

1. Amendments to the Constitution

**Part 3 of the Constitution
Scheme of Delegation to Cabinet Members**

The Leader of the Council has announced changes to the Portfolios of the Cabinet Members to reflect changes in the membership of the Cabinet and to realign those portfolios with the current priorities of the Council.

The new portfolios are set out in the revised version of Part 3 of the Constitution attached as Annex “A” to this report.

Scheme of Delegation to Officers

The Scheme of Delegation to Officers has been amended to reflect changes made to the Chief Officer structure following the retirement of Jenny Owen, Deputy Chief Executive, and to ensure that it properly reflects the current list of responsibilities of the Executive Director for Environment, Sustainability and Highways.

Recommended:

- (1) That Part 3 of the Constitution be amended as set out in Annex “A” to this report to take effect as at the conclusion of the meeting.
- (2) That the Constitution be further amended with effect from 1 June 2012 to move 15.5.4 (iv) relating to Adult Community Learning from the Executive Functions of the Acting Executive Director for Adult Social Care to become 15.5.3 (v) of the Executive Functions of the Executive Director for Schools, Children and Families to reflect the appointment of the new Director of Education & Learning who will assume responsibility for Adult Community Learning.

Articles 9 (Overview and Scrutiny Committees) and 10 (Health Overview and Scrutiny Committee)

Article 9 has been redrafted to take account of the proposed new Portfolios and Article 10 to include scrutiny of the Council’s responsibilities relating to health.

Recommended:

That Articles 9 and 10 of the Constitution be amended as set out in Annex “B” to this report to take effect as at the conclusion of the meeting.

2. Date of Meeting in October

Changes are required to the dates of the October meetings of Council and Cabinet as a result of the dates for the Annual Party Political Conferences having slipped a week this year.

With the agreement of the Leader and the Vice-Chairman of the Council it is proposed that the date of the Council meeting will move forward from Tuesday, 9 October to Tuesday, 16 October at 10 am. This avoids all party conference dates and also the school half term. Cabinet will then move forward from Tuesday, 16 October to Tuesday, 23 October at 10 am.

Members have been given early notice of these changes to allow them to rearrange their diaries with the minimum of disruption. The proposal to change the date of Council needs to be formally confirmed by Council.

Recommended:

That approval be given to reschedule the meeting of Council on Tuesday, 10 October to Tuesday, 16 October 2012 at 10 am.

3. Report of the Development and Regulation Committee

Since the last report to Full Council on 13 December 2011, four meetings of the Development and Regulation Committee have taken place; on 16 December 2011 and 27 January, 24 February and 23 March 2012.

Five planning applications have been considered by the Committee. Four were resolved to be approved, subject to planning conditions, and one refused. Members also received regular updates on planning, enforcement and appeals statistics.

4. Appointment of Senior Officers

Tim Coulson, previously Assistant Director, Achievement for London Borough of Camden has been appointed the new Director of Education & Learning.

Paul Abraham, previously acting Director of Strategy, Transformation & Performance has been appointed Director of Strategy, Transformation & Performance.

14. SCHEME OF DELEGATIONS TO CABINET MEMBERS

14.1 Delegations

The delegations to officers in respect of the functions of the Cabinet are set out in paragraph 16 below.

14.2 Functions Reserved to Cabinet

Any Executive decision which will result in a recommendation or proposal to Full Council shall only be taken by the Cabinet as a whole and may not be taken by an individual Cabinet Member or Officer.

Any decision falling within any of the following categories shall be taken by the Cabinet as a whole and may not be taken by an individual Cabinet Member, a Cabinet Committee or an Officer or under joint arrangements unless it is delegated to that Cabinet Member, Committee, Officer or under joint arrangements after consideration by the Cabinet:

- (i) a decision on a matter that is cross cutting and affects the area of responsibility of more than one Cabinet Member unless the decision falls within an area of responsibility of a Cabinet Member which is itself cross-cutting in which case the decision can be taken by the Cabinet Member concerned; or
- (ii) a decision that the Leader has decided should be referred to Full Council.

14.3 General principles

This scheme delegates powers and duties in relation to Executive Functions and Local Choice Functions which are the responsibility of the Cabinet to Cabinet Members.

This scheme delegates powers and duties within broad functional descriptions and includes powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation as well as authorising the affixing of the Common Seal.

This scheme operates under Section 14 of the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and all other powers enabling.

14.4 General limitations

Before taking a decision a Cabinet Member shall receive advice from the appropriate officer and must take advice from the Monitoring Officer and Chief Finance Officer (Section 151 Officer).

Any exercise of delegated powers shall be subject to the Policy Framework approved by the Council or the policies approved by the Cabinet from time to time including the Employment Policies (and Disciplinary Procedures), Equal Opportunities, Service Delivery Policies, and shall be guided by the relevant Codes of Conduct.

Any exercise of delegated powers shall be subject to:

- (i) any statutory restrictions;
- (ii) the Standing Orders of the Council;
- (iii) Financial Regulations; and
- (iv) Procurement Procedure Rules;

as contained within Part 4 of the Constitution and within the Code of Corporate Governance.

In exercising delegated powers, Cabinet Members shall not go beyond the provision made in the revenue or capital budgets for their service except to the extent permitted by Financial Regulations and Procurement Procedure Rules contained within the Code of Corporate Governance.

Delegation of Executive Functions to a Cabinet Member does not include the functions reserved to Full Council contained in Article 5 of the Constitution, or the functions reserved to Cabinet contained in Article 7 of the Constitution.

14.5 Further provisions

All action taken under the terms of these delegations shall be properly documented in accordance with arrangements approved by the Monitoring Officer.

This scheme operates from 14 December 2010.

