

Agenda item 10

Council Issues

1. Standing Orders of the Council

The Council's constitution was reviewed in May after the elections to reflect the new political balance of the Council. As a result, Council agreed amendments to delete references to Leader of the Opposition Group in the Constitution. The Constitution, and in particular the Standing Orders, has been kept under review to ensure it continues to be fit for purpose.

It became clear at the Council's last meeting that the procedure for dealing with motions needed to be reviewed to enable there to be a reasonable opportunity to discuss opposition motions whilst also recognising the political balance on the Council. With this in mind, changes are proposed to regulate the order and numbers of motions to be considered at meetings and to reduce the amount of time to speak allocated to movers of motions and cabinet members responding to motions. Changes have also been made to recognise the potential need for meetings to continue into the afternoon to complete the day's business. The proposed revisions to the Standing Orders are shown in Annex "A" to this report.

Recommended:

That the revised version of the Standing Orders of the Council as set out in Annex "A" to this report be adopted.

2. Joint HOSC

The Council in May approved a revised version of Article 10 of the Constitution agreeing to the establishment of a Health Overview and Scrutiny Committee. This was necessary following the repeal of the provisions under the Social Care Act 2001 requiring the Council to establish such a Committee. The Council has membership of the Outer North East London Joint Health Overview and Scrutiny Committee with the London Boroughs of Barking & Dagenham, Redbridge, Havering and Waltham Forest created in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013. The JHOSC's remit is to review and scrutinise any matter, including substantial variations, relating to the planning, provision and operation of health services that affect two or more boroughs in Outer North East London. The JHOSC will have the right to respond in its own right to all such consultations on such matters, both formal and informal. The Council's membership of the JHOSC is to recognise that some residents of the County look to North London for their health provision. The Council is represented on the JHOSC by Councillor Pond.

In order to regularise this position it is necessary that Article 10 be amended to include reference to the JHOSC.

Recommended:

- (1) That Article 10 be amended to include the Outer North East London Joint Health Overview and Scrutiny Committee with the following terms of reference:

“to review and scrutinise any matter, including substantial variations, relating to the planning, provision and operation of health services that affect two or more boroughs in Outer North East London. The JHOSC will have the right to respond in its own right to all such consultations on such matters, both formal and informal.”

- (2) That Councillor C Pond be confirmed as the Council’s representative on the Outer North East London Joint Health Overview and Scrutiny Committee.

3. Special Urgency Relating to Key Decisions

The Council’s Constitution provides in paragraph 19.7 of the Access to Information Procedure Rules for a key decision to be taken that has not been on the forward plan for 28 days without first giving five days’ notice of the intention to take the decision where the agreement of the Chairman of the Corporate Scrutiny has first been obtained that the taking of the decision is urgent and cannot be reasonably delayed. Paragraph 20.14 of the Overview and Scrutiny Procedure Rules also provides for the Chairman of the Council to agree that a decision is reasonable and that it should be treated as a matter of urgency and therefore not subject to call in. Where these provisions are enacted it is required that a report be made to the next meeting of the Council.

Following the devastating fire at the John Ray Infant School in Braintree on Saturday, 31 August the agreement of the Chairman of the Corporate Scrutiny Committee and the Chairman of the Council were obtained as to the urgency of the need to take a decision to procure temporary accommodation to ensure that education was provided to the pupils of the John Ray Infant School in Braintree at the earliest opportunity, given that the new school year was due to start the following week.

4. Scrutiny Protocol for working arrangements between the Cabinet and Overview and Scrutiny Committees

A protocol has been agreed between the Scrutiny Board and the Leader the aim of which is to set out and agree good practice to ensure an open, trusting and non-partisan relationship between the Executive and Scrutiny in order to deliver focused and transparent policy development and scrutiny. It highlights the key roles and responsibilities of the Overview and Scrutiny Committees and Cabinet. The protocol will contribute to more effective Overview and Scrutiny work programming and outcomes and, in doing so, enable the Committees to influence Council activity in a meaningful way. Council is asked to note the Scrutiny Protocol attached as Annex "B" to this report.

5. Dates of future Meetings

The Council is asked to approve the dates of its meetings for the Municipal Year 2014/15.

Recommended:

That meetings of the Council be held on Tuesdays at 10am on 8 July, 14 October and 9 December 2014 and 10 February (Budget) and 12 May 2015 (Annual).

6. Report of the Development and Regulation Committee

Since the last report to Full Council on 16 October 2012, nine meetings of the Development and Regulation Committee have taken place; on 23 November 2012, 25 January, 22 February, 22 March, 19 April, 31 May, 28 June, 26 July, 23 August and 27 September 2013.

Seventeen planning applications have been considered by the Committee: 15 were resolved to be approved, subject to planning conditions, and two were rejected. Six Village Green applications were considered: five were approved and one rejected.

Members also received updates on planning enforcement issues and appeals statistics.

16. STANDING ORDERS OF THE COUNCIL

16.1 Annual Meeting of Full Council

The Annual meeting of the Council shall be held:

- (i) in the year of election of Members to the Council, on the Tuesday within the twenty-one days immediately following the day of retirement of Council Members as the Council may fix; and
- (ii) in any other year, in May on the Tuesday following the first Thursday in the Month.

