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# Council Issues

## 1. Review of Partnership Working

The Essex Partnership Forum (EPF) agreed in February that there needs to be a fundamental rethink of the form and function of partnerships due to significant changes that are occurring to the public sector landscape and due to a continual desire to improve delivery of services in partnership. A consultation was launched in April and concludes on 13 May.

Since their introduction in 2002, Area Forums have formed a key component of the Council's locality focus. However, it is recognised that the Council needs to look closely at its operating practices and recognise the changes being made in the delivery of public services, partnership working and the Council's operating model.

For this reason it is proposed that the Area Forums are no longer the best method of delivering a locality focus and that they should be dissolved.

### **Recommended:**

That the Area Forums be dissolved and Article 10 and the Area Forum Procedure Rules be deleted from the Constitution.

## 2. Overview and Scrutiny Committees

As part of the review of the Council's operating practices and the ongoing review of the Council's Overview and Scrutiny arrangements it is proposed that the number of Committees be reduced by redistributing the responsibilities of the Safer and Stronger Communities Policy and Scrutiny Committee. The proposals are set out in the revised Article 9 attached as an Annex to this report.

### **Recommended:**

That the revised Article 9 attached as an Annex to this report be approved.

## 3. Scheme of Delegation to Officers – Part 3 of the Constitution

Amendments to the Scheme of Delegation to officers have been made to reflect recent changes to the Chief Officer Structure of the Council involving the Executive Director for Finance, the Executive Director for Transformation and the former Heads of Information Services and Customer Services.

**Recommended:**

That the Scheme of delegations to Officers contained in Part 3 of the Constitution be amended in accordance with Annex “B” to this report.

**4. Membership of the Essex Pension Fund Board**

The Essex Pension Board was established in 2008 to exercise on behalf of the Council the powers and duties of the Council in relation to its functions as Administering Authority for the Essex Pension Fund. Its current membership, as set out in paragraph 8.1.5 of the Council’s Constitution, is as follows:

12 members consisting of six Members of the Council..., two members representing District and Borough Councils, one member representing both Unitary Councils, one Essex Police Authority, one Essex Fire Authority and one nominated by UNISON (to represent Scheme members).

At its meeting on 9 March the Board considered a report which presented the findings of a review of its effectiveness, together with that of the Investment Steering Committee. The review made recommendations to the Board on various matters, including its future membership structure, based on concerns regarding the Board’s compliance with statutory guidance. The Board gave detailed consideration to this issue, balancing the desire to broaden representation with a concern to retain the appropriate balance between Essex county Council representatives and other representatives and to avoid unwieldy numbers. The Board also considered the terms of office of Board members and the means of obtaining nominations for the two representatives of District and Borough Councils.

The Board agreed to recommend to the Council a revised membership structure, to include an additional representative of Unitary Councils and a representative of Smaller Employing Bodies. The net effect would be to increase the total membership from 12 to 14, with no change in the numbers of Essex County Council representatives.

**Recommended:**

That the Council approve the following membership structure for the Essex Pension Fund Board:

Representing	No	Term of Office	Comments
Essex County Council	6	4 years (from 16.06.09 until 2013)	

District/Borough Councils in Essex	2	County Council Elections) 4 years (from May 2011 until 2015 District/Borough Council elections)	Nominated by Essex Borough and District Leaders'/Chief Executives' Meeting
Unitary Councils in Essex	2	4 years (from May 2011 until 2015 Unitary Authority elections)	One each for Southend-on-Sea and Thurrock Councils
Essex Police Authority	1	4 years, from June 2011 until end June 2015	
Essex Fire Authority	1	4 years, from June 2011 until end June 2015	
Scheme Members	1	4 years from date of appointment	Nominated by UNISON, currently vacant
Smaller Employing Bodies	1	2 years, from Employer Forum 2011 until Employer Forum 2013	To be nominated following voting by eligible employers attending the Employer Forum
<b>Total</b>	<b>14</b>		

## 5. Councillor Notification to the Information Commissioner

The Data Protection Act 1998 states that any person or organisation (data controllers) that processes personal information must notify the Information Commissioner's Office, unless they are exempt. Failure to notify is a criminal offence.

Data controllers are required to inform the Information Commissioner of certain details about their processing of personal information. The Commissioner uses these details to make an entry describing the processing into the register. This is available to the public for inspection on the Information Commissioner's website [www.ico.gov.uk](http://www.ico.gov.uk).

The purpose of the notification and the public register is to promote openness in the use of personal information. It is intended that this will help data controllers to be open and transparent about their processing activities as required within the Act.

The current Information Commissioner is presently looking to make more Councillors aware of their responsibilities and legal requirements when handling personal data. He is also ensuring that all Councillors fulfil their legal obligation to register as data controllers.

