
Council Issues

1. Appointment of Monitoring Officer and consequence changes to Delegations

Under Section 5 of the Local Government and Housing Act 1989, the Council is required to appoint a Monitoring Officer who has a statutory responsibility to ensure that the Council acts lawfully and avoids maladministration, or injustice to any individual. The current post-holder, appointed by the Council on 9 February 2010, is Philip Thomson, County Solicitor. On 19 September Terry Osborne took up the post of Assistant Director of Corporate Law within the Finance Directorate. Part of the duties of this post is to assume the role of the Monitoring Officer and to commission legal support from Essex Legal Services or elsewhere. Given that Terry Osborne is now in post it is recommended that Council appoint the Assistant Director of Corporate Law, Terry Osborne, as its Monitoring Officer with immediate effect.

As a consequence it will be necessary to amend Article 4.4 to show that the Assistant Director of Corporate Law has been designated as the Monitoring Officer and Part 3 of the Constitution showing the respective delegations to the County Solicitor and the Assistant Director of Corporate Law.

Recommended:

- (1) That Terry Osborne, Assistant Director of Corporate Law, be appointed as the Council's Monitoring Officer with immediate effect.
- (2) That Article 4.4 be amended to show that the Post of Assistant Director of Corporate Law be designated Monitoring Officer.
- (3) That Part 3 of the Constitution Scheme of Delegations to Officers be amended by the substitution of the delegations to the County Solicitor and the addition of delegations to the Assistant Director of Corporate Law as shown in the Annex "A" to this report.

2. Member Scheme of Allowances

The Members Allowances Scheme has been reviewed in the light of its operation and in readiness for the introduction of e payroll. As a result the following amendments are proposed.

Recommended:

- (1) That as every member is required to sign that they are responsible for the accuracy of their own claim, the words “, provided that claim forms relating to the duties of deputy Cabinet Members shall be counter signed by the relevant Cabinet Member” be deleted from the end of the fourth paragraph of Section 25.13 of the Members Allowances Scheme.
- (2) That the following wording be added to the end of the fourth paragraph of the Section on Travel Expenses in Appendix 2 of the Members Allowances Scheme:

“However, a Member who is registered for VAT and provides a copy of the relevant VAT Certificate to the Governance Team can claim mileage without receipts.”

- (3) In order to formally recognise a decision taken by Council in December 2009, the following be added at the end of the Section on Subsistence Expenses in Appendix 2 of the Members Allowances Scheme:

“Hospitality

Council funds should not normally be used for offering hospitality to third parties. If it is likely that a ‘typical’ member of the public would think that using Council funds to offer hospitality is inappropriate, then it probably is and should therefore not be offered.

In exceptional circumstances Members may be in a position where they are required to provide hospitality (e.g. buying lunch for the purpose of managing the reputation of the Council). The need to incur such expenses must be approved in advance by the authorising officer. In these circumstances there must be appropriate supporting information provided with the claim / P-Card which includes relevant receipts and demonstrates the authorisation given, the reasons for the need to offer hospitality, and the names of those involved (both those of the external body offered the hospitality, and any County Council officers present). It is expected that the subsistence rates would normally apply, although there may be occasions when a higher level of hospitality is appropriate. In these cases, the same rate as that applying to officers is permitted which is currently a maximum of £40 per head, including alcohol. Catering may be provided for formal meetings with external bodies in certain circumstances, for example, if meetings take place outside of normal office hours.”

3. Updating the Council’s Petitions Policy

Under the Local Democracy, Economic Development and Constitution Act, 2009 Local Authorities have a statutory duty to have a scheme for handling petitions. The scheme

must be approved by Full Council and, thereafter, be publicised on the Council's website. The Council's Scheme was approved in July 2010. The Scheme needs to be updated to reflect that provision for e petitions is now available on the Council's web site and that there is not the option for a petition to be referred to an Area Forum.

Recommended:

That the Council's published Petitions Policy be updated to show the availability of e petitioning and to remove references to Area Forums.

4. Amendments to the Constitution

Council's Standing Orders - Motions

At the last meeting of Council the Chairman indicated his intention to bring forward an amendment to the Council's Standing Orders so that only two members are required to sign a notice of motion rather than the three currently specified. This acknowledges representations made to him that the Council has two Groups each with only two members and that the Standing Orders are not intended to hinder the Democratic process. Sufficient checks and balances remain in place to prevent any potential misuse of Council time.

Recommended:

That the second paragraph of Standing Order 16.10.2 Notices of Motion be amended to read as follows:

"Written notice must be signed by the Member intending to move the motion and not less than one other member."

Executive Functions of North and South Car Parking Joint Committee

As a matter of completeness, following the finalisation of both the North and South Car Parking Joint Committees, it is important that the Constitution reflects and acknowledges the existence of these two joint committees. It is therefore

Recommended:

That Part 3 of the Constitution under Executive Functions be amended by the inclusion at the end of paragraph 14.3 of the following:

“The following joint bodies will exercise Executive Functions in accordance with the terms of the agreements currently in operation, namely the South Essex Parking Partnership Joint Committee and the North Essex Parking Partnership Joint Committee”.

