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Contact:  
democracy@welhat.gov.uk

4 October 2023

You are requested to attend a meeting of the WELWYN HATFIELD BOROUGH COUNCIL to be held on Thursday 12 October 2023 at 7.30 pm in the Council Chamber, Campus East, Welwyn Garden City, Herts, AL8 6AE.

**AGENDA**  
**PART 1**

1. **MINUTES**

To confirm as a correct record the Minutes of the meeting held on 19 July 2023 (previously circulated).

2. **APOLOGIES**

To receive apologies for absence, if any.

3. **PETITIONS**

The Mayor will receive petitions (limited to the first three petitions presented).

4. **QUESTIONS FROM THE PUBLIC**

A period of thirty minutes will be made available for questions to be put by Members of the public to Members of the Cabinet on matters for which the Council has a responsibility or which affect the Borough.

5. **DECLARATIONS OF INTERESTS BY MEMBERS**

To note declarations of Members' disclosable pecuniary interests, non-disclosable pecuniary interests and non-pecuniary interests in respect of items on the Agenda.

6. **ANNOUNCEMENTS**

To receive any announcements from the Mayor, Leader of the Council, Member

of the Cabinet or the Head of Paid Service.

7. QUESTIONS BY MEMBERS

For a period of up to thirty minutes, a Member of the Council who has given prior notice in accordance with Council Procedure Rule 15, may ask (a) the Mayor, (b) the Leader of the Council or (c) a Member of the Cabinet a question on any matter in relation to which the Council has powers or duties or which affects the Borough.

A Member asking a question may ask, without giving notice, one supplementary question of the Member to whom the first question was asked. The supplementary question must arise directly out of the reply.

8. MATTERS ARISING FROM THE CABINET

To consider recommendations from the meetings of the Cabinet on 10 October 2023 following the Cabinet Planning and Parking Panel held on 5 October 2023.

(a) Local Plan

The reports of the Cabinet Planning and Parking Panel can be viewed in full here:

<https://democracy.welhat.gov.uk/documents/g1643/Public%20reports%20pack%2005th-Oct-2023%2019.30%20Cabinet%20Planning%20and%20Parking%20Panel.pdf?T=10>

9. CONSTITUTION REVIEW (Pages 3 - 214)

To receive a report of the Chair of the Constitution Review Group.

10. NOTICES OF MOTIONS UNDER PROCEDURE RULE 16 (Pages 215 - 216)

To consider notices of motions submitted under Procedure Rule 16 in such order as the Mayor shall direct. The motions received for this meeting are attached.

11. URGENT MATTERS

To consider any matters of urgency subject to the agreement of the Mayor in accordance with Procedure Rule 5.1(s).

Circulation: The Mayor and Members of the Welwyn Hatfield Borough Council  
Senior Leadership Team  
Press and Public (except Part II Items)

**If you require any further information about this Agenda please contact Democratic Services, Governance Services on or email – [democracy@welhat.gov.uk](mailto:democracy@welhat.gov.uk)**

# Agenda Item 9

## Part I

Main author: Richard Baker

Executive Member: Cllr Paul Zukowskyj

Ward: All Wards

WELWYN HATFIELD BOROUGH COUNCIL

COUNCIL – 12 OCTOBER 2023

REPORT OF THE EXECUTIVE DIRECTOR (FINANCE AND TRANSFORMATION)

## REVIEW OF THE CONSTITUTION

### **1 Executive Summary**

- 1.1 The purpose of this report is to consider changes to the Constitution as attached with tracked changes and to adopt the revised Constitution.
- 1.2 The constitution is kept under regular review and subject to approval by the Constitution Review Group, the changes will then be considered by Full Council. The Constitution Review Group reviewed the amended Constitution on the 6 September 2023.

### **2 Recommendation**

That Full Council agrees the revised Constitution.

### **3 Explanation**

- 3.1 The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.
- 3.2 The Constitution is divided into 16 articles which set out the basic rules governing the authority's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.
- 3.3 The constitution is kept under regular review to ensure it remains fit for purpose.
- 3.4 The Constitution Review Group met on 10 July 2023, during which a number of proposed changes to the Constitution were debated in detail. The changes were unanimously agreed by the Group and referred to Council.
- 3.5 On the 19 July 2023, Council agreed the amendments to the Council's Constitution except for changes relating to the Council's Estate Management Scheme, and asked for this area to be referred back to the Constitution review group for further consideration.
- 3.6 Changes recommended in this review include:

Section of the Constitution	Area considered
Article 4 – Full Council	Addition of Gambling and Licencing Policies to the policy framework as required in legislation
Article 8 – Non Executive Committees	Removal of Licensing Policy text following

	addition in Article 4
Article 12 - Officers	Updates regarding Regulation of Investigatory Powers Act 2000 (responsible officers and Senior Responsible Officer)
Article 14 – Finance, Contract and Legal Matters	Correction of typographical error
Part 3, 4a – Responsibility for non-executive functions	<p>Full Council - Updates regarding street trading and licensing.</p> <p>Standards – clarification of complaints overseen by the committee.</p> <p>Standards – Removal of the Annual Governance Statement (this is an Audit Committee Function)</p> <p>Overview and Scrutiny – Addition of oversight to the annual Ombudsman reports received.</p> <p>Licensing – Review and refresh of terms of reference for the committee and sub-committee, to ensure legislative requirements are met.</p>
Part 3, 4b – Responsibility for executive functions	<p>Cabinet - Addition of responsibilities regarding public space protection orders.</p> <p>Cabinet Housing Panel – Removal of reports from the Housing Company (no longer trading)</p> <p>Addition of Housing Maintenance and Climate Change groups. (Climate change subject to further review, but added in current form)</p>
Part 3, 4f – Chief Executive	Further updates to Health and Safety and Responsible Officers, incorporating the Fire Safety Act and Building Safety Act
Part 3, 4g – Executive Director Place	<p>Addition of paragraph 1.48</p> <p>Addition of para 5.44</p>
Part 3, 4h – Executive Director (Finance and Transformation)	Addition of Engagement Responsibilities (communications and engagement)
Part 3, 4i – Service Director (Resident and Neighbourhoods)	Update of responsible officers

	Correction / clarification of running order and procedure
Part 4, Section 1 – Council Procedure Rules	Addition of requirement to submit amendments to motions to Monitoring Officer.
Part 4, Section 2 – Rules of General Application to all Committees and Petitions	Update to procedures for approval of minutes.
Part 4, Section 3 – Access to information procedure rules	Minor amendments (consistency)
Part 4, Section 4 – Budget and Policy Framework	Correction of typographical error
Part 4, Section 6 – Procedure Rules for Planning Meetings	Updates regarding Estates Management Scheme and appeals.
Part 4, Section 9 – Contract Procedure Rules	Addition of Section 151 Officer approval for loan agreements. Addition of alternative procedure for appointment of agency staff.
Part 5, Section 11 – Code of Conduct for Members  *Papers to Follow*	Updates regarding Estates Management Scheme and appeals.
Part 5, Section 14 – Openness of Local Government Bodies Regulations 2014	Addition of Engagement Responsibilities (communications and engagement)

## **Implications**

### **4 Legal Implication(s)**

- 4.1 Under Section 9P of the Local Government Act 2000 (LGA 2000) the Council is under a duty to prepare a Constitution and keep it up to date. The Section states that the Constitution must contain:
- The standing orders/procedure rules;
  - The Members' Code of Conduct;
  - Such information as the Secretary of State may direct;
  - Such other information (if any) as the Council considers appropriate.
- 4.2 In December 2000 the Secretary of State issued a Constitution Direction that required around 80 matters to be included within Constitutions, covering amongst other details of procedures for meetings, details of joint arrangements with other

local authorities. A Model constitution was also issued in 2000 (Modular Constitutions for English Local authorities) which most Councils, including Welwyn Hatfield, adopted and which continues to form the basis of our Constitution.

4.3 Section 9P of the LGA 2000 also provides that a local authority must ensure that copies of its Constitution are available at its principal office for inspection by members of the public at all reasonable hours and must supply a copy of its Constitution to any person who request a copy and who pays to the authority such reasonable fee as the authority may determine. A copy is available free of charge via the Council's website.

4.4 The Constitution Direction requires that the Constitution contains:

- a description of the register of interests of members and co-opted members of the authority required under Section 81 of the Act, together with the procedures for publicising, maintaining and updating that register; and a register stating:
- the name and address of every member of the local authority executive for the time being and the ward or division (if any) which he represents; and
- the name of every member of each committee of the local authority's executive for the time being.

These are contained in the Constitution with photographs of the Cabinet Members but can be contained more conveniently by hyperlinks to the web pages of Committees and Members' interests which can be updated more easily during the year.

## **5 Financial Implications(s)**

5.1 The proposed changes to the constitution will ensure the constitution reflects current legal requirements, best practice and working practices in relation to financial matters.

## **6 Risk Management Implications**

6.1 There are no direct risk management implications arising from this report. It does however ensure that responsibilities for Risk, Business Continuity and Health and Safety are properly aligned to the new management structure and Cabinet, and that appropriate oversight is in place for these.

## **7 Security and Terrorism Implication(s)**

7.1 There are no direct security and terrorism implications arising from this report.

## **8 Procurement Implication(s)**

8.1 Some minor amendments have been made to the contract procedure rules, including a review of the off payroll working requirements (taxation regulations)

and adding clarity to procurement decisions required for direct awards from approved procurement frameworks.

**9 Climate Change Implication(s)**

9.1 There are no direct climate change implications arising from this report. The changes do ensure that the Climate Change Committee is reflected in the constitution.

**10 Human Resources Implication(s)**

10.1 There are some minor changes to Human Resource matters, to reflect current working practices and employment policies and procedures.

**11 Communication and Engagement Implication(s)**

11.1 There are no direct communications implications arising from this report.

**12 Link to Corporate Priorities**

12.1 The subject of this report is linked to the Council's Corporate Priority of being a well run council which puts its customers first. The report also links to the successful running of the council, and all its services, which will assist in the delivery of all corporate priorities.

**13 Equality and Diversity**

13.1 An Equalities Impact Assessment was not completed as the changes do not impact on policy or service provision.

Richard Baker  
Executive Director (Finance and Transformation)

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# ARTICLE 4 - THE FULL COUNCIL

## 1. MEANINGS

- (a) In this Constitution, references to the "Full Council" mean the Council in plenary session at a meeting within Article 4.3.
- (b) "The policy framework" means the following plans and strategies:-
- Annual Report
  - Corporate Business Plan
  - Medium Term Financial Strategy and Financial Governance Framework
  - Crime and Disorder Strategy
  - Development Plan Documents submission for independent examination and adoption
  - Equality Policy
  - Housing and Homelessness Strategy
  - Tenancy Strategy
  - Housing Business Plan
  - Housing Asset Strategy
  - Local Plan
  - Pay Policy Statement
  - [Statement of Statement of Principles \(Policy\) under the Gambling Act 2005](#)
  - [Statement of Licensing Policy under the Licensing Act 2003](#)
  - [Street Trading Policy](#)
  - All plans that by law must be determined by the Council
- (c) "The budget" means the approval or adoption of the allocation of financial resources to different services and projects, contingency funds and any decisions relating to the control of the Council's borrowing and cash requirements..
- (d) "Housing Land Transfer" means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

## 2. FUNCTIONS OF FULL COUNCIL

- 2.1 Unless otherwise specified only the Council will exercise the following functions:
- (a) Adopting and changing the Constitution;
- (b) Approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer as proposed

- by the Cabinet or Overview and Scrutiny Committees;
- (c) Making decisions about any matter in the discharge of an executive function which is not within the budget or policy framework, unless the decision is urgent within the meaning set out in the Budget and Policy Framework Procedure Rules in Part 4 of this Constitution;
  - (d) Appointing the Mayor and Deputy Mayor of the Council, the Leader of the Council and Members of the Council's Committees (apart from the Cabinet);
  - (e) Receiving annual reports from the Overview and Scrutiny Committees in relation to their work;
  - (f) Agreeing and/or amending the terms of reference for Committees, exercising non executive functions, deciding on their composition and making appointments to them;
  - (g) Appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Full Council;
  - (h) Adopting an allowance scheme set out in Part 6 of this Constitution;
  - (i) Changing the name of the area, conferring the title of Honorary Alderman or Freedom of the Borough;
  - (j) Confirming the appointments of the Head of Paid Service, Monitoring Officer and Chief Finance Officer (Section 151 Officer)
  - (k) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
  - (l) Exercising all Local Choice Functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself or delegated to non-executive committees rather than the Cabinet; and exercising the necessary functions in the selection and appointment of auditors and/or to the Council, under the provisions of the Local Audit and Accountability Act 2014
  - (m) Debating and deciding the response to petitions containing more than 1,500 signatures that are matters reserved to Full Council
  - (n) To receive reports from the Audit Committee
  - (o) All other matters which, by law, must be reserved to the Council.

### **3. COUNCIL MEETINGS**

#### **3.1 There are three types of Council meeting:**

- The annual meeting;
- Ordinary meetings;
- Extraordinary/special meetings;

and they will be conducted in accordance with the Council Procedure Rules set out in Part 4 of this Constitution.

## ARTICLE 8 - NON-EXECUTIVE COMMITTEES

[Statutory References: Local Authorities (Functions and Responsibilities) (England) Regulations 2000-, the Local Authorities (Function and Responsibilities) (England) (Amendment) Regulations 2013 which amend Schedule 1 to the 2000 Regulations in respect of the existing functions exercised by authorities in relation to the late night levy requirements under Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011

### 1. NON-EXECUTIVE COMMITTEES

- 1.1. The Council will appoint the non-executive committees as set out in the table "Responsibility for non-executive Council functions" in Part 3 of this Constitution to discharge the functions described in that table. The table and an accompanying list indicate the extent of delegation of non-executive functions to Officers.
- ~~1.2. The Statement of Licensing Policy 2020-2025 required under Section 5 Licensing Act 2003 was published after the decision of Full Council on the 7<sup>th</sup> January 2000 (hyperlink). The Licensing Committee is established under the 2020-2025 policy to exercise the non-executive functions of licensing under the Licensing Act 2003 and Gambling Act 2005 with delegations as specified in the Statement.~~

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# ARTICLE 12 - OFFICERS

[Statutory References: Section 112 and 151 Local Government Act 1972, Sections 4 and 5 Local Government and Housing Act 1989, Chapter 8 DETR Guidance]

## 1. MANAGEMENT STRUCTURE

- 1.1 The Council may engage such Officers as it considers necessary to carry out its functions.
- 1.2 The Council will engage persons for the following posts, who will be designated chief officers:

### PostMain Functions and Areas of Responsibility

~~Chief Executive (Head of Paid Service)~~

~~Executive Director (Place)~~

~~Executive Director (Finance and Transformation)~~

~~Service Director (Property Maintenance and Climate Change)~~

~~Service Director (Resident and Neighbourhood)~~

~~Supports the political leadership of the Council to provide strategic direction for the Council.~~

~~As Head of Paid Service within the meaning of Section 4 of the Local Government and Housing Act 1989 has, overall corporate management and operational responsibility involving securing and managing the professional body of Officers needed to deliver modern, effective, well focused services.~~

~~Facilitates the operation of the Council's decision making structure both executive and non-executive by providing appropriate support and advice.~~

~~Represents the Council on partnership and external bodies (as required by statute or the Council).~~

~~Acts as the Electoral Registration Officer and Returning Officer for elections.~~

~~Emergency Plan and Business Continuity Plans implementation (shared).~~

~~Deputises for the Chief Executive as necessary.~~

~~Regeneration and economic development, planning, leisure, community and cultural services.~~

~~Deputises for the Chief Executive as necessary.~~

~~Legal and governance, human resources, customer services and transformation, finance, ICT and digital services, and cemetery and cremation services.~~

~~Deputises for the Chief Executive as necessary. Property maintenance and climate change.~~

~~Deputises for the Chief Executive as necessary.~~

~~Public health, hackney carriages, licensing, independent living, neighbourhood and enforcement, community safety, street wardens, CCTV, environment services, landscape and ecology and private sector housing.~~

<u>Post</u>	<u>Main Functions and Areas of Responsibility</u>
<u>Chief Executive (Head of Paid Service)</u>	<p><u>Supports the political leadership of the Council to provide strategic direction for the Council.</u></p> <p><u>As Head of Paid Service within the meaning of Section 4 of the Local Government and Housing Act 1989 has, overall corporate management and operational responsibility involving securing and managing the professional body of Officers needed to deliver modern, effective, well focused services.</u></p> <p><u>Facilitates the operation of the Council's decision making structure both executive and non-executive by providing appropriate support and advice.</u></p> <p><u>Represents the Council on partnership and external bodies (as required by statute or the Council).</u></p> <p><u>Acts as the Electoral Registration Officer and Returning Officer for elections.</u></p> <p><u>Emergency Plan and Business Continuity Plans implementation (shared)</u></p>
<u>Executive Director (Place)</u>	<p><u>Deputises for the Chief Executive as necessary.</u></p> <p><u>Regeneration and economic development, planning, leisure, community and cultural services.</u></p>
<u>Executive Director (Finance and Transformation)</u>	<p><u>Deputises for the Chief Executive as necessary.</u></p> <p><u>Legal and governance, human resources, customer services and transformation, finance, ICT and digital services, and</u></p>

	<a href="#"><u>cemetery and cremation services.</u></a>
<a href="#"><u>Service Director (Property Maintenance and Climate Change)</u></a>	<a href="#"><u>Deputises for the Chief Executive as necessary.</u></a>  <a href="#"><u>Property maintenance and climate change.</u></a>
<a href="#"><u>Service Director (Resident and Neighbourhood)</u></a>	Deputises for the Chief Executive as necessary.  Public health, hackney carriages, licensing, independent living, neighbourhood and enforcement, community safety, street wardens, CCTV, environment services, landscape and ecology and private sector housing.

1.3 **Statutory Officers** – These are:

- Head of Paid Service as defined by Section 4 of the Local Government and Housing Act 1989
- Monitoring Officer as defined by Section 5 of the Local Government and Housing Act 1989
- Chief Finance Officer as defined by Section 151 of the Local Government Act 1972 (also referred to as the ‘Section 151 Officer’).

The Council has designated the following Officer posts to these statutory posts.

<u>Post</u>	<u>Designation</u>
Chief Executive	Head of Paid Service
Assistant Director (Legal and Governance)	Monitoring Officer
Legal Services Manager	Deputy Monitoring Officers
Executive Director (Finance and Transformation)	Chief Finance Officer
Assistant Director (Finance)	Deputy Chief Finance Officer (also referred to as the ‘Deputy Section 151 Officer’)

1.4 The Head of Paid service may not be the Monitoring Officer, but may hold the post of Chief Finance Officer if a qualified accountant. The Monitoring Officer cannot be the Chief Finance Officer or Head of Paid Service. The duties of both the Monitoring Officer and Chief Finance Officer (apart from the administration of the financial affairs of the Council) will be carried out personally. The deputies nominated by the Monitoring Officer and Chief Finance Officer will act in their absence.

1.5 The Service Director (Resident and Neighbourhood), Governance Services Manager Senior Governance Officer and Licensing Team Leader are Authorising Officers for the purpose of using surveillance and covert intelligence under the Regulation of Investigatory Powers Act 2000. The Service Director (Resident and Neighbourhood) is also the Senior Responsible Officer (SRO) with corporate oversight of the use of the powers



under the Regulation of Investigatory Powers Act 2000.

- 1.6 A description of the overall departmental structure of the Council showing the management structure and responsibility for functions is set out in part 7 of this Constitution.

## **2. FUNCTIONS OF THE HEAD OF PAID SERVICES**

- 2.1 Discharge of functions by the Council - The Head of Paid Service will be responsible and when considered appropriate, report to full Council regarding the manner in which the discharge of the Council's functions are co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.

## **3. FUNCTIONS OF THE MONITORING OFFICER**

- 3.1 Maintaining the Constitution - The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, Officers and the public.
- 3.2 Ensuring lawfulness and fairness of decision making - After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the Monitoring Officers report has been considered.
- 3.3 Supporting the Standards Committee - The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee which will include advising and training Members and co-opted Members about their responsibilities.
- 3.4 Receiving reports - The Monitoring Officer will receive and act on reports of complaints about breaches under the Councillor Code of Conduct.
- 3.5 Conducting investigations - The Monitoring Officer will conduct investigations into complaints and make reports or recommendations in respect of them to the Standards Sub-Committee (Hearings Panel).
- 3.6 Proper Officer for access to information - The Monitoring Officer will ensure that the statutory requirements relating to decisions of the Council and the Cabinet, including publication of agendas, public access to meetings, recording

decisions and providing relevant Officers reports and inspection of background papers are complied with at all times.

- 3.7 Advising whether executive decisions are within the budget and policy framework - The Monitoring Officer will provide determinations as to whether decisions of the Cabinet are in accordance with the budget and policy framework.
- 3.8 Contributing to corporate management - The Monitoring Officer will contribute to the corporate management of the Council, which will include the provision of professional legal advice.
- 3.9 Providing advice - The Monitoring Officer will provide advice in respect of the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Members and will support and advise Members and Officers in their respective roles.

#### **4 FUNCTIONS OF THE CHIEF FINANCE OFFICER**

- 4.1 Ensuring lawfulness and financial prudence of decision making - After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council and the Council's external auditor if he or she considers that any proposals, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- 4.2 Administration of financial affairs - The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- 4.3 Contributing to corporate management - The Chief Finance Officer will contribute to the corporate management of the Council, which will include the provision of professional financial advice.
- 4.4 Providing advice - The Chief Finance Officer will provide advice in respect of the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Members and will support and advise Members and Officers in their respective roles.
- 4.5 Give financial information - The Chief Finance Officer will provide financial information to Members of the public in accordance with his or her statutory obligations in this respect.

#### **5. DUTY TO PROVIDE SUFFICIENT RESOURCES TO THE MONITORING**

## **OFFICER AND CHIEF FINANCE OFFICER**

- 5.1 The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

## **6. CONDUCT**

- 6.1 Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

## **7. EMPLOYMENT**

- 7.1 The recruitment, selection and dismissal of Officers will comply with the Officer Employment Procedure Rules set out in Part 4 of this Constitution.

## **8. EMERGENCY PLANNING**

- 8.1 In connection with the Council's duties to plan for and respond to emergencies of incidents, whether under the Civil Contingencies Act 2004 or other legislation, **Risk and Resilience** is a function that sits under the Service Director (Property Maintenance and Climate Change).

- 8.2 The Function is responsible for delivering and maintaining plans and procedures to facilitate the Council's response to incidents and emergencies.

- 8.3 The Service Director (Property Maintenance and Climate Change) is hereby appointed and authorised to represent the interests of and make decisions on behalf of Welwyn Hatfield Borough Council at any:

- Command team
- Incident management team
- Multi-agency meeting

which may be set up either in response to any incident or in order to plan for any identified threat or hazard. This function will be approved by the Senior Leadership Team.

- 8.4 The Chief Executive may also appoint and authorise any person, whether a Welwyn Hatfield Borough Council employee or otherwise, to act in support of the Council's response to any incident, including the powers referred to in the above paragraph. Such authorisation shall be in writing and will be valid until such time it is revoked.

- 8.5 The **Risk and Resilience** Function will maintain a register of appointed individuals showing the date of their appointment, the scope of their

authorisation and records of training received.

- 8.6 The Chief Executive may request or respond to requests for mutual aid assistance arising out of any incident

# **ARTICLE 14 - FINANCE, CONTRACTS AND LEGAL MATTERS**

[Statutory References: Sections 135, 151, 222, 223 and 234 Local Government Act 1972, Part VIII Local Government Finance Act 1988.]

## **1. FINANCIAL MANAGEMENT**

1.1 The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part 4 of the Constitution.

## **2. CONTRACTS**

2.1 Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4 of the Constitution.

## **3. LEGAL PROCEEDINGS**

3.1 The Assistant Director (Legal and Governance) is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where they consider that such action is necessary to protect the Council's interests.

## **4. AUTHENTICATION OF DOCUMENTS**

4.1 Where any document is necessary to give legal effect to a Council decision or any legal procedure or proceedings on behalf of the Council, it will be signed by the Assistant Director (Legal and Governance) or any other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

## **5. COMMON SEAL OF THE COUNCIL**

5.1 The Common Seal of the Council will be kept in a safe place in the custody of the Assistant Director (Legal and Governance). A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Assistant Director (Legal and Governance) should be sealed or in relation to the procurement of goods and services, for contracts valued at £100,000 or over. The affixing of the Common Seal will be attested by any one of the following persons: the Mayor, Chief Executive, any Directors, Assistant Directors, Legal Services Manager, or any other person duly authorised by the Assistant Director (Legal and Governance).

5.2 For any contracts valued at £500,000 or over, the affixing of the Common Seal will be attested by any two of the above persons.

5.3 An entry of every sealing of a document shall be made and consecutively

numbered in a register to be provided for the purpose and shall be signed or initialled by the person who has attested the seal.

5.4 The Common Seal of the Council will be kept in a safe place in the custody of the Assistant Director (Legal and Governance). A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Assistant Director (Legal and Governance) should be sealed or in relation to the procurement of goods and services, for contracts valued at £100,000 or over. The affixing of the Common Seal will be attested by any one of the following persons: the Chief Executive, any Directors, Assistant Directors, Legal Services Manager, or any other person duly authorised by the Assistant Director (Legal and Governance).

5.5 For any contracts valued at £500,000 or over, the affixing of the Common Seal will be attested by any two of the above persons.

5.6 An entry of every sealing of a document shall be made and consecutively numbered in a register to be provided for the purpose and shall be signed or initialled by the person who has attested the seal

## **6. ELECTRONIC SIGNING AND SEALING OF DOCUMENTS**

6.1 A document may be signed or sealed by electronic means, provided that the signing or sealing of the document by such means is permitted by law and the method of electronic signing or sealing to be utilised has been approved by the Assistant Director (Legal and Governance) for use in relation to the type of document concerned. The requirements of this Constitution relating to the signing and sealing of documents shall apply regardless of whether electronic or physical means of signing or sealing are used.

# RESPONSIBILITY FOR NON-EXECUTIVE COUNCIL FUNCTIONS

Who is Responsible	Membership	Non-Executive Functions	Delegation of Functions
Council	48 Members of the Council	<p>Unless otherwise specified, only the Council will exercise the following functions:</p> <ol style="list-style-type: none"> <li>1. Adopting and changing the Constitution.</li> <li>2. Approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer as proposed by the Cabinet or Overview and Scrutiny Committee.</li> <li>3. Making decisions about any matter in the discharge of an executive function which is not within the budget or policy framework, unless the decision is urgent within the meaning set out in the Budget and Policy Framework Procedure Rules in Part 4 of the Council's Constitution.</li> <li>4. Appointing the Leader, Mayor and Deputy Mayor of the Council.</li> <li>5. Receiving an annual report from the Overview and Scrutiny Committee in relation to its work.</li> <li>6. Agreeing and/or amending the terms of reference for Committees, exercising non-executive functions, deciding on their composition and making appointments to them.</li> <li>7. Selecting and appointing external auditors or auditor panels under the provision of the Local Audit and Accountability Act 2014.</li> <li>8. Appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council.</li> <li>9. Adopting a Members Allowance scheme as set out in Part 6 of the Council's Constitution.</li> <li>10. Changing the name of the area, conferring the title of Honorary Alderman or Freedom of the Borough.</li> <li>11. Confirming the appointment of the Head of Paid Service, Monitoring Officer and Chief Finance Officer.</li> <li>12. Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills.</li> <li>13. Exercising all Local Choice Functions set out in Part 3 of the Council's Constitution which the Council decides should be undertaken by itself or delegated to non-executive Committees rather than the Cabinet.</li> <li>14. Debating and deciding the response to petitions containing more than 1,500 signatures, for Council functions.</li> </ol> <p>—<u>The function of making, varying or revoking an Early Morning Alcohol Restriction Order.</u></p>	<p>Functions are delegated to Officers to the extent listed in the Responsibility for Functions in Part 3 of the Council's Constitution.</p>

—The function of introducing, varying or ceasing a Night Late Levy.

—To make a resolution to not permit casinos.

~~44.~~ To make resolutions for street trading.

15. All other matters which, by law, must be reserved to the Council.



Who is Responsible	Membership	Non-Executive Functions	Delegation of Functions
Standards Committee and Sub-Committees	6 Members comprising 5 Council Members (to include one Executive Member) and 1 non-voting Co-opted Local Councils Association Representative (plus Independent Persons)	<p>Reporting direct to Council Its responsibilities are:</p> <ol style="list-style-type: none"> <li>1. Promoting and maintaining high standards of conduct by Members and Co-Opted Members of the authority.</li> <li>2. Advising and assisting Town and Parish Councils and Councillors to maintain high standards of conduct and to make recommendation to Town and Parish Councils on improving standards or actions following a finding of a failure to comply with the Code of Conduct by a Town or Parish Councillor.</li> <li>3. To progress complaints on behalf of Town and Parish Councils. The Head of law and Administration is the Council's Monitoring Officer in accordance with the Local Government and Housing Act 1989 (Section 5) and has statutory functions under the Localism Act 2011 in relation to keeping of a Register of Members' Interests, and in relation to conduct matters which have been brought to the Council's Standards Committee. These functions apply to Members and voting co-opted Members of the Council and all Parish/Town Councils within its area.</li> <li>4. Advising the Council on the adoption or revision of the Members' Code of Conduct.</li> <li>5. To receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the authority complaint assessment criteria.</li> <li>6. Receiving reports from the Monitoring Officer and assessing the operation and effectiveness of the Members' Code of Conduct.</li> <li>7. Arranging to train Members and Co-Opted Members on matters relating to the Members' Code of Conduct.</li> <li>8. Assisting Councillors and Co-Opted Members to observe the Members' Code of Conduct.</li> <li>9. Hearing and determining complaints about Members and Co- Opted Members referred to it by the Monitoring Officer.</li> <li>10. Advising the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council.</li> <li>11. Maintaining oversight of the Council's arrangements for dealing with complaints <a href="#">regarding Member Conduct</a>.</li> <li>12. Informing Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints.</li> </ol>	<p>The Assistant Director (Legal and Governance) is the Council's Monitoring Officer in accordance with the Local Government and Housing Act 1989 (Section 5) and has statutory functions under the Localism Act 2011 in relation to keeping of a Register of Members' Interests, and in relation to conduct matters which have been brought to the Council's Standards Committee. These functions apply to Members and voting co-opted Members of the Council and all Parish/Town Councils within its area.</p>

Who is Responsible	Membership	Non-Executive Functions	Delegation of Functions
		<p>13. To establish a sub-committee/hearings panel for hearing and determining complaints about members and Co-Opted Members referred to it by the Monitoring Officer including the imposition of any actions where considered appropriate.</p> <p>14. Reviewing Council use of the Regulation of Investigatory Powers Act 2000.</p> <p><a href="#">Considering the Annual Governance Statement.</a></p>	
Overview and Scrutiny Committee	13 Members of the Council who are not to include Members of the Cabinet	<p>The Council has appointed an Overview and Scrutiny Committee to discharge certain of its functions relating to call-in, policy and budget review and development and the scrutiny of decision making.</p> <p>The Overview and Scrutiny Committee will:</p> <ol style="list-style-type: none"> <li>1. exercise call-in of Cabinet decisions</li> <li>2. assist Council and Cabinet with the development of its strategic budget and policy framework</li> <li>3. carry out or commission full and comprehensive reviews of any of the Council's policies, strategies or operations relating to the Council's functions</li> <li>4. make reports and/or recommendations to the Cabinet in connection with the discharge of any its functions</li> <li>5. consider any matter affecting the borough or its inhabitants</li> <li>6. access through an information hub, key performance data and other service information, in order to fulfil its functions</li> <li>7. make reports and/or recommendations to the Council and/or the Cabinet in connection with the discharge of any functions</li> <li>8. set its own work programme and agenda</li> <li>9. provide an annual report to Council on its work programme and outcomes achieved</li> <li>9-10. <a href="#">Have oversight of Ombudsman complaints, scrutinising the annual Ombudsman reports</a></li> <li>10-11. <a href="#">Oversee Councillor calls for action</a></li> </ol>	

Who is Responsible	Membership	Non-Executive Functions	Delegation of Functions
Audit Committee	<p>5 Members of the Council (who are independent of Cabinet, Overview and Scrutiny Panel)</p> <p>Plus at least 1 co-opted independent.</p>	<p>To provide an independent and high-level focus on the adequacy of the Council's governance, risk and control arrangements.</p> <p>To have oversight of both internal and external audit including the Council's financial reporting process and governance. Ensuring that there are adequate arrangements in place for both internal challenge and public accountability.</p> <p>To review and make recommendations to the Council on the selection/appointment of external auditors.</p> <p>The Committee is accountable to full council.</p> <p>In order to effectively discharge these responsibilities:</p> <ul style="list-style-type: none"> <li>a) the Committee may require any officer to attend meetings of the Committee so it may receive explanations regarding any matter that it is considering.</li> <li>b) the Committee may have contact with the Council's External Auditor and Head of Internal Audit.</li> <li>c) the Committee will have access to, and the right to engage with, other Committees.</li> </ul> <p><b><u>Role and Functions</u></b></p> <p>The core functions of the audit committee are to provide oversight of a range of core governance and accountability arrangements, responses to the recommendations of assurance providers and helping to ensure robust arrangements are maintained.</p> <p>The specific responsibilities include:</p> <p><b><u>Maintenance of governance, risk and control arrangements</u></b></p> <ul style="list-style-type: none"> <li>1. Support a comprehensive understanding of governance across the organisation and among all those charged with governance, fulfilling the principles of good governance.</li> <li>2. Consider the effectiveness of the authority's risk management arrangements. Understand the risk profile of the Council and seek assurances that active arrangements are in place on risk- related issues.</li> <li>3. Monitor the effectiveness of the system of internal control, including arrangements for financial management, value for money, standards and ethics and fraud and corruption.</li> </ul>	

Who is Responsible	Membership	Non-Executive Functions	Delegation of Functions
		<p><u>Financial and governance reporting</u></p> <ol style="list-style-type: none"> <li>4. Be satisfied that the Council's accountability statements (including the annual governance statement), properly reflect the risk environment and any actions required to improve <a href="#">it and</a> demonstrate how governance supports the achievement of the Council's objectives.</li> <li>5. Support the maintenance of effective arrangements for financial reporting, including the review and approval of the statutory statement of accounts and any reports that accompany them.</li> </ol> <p><u>Establishing appropriate and effective arrangements for audit and assurance</u></p> <ol style="list-style-type: none"> <li>1. Consider the arrangements in place to secure adequate assurance across the Council's full range of operations (and any collaborations with other entities).</li> <li>2. In relation to the authority's internal audit functions: <ul style="list-style-type: none"> <li>• oversee its independence, objectivity, performance and conformance to professional standards</li> <li>• support effective arrangements for internal audit</li> <li>• promote the effective use of internal audit within the assurance framework.</li> </ul> </li> <li>3. Consider the opinion, reports and recommendations of external audit (and inspection agencies) and their implications for governance, risk management or control, and monitor management action in response to the issues raised by external audit.</li> <li>4. Contribute to the operation of efficient and effective external audit arrangements, supporting the independence of auditors and promoting audit quality.</li> <li>5. Support effective relationships between all providers of assurance, audits and inspections, and the organisation, encouraging openness to challenge, review and accountability.</li> </ol>	

Who is Responsible	Membership	Non-Executive Functions	Delegation of Functions
Development Management Committee	13 Members of the Council (may include one Cabinet Member, but not as the Chairman or Vice-Chairman)	To be responsible for all matters relating to Development Management, Enforcement and all Town Planning matters under the Town and Country Planning legislation, and all related matters.	Executive Director (Place) and Assistant Director (Planning)
Hertfordshire Growth Board Scrutiny Committee	12 Members including the LEP. Members must not be Executive members of their appointing authority.	<p>The Scrutiny Committee will provide pre-scrutiny of the business of the HGB. It will also act as a forum for discussion with a wider range of members and stakeholders across Hertfordshire. The Scrutiny Committee may review and comment on reports to the HGB, offer advice to HGB on the discharge of its functions and may review its work</p> <p>Meetings of the Scrutiny Committee will normally be scheduled shortly prior to meetings of the HGB, in order to facilitate its pre-scrutiny function</p> <p>The HGB members shall appoint a Chair and one Vice-Chair to the Scrutiny Committee. There shall be a two-year non-consecutive limit on the Chair's appointment (i.e., he/she may be reappointed, but only after a different member has been Chair).</p> <p>Meetings shall have a quorum of 7 members</p> <p>Voting where required shall be by simple majority, in accordance with legislative requirements. As with the HGB, the Chair shall be entitled to a casting vote, but there will be a convention that he/she will not rely on this.</p> <p>Meetings will be open to public attendance (whether physical or virtual meetings) and will accept questions and petitions from the public.</p>	

Who is Responsible	Membership	Non-Executive Functions	Delegation of Functions
Licensing Committee	<p><del>7 Members of the Council</del></p> <p>If this is the Licensing Committee that fulfils the requirements for Licensing Act and Gambling Act (that is not the sub-committee of 3 members) it needs to be 10-15 members.</p> <p><u>10-15 Members of the Council</u></p>	<ol style="list-style-type: none"> <li><del>1. To review and recommend to Council the approval of the council's statements of licensing policy and principles under the Licensing Act 2003</del></li> <li><del>2. To review and recommend to Council the approval of the council's statements of licensing policy and principles under the Gambling Act 2005</del></li> <li><del>3. -To delegate other functions under the Gambling Act 2005 and the Licensing Act 2003 to the Alcohol and Regulated Entertainment Licensing Sub-Committee.</del></li> <li><del>4.4. To consider applications for local licences (excluding <del>licences</del> those matters under the Gambling Act 2005 and Licensing Act 2003 which are delegated <del>dealt with to</del> by the Alcohol and Regulated Entertainment Licensing Committee sub-committee), registrations and consents where either <u>representation</u> have been received or the relevant service considers a decision by members is more appropriate having regard to the circumstances of the application.</del></li> <li><del>2.5. To consider whether hackney carriage/private hire vehicle, driver or operator licences should be <u>suspended or revoked</u> refused</del></li> <li><del>3.6. To agree the procedures for licensing hearings on behalf of the council</del></li> <li><del>4.7. To approve the council's statements of licensing policy and principles</del></li> <li><del>5.—</del></li> <li><del>6. To determine conditions to be placed on licences (excluding licences dealt with by the Alcohol and Regulated Entertainment Licensing Committee)</del></li> <li><del>8. To agree standard terms and conditions for licences</del></li> <li><del>9. To determine conditions to be placed on licences (excluding licences dealt with by the Alcohol and Regulated Entertainment Licensing Sub-Committee)</del></li> <li><del>7.—</del></li> <li><del>8.10. To determine hackney carriage fares</del></li> <li><del>9. To make early morning alcohol restriction orders</del></li> <li><del>10. As part of the annual budget process to make recommendations to Council as regards the setting of licensing fees</del></li> </ol>	<p>Functions <del>1-10</del> <u>check this</u> are delegated to the Service Director (Resident and Neighbourhood) to the extent as detailed in Part 3.</p>

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|  |  | <ol style="list-style-type: none"><li>11. To deal with all other licensing matters on behalf of the Council except where statute demands they are dealt with by other means</li><li>12. To set up topic or sub-groups as required by the committee to assist with its work</li></ol> |  |
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Who is Responsible	Membership	Non-Executive Functions	Delegation of Functions
Alcohol and Regulated Entertainment Licensing Committee	10 to 15 Members of the Council. The political proportionality rules do not apply.	1.	