In each case the delegated authority excludes the determination of policy, exceptions to policy and budgets by the Cabinet Member concerned.

Cabinet Members shall consult their Cabinet colleagues on all strategically important issues.

14.6 Portfolios of Individual Cabinet Members

Members appointed to the Cabinet will lead for the Cabinet in the areas shown and will exercise the functions delegated to them by the Leader. The roles encompass relations with external partners unless other provision is explicitly made.

These responsibilities are in addition to those set out in Article 3 and Article 7 of this Constitution.

14.6.1 Leader

- The overall strategic direction, policies and priorities of the Cabinet and of Council, including the overall corporate revenue and capital budget strategy of the Authority;
- Chairman of Health and Wellbeing Board
- The Council's representative on the South East Local Enterprise Partnership
- Performance and Organisational Intelligence
- Community Leadership and Community Strategy
- Community Budgets
- Equality and Diversity
- Policy and Strategy Team
- Corporate Business Management
- External and internal communications
- Liaison with MPs
- The functions of other portfolio holders in their absence or in an emergency.

14.6.2 Deputy Leader and Finance and Transformation Programme

- Financial Resources (revenue and capital), precepts and levies
- Capital Programme Governance
- Major Projects and Investment (excluding highways)
- Procurement and commercial services

- Asset management and Facilities Management
- Legal services (including coroner services)
- Governance Team
- Essex Transformation Programme
- Audit and Risk
- Information services and technology
- Human Resources and employee services
- Essex Shared Services
- Property Strategy.

14.6.3 Children's Services

Cabinet Member lead for safeguarding and supporting vulnerable people

- Lead Member for Children's Services and the Children's Trust Arrangements (overall 'responsibility' as defined in Section 19 of the Children Act 2004)
- Children's social care, including: the safeguarding of children; looked after children; services to vulnerable children and young people and their families; and adoption and fostering
- Preventative services, including the development of community budgets for families with complex needs
- Children's Services representative on the Health and Wellbeing Board
- Corporate Parenting
- Children's Centres and early years provision
- Youth offending
- Domestic Violence.

14.6.4 Education and Lifelong Learning

Cabinet Member lead for world class education and skills

- Mainstream schools and education including: diversity, organisation, planning and admissions; standards and achievement; attendance; 14-19 provision; transport for educational purposes; behaviour and education welfare services
- Special Schools
- Special Education Needs provision, including specialist and complex services in mainstream schools
- School improvement
- Skills and apprenticeships (including vocational centres, Train to Gain and Work Based Learning)
- Youth services and careers advice
- Adult Community Learning
- Sport, leisure and 2012 Games and legacy.

14.6.5 Health and Wellbeing

Cabinet Member lead for improving public health and wellbeing

- Lead member for Health, Wellbeing and Adult Social Care
- Health and Wellbeing Board
- Community wellbeing, healthier communities and health partnerships
- Joint commissioning and contracting
- Adult public health and health inequalities
- Health system reform and transition planning
- Health Watch
- Mental health services
- Child and Adolescent Mental Health Services (CAMHS)
- Drug and Alcohol Action Team
- All child health-related matters.

14.6.6 Adults Social Care

- The support of and assistance of people with learning or physical disabilities or sensory impairment and older people and the homeless
- Safeguarding vulnerable adults
- Supporting People
- Lifetime disabilities
- Support to carers

14.6.7 Economic Growth and Waste and Recycling

Cabinet Member lead for securing the highways, infrastructure and environment to enable business to grow

- Regeneration, economic development and enterprise
- Economic regeneration, international trade and inward investment
- Tourism
- Broadband
- European funding programmes
- The promotion of recycling and waste minimisation and the disposal of waste
- Trading standards, weights and measures, food safety, consumer protection, animal health, performing animals and explosives licensing.

14.6.8 Highways and Transportation

- Matters of strategic, regional or countywide significance in relation to integrated spatial development and transportation planning
- Highways (including bridleways, footpaths and byways), all car parking and road safety, traffic and vehicle regulation, school crossing patrols and public transport
- Delivery of Highways capital programme
- Passenger Transport
- Concessionary fares
- Cycling
- Lead member for armed forces liaison and engagement

14.6.9 Communities and Planning

Cabinet Member lead for giving people a greater say and a greater role in building safer and stronger communities

- Strategic and local planning
- Waste and mineral planning
- Development Management
- Emergency Planning
- Flood Management
- Localism
- Big Society (including Big Society revenue and capital fund)
- Rural affairs
- Relations with district and borough, parish and town councils
- Relations with the voluntary and community sector
- Sustainable development
- Community Safety

- Gypsies and travellers.

14.6.10 Customer Services, Environment and Culture

- Customer Services (including Member Enquiries)
- Registration services
- Heritage, Culture and the Arts
- Libraries
- Built Environment; and Historic Environment
- Natural Environment
- Climate change, carbon reduction and energy
- Country Parks.

15. SCHEME OF DELEGATION TO OFFICERS

15.1 Principles applicable to both the Executive and Council Functions

This scheme delegates powers and duties in relation to Executive Functions, Council Functions and Local Choice Functions which are the responsibility of Cabinet and Full Council accordingly.

This scheme delegates powers and duties within broad functional descriptions and includes powers and duties under all legislation within those descriptions and all powers and duties incidental to that legislation as well as authorising the affixing of the Common Seal.

This scheme operates under Section 14 of the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 ('the Regulations') and all other powers enabling. Schedule 1 of the Regulations is set out within the Code of Corporate Governance.

This scheme includes the obligation on officers to keep Members (including local members) properly informed of activity arising within the scope of these delegations.