In addition to the Annual meeting of the Council and any meetings convened by the Chairman, or by Members of the Council, four meetings for the transaction of general business shall normally be held in each year in July, October, December and February except in the year of election of Members of the Council when an additional meeting may be held, on such date as the Council may determine.

All meetings of the Council shall be held at Chelmsford and shall commence at 10 am.

The Chairman, in his discretion, may alter the place or time of commencement or ending of any meeting.

At its annual meeting, the Council shall inter alia:

- (i) appoint members to such committees and sub-committees as the Council considers appropriate;
- (ii) confirm the size and terms of reference for those committees and sub-committees;
- (iii) decide the allocation of seats on all such committees and sub-committees in accordance with the political balance rules;
- (iv) elect a chairman for all such committees ; and
- (v) determine the dates of the Council meetings taking place in July, October, December and February.

In a year of ordinary elections of Members to the Council the Council shall, at its annual meeting, in addition to the requirements set out above:

- (i) receive a report of the Chief Executive on the return of Members elected;

- (ii) receive notification of the memberships of political groups;
- (iii) receive notification of the names of Group Leaders and their Deputies;
- (iv) elect the Leader of the Council, and
- (v) receive notification from the Leader of:
 - (a) the appointment of the Cabinet, including a Deputy Leader of the Council and the names of Cabinet Members and their portfolios;
 - (b) the terms of reference of any cabinet committees; and
 - (c) any delegation of executive functions to any area committees or in any joint arrangements and delegations of executive functions to Cabinet Members and officers.

16.2 Ordinary Meetings of Full Council

Ordinary meetings of the Council shall be conducted in accordance with the Order of Business set out in paragraph 16.7 below.

16.3 Extraordinary Meetings of Full Council

16.3.1 Calling Extraordinary Meetings

Those listed below may request the Chief Executive to call an Extraordinary Council meeting in addition to Ordinary meetings:

- (i) the Chairman of the Council;
- (ii) the Council by resolution;
- (iii) the Monitoring Officer in circumstances where a Section 5 report is to be presented; and
- (iv) any five Members of the Council if they have signed a requisition presented to the Chairman of the Council and he has refused to request a meeting or has failed to call a meeting within seven clear working days of the presentation of the requisition.

16.3.2 Business

The only business to be conducted at an Extraordinary meeting of the Council shall be the business specified in the summons to the meeting.

16.4 Chairman of meeting

Any power of the Chairman in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

16.5 Interpretation of the Standing Orders of the Council

The ruling of the Chairman at any meeting of the Council, as to the construction or application of any of these Standing Orders, or as to the proceedings of the Council, shall be final and shall not be challenged.

16.6 Quorum

If during any meeting of the Council the Chairman after counting the number of Members present declares that there is not at least one quarter of the whole number of Members of the Council present, the meeting shall stand adjourned.

The consideration of any business not transacted shall be adjourned to a time to be fixed by the Chairman at the time the meeting is adjourned, or, if he does not fix a time, to the next Ordinary meeting of the Council.

16.7 Order of business

Except as otherwise provided below, the order of business at every Ordinary meeting of the Council shall be:

- (i) to choose a person to preside if the Chairman and Vice-Chairman be absent;
- (ii) to deal with any business required by statute to be done before any other business;
- (iii) to approve as a correct record and sign the minutes of the last meeting of the Council;
- (iv) Chairman's announcements and communications (including the receipt of petitions presented by a Member of the Council, and deputations);
- (v) to deal with any business expressly required by statute to be done;

- (vi) to receive from the Leader of the Council or a Cabinet Member an Executive Statement on a current issue of importance that cannot be covered elsewhere as part of the usual business;
- (vii) to consider motions of which notice has been given under paragraph 16.11 below;
- (viii) to debate any petition containing at least 14,000 signatures, in accordance with the Council's Petition Policy;
- (ix) to consider a report of matters reserved to the Council ("Council Issues");
- (x) to receive and consider reports and recommendations of the Cabinet;
- (xi) to receive and consider reports and recommendations of committees, as required;
- (xii) to receive and consider any other relevant reports;
- (xiii) to review plans and strategies from the Policy Framework, as required;
- (xiv) to deal with questions submitted in accordance with paragraph 16.12 below;
- (xv) to consider other business, if any, specified in the summons; and
- (xvi) to debate matters "in Committee" under paragraph 16.14.

The order of business at any meeting of the Council (other than business falling under items (i), (ii) and (iii) above) may be varied by the Chairman.

16.8 Reporting of meetings by persons attending

The Chairman shall respond to requests made in accordance with section 100A(6)(c) of the Local Government Act 1972 from any person attending the meeting for the purpose of reporting the proceedings to be afforded reasonable facilities for taking their report.

16.9 Minutes

The Chairman shall put the question that the minutes of the meeting of the Council be approved as a correct record.

No discussion shall take place upon the minutes, except upon their accuracy. Any question of their accuracy shall be raised by motion. If no such question is

raised, or if it is raised then as soon as it has been disposed of, the Chairman shall sign the minutes.

Where a meeting is called under paragraph 3 (Extraordinary meetings) of Schedule 12 to the Local Government Act 1972, the next following meeting of the Council (being a meeting called otherwise than under that paragraph) shall be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) (signing of minutes) of that Schedule.