Article 9 – Overview and Scrutiny Committees

To implement the arrangements for political proportionality on Committees it is necessary to agree to amend Article 9 by increasing the membership of the Economic Development, Environment and Highways Policy and Scrutiny Committee.. This is a one-off change reflecting the experience since the Committee was established earlier in the year and the fact that it covers the responsibilities of five Cabinet Members and therefore requires a greater range of members to deal with the range and extent of its workload.

Recommended:

That Article 9.5.4 of the Constitution be amended to increase the membership of the Economic Development, Environment and Highways Committee from 16 to 18.

5. Report of the Development and Regulation Committee

Since Full Council on 12 July 2011, three meetings of the Development and Regulation Committee have taken place; on 22 July, 26 August and 23 September 2011.

Eleven planning applications and one Village Green application have been considered by the Committee. All were resolved to be approved, subject to planning conditions. Four planning enforcement items were also considered by the Committee during this period along with a review of old mineral planning permissions (ROMPS) and planning appeal updates.

6. Corporate Governance Update

The following is intended to bring Council up-to-date with some of the major issues and improvements being made to the Council's governance arrangements.

E-learning

Following recommendations from the Audit Commission's 2010 Ethical Governance Audit a series of online 'e-learning' training courses, has been commissioned for officers and Members. The five courses cover the core elements of the Council's corporate governance under the following headings:

- Good decision making
- How we behave
- Information governance
- Anti- fraud and corruption
- Diversity and equality.

The courses are designed to be mandatory, ensuring that the organisation has a shared ownership and understanding of the core policies, rules, and processes which comprise its corporate governance. In turn, this will help reinforce a culture of professional responsibility and informed compliance across and at all levels of the organisation.

Policy updates

Corporate Purchase Card Policy Update

This policy sets out the Council's policy for using Corporate Purchase cards (P-cards). P-cards are corporate charge cards which look like and are used similarly to debit or credit cards. They can be used for low value transactions (under £2,000 and where there are no mandated procurement contracts in place), on-line purchases, one-off payments, subsistence purchases and retail purchases (point of sale). This policy provides guidance to officers on the procedures around Purchasing cards, when and how to use them, officers responsibilities and any exclusions. The new policy allows officers to purchase subsistence, removes the requirement for budget holder approval for transactions exceeding standard limits (approval is given through the application form) and brings the compliance process in line with the Mileage and Expense claims as implemented on 1st April.

Information Retention and Destruction Policy

This policy outlines the reasons why the Council retains certain types of information, how that information is identified and its retention managed. The policy also describes how records captured within corporate systems are destroyed, including the processes for managing the audit trail of notification, authorisation and certification. It fulfils the Council's responsibilities under section 12 of the Code of Practice on the Management of Records issued under section 46 of the Freedom of Information Act.

The update has focused on the process for destroying documents which have reached the end of their assigned retention period. While ensuring that the document owner or head of service must be consulted, it empowers the Records Manager to authorise destruction in a specific set of circumstances, with the approval of the Chief Information Officer.

Chauffeur Policy

In line with a recommendation made by Internal Audit a simple policy has now been put in place for the use of the one remaining Chauffeur-driven car.

Politically Restricted Posts

The Policy has been updated to bring it in line with changes in legislation.

7. Committee Memberships

This is to report that, subject to the proposals for Political Proportionality of Committees being agreed the following changes to membership of Committees will be implemented:

(a) the Conservative Group has appointed Councillors E Johnson and A Hedley as members of the Economic Development, Environment and Highways Policy and Scrutiny Committee to replace Councillors A Brown and C Griffiths and C Griffiths and W Dick as substitute members to replace Councillors A Hedley and J Dornan and appointed Councillor I Grundy to the new place on the Committee;

(b) the Conservative Group has appointed Councillors I Grundy and Mrs S Hillier to the Children and Young People Policy and Scrutiny Committee to replace Councillors E Johnson and C Pond; and

(c) as the Non-Aligned Group will no longer have a place on the Children and Young People Policy and Scrutiny Committee, the Group has appointed Councillor C Pond as a member of the Economic Development, Environment and Highways Policy and Scrutiny Committee and as a member of the Executive Scrutiny Committee.

Annex “A” to item 1
Appointment of Monitoring Officer and consequence changes to
Delegations

PART 3 of the Constitution
Scheme of Delegation to Officers

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

15.5.9 TO THE ASSISTANT HEAD OF CORPORATE LAW**Executive Functions**

- (i) To be the Monitoring Officer.

Council Functions

- (i) To exercise the functions of the Governance Team.
- (ii) The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools.
- (iii) The making of arrangements pursuant to Section 94(1) (1A) and (4) of the School Standards and Framework Act 1998 (admission appeals).
- (iv) 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).
- (v) The power to make payments in cases of maladministration as specified in Schedule 11 paragraph 48 of the Regulations.