Any exercise of these delegated powers shall be subject to the Policy Framework approved by the Council or the policies approved by the Cabinet from time to time including the Employment Policies (and Disciplinary Procedures), Equal Opportunities, Service Delivery Policies, and shall be guided by the relevant Codes of Conduct.

Any exercise of delegated powers shall be subject to:

- (i) any statutory restrictions;
- (ii) the Standing Orders of the Council;
- (iii) Financial Regulations; and
- (iv) Procurement Procedure Rules;

as contained within Part 4 of the Constitution and within the Code of Corporate Governance.

In exercising delegated powers, officers shall not go beyond the provision made in the revenue or capital budgets for their service except to the extent permitted by Financial Regulations and Procurement Procedure Rules.

This scheme includes the power for officers to further delegate in writing all or any of the delegated functions to other officers (described by name or post) either fully or under the general supervision and control of the delegating officer.

Sub-delegations shall be recorded in a register kept by the Monitoring Officer under Section 100G of the Local Government Act 1972. Sub-delegations may be made across service boundaries.

(Any officer exercising powers or duties in pursuance of full sub-delegation will be politically restricted under Section 2(1)(g) of the Local Government and Housing Act 1989.)

All action taken under the terms of these delegations shall be properly documented in accordance with arrangements approved by the Monitoring Officer.

In exercising any delegated powers, officers shall consult with other appropriate officers and shall have regard to any advice given.

In this scheme “officer” means the holder of any post named in this scheme as having delegated powers and duties.

A power specifically delegated by this scheme to one officer shall not be exercised by another officer without the consent of the former.

This scheme operates from 14 December 2010.

In each case the delegated authority to officers includes management of the human and material resources made available for the service areas and the functions concerned within the limitations of this scheme and subject to specific delegations in this scheme or elsewhere to another officer.

In each case the delegated authority excludes the determination of policy, exceptions to policy and budgets by the officer concerned.

15.2 Delegations to officers

The powers delegated to officers exclude the authority to take Key Decisions, except for the Chief Executive, who may do so in accordance with the limitations contained within paragraph 16.5.1(ii)(a) below.

Officers are responsible for the management of their services and the implementation of Council and Cabinet policies and Executive Decisions.

Decisions which an officer takes under delegated powers must:

- (i) implement a policy or decision previously approved or taken by the Cabinet or a Cabinet Member; or

- (ii) facilitate or be conducive or incidental to the implementation of a policy or decision previously taken by the Cabinet or a Cabinet Member; or
- (iii) relate to the management of the human, material and financial resources made available for the functions for which they are responsible.

15.3 Executive Functions

It shall always be open to an officer to consult with the appropriate Cabinet Member on the exercise of a delegated Executive Function; or not to exercise a delegated Executive Function but to refer the matter to the Cabinet.

15.4 Council Functions

The following Council functions shall not be delegated to officers:

- (i) any matter reserved to full Council;
- (ii) any matter which by law may not be delegated to an officer;
- (iii) any matter expressly reserved to a committee by the Standing Orders of the Council or Financial Procedure Rules or withdrawn from delegation by this scheme or by a committee;
- (iv) changes to fees, charges or concession policies (for the avoidance of doubt officers may agree fees for charging out professional services for which they are responsible to other public bodies);
- (v) decisions on permanent savings in a budget;
- (vi) the making of an order for the compulsory acquisition of land;
- (vii) the acquisition of land in advance of requirements; and
- (viii) the confirmation of any order or the issue or grant of any permission, consent, licence or other determination which is the subject of a statutory right of objection that has been duly exercised.

15.5 Executive and Council Functions the Responsibility of Chief Officers

15.5.1 TO THE CHIEF EXECUTIVE

Executive Functions

- (i) To be the Head of Paid Service.
- (ii) To exercise the Executive Functions delegated to the Leader of the Council in relation to:

- (a) Key Decisions when the Leader or Deputy Leader are not otherwise available in an emergency; and
 - (b) the overall strategic direction, policies and priorities of the Cabinet and of Council, including the overall corporate revenue and capital budget strategy of the authority;
- (iii) To incur expenditure in the event of a civil emergency including payments over £500,000.
- (iv) To exercise in cases of urgency the Executive Functions delegated to the Tier 1 Officers (except in relation to the Executive Director for Finance's Section 151 responsibilities).
- (v) To be responsible for management in the Authority.

Council Functions

- (i) To be Head of Paid Service.
- (ii) To exercise the Council Functions delegated to the Tier 1 Officers in cases of urgency.
- (iii) The power to appoint and dismiss staff as specified in Schedule 11 paragraph 37 of the Regulations.
- (iv) To exercise the Council Functions relating to elections as specified in Schedule 1D of the Regulations.
- (i) To determine the level of performance pay to be awarded to officers and recommend levels of performance pay to be awarded to the Tier 1 Officers.
- (vi) To be the Proper Officer of the Council for the purposes of Accepting Declarations of Office of Councillors.
- (vii) Power to make payments in cases of maladministration as specified in Schedule 11 paragraph 48 of the Regulations.