16.10 Petitions

The Council shall receive petitions in accordance with the Council's Petitions Policy.

Petitions are divided into five categories and shall be addressed at the following meetings:

- (i) a petition which contains over 14,000 signatures shall be debated by Full Council;
- (ii) a petition which contains between 10,000 – 13,999 signatures shall receive a written response from a relevant Cabinet Member;
- (iii) a petition which contains between 10 – 9,999 signatures on a Countywide issue will receive a written response from a relevant Senior Officer;
- (iv) a petition which requests that a Senior Council Officer or Cabinet Member give evidence before an Overview and Scrutiny Committee on an issue within its remit, must be supported by at least 2,000 signatures; and
- (v) a petition which contains less than 10 signatures (concerning a Countywide issue) or less than 100 signatures (concerning a local issue) shall be dealt with through standard correspondence.

The petition organiser shall be given five minutes to present the petition to the full Council or Overview and Scrutiny Committee, whereby the petition shall be discussed by the Members for a maximum of 15 minutes.

Where a Senior Council Officer or Cabinet Member is called to give evidence in accordance with (iv) above, only the Committee Members shall put questions to them. The organiser of the petition shall be allowed to suggest questions to the designated Scrutiny Officer up to five working days before the meeting.

The Petition Policy is contained in the Code of Corporate Governance.

16.11 Motions

16.11.1 Scope of motions

No motion or question shall be put unless it relates to some question over which the Council has power or which affects the Council. The Chairman shall decide whether any particular motion is a valid motion and that it should be included on the agenda for consideration by the Council.

Any Member moving a motion or an amendment shall state the reason for it.

16.11.2 Notices of motion

Except for motions which can be moved without notice under paragraph 16.11.5 below, written notice of every motion must be delivered to the Chief Executive not later than 10:30am on the twelfth calendar day before the Council meeting.

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

Up to two Motions from any political group may be submitted to the Chief Executive prior to each meeting of the Council.

Other than at the annual budget meeting where no motions shall be permitted under this paragraph, no more than five motions shall be debated at an Ordinary Meeting of the Council unless the Chairman has exercised his discretion in accordance with paragraph 16.11.3 below to allow an additional urgent motion to be debated.

The five motions to be debated shall be allocated as follows:

- (a) up to two from the majority group in the order in which they were received;
- (b) the first motion received from an Opposition Group in the order received;
- (c) any second motion received from an Opposition Group in the order received;

provided that the Chairman shall exercise discretion to ensure that all Opposition Groups have at least one motion debated during the municipal year.

Any number of independent members shall be considered as a group for the purposes of this rule only.

16.11.3 Chairman's discretion

The Chairman may exercise his discretion and allow notice of motion signed as provided for in paragraph 16.11.2 above, to be received by the Chief Executive not later than 10.30 a.m. on the Wednesday prior to the Council meeting, to be debated at that meeting, where he considers the matter urgent.

Such notice of motion shall contain a request for the Chairman to exercise his discretion and shall specify the grounds upon which the matter is urgent.

The motion and the Chairman's decision shall be set out on the order paper and, in the event of the Chairman declining to allow the motion, the motion shall be referred to the relevant Cabinet Member for response at the next available meeting of the Council.

16.11.4 Response to motions

The relevant Cabinet Member shall respond to a motion at the meeting of Council at which it is moved.

Alternatively a Cabinet Member may first refer a motion to an appropriate Committee for consideration, in which case the Cabinet Member shall respond to the motion at the first available meeting of the Council after receiving the Committee's views which will be incorporated into the response.

16.11.5 Motions which may be moved without notice

The following motions and amendments may be moved without notice:

- (i) appointment of a Chairman of the meeting at which the motion is made;
- (ii) motions relating to the accuracy of the minutes;
- (iii) that an item of business specified in the summons have precedence;
- (iv) reference to a committee or reference back to a committee of any matter before the Council other than reference back of a decision made under delegated powers and already implemented;
- (v) appointment of a committee or member thereof, occasioned by an item mentioned in the summons to the meeting;
- (vi) adoption of reports and recommendations of committees and any consequent resolutions;
- (vii) comment upon matters contained in reports of committees for the information of the committee concerned;
- (viii) that leave be given to withdraw a motion;
- (ix) that the Council proceed to the next business;
- (x) that the question be now put;
- (xi) that the debate be now adjourned;
- (xii) that the Council does now adjourn;
- (xiii) that the Standing Orders be suspended, in accordance with Article 1;
- (xiv) motion to exclude the public in accordance with the Access to Information Procedure Rules;
- (xv) that a Member named under paragraph 16.15: Disorderly Conduct, not be heard further or leave the meeting;
- (xvi) giving consent of the Council where the consent of the Council is required by these Standing Orders; or
- (xvii) for such other purposes as the Chairman may approve.

16.11.6 Rules of debate

A motion shall not be discussed at Council unless notice has been given in accordance with 16.11.2 above and it has been proposed and seconded at the meeting of the Council at which the motion is to be considered.

That with respect to the agenda for the budget-setting meeting of the Council, the submission of motions unrelated to the Budget be prohibited, provided that discretion be granted by the Chairman of the Council to admit motions relating to matters of urgency.