<p>Alcohol and Regulated Entertainment Licensing Committee</p>	<p>10 to 15 Members of the Council. The political proportionality rules do not apply.</p>	<p><del>1. To consider applications in connection with personal licences, premises licences, club premises, certificates and notifications of temporary event notices and all other applications/ notifications made under the Licensing Act 2003</del></p>	<p><del>Functions are delegated in accordance with the Licensing Policy made pursuant to Section 5 of the Licensing Act 2003 and the Gambling Act Statement of Principles made pursuant to Section 349 of the Gambling Act 2005.</del></p>
<p><u>Alcohol and Regulated Entertainment Licensing Sub-Committee</u></p>	<p><u>3 members selected from the pool of 10-15 members of the Licensing Committee</u></p>	<p><u>To deal with:</u></p> <ol style="list-style-type: none"> <li><u>2. Application for a personal licence under the Licensing Act 2003 if a Police representation is made and not withdrawn</u></li> <li><u>3. Application for a premises licence under the Licensing Act 2003 if a representation is made and not withdrawn</u></li> <li><u>4. Application for a club premises certificate under the Licensing Act 2003 if a representation is made and not withdrawn</u></li> <li><u>5. Application for a provisional statement under the Licensing Act 2003 if a representation is made and not withdrawn</u></li> <li><u>6. Application to vary premises licence/club certificate under the Licensing Act 2003 if a representation is made and not withdrawn</u></li> <li><u>7. Application to vary designated personal licence holder under the Licensing Act 2003 if a Police representation is made and not withdrawn</u></li> <li><u>8. Application for transfer of premises licence under the Licensing Act 2003 if a representation is made and not withdrawn</u></li> <li><u>9. Applications for interim authority notice under the Licensing Act 2003 if a representation is made and not withdrawn</u></li> <li><u>10. Application to review a premises licence under the Licensing Act 2003</u></li> <li><u>11. Application to review a club premises certificate under the Licensing Act 2003</u></li> <li><u>12. Decision to object when local authority is a consultee and not the lead authority under the Licensing Act 2003</u></li> <li><u>13. Consideration of a police representation to a temporary event notice under the Licensing Act 2003.</u></li> <li><u>14. revocation of licence where convictions come to light after grant under the licensing Act 2003.</u></li> <li><u>15. revocation or suspension of licence under the Licensing Act 2003 where it becomes aware of convictions or immigration penalties).</u></li> </ol> <p><del>2. To consider applications in connection with premises licences, club gaming permits, club machine permits, licensed premises gaming</del></p>	<p><u>Other Functions delegated to the Service Director (Resident and Neighbourhood) to the extent as detailed in Part 3.</u></p>

~~machine permits, prize giving permits and all other applications/notifications/registrations made under the Gambling Act 2005~~

~~3. To conduct hearings in respect of any of the applications referred to in 1 and 2 above in accordance with the Council's Statement of Licensing Policy and the Council's Gambling Act statement of principles~~

~~— To conduct hearings following requests to review premises licences and the type referred to in 1 and 2 above~~

16. Application for a premises licence under the Gambling Act 2005 if a representation is made and not withdrawn

17. Application for a variation to a premises licence under the Gambling Act 2005 if a representation is made and not withdrawn

18. Application to vary a premises licence under the Gambling Act 2005 if a representation is made and not withdrawn

19. Application for a provisional statement under the Gambling Act 2005 if a representation is made and not withdrawn

20. Application to review a premises licence under the Gambling Act 2005

21. Application for club gaming /club machine permits under the Gambling Act 2005 if a representation is made and not withdrawn

22. Cancellation of club gaming/ club machine permits under the Gambling Act 2005

23. Decision to give a counter notice to a temporary use notice under the Gambling Act 2005

~~4.—~~

~~5-24.~~ To deal with such hearings in accordance with the procedure laid down by the Council and regulations

~~6-25.~~ To deal with such hearings in accordance with the relevant legislation and with established Council policy and licensing conditions

~~7. To determine whether to object when the Council is a consultee and not the relevant authority considering an application made under the Licensing Act 2003 or the Gambling Act 2005~~

~~8. To cancel club gaming or club machine permits~~

~~9. To determine whether to give a counter notice to a temporary use notice~~

~~10-26. To withdraw Club Premises Registration Certificates under the~~

Licensing Act 2003

- ~~11. To delegate appropriate matters to a Sub Committee set up in accordance with the Council's statement of licensing policy~~
- ~~12. To determine whether to give a counter notice to a temporary event notice~~
- ~~13.27. To consider applications under the Scrap Metal Dealers Act 2013~~

Who is Responsible	Membership	Non-Executive Functions	Delegation of Functions
Member Development Steering Group	4 Members of the Council	<ol style="list-style-type: none"> <li>1. To be responsible for the Members' Skills Audit</li> <li>2. To agree the annual Member Induction Programme</li> <li>3. To agree the annual Member Development Programme in response to Members' needs and corporate requirements</li> <li>4. To lead on and work with the Hertfordshire Member Development Network</li> <li>5. To receive and monitor the effectiveness of the development and induction programmes to ensure that Members' needs are met</li> <li>6. To encourage Members from all political groups to attend Member Development sessions and to monitor non-attendance and the reasons for this</li> <li>7. To consider all methods of learning and, where possible, make these available to Members</li> <li>8. To support Members' Community Leadership role</li> </ol>	
Officer Appointment Panel	Cabinet and Opposition Group Leaders plus 1 external advisor	Responsibility to undertake the recruitment and selection process of the Chief Executive (Head of Paid Service) and to make such recommendation on the appointment to Council as is considered appropriate	
Investigating and Disciplinary Committee	5 Members of the Council, including at least one Executive Member	<ol style="list-style-type: none"> <li>1. To determine the procedure to be followed by the Investigating and Disciplinary Committee</li> <li>2. To receive, assess and consider any complaint or allegation relating to a Statutory Officer</li> <li>3. To appoint and receive reports from an independent investigator as appropriate</li> <li>4. To receive reports and advice from the Independent Panel in the event dismissal of a Statutory Officer is being considered</li> <li>5. To determine and issue sanctions short of dismissal for a Statutory Officer</li> <li>6. Subject to receiving advice from the Independent Panel, to make any recommendations to Council for the dismissal of a Statutory Officer</li> </ol>	

Who is Responsible	Membership	Non-Executive Functions	Delegation of Functions
Appeal Committee	5 Members of the Council, including at least one Executive Member	<ol style="list-style-type: none"> <li>1. To determine the procedure to be followed by the Appeals Committee</li> <li>2. To receive, assess and consider any appeal by a Statutory Officer in respect of a sanction applied by the IDC</li> <li>3. To consider any appropriate and relevant reports and submissions to the matter</li> <li>4. To decide either to confirm the sanction applied by the IDC, impose no sanction or apply a lesser sanction</li> </ol>	

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# RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

Who is Responsible	Membership	Executive Functions	Delegation of Functions
Cabinet	Up to 10 Members of the Council to be determined by the Leader	<p>Executive Functions are all functions that are not reserved by law to Council.</p> <p>These include:</p> <ol style="list-style-type: none"> <li>1. Review and approval of all relevant strategies, plans and policies that can be determined by the Executive</li> <li>2. To drive forward and review the Corporate Objectives and policy programme within the policy and budgetary framework, shaping overall strategy, overseeing policy implementation and organisational performance in the round</li> <li>3. To consider the capital strategy and the annual budget of the Council and make recommendations for final approval by the Council</li> <li>4. The setting of the Council tax base and approval of the NNDR 1 form (Government return on Business Rates)</li> <li>5. To have overall responsibility for the financial administration and monitoring of the Council's expenditure and income</li> <li>6. To determine policies in relation to land acquisition and disposal</li> <li>7. To work in partnership with, assist and provide leadership to key partners, local people and local groups to foster a sense of community, <a href="#">co-operation</a> and pride within the Borough</li> <li>8. To develop joint working with the <a href="#">health</a> partners, Police, County Council, private companies and other bodies in order to deliver better outcomes for residents</li> <li>9. To consider and agree the Council's strategies under the Equality Act 2010 or any consequential equalities legislation</li> <li>10. To promote health and wellbeing in the Borough</li> <li>11. To promote community safety in the Borough</li> <li>12. To promote high quality and adequate housing, particularly affordable housing, within the Borough</li> <li>13. To drive forward the Council's corporate environmental strategy and organisation wide approach to the environment</li> <li>14. To promote favourable transportation and infrastructure policies for the borough</li> </ol>	Please see Officer Delegations detailed in Part 3 of this Constitution

Who is Responsible	Membership	Executive Functions	Delegation of Functions
		<p>15. To provide the strategic direction, provision, management and improvement of all Borough leisure facilities and services and work in partnership with all relevant external partners</p> <p>16. To be responsible for the formulation of the Council's planning strategies for the Council and make appropriate recommendation to Council for adoption of the Local Plan</p> <p>17. To approve the policies and administration of the Welwyn Garden City Estate Management Scheme</p> <p><u>18.</u> To promote economic development and investment to the borough to achieve, in partnership with others, a buoyant and robust local economy, with steady and sustainable development</p> <p><u>18.19.</u> To make, extend, vary or discharge Public Spaces Protection Orders.</p>	
Cabinet Housing Panel	As determined by the Leader And to include co-opted members consisting of two Tenants Panel representatives and two Independent Representatives (professionals in housing and development)	<p>1. To work on the development of strategies, policies and plans relating to operational and strategic housing functions and make recommendations to Cabinet in relation to the adoption of such strategies, policies and plans</p> <p>2. To consider the results of performance reports in relation to the provision of services to tenants and leaseholders and the repair and maintenance of housing properties and make recommendations to Cabinet as appropriate in the light of performance</p> <p>3. To monitor progress of the Housing and Homelessness Strategy and other related strategies and plans</p> <p>4. To consider reports arising from the scrutiny of housing operations as tabled by the Borough's Tenants Panel and make recommendations to Cabinet on service improvements identified through this scrutiny process</p> <p><del>5.</del> To consider reports from the council's housing company against its business plan targets and make any appropriate recommendations to Cabinet</p> <p><del>6-5.</del> To agree responses to consultations where relevant</p>	Please see Officer Delegations detailed in Part 3 of this Constitution.



Who is Responsible	Membership	Executive Functions	Delegation of Functions
Cabinet Planning and Parking Panel	As determined by the Leader	<ol style="list-style-type: none"> <li>1. To work on the development of strategies, policies and plans relating to planning and transportation matters and make recommendations to Cabinet in relation to the adoption of such strategies, policies and plans. In doing so, to consider the results of any sustainability appraisal report of such policies and plans where relevant and the results of any public consultation</li> <li>2. To evaluate and submit representations to planning documents (through officers) prepared by other local planning authorities, statutory bodies and non-statutory bodies on county-wide minerals plans, waste plans, transport plans, infrastructure plans and other plans</li> <li>3. To consider the results of the Annual Monitoring Report including progress in meeting the key milestones in the Local Development Scheme and to make recommendations to the Cabinet as appropriate in the light of the Annual Monitoring Report</li> <li>4. To agree responses to consultations where relevant</li> </ol>	Please see Officer Delegations detailed in Part 3 of this Constitution.
Grants Board	As determined by the Leader	Acting in accordance with the Council's budget provision for grants and the Community Grants Policy, to allocate small community <a href="#">grants</a> , make recommendations to Cabinet for the allocation of larger annual grants, and too determine the eligibility criteria for good causes and make decisions in relation to the Community Lottery Scheme.	
Cabinet Grants Appeals Committee	3 Members of the Cabinet as determined by the Leader	<ol style="list-style-type: none"> <li>1. To determine appeals from applicants turned down for grant aid by Officers.</li> <li>2. To hear and determine appeals from organisations that are entitled to make personal representations, if they believe the decisions taken by the Business Rate Section are unjust or they believe they have additional information which may increase their entitlement to rate relief</li> </ol>	

Who is Responsible	Membership	Executive Functions	Delegation of Functions
Campus West Cabinet Panel	As determined by the Leader	<p>To recommend to Cabinet:</p> <ol style="list-style-type: none"> <li>1. The setting of a three-year investment programme with an accompanying Strategy, and develop an indicative five to ten years Business Plan for Campus West</li> <li>2. Proposals for the enhancing of Campus West's reputation as a well-regarded provider of arts and leisure services in the Borough, so the business is seen to be both community minded and commercially sensitive</li> </ol>	Please see Officer Delegations detailed in Part 3 of this Constitution
Estate Management Scheme Member Group	7 Members, with a preference for Welwyn Garden City ward councillors	<ol style="list-style-type: none"> <li>1. To consider and make policy recommendations to Cabinet</li> <li>2. To consider and make design guide recommendations to Cabinet</li> <li>3. To consider and make enforcement protocol recommendations to Cabinet</li> <li>4. To consider and make fee recommendations to Cabinet and Council</li> </ol> <p>The Group will not decide any individual applications, appeals or enforcement cases.</p>	Please see Officer Delegations detailed in Part 3 of this Constitution.
<del>Welwyn Garden City Estate Management Appeals Panel</del>	<del>As determined by the Leader, ideally selected from members within the Estate Management Scheme area</del>	<del>1. To consider appeals against the refusal of Welwyn Garden City Estate Management Consent where the applicant is not in agreement with the decision and negotiation has proved ineffective</del> <del>2.1. To consider enforcement and further action under the Welwyn Garden City Estate Management Scheme</del>	<del>Please see Officer Delegations detailed in Part 3 of this Constitution.</del>
<del>Welwyn Garden City Estate Management Panel</del>	<del>7 Members, with a preference for Welwyn Garden City ward councillors</del>	<del>1. To consider and determine applications for Welwyn Garden City Estate Management Consent referred to the panel by the Head of Planning and applications for Welwyn Garden City Estate Management Consent called in to the Panel for determination by a Member of the Council.</del>	<del>Please see Officer Delegations detailed in Part 3 of this Constitution.</del>
Hertfordshire Growth <a href="#">Board</a>	12 Members, comprising one Member from each council and one Member from the LEP	<p>See attached:</p> <ol style="list-style-type: none"> <li>1. Terms of Reference of the Hertfordshire Growth Board”</li> <li>2. “Hertfordshire Growth Board Standing Orders”</li> <li>3. “Hertfordshire Growth Board Scrutiny Committee Terms of Reference”</li> <li>4. “Hertfordshire Growth Board Scrutiny Committee Standing Orders”</li> </ol>	

Who is Responsible	Membership	Executive Functions	Delegation of Functions
<a href="#">Cross Party Housing Maintenance Contract Mobilisation Project Board</a>	<a href="#">7 Members, politically proportionate.</a>	<ol style="list-style-type: none"> <li><a href="#">1. Review progress of mobilisation;</a></li> <li><a href="#">2. Monitor the project implementation plan;</a></li> <li><a href="#">3. Review the risk register and associated contingency plans;</a></li> <li><a href="#">4. Oversee the overarching communications plan for tenants and leaseholders</a></li> <li><a href="#">5. Receive an update on the performance of the current provider during the mobilisation period; and</a></li> <li><a href="#">6. Receive an update on the performance of the new provider during the first year of the contract</a></li> <li><a href="#">7. Receive an update on damp and mould properties</a></li> </ol>	<a href="#">Please see Officer Delegations detailed in Part 3 of this Constitution.</a>
<a href="#">Climate Change Sub-Group</a>	<a href="#">7 Members, politically proportionate.</a>	<ol style="list-style-type: none"> <li><a href="#">1. To receive information to assist Members in understanding the effects of climate change and the Council's role in adaption to and mitigation from those effects</a></li> <li><a href="#">2. To review and update the Council's Climate Change Policy.</a></li> <li><a href="#">3. To produce an Action Plan with the aim of reducing the Council's carbon emissions, with a target for net-zero carbon emissions by 2030.</a></li> <li><a href="#">4. To set and recommend to Cabinet the criteria for grants to be awarded to local organisations to improve their carbon footprint.</a></li> <li><a href="#">5. To regularly report to the <del>Environment</del> Overview and Scrutiny Committee (EOSC) and Council on progress, including a report to Council in <del>autumn 2019.</del></a></li> </ol>	<a href="#">Please see Officer Delegations detailed in Part 3 of this Constitution.</a>  <a href="#">Approval of supplementary estimates for projects to be funded from the Climate Change Earmarked Reserve</a>
<a href="#">Customer Service Project Board</a>	<a href="#">7 Members, politically proportionate.</a>	<p>The Cross Party Customer Services Project Board will oversee the development of customer service elements of the Transformation Strategy associated projects, as appropriate, including:</p> <ol style="list-style-type: none"> <li>1. Review progress of the development of the Customer Service Strategy;</li> <li>2. Input into the key objectives and performance standards;</li> <li>3. Oversee the overarching communications plan for resident engagement of the new strategy;</li> <li>4. Review any project risk registers and associated contingency plans, as appropriate</li> </ol>	<a href="#">Please see Officer Delegations detailed in Part 3 of this Constitution.</a> TBC

		5. Review the Council's approach to non-statutory consultations, making recommendations to Cabinet, as appropriate.	
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# TERMS OF REFERENCE OF THE HERTFORDSHIRE GROWTH BOARD

## 1. PARTIES

Hertfordshire County Council  
Borough of Broxbourne Council  
Dacorum Borough Council  
East Hertfordshire District Council  
Hertsmere Borough Council  
North Hertfordshire District Council  
St Albans City and District Council  
Stevenage Borough Council  
Three Rivers District Council  
Watford Borough Council  
Welwyn Hatfield Borough Council  
Hertfordshire Local Enterprise Partnership (**LEP**)

## 2. STATUS

- 21 The Hertfordshire Growth Board (**HGB**) has been established by Hertfordshire County Council and the District and Borough Councils listed above. It is a joint committee of these Councils, established by the Councils under sections 101 and 102 of the Local Government Act 1972, section 9EB of the Local Government Act 2000 and pursuant to the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012.

## 3. MEMBERSHIP

- 3.1 Twelve members, comprising one elected member from each Council (anticipated to be the Leader/Directly Elected Mayor of each Council) with full voting rights, and a member nominated by the LEP (anticipated to be the Chair of the LEP) who is a co-opted non-voting member. The elected members shall be obliged to have due regard to the representations made by the LEP member.
- 3.2 Each constituent council may appoint a substitute from time to time. The substitute member shall have the same rights of speaking and voting at the meetings as the member for whom the substitution is made.
- 3.3 The HGB, with the agreement of its members, may co-opt other non-voting members to its membership where it is considered conducive to the effective consideration of any matter.
- 3.4 The HGB may appoint representatives to other outside bodies of which the HGB has membership. FUNCTIONS

## General Functions

35 The HGB has delegated authority to exercise the following functions:

- a) Exercising strategic direction, monitoring, delivery and co-ordination of current and future Growth Board strategy, programmes and implementation of any Growth Deal Project;
- b) Effective place leadership, ensuring that interests relating to spatial planning, economic prosperity, infrastructure provision, health provision, sustainability and climate change mitigation are effectively taken into account, coordinated and incorporated in place-making, in order to safeguard and maintain Hertfordshire's unique quality of life and prosperity;
- c) Securing strategic collaboration and delivery across the councils and with the LEP in accordance with the policy objectives of the partner organisations;
- d) Acting as the place leadership body for Hertfordshire that may act as a single voice to Government (and other national and sub-national bodies) on issues relevant to its ambit;
- e) Coordinating the prioritisation of Growth Board funding from devolved and other funding sources for infrastructure schemes, to ensure that decisions are made in one place and supported by all relevant partners and stakeholders;
- f) Promoting and lobbying for Hertfordshire's interests and for funding;
- g) Oversight, accountability for and prioritisation of the Growth Board Growth fund;

To bring together the work of the emerging South West Herts Joint Planning and North, East and Central Herts Joint Planning groups, ensure strategic infrastructure requirements are identified and fed into the Hertfordshire Infrastructure and Funding prospectus.

- h) To maintain a current understanding of infrastructure needs through the Hertfordshire Infrastructure and Funding prospectus and other sources so key infrastructure priorities needed to support economic and housing growth can be determined.
- i) To maintain particular focus on the successful regeneration of Hertfordshire's New Towns, the health of Town Centres and development and delivery of new Garden Towns and Communities.

## Specific Functions

- 36 The HGB also has delegated authority to:
- a) Approve single position statements in relation to strategic Growth Deal issues;
  - b) Approve projects, including the allocation of project funding, which fall within the ambit of a future Growth Deal agreement;
  - c) Approve the major priorities under the auspices of a future Growth Deal;
  - d) Approve plans and strategies necessary or incidental to the implementation of a Growth Deal; and
  - e) Consider recommendations from the HGB Scrutiny Committee.
- 37 For the avoidance of doubt, the following non-executive and executive functions of the constituent Councils (and where applicable, the LEP) are excluded from the delegations to the HGB:
- a) Statutory planning functions;<sup>2</sup>
  - b) Statutory housing functions;
  - c) Statutory functions relating to economic development;
  - d) Statutory highways and transport functions;
  - e) Matters incidental to the exercise of the above functions.

## **4. PROFESSIONAL AND ADMINISTRATIVE SUPPORT**

- 4.1 Hertfordshire County Council shall act as the accountable body for the HGB in respect of financial matters and its financial procedure rules will apply in this context. It will provide Section 151 and Monitoring Officer roles to the Committee in accordance with its internal procedures.
- 4.2 Hertfordshire County Council's Director of Finance (Section 151 Officer) will provide the HGB with quarterly financial reports for funding that has been allocated directly to Hertfordshire County Council as the Accountable Body. These reports will provide the HGB with an overview of the funds spent and funds committed against funds allocated.
- 4.3 For those programmes and funding streams where another local authority is the Accountable Body, the relevant Section 151 Officer will provide the financial and performance information to the County Council's Section 151 Officer, for integration into the quarterly reporting process.
- 4.4 Committee management and administrative support to the HGB will be provided by Hertfordshire County Council.

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<sup>2</sup>This includes acting as Local Planning Authority on strategic planning matters, applications, approval and designation, consultations/referendums revocation (or recommend revocation of) neighbourhood plans, Article 4 Directions and

4.5 The lead role on projects shall be determined by the HGB, subject to the guiding principle that the lead council should normally be the Council primarily responsible for the service in question for their area. The procurement and other rules of the lead council will apply in respect of projects.

## **5. STANDING ORDERS**

5.1 The HGB will be governed by the Standing Orders set out in Annex A attached to these Terms of Reference.

## **6. ADVISORY SUB-GROUPS**

6.1 The HGB may establish Programme Boards/Advisory Sub-Groups to oversee specific work programmes or broader thematic areas as required. Programme Boards/Sub-Groups, reporting into the HGB, will be managed in accordance with separate terms of reference as agreed by the HGB.

6.2 The role, remit and membership of Programme Boards/Advisory Sub-Groups will be reviewed regularly to ensure they remain flexible to the demands of ongoing and new programmes of work.

## **7. WITHDRAWAL**

7.1 The firm intention is that HGB will continue until the programme is completed. Recognising the very serious implications of withdrawal from the HGB for the delivery of any Growth Deal programme, if a Council decides to withdraw from its role within HGB, it commits to sharing this with HGB members at the earliest possible opportunity, and to entering into constructive discussions to avoid this happening or to reach a way forward.

7.2 In all cases:

- a) A minimum of six months' prior notice shall be given before withdrawal; and
- b) Withdrawal shall take effect from the beginning of the financial year.

## **8. COSTS**

8.1 The costs of running the HGB will be funded from the HGB Growth Fund in combination with officer time contributions from constituent councils.

8.2 Each Council makes a legally binding commitment that, should it withdraw from the HGB, it shall pay all additional costs (such as increased project costs) that fall to be met by the other partner Councils that are reasonably attributable to that withdrawal. This could include, for example, the costs that are locked in to projects that have already been committed to, or the costs of dissolving integrated officer and Member arrangements and re-establishing independent arrangements.



## 9. DISPUTE RESOLUTION

- 9.1 This section 10 governs disputes which may arise between the members and former members (including the LEP member, but not including any other co-opted member) in relation to these Terms of Reference or the Standing Orders of the HGB, or the decisions or operations of the HGB (a **Dispute**).
- 9.2 Each member as defined in paragraph 10.1 shall be entitled to refer a Dispute to the Heads of Paid Service of the member Councils and the Chief Executive of the LEP (together the **Dispute Panel**), who shall seek to agree a resolution. If the Dispute Panel is unable to resolve the matter within 1 month of it being referred to them, it shall agree any further dispute resolution procedure that it deems appropriate. This may include but is not limited to mediation via the Centre for Effective Dispute Resolution (CEDR).

# **HERTFORDSHIRE GROWTH BOARD STANDING ORDERS**

## **1. MEMBERSHIP**

- 1.1 The HGB will have a voting membership of eleven, each Council being entitled to appoint one voting member.
- 1.2 The HGB may agree to co-opt other non-voting members to its membership where it is considered conducive to the effective consideration of any matter.

## **2. ALTERNATE OR SUBSTITUTE MEMBERS**

- 2.1 Each Council will be entitled to appoint from time to time one named alternate or substitute member who may act in all aspects as a voting member of the HGB in the absence of the voting member appointed.
- 2.2 The LEP and any other co-opted members will be entitled to nominate an alternate or substitute member to act in the absence of their principal co-opted member.
- 2.3 Subject to the discretion of the Chair, the relevant member shall notify the HGB at least 5 working days in advance of the relevant meeting of the identity of their substitute.

## **3. TERM OF OFFICE**

- 3.1 The term of office of voting and alternate or substitute voting members shall end:
  - a) if rescinded by the appointing Council; or
  - b) if the member ceases to be a member of the appointing Council.
- 3.2 The LEP member and any co-opted members may at any time ask the HGB to replace their nominated co-opted member and alternate or substitute member by way of further nomination.

## **4. APPOINTMENT OF CHAIR AND VICE-CHAIR**

- 4.1 The HGB shall appoint a Chair and two Vice-Chairs at its first meeting. At the time of appointing the Vice-Chairs, the HGB shall decide which of them takes priority if the Chair is absent and both of them are present.

With effect from the Annual General Meeting 2023 the appointment of the Chair and Vice Chairs shall be decided annually as the first substantive item of business at the AGM.

- 4.2 There shall be no term limits for Vice-Chairs.

4.3 The co-opted members of the HGB shall not act in the role of either the Chair or the Vice-Chair of the HGB.

## **5. QUORUM**

5.1 The quorum for meetings of the HGB will be 9 voting members.

5.2 If there is no quorum at the published start time for the meeting, a period of ten minutes will be allowed, or longer, at the Chair's discretion. If there remains no quorum at the expiry of this period, the meeting will be declared null and void.

5.3 If there is no quorum at any stage during a meeting, the Chair will adjourn the meeting for a period of ten minutes, or longer, at their discretion. If there remains no quorum at the expiry of this period, the meeting will be closed and the remaining items will be declared null and void.

## **6. MEMBER CONDUCT**

6.1 HGB members appointed by the eleven Councils shall be bound by the Code of Conduct of their nominating authority. The HGB member appointed by the LEP (and those nominated by other co-opted members) will be bound by the Code of Conduct of Hertfordshire County Council.

6.2 If a member persistently disregards the ruling of the Chair, or person presiding over the meeting, by behaving improperly or offensively or deliberately obstructs business, the Chair, or person presiding over the meeting, may move that the member be not heard further. If seconded, a vote will be taken without discussion.

6.3 If the member continues to behave improperly after such a motion is carried, the Chair, or person presiding over the meeting, may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, a vote will be taken without discussion.

## **7. NOTICE OF AND SUMMONS TO MEETINGS**

7.1 Notice will be given to the public of the time and place of any meeting of the HGB in accordance with the Access to Information rules of the Council providing HGB secretariat functions.

7.2 At least seven clear working days before a meeting, a copy of the agenda and associated papers will be sent to every member of the HGB. The agenda will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such details as are available.

## 8. MEETING FREQUENCY

- 8.1 The HGB will meet on at least a quarterly basis, or as determined by the HGB, with one of those meetings acting as the annual meeting.
- 8.2 Extraordinary Meetings may be summoned by (i) the Chair, or (ii) any nine councils writing to the Chair to request one. The notice from the Chair or the letter from the nine councils shall state the business of the meeting, and no other business shall be considered.

## 9. VIRTUAL MEETINGS

- 9.1 The following provisions shall apply to meetings which are scheduled during the period that **The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020**, or such other legislation as permits meetings to take place remotely, remain in force.
- 9.2 The HGB may hold any meeting remotely using Zoom, Microsoft Teams, or any other suitable platform, and may live-stream the meeting.
- 9.3 Where it elects to do so, notice of this shall be given to the public in advance, and the platform used shall enable the public to see and hear the proceedings. A link will be made available to enable members of the public whose questions have been selected in accordance with Standing Order 12 to address the HGB. Where a public questioner is unable to access the meeting, or cannot be heard by the Members during the time allocated for his or her question, the Chair shall have discretion to move on to deal with another question, or if the question is the last to be heard, to move on to other business.
- 9.4 Voting shall be managed by the Chair, by either (i) requiring members to vote using the applicable poll function, (ii) requiring members to vote orally in turn, or (iii) any other convenient method.
- 9.5 Where the public and press are excluded under Standing Order 16, members will be required to confirm that there are no other persons present with them who are not entitled to hear or see the proceedings.
- 9.6 The Quorum provisions at paragraph 5 shall apply equally to virtual meetings.

## 10. VOTING

- 10.1 Before taking any decision, the local authority members of the HGB will have due regard to the advice and opinions expressed by the LEP member and other co-opted members.

- 10.2 HGB members commit to seek, where possible, to operate on the basis of consensus.
- 10.3 Should it not be possible in a specific instance to find a consensus, the issue shall stand deferred to a later meeting of the HGB. At the next meeting, a vote will be again taken and, if a consensus is still not achievable, the decision will be made on the basis of a simple majority.
- 10.4 The Chair shall have a casting vote; however, the convention of the HGB is that the Chair shall not exercise this.

## **11. REPORTS FROM THE HGB SCRUTINY COMMITTEE**

- 11.1 The HGB will receive reports and recommendations from the HGB Scrutiny Committee as appropriate and the Chair of the HGB Scrutiny Committee, or a nominated representative on his or her behalf, will be entitled to attend meetings of the HGB to present them.

## **12. QUESTIONS BY THE PUBLIC AND PUBLIC SPEAKING**

- 12.1 At the discretion of the Chair, members of the public may ask questions at meetings of the HGB. This standard protocol is to be observed by public speakers:
- a) There shall be a maximum of six public questions in each meeting, subject to a time limit of 30 minutes. Questions will be addressed on a first-come-first-served basis with reference to when they were submitted to the HGB, save that questions which in the opinion of the Chair are vexatious shall not be addressed;
  - b) Notice of the question should be submitted to the Chief Legal Officer of Hertfordshire County Council by 10am at least five working days before the meeting, stating to whom the question is to be put;
  - c) Questions must be limited to a maximum of 300 words;
  - d) Answers will be given in writing and will be published on the HGB website by 5pm on the day preceding the relevant meeting;
  - e) With the Chair's permission, the questioner may ask a supplementary question relevant to the original question (or its answer). The questioner's supplementary question must not last longer than two minutes. The answer to the supplementary question may be: (i) an oral answer lasting no more than three minutes; or (ii) where the desired information is contained in a publication of the Council, a reference to that publication; or (iii) in writing (to be available within seven days); or (iv) a combination of the above;
  - f) Questioners will not be permitted to raise the competence or performance of a member, officer or representative of any partner on the HGB, nor any matter involving exempt information (normally considered as 'confidential');
  - g) Questioners cannot make any abusive or defamatory comments, or raise points which in the opinion of the Chair are vexatious;

- h) If any clarification of what the questioner has said is required, the Chair will have the discretion to allow other HGB members to ask questions;
- i) The questioning member will not be permitted to participate in any subsequent discussion and will not be entitled to vote;
- j) In the event that one of the questions considered by the Chair is duplicated by later questions, it may be necessary for a spokesperson to be nominated to put forward the question on behalf of other questioners. If a spokesperson cannot be nominated or agreed, the questioner of the first such question received will be entitled to put forward their question; and
- k) Questions should relate to items that are on the agenda for discussion at the meeting in question. The Chair will have the discretion to allow questions to be asked on other issues.

### **13. PETITIONS**

13.1 At the discretion of the Chair, members of the public may submit and present petitions to the HGB. This standard protocol is to be observed by petitioners:

- a) Petitions should include a clear statement of the petition organiser's concerns and what they would like the HGB to do;
- b) Petitions must relate to something which is within the responsibility of the HGB, or over which it has influence;
- c) Petitions must include the name and contact details of the petition organiser;
- d) Petitions must include at least 500 signatures of people living or working in Hertfordshire. Petitions below this threshold will not be presented to the HGB, but HGB members will be notified of them as long as they contain at least 50 signatures;
- e) Petitions must be submitted either (i) in hard copy, or (ii) via the HGB e-petition platform, in the format prescribed on the HGB portal, at least 10 clear working days before the date of the meeting. Petitions shall be administered by the Democratic Services Team of Hertfordshire County Council;
- f) Subject to the discretion of the Chair, a maximum of two petitions will be considered at any one meeting;
- g) Petition organisers will be permitted to present their petitions to the meeting and will be allowed to address the meeting for a maximum of three minutes;
- h) Where more than one petition is received in time for a particular meeting and they are considered by the Chair as supporting the same outcome or being broadly similar in intent, it may be necessary for a spokesperson to be nominated and present the petitions. If a spokesperson cannot be nominated or agreed, the petition organiser of the first petition received will be entitled to present their petition;
- i) Petitions will be rejected if the Chair considers them to be abusive or libellous, frivolous, vague or ambiguous, rude, offensive, defamatory, scurrilous or time-wasting or require the disclosure of exempt information (normally considered

as 'confidential');

- j) Petitions on the same subject matter will not be accepted within a six-month period, unless there has been a material change of circumstances. Whether there has been a material change in circumstances will be determined by the Chief Legal Officer of Hertfordshire County Council in consultation with the Chair (or Vice-Chair).

13.2 Any matters arising from petitions considered by the HGB Scrutiny Committee can be reported to the HGB, as per Standing Order 11.

#### **14. PARTICIPATION AT HGB MEETINGS BY OTHER MEMBERS OF PARTNER COUNCILS OR OTHER REPRESENTATIVES OF PARTNER BODIES**

14.1 At the discretion of the Chair, other elected members of the Councils or the LEP or co-opted members may be entitled to speak and participate at meetings of the HGB.

#### **15. MINUTES**

15.1 The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record.

15.2 The minutes will be accompanied by a list of agreed action points, which may be discussed in considering the minutes of the previous meeting should they not be specifically listed as items on the agenda for the meeting.

#### **16. EXCLUSION OF THE PUBLIC AND PRESS**

16.1 Members of the public and press may be excluded from meetings in accordance with the Access to Information rules of legislation as applied by the administering authority with regard to the consideration of exempt or confidential information.

#### **17. RECORDING OF PROCEEDINGS**

- 17.1 The recording in any format of meetings of the HGB is permitted, except:
- a) Where the Chair, or person presiding over the meeting, rules that filming is being undertaken in such a way that is disruptive or distracting to the good order and conduct of the meeting;
  - b) Where the public have been excluded from the meeting during the consideration of exempt or confidential information (see Standing Order 16).

#### **18. DISTURBANCE BY PUBLIC**

18.1 If a member of the public interrupts proceedings, the Chair, or person presiding over the meeting, will warn the person concerned. If that person continues to interrupt,

the Chair will order his or her removal from the meeting room.

18.2 If there is a general disturbance in any part of the meeting room open to the public, the Chair, or person presiding over the meeting, may call for that part of the room to be cleared.

18.3 If there is a general disturbance making orderly business impossible, the Chair, or person presiding over the meeting, may adjourn the meeting for as long as he or she thinks is necessary.

## **19. INTERPRETATION OF STANDING ORDERS**

20. The ruling of the Chair of the HGB as to the application of these Standing Orders shall be final.

## **21. Suspension of Standing Orders**

21.1 With the exception of Standing Orders 4, 5, 7.1, 8, 10 and 15, and as far as is lawful, any of these Standing Orders may be suspended by motion passed unanimously by those entitled to vote.



# **PART 3C -HERTFORDSHIRE GROWTH BOARD SCRUTINY COMMITTEE TERMS OF REFERENCE**

## **1. PARTIES**

Hertfordshire County Council  
Borough of Broxbourne Council  
Dacorum Borough Council  
East Hertfordshire District Council  
Hertsmere Borough Council  
North Hertfordshire District Council  
St Albans City and District Council  
Stevenage Borough Council  
Three Rivers District Council  
Watford Borough Council  
Welwyn Hatfield Borough Council

## **2. STATUS**

The Hertfordshire Growth Board Scrutiny Committee has been established by the Councils listed above. It is a joint advisory committee of these Councils, established under section 102(4) of the Local Government Act, 1972.

## **3. MEMBERSHIP**

- 3.1 One elected member appointed by each of the member Councils and one member appointed by the LEP (total 12).

## **4. FUNCTIONS OF THE HGB SCRUTINY COMMITTEE**

- 4.1 The HGB Scrutiny Committee is established to advise the HGB with regard to the latter's role in achieving the objectives in the HGB Terms of Reference.
- 4.2 The HGB Scrutiny Committee will act as a forum for discussion with a wider range of members and stakeholders across the Hertfordshire area, so that the HGB benefits from a wider range of expertise in making its decisions.
- 4.3 To this end, the HGB Scrutiny Committee may receive and comment on ("pre-scrutinise") reports to the HGB, may offer advice to the HGB on the discharge of its functions and may review its work.
- 4.4 The HGB Scrutiny Committee shall develop its own Forward Plan and may submit reports or recommendations to the HGB for consideration, as appropriate.

## **5. PROFESSIONAL AND ADMINISTRATIVE SUPPORT**

- 5.1 Committee management and administrative support to the HGB Scrutiny Committee will be provided by Hertfordshire County Council.
- 5.2 Other professional support will be provided to the HGB Scrutiny Committee on an ad hoc basis as agreed between the Councils.

## **6. STANDING ORDERS**

- 6.1 The HGB Scrutiny Committee will be governed by the Standing Orders set out in Annex A attached to these Terms of Reference.

## **7. COSTS**

- 7.1 The costs of running the HGB Scrutiny Committee will be funded from the HGB Growth Fund.