Some of the work which Councillors undertake is covered by the notification made by the Authority, because it is a statutory function where the Councillor is acting as a representative of the Council. An example of this would be when a

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Councillor sits on a committee which deals with personal information such as an Adoption Panel.

However, when a Councillor undertakes casework they are the data controller, because they decide how to deal with the enquiry and determine the manner in which that data is used or processed. This could be dealing with complaints and issues raised by a resident or writing a letter to a resident. Because the Councillor is deciding how to handle or process the information as a representative of the resident, the Councillor is the data controller.

The Information Commissioner's Office has sent reminders to every Council in the UK to ensure that all Councillors are registered as data controllers.

**Recommended:**

- (1) That all members of the Council be registered as data controllers (a Councillor who is also a member of another Council need only be registered once) and the County Council support all Members who have not already done so to register.
- (2) That the Council arrange to submit the paperwork and to make the payment (£35 per Councillor – the Members Allowance Scheme makes provision for this expenditure to be reimbursed) direct to the Information Commissioner's Office on behalf of all Councillors.
- (3) That representations be made to the Secretary of State regarding the cost nationally to local government of all councillors having to be registered.

**6. Appointment of Independent Member of the Essex County Council and Essex Fire Authority Joint Standards Committee**

A vacancy exists on the Standards Committee for an Independent Member following the end of the term of office of Professor Martin Atkinson. Following interviews and the taking up of references a new member is recommended to the Council for appointment.

**Recommended:**

That Council approve the appointment of Mr Colin Booth of Chelmsford as a new independent member of the Essex County Council and Essex Fire Authority Joint Standards Committee.

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## **7. Senior Management Appointments**

Further to recent meetings of the Chief and Deputy Chief Officers Committee, the Council is asked to note the following appointments:

- David Wilde, Chief Information Officer
- Helen Lincoln, Director for Children's Social Care and Youth Offending Service.

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## 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

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- (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 area or its inhabitants;
- (viii) consider any matters referred by full Council or Cabinet;
- (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.

### **9.5.1 Executive Scrutiny Committee**

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Membership: 16 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, programmes, policies and priorities of the Cabinet and of the Council, including the overall corporate revenue and capital budget strategy and the performance management of the authority; Change Management, "value for money" and "improving our services"; Transformation Strategy and Direction of Travel; Essex Transformation Programme; Equalities and Diversity; public communications and engagement, including media and marketing strategy and liaison with MP's; Customer Services; Information Services and Technology; Human Resources, employee services and internal communications; Procurement and Commercial Services; Capital Programme Governance; Major Projects and Investment (excluding Waste and BSF); Legal Services (including Coroner and Registration Services); Asset Management and Land and Property (acquisition and disposal); Essex Partnerships; developing policy on more local working; and Member support.
- (vii) In relation to (ii) - (vii), 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**



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Membership: 16 Members

- (i) To contribute to the delivery of the Council's objectives in relation to schools and early years, including: diversity, organisation, planning and admissions, standards and achievement, and attendance; transport for educational purposes (mainstream); awards and benefits (in respect of further and higher education); 14 - 19 provision; Youth services; leadership for Children's Service 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; behaviour and education welfare services; specialist and complex services (SENCAN); Children's Centres; Special Schools (including transport provision); Youth offending; joint commissioning and all health-related matters; asylum seekers; Delivery of Building Schools for the Future; sport, recreation and Olympics; and Skills (including vocational centres, Train to Gain and Work Based 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.

### **9.5.3 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 Adult Social Care; the support and assistance of people with learning or physical disabilities, or sensory impairment, people with mental health problems, older people and the homeless; joint commissioning and contracting; community wellbeing, healthier communities and health partnerships; health inequalities; Public Health; Supporting People; relations with the voluntary sector, police and fire authorities and district councils; Community Safety (including Essex Drug and Alcohol Action Team); Adult Community Learning; and Libraries; Arts, Heritage and Culture – (including Cressing Temple); Quality of Life; community leadership, community strategy;
- (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: 16 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, traffic and vehicle registration and public transport; Road Safety and school crossing patrols; delivery of highways capital programme; Essex Transport; the promotion of recycling and waste minimisation and the disposal of waste; Environmental strategy; delivery of waste capital programme; Country Parks (except Cressing Temple); Natural Environment; gypsies and travellers; sustainable development; Built environment; regional and local planning including dealing with consultation responses and statements of general conformity in relation to other Councils' local plans; local planning; policies and development documents for minerals and waste; trading standards, weights and measures, food safety, consumer protection, animal health, performing animals and explosives licensing; regeneration, economic development and enterprise;; Lee Valley Regional Park Authority; Thames Gateway; tourism; Rural affairs; international relations and European funding programmes; Emergency Planning and Flood Management.
- (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**

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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 will oversee the Council's overview and scrutiny functions.