15.5.2 TO THE ASSISTANT CHIEF EXECUTIVE, STRATEGIC SERVICES

Executive Functions

- (i) To exercise the Executive Functions delegated to the Leader of the Council in relation to:
 - (a) South East Local Enterprise Partnership;
 - (b) Community Leadership and Community Strategy;

- (c) Community budgets;
 - (d) Equality and Diversity;
 - (e) Policy and Strategy Team;
 - (f) Corporate Business Management;
 - (g) external communications; and
 - (h) liaison with MPs.
- (ii) To exercise the Executive Functions delegated to the Cabinet Member for Economic Growth and Waste and Recycling in relation to:
 - (a) tourism; and
 - (b) Broadband.
- (iii) To exercise the Executive Functions delegated to the Cabinet Member for Communities and Planning in relation to:
 - (a) Localism;
 - (b) Big Society (including Big Society revenue and capital fund)
 - (c) rural affairs;
 - (d) district and borough, parish and town councils;
 - (e) relations with the voluntary and community sector; and
 - (f) Community Safety.
- (iv) To exercise the Executive Functions delegated to the Cabinet Member for Education and Lifelong Learning in relation to sport, leisure and 2012 Games and legacy; and
- (v) To exercise the Executive Functions delegated to the Cabinet Member for Health and Wellbeing in relation to:
 - (a) Health and Wellbeing Board; and
 - (b) Health Watch.
- (vi) To exercise the Executive Functions of local partnerships; the Local Enterprise Partnership; and the Integrated County Strategy.

Council Functions

- (i) After Consultation with the Chairman of the Council, shall be responsible for the reproduction or use of the County Seaxes (outside of the coat of arms) by other bodies or persons.
- (ii) Power to make payments in cases of maladministration as specified in Schedule 11 paragraph 48 of the Regulations.

15.5.3 TO THE EXECUTIVE DIRECTOR FOR SCHOOLS, CHILDREN AND FAMILIES

Executive Functions

- (i) To exercise the functions conferred on or exercisable by the Council pursuant to Section 18 of the Children Act 2004 and Regulations made thereunder.
- (ii) To exercise the Executive Functions delegated to the Cabinet Member for Education and Lifelong Learning in relation to:
 - (a) Mainstream schools and education, including: diversity, organisation, planning and admissions; standards and achievement; attendance; 14-19 provision; transport for educational purposes; behaviour and education welfare services;
 - (b) Special Schools;
 - (c) Special Education Needs provision, including specialist and complex services in mainstream schools;
 - (d) School improvement;
 - (e) skills and apprenticeships (including vocational centres, Train to Gain and Work-based Learning); and
 - (f) youth services and careers advice.
- (iii) To exercise the Executive Functions delegated to the Cabinet Member for Children's Services in relation to:
 - (a) leadership of the Children's Trust arrangements (overall "responsibility" as defined in Section 19 of the Children Act 2004);
 - (b) Children's social care, including: the safeguarding of children; looked after children; services to vulnerable children and young people and their families and adoption and fostering;
 - (c) Preventative services, including the development of community budgets for families with complex needs;
 - (d) Corporate Parenting;
 - (e) Children's Centres and early years provision;
 - (f) Youth offending; and
 - (g) Domestic violence.
- (iv) To exercise the Executive Functions delegated to the Cabinet Member for Health and Wellbeing in relation to:
 - (a) Child and Adolescent Mental Health Services (CAMHS); and
 - (b) all child health-related matters.

Council Functions

- (i) To exercise the power to license the employment of children as specified in Schedule 1B paragraph 35 of the Regulations.

- (ii) To exercise the social service functions of the Council as set out in Section 18 of the Children Act 2004, except for those which are the responsibility of the Acting Executive Director for Adult Social Care.
- (ii) Power to make payments in cases of maladministration as specified in Schedule 11 paragraph 48 of the Regulations.

15.5.4 TO THE ACTING EXECUTIVE DIRECTOR FOR ADULT SOCIAL CARE

Executive Functions

- (i) To exercise the Social Service functions of the Council other than those for which the Executive Director for Schools, Children and Families is responsible under Section 18 of the Children Act 2004.
- (ii) To exercise the Executive Functions delegated to the Cabinet Member for Adults Social Care in relation to:
 - (a) The support of and assistance of people with learning or physical disabilities or sensory impairment and older people and the homeless;
 - (b) Safeguarding vulnerable adults;
 - (c) Supporting People.
 - (d) Lifetime disabilities; and
 - (e) Support to carers.
- (iii) To exercise the Executive Functions delegated to the Cabinet Member for Health and Wellbeing in relation to:
 - (a) Community wellbeing, healthier communities and health partnerships;
 - (b) Joint commissioning and contracting;
 - (c) Adult public health and health inequalities;
 - (d) Health system reform and transition planning;
 - (e) Drug and Alcohol Action Team; and
 - (f) Mental Health Services.
- (iv) To exercise the Executive Functions delegated to the Cabinet Member for Education and Lifelong Learning in relation to Adult Community Learning.

Council Functions

Power to make payments in cases of maladministration as specified in Schedule 11 paragraph 48 of the Regulations.

15.5.5 TO THE DEPUTY CHIEF EXECUTIVE AND EXECUTIVE DIRECTOR FOR ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS

Executive Functions

- (i) To exercise the Executive Functions delegated to the Cabinet Member for Highways and Transportation in relation to:
 - (a) matters of strategic, regional or Countywide significance in relation to: integrated spatial development and transportation planning;
 - (b) Highways (including bridleways, footpaths, and byways), all car parking and road safety, traffic and vehicle regulation, school crossing patrols and public transport;
 - (c) delivery of highways capital programme;
 - (d) Passenger Transport;
 - (e) concessionary fares; and
 - (f) Cycling.
- (ii) To act as Traffic Manager under the Traffic Management Act 2004.
- (iii) To exercise the Executive Functions delegated to the Cabinet Member for Economic Growth and Waste and Recycling in relation to:
 - (a) regeneration, economic development and enterprise;
 - (b) Economic Regeneration, international trade and inward investment;
 - (c) the promotion of recycling and waste minimisation and the disposal of waste; and
 - (d) Trading Standards, weights and measures, food safety, consumer protection and animal health (including the exercise of discretion as to the institution of legal proceedings).
- (iv) To exercise the Executive Functions delegated to the Cabinet Member for Communities and Planning in relation to:
 - (a) strategic planning;
 - (b) sustainable development;
 - (c) Development Management;
 - (d) Gypsies and Travellers;
 - (e) Emergency Planning; and
 - (f) Flood Management.
- (v) To exercise the Executive Functions delegated to the Cabinet Member for Customer Services, Environment and Culture in relation to:
 - (a) Customer Services (including Member Enquiries);
 - (b) Registration services;
 - (c) Heritage, Culture and the Arts;
 - (d) Libraries;
 - (e) the built environment and historic environment;
 - (f) Natural Environment;
 - (g) Climate change, carbon reduction and energy; and