# HERTFORDSHIRE GROWTH BOARD SCRUTINY COMMITTEE STANDING ORDERS

## 1. MEMBERSHIP

- 1.1 The HGB Scrutiny Committee will have a membership of 12, with each Council and the LEP being entitled to appoint one member. Members must not be executive members of their appointing authority.

## 2. ALTERNATE OR SUBSTITUTE MEMBERS

- 2.1 Each Council will be entitled to appoint one named alternate or substitute member who may act in all aspects as a voting member of the HGB in the absence of the voting member appointed.
- 2.2 Subject to the discretion of the Chair, the relevant member shall notify the HGB at least 5 working days in advance of the relevant meeting of the identity of their substitute.

## 3. TERM OF OFFICE

- 3.1 The term of office of members from the Councils shall end:
- a) if rescinded by the appointing Council; or
  - b) if the member ceases to be a member of the appointing Council.

## 4. APPOINTMENT OF CHAIR AND VICE-CHAIR

- 4.1 The HGB Scrutiny Committee will appoint a Chair and Vice-Chair at its first meeting.
- 4.2 The appointment of the Chair described in 4.1 shall be for a term up to the first meeting of the HGB Scrutiny Committee that follows both the 2021 local elections and the 2021 Annual Meetings of the constituent Councils (the **Post-Election Meeting**). At the Post-Election Meeting, the HGB Scrutiny Committee may either re-appoint the same member as Chair, or appoint a new Chair for a term of two years. Save in the above case, the Chair shall serve a single consecutive term of two years.
- 4.3 There shall be no term limits for Vice-Chairs.

4.4 Where there are three or more candidates for appointment and there is, after balloting, no candidate with a clear majority, meaning in this case the votes of more than 50% of members present and voting, the candidate with the least number of votes will withdraw and there will be a fresh ballot of remaining candidates; and so on until a candidate has that majority.

## **5. QUORUM**

5.1 The quorum for meetings of the HGB Scrutiny Committee will be 7 members.

5.2 If there is no quorum at the published start time for the meeting, a period of ten minutes will be allowed, or longer, at the Chair's discretion. If there remains no quorum at the expiry of this period, the meeting will be declared null and void.

5.3 If there is no quorum at any stage during a meeting, the person presiding over the meeting will adjourn for a period of ten minutes, or longer, at their discretion. If there remains no quorum at the expiry of this period, the meeting will be closed and the remaining items will be declared null and void.

## **6. MEMBER CONDUCT**

6.1 HGB Scrutiny Committee members appointed by the Councils shall be bound by the Code of Conduct of their nominating authority.

6.2 If a member persistently disregards the ruling of the Chair, or person presiding over the meeting, by behaving improperly or offensively or deliberately obstructs business, the Chair, or person presiding over the meeting, may move that the member be not heard further. If seconded, a vote will be taken without discussion.

6.3 If the member continues to behave improperly after such a motion is carried, the Chair, or person presiding over the meeting, may move that either the member leaves the meeting or that the meeting is adjourned for a specified period.  
If seconded, a vote will be taken without discussion.

## **7. NOTICE OF AND SUMMONS TO MEETINGS**

7.1 Notice will be given to the public of the time and place of any meeting of the HGB Scrutiny Committee in accordance with the Access to Information rules of Hertfordshire County Council.

72 At least five clear working days before a meeting, a copy of the agenda and associated papers will be sent to every member of the HGB Scrutiny Committee. The agenda will give the date, time and place of each meeting; specify the business to be transacted, and will be accompanied by such details as are available.

## 8. MEETING FREQUENCY

8.1 The HGB Scrutiny Committee may set its own timetable for meetings, normally on a date preceding meetings of the HGB in order to allow the HGB Scrutiny Committee to consider issues the HGB will be taking decisions on and advise accordingly.

## 9. VIRTUAL MEETINGS

9.1 The following provisions shall apply to meetings which are scheduled during the period that **The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020**, or such other legislation as permits meetings to take place remotely, remain in force.

9.2 The HGB may hold any meeting remotely using Zoom, Microsoft Teams, or any other suitable platform, and may live-stream the meeting.

9.3 Where it elects to do so, notice of this shall be given to the public in advance, and the platform used shall enable the public to see and hear the proceedings. A link will be made available to enable members of the public whose questions have been selected in accordance with Standing Order 12 to address the HGB. Where a public questioner is unable to access the meeting, or cannot be heard by the Members during the time allocated for his or her question, the Chair shall have discretion to move on to deal with another question, or if the question is the last to be heard, to move on to other business.

9.4 Voting shall be managed by the Chair, by either (i) requiring members to vote using the applicable poll function, (ii) requiring members to vote orally in turn, or (iii) any other convenient method.

9.5 Where the public and press are excluded under Standing Order 16, members will be required to confirm that there are no other persons present with them who are not entitled to hear or see the proceedings.

9.6 The Quorum provisions at paragraph 5 shall apply equally to virtual meetings.

## **10. VOTING**

- 101 All HGB Scrutiny Committee members will be voting members.
- 102 Voting for meetings of the HGB Scrutiny Committee will be conducted on the basis of a simple majority. The Chair shall have a casting vote; the convention shall be that the Chair shall not exercise this.

## **11. REPORTS FROM THE HGB SCRUTINY COMMITTEE TO THE HGB**

- 11.1 The Chair of the HGB Scrutiny Committee, or a nominated representative on his or her behalf, will be entitled to attend meetings of the HGB to present reports from the HGB Scrutiny Committee as appropriate.

## **12. QUESTIONS BY THE PUBLIC AND PUBLIC SPEAKING**

- 12.1 At the discretion of the Chair, members of the public may ask questions at meetings of the HGB Scrutiny Committee. This standard protocol is to be observed by public speakers:
- a) There shall be a maximum of six public questions in each meeting, subject to a time limit of 30 minutes. Questions will be addressed on a first-come-first-served basis with reference to when they were submitted to the HGB, save that questions which in the opinion of the Chair are vexatious shall not be addressed;
  - b) Notice of the question should be submitted the Chief Legal Officer of Hertfordshire County Council at the latest by 10am three working days before the meeting;
  - c) Questions must be limited to a maximum of 300 words;
  - d) Answers will be given in writing and will be circulated at the meeting;
  - e) With the Chair's permission, the questioner may ask a supplementary question relevant to the original question (or its answer). The questioner's supplementary question must not last longer than two minutes. The answer to the supplementary question may be: (i) an oral answer lasting no more than three minutes; or (ii) where the desired information is contained in a publication of the Council, a reference to that publication; or (iii) in writing (to be available within seven days); or (iv) a combination of the above;
  - f) Questioners will not be permitted to raise the competence or performance of a member of the HGB Scrutiny Committee or the HGB, nor any matter involving exempt information (normally considered as 'confidential');
  - g) Questioners cannot make any abusive or defamatory comments, or raise points which in the opinion of the Chair are vexatious;
  - h) If any clarification of what the questioner has said is required, the Chair

will have the discretion to allow other HGB Scrutiny Committee members to ask questions;

- i) The questioning member will not be permitted to participate in any subsequent discussion and will not be entitled to vote;
- j) In the event that one of the questions considered by the Chair is duplicated by later questions, it may be necessary for a spokesperson to be nominated to put forward the question on behalf of other questioners. If a spokesperson cannot be nominated or agreed, the questioner of the first such question received will be entitled to put forward their question; and
- k) Questions should relate to items that are on the agenda for discussion at the meeting in question. However, the Chair will have discretion to allow questions to be asked on other issues.

### **13. PETITIONS**

131 At the discretion of the Chair, members of the public may submit and present petitions to the HGB Scrutiny Committee. This standard protocol is to be observed by petitioners:

- a) Petitions should include a clear statement of the petition organiser's concerns and what they would like the HGB Scrutiny Committee to do;
- b) Petitions must relate to something which is within the responsibility of the HGB Scrutiny Committee, or over which it has influence;
- c) Petitions must include the name and contact details of the petition organiser;
- d) Petitions must include at least 500 signatures of people living or working in Hertfordshire. Petitions below this threshold will not be presented to the HGB Scrutiny Committee, but HGB Scrutiny Committee members will be notified of them as long as they contain at least 50 signatures;
- e) Petitions must be submitted either (i) in hard copy, or (ii) via the HGB e-petition platform, in the format prescribed on the HGB portal, at least 10 clear working days before the date of the meeting. Petitions shall be administered by the Democratic Services Team of Hertfordshire County Council;
- f) Subject to the discretion of the Chair, a maximum of two petitions will be considered at any one meeting;
- g) Petition organisers will be permitted to present their petitions to the meeting and will be allowed to address the meeting for a maximum of three minutes;
- h) Where more than one petition is received in time for a particular meeting and they are considered by the Chair as supporting the same outcome or being broadly similar in intent, it may be necessary for a spokesperson to be nominated and present the petitions. If a spokesperson cannot be nominated or agreed, the petition organiser of the first petition received

will be entitled to present their petition;

- i) Petitions will be rejected if the Chair considers them to be abusive or libellous, frivolous, vague or ambiguous, rude, offensive, defamatory, scurrilous or time- wasting or require the disclosure of exempt information (normally considered as 'confidential');
- j) Petitions on the same subject matter will not be accepted within a six-month period, unless there has been a material change of circumstances. Whether there has been a material change in circumstances will be determined by the Chief Legal Officer of Hertfordshire County Council in consultation with the Chair (or Vice-Chair).

132 Any matters arising from petitions considered by the HGB Scrutiny Committee can be reported to the HGB as per Standing Order 10.

#### **14. PARTICIPATION AT HGB SCRUTINY COMMITTEE MEETINGS BY OTHER MEMBERS OF PARTNER COUNCILS OR OTHER REPRESENTATIVES OF PARTNER BODIES**

14.1 At the discretion of the Chair, other elected members of the Councils, or representatives from the LEP or other co-opted members, may be entitled to speak and participate at meetings of the HGB Scrutiny Committee.

#### **15. MINUTES**

15.1 The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

15.2 The minutes will be accompanied by a list of agreed action points, which may be discussed in considering the minutes of the previous meeting should they not be specifically listed as items on the agenda for the meeting.

#### **16. EXCLUSION OF THE PUBLIC AND PRESS**

16.1 Members of the public and press may be excluded from meetings in accordance with the Access to Information legislation as applied by the administering authority with regard to the consideration of exempt or confidential information.

#### **17. RECORDING OF PROCEEDINGS**



- 17.1 The recording in any format of meetings of the HGB Scrutiny Committee is permitted, except:
- a. Where the Chair, or person presiding over the meeting, rules that filming is being undertaken in such a way that is disruptive or distracting to the good order and conduct of the meeting; and/or
  - b. Where the public have been excluded from the meeting during the consideration of exempt or confidential information (see standing order 16).

## **18. DISTURBANCE BY THE PUBLIC**

- 18.1 If a member of the public interrupts proceedings, the Chair, or person presiding over the meeting, will warn the person concerned. If the individual continues to interrupt, the Chair will order his or her removal from the meeting room.
- 18.2 If there is a general disturbance in any part of the meeting room open to the public, the Chair, or person presiding over the meeting, may call for that part of the room to be cleared.
- 18.3 If there is a general disturbance making orderly business impossible, the Chair, or person presiding over the meeting, may adjourn the meeting for as long as he or she thinks is necessary.

## **19. INTERPRETATION OF STANDING ORDERS**

- 19.1 The ruling of the Chair as to the application of these Standing Orders shall be final.

## **20. SUSPENSION OF STANDING ORDERS**

- 20.1 With the exception of Standing Orders 5, 7.1, 10 and 15, and as far as is lawful, any of these Standing Orders may, as far as is lawful, be suspended by motion passed unanimously by those entitled to vote.

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## CHIEF EXECUTIVE

1. Support the political leadership of the Council to provide strategic direction for the Council and formulate strategic objectives and plans to achieve this.
2. Be the Council's Head of Paid Service within the meaning of section 4 of the Local Government and Housing Act 1989 with overall corporate management and operational responsibility involving securing and managing the professional body of Officers needed to deliver modern, effective, well focused services.
3. Facilitate the operation of the Council's decision making structure both executive and non-executive by providing appropriate support and service.
4. In the event of the deferral of the appointment of the Leader from the Annual Council meeting to a subsequent meeting, to have broad power to discharge the executive functions of the authority in the absence of the Leader, until such appointment takes place.
5. Monitor the implementation of strategic priorities as translated into targets in annual service plans
6. Monitor performance against performance indicators and other adopted quality assurance systems.
7. Represent the Council on partnership and external bodies (as required by statute or the Council).
8. Undertake any function delegated to a Director/Assistant Director provided it is within the law and within his/her capacity.
9. Be the Electoral Registration Officer and Returning Officer in respect of electoral matters, including the conduct of elections.
10. To be a Member of the Council's Resilience Team and take all necessary and appropriate action in response to a civil emergency or business continuity incident, in accordance with the Council's Emergency Plan or Business Continuity Plans, including being the Council's representative at any Strategic Command Group ('Gold command') activated as part of an emergency.
11. The Chief Executive is authorised to take all necessary decisions of the Council in the event of urgency or emergency.

### **Health and Safety**

Welwyn Hatfield Borough Council (WHBC) recognises and accepts its

responsibilities under the Health and Safety at Work Act 1974 and associated legislation to provide a safe and healthy workplace and working environment for employees, tenants, contractors, and visitors. We are committed to achieving the highest standards of health, safety and welfare to protect all those affected by our activities.

The Chief Executive has overall responsibility for health, safety and welfare, but the Senior Leadership Team assist the Chief Executive in ensuring that the Council provide visible and active leadership in developing and maintaining a management culture that is supportive of health and safety and will have the overall responsibility for the management and implementation of the Council's Health and Safety Policy.

~~In connection with the Council's duties under the Health and Safety at Work etc Act 1974, together with related regulations or other legislation, the Chief Executive has ultimate responsibility for the health and safety performance of the Council. The Chief Executive has overall responsibility for health, safety and welfare,~~

Oversight of the Corporate health and Safety function is the responsibility of the Service Director (Property Maintenance and Climate Change). Day to day management of health, safety and welfare is the responsibility of Directors and the responsibility of manages and supervisors. Staff also have a responsibility towards their health and safety and towards others. ment and supervisory personnel.

The Chief Executive has appointed the Service Director (Property Maintenance and Climate Change) as the 'Responsible Person' for the purposes of the Fire Safety (England) Regulations 2022 and the 'Accountable Person' for the purposes of the Building Safety Act 2022 and any subsequent legislation.

~~Employees . In this role the Chief Executive and Senior Leadership Team receives reports arising from the work of the Health and Safety and Resilience Manager about health and safety and our compliance and through from the Occupational Health and Safety Board via the reporting to the Corporate Governance Board and, on a monthly periodic basis, the relevant work of the Insurance, Treasury and Controls Lead Officer and any Council partner or contractor.~~

~~The key roles and responsibilities of the Chief Executive include:~~

- ~~a) Implement policies, and management system to ensure the health and safety of employees and others.~~
- ~~b) Set out roles and activities to ensure that health and safety outcomes are delivered.~~
- ~~c) Monitor Health and Safety arrangements and report on safety performance, reviewing and acting on matters that need addressing~~
- ~~d) The Chief Executive, or their designated representatives, are empowered to research, develop and implement (once properly approved through the~~

~~Council's decisionmaking structure) policies, procedures and processes to ensure compliance with the requirements of the Health and Safety at Work etc Act 1974 and associated regulations or other legislation.~~

- ~~e) The Chief Executive, or their authorised representatives shall have the authority to enter at all reasonable times onto any Council premises or land to carry out any safety related investigation, inspection, assessment or review. They are also authorised to require the immediate suspension of any activity where it is believed in good faith that a breach of health and safety law or regulation has occurred or is likely to occur, or where it is believed that there is imminent danger to the health, safety and wellbeing of any persons.~~
- ~~f) The Chief Executive has appointed the Service Director (Property Maintenance and Climate Change) as the 'Responsible Person' for the purposes of the Fire Safety (England) Regulations 2022 and the 'Accountable Person' for the purposes of the Building Safety Act 2022 and any subsequent legislation.~~

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## **EXECUTIVE DIRECTOR (PLACE)**

Deputises for the Chief Executive as necessary.

To be responsible for the implementation of strategies policies and plans relating to Regeneration and Economic Development, Planning, Leisure, Community and Cultural Services.

### **ESTATES**

**All the following delegated powers relating to Estates can be exercised by the Executive Director (Place) and Assistant Director (Regeneration and Economic Development) who may also delegate to suitably qualified and/or experienced Officers in accordance with an agreed Scheme of Delegation.**

- 1.1. To control and manage commercial properties owned or occupied by the Council.
- 1.2. To negotiate and determine valuations and rentals of commercial properties owned or occupied by the Council in accordance with the policies adopted by the Council.
- 1.3. To approve all rent reviews and terms of leases where an open market rental is agreed between the Council and the lessee.
- 1.4. To approve changes of use of Neighbourhood Centre shops in accordance with Council Policy.
- 1.5. Any negotiation which involves the purchase, lease or sale of land or buildings, or the granting of a license or the right to use Council premises (but excluding halls lettings) shall be conducted by or on behalf of Assistant Director (Regeneration and Economic Development), who will consult the responsible Director, Assistant Director and Legal Services Manager as appropriate. The Assistant Director (Regeneration and Economic Development) will be able to approve transactions with a value of up to £100,000 for disposals or purchases, and £50,000 per annum for lettings in and out, in conjunction with the Executive Director (Finance and Transformation) or Assistant Director (Finance), up to £500,000.
- 1.6. To submit Rating Appeals for NNDR properties and agree Assessments with the Valuation Office.
- 1.7. To submit planning and any other statutory applications for Council funded projects as appropriate.
- 1.8. Under the Assets of Community Value (England) Regulations 2012, to maintain the List of Assets of Community Value and the List of Assets Nominated unsuccessfully by Community Nomination and the associated

administrative procedures.

- 1.9 To act as the Council's shareholder representative for the jointly owned Hertfordshire Building Control group of companies.

## **2. STRATEGIC HOUSING DEVELOPMENT SERVICES**

**All the following delegated powers relating to Strategic Housing Development Services can also be exercised by the Assistant Director (Regeneration and Economic Development) who may also delegate to suitably qualified and/or experienced Officers in accordance with an agreed Scheme of Delegation:**

- 2.1 To be responsible for the development and implementation of strategies, policies and plans relating to strategic housing development services.
- 2.2 To arrange for applications for planning consent in connection with development projects and other housing initiatives.
- 2.3 To plan and implement the Council's Affordable Housing Programme.
- 2.4 To agree the appropriate tenure, mix and property types on S106 sites with developers and associated consultants.
- 2.5 To agree arrangements in working with private developers to deliver affordable homes.

## **3. Parking Services**

**All the following delegated powers relating to Parking Services can also be exercised by the Assistant Director (Regeneration and Economic Development) who may also delegate to suitably qualified and/or experienced Officers in accordance with an agreed Scheme of Delegation:**

- Parking on-street and Council Car Parks
  - Decriminalised Parking
  - Construction of communal parking bays and vehicular dropped kerbs and hard-standings for Council tenants
- 3.1. To make applications for Deemed Planning Consent for schemes which form part of approved programmes, for example, vehicular hard-standings, dropped kerbs and communal parking bays.
  - 3.2. To deal with all operational matters arising in respect of Decriminalised Parking Enforcement.



- 3.3. To be responsible for producing legally compliant Traffic Regulation Orders for, but not limited to, resident parking permit schemes, single and double yellow lines and limited waiting bays.
- 3.4. To advertise and make Traffic Regulation Orders under the Road Traffic Regulation Act 1984 and amendments to Orders, subject to the determination by the Cabinet of any formal objection received.
- 3.5. When no formal objections are received during the Statutory Stage of the Traffic Regulation Order consultation process; a delegated decision is considered by the relevant officer, who outlines the recommendations and reasons in a delegated report. This is checked by a designated officer before a decision is agreed and issued in agreement with portfolio holder.

#### **4 Children's Play Areas**

**All the following delegated powers relating to Children's Play Areas can also be exercised by the Assistant Director (Regeneration and Economic Development) who may also delegate to suitably qualified and/or experienced Officers in accordance with an agreed Scheme of Delegation.**

- 4.1. To use and exercise the powers of the Children Act 1989 and any subordinate Regulations or Orders to ensure all play equipment is safe and suitable and meets the standards set out in EN1176, EN1177 and BS7188.
- 4.2. To uphold the adopted Play Area Strategy for the ongoing management of existing equipped areas of play and to ensure adequate future provision.

#### **5. Planning**

**All of the following delegated powers relating to Planning can also be exercised by the Assistant Director (Planning) who may also delegate to suitably qualified and/or experienced officers in accordance with an agreed Scheme of Delegation:**

**5.1** To approve and refuse all types of applications submitted under the Town and Country Planning Act 1990 and other planning and relevant legislation.

**5.2** To determine the appropriate fee for planning and other applications.

**5.3** To decide whether to register an application based on the information submitted by the applicant and the Council's validation checklist.

**5.4** To decline to determine an application under Section 70A, 70B or 70C of the Town and Country Planning Act 1990.

[5.5](#) To agree minor and non-material amendments to previously approved applications.

[5.6](#) To deal with prior notifications and prior approvals under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

[5.7](#) To apply conditions to secure controls over development and deal with the discharge of planning conditions under Section 70(1)(a), 72 and 73 of the Town and Country Planning Act 1990.

[5.8](#) To enter into, vary, revoke and discharge obligations to secure financial contributions and/or works for the benefit of the community under Section 106 of the Town and Country Planning Act 1990.

[5.9](#) To agree the Council's response to a screening opinion under Parts 2 and 3 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

[5.10](#) To agree the Council's response to a scoping opinion under Part 4 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 or Section 13 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

[5.11](#) To grant permission-in-principle for sites on the Part 2 Brownfield Register under the Town and Country Planning (Brownfield Land Register) Regulations 2017 and Part 2 of the Town and Country Planning (Permission in Principle) Order 2017.

[5.12](#) To respond to consultations concerning policy formulation proposals by government departments, statutory bodies, local authorities, etc, in consultation with the relevant Executive Member, unless it is prudent that the consultation should be considered by members of the relevant committee.

[5.13](#) To respond to consultations concerning development proposals by statutory bodies, local authorities, government departments, the Crown, etc, in consultation with the relevant Executive Member, unless it is prudent that the consultation should be considered by members of the relevant committee.

[5.14](#) To progress work related to the preparation, submission, examination and adoption of Development Plan Documents as set out in the Planning & Compulsory Purchase Act 2004 (as amended) (The Act). Detailed regulatory requirements are contained in the Town & Country Planning (Local Planning) (England) Regulations 2012 (as amended).

[5.15](#) To progress work related to the preparation, submission, examination and adoption of a Community Infrastructure Levy, as set out in the Planning and Compulsory Purchase Act 2004 (as amended) (The Act). Detailed requirements are contained within the Community Infrastructure Levy Regulations 2010.

[5.16](#) To approve the designation of a Neighbourhood Planning Area where it

matches the local town or parish council boundary under Regulation 5 of the Neighbourhood Planning (General) Regulations 2012. [Cabinet must approve the designation of Neighbourhood Planning Area which does not match the town or parish council boundary].

[5.17](#) <sup>(OBJ)</sup> To decide whether the Council's case at a planning appeal should be by way of written representations, informal hearing or public inquiry and to agree the nature and extent of the case to be presented, including in cases where an appeal has been made against non-determination of a planning application.

[5.18](#) To enter any land for the purpose of surveying it in connection with the functions of the Council as the local planning authority under Section 324 of the Town and Country Planning Act 1990.

[5.19](#) To decide whether to take enforcement action and what level of enforcement action to take in accordance with the Council's Corporate Enforcement Plan and Planning Enforcement Plan.

[5.20](#) To serve notices to obtain information as to interests in land under Section 330 of the Town and Country Planning Act 1990 and Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

[5.21](#) To serve Planning Contravention Notices under Section 171C of the Town and Country Planning Act 1990.

[5.22](#) To serve, vary and withdraw enforcement notices against suspected breaches of planning control under Section 172 of the Town and Country Planning Act 1990 and to execute and secure the costs of works required by such notices under Section 178 of the Town and Country Planning Act 1990.

[5.23](#) To serve, vary and withdraw listed building enforcement notices against suspected breaches of planning control under Section 38 of the Planning (Listed Building and Conservation Areas) Act 1990 and to execute and secure the costs of works required by such notices under Section 42 of the Planning (Listed Building and Conservation Areas) Act 1990.

[5.24](#) To serve, vary and withdraw Breach of Condition Notices under Section 187A of the Town & Country Planning Act 1990.

[5.25](#) To serve Building Preservation Notices under Section 3 of the Planning (Listed Building and Conservation Areas) Act 1990.

[5.26](#) To serve Stop Notices under Section 183 of the Town and Country Planning Act 1990 and Temporary Stop Notices under Section 171E of the Town and Country Planning Act 1990.

[5.27](#) To serve Tree Replacement Notices under Section 207 of the Town and Country Planning Act 1990 and to execute and secure the costs of works required by such notices under Section 209 of the Town and Country Planning Act 1990.

[5.28](#) To serve Repairs Notices under Section 48 of the Planning (Listed Building and Conservation Areas) Act 1990 and Urgent Works Notices under Section 54 of the Planning (Listed Building and Conservation Areas) Act 1990 and to execute and secure the costs of works required by such notices under Section 55 of the Planning (Listed Building and Conservation Areas) Act 1990.

[5.29](#) To require the discontinuance of advertisements under Section 220 of the Town and Country Planning Act 1990 and to remove or obliterate unauthorised placards, posters and advertisements under Section 225 of the Town and Country Planning Act 1990.

[5.30](#) To serve, vary and withdraw notices to require the proper maintenance of land under Section 215 of the Town and Country Planning Act and to execute and secure costs of works required by such notices under Section 219 of the Town and Country Planning Act.

[5.31](#) To issue advance written warnings and Community Protection Notices on individuals or bodies whose conduct is having a detrimental effect on the quality of life of those in the locality and is unreasonable and to take action where there is a failure to comply with a Notice under Part 4 Chapter 1 of the Anti-Social Behaviour, Crime and Policing Act 2014.

[5.32](#) To apply for Planning Enforcement Orders for deliberately concealed unauthorised development under Section 171BA, 171BB and 171BC of the Town and Country Planning Act 1990.

[5.33](#) To apply for court injunctions to restrain any apprehended or actual breach of planning control under Section 187B of the Town and Country Planning Act 1990.

[5.34](#) To progress prosecution action where enforcement notices have not been complied with under Section 179 of the Town and Country Planning Act 1990.

[5.35](#) To progress prosecution action where listed building enforcement notices have not been complied with under Section 38 of the Planning (Listed Building and Conservation Areas) Act 1990

[5.36](#) To serve a Certificate of Appropriate Alternative Development where land is proposed to be acquired by the local authority under Section 65 of the Planning and Compensation Act 1991.

[5.37](#) To make, vary and revoke Tree Preservation Orders under Section 198 of the Town and Country Planning Act 1990 and Provisional Tree Preservation Orders under Section 201 of the Town & Country Planning Act 1990.

[5.38](#) To make minor amendments to planning conditions and Section 106 legal agreements prior to issuing a decision notice, where the decision has been made by Development Management Committee, but it is not necessary for the item to return to Development Management Committee.

[5.39](#) To refer to the Development Management Committee applications to revoke or modify hazardous substances consents as defined under the Planning (Hazardous Substances) Act 1990 for referral to the appropriate Secretary of State.

~~II.a.~~ [5.40](#) Applications will be presented to Development Management Committee where:

- a) The application does not accord with the provisions of the development plan or other planning policy guidance or supplementary planning guidance (unless material considerations indicate that the provisions of the development plan no longer apply) but the proposal is recommended for approval.
- b) One of the following has occurred within the specified consultation period and (a) it has been accepted by the Assistant Director (Planning) or Development Management Services Manager and (b) the subsequent officer recommendation goes against the comment of support/objection:
  - A comment of support or objection and an associated call-in request has been made by a member of the Borough Council
  - A major objection has been received from a local town or parish ~~Council~~ [Council](#) in relation to an eligible application, as defined in the Procedure Rules for Planning Meetings.
  - An objection has been received from a consultee listed in Schedule 4 of the Town and Country Planning (Development Management Procedure) (England) Order 2015

[5.41](#) The application is a major development and the Borough Council is the applicant and/or has an interest in the land/property which is the subject of the application.

[5.42](#) A Member of the Borough Council, the Chief Executive, a Director or Assistant Director or a member of staff in the planning service is the applicant and/or has an interest in the land/property which is the subject of the application.

[5.43](#) The Assistant Director (Planning) considers it prudent for the application to be considered by Development Management Committee.

[5.44](#) The matter relates to a planning enforcement case and the Assistant Director (Planning) considers it prudent for it to be considered by Development Management Committee.

## **6. BUILDING CONTROL**

[\\_\\_\\_\\_\\_](#) It should be noted that statutory building control functions are discharged by three members of Hertfordshire Building Control who are seconded to the Council.

These appointed officers now administer building control functions on behalf of Welwyn Hatfield Borough Council in accordance with the Building Act 1984 and

## 7. OTHER FUNCTIONS

- a. To make technical amendments to the Planning Scheme of Delegation to reflect changes to the planning system and planning legislation.
- b. To administer the Management Scheme for Welwyn Garden City created under the Leasehold Reform Act 1967 for the purpose of “maintaining and enhancing amenities and values in Welwyn Garden City and with due regard to the convenience and welfare of persons residing, working and carrying on business there.” This includes deciding whether to register an application, determining the appropriate fee, approving and refusing applications, discharging conditions, resolving breaches and taking enforcement action against breaches.
- c. Any EMS applications where a Member of the Borough Council, the Chief Executive, a Director or Assistant Director or a member of staff in the planning service is the applicant and/or has an interest in the land/property which is the subject of the application will be determined by [the Estate Management Scheme Manager and Assistant Director \(Planning\), or Executive Director \(Place\) if either are the applicant-](#)
- d. To deal with notices in respect of temporary markets under Section 37 of the Local Government (Miscellaneous Provisions) Act 1982.
- e. To grant licences, issue notices and authorise the removal and reinstatement for the planting of trees, shrubs, etc in highways under the Highways Act 1980.
- f. To apply for an enforcement order against unlawful works on registered common land under Section 41 of the Commons Act 2006.
- g. To protect unclaimed registered common land and unclaimed town or village greens against unlawful interference under Section 45(2)(a) of the Commons Act 2006.
- h. To institute proceedings for offences in respect of unclaimed land under Section 45(2)(b) of the Commons Act 2006.
- i. To take action against dangerous trees under Section 23 and 24 of the Local Government (Miscellaneous Provisions) Act 1976.
- j. To grant licences, issue notices and authorise the removal and reinstatement for the planting of trees, shrubs, etc in highways under the Highways Act 1980.
- k. To serve notices in respect of street naming and numbering under Section

64 and Section 65 of the Town Improvement Clauses Act 1847.

- i. To apply for enforcement orders against unlawful works on registered common land under Section 41 of the Commons Act 2006, to protect unclaimed registered common land and unclaimed town/village greens against unlawful interference under Section 45(2)(a) of the Commons Act 2006 and to institute proceedings for offences in respect of unclaimed land under Section 45(2)(b) of the Commons Act 2006.

## **8. STRATEGIC COMMUNITY SERVICES**

**All the following delegated powers relating to Strategic Community Services can also be exercised by the Assistant Director (Leisure, Community and Cultural Services) who may also delegate to suitably qualified and/ or experienced Officers in accordance with an agreed Scheme of Delegation.**

- a. To maintain community partnerships and develop new ones with the aim of promoting involvement among the community and local business, better health and youth engagement.
- b. To manage the Borough's Sports Facilities Strategy Steering Group and ensure the development and revision of the borough Sports Facility Strategy on an annual basis.
- c. To work in partnership with key stakeholders to develop initiatives and events that improve the vibrancy and footfall within the town centre.
- d. To administer and provide advice on the council's grant application process, including its annual grants, small community grants and the Queens Jubilee grants.
- e. To participate in the Council's corporate community engagement activities through the management and promotion of the established Borough Panel comprising local residents

## **9. LEISURE AND CULTURAL SERVICES**

**All the following delegated powers relating to Leisure and Cultural services can also be exercised by the Assistant Director (Leisure, Community and Cultural Services) who may also delegate to suitably qualified and/or experienced Officers in accordance with an agreed Scheme of Delegation.**

- a. To agree and oversee the programme of activities and events for Council provided leisure and cultural services

- b. To agree all appropriate fees and charges for use of Council provided leisure and cultural services.
- c. To agree and oversee all marketing and promotional activities associated with the provision and delivery of Council leisure and cultural services.
- d. To work closely with the appointed Executive Member with responsibility for local leisure and cultural services, including the reporting of service activities and developments to members of the Council's Cabinet and other relevant committees and appointed panels.
- e. To work to improve access to leisure and community services for all regardless of their recognised equalities group or circumstances.
- f. To oversee all leisure, culture, arts and heritage applications to national funding bodies such as the National Lottery Heritage Fund, Sport England, Arts Council and others, with final approval being sought from the Chief Financial Officer before submission.
- g. To represent the Council as the designated Client Manager of the appointed leisure contractor, Greenwich Leisure Ltd, who have a contract covering seven different sport and leisure sites running to January 2029.
- h. To be responsible for the management of the Community Lottery Scheme in conjunction with the Council's lottery partner, and propose policies for and make decisions relating to the operation of the lottery.
- i. To co-ordinate meetings and the work programme of the borough's Cultural Consortium comprising local sport, leisure, heritage, arts and culture partners.
- j. To recommend to Cabinet the Housing, Homelessness and Rough Sleeping Strategy and associated strategies and work in partnership with internal and external stakeholders to ensure its effective implementation. This includes working in partnership with Registered Providers to ensure the best housing offer to people in housing need.
- k. To make arrangements for the selection of Registered Providers for development projects.
- l. To recommend to Cabinet on appropriate grant funding to Registered Providers on affordable housing sites.
- m. To discharge the Council's statutory functions in relation to preventing and managing homelessness and in ensuring the Borough's housing needs register is managed in accordance with the Council's Allocations Policy.

## **10. HOUSING ALLOCATIONS**

**All the following delegated powers relating to Strategic Housing Services can**



**also be exercised by the Assistant Director (Leisure, Community and Cultural Services) who may also delegate to suitably qualified and/or experienced Officers in accordance with an agreed Scheme of Delegation.**

- a. Working where necessary with the relevant Directors and Assistant Directors to:
  - a) Consider reviews of decisions to exclude applicants from the Housing Needs Register in accordance with relevant legislation.
  - b) Set up local letting schemes in accordance with Council policy.
  - c) Agree nomination rights to Council and registered social landlord properties for partner agencies for use as move on.
  - d) Approve special allocations schemes in accordance with the Council's hard to let strategy, in order to meet housing need, or otherwise in accordance with Council policy.
  - e) To approve the Annual Lettings Plan and any revisions to the Annual Lettings Plan.
  - f) To agree prioritisation of properties to specific groups, to ensure the lettings targets set out in the Annual Lettings Plan are met.
  - g) Revise and change priority of housing for applicants accepted as Homeless as necessary to ensure homelessness duties are managed effectively alongside duties to waiting list and transfer applicants.
  - h) Agree the necessary arrangements to ensure that wherever possible, in times of high demand from homeless households, Council and Registered Provider properties are used to free up temporary accommodation to prevent the use of bed and breakfast and to ensure that any such arrangements are regularly reviewed and monitored.
  - i) Make decisions where the interpretation of Housing Policy, including the Allocations Policy is disputed.
  
- b. To make arrangements for the selection of Registered Providers for development projects.

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## **EXECUTIVE DIRECTOR (FINANCE AND TRANSFORMATION)**

The Executive Director (Finance and Transformation) (Section 151) is authorised:

- a) To deputise for the Chief Executive as necessary.
- b) To undertake any function delegated to a Director/Assistant Director provided it is within the law and within his/her capacity.
- c) To be responsible for the implementation of strategies, policies and plans relating to Legal and Governance, Human Resources, Customer Services and Transformation, Finance, ICT and Digital Services and Cemetery and Crematoria Services.

### **1. FINANCE, AUDIT AND ICT**

**All the following delegated powers relating to Finance, Audit and ICT can also be exercised by the relevant Assistant Director who may also delegate to suitably qualified and/or experienced Officers in accordance with an agreed Scheme of Delegation:**

- 1.1. To be responsible for the implementation of strategies, policies and plans relating to finance, information technology, internal audit, council tax, business rates and housing benefits.
- 1.2. The Executive Director (Finance and Transformation) is the responsible officer under Section 151 of the Local Government Act 1972 and shall, within the framework of statute and the Council's Budget and Policy Framework Procedure Rules and Financial Procedure Rules, administer and advise upon all the financial affairs of the Council. The Assistant Director (Finance) is the deputy responsible officer under this Section.
- 1.3. The Section 151 Officer will act as Registrar of Bonds.
- 1.4. To respond to government and other consultations on matters such as funding, technical accounting and business rates.
- 1.5. The Executive Director (Finance and Transformation), Assistant Director (Finance) and Client Support Services Manager are each authorised to take all necessary action to issue Council Tax bills and rate demands, recover all such sums due, including unoccupied property rates and to sign and serve all related notices and documents.
- 1.6. The Client Support Services Manager can grant discretionary rate relief to those organisations which meet the Council's criteria, referring those that fall outside it to the Cabinet for decision.
- 1.7. The Client Support Services Manager is authorised to determine appeals of applicants in respect of benefit and council tax reduction claims. (If the applicant wishes to take the appeal further regarding their benefit it must be referred to the Tribunal Service.

