resources and Council Tax, Licensing and Registration, Overview and Scrutiny, Planning and Standards Committees and the Licensing Sub-Committees

In addition to specific training required as and when necessary, training shall be provided to all Members appointed to the Audit, Human Resources and Council Tax, Licensing and Registration, Overview and Scrutiny, Planning and Standards Committees **and the Licensing Sub-Committees** on an annual basis at an appropriate date and time after each annual meeting of the Council and such training shall be mandatory. ~~The Monitoring Officer shall define what is meant by the word “mandatory” and they will also decide whether the training offered/provided is/was sufficient and “fit for purpose”.~~

A Member cannot sit as a member of the Planning Committee unless they have received specific training with regard to the determination of planning applications.

A Member cannot sit as a member of the Licensing and Registration Committee **or its Sub-Committees** unless they have received **the** specific training with regard to the broad range of licensing matters **(or the specific training to the subject matter of the Sub-Committee)** as set out within (but not necessarily limited to) the Licensing Act 2003, the Gambling Act 2005 and the Local Government (Miscellaneous Provisions) Act 1982.

A Member cannot sit as a member of the Audit Committee unless they have received specific training with regard to the determination of the Council's Statement of Accounts and comprehension of Auditor reports.

A Member cannot sit as a member of the Standards Committee unless they have received specific training with regard to the Hearings Procedure and participation in Hearings.

A Member of the Human Resources and Council Tax Committee cannot sit as a member of a Personnel Appeals Sub-Committee of that Committee unless they have received specific training with regard to determining Employment appeals (for specific senior officer posts)

A Member cannot sit as a member of an Overview and Scrutiny Committee unless they have received specific training with regard to work programming and questioning skills.

No Member can continue to sit as a member of the above committees if they have gone more than two years without attending any of the relevant training events.

The Monitoring Officer is authorised to approve alternative arrangements for training to enable Members to attend and take part in the business of the agenda for a particular meeting. Members training records are held by the Monitoring Officer.

33.4 Resignation of Chairmanship Etc.

Any Chairman, Vice-Chairman or Member of a Committee, Sub-Committee or Working Party may at any time, by notice in writing or personal email delivered to the Chief Executive, resign his position and such resignation shall take immediate effect on delivery of the notice.

33.5 Casual Vacancies

In the case of a casual vacancy in the office of a Chairmanship or Vice-Chairmanship of a Committee, Sub-Committee or Working Party an item shall be placed on the agenda of the next meeting of the relevant body which shall, before proceeding to any other business, elect from its Members a Chairman or Vice-Chairman as the case may be for the remainder of the year.

34. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES, SUB-COMMITTEES AND WORKING PARTIES

34.1 General

Substitute members may attend, speak and vote at meetings of Committees and Sub-Committees of the Council, subject to Rules 33.3 and 33.4. In the case of the Overview and Scrutiny Committees, such Substitute Members may not be Members of the Cabinet. Substitute Members may not be appointed to any Working Parties unless that working party has been established in full accordance with the Widdicombe Rules.

34.2 Eligibility and Effect

A Substitute shall belong to the same political group (as defined in the Local Government and Housing Act 1989) as the Member for whom he is a Substitute. Substitution by, or of, Members not in a political group is not permitted.

Only the Member being substituted or their Group Leader (or Deputy) can appoint substitute members. Notification of a substitute from the Member being substituted or their Group Leader (or Deputy) must be given to Committee Services prior to the commencement of the meeting at which the substitution is to apply. Where more than one notification is received, the Group Leader (or Deputy's) request will take precedence.

In those circumstances where the Member who wishes to be substituted has recently left one political group and joined another or if they have moved to a non-aligned position and in the absence of a review of the allocation of seats to political groups, the seat remains within the control of the Member's previous Group then it shall be for the Leader of that Group to appoint a substitute.

The substitution will be in effect for the whole of the meeting (including any part thereof that is adjourned to, and subsequently considered at, a later date). The Substituted Member must not take their seat.