16.11.7 Secunder's speech

A Member when seconding a motion or amendment may, if he then declares his intention to do so, reserve his speech until a later period of the debate.

16.11.8 Amendments to motions

An amendment shall be relevant to the motion and shall be either:

- (i) to refer a matter to a Committee, the Cabinet or a Portfolio Holder for consideration or reconsideration;
- (ii) to leave out words;
- (iii) to leave out words and insert or add others; or
- (iv) to insert or add words;

but such omission, insertion or addition of words shall not have the effect of introducing a new subject matter into the motion before the Council or negating the motion.

No amendment may be moved unless it has been put in writing and handed to the Chairman by no later than 9 am on the morning of the meeting in a format to be specified by the Monitoring Officer.

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

The Chairman may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the Council's business.

If an amendment is not carried, other amendments to the original motion may be moved.

If an amendment be carried, the motion as amended shall take the place of the original motion and shall become the substantive motion to which any further amendment may be moved.

After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, and, if there are none, put it to the vote.

16.11.9 Alteration to Motions

A Member may alter a motion of which he has given notice, in accordance with paragraph 16.11.2 above, with the consent of the Council.

A Member may alter a motion he has moved without notice with the consent of both the Council and the Secunder.

The Council's consent will be signified without discussion.

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

16.11.10 Right of reply

The mover of a motion has a right of reply, at the end of the debate on the motion, immediately before it is put to the vote.

If an amendment is moved, the mover of the original motion has the right of reply at the end of the debate on the amendment, but may not otherwise speak on it.

The mover of the amendment shall have no right of reply to the debate on his amendment.

16.11.11 Motions which may be moved during debate

When a motion is under debate no other motion shall be moved except the procedural motions:

- (i) to amend the motion;
- (ii) to adjourn the meeting;
- (iii) to adjourn the debate;
- (iv) to proceed to the next business;
- (v) that the question be now put;
- (vi) that a Member named under paragraph 16.15 below: Disorderly Conduct, not be heard further or do leave the meeting; or
- (vii) a motion to exclude the public in accordance with the Access to Information Procedure Rules.

16.11.12 Withdrawal of motion

A Member may withdraw a motion he has moved with the consent of both the Secunder and of the Council.

The Council's consent will be signified without discussion.

No Member may speak on the motion after the mover has asked permission to withdraw it unless such permission is refused.

16.11.13 Closure motions

A Member may move, without comment, the following motions at the conclusion of a speech of another Member:

- (i) that the Council proceeds to the next business;
- (ii) that the question be now put;
- (iii) that the debate be now adjourned; or
- (iv) that the Council does now adjourn;

on the seconding of which the Chairman shall, unless in his opinion the matter before the meeting has been insufficiently discussed, proceed as follows:

- (i) on a motion to proceed to the next business: he shall first give the mover of the original motion a right of reply, and then put to the vote the motion to proceed to the next business;
- (ii) on a motion that the question be now put: he shall put to the vote the motion that the question be now put, and if it is passed then give the mover of the original motion his right of reply under paragraph 16.11.10 above before putting his motion to the vote;
- (iii) on a motion to adjourn the debate or the meeting: he shall put the adjournment motion to the vote without giving the mover of the original motion his right of reply on that occasion.

16.11.14 Motions affecting persons employed by the Council

If any question arises at a meeting of the Council as to the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the Council, a motion in accordance with the Access to Information Rules, for the exclusion of the public shall be moved forthwith by the Chairman of the committee concerned and put without debate.

16.12 Questions

16.12.1 Written questions

A Member of the Council may, if notice has been given in writing to the Chief Executive before 10.30 a.m. on the Wednesday prior to the Council meeting, ask the Leader, Cabinet Member or Chairman of a Committee any question on any matter in respect of which the Council has powers or duties.

Where he considers the matter urgent, the Chairman may allow any member to put to the Leader, Cabinet Member or Chairman of any committee any question of which the above notice has not been given; but a copy of any such question shall, if possible, be delivered to the Chief Executive not later than nine o'clock in the morning of the day of the meeting.

16.12.2 Editing of questions

Any written question may be edited both to bring it into proper form and to secure reasonable brevity.

16.12.3 Supplementary question

If after a reply is given to a written question the Member who asked the question considers that the reply requires clarification, he may ask once for clarification but otherwise no supplemental question shall be put except by leave of the Chairman.

16.12.4 Restriction on number of questions

The number of written questions which may be asked pursuant to notice given in accordance with paragraph 16.12.1 above by any one Member at any one meeting shall be limited to two.

16.12.5 Questions on reports

A Member of the Council may ask the Leader, Cabinet Member or Chairman of a committee any question on any report of the Cabinet or a committee when that item is under consideration by the Council.

16.12.6 Other questions

In accordance with paragraph 16.7 any Member of the Council may ask any verbal question of:

- (i) the Chairman;
- (ii) the Leader;
- (iii) a Member of the Cabinet; or
- (iv) the Chairman of any Committee or Sub-Committee;

on any matter in relation to which the Council has powers or duties or which affects the area but which is not capable of being dealt with under paragraph 16.12.5.

16.12.7 Essex Police and Crime Panel and/or Essex Fire Authority

A Member of the Council may ask any question of the representative of either the Essex Police and Crime Panel or the Essex Fire Authority relevant to the business of the bodies.