- 1.8. The Section 151 Officer is to have overall responsibility for the financial administration and monitoring of the whole of the Council's expenditure and income with details set out in the Councils Financial Regulations.
- 1.9. The Executive Director (Finance and Transformation), Assistant Director (Finance), Client Support Services Manager and the Revenue and Benefits Client Officers to be responsible for all matters concerning Rating, Council Tax, Housing Benefits and Council Tax Support.
- 1.10. The Executive Director (Finance and Transformation), Assistant Director (ICT and Digital Services), IT Client Manager to control and manage Information Systems, Technology and Telecommunications.
- 1.11. The Executive Director (Finance and Transformation), Assistant Director (Finance) and Client Support Services Manager to be responsible for all matters relating to Housing Benefit, Universal Credit and Council Tax Reduction.
- 1.12. The Executive Director (Finance and Transformation), Assistant Director (Finance) and Client Support Services Manager and Revenue and Benefits Client Officer have delegated powers for awarding Council Tax hardship relief.
- 1.13. The Executive Director (Finance and Transformation), Assistant Director (Finance) and Income and Home Ownership Manager have delegated powers to:
  - a) process applications made under the Right to Buy (RTB) scheme- Sand to approve the sale of housing property under Right to Buy legislation including the assessment of eligibility and calculation of discounts;
  - b) make decisions where the interpretations and implementation of the Statutory Right to Buy Scheme is required.
  - ~~b)c) \_\_\_\_\_ To process deeds of variations for leaseholders;~~
  - ~~e)d) \_\_\_\_\_ carry out leaseholder consultation under the statutory requirements; and,~~
  - ~~d)e) \_\_\_\_\_ determine service charges payable by leaseholders.~~

## **2. LEGAL AND GOVERNANCE**

**The Assistant Director (Legal and Governance) is authorised to act as the Council's principal legal advisor and is authorised to instruct and retain Counsel, external Solicitors or other experts in legal proceedings and obtain advice in relation to any matter whenever this is considered to be in the interests of the Council.**

**~~The Service Director (Resident & Neighbourhoods) is the nominated Senior Responsible Officer for the purposes of the Regulation of Investigatory Powers Act 2000.~~**

**The Governance Services Manager and Principal Governance Officer are Authorising Officers for the purposes of the use of covert intelligence under the Regulation of Investigatory Powers Act 2000.**

**The Assistant Director (Legal and Governance) is the Monitoring Officer and will exercise all powers necessary to fulfil that statutory role pursuant to Sections 5 and 5A of the Local Government and Housing Act 1989 and is authorised:**

- 2.1. To receive complaints of alleged failure by Members to comply with the Code of Conduct determining whether a complaint merits formal investigation and to arrange such investigation, seeking resolution of complaints without formal investigation wherever practicable, with the discretion to refer decisions on investigation to the Standards Committee where the Monitoring Officer (and in the absence of the Monitoring Officer, the Deputy Monitoring Officer) feels that it is inappropriate for Officers to take the decision.
- 2.2. To have the power to grant dispensations to Members, where they have a “disclosable pecuniary interest” (and in the absence of the Monitoring Officer, the Deputy Monitoring Officer) under Section 33 (2) (a), (b), (c), (d) and (e) of the Localism Act 2011, and that where the Monitoring Officer or Deputy Monitoring Officer consider it appropriate to refer the request to the Standards Committee for that body to decide whether to grant such dispensation.
- 2.3. To make changes to the Constitution where required in any relevant circumstances.
- 2.4. To advise the Council on employment legislation, including where necessary attendance on behalf of the Council at Employment Tribunal proceedings.
- 2.5. To authorise the institution or defence, appearance at, withdrawal or settlement of any legal proceeding and be responsible for its conduct in any civil or criminal proceedings provided any necessary Committee/Cabinet approvals have been obtained and in particular:-
  - a) To negotiate and settle claims or disputes of any description including the payment of damages, compensation etc and legal costs for claims of less than £20,000 in consultation with the Head of Paid Service and Directors.
  - b) To negotiate and settle claims or disputes of any description including the payment of damages, compensation etc and legal costs for claims from £15,000 and up to a limit of £50,000 in consultation with the Head of Paid Service and Directors and the Executive Member, Resources, subject to the issuing of an Executive Member Decision Notice.  
£50,000 and up to a limit of £100,000 in consultation with the Head of Paid Service and Directors and the Executive Member, Resources, subject to a report on the action taken being submitted to the next meeting of the Cabinet.

Over £100,000 in consultation with the Head of Paid Service and Directors and the Leader and Executive Member, Resources, subject to a report on the action taken being submitted to the next meeting of the Council.

**The following delegated powers in 1.6 to 1.18 can also be exercised by the Assistant Director (Legal and Governance) and Legal Services Manager who may also delegate to a suitably qualified and/or experienced officer in accordance with an agreed Scheme of Delegation.**

- 2.6 To authorise, issue and serve all Statutory Notices (including Requisitions for Information) under any enactment. The Assistant Director (Legal and Governance) may authorise another officer to serve all such notices, once issued. The Assistant Director (Legal and Governance) may exercise the power of another officer to authorise, issue and serve such notices when that officer is unable or unwilling to act.
- 2.7 To take all steps incidental to completing or obtaining the confirmation of any Order or other statutory decrees made by the Council
- 2.8 To sign and seal documents on behalf of the Council.
- 2.9 To authorise the institution of legal proceedings in accordance with legislation and common law for the purpose of securing possession of land occupied by travellers.
- 2.10 To give legal effect to all agreements, contracts or any other document requiring execution and completion by the Council provided any necessary Committee/Cabinet approvals have been obtained.
- 2.11 To carry out on behalf of and in the name of the Council the acquisition and disposal of land including for the avoidance of doubt the sale of Council houses once terms have been agreed and any necessary Committee/Cabinet approvals have been obtained.
- 2.12 To enter into agreements under statutory or other powers to ensure that the Council's functions are fulfilled.
- 2.13 To maintain the Council's legal documentation.
- 2.14 To make street closure orders under section 21 of the Town Police Clauses Act 1847.
- 2.15 To ensure compliance with the requirements specified in relevant Data Protection and Freedom of Information legislation.
- 2.16 To be responsible, in conjunction with the Governance Services Manager for arranging the annual member induction, training and development programmes.
- 2.17 To receive petitions and refer them to the appropriate Committee, in

accordance with the Council's Petition Scheme and reject those petitions which do not meet the scheme or which are considered to be vexatious, abusive or otherwise inappropriate.

- 2.18 To be responsible, in conjunction with the Procurement Manager, for the co-ordination of the procurement function throughout the Council to ensure compliance with relevant legislation and that best practice and value for money are achieved in procurement exercises and the development of appropriate strategies.

### **3. HUMAN RESOURCES**

**All the following delegated powers relating to Human Resources can also be exercised by the Human Resources and Organisational Development Manager – to suitably qualified and/or experienced Officers in accordance with an agreed Scheme of Delegation.**

Responsible for the strategic management of Human Resources and overall responsibility for the Human Resources service area, including:

- 3.1 Workforce development planning
- 3.2 Develop policies and procedures for Senior Leadership Team approval relating to all aspects of employment, and to undertake necessary consultation & negotiations with recognised Trade Unions.
- 3.3 To implement nationally agreed pay awards for all employees.
- 3.4 To negotiate and agree settlement agreements where the circumstances warrant it.
- 3.5 Report on cases outside current policies to the Senior Leadership Team for decision.
- 3.6 To arrange a corporate learning & development programme as necessary.
- 3.7 To ensure apprenticeship levy funding is maximised.
- 3.8 To negotiate and agree Occupational Health provision, an Employee Assistance Programme and other employee benefits as directed by Senior Leadership Team.
- 3.9 Workplace Wellbeing.

### **4. COMMUNICATION and Engagement SAND ENGAGEMENT**

**All the delegated powers relating to Communications can also be exercised by the Assistant Director (Customer Service and Transformation) who may also delegate to suitably qualified and/or experienced Officers in accordance with an agreed Scheme of**

## **Delegation.**

- 4.1 To manage and coordinate all of the Council's internal and external communications activities across all recognised channels.
- 4.2 To manage the Council's online activities relating to the structure and content of the Council's main website, its separate news and projects website, its social media accounts and its intranet for employees.
- 4.3 To manage, promote and enforce the Council's agreed branding guidelines for all printed and digitally produced material across all services.
- 4.4 To manage the Council's printing and design contracts to ensure there is both a depth and variety of selected contractors with whom services can place work orders.

## **5. PERFORMANCE**

**All the delegated powers relating to performance can also be exercised by the Assistant Director (Customer Service and Transformation) who may also delegate to suitably qualified and/or experienced Officers in accordance with an agreed Scheme of Delegation.**

- 5.1 To support the Council in developing and reviewing its published three year Business Plans and yearly Business Action Plans, including its agreed corporate priorities and supporting objectives to which all of its services contribute.
- 5.2 To develop and manage an agreed performance management framework which integrates the Council's corporate priorities and objectives with service planning activities and the budget setting process.
- 5.3 To report on the accurate and timely collection of service performance data which enables the Council to monitor its progress against the published priorities and objectives for the borough.
- 5.4 To integrate new quality, improvement and transformation initiatives, as determined by the Council, into the agreed performance management framework.

## **6 Cemetery and Crematoria Management and Burial Registration**

**All the following delegated powers relating to Cemetery and Crematoria Management and Burial Registration can be exercised by the Assistant Director (Customer Service and Transformation) who may also delegate to suitably qualified and/or experienced Officers in accordance with an agreed Scheme of Delegation.**

- 6.1. To use and exercise the powers of the Local Authorities Cemeteries Order 1977 and The Cremation (England and Wales) Regulations 2008 any



subordinate Regulations or Orders.

- 6.2. To do all such things as the Council considers necessary or desirable for the proper management, regulation and control of a cemetery or crematorium.
- 6.3. To bequeath or remove Grants of Exclusive Rights of Burial and Rights to Erect Memorials on such terms and subject to conditions as the Council thinks proper.

To use and exercise the power of the Burial Act 1853 and any other subordinate Regulations or orders for the appropriate disposal of human cadavers and the keeping of the register of burials and disinterment's.

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## **SERVICE DIRECTOR (RESIDENT AND NEIGHBOURHOOD)**

Deputises for the Chief Executive as necessary.

To undertake any function delegated to a Director/Assistant Director provided it is within the law and within his/her capacity.

To be responsible for the operations relating to Public Health, Hackney Carriages, Licensing, Independent Living, Neighbourhood and Enforcement, Community Safety, Street Wardens, CCTV, Environment Services, Landscape and Ecology and Private Sector Housing.

### **ENVIRONMENT SERVICES**

**All the following delegated powers relating to Environmental Services can be exercised by the Service Director (Resident and Neighbourhood) who may also delegate to suitably qualified and/or experienced Officers in accordance with an agreed Scheme of Delegation.**

#### **Waste Collection**

- 2.1. To manage the contract(s) for the collection of refuse, recycling, garden, food and clinical waste.
- 2.2. To manage the contract(s) for the collection, storage and disposal of abandoned vehicles.

#### **Street Cleansing**

- 2.3. To manage the contract(s) for street cleansing, including litter picking, street sweeping and removal of fly-tips from council owned and maintained land.

#### **Grounds Maintenance**

- 2.4. To manage the contract(s) for street cleansing, including grass and hedges cutting, maintenance of hedges, shrubs and roses and bedding.

#### **Enforcement**

- 2.5. To take enforcement action in respect of its powers and duties as a Local Authority and a Waste Regulation Authority under all applicable legislation including the Clean Neighbourhoods and Environment Act 2005, Environmental Protection Act 1990, Refuse Disposal (Amenity) Act 1978(as amended), Control of Pollution (Amendment) Act 1989, the Controlled Waste (England and Wales) Regulations 2012, the Unauthorised Deposit of Waste (Fixed Penalty) Regulations 2016, The Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018, Environmental Offences Regulations 2017 and the Littering from Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018:-

- 2.6. To issue Fixed Penalty Notices in respect of legislation detailed below:-
- a) Offence of abandoning a vehicle (Sections 2A, 2B, 2C of Refuse Disposal (Amenity) Act 1978)
  - b) Offence of dropping litter (to include the practice of placing black bags of refuse out on street after refuse collection day) (Section 87/ 88 of Environmental Protection Act 1990) and Littering from Vehicle Outside London (Keepers: Civil Penalties) Regulations 2018
  - c) Defacement or Act of graffiti / failure to remove graffiti and Flyposting (sch3A of the Environmental Protection Act 1990, s224 of Town and Country Planning Act 1990 and Section 43/44 of the Anti-social Behaviour Act 2003)
  - d) Failure to produce authority to transport waste (Sections 5B and 5C Control of Pollution (Amendment) Act 1989)
  - e) Failure of a business to furnish waste transfer documents pertaining to its waste collection (Section 34A (2) Environmental Protection Act 1990)
  - f) Failure of residents to use the receptacles provided by the council correctly as stipulated by the S46 Notice; i.e. placing excess or side waste out on street for collection, placing incorrect items in the receptacles.
  - g) Failure by businesses to contain and take reasonable measures to prevent their waste from escaping their containers or presenting side waste as stipulated on Section 47 Notice (Sections 47ZA and 47XB Environmental Protection Act 1990)
  - h) The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 – Section 33 FPN in relation to the illegal deposit of household, industrial, commercial or other controlled waste without a waste management licence commonly referred to as fly tipping
  - i) Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018 – the Section 34(6) householder FPNs in relation to domestic duty of care
  - j) Powers to Search and Seizure of Vehicles- Section 46 of the Environmental Protection Act introduces new sections (34B and 34C) into the 1990 Act and Control of Pollution (Amendment) Act 1998. These provide powers to local authorities to search and seize vehicles connected to offences under section 33 (illegal fly tipping or waste disposal) or section 34 (the duty of care on anybody who deals with waste)
  - k) Powers to require the owner of the land to remove waste in pursuant to Section 59(1) of the Environmental Protection Act 1990 –allowing the waste collection authority the powers to serve notice on the owner of the land requiring fly tipped waste to be removed, Land owners are chargeable for the removal of waste in the event of non-compliance.
  - l) Failure to remove dog faeces (Dog fouling) -s.59 Clean Neighbourhoods and Environment Act 2005
- 2.7. To enforce provisions under s3 and 4 of Clean Neighbourhood and Environment Act 2005 (CNEA) relating to the sale of vehicles and repair of vehicles on the road, as detailed below:

- a) Exposing vehicles for sale on a road;  
It is an offence if at any time two or more vehicles are parked within 500 metres of each other on a road or roads, where the vehicles are parked in order to be sold. This offence is not intended to target private individual sellers of single vehicles, but rather the nuisance that is caused by the presence of numbers of vehicles being offered for sale by the same person or business. A road is defined as 'any length of highway or of any other road to which the public has access' (CNEA 2005 Part 2, Section 3).
- b) Repairing vehicles on a road;  
It is an offence to carry out "restricted works" to vehicles on a road. Restricted works are "works for the repair, maintenance, servicing, improvement or dismantling of a motor vehicle or any part of or +accessory to a motor vehicle". It is not intended to target private individuals/residents who are carrying out one off minor works to their vehicles (unless the repairs cause annoyance to persons in the vicinity and isn't an ongoing disturbance), or those who carry out necessary work to vehicles by the side of the road due to a breakdown or accident (CNEA 2005 Part 1, Section 4).
- c) The Act allows for the issuing of Fixed Penalty Notices, set at £100 for the above two offences (CNEA 2005, Part 2, Sections 6-9).

- 2.8. To authorise officers to carry out enforcement detailed within Clean Neighbourhood and Environment Act 2005, Environmental Protection Act 1990; Refusal Disposal (Amenity) Act 1978; Control of Pollution (Amendment) Act 1989, the Controlled Waste (England and Wales) Regulations 2012, the Unauthorised Deposit of Waste (Fixed Penalty) Regulations 2016, the Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018, Environmental Offences
- 2.9. To use the powers under section 108 of the Environment Act 1995, Section 71(2) of the Environmental Protection Act 1990 and s29 of the Data Protection Act 1998 (as amended) in progressing legitimate investigations .
- 2.10. To undertake all investigations in line with the Police and Criminal Evidence Act 1984 (PACE) codes of practice.

### **Dogs**

- 2.11. To use and exercise powers of the Environmental Protection Act 1990 (part 149-151) in relation to stray dogs.

### **Street Naming and Numbering**

- 2.12. To supervise the Local Land & Property Gazetteer (LLPG). The LLPG Data Entry conventions provide the basis for forming a consistent national dataset (NLPG) made up from each of the constituent LLPGs created and maintained by local government.
- 2.13. To deal with the requirements regarding the postal naming and numbering of new developments pursuant to Sections 17, 18 and 19 of the Public Health Act 1925 and only cases where agreement cannot be reached to be reported to the Cabinet.

- 2.14. To use and exercise powers including a fine where a property fails to display the official house number under the Towns Improvement Clauses Act 1847 (sections 64 & 65)

### **Trees and Woodlands**

**All the following delegated powers relating to Trees and Woodlands can be exercised by the Service Director (Resident and Neighbourhood) who may also delegate to suitably qualified and/or experienced Officers in accordance with an agreed Scheme of Delegation.**

- 2.28. To manage trees and woodlands as set out in the Council's Trees and Woodlands Strategy.
- 2.29. To manage woodlands and open spaces as set out in the Council's Woodland and Open Space Management Plans.
- 2.30. To manage allotments as set out in the Council's Allotment Policy.
- 2.31. To take action in relation to horses on woodland and open space owned and managed by the Council in accordance with Section 7 of the Control of Horses Act 2015.
- 2.32. To take action under the provisions of Section 23 and Section 24 of the Local Government (Miscellaneous Provisions) Act 1976 (power to deal with dangerous trees) in appropriate cases.
- 2.33. To determine the Council's response to high hedge applications under Part 8 of the Anti-Social Behaviour Act 2003, to authorise powers of entry for the purposes of high hedge complaints and appeals under Section 74 of the Anti-Social Behaviour Act 2003 and to serve High Hedges Remedial Notices and authorise prosecutions under Section 77 of the Anti-Social Behaviour Act 2003.
- 2.34. To grant licences, issue notices and authorise the removal and reinstatement for the planting of trees, shrubs, etc in highways under the Highways Act 1980.

### 2.35. **Private Sector Housing**

**All the following delegated powers relating to Private Sector Housing can be exercised by the Service Director (Resident and Neighbourhood) who may also delegate to suitably qualified and/or experienced Officers in accordance with an agreed Scheme of Delegation.**

- 1.1. To ensure that private sector housing meets the required standard and take enforcement action where required.
- 1.2. In pursuance of the Council's duties in respect of private sector housing:-

- a) To sign orders, notices, approvals, licences and Civil Penalties. Make applications for Rent Repayment Orders and Banning Orders. Authorised in accordance with Council policy and Responsibility for Functions.
- b) To authorise any suitably qualified or experienced person to act or to execute powers under any current licensing and housing legislation enforced or administered by the Council and to sign such authorisations.
- c) To authorise the carrying out of works in default arising from actions taken in accordance with housing legislation and to arrange for the recovery of costs.
- d) To serve or authorise the service of notices:
  - Requiring the execution of works of repair to rectify hazards the occupiers and visitors of dwellings
  - Requiring the abatement of overcrowding of dwellings.
  - Of intention to cleanse premises of vermin before demolition.
  - Requiring any information reasonably required to exercise statutory functions.
  - Proposing the grant, refusal to grant, variation, refusal of variation, revocation, refusal or revocation of a licence for a house in multiple occupation.
  - Proposing to make a Final Management Order.
  - Proposing to make a Final Management Order with modifications
  - Proposing to vary, refuse, revoke or refusing to revoke an Interim or Final Management Order.
  - To make or propose to make any other relevant Order or application or take any necessary action in pursuance of the Council's licensing and enforcement responsibilities as set out within housing legislation.
- e) To determine applications for all classes of home improvement grants and/or loans and applications for Disabled Facilities Grants.
- f) In connection with houses which have been assessed under the Housing Health and Safety Rating System to serve or authorise the service of the following notices and orders:
  - Improvement Notices
  - Prohibition Orders
  - Hazard Awareness Notices
  - Emergency Prohibition Orders
  - Demolition Orders
- g) In connection with houses which have been assessed under the Housing Health and Safety Rating System to authorise the taking of Emergency Remedial Action or the making of a Slum Clearance Declaration.
- h) To issue notices and make Orders in respect of houses in multiple occupation to deal with overcrowding, means of escape from fire and living conditions or any other relevant issue.
- i) To serve a Notice of Intention to register or licence houses in multiple occupation.
- j) Apply for a banning order against a person or corporate body who has been convicted of a banning order offence.

- To consider representations made in accordance with a notice proposing the application of a banning order
  - Require a person or corporate body to provide specified information for the purpose of enabling the authority to decide whether to apply for a banning order against that person or corporate body.
- k) Make entries and maintain records accordingly to the Government's Rogue Landlords Database
- l) Make Applications for Rent Repayment Orders against persons who have committed relevant offences.
- To consider representations made in accordance with a notice proposing the application of a Rent Repayment Order
- m) To Serve a Notice imposing a financial penalty on a person if satisfied, beyond reasonable doubt, that the person's conduct amounts to a relevant housing offence in respect of premises in England
- To consider representations made in accordance with a notice proposing the imposition of a financial penalty.
- n) To make, serve, enforce and execute Closing Orders and Demolition Orders in respect of unfit dwelling houses and unfit houses in multiple occupation.
- o) In connection with mandatory, additional and selective licensing of houses in multiple occupation to:
- Grant, refuse, revoke or vary a licence
  - Authorise the taking of legal action for non-compliance with licence conditions or for operating without the required licence
  - To make Interim Management Orders
  - To consider representations regarding the making of Final or Interim Management Orders
  - To make Final Management Orders
  - To consider representations made in accordance with a notice proposing the grant, refusal to grant, variation, refusal of variation, revocation, refusal of revocation of a licence for a house in multiple occupation.
- p) In respect of empty dwellings to make Interim and Final Empty Dwelling Management Orders.
- q) To serve or authorise the service of Overcrowding Notices for houses in multiple occupation that do not require a licence.
- r) To accept or reject proposals for the reconstruction of condemned houses.
- s) To substitute Closing Orders for Demolition Orders and Demolition Orders for Closing Orders.
- t) To determine Closing Orders.
- u) To serve notice of the time and place at which the making of an order in respect of a building will be considered.
- v) To determine home loss and disturbance payments, and compensation payments in respect of Closing and Demolition Orders.



- w) To authorise the institution of legal proceedings in accordance with housing legislation enforced or administered by the Council.
- x) To authorise the issue of simple cautions for offences for which the service has enforcement responsibility.

## **PUBLIC HEALTH AND PROTECTION, INCLUDING ENVIRONMENTAL HEALTH AND LICENSING**

**All the following delegated powers relating to Public Health and Protection, Environmental Health and Licensing can be exercised by the Service Director (Resident and Neighbourhood) who may also delegate to suitably qualified and/or experienced Officers in accordance with an agreed Scheme of Delegation.**

**The Licensing Team Leader is an Authorising Officer for the purposes of the use of covert surveillance under the Regulation of Investigatory Powers Act 2000.**

- 3.1. To serve or authorise service of notices:
  - a) Requiring the disclosure of interests in land.
  - b) Requiring the abatement of statutory nuisances and prohibiting the occurrence or recurrence of statutory nuisances.
- 3.2. To defer the service of abatement notices in respect of noise nuisance.
- 3.3. To take action to ensure the restoration or continuation of the supply of water, gas or electricity to premises.
- 3.4. To negotiate contracts in respect of pest control.
- 3.5. To negotiate contracts for the performance of any Public Health, Public Protection, Environmental Health and Licensing functions.
- 3.6. To authorise the carrying out of works in default arising from actions taken in accordance with environmental health or other legislation and to arrange for the recovery of costs.
- 3.7. To request or respond to requests for mutual aid assistance for performance of any environmental health function.
- 3.8. To appoint or authorise any registered veterinary surgeon or veterinary practitioner to carry out duties in connection with any food or animal related legislation or licence which it is the Council's remit to enforce.
- 3.9. To make or authorise applications to the Magistrates Court for warrants authorising entry to premises or land.
- 3.10. To authorise the institution of legal proceedings in accordance with legislation falling within environmental health, public health, public protection, animal and pest control and licensing duties and responsibilities and for the purpose of securing possession of land occupied by travellers.

- 3.11. To authorise any suitably qualified or experienced person to act or to execute powers under any current Environmental Health, Public Health, sunbeds/radiological protection, Food Safety, European Community, Environmental Protection, Health and Safety, Infectious Disease, Pollution Control, Community Protection, Clean Neighbourhoods, Animal Welfare, Dog Control, Health Protection, Hackney Carriage, private hire, Licensing, Gambling and Housing legislation enforced or administered by the Council and to sign such authorisations.
- 3.12. To authorise surveillance in connection with the gathering of evidence for Public Health and Protection offences.
- 3.13. To take or authorise the taking of samples of air, land, water, food or other substances or materials and cause them to be tested or examined.
- 3.14. To issue Simple Cautions for offences for which Public Health and Protection has enforcement responsibility (including licensing, hackney carriage and private hire).
- 3.15. To authorise applications for anti- social behaviour orders in connection with legislation falling within the remit of Public Health and Protection.
- 3.16. To appoint or authorise a General Medical Practitioner or other suitable person(s) to act on behalf of the Council or to advise the Council on matters relating to the removal to suitable premises of persons in need of care and attention.
- 3.17. To be a Member of the Council's Resilience team.
- 3.18. To negotiate, agree or modify primary authority agreements having first discussed the matter with the relevant portfolio Holder.

3.19. In pursuance of the Council's duties in respect of pollution control:-

To take action if it appears that waste has been deposited in or on any land in contravention of section 33(1) Environmental Protection Act 1990 and that in order to remove or prevent pollution of land, water or air or harm to human health it is necessary that the waste be forthwith removed or other steps ~~taken~~[taken to](#) eliminate or reduce the consequences of the deposit or both and to take steps to recover the costs incurred by the Authority in doing so.

- a) To serve or authorise the service of notices:
  - i. Requiring the abatement of statutory nuisance and prohibiting or restricting the occurrence or recurrence of statutory nuisance.
  - ii. In respect of the control of noise on building sites.
  - iii. Requiring further information for the purpose of determining applications for authorisation of prescribed processes.
  - iv. Requiring persons to furnish information concerning processes capable of causing pollution of the environment.
  - v. Requiring information concerning furnaces and fuel consumed.
  - vi. Requiring information concerning the emission of pollutants and other substances into the air from premises.
  - vii. To remediate contaminated land.

- viii. To determine contaminated land.
  - ix. To designate air quality management areas.
- b) To negotiate the handover of special sites to the environment agency.
  - c) To determine conditions for the grant, variation, revocation or refusal of authorisations and permits to carry on prescribed processes.
  - d) To serve or authorise the service of enforcement notices and prohibition notices for prescribed processes.
  - e) To approve or reject applications for prior approval of furnace installations.
  - f) To approve or reject applications for approval of chimney heights.
  - g) To approve or reject applications for exemptions from the requirement to fit plant for arresting grit and dust.
  - h) To determine applications for prior consent in respect of measures to minimise noise on construction sites.
  - i) To register or to refuse the registration of intruder alarms. To designate or withdraw alarm notification areas.
  - j) To issue or authorise the issue of fixed penalty notices for failure to notify key holder details and to arrange for the collection of receipts from such fixed penalty notices.
  - k) To issue or authorise the issue of fixed penalty notices for noise from licensed premises or domestic premises and to arrange for the collection of the fixed penalty receipts from such notices.
  - l) Authorised person for the purposes of s108 and 109 of the Environment Act 1995
  - m) To pursue legal action against occupiers of premises for dark smoke emitted from chimney stacks and dark smoke emitted from industrial or trade premises.
  - n) For the purpose of determining whether any provision of the pollution control enactments in the case of that authority is being, or has been, complied with; of exercising or performing one or more of the pollution control functions of that authority; or of determining whether and, if so how such a function should be exercised or performed any or all of the powers below:
    - i. to enter at any reasonable time (or, in an emergency, at any time and, if need be, by force) any premises which he has reason to believe it is necessary for him to enter;
    - ii. on entering any premises by virtue of paragraph (a) above, to take with him
      - any other person duly authorised by the enforcing authority and, if the authorised person has reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable; and
      - any equipment or materials required for any purpose for which the power of entry is being exercised;
    - iii. to make such examination and investigation as may in any circumstances be necessary;
    - iv. as regards any premises which he has power to enter, to direct that

those premises or any part of them, or anything in them, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under paragraph (iii) above;

- o) to take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (iii) above;
- p) to take samples, or cause samples to be taken, of any articles or substances found in or on any premises which he has power to enter, and of the air, water or land in, on, or in the vicinity of, the premises;
- q) in the case of any article or substance found in or on any premises which he has power to enter, being an article or substance which appears to him to have caused or to be likely to cause pollution of the environment or harm to human health, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it, unless that is necessary);
- r) in the case of any such article or substance as is mentioned in paragraph (q) above, to take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely
  - i. to examine it, or cause it to be examined, and to do, or cause to be done, to it anything which he has power to do under that paragraph;
  - ii. to ensure that it is not tampered with before examination of it is completed;
  - iii. to ensure that it is available for use as evidence in any proceedings for an offence under the pollution control enactments in the case of the enforcing authority under whose authorisation he acts or in any other proceedings relating to a variation notice, enforcement notice or prohibition notice under those enactments;
- s) to require any person whom he has reasonable cause to believe to be able to give any information relevant to any examination or investigation under paragraph (iii) above to answer (in the absence of persons other than a person nominated by that person to be present and any persons whom the authorised person may allow to be present) such questions as the authorised person thinks fit to ask and to sign a declaration of the truth of his answers;
- t) to require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any records
  - i. which are required to be kept under the pollution control enactments for the enforcing authority under whose authorisation he acts, or
  - ii. which it is necessary for him to see for the purposes of an examination or investigation under paragraph (iii) above,and to inspect and take copies of, or of any entry in, the records;
- u) to require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred on him by this section;
- v) any other power for:-

- i. a purpose falling within any paragraph of subsection (i) above, or
  - ii. any such purpose as is mentioned in subsection (ii) above,
- which is conferred by Regulations made by the Secretary of State.

in the case of any article or substance found by him on any premises which he has power to enter, and having reasonable cause to believe that, in the circumstances in which it is found the article or substance is a cause of imminent danger of serious pollution of the environment or serious harm to human health, seize it and cause it to be rendered harmless (whether by destruction or otherwise).

- w) To appoint suitable persons as authorised persons under Section 108 of the Environment Act 1995.
- x) To issue or authorise the issue of community protection notices.
- y) To be an Authorised person for the purpose of part 4 chapter 1 and sections 47, 52 and 53 of the Anti-social Behaviour, Crime and Policing Act 2014.
- z) To authorise or designate persons for the purpose of part 4 chapter 1 and sections 47 and 53 of the Anti-social Behaviour, Crime and Policing Act 2014.
- aa) To issue or authorise the issue of a written warning prior to issuing a community protection notice.
- bb) To take or authorise the taking of remedial action where a person has failed to comply with a community protection notice.
- cc) To serve or authorise the service of a notice to a person who has failed to comply with a community protection notice and notices setting out works and costs.
- dd) To authorise the institution of proceedings for failure to comply with a community protection notice.
- ee) To issue or authorise the issue of a fixed penalty notice to anyone believed to have committed an offence under section 48 of the Anti-social Behaviour, Crime and Policing Act 2014.
- ff) To issue or authorise a closure notice under section 76 of the Anti-social Behaviour, Crime and Policing Act 2014 to cancel or vary such notices and to make or authorise the making of an application to a court for a closure order.
- gg) To serve written warnings for failure to comply with a Section 46 requirement where that failure has caused or was likely to cause a nuisance and to require the payment of appropriate fixed penalty sums.

**3.20. In pursuance of the Council's duties in respect of food protection:-**

- a) To serve notices in respect of food appearing to fail to comply with food safety requirements or appearing likely to cause food poisoning or disease.
- b) To take necessary steps to deal with food which appears to be unsafe.
- c) To serve improvement notices in respect of food premises.
- d) To serve hygiene improvement notices.

- e) To serve emergency prohibition notices and to make application for emergency prohibition orders in respect of food premises.
- f) To serve hygiene emergency prohibition notices and to make application for hygiene emergency prohibition orders in respect of food premises.
- g) To issue certificates ceasing the effect of emergency prohibition notices, emergency prohibition orders, hygiene prohibition notices and hygiene prohibition orders.
- h) To register food premises.
- i) To approve food establishments under product specific legislation and to modify or withdraw approvals.
- j) To detain consignments of food not of animal origin and offer options for rejection, re-export, destruction or alternative use for unsound or unwholesome goods including those which fail to satisfy the food safety requirements.
- k) To enforce Local Authority controls inland for animal products.
- l) To inspect, seize, detain and dispose of meat suspected of containing specified risk material.
- m) To serve remedial action notices.
- n) To serve detention notices.
- o) To certify food as unsafe where a premises within which it is found fails to meet any of the food hygiene requirements.
- p) To approve establishments to remove Specified Risk Material (Bovine Vertebral Column) in animals 24 to 30 months old in butchers shops.
- q) To issue or sign food export certificates.
- r) To sign national food hygiene rating scheme certificates.
- s) To apply to a Court for a hygiene prohibition order.

**3.21. In pursuance of the Council's duties and functions except in its capacity as an employer in respect of health and safety at work:-**

- a) To serve improvement notices.
- b) To serve prohibition notices.
- c) To grant exemptions to welfare provisions in offices and shops.
- d) To agree the transfer or assignment of enforcement responsibility for health and safety enforcement of premises to and from the Health and Safety Executive.
- e) To appoint suitably qualified persons as Inspectors.
- f) To authorise persons to accompany Inspectors.
- g) To exercise all or any of the powers of Inspectors.
- h) To deal with the causes of imminent danger.
- i) To disclose health and safety information.
- j) To institute proceedings.

- k) To prosecute.
- l) To exercise powers in connection with the control of pesticides.
- m) To accept the handover of an incident scene from the Police.
- n) To enter into flexible warranting arrangements with the Health and Safety Executive.

**3.22. In pursuance of the Council's duties in respect of public health:-**

- a) To serve or authorise the service of notices:-
  - i. For the cleansing and disinfecting of premises and the disinfecting or destruction of articles.
  - ii. In respect of filthy or verminous premises.
  - iii. In respect of insufficient, blocked, defective or leaking drains, sewers, cesspools and septic tanks.
  - iv. Requiring the provision of satisfactory drainage to buildings.
  - v. Requiring the provision of closets and sanitary conveniences.
  - vi. Requiring the putting into a satisfactory condition of defective closets.
  - vii. In respect of improving a private water supply and requiring the provision of water supply to a premises.
  - viii. For the carrying out of works to remedy unwholesome or insufficient water supplies.
  - ix. For the removal of accumulations of rubbish and noxious matter.
  - x. Requiring the provision of dustbins.
  - xi. Requiring steps to be taken to destroy rats and mice or otherwise keep land free from rats and mice.
  - xii. To give notice of intention to carry out block treatments for rodents.
  - xiii. To issue or authorise the issue of litter clearing notices on the owner or occupiers of land and to authorise work in default, prosecution or receipt of a fixed penalty payment for default of such a notice.
  - xiv. The disinfestations of verminous articles offered for sale.
  - xv. In conjunction and consultation with an officer from the County Council Social Services to direct that a person in need of care is removed to a hospital or institution.
  - xvi. To control communicable, infectious disease, parasites and pests.
- b) To authorise applications for orders to close or restrict the use of polluted water supplies.
- c) To arrange for the unblocking and cleansing of drains and private sewers where alternative courses of action are likely to result in a higher cost to the Council.
- d) To make arrangements for the disposal of dead bodies where no other suitable arrangements are being made.
- e) To issue licences in respect of moveable dwellings.
- f) To set fees for pest control treatments.
- g) To authorise applications for orders for the removal, detention and cleansing of verminous persons.
- h) To make arrangements to secure the removal to suitable premises of

persons in need of care and attention.

- i) To represent the Environmental Health interests of the Council at any Science and Technical Advice Cell (STAC), Joint Health Advisory Cell (JHAC), Health Advisory Team, Outbreak Control Team, Command Team or Incident Management Team.
- j) To respond to a consultation from the statutory water undertaker regarding their proposal to obtain a short-term authorised departure from the relevant prescribed concentration or value or other recognised standard.
- k) To issue or authorise the issue of notices to persons who smoke in a smoke-free place.
- l) To issue or authorise the issue of notices for remedying the failure to display no smoking signs in a smoke-free premise, place or vehicle.
- m) Serve notice requiring a parent to keep a child away from school.
- n) Serve notice upon a head teacher (or their deputy) requiring them to provide details of the names, addresses and contact numbers for all the pupils or a group of pupils.
- o) Disinfect or decontaminate or cause to be disinfected or decontaminated a thing when requested to do so by the owner of a thing.
- p) Disinfect or decontaminate or cause to be disinfected or decontaminated a thing upon request of a person with custody or control of that thing.
- q) Disinfect or decontaminate or cause to be disinfected or decontaminated a premises on request of the owner.
- r) Disinfect or decontaminate or cause to be disinfected or decontaminated a premises on request of a tenant.
- s) Refuse to disinfect or decontaminate or cause to be disinfected or decontaminated a thing or premises.
- t) Serve notice on any person or group of persons to request that the person or group of persons do, or refrain from doing, anything for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination which presents or could present significant harm to human health.
- u) Serve notice prohibiting contact with dead bodies.
- v) Serve notice to restrict access to dead bodies.
- w) Relocate or cause to be relocated a dead body to a place where it is considered the risk of the dead body infecting or contaminating people is reduced or removed.
- x) Apply to a justice of the peace for an order under part 2A of the Public Health (Control of Disease) Act 1984 as amended.
- y) Enter a premises at all reasonable hours, other than any part of a premises used as a private dwelling, in order to find out if a part 2A order has been breached or find out if action should be taken in relation to an order or take action in relation to an order or generally for the performance of local authority functions in relation to an order.



- z) To take or authorise the taking of works for the purpose of preventing entry where a building is not secured against unauthorised entry or where land is likely to become a danger to public health.
  
- aa) To deal with any rubbish which is in the open air and which is seriously detrimental to the amenities of the neighbourhood, including service of notice, issue of fixed penalty notice, collection of fixed penalty receipts, authorisation of work in default and prosecution.
- bb) To require the removal of material from a demolished building.
- cc) To appoint authorised officers in connection with the regulation of sunbeds.
- dd) To make such purchases and secure the provision of such services as considered necessary for the purpose of the proper exercise of functions under the Sunbeds (Regulation) Act 2010.
- ee) To enter any premises (other than domestic premises) where there is reason to believe that a sunbed business is being carried on.
- ff) To carry out on any premises (other than domestic premises) where there is reason to believe that a sunbed business is being carried on such inspections as the officer considers necessary for the purpose of the proper exercise of the officer's functions under the Sunbeds (Regulation) Act 2010.
- gg) Where considered necessary for that purpose, to require the production of any book, document or record (in whatever form it is held) and inspect it, and take copies of or extracts from it (in connection with the regulation of sunbeds).
- hh) To take possession of any book, document or record which is on the premises (in whatever form it is held) and retain it for as long as the officer considers necessary for that purpose; (in connection with the regulation of sunbeds).
- ii) To require any person to give such information, or afford such facilities and assistance, as the officer considers necessary for that purpose (in connection with the regulation of sunbeds).
- jj) To remove or cause to be removed from any land in the open air any rubbish (including rubble, waste, paper, crockery and metal) which is seriously detrimental to the amenity of the neighbourhood.
- kk) to serve a notice under section 9 of the Health Act 2006 relating to smoke free England controls.
- ll) To deal with unoccupied buildings which are not effectively secured or are likely to be a danger to public health, including the service of notice or undertaking immediate works to prevent a danger to public health.
- mm) To determine if a failure to comply with a requirement imposed upon a householder in relation to receptacles for household waste has caused or is or was likely to cause a nuisance or has been or is or was likely to be detrimental to any amenities of the locality.
- nn) To detain a horse which is in any public place within the area of the authority where there are reasonable grounds for believing that the horse

is there without lawful authority and if the land is lawfully occupied by a person, there are reasonable grounds for believing that person would give their consent to the detention of the horse.