- (h) Country Parks.
- (vi) To exercise the Executive Functions delegated to the Deputy Leader and Cabinet Member for Finance and Transformation Programme in relation to:
 - (a) Capital Programme Governance;
 - (b) Major Projects and Investment (excluding Highways);
 - (c) Property Strategy; and
 - (d) Asset management and Facilities Management.
- (vii) To exercise the Executive functions of the Cabinet in relation to the Registration of Births, Deaths and Marriages.
- (viii) To act as the Proper Officer for the purposes of the Registration Service.

Council Functions

- (i) To exercise the power in relation to the preservation of trees as specified in Schedule 1I paragraph 47 of the Regulations.
- (ii) To exercise the power in relation to listed buildings as specified in Schedule 1A paragraphs 24-31 of the Regulations.
- (iii) To exercise the functions of the Council relating to highways and rights of way as specified in Schedule 1A paragraph 8, Schedule 1B paragraphs 41, 46A, 47-55 and Schedule 1I paragraphs 1-34, (subject to the responsibility of the County Solicitor to determine all applications and proposals for modification of the Definitive Map and Statement of Public Rights of Way) of the Regulations.
- (iv) To authorise the making of agreements for the execution of highways works under Section 278 of the Highways Act 1980.
- (v) To exercise the powers and responsibilities in relation to watercourses as specified in Sections 23, 24 and 25 of the Land Drainage Act 1991.
- (vi) To exercise the licensing and registration functions of the Council as specified in Schedule 1B paragraphs 22, 26, 27, 31, 43-46 and 56 of the Regulations.
- (vii) To exercise the powers of the Council under the Essex Act 1987 in relation to establishments for massage or special treatment.
- (viii) To exercise the functions in relation to approval of premises for the solemnisation of marriages as specified in Schedule 1I paragraph 36 of the Regulations.
- (ix) Power to make payments in cases of maladministration as specified in Schedule 1I paragraph 16 of the Regulations.
- (x) To undertake the functions of the Council relating to health and safety at work as specified in Schedule 1C of the Regulations.

15.5.6 TO THE EXECUTIVE DIRECTOR FOR FINANCE

Executive Functions

- (i) To exercise the Executive Functions delegated to the Deputy Leader and Cabinet Member for Finance and Transformation Programme in relation to:
 - (a) Financial Resources (Revenue and Capital), precepts and levies;
 - (b) Audit and Risk;

- (c) Procurement and commercial services;
 - (d) Legal Services (including Coroners services; and
 - (e) Essex Shared Services.
- (ii) To exercise the Executive Functions delegated to the Leader of the Council in relation to Performance and Organisational Intelligence.
 - (iii) To exercise the Executive Functions delegated to the Cabinet Member for Adults, Health and Community Wellbeing in relation to supporting people, in so far as this requires the application to become, and power to act as a Deputy in respect of the management of the finances and property of an individual lacking capacity in accordance with the Mental Capacity Act 2005.
 - (iv) To exercise the Executive Functions delegated to the Cabinet Member for Economic Growth and Waste and Recycling in relation to European funding programmes.
 - (v) To be the Proper Officer under Section 115 of the Local Government Act 1972.
 - (vi) To have responsibility for the overall management of the internal audit function in accordance with the Accounts and Audit (England) Regulations 2011.
 - (vii) To have responsibility for borrowing and lending within limits approved by the Council.

Council Functions

- (i) To exercise the functions of the Council in relation to pensions as specified in Schedule 1H of the Regulations.
- (ii) Subject to the agreement of the Chief Executive in any case involving a Tier 1 Officer, the County Solicitor, the Monitoring Officer or the Executive Director for Finance, to exercise discretion under the Local Government Pensions Regulations, the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 and the Teachers Pension Regulations or any regulations amending or replacing the same.
- (iii) To exercise the functions of the Council in relation to the pay and conditions of directly employed teachers who are subject to the School Teachers Pay and Conditions Document.
- (iv) Power to make payments in cases of maladministration as specified in Schedule 1I paragraph 48 of the Regulations.

- (v) To exercise the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988.
- (vi) To be the Proper Officer under Section 115 of the Local Government Act 1972.
- (vii) To manage the Pension Fund including the power to seek professional advice and to devolve day-to-day handling of the Fund to professional advisers within the scope of the Pensions Regulations.

Note: The Executive Director for Finance is not empowered to change the managers of the Pension Fund.

15.5.7 TO THE EXECUTIVE DIRECTOR FOR TRANSFORMATION

Executive Functions

- (i) To exercise the Executive Functions delegated to the Deputy Leader and Cabinet Member for Finance and Transformation Programme in relation to:
 - (a) Essex Transformation Programme.
 - (b) Human Resources and employee services; and
 - (c) information services and technology.
- (ii) To exercise the Executive Functions delegated to the Leader of the Council in relation to internal communications:

Council Functions

The power to make payments in cases of maladministration as specified in Schedule 11 paragraph 48 of the Regulations.