34.3 Training Substitute Members of the Audit, Human Resources and Council Tax, Licensing & Registration, Overview & Scrutiny, Planning and Standards Committees

In addition to specific training required as and when necessary, training shall be provided to all named Substitute Members appointed to the Audit, Human Resources & Council Tax, Licensing and Registration, Overview & Scrutiny, Planning and Standards Committees **and the Licensing Sub-Committees** on an annual basis at an appropriate date and time after each annual meeting of the Council.

The Monitoring Officer is authorised to approve alternative arrangements for training to enable Members to attend and take part in the business of the agenda for a particular meeting.

34.4 Substitute Members of the Audit, Human Resources & Council Tax, Licensing & Registration, Overview & Scrutiny, Planning and Standards Committees and the Licensing Sub-Committees

Group Leaders shall, provide named Substitute Members (in accordance with proportionality rules) and all substitutions will only be permitted from this list. Any member of a political group shall be eligible to act as a named Substitute Member providing that they have received training in relation to all relevant Audit, Human Resources & Council Tax, Licensing & Registration, Standards-related, Overview & Scrutiny or Planning matters under a continuing programme arranged by the Council. When naming a designated substitute, Group Leaders shall, as far as reasonably practicable, satisfy themselves that the named Member is as conversant with all relevant Audit, Human Resources & Council Tax, Licensing and Registration, Standards-related, Overview & Scrutiny and Planning matters as the appointed members of those Committees.

34.5 Substitute Members of the Premises/Personal Licences Sub-Committees

Substitutes for Members of the Premises/Personal Licences Sub-Committee shall be made from the appointed membership of the Licensing & Registration Committee. Such substitute need not be a Member of the same political group and the provisions of Rule 34.2 shall not apply.

The Committee Services Manager will, at the request of the Group Leader of a member of the Premises/Personal Licences Sub-Committee or at the request of the Member concerned, appoint a Substitute from amongst the appointed Membership of the Licensing & Registration Committee who should have received training in relation to licensing under a continuing programme arranged by the Council. Such request need not be in writing.

The Committee Services Manager will ensure that a fourth or standby Member, drawn from amongst the appointed membership of the Licensing & Registration Committee, is present at every meeting of the Premises/Personal Licences Sub-Committee. Such Member shall act as a member of the Sub-Committee in the event that one of the three Sub-Committee members becomes unable to act due to e.g. illness, conflict of interest.

A.C APPENDIX G

OVERVIEW AND SCRUTINY PROCEDURE RULES

16. ATTENDANCE BY OTHERS

Each Overview and Scrutiny Committee may, in so far as it relates to matters within their terms of reference, invite people other than those referred to in paragraph 15 above to address them, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and may invite such people to attend. Attendance by those invited is entirely optional but encouraged in the spirit of partnership working and community engagement.

Ward Members will be invited to attend before the Committee if there is an item on the agenda that is specific to their Ward and shall have the facility to address the Committee and/or answer Members' questions.

All such invitations will be made through the Head of Democratic Services & Elections, in his capacity as the Council's designated Scrutiny Officer (Article 12 of the Constitution), so that a consistent and co-ordinated approach to invitations can be maintained. All such requests from individual Members shall be referenced to the Head of Democratic Services & Elections. This approach shall be followed in respect of less formal overview and scrutiny enquiries (such as through task and finish groups).

18. EXCEPTIONS TO CALL-IN

The call-in procedure set out above shall not apply in respect of ***executive decisions taken at Cabinet meetings, or by individual Cabinet Members or by Officers (who are making a Key Decision as defined in Article 13.03), as defined in Rule 17*** 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.
- (g) Appointment by the Leader of the Council of Members to serve on the Cabinet as Portfolio Holders.**

- (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.4 APPENDIX H

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 & Community) <u>except</u> in relation to the determination of certain planning applications as detailed below for determination by the Committee: <ol 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 & Community) to alter the previous material planning considerations. (ii) Officer recommendation of approval is contrary to a previous refusal by the Planning

		<p>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 or a member of permanent staff employed by TDC within Planning Services or Legal Services, or they are one of the Council’s senior managers as determined by the individual Services, 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</p>
--	--	--

		<p>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</p>
--	--	---

		<p>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 & Community), or other authorised Officer, in following consultation with the Chairman of the Planning Committee and the Planning Solicitor, may can 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><i>(NOTE: an Officer decision will be required in exercising this discretion to allow or refuse with reasons being produced and published to the Council's website.)</i></p>
--	--	--