- oo) To give notice to the officer in charge of a police station and (where the owner of a horse is known) extending the period for which a horse may be detained.
- pp) To take ownership of a horse on behalf of the Council at the expiration of the detention period and in conjunction with the relevant portfolio holder to dispose of it by selling it, arranging for it to be destroyed or in any other way; the Council retaining liability for any damage caused to the horse by failure to treat it with reasonable care and supply it with adequate food and water whilst so detained.
- qq) To be an authorised person for the purposes of section 23 and 25 of the Psychoactive substances Act 2016.
- rr) In connection with psychoactive substances to give a prohibition notice to a person where it is reasonably believed that the person is carrying on or is likely to carry on a prohibited activity and there is reasonable belief that it is necessary and proportionate to give a prohibition notice for the purpose of preventing the person from carrying on any prohibited activity.
- ss) In connection with psychoactive substances to give a premises notice to a person who owns, leases, occupies, controls or operates a premises where it is reasonably believed that a prohibited activity is being or likely to be carried on at that particular premises and that it is reasonably believed it is necessary and proportionate to give the premise notice for the purpose of preventing and prohibited activity from being carried on at any premises owned, leased, occupied, controlled or operated by that person.
- tt) In connection with psychoactive substances to apply to a Court for a prohibition order.
- uu) In connection with psychoactive substances to apply to a Court for a premises order.
- vv) In connection with psychoactive substances to apply to a Court for the reimbursement of costs incurred for the purposes of clearing, securing or maintaining a premises in respect of which a prohibition is in effect.

**3.24. In respect of public health partnership working, health and wellbeing and health improvements:-**

- a) To facilitate the Council's partnership working with the National Health Service and other organisations, co-ordinate the Council's response to NHS Public Health England and other initiatives and support the promotion of the Council's role in health improvement by focusing attention on the prevention of ill health in respect of public health partnership working, health and wellbeing and health improvement.
- b) In connection with flood risk management, having first consulted with the Environment Agency and Lead Local Flood Authority to authorise the carrying out of flood risk management work to ordinary watercourses if it is considered the work is desirable having regard to the local flood risk management strategy for the area and the purpose of the work is to manage a flood risk in the authority's area from an ordinary watercourse

including a lake, pond or other area of water which flows into an ordinary watercourse.

**3.25. In pursuance of the Council's duties in respect of local licensing:-**

- a) To grant, renew, vary or transfer licences for the use of premises for the sale by retail of alcohol, the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club, the provision of regulated entertainment, and the provision of late night refreshment where no representations have been made.
- b) To issue, renew, vary, refuse suspend or revoke licences in respect of selling animals as pets, providing or arranging for the provision of boarding for cats or dogs, hiring out horses, breeding of dogs, keeping or training animals for exhibition, animal boarding establishments, pet shops and dog breeders.
- c) To grant, renew, refuse, revoke or vary licences for the keeping of dangerous wild animals.
- d) To grant, renew, vary, revoke or refuse licences or consents for street trading.
- e) To register or refuse to register persons and premises for acupuncture, tattooing, semi permanent skin colouring, cosmetic piercing, ear piercing and electrolysis.
- f) To grant, renew, refuse or revoke gaming machine permits.
- g) To set fees for licences, registrations and consents.
- h) To determine and amend conditions for licences registrations and consents.
- i) To authorise the service of notices for the provision, cleaning and availability of sanitary accommodation at entertainments, exhibitions or sporting events, at places used for the sale of food and drink and at betting offices.
- j) To deal with the approval or refusal of applications for licences/permits in relation to house-to-house and street collections.
- k) To grant a personal licence for selling alcohol if no representation has been made.
- l) To approve a provisional statement if no representation has been made.
- m) Except if a representation has been made by the Police, to approve a variation to a designated personal licence holder.
- n) To remove a person as a designated premises supervisor, upon their request.
- o) To approve applications for interim authorities if no Police representation has been made.
- p) To decide if a request for a licence review is irrelevant, frivolous, repetitious or vexatious.
- q) To object to a licence application when the Authority is a consultee and not the lead authority.

- r) To deal with the approval or refusal of applications for registration of societies and the issue or refusal of permits for amusements with prizes at commercial entertainments for the purposes of the Gambling Act.
- s) To respond to Temporary Event Notices.
- t) To approve new applications for the use of up to five amusement with prizes machines and to approve applications for transfers and renewals of existing amusement with prizes machines.
- u) With the approval of the relevant Executive Member to set fees under the Gambling Act 2005.
- v) To approve applications to grant, vary transfer licence to enable gambling, where no representations have been received or where representations have been withdrawn.
- w) To approve an application for a provisional statement under the Gambling Act 2005 where no representations have been received or where representations have been withdrawn.
- x) To approve an application for club gaming or club machine permits where no representations have been received or where representations have been withdrawn.
- y) To approve applications for permits under the Gambling Act 2005.
- z) To issue a cancellation of licensed premise gaming machine permits.
- aa) To consider and respond to a temporary use notice in connection with the Gambling Act 2005.
- bb) To designate persons as an “authorised person” for the purpose of part 15 of the Gambling Act 2005.
- cc) To be an inspector for the purposes of section 51 of the Animal Welfare Act 2006.
- dd) To inspect premises to check compliance with the conditions of a licence or registration relating to animal welfare or regulations which implement a community obligation.
- ee) In connection with the welfare of animals, to serve improvement notices in relation to an animal’s needs.
- ff) To take, or arrange to be taken, appropriate immediate steps to alleviate a protected animal’s suffering.
- gg) To enter premises for the purposes of searching for a protected animal and for the purpose of exercising any powers under section 10, 18, 19, 25, 26, 27, 28, 29 and 30 of the Animal Welfare Act 2006.
- hh) Enforcement powers under “The Animal Welfare (licensing of Activities Involving Animals) (England) Regulations 2018.
- ii) To require the production of records kept pursuant to an animal welfare licence.
- jj) To carry out an inspection to check compliance with regulations concerning animals bred or for farming.
- kk) To stop, detain and search a vehicle for the purpose of searching for a protected animal where accompanied by a constable in uniform.

- ll) To suspend premises licences and club premises certificates for non-payment of annual fees.
- mm) To issue licences in relation to scrap metal.
- nn) To agree minor variations.
- oo) To approve applications of all types under the Scrap Metal Dealers Act 2013 under delegated authority in the case of applications which are uncontested and/or where enquiries with relevant consultees do not reveal any relevant offences or other cause for concern and to use all local authority enforcement powers provided by the Act and to further delegate these powers to other suitable Council Officers.
- pp) To determine if the Council should exercise its powers as a responsible authority for the purposes of the Licensing Act 2003; and if appropriate to exercise those powers and to put in place arrangements to ensure that there is adequate separation of functions when carrying out those powers.
- qq) To apply to a residential property tribunal when a fee for a caravan site licence has become overdue for an order requiring the licence holder to pay the amount due by a specified date.
- rr) To apply to a tribunal for an order revoking a caravan site licence.
- ss) To determine fees for caravan site licences.
- tt) To issue compliance notices in circumstances where an occupier is failing or has failed to comply with a condition attached to a caravan site licence.
- uu) To revoke a compliance notice.
- vv) To vary a compliance notice by extending the period within which steps must be taken.
- ww) To exercise initiative to determine whether a compliance notice should be revoked or varied.
- xx) To apply to a court for an order revoking a caravan site licence.
- yy) To apply to a court to make an order specifying the date on which the revocation of a caravan site licence takes effect.
- zz) To serve a demand which sets out the expenses which are sought to be recovered from an occupier of land in connection with a compliance notice.
- aaa) To take steps required by a compliance notice and to take such further action as considered appropriate for ensuring condition(s) specified in the compliance notice are complied with.
- bbb) To serve notice setting out the mandatory matters needed to give notice that the local authority will be taking steps required by a compliance notice or such further action as considered appropriate for ensuring condition(s) specified in the compliance notice are complied with.
- ccc) To authorise persons other than an officer of the local authority to take action on behalf of the authority to take steps required by a compliance notice and to take such further action as considered appropriate for ensuring condition(s) specified in the compliance notice are complied with.
- ddd) To exercise powers to take emergency action in connection with licensed

caravan sites.

eee) To serve notice setting out the mandatory matters prior to taking emergency action.

fff) To apply for a warrant to enter caravan sites.

ggg) To authorise persons other than an officer of the local authority to take emergency action on behalf of the authority in connection with licensed caravan sites.

hhh) To serve notice within the period of 7 days beginning with the date when the emergency action is to start which sets out the mandatory matters relating to the nature of the imminent risk of serious harm, the nature of the emergency action and other prescribed matters.

iii) To impose a charge on the recipient of emergency action to recover the costs incurred in taking emergency action by service of a demand for expenses.

jjj) To grant, transfer and vary licences for caravan sites.

kkk) To alter conditions on site licences for caravan sites.

lll) To determine applications for the grant, renewal, transfer or variation of licences unless established policy states or the ~~Corporate Director (Public Protection, Planning and Governance) or the Head of Public Health and Protection Service Director (Resident and Neighbourhood)~~ consider it is more appropriate for the determination to be made by Members.

mmm) To give notice to the Secretary of State that an applicant for a personal licence has relevant immigration or foreign offences or has refused to pay an immigration penalty.

nnn) To consider an immigration Objections Notice and its appropriateness to the prevention of illegal working in licensed premises and having consulted with the relevant Portfolio Holder, to reject the licence application if it is considered to do so, having regard to the notice.

### 3.26. Infectious Disease

In accordance with the environmental health legislation falling within the duties and responsibilities of the Council and in accordance with Council Policy and Responsibility for Functions:-

The Proper Officer for the Council in respect of matters relating to the control and spread of infectious disease and contamination shall be any physician working as a consultant in public health medicine or communicable disease control and employed by Public Health England in the South East Midlands and Hertfordshire Centre including those providing on call cover for this team from other geographical areas, the Director of Public Health and any consultant in public health nominated by him; who are authorised and

empowered to:-

- a) Execute all powers in relation to the notification and control of infectious disease.
- b) Issue Pasteurisation Orders.
- c) Sign notices requiring the cleansing of a filthy or verminous person.
- d) To keep a child with infectious disease or contamination off school.
- e) To formally request co-operation to protect public health.
- f) To undertake or arrange for the disinfection/decontamination of premises or articles.
- g) To limit contact with the body of a person who has died from infectious disease or contamination.

### 3.27. Street Warden Service

**All the following delegated powers relating to the Street Warden Service can be exercised by the Service Director (Resident and Neighbourhood) who may also delegate to suitably qualified and/or experienced Officers in accordance with an agreed Scheme of Delegation.**

1. issue and enforce fixed penalty notices for:
  - a. The Offence of abandoning a vehicle (Sections 2A, 2B, 2C of Refuse Disposal (Amenity) Act 1978
  - b. The Offence of dropping litter (to include the practice of placing black bags of refuse out on street after refuse collection day) (Section 87 and 88 of Environmental Protection Act 1990) and Littering from Vehicle Outside London (Keepers: Civil Penalties) Regulations 2018
  - c. Defacement or Act of graffiti / failure to remove graffiti and Flyposting (sch3A of the Environmental Protection Act 1990, s224 of Town and Country Planning Act 1990 and Section 43/44 of the Anti-social Behaviour Act 2003)
  - d. Failure to produce authority to transport waste (Sections 5B and 5C Control of Pollution (Amendment) Act 1989
  - e. Failure of a business to furnish waste transfer documents pertaining to its waste collection (Section 34A (2) Environmental Protection Act 1990)
  - f. Failure by a resident to use the receptacles provided by the council correctly as stipulated by a Notice given under section 46 of the Environmental Protection Act 1990
  - g. Failure by a businesses to comply with the requirements of a notice served under section 47 of the Environmental Protection Act 1990
  - h. the illegal deposit of household, industrial, commercial or other controlled waste without a waste management licence [commonly referred to as fly tipping]
  - i. the Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018 Section 34(6) householder fixed penalty in relation to domestic duty of care

- j. Failure to remove dog faeces (Dog fouling) -s.59 Clean Neighbourhoods and Environment Act 2005
  - k. Exposing a vehicle for sale on a road
  - l. Repairing a vehicle on a road
1. Search and seize Vehicles connected to offences under section 33 and section 34 of the Environmental Protection Act 1990 (as amended)
  2. Require the owner of land to remove waste in pursuant to Section 59 of the Environmental Protection Act 1990 and should they so not, to undertake those works and recover reasonable expenses incurred
  3. use the powers under Section 71(2) of the Environmental Protection Act 1990 to require the provision of information
  4. use and exercise powers of the Environmental Protection Act 1990 in relation to stray dogs.

5. **HACKNEY CARRIAGES**

~~The following delegated powers in 5.1 to 5.3 relating to hackney carriage and private hire licences and legislation can also be exercised by the Hackney Carriage Officer who may also delegate to suitably qualified and/or experienced Officers in accordance with an agreed Scheme of Delegation.~~

All the following delegated powers relating to the Hackney Carriage function can be exercised by the Service Director (Resident and Neighbourhood) who may also delegate to suitably qualified and/or experienced Officers in accordance with an agreed Scheme of Delegation.

- 5.1 To grant, renew or refuse hackney carriage/private hire vehicle, driver or operator licences unless the ~~Corporate Director (Public Protection, Planning and Governance) or Head of Public Health and Protection~~ Service Director (Resident and Neighbourhood) considers it more prudent and or appropriate for the application to be dealt with by the ~~Hackney Carriage Licencing~~ Committee.
- 5.2 To carry out investigations into alleged contraventions of hackney carriage and private hire legislation, policy, conditions or byelaws and to take appropriate action including the suspension or revocation of any hackney carriage or private hire licence granted by the Council or to prosecute/institute proceedings for offences. Where the ~~Corporate Director (Public Protection, Planning and Governance) or Head of Public Health and Protection~~ Service Director (Resident and Neighbourhood) considers that it is not prudent and/or appropriate to exercise this delegated power the alleged contravention shall be referred to the Licensing ~~Sub~~ Committee for determination.
- 5.3 ~~Having first informed the Executive Member,~~ has the power to serve notice to suspend or revoke any licence in the interest of public safety, ~~and must report such action to the first meeting of the relevant Committee following the taking of such action.~~



- 5.4 To grant, renew or refuse hackney carriage/private hire vehicle, driver or operator licences unless the ~~Corporate Director (Public Protection, Planning and Governance) or Head of Public Health and Protection Service Director (Resident and Neighbourhood)~~ considers it more prudent and or appropriate for the application to be dealt with by the Licensing ~~Sub~~ Committee
- 5.5 In respect of hackney carriage/private hire vehicle, driver or operator licences subject to immigration control, to specify a period with the licence that it will remain in force in accordance with the leave period.

### **Neighbourhood and Enforcement**

**All the following delegated powers relating to Housing Operations can be exercised by the Service Director (Resident and Neighbourhood) who may also delegate to suitably qualified and/or experienced Officers in accordance with an agreed Scheme of Delegation.**

- 2.1. To ensure services meet the standards as set out in the housing service's performance management framework, published service standards and any relevant regulatory standards as set by central Government.
- 2.2. To operate the Tenant Panel in accordance with its terms of reference to have opportunity to scrutinise and review housing services, making recommendations on service improvement.
- 2.3. To authorise the institution of legal proceedings for council housing related tenancy breaches.
- 2.4. Maximise rental and other types of income collected by the housing service. This includes rent, service charges, communal facilities charge, other fees and charges, former tenant arrears and other debts including re-charges for repairs.
- 2.5. To ensure that tenancies are managed in accordance with legislative requirements and council policies. In fulfilling this function the following powers are delegated:
  - a) Preparation and service of the following Notices and proceeding where necessary with court action and evictions from residential properties:
    - Notices of Seeking Possession
    - Notices to Quit
  - b) Represent the council at court for standard rent arrears possession cases and other tenancy breach court hearings as agreed with the Head of Law and Administration
  - c) Approving applications and the administration of tenancy and rent account related matters, i.e. to sub-let properties, temporary absence, rent refunds, etc.
  - d) Approving mutual exchanges and the vesting, assignment or creation of new tenancies, following the tenant's death or in the event of relationship breakdown in accordance with statutory rights and good housing

management.

- e) Writing off irrecoverable council housing related debts in accordance with the council's financial regulations and policy
- 2.6. To ensure the provision of high quality and relevant housing and other support services to older people and people with specialist support needs. This includes the community bus service.. and community alarms services.
- 2.7. To process applications made under the Right to Buy (RTB) scheme. Sale of housing under Right to Buy including the assessment of eligibility and calculation of discounts. Make decisions where the interpretations and implementation of the Statutory Right to Buy Scheme is required.
- 2.8. To process deeds of variations for leaseholders.
- 2.9. To carry out leaseholder consultation under the statutory requirements.
- 2.10. To determine service charges payable by leaseholders.
- 2.11. In pursuance of the Council's duties in respect of community safety and the effective management of anti-social behaviour across the borough:
- a) To authorise any suitably qualified or experienced person to act or to execute powers under any anti-social behaviour, crime and disorder and housing legislation enforced or administered by the Council and to sign such authorisations.
  - b) To authorise or designate persons for the purpose of Part 1, and Part 4 chapters 1, 2 and 3 of the Anti-Social Behaviour, Crime and Policing Act 2014
  - c) To authorise any suitably qualified or experienced person to make applications for injunctions in connection with anti-social behaviour, crime and disorder and housing legislation.
  - d) To authorise any suitably qualified or experienced person to make applications for public space protection orders in connection with anti-social behaviour, crime and disorder and housing legislation.
  - e) To authorise any suitably qualified or experienced person to make applications for closure of premises associated with disorder in connection with anti-social behaviour, crime and disorder and housing legislation.
  - f) To issue or authorise the issue of community protection notices.
  - g) To issue or authorise the issue of a written warning prior to issuing a community protection notice.

### **Community Safety Partnership**

**All the following delegated powers relating to Community Safety Partnership can be exercised by the Service Director (Resident and Neighbourhood) who may also delegate to suitably qualified and/or experienced Officers in accordance with an agreed Scheme of Delegation.**

- 1.3. To ensure that this council undertakes its mandatory duty to act as a “responsible authority” on the borough’s Community Safety Partnership (CSP), in order to plan and deliver measures to tackle crime, anti-social behaviour, substance misuse, to reduce offending and promote assurances to the public whilst working together with other statutory and non-statutory organisations
- 1.4. To administer the Local Strategic Partnership and sub groups.
- 1.5. To coordinate, review and update the plans and Strategies subject to the governance and approval processes



# **SECTION 1: COUNCIL PROCEDURE RULES**

## **1. ANNUAL MEETING OF THE COUNCIL**

- 1.1. The Council shall hold an Annual Meeting at the start of each municipal year, on 20 May or as soon as practicable afterwards. The date, time and place shall be fixed by the Mayor.
- 1.2. The annual meeting will:
  - (a) elect a person to preside if the Mayor is not present;
  - (b) elect the Mayor;
  - (c) elect the Deputy Mayor;
  - (d) receive any announcements from the Mayor and/or Chief Executive;
  - (e) appoint the Leader of the Council (at appropriate times only)
  - (f) agree the terms of reference of and elect Members to the Overview and Scrutiny Committee;
  - (g) agree the terms of reference of and elect Council Members to the Standards Committee;
  - (h) agree the terms of reference of and elect Members to all other council Committees;
  - (i) decide the allocation of seats to political groups in accordance with the political proportionality rules set out in Sections 15 to 17 of the Local Government and Housing Act 1989;
  - (j) receive any reports from councillors nominated to outside bodies in the previous municipal year;
  - (k) consider any business set out in the notice convening the meeting; and
  - (l) appoint to council Committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.
- 1.3. The Mayor shall continue in office until their successor is appointed unless they resign or cease to be qualified or become disqualified.
- 1.4. The Deputy Mayor shall hold office until immediately after the election of a Mayor at the next Annual Meeting of the Council unless they resign or cease to be qualified or become disqualified.

## **2. RULES FOR THE APPOINTMENT AND REMOVAL OF THE EXECUTIVE LEADER OF THE COUNCIL**

- 2.1. The Council will appoint one of its Members to be the Executive Leader of the Council (known as the Leader of the Council).
- 2.2. The function of the Executive Leader is to take a leading role in formulating Council policies and ensuring that the policies are implemented effectively and efficiently.
- 2.3. The Executive Leader will:
  - (a) determine the size of the Cabinet;
  - (b) appoint the Members of the Cabinet;

- (c) allocate portfolios or areas of responsibility to the various Cabinet Members;
- (d) allocate decision making powers to the Cabinet and to individual Cabinet Members;
- (e) have the Power to remove and replace Cabinet Members.

- 2.4. The Executive Leader can only be removed by a resolution of the Council. If the Council passes a resolution to remove the Executive Leader, a new executive leader is to be appointed at the meeting where the Executive Leader is removed or at a subsequent meeting.
- 2.5. The parties in opposition may appoint amongst themselves a Leader and Deputy Leader of the Opposition.

### **3. ORDINARY MEETINGS OF THE COUNCIL**

- 3.1. The dates of ordinary meetings of the Council are agreed at the Council's Annual Meeting.

### **4. CANCELLATION, POSTPONEMENT OR VARIATION OF MEETINGS**

- 4.1. The Council may by resolution cancel, postpone or vary the day and hour and place of meeting.
- 4.2. The Governance Services Manager, after consultation with the Mayor, Leader of the Council and Group Leaders of the opposition parties, may cancel, postpone or vary the day, hour or venue of a Council meeting, if they consider there is good reason to do so.
- 4.3. In the absence of those mentioned, the Deputy Mayor or Deputy Group Leaders may be consulted instead.
- 4.4. If after consultation, there is any party disagreement with the proposed change in arrangements, the matter shall be referred to and determined by the Chief Executive, who shall have regard to the wishes (if any) expressed by the Groups and the requirements of the fair and efficient conduct of the Council's business.

### **5. ORDER OF BUSINESS AT ORDINARY COUNCIL MEETINGS**

- 5.1. The business conducted at every ordinary meeting of the Council shall be to:-
- (a) choose a person to preside if the Mayor and Deputy Mayor are absent;
  - (b) deal with any business required by law;
  - (c) agree the minutes of the last meeting or of any extraordinary or other meeting since then;
  - (d) receive apologies for absence;
  - (e) receive any public petitions in accordance with the council rules of procedure;
  - (f) hear any deputations relating to matters affecting the Council, its business or the Borough;

- (g) deal with questions from members of the public relating to matters which are relevant to the business of the Council or the Borough;
- (h) receive any declarations of interest from members;
- (i) dispose of business (if any) remaining from the last meeting;
- (j) receive any announcements from the Mayor, Leader, Member of the Cabinet or Chief Executive;
- (k) receive answers to Questions by Members in accordance with the council rules of procedure;
- (l) receive reports and recommendations from the Cabinet;
- (m) receive reports and recommendations from the Overview and Scrutiny Committee, Standards Committee and Scrutiny Sub- Committees;
- (n) consider motions in accordance with the council rules of procedure;
- (o) receive reports from Officers of the Council;
- (p) receive reports about the business of joint arrangements, council owned companies, council boards and partnership bodies and external organisations;
- (q) make appointments or fill vacancies to committees or other bodies;
- (r) consider any other business, specified in the summons to the meeting;
- (s) consider any matters of urgency subject to the agreement of the Mayor.

5.2. The order of business must be conducted in the order set out by the summons to the meeting but may be varied by:-

- (a) the Mayor at their discretion;
- (b) a resolution passed on a motion (which need not be in writing) duly moved and seconded, which shall be moved and put without discussion.

## 6. RECOMMENDATIONS TO COUNCIL

6.1. When the Council receives 'reports and recommendations of the Cabinet and other Committees' the procedure shall be as follows:-

- a) The relevant Portfolio Holder (or in their absence, the Leader or Deputy Leader, (in the case of Cabinet recommendations) or Chairman, Vice- Chairman or some other appropriate Member who was present at the meeting of that Committee, which is the subject of the report will rise and formally move "that the recommendations of the Cabinet or the Committee set out on the Council Agenda be approved" . This must be seconded.

b) When this motion is formally seconded, the Mayor will call out each recommendation in turn and unless a Member rises to speak within a reasonable time then the Mayor shall move to the next item of business. The Mayor will, without a formal vote being taken, confirm that the recommendations have been agreed by the Council.

C) A Member may ask the Leader or relevant Cabinet member a question, time limited to up to 3 minutes, upon an item of a report of the Cabinet when that item is being received or under consideration by the Council.

D) If a Member moves an amendment to the recommendations, this must be formally seconded. The matter is then debated in accordance with the paragraph 20 ~~rules~~ ~~of debate contained within~~ the Full Council ~~council~~ rules of procedure. If on being put to the vote an amendment is lost and no further amendment proposed, the Mayor will pass on to the next item of business in sequence. If, however, an amendment is declared carried, the adoption of the recommendation as amended will become the substantive recommendation and will be subject to the rules of debate contained within the council rules of procedure.

E) Where a Member wants to oppose a particular recommendation but does not wish to move an amendment under 6.5 above because it would be directly negative to the recommendation they can, on hearing the recommendation called, rise and ask for a vote, giving reasons for doing so, time limited to up to 3 minutes. No further debate shall be permitted but the Mayor may exercise their discretion to hear other Members' reasons for opposing the recommendation if necessary, time limited to up to 2 minutes. The mover of the recommendations in the report has a final right of reply time limited to up to 3 minutes. The adoption of the recommendation shall then be put to the vote. If there are more votes against than in favour of the recommendation, the report will be automatically referred back to the Cabinet or originating Committee for re-submission to the Council at a further meeting or for re- consideration.

F) At the end of the debate, the Mayor will call out each recommendation and ask the Council to agree each recommendation in turn and unless a Member rises to speak within a reasonable time then the Mayor shall move to the next item of business. The Mayor will, without a formal vote being taken, confirm that the recommendations have been agreed by the Council.

## **7. EXTRAORDINARY AND SPECIAL MEETINGS**

7.1. In addition to the timetable of ordinary meetings agreed at the Annual Council meeting, additional extraordinary or special council meetings may be held.

### **Extraordinary Meetings**

7.2 Those listed below may request the Governance Services Manager to call Council meetings in addition to ordinary meetings:

- (a) the Council by resolution;
- (b) the Mayor;
- (c) the Monitoring Officer;
- (d) the Chief Finance Officer; or
- (e) any five Members of the Council if they have signed a requisition presented to the Mayor and the Mayor has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

7.3 The notice and summons for an extraordinary meeting of the Council must be given to all Members of the Council within 7 days and the meeting must then be held within a reasonable period of time after the expiration of the seven days.

### **Special Meetings**



7.4 These are meetings for a special purpose required by statute or on the decision of the Council. The Governance Services Manager will call these meetings.

~~7.2.~~

~~7.3.~~

~~7.4.~~

7.5 Business at Extraordinary or Special meetings of the Council shall be restricted to the item of business for which the meeting has been called.

7.6 Any other business that the Mayor agrees to accept can be included on the Agenda in accordance with these Procedure Rules.

## **8. TIME AND PLACE OF MEETINGS**

8.1. The time and place of Council meetings will be determined by the following authorised officers: Chief Executive, Executive Director of Finance, Assistant Director, Monitoring Officer, Legal Services Manager and Governance Services Manager and notified in the summons.

## **9. NOTICE OF AND SUMMONS TO MEETINGS (Sch. 12 Pt. 1 Para. 4)**

9.1. At least 5 clear working days before a meeting of the Council, Cabinet or Committee:-

- (a) notice of the time and place of the intended meeting shall be published at the offices of the council;
- (b) where the meeting is called by Members of the council the notice shall be signed by those Members and shall specify the business proposed to be transacted; and
- (c) a summons to attend the meeting, specifying the date, time and place of the meeting, and the business to be transacted with all available reports will be signed by the Governance Services Manager and shall be sent to every Member of the council.

9.2. Failure to serve the summons on any Member of the council shall not affect the validity of the meeting.

## **10. CHAIRING OF THE COUNCIL MEETING**

10.1. If the Mayor is present at a meeting of the Council, the Mayor will preside, if not the Deputy Mayor, will preside. In the absence of both the Mayor and the Deputy Mayor from a meeting of the Council, another Member, to be chosen by the Members present, shall preside.

10.2. The person presiding at the meeting may exercise any power or duty of the Mayor.

## **11. MAYOR'S RULING**

- 11.1. The ruling of the Mayor (or person presiding) on any matter and any requirements or instructions by the Mayor to ensure the orderly debate and proper conduct of the Council's business, shall be final and accepted without discussion by all Members.

## **12. QUORUM AND VALIDITY OF PROCEEDINGS**

- 12.1. The quorum of a meeting of the Council will be one quarter of the whole number of Members of the Council, except where more than one third of the Members of the Council become disqualified at the same time, in which case, until the number of Members in office is increased to not less than two thirds of the whole number of Members of the Council, the quorum shall be determined by reference to the number of Members of the Council remaining qualified. During any meeting if the Mayor counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If a date is not fixed, the remaining business will be considered at the next ordinary meeting.
- 12.2. The proceedings of the Council shall not be invalidated by any vacancy among their number, or by any defect in the election or qualification of any Member.

## **13. SPEAKING AT COUNCIL MEETINGS**

- 13.1. When a Member speaks at Council meetings, they may choose to stand or sit to address the meeting through the Mayor.
- 13.2. When the Mayor speaks during a debate, any Member speaking at the time must stop speaking and allow the Mayor to be heard. The meeting must be silent.
- 13.3. At a Council meeting, if the Mayor considers any matter to be objectionable or undesirable, the Mayor may, either before or after it is brought forward, put to the vote a motion that it be not heard. No discussion shall be allowed on the Mayor's motion. If the Mayor's motion is carried, the matter shall be considered as disposed of for that meeting.
- 13.4. If a Member at a Council meeting disregards the ruling of the Mayor/Chairman by behaving improperly or offensively or deliberately obstructs business, the Mayor may request the immediate discontinuance of this behaviour.
- 13.5. If the Member persists with the misbehaviour, the Mayor will rule that the Member be not heard further and/or that the Member shall leave the room for a period which the Mayor considers appropriate.
- 13.6. The Mayor has powers to take whatever measures considered necessary to secure the removal of, or prevent the Member from re-entering the room.
- 13.7. If there is a general disturbance making orderly business impossible, the Mayor may adjourn a meeting of the Council for as long as necessary or to another venue; or to close the meeting, upon which items on the agenda will be deferred to another meeting.

## **14. QUESTIONS BY THE PUBLIC**

- 14.1. Members of the public may ask questions of Members of the Cabinet at the beginning of ordinary meetings of the Council for a total period of up to 30 minutes.
- 14.2. Questions will be asked in the same order as received, save that the Mayor may group together similar questions.
- 14.3. A question must be submitted in writing and either received by post or electronic mail by the Governance Services Manager by no later than 19:30, four working days before the meeting (i.e. if the meeting falls on a Wednesday, questions must be received by 19:30 the previous Thursday).
- 14.4. Each question must give the name and address of the questioner and must name the Member to whom it is to be put.
- 14.5. Only one question may be submitted and asked by each member of the public or on behalf of one organisation and must relate to a single topic.
- 14.6. The Governance Services Manager will reject a question if:
  - (a) it is not about a matter for which the Council has a responsibility or which affects the Borough;
  - (b) it is defamatory, frivolous or offensive;
  - (c) it is a repeat question which has been previously put at a meeting of the Council within the past six months to which there has been no material change of circumstances; or
  - (d) it requires the disclosure of confidential or exempt information.
- 14.7. Copies of all questions will be circulated to all Members and will be made available to the members of public attending the meeting.
- 14.8. The Mayor will invite the questioner to put the question to the Member named in the notice. Up to a maximum of 3 minutes will be permitted for the question to be asked.
- 14.9. If a questioner who has submitted a written question is unable to be present, the answer will be read out at the meeting and a written reply will be sent to the questioner, as soon as is practicable.
- 14.10. Supplementary questions will not be allowed and no debate will be permitted on any question or response.
- 14.11. Any question which cannot be dealt with during the public question time item for any reason whatsoever, will be dealt with by a written reply to the questioner as soon as is practicable.

## **15. QUESTIONS BY MEMBERS**

- 15.1. For a total period of up to 30 minutes a Member of the Council may ask:
- (a) the Mayor;
  - (b) the Leader
  - (c) a Member of the Cabinet
- a question on any matter in relation to which the Council has powers or duties or which affects the Borough.
- 15.2. A Member may only ask a question if either:
- (a) the question is submitted in writing and received by post or electronic mail by the Governance Services Manager no later than 12.00 noon, five clear working days before the Council meeting.
  - (b) the question relates to urgent matters (this must be agreed by either the Mayor or Chief Executive to be urgent), and is given to the Governance Services Manager by 10.00 am on the day of the meeting.
- 15.3. The following procedure will be followed with regard to Members' questions:
- (a) a register of the subject of questions in the order received and name of the Member will be kept by the Governance Services Manager and Members from each party on the Council will be called alternately by the Mayor to put their question until time runs out;
  - (b) a Member who has asked a question at that meeting will go to the back of the queue for further questions at subsequent meetings in the current municipal year;
  - (c) subject to these points the questions will be answered in the order received and in the time allowed.
- 15.4. An answer may take the form of:
- (a) a direct oral answer time limited to up to 3 minutes;
  - (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
  - (c) where the reply cannot reasonably be given orally, a written answer circulated later to all Members;
  - (d) there shall be no debate on the answers given to the questions.
- 15.5. Supplementary questions:  
A Member asking a question under these rules may ask one supplementary question of the Member to whom the first question was asked, time limited to up to 3 minutes.
- 15.6. The supplementary question must arise directly out of the reply and there shall be no debate on the answer given to the supplementary question. Answers to supplementary questions shall also be time limited to up to 3 minutes.

## **16. MOTIONS ON NOTICE**

- 16.1. Except for motions which can be moved without notice under these Council Procedure Rules, notice of every motion must be submitted in writing and received by post or electronic mail by the Governance Services Manager no later than 12.00 noon, five clear working days before the Council meeting.

- 16.2. The Governance Services Manager will date and number the motions in the order in which they are received and will enter them into a register open to public inspection.
- 16.3. A motion must be formally moved and seconded in the form set out in the summons. This can be done by the Member or Members who gave notice, or others on their behalf. If this does not happen it will be treated as withdrawn and cannot be moved without fresh notice. Alternatively, if the Council agrees, the motion can be postponed.
- 16.4. Motions for which notice has been given will be listed on the Agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.
- 16.5. The Governance Services Manager, in consultation with the Chief Executive, will reject a motion if:
- (a) it is not about a matter for which the Council has a responsibility for or which affects the Borough;
  - (b) it is defamatory, frivolous or offensive;
  - (c) it is a repeat motion which has been previously put at a meeting of the Council in the past 6 months, to which there has been no material change of circumstances.
  - (d) it seeks to reopen business previously resolved by the Cabinet or a Committee.
- 16.6. Motions likely to or which will require the disclosure of confidential or exempt information shall be debated in the exempt part of the Council meeting and members of the public and press shall be excluded for that item.

## **17. MOTIONS WITH FINANCIAL IMPLICATIONS**

- 17.1. Any motion (or amendments to it in the course of debate) which, if carried, would have the effect of exceeding the approved Council Budget for the year in question, shall be dealt with in the following way:
- The motion will still be included on the agenda for the meeting.
  - The motion (or amendment to it), if carried, shall be referred to a relevant Committee or Cross Party Group to enable the financial implications to be considered. The relevant Committee or Cross Party Group will then consider the motion and report back to a future ordinary meeting of the Council.
- 17.2. These rules will not apply where the motion directly results from a recommendation or report of the Cabinet, a Committee, or of an Officer which is already before the Council meeting for consideration and contains advice from the Chief Finance Officer.

## **18. ALTERNATIVE BUDGET PROCEDURES**

- 18.1. Where amendments are proposed to the Council's draft budget, details of these must be submitted in writing to the Section 151 Officer (the Chief Finance Officer), at least five working days before the date the Council meets to consider the budget.
- 18.2. This will enable the Section 151 Officer to fully assess the proposals and report to the Council meeting on any financial implication(s) to the Council budget and if the proposals would enable the Council to set a lawful budget.
- 18.3. Budget amendments, including the financial implications on the Council budget and council tax will be circulated to all Members of the Council at least two working days before the date of the Council meeting.
- 18.4. Guidance should be sought at any time from the Section 151 Officer and specifically, Members shall be entitled to confidential discussions with the Section 151 Officer regarding options and proposals.

## **19. MOTIONS WITHOUT NOTICE**

- 19.1. The following motions may be moved without notice:
  - (a) to appoint a Chairman of the meeting at which the motion is moved;
  - (b) in relation to the accuracy of the Minutes;
  - (c) to change the order of business in the Agenda;
  - (d) to refer something to the Cabinet, an appropriate Committee or an Officer;
  - (e) to appoint Committee Members arising from an item on the summons for the meeting;
  - (f) to receive reports of the Cabinet, the Overview and Scrutiny Committee, other Committees or Officers and any resolutions following from them;
  - (g) to withdraw a motion;
  - (h) to amend a motion;
  - (i) to proceed to the next business;
  - (j) that the question before the meeting be now put to the vote;
  - (k) to adjourn a debate;
  - (l) to adjourn the meeting;
  - (m) to suspend a particular Council Procedure Rule ;
  - (n) to exclude the public and press in accordance with the Access to Information Procedure Rules;
  - (o) if the Mayor or Chairman of the meeting considers any matter to be objectionable or undesirable and moves not to hear a Member further or to exclude the Member from the meeting;
  - (p) to move an urgent motion where the Mayor has given consent;
  - (q) to extend the time limit for speeches; and
  - (r) where the council's Constitution requires express consent of the Council.

## **20. RULES OF DEBATE FOR MOTIONS**

- 20.1. A speaker may sit or stand when addressing the Mayor and all other members must remain seated.

- 20.2. No speeches may be made until after the mover has moved a motion and the motion has been seconded.
- 20.3. In the case of an urgent motion which the Mayor has given consent to, the Mayor may require it to be written down and handed to the Mayor before it is discussed.
- 20.4. When seconding a motion or amendment, a Member may reserve their speech until later in the debate.
- 20.5. Speeches must be directed to the motion or amendment under discussion or to a personal explanation or point of order.
- 20.6. The mover of the motion opens the debate with their speech, time limited to up to 5 minutes.
- 20.7. All other speeches are time limited to up to 3 minutes.
- 20.8. 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 a further amendment;
  - (c) if their first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which was spoken to was carried);
  - (d) where they have reserved their right to speak as seconder of a motion;
  - (e) in exercise of a right of reply;
  - (f) on a point of order;
  - (g) by way of personal explanation;
  - (h) to move any of the following resolutions:
    - "That the question before the meeting be now put to the vote";
    - "That the debate be now adjourned";
    - "That the Council proceed to the next business"; or "That the Council now adjourn".
- 20.9. No Member shall interrupt the speech of any other Member except in the following cases:-
- (a) on a point of order;
  - (b) on a point of personal explanation.
- 20.10. The Mayor can close the discussion at any point, where they consider the subject has been sufficiently debated.
- 20.11. The ruling of the Mayor on a point of order or personal explanation, or on an amendment, shall be final and not open to discussion.