The Board's terms of reference are as follows.

- (i) 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.

## **16. SCHEME OF DELEGATION TO OFFICERS**

### **16.1 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)

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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.

## **16.2 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.

### **16.3 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.

### **16.4 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.

### **16.5 Executive and Council Functions the Responsibility of Chief Officers**

#### **16.5.1 TO THE CHIEF EXECUTIVE**

##### **Executive Functions**

- (i) To be the Head of Paid Service.

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- (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 and the performance management 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.
- (v) 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 case of maladministration as specified in Schedule 11 paragraph 48 of the Regulations.

## **16.5.2 TO THE ASSISTANT CHIEF EXECUTIVE, POLICY, COMMUNITY PLANNING AND REGENERATION**

### **Executive Functions**

- (i) To exercise the Executive Functions of the Leader of the Council in relation to:
  - (a) community leadership, community strategy, local area agreements and Essex Partnerships;
  - (b) public communications and engagement including media and marketing strategy and liaison with MPs;
  - (c) regeneration, economic development and enterprise;
  - (d) European Funding Programmes; and
  - (e) skills.
- (ii) To exercise the Executive Functions of the Cabinet Member for Heritage, Culture and the Arts in relation to:
  - (a) Quality of Life; and
  - (b) tourism.
- (iii) To exercise the Executive Functions of the Cabinet Member for Communities and Planning in relation to:
  - (a) relations with the voluntary sector, police and fire authorities and district councils including LSAs;
  - (b) rural affairs; and
  - (c) Community Initiatives Fund.
- (iv) To exercise the Executive Functions delegated to the Cabinet Member for Education and the 2012 Games in relation to:
  - (a) Thames Gateway;
  - (b) sport, recreation and Olympics; and
  - (c) Hadleigh Country Park and Lee Valley Regional Authority.
- (v) To exercise the Executive Functions of area coordination and local partnerships.
- (vi) To exercise the Executive Functions delegated to the Cabinet Member for Environment and Waste in relation to:
  - (a) Community Safety; and
  - (b) Members Support.

### **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.



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

### **16.5.3 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 the 2012 Games in relation to:
  - (a) Schools and early years, including: diversity, organisation, planning and admissions; standards and achievement; attendance; 14-19 provision; transport for educational purposes; and awards and benefits (in respect of further and higher education); and
  - (b) the youth service.
- (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 in Essex;
  - (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) Behaviour and education welfare services; specialist and complex services (SENCAN);
  - (d) Children's Centres;
  - (e) Special Schools;
  - (f) Youth offending; and
  - (g) joint commissioning and all 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 Commissioning Director for Adults Social Services.
- (ii) Power to make payments in cases of maladministration as specified in Schedule 11 paragraph 48 of the Regulations.

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#### **16.5.4 TO THE DEPUTY CHIEF EXECUTIVE AND COMMISSIONING DIRECTOR FOR ADULTS SOCIAL SERVICES**

##### **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, Health and Community Wellbeing in relation to:
  - (a) Adult social care, including safeguarding;
  - (b) the support and assistance of people with learning or physical disabilities, or sensory impairment, people with mental health problems, older people and the homeless;
  - (c) community wellbeing, healthier communities and health partnerships;
  - (d) joint commissioning and contracting;
  - (e) Essex Drug and Alcohol Team (DAAT);
  - (f) Health inequalities; and
  - (g) Public health.
- (iii) To exercise the Executive Functions delegated to the Cabinet Member for Heritage, Culture and the Arts in relation to:
  - (a) Arts, Heritage and Culture (including Cressing Temple);
  - (b) Libraries; and
  - (c) Adult Community Learning.
- (iv) To exercise the Executive functions delegated to the Leader of the Council in relation to customer services (Including Contact Essex – Strategic and Operational).