16.12.8 Time for questions

The time allotted at each meeting for the putting and answering of questions asked under paragraph 16.12.6 (Other questions) shall not exceed 20 minutes, without the leave of the Chairman of the Council.

The person to whom a question has been put may, on reasons stated, decline to answer.

16.12.9 Form of answer

An answer may take the form of:

- (i) a direct oral answer; or
- (ii) where the desired information is contained in a publication of the Council, a reference to that publication; or
- (iii) where the Chief Executive considers that the reply to the question can conveniently be so given, by a written answer circulated to the Members of the Council present at the meeting.

16.13 Rules of debate

16.13.1 Only one Member to stand at a time

A Member when speaking shall stand and address the Chairman. If two or more Members indicate, the Chairman shall call on one to speak; the other or others shall then sit. While a Member is speaking the other Members shall remain seated, unless rising to a point of order or in personal explanation.

16.13.2 Content and length of speeches

(a) Members shall direct their speeches to the question under discussion or to a personal explanation or to a point of order. Unless the Chairman otherwise approves, the length of time given to each Member to speak will not exceed the following time limits:

- (i) the mover of a motion or recommendation – three minutes;
- (ii) a Member exercising the right of reply in accordance with paragraph 16.11.10 – three minutes;
- (iii) a Cabinet Member, or another Member nominated to speak on their behalf, responding to the question under discussion where that question relates to a matter under their portfolio responsibility – three minutes;
- (iv) any other Member – three minutes;
- (v) the limits set out above shall not apply to a Member presenting or responding to questions in connection with a report or a paper and recommendations;
- (vi) there will be a maximum time limit of 25 minutes per motion and the maximum length of time for the consideration of motions presented under paragraph 16.11.2 will be 120 minutes unless the Chairman of the Council agrees to extend those limits.

(b) When dealing with the annual budget debate:

- (i) the Leader of the Council when making the budget speech and summing up the debate – no time limit;
- (ii) the Cabinet Member speaking in support of the budget speech – 10 minutes;
- (iii) each Leader of the three largest opposition groups when responding to the budget speech – 6 minutes;

(iv) individual Cabinet Members when responding to any specific issues raised in relation to their Portfolio budgets – six minutes; and

(v) any other Member – three minutes.

All timings are at the discretion of the Chairman.

16.13.3 When a Member may speak again

The mover of a motion or recommendation, but not the mover of an amendment, shall have a right of reply, immediately after which reply the question shall be put to the vote: no other Member shall be allowed to speak more than once on the same question except:

(i) on a point of order; or

(ii) by leave of the Chairman in explanation of any material statement made by him which he believes to have been misunderstood.

16.13.4 Points of order

A Member may rise on a point of order or by leave of the Chairman in personal explanation and shall be entitled to be heard forthwith.

A point of order shall relate only to an alleged breach of a Standing Order or statutory provision and the member shall specify the Standing Order or statutory provision and the way in which he considers it has been broken.

A personal explanation shall be confined to some material part of a former speech by him which may appear to have been misunderstood in the present debate.

16.13.5 Respect for chair

Whenever the Chairman rises during a debate a Member then standing shall resume his seat and the Council shall be silent.

16.14 Council in Committee

A Member of the Council may, by written notice to the Chief Executive given before 10.30am on the Wednesday prior to the Council meeting, require that an item is placed on the order paper for debate.

The matters that may be the subject of such a notice are those which relate to general interest of the Council and the community and are not the subject of report to the Council by a committee.

If more than one such notice is given in respect of any meeting of the Council the Chairman shall determine the order in which they are put to the Council which shall decide whether or not to proceed with the debate.

In the event of a debate taking place under this Standing Order,

- (i) paragraph 16.11.1 (Scope of motions),
- (ii) paragraph 16.11.7 (Secunder's speech),
- (iii) paragraph 16.11.8 (amendments to motions),
- (iv) paragraph 16.13.1 (Only one Member to stand at a time) and
- (v) paragraph 16.13.2 (content and length of speeches),

shall be suspended until its conclusion, provided that the Chairman shall retain the right to regulate the proceedings.

16.15 Disorderly conduct

If at a meeting any Member of the Council, in the opinion of the Chairman notified to the Council, misconducts himself by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly, or offensively, or by willfully obstructing the business of the Council, any Member may move:

- (i) "that the Member named be not further heard"; and the motion if seconded shall be put and determined without discussion;
- (ii) if the Member named continues his misconduct after a motion under the foregoing paragraph has been carried a Member shall:
 - (a) either move "that the Member named do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion); or;
 - (b) the Chairman may adjourn the meeting of the Council for such period as he in his discretion shall consider expedient: and,
 - (c) the Chairman may also give such directions as he shall consider appropriate for the removal of the Member named and the restoration of order.

16.15.1 General disturbance

In the event of general disturbance which in the opinion of the Chairman renders the due and orderly despatch of business impossible, the Chairman in addition to any other power vested in him, may, without question adjourn the meeting of the Council for such period as he in his discretion shall consider expedient.

16.15.2 Disturbance by members of the public

If a member of the public interrupts the proceedings at any meeting the Chairman shall warn him. If he continues the interruption the Chairman shall order his removal from the Council Chamber or direct that the part of the Council Chamber open to the public be cleared.