## **21. AMENDMENTS TO MOTIONS**

- 21.1. An amendment to a motion must be positive in nature and relevant to the motion and will either be:

- (a) to leave out words;
  - (b) to leave out words and insert or add others; or
  - (c) to insert or add words.
- as long as the effect of these is not to negate the motion.

21.2 Councillors who wish to propose an amendment to the Motion as printed on the agenda for full Council should provide a copy of the proposed amendment to the Monitoring Officer by noon on the day of the Council meeting. This is to ensure that the proposed amendment can be circulated to all Councillors in readiness for the meeting itself.

21.2. Only one amendment may be moved, seconded and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.

~~21.3. If an amendment is not carried, other amendments to the original motion may~~



~~be moved and seconded.~~

21.4:21.3. 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.

21.5:21.4. After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or debate.

## **22. ALTERATION OF MOTION**

22.1. A Member may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent or otherwise will be signified without discussion.

22.2. A Member may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent or otherwise will be signified without discussion.

22.3. Only alterations which could be made as an amendment may be made.

## **23. WITHDRAWAL OF MOTION**

23.1. A Member may withdraw a motion or amendment which they have moved with the consent of both the meeting and the seconder. The meeting's consent or otherwise will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

## **24. RIGHT OF REPLY**

24.1. The mover of a motion has a right to reply at the end of the debate on the motion, time limited to up to 5 minutes, immediately before it is put to the vote.

24.2. If amendments are moved, the mover of the original motion has the right of reply at the close of the debate on each amendment, time limited to up to 3 minutes until an amendment is carried.

24.3. The mover of the amendment has no right of reply to the debate on their amendment.

24.4. A Member exercising a right of reply shall only answer previous speakers and shall not introduce new matter. After every such reply a vote shall be taken without further discussion.

## **25. MOTIONS WHICH MAY BE MOVED DURING DEBATE**

- 25.1. When a motion is under debate, no other motion may be moved except the following procedural motions:
- (a) to withdraw a motion;
  - (b) to postpone consideration of the motion;
  - (c) to amend a motion;
  - (d) to proceed to the next business;
  - (e) that the question be now put;
  - (f) to adjourn a debate;
  - (g) to adjourn a meeting;
  - (h) that the subject of the motion be referred to the Cabinet, Committee, or appropriate Officer for report;
  - (i) to exclude the public and press in accordance with the Access to Information Procedure Rules;
  - (j) to not hear a named Member further or to exclude them from the meeting; or
  - (k) that a motion, amendment, or other business be not considered if the Mayor considers it to be objectionable or undesirable in accordance with these council procedures rules.

## **26. CLOSURE MOTIONS**

- 26.1. A Member may move, without comment, the following motions at the end of a speech of another Member:
- (a) to proceed to the next business;
  - (b) that the question be now put;
  - (c) to adjourn a debate; or
  - (d) to adjourn the meeting.
- 26.2. If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, the Mayor will put the procedural motion to the vote. If it is passed the Mayor will give the mover of the original motion a right of reply before putting their motion to the vote.
- 26.3. If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, the Mayor will put the procedural motion to the vote. If it is passed the Mayor give the mover of the original motion a right of reply before putting their motion to the vote.
- 26.4. If a motion to adjourn the debate or to adjourn the meeting is seconded the Mayor will put the procedural motion to the vote. If the procedural motion is carried, either the matter being discussed, or all the items on the Agenda that have not been dealt with, as appropriate, will stand adjourned to the next ordinary meeting of the Council, or other appropriate meeting of the Council.

## **27. POINT OF ORDER**

- 27.1. A Member may raise a point of order at any time. The Mayor will hear the Member immediately. A point of order 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 they consider it has been broken. The ruling of the Mayor on the matter will be final.

## **28. PERSONAL EXPLANATION**

- 28.1. A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by a Member which may appear to have been misunderstood in the present debate. The ruling of the Mayor on the admissibility of a personal explanation will be final.

## **29. PREVIOUS DECISIONS AND MOTIONS**

- 29.1. A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least one quarter of all Members.
- 29.2. A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least one quarter of all Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.
- 29.3. This rule shall not apply to motions resulting from the report or recommendations of the Cabinet, a Committee, or an Officer; nor to motions to carry out any statutory duty of the Council, which in the opinion of the Mayor is urgent.

## **30. RECORDED VOTE**

- 30.1. If five Members present at the meeting demand it, by a show of hands, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the Minutes or if the vote is electronically taken, for the individual results to be entered into the Minutes.
- 30.2. At any budget decision meeting of the Council a recorded vote shall be taken on any motion or amendment relating to making a budget decision. Immediately after any vote is taken relating to making a budget decision at a budget decision meeting of the Council there must be recorded in the Minutes of the proceedings of the meeting, the names of the Members who

cast a vote for the decision or against the decision and who abstained from voting or if the vote is electronically taken, for the individual results to be entered into the Minutes.

**(Note: Under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 the term 'budget decision' will include the setting of the Borough Council's budget and the setting of the Council Tax. This Procedure Rule will apply to any meeting of the Council at which votes are taken on the Council's budget and/or Council Tax.)**

### **31. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

- 31.1. All of these Council Procedure Rules, except those which have statutory effect, may be suspended by motion on notice or without notice if at least one half of all Members of the Council are present. Suspension can only be for the duration of the meeting.
- 31.2. Any motion to add to, vary or revoke these Council Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council. The Council cannot add to, vary or revoke any Procedure Rule which has statutory effect.
- 31.3. Any motion to suspend the procedures rules, must be accompanied by advice of the Monitoring Officer and Chief Financial Officer.

## **SECTION 2: RULES OF GENERAL APPLICATION TO ALL COMMITTEES & PETITIONS**

The rules stated below have applicability to all meetings of council appointed committees unless stated otherwise

### **1. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES**

- 1.1 The Council will operate a scheme of substitution in respect of Members on Committees other than the Standards Committee and in respect of other formally constituted meetings of Members.
- 1.2 Substitute Members will have all the powers and duties of any ordinary Member of the Committee or meeting.
- 1.3 Substitute Members may attend meetings as substitutes:
  - (a) to take the place of the ordinary Member for whom they are the designated substitute;
  - (b) where the ordinary Member will be absent for the whole of the meeting.
- 1.4 The detailed procedure governing substitutions is set out in paragraph 22 of these Procedure Rules.

### **2. PUBLIC PETITIONS**

- 2.1 Provision shall be made at the beginning of ordinary meetings of the Council for members of the public to present petitions (which are received in accordance with the council's rules of procedure) and address the meeting. The appropriate Member will be given the opportunity to respond at the meeting

### **3. VOTING**

- 3.1 Subject to any statutory requirements, any matter at a [Council](#) meeting will be decided by a simple majority of those Members voting and present in the room at the time the question was put.
- 3.2 The Mayor/Chairman shall ascertain from the Governance representative or through confirmation from the electronic voting results, the numbers voting for or against any matter and their declaration of the result shall be conclusive.

#### **4. MAYOR'S/CHAIRMAN'S CASTING VOTE**

- 4.1 If there are equal numbers of votes for and against, the Mayor/Chairman will have a second or casting vote. There will be no restriction on how the Mayor/Chairman chooses to exercise a casting vote.

#### **5. SHOW OF HANDS**

- 5.1 Unless a recorded vote is demanded, the Mayor/Chairman will take the vote either by show of hands or electronically, or if there is no dissent, by the affirmation of the meeting.

#### **6. RIGHT TO REQUIRE INDIVIDUAL VOTE TO BE RECORDED**

- 6.1 Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the Minutes to show whether they voted for or against the motion or abstained from voting or if the vote is electronically taken, for these results to be entered into the Minutes.

#### **7. VOTING ON APPOINTMENTS**

- 7.1 If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

#### **8. MINUTES**

- 8.1 Minutes of the proceedings of council meetings shall be drawn up and entered in a book kept for that purpose. These shall be signed by the person in the chair at the same or next meeting of that meeting. In the case of the minutes of an extraordinary council meeting, the next ordinary meeting will be treated as a suitable meeting for this purpose. Any minute purporting to be so signed shall be received in evidence without further proof.
- 8.2 The signed Minutes of a meeting shall, unless the contrary is proved, be proof that it was duly convened and held and that all the Members present were duly qualified. In the case additionally of Committees, the signed Minutes will, unless the contrary is proved, be proof that they had power to deal with the matters referred to in the Minutes.
- 8.3 The Mayor/Chairman shall put the question that the Minutes of the meeting of the Council held on the relevant date be approved as a correct record.

- 8.4 No discussion shall take place on the minutes, except on their accuracy and any question of their accuracy shall be raised by motion. If no such question is raised, or, if it is raised, then as soon as it has been disposed of, the Mayor/Chairman shall sign the minutes.
- 8.5 The minutes of all council meetings shall be made available electronically to all Members.
- 8.6 The signed copies of all such minutes shall be retained in either printed or electronic form by the Governance Services Manager.

## **9. RECORD OF ATTENDANCES**

- 9.1 The names of the Members present at a council meeting shall be recorded.

## **10. EXCLUSION OF PUBLIC**

- 10.1 Members of the public and press may only be excluded from proceedings at council meetings either in accordance with the Access to Information Procedure Rules or where the Mayor/Chairman considers the Disturbance by Public Rules below apply.

## **11. DISTURBANCE BY PUBLIC**

- 11.1 If a member of the public interrupts proceedings at any meeting of the council, the Mayor/Chairman will warn the person concerned. If they continue to interrupt, the Mayor/Chairman may order their removal from the meeting room.
- 11.2 If there is a general disturbance in any part of the meeting room open to the public, the Mayor/Chairman may call for that part to be cleared and for an adjournment of the meeting for as long as necessary or to another location.

## **12. MEMBERS' CONDUCT**

- 12.1 If a Member at a meeting of the council disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the Chairman may request the immediate discontinuance of this behaviour.
- 12.2 If the Member persists with the misbehaviour, the Chairman will rule that the Member be not heard further and/or that the Member shall leave the room for a period which the Chairman considers appropriate.

- 12.3 The Chairman has powers to take whatever measures they may consider necessary to secure the removal of, or prevent the Member from re-entering the room.
- 12.4 If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as they think necessary.

### **13. RESTRICTIONS DURING COMMITTEE MEETINGS**

- 13.1 It is the general rule for no food to be eaten nor any alcohol drunk in the Chamber during any committee meetings.
- 13.2 Smoking is prohibited anywhere within the council building.
- 13.3 All mobile telephones or other electronic devices should either be switched off or put on silent mode so not to cause any disturbance to the conduct of the meeting.
- 13.4 The Mayor/Chairman may issue a reminder at the start of the meeting to this effect.

### **14. INTERPRETATION OF PROCEDURAL RULES**

- 14.1 The ruling of the Mayor/Chairman as to the construction or application of any of these Rules shall not be challenged at any meeting of the council.

### **15. RULES RELATING TO COMMITTEES**

- 15.1 A committee shall meet on the date and time specified at the Annual Meeting of the Council.
- 15.2 The Governance Services Manager may:
- a) cancel a committee meeting if they consider there is insufficient business or
  - b) after consultation with the Committee Chairman and Leaders of the opposition parties, cancel, postpone or vary the day, hour or venue of a Committee meeting for any other good and substantial reason.

(In the absence of those mentioned, the Vice-Chairman of the Committee and Deputy Leaders of the opposition parties may be consulted instead)



- 15.3 In the case of 15.2(b), if, after consultation, any of the opposition parties disagree with the proposed change in meeting arrangements, the matter shall be referred to and determined by the Chief Executive, who shall have regard to the wishes (if any) expressed by the Groups and to the requirements of the fair and efficient conduct of the Council's business. Their decision shall be final.

## **16. SPECIAL MEETINGS OF COMMITTEES**

- 16.1 The Governance Services Manager may summon a special meeting of a committee if they consider there is a good reason to do so.
- 16.2 A special meeting shall also be summoned if:
- a) a quarter of the Members of the Committee request it in writing or electronic mail to the Governance Services Manager or;
  - b) at the request of the Chairman of the Committee or the Mayor, made in writing or electronic mail to the Governance Services Manager.

The summons shall set out the business to be considered at the special meeting, and no other business except that set out in the summons shall be considered at that meeting.

## **17. APPOINTMENT OF CHAIRMEN AND VICE-CHAIRMEN OF COMMITTEES**

- 17.1 The Chairmen and the Vice-Chairmen of all Committees shall be appointed at the Annual Meeting of the Council unless owing to special circumstances the Council decide otherwise.
- 17.2 In the event of a casual vacancy occurring in the Chairman or the Vice-Chairman of a Committee, an appointment shall be made at the next ordinary meeting of the Committee.
- 17.3 Chairmen and Vice-Chairmen shall remain in office until their successors have been appointed.
- 17.4 In the absence of the Chairman, the Vice-Chairman shall take the chair and in the absence of the Chairman and Vice-Chairman the Members present may appoint a member of that committee to chair the meeting.
- 17.5 In the case of a Committee newly created during the course of the Municipal Year, the Chairman and Vice-Chairman shall be appointed from the majority group on the Council.

## **18. QUORUM**

- 18.1 Except where authorised by statute, or permitted by the Council, no business can be dealt with at a meeting of any Committee unless at least half of the Membership of the Committee or five Members of it (whichever is the less) are present.

## **19. VOTING**

- 19.1 All issues in Committee, where in doubt, shall be determined by show of hands or through an electronic vote.
- 19.2 In the case of an equality of votes at the meeting, the person presiding shall have a second or a casting vote.

## **20. PROPOSER OF MOTION MAY ATTEND**

- 20.1 Provided it is permitted within the terms of reference of that committee, a Member who has moved a motion which has been referred to a committee shall have the right to attend the meeting of that committee, and if attending, shall have the opportunity of explaining the motion.

## **21. MEMBERS MAY ATTEND**

- 21.1 Any Member may attend a meeting of the council even if he or she is not a [Mm](#)ember of it. This rule shall not apply to meetings where they cannot do so legally or the proceedings are of a quasi-judicial nature (that is, where the committee is being required by law to exercise functions or powers similar to a court or tribunal) or in the case of Overview and Scrutiny Committee when exercising scrutiny functions and the Executive are excluded.
- 21.2 Except in relation to the Overview and Scrutiny Committee, when exercising scrutiny functions there will be no general right to speak unless required by those committees to do so.
- 21.3 A Member who attends a meeting of the council and who is not a member of that meeting shall not be permitted to vote on any item of the meeting.

## **22. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES**

- 22.1 Substitutions are not permitted for meetings of the Cabinet, Standards Committee and Scrutiny Sub-Committees.

- 22.2 For all other Committees, Group Leaders or their nominated representatives must notify the Governance Services Manager in writing or by electronic mail, the appointment of any substitute Members to council meetings at least 2 hours before the scheduled start of the meeting. All substitutes must have attended all relevant training for that committee.
- 22.3 In the notifications, the Group or their nominated representatives must provide the following information to the Governance Services Manager:
- a) name of meeting(s)
  - b) date of meeting(s)
  - c) name of member who will not be attending and name of member who will be substituting.
- 22.4 Individual Members cannot nominate their own substitutes, nor can a substitute nominate someone else to take his or her place.
- 22.5 If this procedure is not adhered to, the appointment will not be valid and the proposed substitute will have no rights of membership or voting on that committee.
- 22.6 Records of substitute nominations will be maintained and made available for public inspection.
- 22.7 The substitution will also be recorded in the Minutes of the meeting.
- 22.8 Withdrawal of any substitute nominations can be made up to the time of the meeting by either the Group or their nominated representatives.

## **23. PETITIONS**

- 23.1 The Council will treat something as a petition if it is identified as being a petition, or if it appears to be intended to be a petition, and it meets the criteria set out below.
- 23.2 Paper petitions can be sent to: Governance Services, Welwyn Hatfield Borough Council, The Campus, Welwyn Garden City, Herts, AL86AE.
- 23.3 Electronic petitions will also be accepted. These should be either submitted using the council's [ePetitions facility](#) or submitted as one document, containing either all the local persons' individual e-mails received by the organiser on a specific date, and those individual's names and addresses, or if a standard template e-mail has been used, the list of names, postal

addresses and e-mail addresses of those supporting the petition. These petitions should be sent to [democracy@welhat.gov.uk](mailto:democracy@welhat.gov.uk).

- 23.4 When a petition is received the Council may consider undertaking one or more of the following actions:
- a) taking action as requested in the petition
  - b) (through its officers) meeting with petitioners
  - c) referring the petition to the Council or one of the Council's Committees
  - d) calling a referendum (a referendum on constitutional change could be triggered with a petition submitted by 5% of the local government electors registered in the local authority's area).
- 23.5 Once a petition has been received, it will be assigned to a Governance Services Officer, who will be responsible for advising the petition organiser on the action to be taken by the authority. This will usually be within 10 working days.
- 23.6 The petition must relate to functions for which the Council has powers or duties or to improvements in the economic, social or environmental welfare of Welwyn Hatfield to which the Council can reasonably contribute.
- 23.7 Petitions submitted to the Council must include the following:
- a) a clear statement of the petitioners concerns and what they want the Council to do.
  - b) the name and contact details of the petition organiser; this should be a local person\*. This may be either a postal address or e-mail. This is the person we will contact to explain how we will respond to the petition and to discuss matters of process.
  - c) the name (preferably in block capitals) and full address of each local person\* who signs it. This will help the Council assess the extent to which the views expressed represent a particular locality. Where the petition is in paper form, this should include an actual signature. Where the petition is submitted in electronic form, a list of the names and postal addresses will suffice.
- 23.8 The petition organiser, or their nominee\*\* will be able to speak at the meeting providing the following conditions are met:
- a) the petition must relate to the powers and duties of that committee / body;
  - b) it must be signed by at least 50 'local people' (see definition below) who have an interest in the subject of the petition - the addresses of the signatories must be included for this purpose;

- c) the petition must be received by no later than 12.00 noon, five clear working days before the meeting;
- d) it must be accepted by the Mayor/Chairman of the Committee for presentation at the meeting.

\*A local person is defined as one who lives in, owns a business in, works in, or attends an educational facility in Welwyn Hatfield at the time the petition is submitted

\*\*Councillors cannot speak to petitions as a nominee under this procedure as they have other opportunities to make their views known.

- 23.9 If a petition contains at least 1,500 signatures of local persons and complies with the criteria as set out above, the petition organiser can ask for it to be debated at a meeting of the Council. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will be deferred to a future meeting.
- 23.10 The petition organiser, or nominee, may speak to a petition presented at the Council meeting provided that the above conditions are met. The petition organiser, or nominee, will be given 5 minutes to present the petition at the meeting and the petition may be discussed by Councillors for a maximum of up to 15 minutes.
- 23.11 The Council will decide how to respond to the petition at this meeting. It may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to refer the petition to the appropriate committee for further consideration.
- 23.12 Where the petition organiser does not attend the meeting, they will receive written confirmation of this decision within ten working days of the meeting.
- 23.13 If there is an item/report on the agenda which relates to the petition, the petition organiser will usually be asked to make their presentation at the beginning of that item. The meeting will take into account the views expressed in the petition when reaching a decision on the issue. Time for presenting a petition will be limited to three minutes.
- 23.14 The person presenting the petition will not be allowed to take part in any subsequent debate by the committee members on the item/report to which the committee is considering.
- 23.15 If there is no relevant item on the agenda, petitions will usually be heard

at the start of the meeting. The petition after its presentation cannot normally be discussed at the meeting but will be referred to officers to consider if a report should be made to a future meeting of that or another committee. Petition organisers will receive a written confirmation of the outcome of their petition within ten working days of the meeting or as soon as reasonably possible.

23.16 Certain petitions are not covered by this scheme and are dealt with under separate processes. These are:

- a) Petitions relating to planning applications. These are considered by the Council's Development Management Committee.
- b) Petitions relating to traffic regulation orders. These are considered by the Cabinet Planning and Parking Panel.
- c) Petitions in response to consultation on a specific issue or proposal. These should be sent to the return address as detailed in the relevant consultation document.
- d) Statutory petitions (for example requesting a referendum on having an elected mayor)
- e) A matter where there is an existing right of appeal

23.17 The Council will not consider:

- a) Petitions that do not follow the guidelines set out in this scheme.
- b) Petitions that do not relate to something which is the responsibility of the authority or over which the authority has some influence.
- c) Petitions disclosing matters that are personal or confidential.
- d) Petitions which are in the opinion of the Monitoring Officer, in consultation with the relevant committee chairman, to be libellous, rude, offensive, vexatious, abusive or otherwise inappropriate, or which are in breach of the Council's statutory duties in respect of equality, diversity and inclusion.
- e) Petitions from, or submitted on behalf of a business, or person, where the main purpose of the petition is to influence a forthcoming commercial decision of the Council, or the terms and conditions of a commercial transaction.
- f) Duplicate petitions. Where more than one petition is received in time for a particular meeting, each supporting the same or similar outcomes, each petition organiser will be treated as an independent petition organiser, but only the organiser of the first petition to be received will be invited to address the relevant meeting.

- g) Repeat petitions. Petitions will not normally be considered within twelve months of another petition on the same or similar matter having been considered by the Council through any of its committees.

Where any of the above applies, an officer of the Council will contact the petition organiser to explain the reasons behind the decision.

- 23.18 If the petition organiser considers that the Council has not dealt with the petition properly, he or she has the right to request that the Council's Chief Executive (or a senior officer nominated by the Chief Executive) reviews the steps that the Council has taken in dealing with and responding to the petition.
- 23.19 The petition organiser should write to the Chief Executive by no later than 14 days after the Council's response, providing a short explanation of the reasons why the Council's response is not considered to be adequate.
- 23.20 The Chief Executive (or the senior officer nominated by the Chief Executive) will initially acknowledge the request as soon as possible and will endeavour to respond substantively within 10 working days of receipt of the written request.

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## **SECTION 3: ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

- 1.1 These rules apply to all meetings of the Council and Executive, unless indicated otherwise within this Constitution or by law.

### **2. ADDITIONAL RIGHTS TO INFORMATION**

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

### **3. RIGHTS TO ATTEND MEETINGS**

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

### **4. NOTICES OF MEETINGS**

- 4.1 The Council will give at least five clear working days' notice of any meeting by posting details of the meeting on its website and will publish the agenda and report pack at the same time.
- 4.2 The Council will give at least ~~twenty-eight~~<sup>28</sup> clear days notice of the intention to consider items at a private Cabinet meeting, stating the reasons for this. The notice will be published on its website.

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

- 5.1 The Council will make copies of the agenda and reports to be considered at meetings open to the public available for public inspection on its website or on request to the Governance Services Manager, during office hours. If an item is added to the agenda after the summons to the meeting has been sent out, the Governance Services Manager shall publish the item as soon as it becomes available.
- 5.2 If the Governance Services Manager, in conjunction with the author of a report thinks fit, the Council may exclude access by the public to reports which relate to items during which, in accordance with Rule 9 below, are considered confidential or exempt and where the meeting is likely to exclude the public. Such reports will be marked "Not for publication" together with the category of confidential or exempt information likely to be disclosed.

### **6. SUPPLY OF PAPER COPIES**

- 6.1 If requested, the Governance Services Manager will make available paper copies of any committee, agenda, reports, background papers and minutes which are open to public inspection on payment of a reasonable charge, including postage.

### **7. ACCESS TO MINUTES AND WEBCASTS AFTER MEETING**

- 7.1 As soon as is reasonably practicable after a committee meeting the Governance Services Manager will record or arrange to be recorded in a written

statement:

- (a) a record of the decisions and the reasons for the decision;
- (b) a record of any interest which is declared by a Member in respect of the matter decided; and
- (c) a note of any dispensation granted by the Standards Committee in respect of any declared interest.

7.2 Not all meetings of the council are webcast, as it would not be cost effective to do so. However, if a webcast is made of a meeting, a request can be made for a copy of that webcast, on payment of a reasonable charge. The request must be made to the Governance Services Manager within one calendar month from the date of the meeting.

## **8. BACKGROUND PAPERS**

- 8.1 Authors of reports shall set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:
- (a) disclose any facts or matters about the report or upon which an important part of the report is based; and
  - (b) which have been relied on to a material extent in preparing the report but not including any published works.

## **9. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

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

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

9.3 The public may be excluded from meetings whenever it is likely, in the view of the Governance Services Manager, that the nature of the business to be transacted or nature of the proceedings, would disclose exempt information and the public interest is in favour of maintaining that exemption.

9.4 Exempt information means information falling within the following categories (subject to the stated qualifications):

- a) Information relating to any individual
- b) Information which is likely to reveal the identity of an individual.
- c) Information relating to the financial or business affairs of any particular person (including the authority holding that information).
- d) Information relating to any consultations or negotiations or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
- e) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- f) Information which reveals that the authority proposes:
- g) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
- h) To make an order or direction under any enactment.

- i) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime
- j) Information which is subject to any obligation of confidentiality.
- k) Information which relates in any way to matters concerning national security.

9.4 Information falling within paragraph 9.4(c) above is not exempt information by virtue of that paragraph if it is required to be registered under:

- (a) the Companies Act (as defined in Section 2 of the Companies Act 2006)
- (b) the Friendly Societies Act 1974
- (c) the Friendly Societies Act 1992
- (d) the Co-operative and Community Benefit Societies Act 2014
- (e) the Building Societies Act 1986
- (f) the Charities Act 2011.

9.5 Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

9.6 Information which:

- (a) falls within any of paragraph 9.4 above; and
- (b) is not prevented from being exempt by virtue of paragraph 9.5 or 9.6 above

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

9.7 All Council meetings will be in public subject to the above exceptions relating to confidential and exempt information and to the further exceptions which are permitted under legislation where the sole purpose of the meeting is to receive a pre-briefing from Officers of the Council, including clarification on particular matters.

## **10. PROCEDURE BEFORE THE EXECUTIVE TAKE KEY DECISIONS**

10.1 Unless the matter is urgent, a Key Decision may not be taken by Cabinet unless:

- (a) a notice ('a Forward Plan') has been published in connection with the matter in question;
- (b) at least twenty eight clear days have elapsed since the publication of the Forward Plan; and
- (c) where the decision is to be taken at a Cabinet meeting, at least five clear working day notice of the meeting has been given.

10.2 **Meaning of Key Decisions:**

- (a) Any executive decision which has significant financial implications, having regard to the Council's budget for a service or functions.
- (b) "Significant" means having financial implications above £100,000.

Any executive decision which although unlikely to involve significant expenditure or savings, are nevertheless likely to be significant in terms of their effects on communities living or working in an area comprising two or more wards of the Borough.

## **11. THE FORWARD PLAN**

- 11.1 Forward Plan will be prepared and published to cover a rolling period of four months, beginning with the first day of any month.
- 11.2 The Forward Plan will contain matters which will be subject to a Key Decision to be taken by the Cabinet during the period covered by the plan. This is the link to the current [Forward Plan](#)
- 11.3 The Forward Plan contains:
- (a) who the Portfolio holder is
  - (b) the date and meeting where the decision will be take
  - (c) who the consultees (if any) are
  - (d) where/whom representations can be made to
  - (e) background papers
- 11.4 At least twenty-eight clear days' notice must be given of the intention to make a key decision on the Forward Plan at a Cabinet meeting.

## **12. URGENT KEY DECISIONS**

- 12.1 If a matter which due to urgency is likely to be a Key Decision but has not been included in the Forward Plan, a decision may still be taken subject to the following:
- (a) the decision must be taken by a date where it would be impracticable to defer the decision until it has been included in the next Forward Plan and;
  - (b) the Governance Services Manager has obtained the consent of the Chairman of the Overview and Scrutiny Committee
  - (c) Notification of the decision made would be circulated to all members; and
  - (d) the Governance Services Manager has published notice of this on the Council's website.

## **13. REPORTS TO COUNCIL ON URGENT DECISIONS TAKEN BY THE EXECUTIVE**

- 13.1 The Leader will submit at least one report annually to the Council containing details of Urgent Executive decisions taken in the previous year. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **14. KEY DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET AND OFFICERS**

- 14.1. Key Decisions can be taken by individual Members of the Cabinet as set out within the powers delegated to them by Cabinet. These are set out in the Cabinet Procedure Rules.

- 14.2. In the case of urgency, the appropriate portfolio holders can still take an individual key decision outside of their delegated powers:
- (a) where there is an urgent requirement for a decision; and
  - (b) where it is not practicable to convene a quorate meeting of the Cabinet.
- 14.3. The reasons for the urgency must be recorded in writing by the decision taker.
- 14.4. If such individual decisions are Key Decisions then the rules relating to notification and publication and contained in paragraph 12 above must be followed.
- 14.5. Individual executive decisions exercised by Cabinet Members and Officers must be recorded in a written statement as soon as reasonably practicable. The statement must include:
- (a) a record of the decision;
  - (b) a record of the reasons for the decision;
  - (c) details of any alternative options considered and reasons for their rejection (if any);
  - (d) a record of any interest declared by any Cabinet Member who is consulted
  - (e) a note of any dispensation granted by the Standards Committee in respect of any declared interest.
- 14.6. The record of the decision and any reports considered together with any background papers listed, must be published on the Council's website as soon as reasonably practicable and members are notified.

## **15. ADDITIONAL RIGHTS OF ACCESS FOR ALL MEMBERS**

- 15.1 All Members of the Council will ordinarily be entitled to inspect any documents relating to business to be transacted at formal Council and Executive meetings.
- (a) This does not include documents in draft form.
  - (b) Members who have a Disclosable Pecuniary Interest in a matter or a conflict with their personal interests, should not request or inspect any council documents or reports relating to that interest and should declare their interest as soon as it becomes apparent.
  - (c) Members may not be entitled to request or inspect council documents that contain individuals' personal data, regulatory matters, and/or confidential or commercially sensitive information.
- 15.2 All Members will be permitted to attend committee meetings, including during the consideration of exempt or confidential information, unless they have a Disclosable Pecuniary Interest in a matter or conflict with their personal interests.
- 15.3 Members of Overview and Scrutiny committee have enhanced powers by law to access exempt or confidential information, in order to perform these functions effectively. Sensitive information may need to be shared in a closed session.

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## SECTION 4 - BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

### 1. THE FRAMEWORK FOR EXECUTIVE DECISIONS

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4 of the Constitution. Once a budget or a policy framework is in place, it will be the responsibility of the Cabinet to implement it.

### 2. PROCESS FOR DEVELOPING THE FRAMEWORK

The Council will adopt the following procedure for developing the budget and policy framework:

- (a) After consulting stakeholders in a manner appropriate to the matter under consideration, the Cabinet will draw up initial proposals in relation to any budget plan or strategy which forms part of the Council's budget or policy framework. Once drawn up the Governance Services Manager will serve copies of them [onto](#) the Chairman of the Overview and Scrutiny Committee together with dates when the Cabinet will consider them further.
- (b) A task and finish panel of the Overview and Scrutiny Committee will be convened without unnecessary delay to consider the Cabinet's proposals and whether any further consultation by it is appropriate. If so, the task and finish panel or Overview and Scrutiny Committee will conduct a consultation exercise and will reflect any representations made to it in its response to the Cabinet within the timescale set for decision by the Cabinet.
- [\(c\)](#) The Cabinet will finalise its proposals for the Council to consider having taken into account the comments from the Overview and Scrutiny Committee as it considers appropriate. The report to Council will show the Cabinet's response to those comments.

**[Proposals in respect of the budget must be submitted to the Council before 8 February in any financial year for the following financial year in respect to estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitution) in accordance with any of sections 32 to 37 or 43 to 49 of the Local Government Finance Act 1992, or estimates of other amounts to be used for the purposes of such a calculation or estimates of such a calculation or amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992 unless calculations or substitute calculations which the Council is required to make in accordance with sections 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.]**

~~(d)~~ The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place.

~~(e)~~ The Council's decision will be published on the Council's website and sent

by e-mail to all councillors including the Leader. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Cabinet's proposals without amendment) or (if the Cabinet's proposals are not accepted without amendment), that the Council's decision will become effective on the expiry of five working days after the publication of the notice of decision, unless the Leader objects to it in that period.

~~(e)(f)~~ If the Leader objects to the decision of the Council, he/she shall give written notice to the Governance Services Manager to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. (In the alternative the Leader can submit a revised estimate or amount, plan or strategy with reasons for the revision). Where such notification is received, the Governance Services Manager shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.

~~(g)~~ The Council meeting must take place without unnecessary delay following receipt of the Leader's written objection (or revised estimate, amount, plan or strategy). At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection (or revision), which shall be available in writing to all Members of the Council beforehand.

~~(h)~~ The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be implemented immediately.

~~(f)(i)~~ In approving a budget, plan or strategy, the Council will also specify the extent of virement within the budget and degree of in-year changes to the plan or strategy which may be undertaken by the Cabinet. Any other changes to the budget or policy framework are reserved to the Council.

### **3. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

3.1 Subject to the provisions of paragraph 5 (virement) and paragraph 6 (agreed changes) the Cabinet, individual Members of the Cabinet and any Officers discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by the Council, then that decision may only be taken by the Council, subject to 4 below.

3.2 If the Cabinet, individual Members of the Cabinet and any Officers discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those Officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which



case the provisions in paragraph 4 shall apply.

#### **4. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

4.1 The Cabinet, an individual Member of the Cabinet or Officers discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by the Council if the decision is a matter of urgency. However, the decision may only be taken:

(i) if it is not practical to convene a quorate meeting of the full Council; and

(ii) if the Chairman of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

4.2 The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of the Overview and Scrutiny Committee, the consent of a Vice-Chairman of the Overview and Scrutiny Committee should be obtained.

4.3 Following the decision, the decision taker will provide a report to the Council at its next meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

#### **5. VIREMENTS AND SUPPLEMENTARY ESTIMATE**

5.1 Steps taken by the Cabinet, an individual Member of the Cabinet or any Officers, discharging executive functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, such a body or individuals shall be entitled to vire across budget heads up to a maximum of those limits agreed by the Council when approving a budget, plan or strategy as set out in the Council's Financial Regulations (Part 4 of this Constitution).

5.2 Alternatively, a supplementary estimate may be approved from earmarked reserves, where there are delegated powers in place on those reserves.

5.3 Beyond the limits and delegations, approval to fund policy decisions will require the agreement of the Council.

#### **6. IN-YEAR CHANGES TO POLICY FRAMEWORK**

6.1 The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, an individual Member of the Cabinet or any Officers, discharging executive functions must be in line with it. No changes to any plan and strategy which make up the policy framework may be made by that body or individuals except those changes:

(a) which were agreed by the Council could be made when approving a plan or strategy; or

- (b) necessary to ensure compliance with the law, ministerial direction or government guidance;  
such changes to be reported to the Council at its next meeting.

## **7. CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- 7.1 Where any Member of the Overview and Scrutiny Committee is of the opinion that an executive decision yet to be made or made but not yet implemented would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.
- 7.2 The Monitoring Officer and/or Chief Finance Officer shall report their advice to every Member of the Cabinet, with a copy sent to every Member of the Overview and Scrutiny Committee. If the advice of either of those Officers is that the decision, or potential decision would be contrary to the policy framework or not wholly in accordance with the budget, then the Cabinet must meet within three working days (unless the taking of the decision or its implementation is urgent in which case the provisions in paragraph 4 shall apply) to decide what action to take to ensure the decision or potential decision is reviewed to comply with the policy framework or budget and report their proposed action to the Overview and Scrutiny Committee Members within two working days of the Cabinet meeting.
- 7.3 If the Cabinet fail to review the decision or potential decision to conform with the policy framework or budget within the timescales referred to in (b) above the Overview and Scrutiny Committee may meet and agree to refer the matter to Council within ten working days of publication of the decision or knowledge of the potential decision by the Cabinet. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within ten working days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report from the Cabinet and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
  - a) Endorse the decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way;
  - b) Amend the Council's Financial Regulations or policy concerned as far as it is legally permissible to do so, to encompass the decision or proposal and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - c) Where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the executive decision maker to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance

Officer to ensure compliance with the policy framework or budget.

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## **SECTION 6 - PROCEDURE RULES FOR PLANNING MEETINGS**

### **1. TRAINING**

- 1.1. All members are required to attend training before sitting on the Development Management Committee ~~and Welwyn Garden City Estate Management Appeals Panel~~ and to attend as many training sessions as possible.
- 1.2. Only members who have attended planning training can be appointed as substitutes for members of the Development Management Committee, ~~and Welwyn Garden City Estate Management Appeals Panel~~

### **2. CALL-IN REQUESTS**

- 2.1. Borough Councillors, or Town or Parish Councils may wish to request the call-in of sensitive or controversial planning applications that would otherwise be delegated to Officers for decision by the Development Management Committee.
- 2.2. Borough Councillors can submit a call-in request for any planning application in any ward.
- 2.3. Town and Parish Councils can only make call-in requests (through the submission of a "Major objection") for applications within their boundary, and the call-in provision does not apply to the following types of application: householder, lawful development certificates for proposed development or use, conservation area consent or listed building consent (where they relate to works that would not require planning permission, or where the works would be categorised as a householder, prior notification for householder extensions/works, or lawful development certificate for proposed development or use), advertisements outside of conservation areas, applications for prior notification for householder extensions/works under Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 2.4. Call-in requests should be made as soon as possible after the date a valid application is submitted to avoid unnecessary delays in determining applications. Call-ins should only be made once a valid application has been received.
- 2.5. Call-in requests must be made within 21 days of the publication of the application on the weekly list of planning applications sent to all Borough Councillors by email.
- 2.6. A call-in request must be based on the following circumstances:-
  - a) The application has attracted an unusually high level of public interest which might be reflected in the number of letters or emails, or a petition received in connection with the application.

- b) There has been a recent and significant change of planning policy (either at national or local level) which would result in a different recommendation being made in respect of an application than would previously have been the case.
- c) The application has wider ramifications of more than just local interest.
- d) Any other reasons based on individual merits and circumstances of the application.

2.7. A call-in should not be made in the following circumstances:-

- a) To resolve a disagreement between an applicant and the objector(s) to an application.
- b) Because the applicant considers that there is more likelihood of a grant of permission if the application is referred to the Committee for a decision.
- c) Because the objectors to an application consider that there is more likelihood of a refusal of permission if the application is referred to the Committee for a decision.
- d) Because the applicant/objector does not agree with the advice given by a Planning Officer.