		<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</p>
--	--	--

		<p>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>

A.4 APPENDIX I – FINANCIAL PROCEDURE RULES

6. CHANGES TO BUDGETS AFTER APPROVAL BY COUNCIL

6.1 Supplementary Estimates

6.1.4 No specific supplementary estimate approval is required at any time for the following:

- (a) Expenditure which is being funded entirely by income received under section 106 agreements and held in the section 106 receipts in advance holding account **or associated reserve** where that expenditure is in accordance with the terms of the section 106 agreement. In these circumstances the Chief Financial Officer must agree the expenditure, and the financing.
- (b) Debt written off for which specific provision was made in the Council's bad debt provision at the end of the previous financial year.
- (c) Expenditure on a specific activity that has previously been approved in accordance with the Council's constitution and for which the funding of that expenditure in future years has been placed in a dedicated earmarked reserve, and the expenditure is to be financed by the use of that reserve. In these circumstances the Chief Financial Officer must agree the expenditure, and the financing.
- (d) For expenditure where the Council receives full funding from an external source for a specified project and there are no additional revenue costs to the Council in either the current financial year or future financial years.

16. EXTERNAL FUNDING

16.1 External funding refers to applications to external organisations, including Government departments and agencies for the funding of expenditure. The expenditure may be for the Council's own services or for those services provided in partnership with other public bodies, voluntary sector bodies or private sector organisations.

16.2 In any partnership arrangement the Chief Financial Officer must ensure that there are adequate controls in place in respect of the Council's own financial liabilities to the partnership and that there are adequate controls in place for the partnership itself.

16.3 Any application for external funding to finance or contribute to the financing of a function, investment or activity for which the Council is either the sole provider or is the accountable body must be approved by Management Team following consultation with the Chief Financial Officer to ensure the external funding being sought is in accordance with the Council's priorities and not an additional impact on resources. Such approval will be recorded with an Officer Decision.

- 16.4** When making application for payment of funds from the body awarding the grant it is a statutory obligation that all figures in the claim be supported by adequate, and comprehensive working papers. All such working papers will be in a format and detail as determined by the Chief Financial Officer.
- 16.5** *Should an application for External Funding be successful, a separate recorded decision is required relating to acceptance of the funding, the terms and conditions and how the funding will be used. Such decision will take into consideration all the necessary implications in the required format.*

A.4 APPENDIX J

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.

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 **in addition, to the legal obligations to record the decision in the required format.**

A.4 APPENDIX K

Schedule 3

Responsibility for Executive Functions

4.1 THE CABINET COLLECTIVELY

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

TERMS OF REFERENCE

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

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

The following paragraphs would be re-numbered accordingly.

10. The approval of planning policy matters that are the responsibility of the Executive such as Local Development Orders and Neighbourhood Plans (including statutory public consultations thereon).
11. Issues delegated to individual Portfolio Holders that in their opinion a collective decision by the Cabinet is required.
12. Issued delegated to an Officer that in the opinion of the Management Team a collective decision by the Cabinet is required.
13. Reviewing from time to time the Council's Constitution.

4.3 ADDITIONAL SPECIFIC DELEGATIONS TO INDIVIDUAL PORTFOLIO HOLDERS

Leisure and Public Realm

1. To approve the making of car parking regulation orders when requested by Essex County Council.
- ~~2. Proposals for and approve the making of traffic regulation orders where no objections are received.~~
- 2. The selection and rejection of proposals for the making of traffic regulation orders being submitted to the North Essex Parking Partnership will be authorised by the Portfolio Holder, whether objections have been received to initial proposals. Reasons for such selection or rejection will be published following consultation with the relevant ward councillor. Such delegation cannot be exercised for proposed traffic regulation orders within the Portfolio Holder for Leisure and Public Realm's ward and in such cases, would be referred to the Leader for determination.**
3. The determination of Hackney Carriage stands under Section 63 of Part 2 of the Local Government (Miscellaneous Provisions) Act 1976 (in consultation with the Portfolio Holder for Housing and Planning).