15.5.8 TO THE COUNTY SOLICITOR

Executive Functions

- (i) To be the Solicitor to the Council.
- (ii) To authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal including the making of appeals.
- (iii) To authorise officers of the Council to appear before Magistrates' Courts or District Judges.
- (iv) To be Proper Officer of the Council for the purposes of the Local Government Act 2000 and regulations made thereunder except where legislation or the scheme of Delegation names another officer and to authorise the making and issue of any formal documents.
- (v) To authorise the giving of any indemnity by the Council.
- (vi) To authorise the service of notices to ascertain interests in land and to enter upon land in connection with the discharge of any of the functions of the Council.
- (vii) To exercise the Executive Functions of the Cabinet in relation to the Coroners Service.
- (viii) To authenticate documents on behalf of the Council.
- (ix) To determine which documents should be sealed by the affixing of the Common Seal.
- (x) To attest the affixing of the Council's Common Seal.

Council Functions

- (i) To be the Solicitor to the Council.
- (ii) To authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal including the making of appeals.
- (iii) To authorise officers of the Council to appear before Magistrates' Courts or District Judges.
- (iv) To be Proper Officer of the Council except where legislation or the scheme of Delegation names another officer and to authorise the making and issue of any formal documents.

- (v) To exercise the functions of the Council in relation to common land and town and village greens as specified in Schedule 1B paragraphs 37 and 38 of the Regulations.
- (vi) To authorise the giving of any indemnity by the Council.
- (vii) To authorise the service of notices to ascertain interests in land and particulars of persons interested in land and to enter upon land in connection with the discharge of any of the functions of the Council.
- (viii) To determine all applications and proposals for modification of the Definitive Map and Statement of Public Rights of Way pursuant to Section 53 and 53A of the Wildlife and Countryside Act 1981.
- (ix) After consultation with the Chairman of the Council, to authorise the reproduction of the County Coat of Arms or the flying of the County Flag by other bodies or persons.
- (x) To authenticate documents on behalf of the Council.
- (xi) To determine which documents should be sealed by the affixing of the Common Seal.
- (xii) To attest the affixing of the Council's Common Seal.
- (xiii) To act as the administering authority for the purposes of the pensions complaints procedure.
- (xiv) To apply to the High Court to be appointed as an Administrator where the Council is a creditor of the deceased and the probate process has not commenced in reasonable time or the creditor dies intestate and, if so appointed, to carry out such functions as necessary for the administration of the estate.
- (xv) The power to make payments in cases of maladministration as specified in Schedule 1I paragraph 48 of the Regulations.

15.5.9 TO THE ASSISTANT DIRECTOR - CORPORATE LAW

Executive Functions

- (i) To be the Monitoring Officer.
- (ii) To exercise the Executive Functions delegated to the Deputy Leader and Cabinet Member for Finance and Transformation Programme in relation to the Governance Team.

Council Functions

- (i) The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools.
- (ii) The making of arrangements pursuant to Section 94(1) (1A) and (4) of the School Standards and Framework Act 1998 (admission appeals).
- (iii) The making of arrangements pursuant to Section 95(2) of the School Standards and Framework Act 1998 (children to whom Section 87 applies: (appeals by governing bodies).
- (iv) The power to make payments in cases of maladministration as specified in Schedule 11 paragraph 48 of the Regulations.

15.5.10 TO THE ASSISTANT DIRECTOR, SUSTAINABLE ENVIRONMENT AND ENTERPRISE

Executive Functions

To exercise the Executive Functions delegated to the Cabinet Member for Communities and Planning in respect of local planning and waste and mineral planning.

Council Functions

- (i) To exercise all functions of the Council relating to Town and Country Planning and Development Control as specified in Schedule 1A paragraphs 5-7, 9-23 of the Regulations except for:
 - (a) approval of planning applications and proposals in accordance with the Development Plans where objections are raised by other Local Authorities or / and have more than two individual representations raising planning related objections;
 - (b) approval of minerals and waste applications requiring Environmental Impact Assessments;

- (c) approval of applications for County Matter and County Council development where no more than two individual representations raising planning related objections are received and the Chairman of the Development and Regulation Committee determines, in consultation with the Head of Environmental Planning, that the application should be determined by the Committee; and
- (d) approval of major departures from Development Plans arising from planning applications and proposals.

ARTICLE 9

OVERVIEW AND SCRUTINY COMMITTEES

9.1 Functions of the Overview and Scrutiny Committees

The Council will appoint the Overview and Scrutiny Committees set out below to discharge the functions conferred by Section 21 of the Local Government Act 2000 or Regulations under Section 32 of that Act as amended by Part 5 Chapter 2 of the Local Government and Public Involvement in Health Act 2007.

The functions conferred by Section 21 of the Local Government Act 2000 to Overview and Scrutiny Committees are as follows:

- (i) to review or scrutinise decisions made in connection with the discharge of Executive functions;
- (ii) to make reports or recommendations to the Council or Cabinet with respect to the discharge of Executive functions;
- (iii) to review or scrutinise decisions made in connection with the discharge of non-executive functions; and
- (iv) to make reports or recommendations to the Council or to Cabinet on matters affecting the Council’s area or its citizens.

9.2 Membership

No Overview and Scrutiny Committee shall include any Member of the Cabinet.

A Deputy to a Cabinet Member may not serve on an Overview and Scrutiny Committee that scrutinises the work undertaken by that Cabinet Member.

No Member may be involved in scrutinising a decision in which he has been directly involved.

9.3 Chairmen of Overview and Scrutiny Committees

The Chairman of each Overview and Scrutiny Committee will:

- (i) provide leadership of the relevant Overview and Scrutiny Committee;
- (ii) facilitate and encourage the active involvement of all Members on the relevant Overview and Scrutiny Committee; and

- (iii) promote a consensual, apolitical approach to the Committee's activities.