### **3. CALL-IN PROCEDURE**

- 3.1. A Member or, local Town or Parish Council making a comment of support or objection and an associated call-in request must explain their reason(s) for doing so.
- 3.2. Call-in requests should be made by responding to the application notification email or weekly list of planning applications sent to all Members by email or by emailing or writing to the planning application case officer, Development Management Service Manager or Assistant Director (Planning).
- 3.3. Officers will acknowledge the call-in request. The Member or, local Town or Parish Council should check with the Development Management Service Manager if an acknowledgement is not received.
- 3.4. Where Officers do not consider that the call-in request accords with the call-in circumstances set out above, the Assistant Director (Planning), Development Management Service Manager, or other authorised Officer shall, in consultation with the Chairman of the Committee, notify the relevant Member or Town or Parish Council that the application will be determined under delegated powers.
- 3.5. A copy of the call-in request will be made available for public inspection on the Council's website and included within the report to Development Management Committee.

### **4. MEETING PROCEDURE**

- 4.1. At the conclusion of the debate, the Committee must first undertake to vote on the recommendation set out in the officer report. If this recommendation

fails then the committee should set out its reasons for an alternative recommendation.

- 4.2. Any decision which is made which is contrary to the Officers' recommendations (whether for approval or refusal):
  - a) Should be subject to a detailed minute of the Committee's reasons and a copy placed on the application file.
  - b) Officers should be given the opportunity to explain the implications of the contrary decision before a vote is taken.
  - c) Applications which are refused contrary to Officer recommendations should be supported by clear and convincing reasons for refusal, taking into account material planning ~~or Estate Management~~ considerations.

When it is clear that the Committee wishes to overturn an officer recommendation, the Chair of the committee may use their discretion to move a short adjournment of the meeting in order that officers may assist members with the formulation of wording to support a reason for refusal or reason for approval.

- 4.3. Subject to sufficient explanation being provided by the Committee, to justify its decision, and where the full wording cannot be agreed during the Committee/Appeal Panel, Members will allow Officers to draft the precise wording of reasons for refusal or approval and refer the wording to the Chairman (or in the Chairman's absence the Vice-Chairman) for approval.
- 4.4. In the case of a condition(s) which Members wish to add or amend, Members should advise the Committee/Appeals Panel of the condition(s) that they wish to add or amend together with relevant wording. Where the full wording cannot be agreed during the Committee/Appeal Panel, Members will allow Officers to draft the conditions and refer the wording to the Chairman (or in the Chairman's absence the Vice-Chairman) for approval.
- 4.5. Members should have good and cogent reasons based on considerations which are material to the consideration of a planning application ~~or Welwyn Garden City Estate Management Scheme Appeal~~ before agreeing any deferment of its consideration to a subsequent meeting.
- 4.6. The Development Management Committee should review on a biennial basis a sample of implemented planning permissions including those determined under Officers' delegated powers to assess the quality of the decisions. Such a sample to include examples from a broad range of categories. Briefing notes should be prepared on each case and site visits arranged as appropriate. The review should allow the Committee to assess whether it gives rise to the need to review policies or practices.
- 4.7. Any planning applications submitted by a Member or Senior Officer of the Council or others on their behalf shall be considered by the Development Management Committee, irrespective of whether it conforms to policy or is

uncontentious, and the Member or Officer shall take no part in the processing of the application. The onus is on the Member or Officer to make clear their connection with the Council when submitting their application. The Council's Monitoring Officer should be notified of any such applications and will confirm within the report to the Committee that the application has been processed normally.

## **5. SITE VISITS BY MEMBERS**

5.1 Members sitting on the Development Management Committee ~~and Welwyn Garden City Estate Management Appeals Panel~~ are presumed to have familiarised themselves with a site before the meeting at which they will be asked to determine the planning application in respect of it:

- a) Members should avoid being persuaded to carry out site visits at the instigation of, or in the company of a party to the planning application i.e. the applicant and/or their agent.
- b) If Members visit sites with other residents/objectors they should be careful, particularly if a Member of the Development Management Committee, not to offer a firm opinion on the matter and should follow the advice outlined in this Code.
- c) Members should remember they cannot enter onto private land without first obtaining the permission of the owner and should endeavour whenever possible to familiarise themselves with a site from a public viewpoint. Whilst a Member might be invited to enter the site by the owner, it is not good practice to do so on their own, as this can lead to the perception that the Councillor is no longer impartial.

## **6. SITE VISITS BY DEVELOPMENT MANAGEMENT COMMITTEE**

6.1. Site visits arranged by the Development Management Committee can cause delay and additional costs and should only be used if either of the following circumstances apply:

- a) The impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by Officers.
- b) There is a good reason why the comments of the applicant and objectors cannot be expressed adequately in writing, or the proposal is particularly contentious.
- c) If it is appropriate to defer consideration of a planning application pending a site visit, the site visit should be carefully organised to ensure that its purpose, format and conduct are clearly established at the beginning and subsequently adhered to. The following guidance should be noted and adhered to at all times:
- d) The purpose of a site visit is to observe the location of the site and its relationship to adjoining properties and the area generally, where this is relevant. The purpose of the visit is not to discuss the issues with either the applicant or any other third party.
- e) It is for Members to decide whether they wish to view the site from other



property or undertake a wider visit to the immediate locality. The need will vary from case to case.

- f) If the applicant and/or the agent are in attendance at the site visit their only role is to bring to the attention of Members any aspect of the site or the surrounding area that they wish Members to familiarise themselves with. They should not be allowed to debate the merits of the proposal with Members.
- g) In instances where Members visit a neighbouring property the point made in paragraph (c) above also applies to other third parties.
- h) During the course of the site visit Members should not give any indication to the applicant or third parties of their opinion on the planning application.
- i) In order that the site visit runs as smoothly as possible the applicants and any other parties likely to be involved in the site visit will be advised of the above procedure prior to the visit whenever possible. If this is not possible the Officer will explain the procedures on the day.

6.2. The reasons for agreeing to a site visit should be fully minuted.

## 7. PUBLIC SPEAKING

7.1. In order that the Development Management Committee can carry out its business in a timely manner, the public speaking scheme permits applicants/agents for planning applications, local Town and Parish Councils, Ward Members and members of the public and others to address the Committee where the relevant item is under consideration, on the following basis:

7.2. The intention to speak must be registered with Governance Services by telephone or email no later than 5.00pm on the day before the meeting.

a) There shall be a maximum of the applicant/agent, one speaker for, one speaker against, any statutory body as defined in the Town and Country Planning (Development Management Procedure) Order 2015, a local town or parish council where they have made comments, for each planning application on the agenda.

b) There is a system to put supporters/objectors in touch to agree who should speak where more than one person has registered, but with the priority to the first person to register.

~~b~~c) One Ward Member will be allowed to speak for and against any application; where more than one Ward Member registers to speak for or against, subject to provision d) they will be requested to nominate one member to jointly make representations at the meeting.

~~e~~d) In exceptional circumstances the Chairman of the Committee has discretion to allow more than one speaker for and/or one speaker against the application, if for example their reasoning is based on entirely separate grounds.

~~e~~e) The time limit on speaking is a maximum of three minutes.

- e)f) Only applicants/agents and persons who have submitted written observations in accordance with (g) below will be allowed to speak.
- f)g) No written or other information may be circulated by applicants/agents, local Town or Parish Councils, Ward Members, members of the public or others during the meeting. Any late information must be submitted to the Planning Service or Governance Services by 5.00pm two days before the meeting in order for it to be circulated and considered by Members of the Committee.
- g)h) The Officer will be invited to comment on any views expressed by speakers. During the debate by Councillors, should clarification be required on any point made by speakers, this will be with the agreement of the Chairman.

## 8. WELWYN GARDEN CITY ESTATE MANAGEMENT SCHEME PROTOCOL

### 8.1. Subject to Rule 8.6 (below) decisions on estate management applications will be made by the Estate Management Scheme Manager.

8.1.8.2. When the Council receives an estate management application it will notify those people most likely to be affected by it, which is usually the occupiers of land/premises neighbouring the proposal.

8.2.8.3. Ward Members will be notified of estate management applications in a notification email and all estate management applications will appear on the weekly list of planning applications sent to all Members by email.

8.3.8.4. Members who would like to make any comments on the application should make them in writing to the case officer, Development Management Service Manager or Head of Assistant Director (Planning) before the call-in date given in the notification email or on the weekly list of planning applications.

8.4.8.5. ~~The~~Before making a decision the Planning OfficerEstate Management Scheme Manager will write a report on each application, setting out the decision which the Officer proposes to make, including reasons for the proposed decision. If the Officer's ~~recommendation~~ proposed decision is contrary to a Member's written comments, where practicable the application will be discussed with the Executive Member for Planning and the relevant Councillor before a decision is taken under delegated powers.

~~8.5. If, following discussions with the Executive Member, the view is taken to make a decision contrary to a Member's written comments, then a full explanation will be given in the Officer's report, setting out why the decision is not made in accordance with the Member's comments. If the Executive Member has to declare an interest in the application, then the discussions will take place with the Leader of the Council. The Member will be advised of the decision.~~

8.6. Estate Management applications by Members or Senior Officers will be discussed by a group of Planning Officersthe Estate Management Scheme Manager and the Assistant Director (Planning) before a decision is taken

under delegated powers. An application by the Estate Management Scheme Manager or Assistant Director (Planning) will be considered by the Executive Director (Place)

~~8.7. Appeals against the~~Any application for review of a decision to refuse of~~refuse~~ Estate Management Consent ~~where the applicant is not in agreement with the decision and negotiation has proved ineffective shall be dealt with by the Welwyn Garden City Estate Management Appeals Panel shall be considered by the Executive Director (Place). Any such application must be made within 3 months~~[X] days of notification of the decision. It should be noted that this does not allow reconsideration of the decision but only a review of whether the correct process has has been followed.

~~— A referral to a single arbitrator may only be made in the event of a dispute or disagreement between an owner and the council in connection with the administration or interpretation of the Estate Management Scheme. An arbitrator will not have authority to substitute the decision of the council with his or her own decision. The role of an arbitrator is limited to determining whether or not the council acted reasonably in refusing consent. Provided that the decision of the council falls within a band of possible decisions the arbitrator will have no authority to overturn the decision.~~

~~8.7. The same arrangements for conduct, standards, dos and don'ts, the consideration of applications, site visits and public speaking in this Code also apply to the Appeals Panel. Due to the length of time between Panel meetings however Members may make a request for a site visit in writing to the Head of Planning before the meeting. Requests will then be discussed with the Chairman of the Panel and, where agreed, carried out prior to the meeting.~~

~~8.8. No written or other information may be circulated by applicants/agents or members of the public during the meeting. Written submissions are restricted to those received in advance which will be circulated to Members before the meeting.~~

~~8.9. Members of the Committee are not permitted to put questions to the speakers.~~

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## SECTION 9 CONTRACT PROCEDURE RULES

### 1. DEFINITIONS

Conflict of Interest	A situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity.
Contracting Authority	The State, regional or local authorities, bodies governed by public law
Contractor	An organisation undertaking work on behalf of the Council following a procurement competition.
Contracts Finder	The electronic portal that lets you search for information about contracts with the government and its agencies.
E Tendering Portal	The Supply Hertfordshire procurement portal operated by In Tend Limited.
Find a Tender Threshold	The financial Threshold where a notice must be published on the governments Find a Tender website.
GDPR	The General Data Protection Regulations in force at the relevant time.
JCT Contract	The Joint Contracts Tribunal, an organisation that, produces standard forms of contract for construction.
Open Procedure	A one stage tender process where one submission is made. As well as price and quality criteria there maybe criteria that is used in the selection stage (such as minimum financial requirements).
Parent Company Guarantee	is a form of security that is obtained from a parent (or holding) company to protect a client in the event of default on a contract by the Contractor.
PCR2015	The Public Contracts Regulations 2015.
Performance Bond	is a surety bond issued by an insurance company or a bank to guarantee satisfactory completion of a project by a contractor.
Procurement Manager	The Procurement Manager of the Council.

Restricted Procedure	A two -stage process. The first stage is the selection stage. This considers the capability of tenders to undertake the services and is backward looking. From the selection stage a minimum of five bidders are taken through to the tender stage where they are scores against a mix of price and quality.
Social Values	taking account of the wider economic, social and environmental effects.
Threshold above the financial threshold	when a regulated procurement is required and referred to in Regulation 5 of PCR2015

## **2. INTRODUCTION**

- 2.1 Section 135 of the Local Government Act 1972 (the 1972 Act) requires the Council to have standing orders for how it enters into contracts. These Contract Procedure Rules (“Rules”) are the standing orders required by the 1972 Act. They form part of the Council's Constitution and are, in effect, the instructions of the Council, to officers and elected members, for entering into contracts on behalf of the Council.
- 2.2 These Rules govern ALL purchases of works, goods and services across the whole Council; they cover UK legislative requirements as well as good practice. Should there be any discrepancies between these Rules and legislation, legislation is the dominant authority and MUST be followed.
- 2.3 All Council procurements MUST demonstrate; true and fair competition, public accountability, an open, fair and transparent process, seek to prevent bribery and corruption, whilst ensuring probity. All procurements MUST demonstrate a full audit trail.
- 2.4 Complying with the Contract Procedure Rules will also help to ensure that the Council obtains best value when it buys works, goods or services.
- 2.5 These Contract Procedure Rules are to protect the interests of the Council, its officers and elected Members and the public.

## **3. BASIC PRINCIPLES**

- 3.1 The procurement of supplies, services and works of any value must always:
- a) Provide value for money;
  - b) Be undertaken in a fair, transparent, equal and non-discriminatory manner;

- c) Not involve fraud or corruption;
- d) Adhere to ethical and sustainable procurement principles;
- e) Receive the appropriate approval to commence and award a contract;
- f) Have a signed / sealed contract in place (over the requisite value)
- g) Have appropriate contract management performance measures in the contract;
- h) Ensure the delivery of any Social Value requirements.

#### **4. SCOPE OF THE CONTRACT PROCEDURE RULES**

- 4.1 These rules apply to all procurements for the provision of supplies, services or works, except where stated in 4.3.
- 4.2 A contract is any verbal or written agreement where a party (the Supplier) agrees to provide supplies, services or works to the Council in return for a form of consideration (usually payment). These contracts include but are not limited to:
  - a) Service Contracts
  - b) Construction Contracts
  - c) Supplies Contracts (purchase of goods)
  - d) Framework agreements
  - e) Purchase orders
  - f) Leasing / licensing / Financing arrangements (e.g. software)
  - g) Quotations
  - h) Concession contracts
- 4.3 The following contracts are exempt from these regulations:
  - a) Employment Contracts
  - b) Contracts for the acquisition, transfer, or disposal of any interest in land or property (including leasehold interest)
  - c) Instruction of legal counsel/barristers - Where it is in the best interests of the Council to directly instruct a particular legal counsel/barrister because they are one of only a few suppliers who have expertise or specialist knowledge or substantial experience or skills in a relevant area.
  - d) For loans arrangements [\(all loan arrangements require Section 151 Officer approval\)](#)
  - e) For the open market purchase of housing

## **5. CONFLICTS OF INTEREST**

- 5.1 All members of staff must avoid any conflict between their own interests and the interests of the Council as detailed in the Council's Officers' Code of Conduct, this includes: but is not limited to:
- a) not accepting gifts or hospitality from organisations or suppliers that the Council has dealings with
  - b) not working for, or having a pecuniary shareholding in organisations or suppliers that the Council has dealings with;
  - c) notifying the Procurement Manager if an officer has links with (e.g. they previously worked for, or a family member or close friend works for) an organisation or supplier who is tendering or quoting for a contract with the Council or already has a contract with the Council.
- 5.2 All consultants engaged to act on behalf of the Council must declare that:
- a) they will avoid any conflict between their own interests or those of any of their other clients and the interests of the Council; and
  - b) they will notify the Procurement Manager if they have any links with (e.g. a family member or close friend works for) an organisation or supplier who is tendering or quoting for a contract with the Council or already has a contract with the Council, subject to that Consultant being involved in that particular project.
- 5.3 For any project over £1,000,000.00 in value all officers must sign a project specific conflict of interest form and return this to the Procurement Manager

## **6. PRE- COMMENCEMENT REQUIREMENTS.**

- 6.1 Before any procurement commences, the following approvals are required to commence the procurement and to agree the evaluation criteria:
- Up to £10,000.00 : No specific approval required to commence
  - Over £10,000 and less than £100,000 – the Assistant Director's approval is required
  - Over £100,000.00 and less than £999,999: The Director / Chief Executive's approval is requirement
  - Over £1,000,000.00. The Executive Member by means of and Executive Member Decision Notice.
- 6.2 Where there is a recommendation to make a direct award through a compliant framework, there is no need to get agreement to commence the procurement, as long as the approval to award the contract is made in accordance with section 22.1 of these rules.



## **7. PRE- TENDER MARKET RESEARCH AND ENGAGEMENT.**

7.1 Officers may consult potential tenderers prior to the placing of the contract advert in general terms about the nature, level and standard of the requirement and other relevant matters, provided:

- This does not prejudice any potential tenderer or tender;
- Must not seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone who may have a commercial interest in it, this may prejudice the equal treatment of all potential tenderers or distort competition;
- Must notarise the meeting/ event, share the information presented as and when requested, unless the information is commercially sensitive.

## **8. PRE- PROCUREMENT**

8.1 Prior to the publication of any procurement the Officer must:

- a) Make a genuine estimate of the whole life cost of the supplies, services or works being supplied during the entire term (including any extension period) of the contract. [see paragraph 14 below]
- b) Contracts must not be artificially divided into two or more contracts to avoid Procurement Regulations or the Council's Contract Procedure Rules;

8.2 Consult with Finance prior to commencing a procurement to ensure that budget for the total estimated value identified above will be available for the contract;

## **9. CHOICE OF PROCEDURE**

9.1 The route to market for all tenders must be determined in conjunction with the Procurement Manager and consider the following elements:

- a) Whether there are collaboration, Shared Services or inter-authority opportunities;
- b) Stimulation of local Small and Medium Sized Enterprises (SME) supplier market.
- c) Whole life costs and affordability of the contract;
- d) The size of the market;
- e) The complexity of the requirements;
- f) The value of the contract.

9.2 The decision to utilise frameworks as a route to market must be approved by the Procurement Manager prior to engagement with the framework provider. Further information can be found in section 10.4 and 10.5.

## **10. COLLABORATIVE PROCUREMENT**

- 10.1 Each collaborative procurement will have a lead or Contracting Authority. This is the body that will be responsible for letting and awarding the contract. The procurement process will usually be undertaken in accordance with that body's contracting regulations.
- 10.2 Each participating Council's role and responsibilities in any collaborative procurement must be clearly outlined and understood at the beginning of the procurement.
- 10.3 Where the Council will be the Contracting Authority for the procurement:
- a) Authorisation to commence the procurement process must be obtained and undertaken in accordance with these rules;
  - b) A Service Level Agreement must be entered into with all other participants, outlining the rules and responsibilities of both parties and ensuring any risk that the Council is taking is passed through to the other participants;
  - c) The Procurement Manager must lead the procurement element of the project;
  - d) The procurement timetable should allow for the participating authorities to obtain the necessary approvals in accordance with their constitution(s);
  - e) Authorisation to award the contract must be obtained in accordance with these rules.
- 10.4 Officers are also permitted to use a framework contract that has been tendered by central purchasing body as long as there is provision in the contract notice for this council to call off from the framework.
- 10.5 Where a framework contract (mentioned in 10.4) is being used the preferred method should be a mini competition. A direct award should only be made after consultation with the Procurement Manager.

## **11. SPECIFICATIONS**

- 11.1 Specifications must set out a clear and comprehensive description of the Council's requirements with regard to the supplies, services or works to be procured. The specification should include the defined outputs/ outcomes expected.
- 11.2 All supplies, services or works must be specified by reference to European standards or national standards, if no European standards are set.

- 11.3 Named products or manufacturers must not be specified for above Threshold procurements.
- 11.4 Specifications must contain *measurable* objectives to enable the Council to ascertain whether requirements are being met. This should include Key Performance Indicators for measurable purposes.
- 11.5 Specifications must incorporate the relevant requirements in respect of:
- a) Professional or Industry accreditations to be held by the service providers;
  - b) Consultation with service users
  - c) Reporting to the Council on key service metrics/ Key Performance Indicators
  - d) Equalities analysis
  - e) GDPR (Responsibility for the management, safeguarding and ownership of any data to be used)
- 11.6 Due regard for the Councils Climate Change strategy should be made.

## **12. ELECTRONIC PROCUREMENT AND ADVERTISING**

- 12.1 Procurement at or above £10,000.00 should be undertaken through the Council's E- Tendering portal.
- 12.2 Procurement at or above £50,000.00 must be advertised on an 'open basis' (i.e. not limited to a certain number of bidders). These opportunities must be published on the E- Tendering portal as well as Contracts Finder.
- 12.3 Procurement at or above the threshold in Regulation 5 of PCR2015 must be advertised on the Find a Tender portal as well as the E- tendering portal and Contracts Finder. All documents relating to an above Find a Tender threshold procurement must be made available at the first point of publication of the contract notice.

## **13. MANAGEMENT OF THE PROCUREMENT PROCESS**

- 13.1 All procurements with a value of £10,000 will be managed by the procurement department.

## **14. ESTIMATING THE VALUE OF THE PROCUREMENT**

- 14.1 When calculating the value of the procurement the following process should be used:

- 14.2 For Capital projects (without maintenance) it should be the Capital Budget approved for the purchase.
- 14.3 For Capital projects that include a contractual requirement for maintenance, it should be the cost of the capital budget plus the maintenance costs for the duration of the maintenance agreement (e.g. a capital purchase of £45,000, which includes a maintenance contract for 5 years estimated at £5,000 per annum has a total estimated value of £70,000)
- 14.4 For revenue contracts the estimated value should be for either:
- (a) The estimated value of a one- off purchase; or
  - (b) For recurring requirements with that supplier, the estimated shall be either the value for the proposed contract length or if it is not known how long the arrangement will be in place then the estimated value should be 4 times the annual expected expenditure.
- 14.5 The estimated value must exclude Value Added Tax (VAT) but must include all other taxes and duties.
- 14.6 Where a Contractor is commissioned to undertake more than one order/contract for a specific department in any one financial year period, then the total amount spent with that supplier should not exceed £10,000 without conducting a competitive process in accordance with these Rules.
- 14.7 It is acknowledged that more than one department may utilise the same supplier, without knowledge of the expenditure of the other department. The procurement department will regularly assess the expenditure and should the expenditure on any one supplier exceed £10,000 (in a financial year), then those departments should conduct a joint procurement in accordance with these rules.
- 14.8 Investigatory phases- services are often commissioned where projects are at the investigatory (initial) stage as to project viability, pilots or design etc. Quite often extra resources are required to further re-procure as the project progresses. Consideration should be given at the investigatory (initial) stage to whether it would deliver better value to seek competitive quotes from the outset of the intended project, for each envisaged stage of the project. This may reduce the need for re-procuring as the project progresses and the risk of delaying the project timetable.

## 15. PROCESS TO BE FOLLOWED

- 15.1 Dependent on the estimated value if a framework is not being used, the following table should be followed:

Estimated Value	Minimum No. of Quotations/Tenders
-----------------	-----------------------------------

Under £10,000	Obtain a minimum of one written quotation
£10,000 - £49,999	3 quotations
£50,000 – regulated Threshold (£189,330 as of 1 <sup>st</sup> January 2022)	Advertised using the Open Procedure
Over the Threshold for a regulated procurement	Advertised using either the Open or Restricted Procedure (unless a more complex process such as Competitive Dialogue is used.)

## 16. EVALUATION CRITERIA

- 16.1 All tenders must include evaluation criteria (generally the split between price and quality). This may include up to 95% price (subject to meeting all other minimum criteria).
- 16.2 For any contract with a value above the Find a Tender Threshold at least 10% of the evaluation criteria is allocated to Social Values with an emphasis on using businesses based within the Borough.
- 16.3 There must be a minimum of 5% of the evaluation criteria allocated to carbon reduction initiatives.

## 17. OFF PAYROLL WORKING AND INTERMEDIARIES LEGISLATION (IR35)

- 17.1 Since April 2017, the Council has had a legal obligation to ascertain if employment tax and national insurance should be deducted from payments to agency workers or contractors.
- 17.2 Appointment through a recruitment agency: The Council has an obligation to inform the agency of the employment status of the individual, and the agency will then deduct tax and national insurance as appropriate.
- 17.3 Under no circumstances should officers give agencies the view that an engagement is outside of the scope of the legislation. The Assistant Director (Finance) or Human Resources [and Organisational Development](#) Manager will undertake an assessment and issue a formal status determination statement.
- 17.4 Award of Contract: If you plan to offer work to an individual who works through their own intermediary (often their own company, but this could also be a partnership, self-employment or another person), the Council has an obligation to decide whether the off-payroll working rules apply.

- 17.5 The Council will need to conduct an 'employment status for tax' assessment before the contract commences. The successful bidder will be required to provide all necessary information for this assessment to take place.
- 17.6 In the event the Council concludes that off-payroll working rules for the public sector apply, then the Council will deduct tax and national insurance from the Contractor at source and no additional payments will be made to the Contractor.
- 17.7 More detailed information on this subject can be obtained from the Procurement Manager, Assistant Director(Finance) or Human Resources [and Organisational Development](#) Manager.
- 17.8 Under no circumstances should officers enter a contract or make payments to an intermediary without a statement determination statement having first been issued by Assistant Director(Finance) or Human Resources [and Organisational Development](#) Manager.

## **18. FORM OF CONTRACT AND SECURITY**

- 18.1 Unless a recognised trade or profession contract is to be used (e.g. JCT) then the Council's standard terms and conditions must be used. Legal Services must approve any deviation from these terms and conditions. Consideration should also be given to the use of Liquidated Damages (a fixed or ascertainable sum agreed by the parties as damages for a breach of contract). If Liquidated Damages are not considered appropriate then the reason should be given on the contract file.
- 18.2 All service or works (construction) contracts with a value of £1,000,000.00 or more should include in the tender document the requirement for the successful Contractor to provide a Performance Bond (of at least 10% of the contract value) or a Parent Company Guarantee.
- 18.3 Performance Bonds / Parent Company Guarantees may also be requested where there is considered to be a particular risk to the Council (e.g. where the Contractor pays the Council), or where it is difficult for another company to run the service (where a Parent Company Guarantee should be obtained).

## **19. SUBMISSION OF TENDERS**

- 19.1 All tenders must be submitted electronically through the E Procurement Portal. Tenders submitted in hard copy or by e mail will be rejected.
- 19.2 Tenders must comply and be submitted in accordance with the rules and instructions set out in the Invitation to Tender.

## **20. TENDER CLARIFICATION**

- 20.1 After tenders have been opened clarification may be necessary to check apparent omissions, arithmetical errors, completeness of documentation etc. In seeking clarification all communications with tenderers should be properly recorded and must be issued through the E-Procurement System. The objective at this stage is to evaluate the tenders as submitted and it follows therefore that under no circumstances should any tenderer be given the opportunity to engage in negotiations with regard to pricing or any other aspects of the tender. Clarification should be obtained solely to the extent necessary for a clear evaluation.
- 20.2 If a tenderer has obviously omitted a document (i.e. a document has been referred to but not supplied), then a request to supply it can only be made if the document would have clearly originated before the tender return date (e.g. a set of accounts, a dated policy document).
- 20.3 Under no circumstances can a tenderer be allowed to submit a document that would not obviously be available before the tender return date and therefore give them an unfair advantage.

## **21. Evaluation of Tenders**

- 21.1 Training must be received by officers and others (including external consultants) involved in the evaluation process prior to any tender being returned. If training has not been received the officer / consultant will not be able to participate in the evaluation.
- 21.2 Abnormally low bids must be investigated and only accepted where there is a clear explanation from the bidder to substantiate the pricing in accordance with Regulation 69 of the Public Contracts Regulations 2015.
- 21.3 Conflicts of Interest must be declared in advance by those conducting the procurement and forming part of the evaluation panel and updated where a conflict arises once the bidders on a procurement are known.
- 21.4 Ensure full written notes are made by evaluators and moderators to create an audit of the evaluation process. Notes must not be disposed of until 6 months after expiry of the contract.
- 21.5 To ensure impartiality and in accordance with good procurement practice, the price and quality evaluation of any bid must be undertaken independently of each other. Any officer (or consultant working on behalf of the Council), must not have knowledge of any pricing information when undertaking the quality evaluation

## **22. AUTHORITY TO AWARD CONTRACT**

- 22.1 All contracts must be awarded in accordance with the table below:

<b>Value of Contract</b>	<b>Authorisation to award contract</b>	<b>Documentation required to confirm authorisation</b>
Under £10,000	Service Manager	An e mail from the Service Manager confirming agreement to award
£10,000 - £49,999	Assistant Director	An e mail from the Assistant Director confirming agreement to award.
£50,000 - £ 99,999	Director / Chief Executive	Officer delegated decision notice
£100,000 - £1,000,000	Executive Member (by use of an Executive Member Decision Notice)	Executive Member Decision Notice
Over £1,000,000	Cabinet	Cabinet report and Cabinet Decision Notice

## **23. LETTING OF CONTRACTS**

23.1 For procurements less than £50,000 in value, then it is acceptable to issue a purchase order. The purchase order must include:

- The name of the supplier
- The requirements
- The date the order needs to be completed by
- The total value of the order with any payment terms
- The purchase order number
- A link to the Councils standard terms and conditions (unless different terms and conditions apply in which case the Purchase Order must specify: (a) that the Council's standard terms and conditions do not apply to the particular purchase; and (b) the terms and conditions which do apply to the particular purchase)

23.2 Any procurement over £50,000 must be completed by a formal contract document (which is usually drafted by procurement and completed by the legal department) and must contain:

- a description of the services, works or goods to be supplied;
- price and payment terms;
- commencement and completion dates including the provision of liquidated damages if appropriate



- delivery date, if appropriate;
- appropriate insurance generally including £10 million cover in respect of public liability, £500,000 cover for professional indemnity liability (where relevant) and employers liability insurance, if applicable, in accordance with the legal requirement. The relevant officer may decide to undertake a risk assessment of the project which may result in the level of insurance increasing or decreasing in accordance with the risks identified

23.3 In addition, the following controls should be present:

- the contract between the Contractor and the Council must be in writing;
- the contract must be signed by authorised signatory(ies) of the Contractor and the Council and be executed as a deed under seal if its value is £100,000 or over.
- A contract which may be executed by signing only, in accordance with these Contract Procedure Rules, may be signed with wet and/or electronic signature(s) on behalf of the parties to the contract and, on behalf of the Council may be signed by the relevant Assistant Director who shall notify the Legal Services Manager of the signing of the Contract and the Legal Services Manager shall ensure that details of the Contract are entered into the Signing Register.
- In circumstances where a contract is being signed electronically by/on behalf of a Contractor, the Contractor shall, at the same time as providing the Council with the electronically signed contract, provide the Council with a separate statement (signed by the person(s) who has/have signed the contract) certifying that:
  - a) the person(s) signing the contract has/ve authority to do so;
  - b) person(s) signing the contract intend/s to authenticate the contract; and
  - c) all formalities and legal requirements relating to execution of the contract are satisfied.

23.4 Where a contract or other legal document is required to be executed as a deed the Contractor/other party(ies) may execute the contract electronically provided that the Contractor/other party(ies) shall each do so by signature of two (2) authorised signatories and shall provide to the Council, at the same time as providing the electronically executed deed to the Council, a separate statement certifying that:

- the person(s) executing the contract on behalf of the Contractor/other party(ies) has/ve authority to do so;
- the person(s) executing the contract on behalf of the Contractor/other party(ies) intend/s to authenticate the contract; and

- any and all formalities and legal requirements relating to execution of the contract are satisfied.

23.5 For all contracts over the Threshold a report in accordance with Regulation 84 of PCR2015 must be completed.

## **24. NOTIFICATION TO BIDDERS**

24.1 The successful Contractor should be notified promptly in writing, through the E- Procurement Portal that they have been selected to carry out the contract. It should be confirmed with the Contractor that they are available to commence the contract and that they will undertake the work to the terms and conditions of their tender.

24.2 Unsuccessful contractors should be informed, in writing that they have not been selected to carry out the contract at the same time as the successful Contractor.

24.3 In the event that the selected Contractor does not confirm that they are still available to carry out the work to the terms and conditions of the tender then the contract can be offered to the second best tenderer unless the Procurement is subject to the regulated part of the PCR2015 when the project must be re-advertised

24.4 In the event of a potential contractor making a written request for information regarding any contract decision, the appropriate officer must provide a written response detailing the reasons for such decision within 15 days of the receipt of the potential contractor's request (or within 3 days if the procurement is subject to the PCR2015).

## **25. VARIATION TO CONTRACT**

25.1 Any variation to contract for a contract valued above the Threshold can only be varied if the variation is in accordance with Section 72 (Modification of Contracts during their term) of PCR2015

25.2 The authority to accept a variation to contract is dependent upon the value of the change (calculated as the estimated value of the change for the remainder of the contract term):

- Up to £49,999 – Assistant Director
- Between £50,000 and £99,999 –Director / Chief Executive

- £100,000 up to £1,000,000 – Executive Member (by use of an Executive Member Decision Notice)
- Over £1,000,000 – Cabinet

25.3 The terms of the variation must be in writing and stored with the original contract.

## **26. EXTENSION OF CONTRACT**

26.1 An extension to a contract can only be made if there is provision within the existing contract. The decision to extend the contract is dependent upon the value of the extension and shall be agreed at the following level:

- Up to £49,999 – Assistant Director
- Between £50,000 and £99,999 – Director / Chief Executive
- £100,000 up to £1,000,000 – Executive Member (by use of an Executive Member Decision Notice)
- Over £1,000,000 – Cabinet

26.2 The terms of the extension must be in writing and stored with the original contract.

## **27. ASSIGNMENT AND NOVATION OF CONTRACTS**

27.1 Assignment or Novation of a contract can only be made if there is provision in the contract to allow this to happen. Any Assignment or Novation shall be agreed at the following level:

- Up to £49,999 – Assistant Director
- Between £50,000 and £99,999 – Director / Chief Executive
- £100,000 up to £1,000,000 – Executive Member (by use of an Executive Member Decision Notice)
- Over £1,000,000 – Cabinet

27.2 The terms of the assignment or novation must be in writing and stored with the original contract.

27.3 If the remaining value of a contract which is to be assigned or novated is above the Threshold, the Procurement Manager must be consulted before authority is given to assign/novate the contract to a new Contractor.

## **28. NOMINATED SUB CONTRACTORS AND SUPPLIERS**

- 28.1 Where a sub-contractor or supplier is to be nominated to a main contractor the appropriate officer must invite quotations or tenders in accordance with these Contract Procedure Rules (for the appointment of this subcontractor) and authorise the letting of the sub-contract between the sub-contractor or supplier and main Contractor.
- 28.2 The sub-contractor or supplier must send with their quote or tender an undertaking to work for the main contractor and to indemnify the main contractor for the sub- contracted works or materials and provide a collateral warranty in the Council's favour.

## **29. OUTSIDE CONSULTANTS**

- 29.1 External consultants employed to supervise or to be otherwise involved with the operation of contracts must follow any provision of these Contract Procedural Rules which are relevant to their appointed duties. Their contract for services must stipulate this requirement.

## **30. BRIBERY AND FRAUD**

- 30.1 Services shall include fraud risks and mitigation measures on their operational risk register, where it is identified potential contractors are considered by the Council to be at high risk from benefit fraud, abuse or misuse in connection with the potential contractor's business and/or its employees, sub-contractors or agents. Any high risks, or material changes in risk, shall be reported to the council's Section 151 Officer.
- 30.2 The current statutory provisions on bribery and fraud are contained in the Bribery Act 2010 ('the Bribery Act') and the Fraud Act 2006 ('the Fraud Act').
- 30.3 The offences contained in the Bribery Act carry criminal penalties for individuals and organisations. For individuals, a maximum prison sentence of ten years and/or an unlimited fine can be imposed; for companies, an unlimited fine can be imposed.
- 30.4 The Council, its employees and contractors/bidders are covered by both the Fraud Act and the Bribery Act. The council's policies in relation to these acts can be found using the following links:
- Fraud and Corruption: [Anti-fraud and Corruption Policy Statement and Strategy \(welhat.gov.uk\)](#)
  - Bribery: [Anti-Bribery Policy \(welhat.gov.uk\)](#)
- 30.5 All contracts over £50,000 in value must contain a relevant Anti-Bribery Clause.

30.6 Officers should be alert to indicators of potential bribery in procurement which may include:

- Unjustified and unexplained favourable treatment of a particular supplier from a particular contracting employee over a period of time, including number or amount of contracts awarded to a given firm or supplier
- Unjustified high prices and important price increases
- Low quality and late delivery acceptance by procurement official
- Unusually high volume of purchases to a single source
- Unusually high volume of purchases approved by a single purchaser
- Unnecessary or inappropriate purchases
- Recurrent and systematic rejection of firms who ultimately act as subcontractors
- official accepting inappropriate gifts or entertainment
- Close relationship (including social) between the official and the vendor
- Unexplained sudden increase in wealth of the procurement official
- Supplier has a reputation of paying bribes
- Commercial contracts different from the supplier's core business
- Intermediary charges high commission, claims special influence on buyer
- Unnecessary middleman involved in contacts or purchases
- High risk sectors or countries
- official has undisclosed outside business
- Procurement official declining promotions to other non-procurement position
- Procurement official acting beyond or below normal scope of duties in awarding or administering contracts
- Long and unexplained delays between announcement of the winning bidder and the signing of the contract (this may be an indication of the negotiation of the bribe)
- Frequent open or restrictive calls for tender that are inconclusive, ending in
- negotiated procedures

30.7 Any concerns should be discussed with the Procurement Manager, Monitoring Officer or Section 151 Officer.

### 31. ALTERNATIVE PROCEDURES IN PRESCRIBED CIRCUMSTANCES

31.1 It is acknowledged that the market place does not always allow the procedures which are set out in these Contract Procedure Rules to be followed.

31.2 Contracts can also be entered into by an appropriate officer in the following circumstances (subject to compliance at all times with the PCR2015):

- (a) For the supply of goods or services where there is only one supplier and no acceptable alternative, following consultation with the Procurement Manager.
- (b) Instruction of legal counsel/barristers - Where it is in the best interests of the Council to directly instruct a particular legal counsel/barrister because they are one of only a few suppliers who have expertise or specialist knowledge or substantial experience or skills in a relevant area.
- (c) Where there is an urgent Health and Safety requirement, subject to the prior approval of the Council's Risk and Resilience Manager.
- (d) By the Chief Executive certifying that there is extreme urgency, after consulting the Leader of the Council and relevant Cabinet portfolio holder. The reasons for extreme urgency must be recorded in writing and placed on the contract file

(e) For loans arrangements (all loan arrangements require Section 151 Officer approval).

(f) Where there is a requirement to employ an agency member of staff, subject to the following being met:

- No suitable candidate can be found through the agency with which ~~that~~ the Council its main agency contract(s) with; and,
- That the total value of the appointment does not exceed £175,000.