16.16 Rescission of preceding resolution

No motion to rescind any resolution passed within the preceding six months, and no motion or amendment to the same effect as one which has been negated within the preceding six months, shall be considered unless:

- (i) in the opinion of the Chairman significant new information has come to light; or
- (ii) the notice thereof given in pursuance of paragraph 16.11.2 above bears the names of at least 25 Members of the Council; or
- (iii) it is moved in pursuance of the recommendation of a committee.

16.17 Voting

On a division (except as otherwise provided in these Standing Orders) the voting shall be by show of hand or, at the discretion of the Chairman, by members standing in their places.

Before a vote is taken, any ten Members may demand a division by name by standing in their places, in which event the Chief Executive then shall call on each Member of the Council to state whether he votes for or against the motion or amendment, take down the votes, and inform the Chairman of the numbers, whereupon the Chairman shall declare the result.

In a division by name, the names of Members voting for and against the proposition shall be recorded in the minutes.

Where immediately after a vote is taken any Member so requires, there shall be recorded in the minutes of the proceedings of the meeting whether that person cast his vote for the question or against the question or whether he abstained from voting.

16.18 Voting on appointments

Where there are more than two persons nominated for any position to be filled by the Council, and of the votes given there is not a majority in favour of one person the name of the person having the least number of votes shall be struck off the list and a fresh vote shall be taken, and so on until a majority of votes is given in favour of one person.

16.19 Record of attendances

Every Member of the Council attending a meeting of the Council is requested to sign his name in the attendance book or on the sheet provided for that purpose.

The attendance book shall be used to monitor Members' attendance and ensure compliance with the Article 3.8(xvi).

16.20 Officers' interest in contracts and other matters

In addition to disclosing any interest in a contract pursuant to section 117 of the Local Government Act 1972, any officer of the Council shall also disclose in writing to the Chief Executive any such interest which he may have in a proposed contract or other matter.

Any officer present at a meeting at which a contract, proposed contract or other matter in which he has disclosed an interest under section 117 of the 1972 Act shall as soon as practicable after the commencement of the meeting, disclose orally that interest which shall be recorded in the minutes of the meeting.

16.21 Standing Orders to apply to committees

The following Standing Orders of the Council and those relating to contracts shall, with any necessary modification, apply to committees, and groups;

- 16.8** Reporting of meetings by persons attending
- 16.11.6** Rules of debate except those parts which relate to standing and to speaking more than once;
- 16.11.14** Motions affecting persons employed by the Council;
- 16.15** Disorderly conduct;
- 16.15.2** Disturbance by members of the public;
- 16.17** Voting;
- 16.18** Voting on appointments;
- 16.19** Record of attendances;
- 16.20** Officers' interest in contracts and other matters;
- 16.23** Attendance of non-members of committees.

Provided that the ruling of the Chairman of the meeting as to the construction or application of these Standing Orders or as to any other aspect of the

proceedings of the meeting, shall be final and shall not be challenged at any meeting of the committee, or group.

The Standing Orders (Rules of debate) will not apply to Overview and Scrutiny Committees or their sub-structure. During debate taking place at these meetings the Chairmen shall have the right to regulate the proceedings.

At the Chairman's discretion the four Education Co-opted Members may be invited to Council in Committee if the subject is an Educational matter. They will be allowed to speak but will not be entitled to vote.

16.22 Executive Statements

The Leader of the Council or a Cabinet Member may update the Council on current issues of importance that cannot be covered elsewhere as part of the usual business.

Executive Statements should normally be limited to one per meeting, but more may be made at the discretion of the Chairman.

16.22.1 Procedure

- (i) An item ('Executive Statements') will be included on the agenda for every Ordinary Council meeting, as indicated in paragraph 16.7 above;
- (ii) The subject of any proposed statement and the identity of the person who will be making it should be notified to the Governance Team Manager by 5.00pm on the Friday prior to the Council meeting, for e-mail notification to all Members of the Council.
- (iii) In exceptional circumstances where it has not been possible to provide notification and identify the person making the statement by 5:00pm on the Friday prior to the Council meeting, such notification and identification shall be made to the Governance Team Manager as soon as possible for notification to the leaders of all political groups and for the agreement of the Chairman of the Council that it may proceed.
- (iv) At the meeting, the Leader of the Council or Cabinet Member will be entitled to address the Council on the subject of the Statement for a maximum of 10 minutes.
- (v) The Chairman will then invite questions from Members of the Council for a period of time at his discretion. The originator of the Statement shall respond to the questions as they are raised.

16.23 Attendance of non-members at meetings

A Member of the Council shall be able to attend any committee of which he is not a member and, if invited to do so by the Chairman of the meeting, may take part in a discussion but may not vote.

16.24 Minority reports

If a minority consisting of not less than one-fourth of the members present at any meeting of a committee signs a minority report on a matter upon which the committee is proposing to report to the Council, and forwards it to the Chief Executive so that it reaches him by the fourth working day following the date of the meeting, he shall cause copies of such minority report to be circulated with the report of the committee.

In any event a minority shall not be less than two members present at any meeting of a committee.

16.25 Substitute members

A member of a committee shall if he wishes, appoint another Member of the political group to which he belongs to attend a meeting of that committee in his place.