9.4 Roles and Responsibilities of the Overview and Scrutiny Committees

The Overview and Scrutiny Committees, within their terms of reference, will:

- (i) engage in policy review and policy development, with a focus on improvement and how it can best be achieved;
- (ii) scrutinise decisions made or actions taken in connection with the discharge of the Council's and the Cabinet's functions;
- (iii) scrutinise the performance of the Council and the Cabinet;
- (iv) engage with the community and encourage community engagement;
- (v) question and engage with Members of the Cabinet and/or Committees and Chief Officers;
- (vi) look outwards and show community leadership by providing constructive challenge to other public bodies particularly those with whom the Council delivers services in partnership;
- (vii) consider any matter affecting the County or its inhabitants;
- (viii) consider any matters referred by full Council, Cabinet or Member;
- (ix) make recommendations to the Cabinet and/or Council arising from the outcome of the scrutiny process; and
- (x) take evidence from a senior Council Officer/Cabinet Member if requested by a petition supported by at least 2,000 signatures as specified in the Council's Petitions Policy.

9.5 The Overview and Scrutiny Committees

Each Overview and Scrutiny Committee shall exercise the function of call-in of a decision made by a Cabinet Member which falls within its remit in order to consider whether:

- (i) to refer the decision back to the person who made it; or
- (ii) to refer the matter to the full Council to decide whether to refer the decision back to the person who made it; or
- (iii) accept the decision be implemented.

9.5.1 Executive Scrutiny Committee

Membership: 16 Members plus four co-opted members

- (i) To scrutinise the financial arrangements and performance of the Council including considering the budget and accounting processes.
- (ii) To scrutinise performance against the Corporate Plan and to review and scrutinise the performance of the Council in relation to its policy objectives, performance targets, corporate risk management and/or particular service areas.
- (iii) To review and/or scrutinise the discharge of any functions by Council, Cabinet, Cabinet Members and Council Officers both in relation to individual decisions and over time.
- (iv) To scrutinise any area of the Council's service provision or performance deemed appropriate by the Committee, particularly those areas which affect the whole Council, save that it cannot scrutinise any issue which a Policy and Scrutiny Committee has scrutinised in the immediately preceding 12 months without the agreement of the Scrutiny Board.
- (v) To consider any matters referred to the Committee by full Council or Cabinet.
- (vi) To contribute to the delivery of the Council's objectives in relation to the overall strategic direction, policies and priorities of the Cabinet and of Council, including the overall corporate revenue and capital budget strategy of the Authority; Financial Resources (revenue and capital), precepts and levies; Essex Transformation programme; Performance and Organisational Intelligence; Equalities and Diversity; Policy and Strategy Team; Corporate Business Management; Customer Services (including Member enquiries); Liaison with MPs; Human Resources and employee services; Corporate Business Management; External and internal communications; Information services and technology; Procurement and commercial services; Capital Programme Governance; Major Projects and Investment (excluding Highways); Property Strategy; Asset management and Facilities Management; Legal Services (including Coroner Services); Governance Team; and Essex Shared Services.
- (vii) In relation to (ii) - (vi), to report and make recommendations to the Cabinet or Council as appropriate.
- (viii) To agree a rolling work programme for policy development and scrutiny within the Committee's remit.

9.5.2 Children and Young People Policy and Scrutiny Committee

Membership: 16 Members

- (i) To contribute to the delivery of the Council's objectives in relation to mainstream schools and education including diversity, organisation, planning and admissions; standards and achievement; attendance; 14 - 19 provision; transport for educational purposes; behaviour and education welfare services; and awards and benefits (in respect of further and higher education); School improvement; Skills and apprenticeships (including vocational centres, Train to Gain and Work Based Learning); Youth services and careers advice; Sport, leisure and 2012 Games and legacy; leadership for Children's Services and the Children's Trust Arrangements; Children's social care, including: the safeguarding of children, looked after children, services to vulnerable children and young people and their families and adoption and fostering; Preventative services, including the development of community budgets for families with complex needs; Corporate Parenting; Special Schools; Special Education Needs provision, including specialist and complex services in mainstream schools; Children's Centres and early years provision; Youth offending; Domestic Violence; Child and Adolescent Mental Health Services (CAMHS); and all child health-related matters.
- (ii) To scrutinise areas of the Council's policy, service provision or performance within the Committee's remit and make recommendations to the Cabinet or Council as appropriate.
- (iii) To agree a rolling work programme for policy development and scrutiny within the Committee's remit.

9.5.3 Community and Older People Policy and Scrutiny Committee

Membership: 16 Members

- (i) To contribute to the delivery of the Council's objectives in relation to the support and assistance of people with learning or physical disabilities, or sensory impairment and older people and the homeless; Safeguarding vulnerable adults; Lifetime disabilities; Support to carers; Registration services; joint commissioning and contracting; Mental health services; Drug and Alcohol Action Team; Supporting People; Community Budgets; Community Safety; community leadership and community strategy; Localism; Big Society (including Big Society revenue and capital fund); relations with district and borough, parish and town councils; relations with the voluntary and community sector; Heritage, Culture and the Arts; Libraries; armed forces liaison and engagement; and Adult Community Learning.
- (ii) To scrutinise areas of the Council's policy, service provision or performance within the Committee's remit and make recommendations to the Cabinet or Council as appropriate.

- (iii) To agree a rolling work programme for policy development and scrutiny within the Committee's remit.