(e)(g) Where the Cabinet agrees a report from a Director or Chief Executive detailing a case where it is to the advantage of the Council that these rules should be waived.

(f)(h) The Chief Executive also has the authority to enter into a contract up to £50,000 without competition where they consider that this is in the best interests of the Council.

# **SECTION 11 – CODE OF CONDUCT FOR MEMBERS**

## **LOCAL GOVERNMENT ASSOCIATION MODEL COUNCILLOR CODE OF CONDUCT 2020**

### **1. JOINT STATEMENT**

- 1.1 The role of Councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as Councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual Councillor affects the reputation of all Councillors. We want the role of Councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.
- 1.2 As Councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.
- 1.3 Importantly, we should be able to undertake our role as a Councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.
- 1.4 This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.
- 1.5 As Councillors, we will also, in so far as is practicable, act in accordance with the values and behaviours of the Council. These are also attached to this Code.

### **2. INTRODUCTION**

- 2.1 The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.
- 2.2 All councils are required to have a local Councillor Code of Conduct.
- 2.3 The LGA will undertake an annual review of this Code to ensure it continues to be fit for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and Councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

### **3. DEFINITIONS**

3.1 For the purposes of this Code of Conduct, a “Councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

3.2 For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

### **4. PURPOSE OF THE CODE OF CONDUCT**

4.1 The purpose of this Code of Conduct is to assist you, as a Councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all Councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of Councillor and local government.

### **5. General principles of Councillor Conduct**

5.1 Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, Councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

5.2 Building on these principles, the following general principles have been developed specifically for the role of Councillor.

5.3 In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of Councillor.

In undertaking my role:



- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## **6. APPLICATION OF THE CODE OF CONDUCT**

6.1 This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Councillor.

6.2 This Code of Conduct applies to you when:

- you are acting in your capacity as a Councillor and/or as a representative of the Council
- you are claiming to act as a Councillor and/or as a representative of the council
- you are giving the impression that you are acting as a Councillor and/or as a representative of the Council
- you refer publicly to your role as a Councillor or use knowledge you could only obtain in your role as a Councillor.

6.3 The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

6.4 You are also expected to uphold high standards of conduct and show leadership at all times.

6.5 Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish Councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

## **7. STANDARDS OF COUNCILLOR CONDUCT**

7.1 This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these

standards, a complaint may be made against you, which may result in action being taken.

- 7.2 Guidance is included to help explain the reasons for the obligations and how they should be followed.

## **General Conduct**

### **1. *Respect***

#### **As a Councillor:**

**1.1 I treat other Councillors and members of the public with respect.**

**1.2 I treat the Councils employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Councillor-officer protocol.

### **2. *Bullying, harassment and discrimination***

#### **As a Councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. *Impartiality of officers of the Council***

**As a Councillor:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the Council.**

Officers work for the Council as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. *Confidentiality and access to information***

**As a Councillor:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**

- iii. **the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. **the disclosure is:**
    - 1. **reasonable and in the public interest; and**
    - 2. **made in good faith and in compliance with the reasonable requirements of the Council; and**
    - 3. **I have consulted the Monitoring Officer prior to its release.**
- 4.2 **I do not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**
- 4.3 **I do not prevent anyone from getting information that they are entitled to by law.**

The Council must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## 5. ***Disrepute***

### **As a Councillor:**

#### **5.1 I do not bring my role or the Council into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/it's functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow Councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## 6. ***Use of position***

### **As a Councillor:**

#### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. *Use of local authority resources and facilities***

**As a Councillor:**

**7.1 I do not misuse Council resources.**

**7.2 I will, when using the resources of the Council or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a Councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a Councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. *Complying with the Code of Conduct***

**As a Councillor:**

**8.1 I undertake Code of Conduct training provided by my local authority.**

**8.2 I cooperate with any Code of Conduct investigation and/or determination.**

**8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a Councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

## **Protecting your reputation and the reputation of the local authority**

### **9. *Interests***

#### **As a Councillor:**

**9.1 I register and declare my interests.**

You need to register your interests so that the public, local authority employees and fellow Councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be declared by you or other Councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or declare a disclosable pecuniary (i.e. financial) interest is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and declaring interests. If in doubt, you should always seek advice from your Monitoring Officer.

### **10. *Gifts and hospitality***

#### **As a Councillor:**

**10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**

**10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**

**10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the Council, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor. If you are unsure, do contact your Monitoring Officer for guidance.

**11. SOCIAL MEDIA PROTOCOLS**

- 11.1 You must have due regard to any council social media protocols that apply and are relevant to you.

## Appendix B Registering interests

1. Within 28 days of this Code of Conduct being adopted by the local authority or your election or appointment to office (where that is later) you must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) and Table 2 (Other Registerable Interests). Disclosable Pecuniary Interests means issues relating to money and finances.
2. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
3. A 'sensitive interest' is as an interest which, if disclosed, could lead to the Councillor or co-opted member, or a person connected with the Councillor or co-opted member, being subject to violence or intimidation.
4. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

## Declaring interests

5. Where a matter arises at a meeting which directly relates one of your Disclosable Pecuniary Interests, you must declare the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest, just that you have an interest.
6. Where a matter arises at a meeting which directly relates to one of your Other Registerable Interests, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', again you do not have to declare the nature of the interest.
7. Where a matter arises at a meeting which *directly relates* to your financial interest or well-being (and is not a Disclosable Pecuniary Interest) or a financial interest or well-being of a relative or close associate, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.
8. Where a matter arises at a meeting which *affects* –
  - a. your own financial interest or well-being;



- b. a financial interest or well-being of a friend, relative, close associate; or
- c. a body included in those you need to declare under Disclosable Pecuniary Interests, you must disclose the interest.

9. Where the matter affects the financial interest or well-being:

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.  [Any unpaid directorship.]
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the Councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a Councillor, or towards his/her election expenses.  This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the Councillor or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of**) and the council under which goods or services are to be provided or works are to be executed; and which has not been fully discharged.

<b>Land and Property</b>	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the Councillor or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<b>Licences</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	<p>Any tenancy where (to the Councillor's knowledge)—</p> <p>(a) the landlord is the council; and (b) the tenant is a body that the Councillor, or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
<b>Securities</b>	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the Councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the Councillor, or his/ her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

\* 'director' includes a member of the committee of management of an industrial and provident society.

\*\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## **Table 2: Other Registerable Interests**

<p><b>Any Body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the council;</b></p>
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Any Body -	(a) exercising functions of a public nature;
	(b) directed to charitable purposes; or
	(c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
of which you are a member or in a position of general control or management.	

# COUNCILLOR SOCIAL MEDIA PROTOCOL

## 1. INTRODUCTION

- 1.1 The Council wishes to encourage members' use of technology and also provide appropriate guidance for members wishing to use social media in their capacity as elected members. 'Social media' means the online tools, messaging services, websites and interactive media that enable users to interact with each other by sharing information, opinions, knowledge and interests.
- 1.2 The purpose of this protocol is to support members' use of social media through the provision of guidance and clarity as to what constitutes acceptable usage to ensure compliance with the Council's legal obligations and the general standards of conduct expected of members. This protocol should therefore be read in conjunction with the Code of Conduct for Members. This is found at <https://www.welhat.gov.uk/councillors/code-of-conduct/general-conduct>
- 1.3 The use of social media poses some risks to the Council's reputation which need to be managed and this protocol aims to ensure that councillors, and through them the Council, are not exposed to legal risks as a result of social media use and that the reputation of councillors, and through them the Council, is not harmed.

## 2. APPLICATION OF THE CODE OF CONDUCT FOR MEMBERS

- 2.1 This protocol will apply to councillors using social media who are acting in their capacity as a councillor, and in circumstances where a councillor is purporting or perceived to be acting as such. Councillors are bound by the Code of Conduct set out in Section 5a of the Constitution. Of particular emphasis, this includes (but is not limited to) the following:
  - a) Treating others with respect. It is implicit from this that members should not seek to bully, harass or defame anyone via social media
  - b) Complying with equality laws
  - c) Promoting and supporting high standards of conduct
  - d) Not bringing the council into disrepute
  - e) Not disclosing confidential information
- 2.2 The judgment of whether a member is perceived to be acting as a councillor will be made by the Monitoring Officer where required. Councillors should assume that any online activity may be linked to their official role.
- 2.3 For the avoidance of doubt, members should consider keeping their personal and political accounts separate or where this is inconvenient use clear expressions of intent (in the content or profile of the account) such as '*speaking entirely personally*' or '*the views expressed here are my personal opinion*'

### 3. OPERATION OF THIS PROTOCOL BY MEMBERS

#### 3.1 Examples of good practice. Members should:

- a) Undertake any relevant training provided to be competent in the use of social media and specific platforms used (e.g. Facebook, Twitter, LinkedIn, Instagram, YouTube)
- b) Use secure passwords.
- c) Make use of robust privacy settings particularly if the content of the site is not meant to be accessed by the press or wider public.
- d) Never divulge password information to prevent 'hacking' and
- e) Consider using 'multi-factor authentication which relies on the use of more than one secure device to access an account
- f) Read the terms of service of any social media site accessed to understand confidentiality/privacy settings.
- g) Pay attention to privacy settings which can (if not activated) divulge the physical location of a member.
- h) Be transparent as to their identity when using social media.
- i) Use social media sparingly and discreetly at meetings, considering the impression this presents to others.
- j) Treat others with respect and not use social media to attack, insult, abuse, defame or otherwise make, offensive or discriminatory comments about residents, council staff and services, other councillors and/or organisations.
- k) Set the tone for their online conversations by being polite, accurate and transparent.
- l) Consider carefully any posts or images that they wish to place on line giving themselves the opportunity to cross check and alter the content before the 'send' button is pressed. Hasty and rash posts can be ill advised and may have potentially damaging consequences.
- m) Not leave on their web or social media pages comments made by others which may be equally damaging/defamatory.
- n) Acknowledge and correct any mistakes and not simply delete them. They should not alter previous posts without indicating that there has been a change.
- o) Safeguard and promote the welfare of vulnerable adults, children and young people in their online interactions.
- p) Be aware that social media content *may* be subject to Freedom of Information requests made to public bodies.

- q) Promote equality, not discriminate unlawfully against any person, and treat people with respect, regardless of their sex, race, age, religion, gender, sexual orientation or disability.
- r) Be mindful of people who are attempting to goad members into making a comment. An even-handed, reasonable and proportionate response is always preferable to conflict.
- s) Be cautious in requesting or accepting a Council employee or contractor providing services to the Council as a “friend” on a social networking site where this suggests close personal association.
- t) Take care when ‘liking’ or ‘sharing’ the views or comments of others as this could be perceived as an endorsement of the content regardless of the member’s intention.

### 3.2 Examples of poor practice. Members must not:

- a) Share their password with anyone. If members are using shared IT equipment, they should not store their password on the device.
- b) Bully or harass anyone and not say anything, particularly if it is part of a series of similar comments about a person or on a theme that might be construed as bullying or intimidation.
- c) Pursue a campaign repeatedly against a person that is likely to cause alarm, harassment or distress.
- d) Do anything to jeopardise the council’s obligations under the Freedom of Information and Data Protection Acts, and should not publish the personal data of individuals unless they have been given their express permission.
- e) Publish an untrue statement about a person which is damaging to their reputation as they may pursue a libel action against the member. A successful libel claim could result in the award of damages against members. No indemnity from the Council will be available.
- f) Use images or text from a copyrighted source (for example extracts from publications or photos), without obtaining permission, as this has the potential to breach copyright laws.
- g) Post malicious or obscene communications.
- h) Bring the council into disrepute by publishing anything that could reasonably be perceived as reflecting badly upon or lowering the reputation of themselves or the Council.
- i) Disclose information given to them in confidence by anyone, or information acquired by a member who s/he believes, or ought reasonably to be aware, is of a confidential nature. Members should-not write or report on conversations, meetings or matters that are meant to be confidential or internal to the council such as those held in exempt session or prior to the publication of reports.

- j) Engage the council's social media accounts in political conversations, as these accounts are managed by council officers for the benefit of residents and to inform them of services and news. Officers are not able to answer politically motivated questions.

#### **4. PLANNING, LICENSING OR OTHER QUASI-JUDICIAL DECISION MAKING**

4.1 Members should not say anything on social media – including via emails and texts – which suggests that they have made their mind up on an issue that is due to be formally decided. While a member’s view on a particular issue may be well known, they need to be able to demonstrate that they:

- a) have attended appropriate meetings
- b) were prepared to weigh all the evidence
- c) were genuinely persuadable to a different view

Members should be mindful of these points in their social media exchanges to guard against the possibility that their decision (and that of the relevant committee) may be later challenged as invalid on grounds of predetermination or bias. If a person has suffered detriment as a result of such an invalid decision, this may subsequently result in a claim against the Council for damages. Such a claim may refer to postings made by members on social media.

#### **5. THE ELECTION PERIOD**

5.1 Members who use social media for campaign purposes in the run up local elections (the ‘regulated period’) need to acquaint themselves with the rules relating to the declaration and reporting of expenditure relating to social media use (e.g. advertising via websites, YouTube videos). The Electoral Commission provides guidance for candidates and agents on such matters.

5.2 Members should also comply with any guidance issued by the Council to all candidates, agents and campaigners regarding the use of social media at elections (e.g. Polling stations, postal vote opening sessions) and other advice regarding how social media should be used to comply with relevant statutory provisions (e.g. Representation of the People Act 1983)

#### **6. NON-COMPLIANCE WITH THIS PROTOCOL**

6.1 Complaints received by the Monitoring Officer about Members’ non compliance with this protocol shall be considered in accordance with the Code of Conduct for Members. Non-compliance with this Code may result in a breach of the Code.

6.2 Anyone receiving threats, abuse or harassment via their use of social media should report it to the police Other inappropriate content can be reported to the social media site where members should ask for it to be removed.

#### **7. ‘ONE TEAM’ BEHAVIOURS**

7.1 Welwyn Hatfield Council is committed to a culture of 'One Team' i.e.

*'Working together to keep Welwyn Hatfield a great place to live, work and study in a vibrant and growing economy' (Business Plan).*

7.2 Officers (with their technical expertise) and members (with their unique and dynamic links to the community) are critical to the success of 'One Team' aims and objectives.

7.3 When using social media, members should wherever possible reflect on – and be guided by the **key behaviours** associated with the achievement of 'One Team' success. These 'behaviours' are published in the Council's business plan and many of these behaviours are also found in the 'Nolan Principles' (listed in the members Conduct of Conduct). When applied to members' use of social media these include:

- a) **Honesty** e.g. being truthful in social media postings and exchanges. This includes the avoidance of initiating or promoting disinformation ('fake news') or concealing one's identity whilst using social media. Members are reminded that they should *'not place themselves in situations where their honesty may be questioned, not behave improperly and....avoid the appearance of such behaviour'* (Nolan Principles).
- b) **Openness** e.g. being open about actions and decisions (and that of the Council) and being prepared to give reasons where required – albeit in a concise format (e.g. micro blog/ twitter).
- c) **Transparent** e.g. about decisions and decision-making when commenting on such matters within the bounds of expected (and legally required) levels of confidentiality.
- d) **Respect** for the skills, knowledge and abilities of officers – even where members disagree with a specific officer recommendation – particularly when commenting on controversial issues. Whilst members may well be **candid and direct** with their opinions and views, they should avoid the use of inappropriate language and attributing **blame** to individual officers who are not in a position to respond.
- e) **Preparedness** e.g. taking time to ensure that opinions expressed and information provided on social media is accurate - and demonstrate **humility** when evidence contradicts previously held views (personally or in the community).
- f) Focus on the **positive opportunities** afforded by using social media to provide a dynamic link to the views and concerns of the local community and in so doing:
- g) **'Walk towards problems'** and challenges to
- h) **Focus on solutions, and work together to gain consensus.**
- i) Communicate via appropriate (e.g. local Facebook) user groups to demonstrate an inclusive approach and work on a **'no surprises'** basis



with officers, the community and other partners to assess community challenges, present options and advise of decisions.

# **LOCAL CODE OF GUIDANCE FOR MEMBERS AND OFFICERS INVOLVED IN PLANNING ~~AND WELWYN GARDEN CITY ESTATE MANAGEMENT MATTERS~~**

## **CONDUCT OF MEMBERS DEALING WITH PLANNING ~~AND WELWYN GARDEN CITY ESTATE MANAGEMENT SCHEME MATTERS~~**

### **1. STANDARDS**

- 1.1 Members must have regard to and act in accordance with the standards set out in the Members' Code of Conduct which has been adopted by this Council under the Localism Act 2011.
- 1.2 Of critical relevance to the planning process is:
  - The requirement that a Member must not in his/her official capacity or any other circumstances, use his/her position as a Member improperly to confer on or secure for him/herself or any other person, an advantage or disadvantage
  - The requirement for Members when reaching decisions to have regard to any relevant advice provided by an Officer of the Council with statutory responsibilities
  - The declaration of relevant interests
- 1.3 To ensure compliance with the required standards of conduct Members involved in planning matters should follow the procedures outlined below.

### **2. CABINET MEMBERS SERVING ON THE DEVELOPMENT MANAGEMENT COMMITTEE**

- 2.1 In order to ensure a full exchange of information between the Cabinet and the Development Management Committee, one Cabinet Member may also be a Member of the Committee (but not as the Chairman or Vice-Chairman).
- 2.2 Any other Cabinet Member may act as a substitute on the Development Management Committee providing all necessary training requirements for planning have been met by that Member. If that Cabinet Member has participated at the Cabinet in relation to a landowning matter or any other matter likely to present a conflict of interest coming before the Development Management Committee, they must declare an interest and not participate nor vote in that matter coming before the Development Management Committee. Alternatively, the Cabinet Member may choose not to participate nor vote in a matter coming before the Cabinet and in so doing, may participate and vote when that matter comes before the Development Management Committee, providing the matter is not likely to present a conflict of interest.

#### **DO'S AND DON'TS**

- (a) Listen and take account of views, but in so doing should not favour or appear to favour any particular view.
- (b) Not accept gifts and hospitality from people with an interest in a planning

proposal.

- (c) Follow the requirements and guidance contained in the Members Code of Conduct (and in any subsequent statutory code) on the declaration of Members' disclosable pecuniary and other interests, if in doubt seeking the advice of the Monitoring Officer BEFORE any meeting of the Development Management Committee ~~or Welwyn Garden City Estate Management Appeals Panel or before the matter is discussed~~. The decision whether to make any such declaration rests ultimately with the Member.

**MEMBERS MUST NOTE THAT THERE WILL BE OCCASIONS WHERE THEY LOSE THE RIGHT TO ACT AS A PRIVATE INDIVIDUAL AND SHOULD ASK ANOTHER MEMBER TO REPRESENT THEIR LEGITIMATE PERSONAL AND PRIVATE INTERESTS AS A "CONSTITUENT".**

As a general guidance Members should **NOT** participate in the discussion or determination of matters:-

- in which they have a disclosable pecuniary or other interest in the matter and the interest is one which a Member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest;
  - in which they could be seen to be using their position as a Member to secure preferential treatment or advantage or disadvantage for themselves or those with whom they are connected.
- (d) Members must notify the Governance Services Manager of certain financial and other interests for incorporation into the Council's statutory Register of Members' Interests.
- (e) Members must not serve on the Development Management Committee ~~or Welwyn Garden City Estate Management Appeals Panel~~ where substantial property interests, or other interests would prevent a Member from voting on a regular basis.
- (f) Members must play no part in the decision making process in respect of their own planning proposals to the Council or those of persons to whom the Member is acting as agent. This restriction does not prevent Members in seeking to explain and justify their proposal to an Officer in advance of consideration by the Development Management Committee ~~or Welwyn Garden City Estate Management Appeals Panel~~ in the same way as a Member of the public might.
- (g) When being lobbied, Members sitting on the Development Management Committee, ~~Welwyn Garden City Estate Management Appeals Panel~~ or Development Consultation Forum's in particular must take great care in not expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have been

exposed to all the evidence and arguments. To avoid doing so Members should:

- ⓪ Restrict themselves to giving procedural advice, including suggesting to those who are lobbying, that they should speak or write to the relevant officer, in order that their opinions can be included in the officers report to the Committee or Panel.
- ⓪ If Members do express an opinion, make it clear that any opinion expressed by them is their personal opinion, is not their final decision on the matter and that they will only be in a position to take such a decision after having heard all the relevant evidence and arguments at the Committee or Panel.
- (h) Members should never openly declare which way they intend to vote in advance of the Development Management Committee ~~or Welwyn Garden City Estate Management Appeals Panel~~ meeting and of hearing evidence and arguments on both sides. If they do so (i) below will apply.
- ⓪ If Members of the Development Management Committee ~~or Welwyn Garden City Estate Management Appeals Panel~~ decide as a response to lobbying to go public in support of a particular outcome, the sensible course of action for such a Member would be to make a declaration to that effect and not to vote on the issue. The Member may still address the Development Management Committee ~~or Estate Management Appeals Panel~~ on the same basis as a Member who is not a Member of the Committee.
- ⓪ Members should in general avoid organising support for or opposition to an application and avoid lobbying other Members. Any political group meeting prior to a Development Management Committee ~~or Welwyn Garden City Estate Management Appeals Panel~~ should not be used to decide how Members should vote. (The use of political whips to seek to influence the outcome of a planning application may amount to misadministration).
- (k) Members should not put pressure on Officers for a particular recommendation and, as required by the Members Code of Conduct, should not do anything which compromises or is likely to compromise, their impartiality.
- ⓪ Members should only involve themselves in discussions on amendments to applications which might be required to overcome neighbour objections and/or Officer comments if they are accompanied by an Officer.

- (m) In dealing with enquiries relating to a planning or estate management scheme matter Members should comply with the following guidance.
- (i) If the enquiry relates to a proposal for which a planning or estate management scheme application has been submitted, contact the Planning Officer [or Estate Management Scheme Manager](#) to ascertain the current position and the likely issues involved.
  - (ii) If the enquiry relates to a planning or estate management scheme decision, ascertain from the Planning Officer [or Estate Management Scheme Manager](#) what the decision was and the reason it was made and any other relevant background information. Also Members should ascertain what rights of appeal are available and whether there is an outstanding appeal.
  - (iii) If the enquiry refers to a proposal for which no planning or estate management application has yet been submitted, Members should refer the person concerned to the planning office [or Estate Management Scheme Management](#). ~~An Officer will deal with the person by giving them a general indication as to the acceptability of the proposal and indicate any areas of potential problem or conflict.~~
- (n) Members of the Development Management Committee ~~or Welwyn Garden City Estate Management Appeals Panel~~ are allowed to take part in pre-application, in-application and post-application discussions with developers and other interested parties regarding development proposals. This engagement should accord with guidance in *Probity in Planning* by the Local Government Association and Planning Advisory Service. Where possible an officer should attend formal and informal meetings to ensure that debate takes place in a structured manner. It should always be made clear at the outset that discussions will not bind the Council to making a particular decision.

## 2. CONDUCT OF OFFICERS DEALING WITH PLANNING MATTERS

### GENERALLY

- 2.1 Officers should at all times adhere to the standards set out in the Royal Town Planning Institute's (RTPI) Code of Professional Conduct.

### During Pre-Application, Pre-Decision Discussions

- 2.2 Officers should comply with the following practices:

- (i) SUBJECT to (ii) below always make clear at the outset that the discussions will NOT bind the Council to making a particular decision and that any views expressed on the way a decision is likely to go in the light of the provisions of the development plan are given on a strictly without prejudice basis.
- (ii) Make clear if they have authority to bind the Council because they can determine an application under delegated powers. Any decisions taken under delegated powers must be well documented and recorded.

- (ii) Give consistent advice based upon the development plan and material considerations.
- (iii) Keep a written note of discussions.
- (iv) Ensure two officers attend potentially contentious meetings whenever possible.
- (v) Send follow up letters where it is important to add to or clarify points arising from discussions.
- (vi) Keep a written note of telephone discussions on file in respect of significant matters.
- (viii) Avoid hospitality from people with an interest in a planning proposal at all times. If receipt of hospitality is unavoidable officers should ensure it is of a minimum level and declare its receipt as soon as possible in accordance with the Council's Code of Practice concerning the same.

### **Officer Reports to the Development Management Committee ~~and Welwyn Garden City Estate Management Appeals Panel~~**

2.3 These must be:

- (i) Accurate - reports should cover the substance of objections and the view of people who have been consulted.
- (ii) Relevant - reports should include a clear exposition of the development plan, site or related history, and any other material considerations including reference to any technical appraisal which may have been carried out.
- (iii) Recommend Actions - reports should have a written recommendation of action, which should also weigh-up the human rights of persons affected by the recommendation where relevant. Recommended action must always be proportionate, that is the ends justify the means. Oral reporting (except to update a written report) should be extremely rare and carefully minuted when it does occur.
- (iv) Explain departures from provisions of the Development Plan ~~or Welwyn Garden City Estate Management Scheme~~ policies - the material considerations which justify this must be stated.
- (v) Officer reports to Development Consultation Forums should be accurate and relevant, but do not need to recommend actions or explain departures from plans/policies.

### **Planning Applications Submitted by the Council**

2.4 Planning applications submitted by the Council for its own development should be treated in the same way as those for private developers, both in terms of procedures and the assessment of material planning considerations, prior to their determination under delegated powers or presentation to the Development Management Committee.

## **3. PROCEDURES FOR DEVELOPMENT CONSULTATION FORUM**

- 3.1 Members sitting on the Development Consultation Forum are presumed to have familiarised themselves with the site before the meeting at which the item will be presented:
- (i) In familiarising themselves with a site Members should avoid being persuaded to carry out site visits at the instigation of, or in the company of a developer/potential applicant.
  - (ii) If Members visit sites with local residents they should be careful, particularly if a Member of the Development Management Committee, not to offer a firm opinion on the matter and should follow the advice outlined in this Code.
  - (iii) Members should remember they cannot enter onto private land without first obtaining the permission of the owner and should endeavour whenever possible to familiarise themselves with a site from a public viewpoint.
- 3.2 Members at the Development Consultation Forum are able to question the developer and seek clarity about the proposals, but should not offer an opinion on the proposal. Any views will be "without prejudice" to the formal decision making process.
- 3.3 Members can express views and offer suggestions but are not able to require the developer to amend the scheme as a result of the Forum.
- 3.4 Time will be made available for interested parties and members of the public to speak and raise any issues, observations and comments and the developer/potential applicant will have the opportunity to respond.

#### **4 SITE VISITS BY MEMBERS**

- 4.1 Members sitting on the Development Management Committee ~~and Welwyn Garden City Estate Management Appeals Panel~~ are presumed to have familiarised themselves with a site before the meeting at which they will be asked to determine the planning application in respect of it:
- (i) Members should avoid being persuaded to carry out site visits at the instigation of, or in the company of a party to the planning application i.e. the applicant and/or their agent.
  - (ii) If Members visit sites with other residents/objectors they should be careful, particularly if a Member of the Development Management Committee, not to offer a firm opinion on the matter and should follow the advice outlined in this Code.
  - (iii) Members should remember they cannot enter onto private land without first obtaining the permission of the owner and should endeavour whenever possible to familiarise themselves with a site from a public viewpoint. Whilst a Member might be invited to enter the site by the owner, it is not good practice to do so on their own, as this can lead to the perception that the Councillor is no longer impartial.

#### **5. SITE VISITS BY DEVELOPMENT MANAGEMENT COMMITTEE**

- 5.1 Site visits arranged by the Development Management Committee can cause delay and additional costs and should only be used if either of the following circumstances apply:
- (i) The impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by Officers.

- (ii) There is a good reason why the comments of the applicant and objectors cannot be expressed adequately in writing, or the proposal is particularly contentious.

5.2 If it is appropriate to defer consideration of a planning application pending a site visit, the site visit should be carefully organised to ensure that its purpose, format and conduct are clearly established at the beginning and subsequently adhered to. The following guidance should be noted and adhered to at all times:-

- (i) The purpose of a site visit is to observe the location of the site and its relationship to adjoining properties and the area generally, where this is relevant. The purpose of the visit is not to discuss the issues with either the applicant or any other third party.
- (ii) It is for Members to decide whether they wish to view the site from other property or undertake a wider visit to the immediate locality. The need will vary from case to case.
- (iii) If the applicant and/or the agent are in attendance at the site visit their only role is to bring to the attention of Members any aspect of the site or the surrounding area that they wish Members to familiarise themselves with. They should not be allowed to debate the merits of the proposal with Members.
- (iv) In instances where Members visit a neighbouring property the point made in paragraph (iii) above also applies to other third parties.
- (v) During the course of the site visit Members should not give any indication to the applicant or third parties of their opinion on the planning application.
- (vi) In order that the site visit runs as smoothly as possible the applicants and any other parties likely to be involved in the site visit will be advised of the above procedure prior to the visit whenever possible. If this is not possible the Officer will explain the procedures on the day.

5.3 The reasons for agreeing to a site visit should be fully minuted.

## **6. TRAINING**

6.1 All members are required to attend all relevant training before sitting on the Development Management Committee ~~and Welwyn Garden City Estate Management Appeals Panel~~ and to attend as many training sessions as possible.

6.2 Only members who have attended planning training can be appointed as substitutes for members of the Development Management Committee ~~and Welwyn Garden City Estate Management Appeals Panel~~.

## ~~7. WELWYN GARDEN CITY PROTOCOL~~

~~7.1 When the Council receives an estate management application it will notify those people most likely to be affected by it, which is usually the occupiers of land/premises neighbouring the proposal.~~

~~7.2 Ward Members will be notified of estate management applications in a notification email and all estate management applications will appear on the weekly list of planning applications sent to all Members by email.~~



- ~~7.3 — Members who would like to make any comments on the application should make them in writing to the case officer, Development Management Service Manager or Assistant Director (Planning) before the call-in date given in the notification email or on the weekly list of planning applications.~~
- ~~7.4 — The Planning Officer will write a report on each application. If the Officer's recommendation is contrary to a Member's written comments the application will be discussed with the Executive Member for Planning before a decision is taken under delegated powers.~~
- ~~7.5 — If, following discussions with the Executive Member, the view is taken to make a decision contrary to a Member's written comments, then a full explanation will be given in the Officer's report, setting out why the decision is not made in accordance with the Member's comments. If the Executive Member has to declare an interest in the application, then the discussions will take place with the Leader of the Council. The Member will be advised of the decision.~~
- ~~7.6 — Estate Management applications by Members or Senior Officers will be discussed by a group of Planning Officers before a decision is taken under delegated powers.~~
- ~~7.7 —~~
- ~~7.8 — Appeals against the refusal of Estate Management Consent where the applicant is not in agreement with the decision and negotiation has proved ineffective shall be dealt with by the Welwyn Garden City Estate Management Appeals Panel.~~
- ~~7.9 —~~
- ~~7.10 — The same arrangements for conduct, standards, dos and don'ts, the consideration of applications, site visits and public speaking in this Code also apply to the Appeals Panel. Due to the length of time between Panel meetings however Members may make a request for a site visit in writing to the Head of Planning before the meeting. Requests will then be discussed with the Chairman of the Panel and, where agreed, carried out prior to the meeting.~~

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## **SECTION 14 - OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014**

### **1. FILMING, VIDEOING, PHOTOGRAPHY AND AUDIO RECORDING AT COUNCIL MEETINGS**

- 1.1 This legislation provides the press and public the right to film and digitally report from all public meetings of local government bodies.
- 1.2 It should be noted that the legislation also covers Parish Councils and Parish Meetings. The press and public will be allowed to use modern technology and communication methods such as filming, audio-recording, blogging and tweeting to report the proceedings of the meetings of councils and other local government bodies.
- 1.3 Welwyn Hatfield Borough Council supports the principles of openness and transparency. It allows filming, recording and taking photographs at its meetings that are open to the public. It also allows the use of social networking websites (such as Twitter and Facebook) and blogging to communicate with people about what is happening, as it happens.
- 1.4 This protocol provides guidance on acceptable conduct for filming, recording and photographing and the use of traditional and social media tools.

### **2. FILMING, RECORDING AND PHOTOGRAPHY**

- 2.1 As a courtesy and in order to ensure that provision is made to accommodate the public and press who wish to film, record or photograph at meetings, the Council requests, where possible, notice of the intention a minimum of two working days in advance. The Governance Services Manager or Senior Democratic Services Officer should be made aware of the intention to film, record or photograph and they will in turn notify the Chairman of the meeting of what is to take place.
- 2.2 Those intending to bring large equipment or wishing to discuss any special requirements are advised to contact the Council's Communications [and Engagement](#) Team in advance of the meeting to seek advice and guidance.
- 2.3 All recording devices, mobile devices and other equipment must be set on silent mode during the course of the meeting.
- 2.4 In order to keep disruption to a minimum, there will be an area of the meeting room set aside for press or public who wish to film, record or photograph a meeting. Filming, recording or photography will only be allowed from this area.
- 2.5 Where the Council has been notified of the intention to film, record or photograph in a meeting, the Chairman will, at the beginning of the relevant meeting, make an announcement that the meeting will be filmed, recorded or photographed and will ask if anyone objects to this.
- 2.6 The Council understands that some members of the public attending its meetings may not wish to be recorded whilst using their right to speak during the

public question session or when speaking about a planning or licensing application. The Chairman of the meeting will take all reasonable steps to ensure that any request not to be recorded is complied with. The Chairman has the final say in this matter.

- 2.7 There is a presumption that the Council's own participants in a meeting, being either serving Councillors or officers employed by the Council, consent to being filmed, recorded or photographed at those meetings where those activities have been agreed.
- 2.8 It should be noted that the Chairman of a meeting will have absolute discretion to terminate or suspend any of the above activities if, in their opinion, continuing to allow it would prejudice the running of the meeting. Circumstances in which termination or suspension might occur could include:
- Public disturbance, disruption or suspension of the meeting;
  - The meeting agreeing to formally exclude the press and public from the meeting due to the exempt/confidential nature of the business being discussed, in accordance with statutory procedures; and
  - For any other reason which the Chairman considers reasonable in the circumstances.
- 2.9 The use of additional lighting will not be allowed unless this has been discussed in advance of the meeting and agreement reached on how it can be done without disrupting proceedings. Flash photography will not be allowed.
- 2.10 Filming, Recording and Photography will not be allowed for any meeting or part of a meeting where the press and public are excluded. The Chairman will announce that Filming, Recording and Photography must cease when the announcement to exclude the press and public is made.
- 2.11 Filming, Recording and Photography must cease immediately once the Chairman announces that the meeting is at an end.
- 2.12 Anyone who makes a full or partial recording of a meeting must respect the law, including the Human Rights and Data Protection legislation and intellectual property rights. They will be responsible for any allegations of breaches of the law which may result from their use of recorded material and are admitted to the meeting room on the basis that they accept that responsibility.
- 2.13 Anyone who makes a full or partial recording of a meeting must agree that audio/visual recordings and photographs will not be edited in such a way that could lead to misinterpretation or misrepresentation of the proceedings. This includes refraining from editing the views being expressed in a way that might ridicule or show lack of respect towards those being filmed, recorded or photographed.
- 2.14 Councillors who have concerns that the protocol is not being adhered to in any way should discuss these concerns with the Monitoring Officer in the first instance. Where possible and applicable, Councillors will have the support of the Council should they be considering any individual action.
- 2.15 Members must not film, record or photograph any meeting, when they are

participating in that meeting.

- 2.16 Minutes of meetings will be prepared and signed by the Chairman at the next meeting of the Committee and will remain the Council's official record of the meeting. Filming, recording or photography at meetings will not impact on the status of minutes being the true and accurate reflection of the discussions and decisions made.

### **3. SOCIAL MEDIA**

- 3.1 No restrictions will be placed on those attending meetings who wish to use blogs, Twitter, Facebook or other media, provided that their actions do not affect the conduct of the meeting.
- 3.2 Councillors, as participants in the meeting, have an obligation to pay close attention to the proceedings and therefore during the course of a meeting they should not engage in the use of social media. If Councillors are not taking part in the meeting, they can use social media.
- 3.3 The use of social media tools will not be permitted in a meeting where the press and public are excluded.



WELWYN HATFIELD COUNCIL  
COUNCIL MEETING - 12 OCTOBER 2023

## NOTICE OF MOTIONS UNDER PROCEDURE RULE 16

To consider the following notice of motions submitted under Procedure Rule 16:

**1. The following motion has been submitted by Councillor Alastair Hellyer, and will be seconded by Councillor Steve McNamara:**

At a recent meeting of Welwyn Hatfield Borough Council's Cabinet Planning and Parking Panel it was noted that provisions of the Environment Act 2021 for mandatory minimum Biodiversity Net Gain requirements will soon be brought into force for development under the Town and Country Planning Act 1990, and that these requirements will stand at a net biodiversity gain of 10%.

It was also noted that if the Council wishes to mandate increases beyond this minimum or to create a proximity requirement for biodiversity sites this would need to be facilitated by the provision of biodiversity projects. Welwyn Hatfield's Biodiversity Action Plan was last updated in 2004 ahead of the 2005 District Plan and is therefore not designed to integrate with this recent legislation.

Provision of such projects is required because it is not always possible to achieve the minimum biodiversity gain within a particular development site – so off-site enhancement projects are a needed alternative to on-site measures. Without such provision by the Council these projects can be located far outside the Borough as it would not be possible to create an enforceable proximity requirement. Creating a biodiversity net gain project register would allow this council to provide and facilitate such projects locally for the benefit of residents of Welwyn Hatfield.

Therefore, in the context of a new Local Plan, which supersedes the old District Plan, and with the need to increase biodiversity in response to loss of valuable greenbelt land, **this council moves to:**

- 1. As a statutory planning authority, create a new Biodiversity Net Gain Project Register with the joint aims of:**
  - a. Providing biodiversity projects within the Borough so that a proximity requirement can be introduced for off-site BNG.**
  - b. Facilitating a higher net biodiversity gain than the statutory 10% (subject to revision by CPPP) for new developments from the implementation of the Local Plan Review.**
- 2. As a landowner, put forward potential biodiversity projects that will allow the Council to provide Biodiversity Units.**

To these ends, this council will:

- Put out a call for biodiversity projects from January to March.
- Nominate potential projects from the Council's own property.
- Carry out an assessment of nominated projects (from WHBC's own land and from private landowners) from the start of the **next municipal year**.
  - Assessment of a site carried out by Hertfordshire County Council as part of their BNG Site Matching scheme should be regarded as sufficient for this purpose.
- Revise policies implemented by the 2004 Biodiversity Action Plan to bring them up to date, with such updates proceeding through Cabinet Planning and Parking Panel

To allow for scrutiny of the new BNG Project Register, the responsible committee for the Register as a whole and related policies concerning development will be the Cabinet Planning and Parking Panel. Individual projects brought forward by WHBC as a landowner will also sit with this committee until the Cabinet Climate Change Panel has been established to replace the Climate Change Member Group.