##### **Council Functions**

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

#### **16.5.5 TO THE 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:

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- (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) Essex Transport; and
    - (d) delivery of highways capital programme.
  - (ii) To act as Traffic Manager under the Traffic Management Act 2004.
  - (iii) To exercise the Executive Functions delegated to the Cabinet Member for Environment and Waste in relation to:
    - (a) the promotion of recycling and waste minimisation and the disposal of waste;
    - (b) environmental strategy;
    - (c) delivery of waste capital programme;
    - (d) country parks (except Hadleigh Country Park and Lee Valley Regional Authority);
    - (e) Emergency Planning;
    - (f) Natural Environment; and
    - (g) Trading Standards, weights and measures, food safety, consumer protection, animal health, performing animals and explosives licensing.
  - (iv) To exercise the Executive Functions delegated to the Cabinet Member for Communities and Planning in relation to:
    - (a) Gypsies and Travellers;
    - (b) sustainable development;
    - (c) regional and local planning including Development Control, dealing with consultation responses and statements of general conformity in relation to other Councils' Local Plans; and
    - (d) waste and mineral strategy and planning.
  - (v) To exercise the Executive Functions delegated to the Cabinet Member for Heritage, Culture and the Arts in relation to the built and historic environment.
  - (vi) To exercise the Executive Functions delegated to the Cabinet Member for Major Projects and Commercial Services in relation to:
    - (a) capital programme governance;
    - (b) major projects and investment (excluding Waste);
    - (c) facilities and asset management;
    - (d) commercial services; and
    - (e) land and property, (acquisition and disposal).

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**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) Power to make payments in cases of maladministration as specified in Schedule 1I paragraph 16 of the Regulations.

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## 16.5.6 TO THE EXECUTIVE DIRECTOR FOR FINANCE

### **Executive Functions**

- (i) To exercise the Executive Functions delegated to the Cabinet Member for Finance and Transformation in relation to Financial Resources (Revenue and Capital), precepts and levies.
- (ii) To exercise the Executive Functions delegated to the Leader of the Council in relation to performance management.
- (iii) To exercise the Executive Functions delegated to the Cabinet Member for Major Projects and Commercial Services in relation to:
  - (a) Legal Services, (including Registration, the Coroners' Office, and Governance Team) and
  - (b) Procurement.
- (iv) 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.
- (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 Regulations 2003.
- (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 case of maladministration as specified in Schedule 11 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.

#### **16.5.7 TO THE EXECUTIVE DIRECTOR FOR TRANSFORMATION**

##### **Executive Functions**

- (i) To exercise the Executive Functions delegated to the Leader of the Council in relation to;
  - (a) equality and diversity; and
  - (b) Transformation Strategy and Direction of Travel.
- (ii) To exercise the Executive Functions delegated to the Cabinet Member for Finance and Transformation in relation to:
  - (a) Essex Transformation Programme;
  - (b) change management, value for money and 'Improving Our Services';
  - (c) Human Resources, employee services and internal communications; and
  - (d) information services and technology.

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### **Council Functions**

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

## **16.5.8 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.
- (viii) To exercise the Executive Functions of the Cabinet in relation to the Registration of Births, Deaths and Marriages and the Coroners Service.
- (viii) To act as the Proper Officer for the purposes of the Registration Service.
- (ix) To authenticate documents on behalf of the Council.
- (x) To determine which documents should be sealed by the affixing of the Common Seal.
- (xi) To attest the affixing of the Council's Common Seal.
- (xii) To be the Monitoring Officer.

### **Council Functions**

- (i) To be the Solicitor to the Council.

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- (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 exercise the functions of the Governance Team.
  - (xii) To determine which documents should be sealed by the affixing of the Common Seal.
  - (xiii) To attest the affixing of the Council's Common Seal.
  - (xiv) To act as the administering authority for the purposes of the pensions complaints procedure.
  - (xv) To exercise the functions in relation to approval of premises for the solemnisation of marriages as specified in Schedule 1B paragraph 36 of the Regulations.
  - (xvi) The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools.



- (xvii) The making of arrangements pursuant to Section 94(1) (1A) and (4) of the School Standards and Framework Act 1998 (admission appeals).
- (xviii) 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).
- (xix) The power to make payments in cases of maladministration as specified in Schedule 11 paragraph 48 of the Regulations.

### **16.5.9 TO THE HEAD OF ENVIRONMENTAL PLANNING**

#### **Executive Functions**

- (i) To exercise the Executive Functions delegated to the Cabinet Member for Communities and Planning in respect of local planning policies and development documents for minerals and waste.

#### **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.

### **16.5.10 TO THE HEAD OF TRADING STANDARDS**

#### **Executive Functions**

- (f) To exercise the functions delegated to the Cabinet Member for Environment and Waste in relation to trading standards, weights and

measures, food safety, consumer protection, animal health, performing animals and explosives licensing (including the exercise of discretion as to the institution of legal proceedings).

- (ii) To enforce, including prosecution in the Magistrates' Court, for contravention of traffic regulation orders restricting the use of roads by vehicles by reference to their weight, whether the restriction is permanent, experimental or temporary and in accordance with the Trading Standards' Enforcement Policy.

### **Council Functions**

- (i) To exercise the licensing and registration functions of the Council as specified in Schedule 1B paragraphs 22, 26, 27, 31, 42-46 and 56 of the Regulations.
- (ii) To exercise the powers of the Council under the Essex Act 1987 in relation to massage parlours.