In such circumstances that Member shall give the relevant Governance Officer written notice not later than thirty minutes before the start of the meeting on the day advising that he is unable to attend and that the substitute member named in the notice will attend in his place.

A substitution notice may be given by the leader of a political group or by the group spokesman of the relevant committee.

The effect of a substitution notice shall be that the Member named in the notice shall cease to be a member of that committee for the duration of that meeting and that the substitute member shall be a full member of the committee for the same period.

A substitution notice may be revoked at any time preceding the deadline for the giving of such notice.

These arrangements shall apply equally in respect of meetings of groups and panels of all committees.

16.26 E-mail

Where any notice is required to be given under these Standing Orders or any other provision of the Constitution it may be validly given by fax or e-mail and a signature shall be deemed to include a typed subscription of the Member or Members' name or names to the fax or e-mail.

16.27 Proceedings and Business

In this Standing Order –

“Cabinet” and “Leader” have the same meanings as “Executive” and “Executive Leader” in Part II of the Local Government Act 2000; and

“plan or strategy” and “working day” have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001.

16.28 Draft Plan or Strategy

Where the Cabinet has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in paragraph 16.28.1 below.

16.28.1 Objections to Draft Plan or Strategy

Before the Council:

- (i) amends the draft plan or strategy;
- (ii) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
- (iii) adopts (with or without modification) the plan or strategy,

it must inform the Leader of any objections which it has to the draft plan or strategy and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

16.28.2 Leader’s Action on Receipt of Objections

Where the Council gives instructions in accordance with paragraph 16.28.1, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:

- (i) submit a revision of the draft plan or strategy as amended by the Cabinet (the “revised draft plan or strategy”), with the Cabinet’s reasons for any amendments made to the draft plan or strategy, to the Council for the Council’s consideration; or

- (ii) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.

16.28.3 Council's Action when Considering Amended Drafts

When the period specified by the Council, referred to in paragraph 16.28.2, has expired, the Council must, when:

- (i) amending the draft plan or strategy, or if there is one, the revised draft plan or strategy;
- (ii) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
- (iii) adopting (with or without modification) the plan or strategy;

take into account:

- (i) any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy;
- (ii) the Cabinet's reasons for those amendments;
- (iii) any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for that disagreement;

which the Leader submitted to the Council, or informed the Council of, within the period specified.

16.29 Council Tax

Subject to paragraph 16.29.4, where, before 8 February in any financial year, the Cabinet submits to the Council for its consideration in relation to the following financial year:

- (i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;

- (ii) estimates of other amounts to be used for the purposes of such a calculation;
- (iii) estimates of such a calculation; or
- (iv) amounts required to be stated in a precept under chapter IV of Part I of the Local Government Finance Act 1992;

and following consideration of those estimates or amounts the Council has any objections to them; it must take the action set out in paragraph 16.29.1.

16.29.1 Council Tax - Objections

Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 6(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Cabinet's estimates or amounts and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

16.29.2 Leader's Action on Receipt of Objections

Where the Council gives instructions in accordance with paragraph 16.29.1, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:

- (i) submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
- (ii) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.

16.29.3. Council's Action when Considering Amendments

When the period specified by the Council, referred to in paragraph 16.29.2, has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 6(a), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:

- (i) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (ii) the Cabinet's reasons for those amendments;
- (iii) any disagreement that the Cabinet has with any of the Council's objections;
and
- (iv) the Cabinet's reasons for that disagreement;

which the Leader submitted to the Council, or informed the Council of, within the period specified.

16.29.4 Paragraphs 16.29 – 16.29.3 shall not apply in relation to:

- (a) calculations or substitute calculations which a Council is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
- (b) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

(Note: The above relate to various substitute calculations - TO)

ESSEX COUNTY COUNCIL

PROTOCOL FOR WORKING ARRANGEMENTS BETWEEN THE CABINET AND OVERVIEW AND SCRUTINY COMMITTEES

Principles of Overview and Scrutiny

Legislation and government guidance require overview and scrutiny committees (OS) to play an integral role in councils’ delivery of service improvement. OS should enhance councils’ corporate governance by ensuring that non-executive members are contributing to the improvement of services for residents and that the executive is subject to non-partisan constructive challenge.

OS is a member led process. Its success or otherwise will depend on the executive’s ability to establish and sustain an effective working relationship between its OS committees and their chairmen and cabinet members. The legislation includes provisions setting out what OS may expect from the executive, and the Council’s Constitution describes how some aspects of that relationship will operate in Essex.

The relationship between the OS, cabinet, and senior management is complex. OS must be in a position to provide effective challenge to the organisation but cannot do so without the positive and practical co-operation of cabinet members and senior managers who must be prepared to respond constructively to the challenge offered by OS.

Scrutiny councillors and officers should maintain their independence but must at the same time develop a constructive relationship with the cabinet if the full benefits of the OS process are to be realised. The cabinet remains solely responsible for the determination of the policies and priorities of the council and executive decisions and senior managers and staff will deliver these on their behalf. However, the role of scrutiny as a challenge to the exercise of the executive’s power and the value that this can bring to the council as a whole must be agreed, safeguarded and promoted. At the same time, OS must arrange its business in such a way as to be able to deliver these potential benefits. Once agreed it is critical to the effectiveness of a council’s OS function that roles and responsibilities are observed and respected. Failure to do so will mean that resources are wasted, reviews are ineffectual in terms of outcomes, and ultimately the positive role that OS may fulfil is undermined.