9.5.4 Economic Development, Environment and Highways Policy and Scrutiny Committee

Membership: 18 Members

- (i) To contribute to the delivery of the Council's objectives in relation to matters of strategic, regional or County-wide significance relating to integrated spatial development and transportation planning; Highways (including bridleways, footpaths and byways), all car parking and road safety, traffic and vehicle regulation, school crossing patrols and public transport; Delivery of highways capital programme; Passenger Transport; Concessionary fares; Cycling; Development Management; Emergency Planning; Flood Management; Regeneration, economic development and enterprise; Economic regeneration, international trade and inward investment; Broadband; European funding programmes; the promotion of recycling and waste minimisation and the disposal of waste; trading standards, weights and measures, food safety, consumer protection, animal health, performing animals and explosives licensing; Built Environment and Historic Environment; Natural Environment; Climate change, carbon reduction and energy; Rural affairs; Strategic and local planning; Country Parks; Tourism; Waste and mineral planning; sustainable development; and gypsies and travellers.
- (ii) To scrutinise areas of the Council's policy, service provision or performance within the Committee's remit and make recommendations to the Cabinet or Council as appropriate.
- (iii) To agree a rolling work programme for policy development and scrutiny within the Committee's remit.

9.6 Amending the Terms of Reference

The terms of reference of the Overview and Scrutiny Committees reflect the details of the Cabinet Portfolios. The terms of reference will be routinely updated to reflect any changes made to the Portfolios.

9.7 Proceedings of Overview and Scrutiny Committees

Committees will conduct their proceedings in accordance with the Overview and Scrutiny Committee Procedure Rules contained within Part 4 of this Constitution.

9.8 The Scrutiny Board

A Scrutiny Board comprising the Chairmen of the Policy and Scrutiny Committees, the Executive Scrutiny Committee, the Health Overview and Scrutiny Committee and the Audit Committee and the Vice-Chairman of the Committee also chaired by the Chairman of the Scrutiny Board will oversee the Council's overview and scrutiny functions.

The Board's terms of reference are as follows.

- (ii) To have overall responsibility for the direction and management of the Council's overview and scrutiny functions.
- (ii) To ensure that overview and scrutiny activity reflects the aims of the Corporate Plan and adds value to the organisation, whilst recognising that on occasion Opposition Members may not support those aims.
- (iii) To champion overview and scrutiny within the organisation and the community at large.
- (iv) To co-ordinate the work of the Overview and Scrutiny Committees.
- (v) To ensure the best use of the resources available for overview and scrutiny, including allocating membership of Committees.
- (vi) To monitor the outcomes of recommendations of Overview and Scrutiny Committees and to ensure that all such recommendations are followed up.
- (vii) To ensure that cross-cutting reviews are properly dealt with.
- (viii) To keep Council informed of the work of overview and scrutiny.
- (ix) To agree work methods and protocols for the Overview and Scrutiny Committees and to disseminate best practice.
- (x) To raise issues with Cabinet Members, the Chief Executive and Leader as appropriate.
- (xi) To raise issues with partners and outside organisations as appropriate.
- (xii) The Chairman of the Board to be responsible to the Council for the effectiveness of the Scrutiny arrangements.

ARTICLE 10

HEALTH OVERVIEW AND SCRUTINY COMMITTEE

10.1 Health Overview and Scrutiny Committee

The Council will appoint a Health Overview and Scrutiny Committee to discharge the functions conferred by the Health and Social Care Act 2001 (as updated by the Local Government and Public Involvement in Health Act 2007) and the Health and Social Care Act 2012 or regulations produced in accordance with those Acts.

10.2 Membership

- (i) Twelve Members of the County Council, appointed in proportion to the political representation of the Council; and
- (ii) Up to four District and Borough Council Members (nominated via local authorities) to fill gaps where no County Councillor has been appointed.

10.3 Roles and Functions

The Health Overview and Scrutiny Committee will have the following roles and functions:

- (i) to review and scrutinise the totality of local services planned and provided as part of their wider responsibility to seek health improvements and reduce health inequalities for their area and its inhabitants;
- (ii) to refer contested proposals for major service changes to the Secretary of State;
- (iii) to scrutinise the social care services provided or commissioned by NHS bodies exercising local authority functions under section 31 of the Health Act 1999;
- (iv) to review or scrutinise health services commissioned or delivered in the Council's area within the framework set out below:
 - (a) arrangements made by local NHS bodies to secure hospital and community health services to the inhabitants of the Council's area;
 - (b) the provision of such services to those inhabitants;
 - (c) the provision of family health services, personal medical services, personal dental services, pharmacy and NHS ophthalmic services;

- (d) the public health arrangements in the area; e.g. arrangements by NHS bodies for the surveillance of, and response to, outbreaks of communicable disease or the provision of specialist health promotion services;
 - (e) the planning of health services by NHS bodies, including plans made in co-operation with local authorities setting out a strategy for improving both the health of the local population and the provision of health care to that population; and
 - (f) the arrangements made by NHS bodies for consulting and involving patients and the public;
- (v) to review and scrutinise the totality of local services including social services, planned and provided as part of their wider responsibilities to seek health improvements and reduce health inequalities; and
- (vi) act as consultee to an NHS body within the remitted area on issues of:
- (a) substantial developments of the health service in the Council's area; and
 - (b) any proposals to make any substantial variation to the provision of such services.
- (vii) To contribute to the Council's objectives in relation to the Health and Wellbeing Board; Community wellbeing, healthier communities and health partnerships; Adult public health and health inequalities; Health system reform and transition planning; and Health Watch.

10.4 Proceedings of the Health Overview and Scrutiny Committee

The Committee will conduct its proceedings in accordance with the Health Overview and Scrutiny Committee Procedure Rules contained within Part 4 of this Constitution.