Detailed guidance on the Council’s OS processes and procedures, including topic selection and managing OS projects, has been published separately.

Protocol

The aim of this protocol is to set out and agree good practice to ensure an open, trusting and non-partisan relationship between Cabinet Members and senior OS members in order

to deliver focused and transparent policy development and scrutiny. It highlights the key roles and responsibilities of the OS Committees and Cabinet. The protocol will contribute to more effective OS work programming and outcomes and, in doing so, enable the Committees to influence Council activity in a meaningful way.

1. What the Cabinet can expect from Overview and Scrutiny

- OS will offer constructive challenge to the Cabinet having regard to the Council's budget framework, and provide non-partisan checks and balances to secure maximum benefits for the Essex community.
- OS will ensure that its work programmes are targeted appropriately so that they are able to complement the Council's and partners' other improvement processes in order to add value to them. OS Committees will engage with the Cabinet and other appropriate parties in determining items for inclusion in a committee's work programme.
- OS will engage with appropriate officers and portfolio holders in the development of the methodology and scopes adopted for the consideration of specific projects and will have a mind to the impact that these investigations will have upon the resource commitments of the specific services.
- OS will ensure that at all times councillors and senior officers are kept informed of its deliberations in order to ensure that there are 'no surprises' as the result of investigations.
- OS will endeavour to ensure that the recommendations it makes following investigation are SMART (Strategic, Measurable, Achievable, Realistic and Timed). These recommendations will be discussed with appropriate officers and portfolio holders as part of the preparation of a final report.
- OS will endeavour, while acting as a critical friend of the Cabinet, to provide an effective means of championing the interests of the council and residents through its activities.
- OS accepts that once a scrutiny report is agreed by a Committee, it is for the relevant Cabinet Member to decide what further investigations, consultations and reports are required before being in a position to consider his/her response to a review's recommendations.
- OS accept that on certain issues the Cabinet and Cabinet Members need to take urgent action and in such cases the opportunity for consultation with scrutiny will be limited. Where such a need arises the cabinet member will brief the appropriate scrutiny chairman.

2. What Overview and Scrutiny Committees can expect from the Cabinet

- The Cabinet will respect the independence of OS.

- The Cabinet and senior management will recognise the value that OS can add to service improvement and will ensure that appropriate referrals are proposed for specific investigations.
- The Cabinet will publish a rolling twelve month executive work programme, updated monthly, to indicate when policies are to be reviewed and when decisions are planned to be taken. This will facilitate timely involvement by scrutiny in emerging policy decisions, and reflect the principle that OS should be given adequate opportunity to comment before executive decisions are taken.
- There will be a regular dialogue during which the Cabinet Member will share with the relevant scrutiny chairmen their plans for their portfolio and give early notice of new developments, policy reviews and decisions in order to determine the best way for the OS Committees to add value. Given the wide remits of the OS Committees, topic selection will be critical in the consideration of work programmes with priorities having to be determined, and it will not be possible for all matters to be scrutinised. Having considered the comments of the cabinet member OSC committees will determine their work programmes.
- At the invitation of an OS Committee cabinet members will participate in the evidence gathering process, the consideration of emerging findings, and the deliberation on recommendations. Cabinet members will be informed at an early stage about scrutiny reviews that are being established to look at issues within their portfolio, and about possible dates for attending a meeting for the purpose of giving evidence. The notice given should be sufficient to enable the production of any documentation or report that may be required. Any report and discussion will be in the public domain unless the provisions relating to exempt information apply.
- Cabinet Members will attend OS Committee meetings when invited to give evidence, respond to questions, respond to the outcomes of reviews or update the committee on work falling within their executive portfolio. They may also attend meetings that are considering scrutiny issues within their area. If a Cabinet Member wishes to attend a meeting in other circumstances, it should be as an observer. In each case seating arrangements will reflect the role they are playing.
- Following approval of a scrutiny report it will be formally submitted to the Cabinet Member for consideration of any OS Committee recommendations. Under the Constitution the Cabinet Member will within one month of it being received, acknowledge its receipt and give an indication of the likely timescale for the preparation of a response. In due course the cabinet member will provide a response to the committee setting out the executive view of the recommendations made, the reasons for any recommendations being rejected or accepted and, where appropriate, the timescale for the implementation of any proposed action in respect of the topic considered.

- Any representation made by a scrutiny committee, and the cabinet member's response, will be included in any subsequent report considered by the Cabinet or Cabinet Member. When scrutiny committee comments are included in a cabinet report, the scrutiny committee chairman shall be invited to attend the cabinet to present their committee's comments.

3. Supporting Activity

To secure the implementation of this proposal there will be regular meetings between OS Chairman, Vice Chairmen, and Cabinet Members to discuss development of the work programme, to confirm progress on on-going projects, to discuss in-year referrals, and to identify problem areas.

If difficulties arise in the operation of this protocol they shall be referred by the Cabinet or the Scrutiny Board to the Corporate Governance Steering Group.