

# Council Issues

## 1. Updated Scheme of Delegation to Officers

- 1.1 The Scheme of Delegation to Officers enables Council officers to take decisions on behalf of the Council. The scheme says which decisions are delegated and which officer can take which decision. The scheme gives specific delegated powers to the Chief Executive and to each Executive Director, and to a small number of other senior officers.
- 1.2 In early April 2017 the new officer structure for layers 1 and 2 of the organisation will 'go live'. All Executive Directors will have new post titles and responsibilities. Accordingly the Constitution needs to be updated to include the new posts and the new allocation of responsibilities. The required changes are set out in the attached appendix.
- 1.3 The wording has been tidied up, but there have been no changes of any significance to the substantive delegations, just to the post titles and the responsibilities.

### Recommended:

- (1) That with effect from 3 April 2017 the Constitution be amended as set out in the appendix to this report (additions are shown underlined, deletions are shown struck through).
- (2) That as a transitional arrangement, all delegations which were in force on 2 April 2017 shall continue to have effect with respect to any post which currently has delegated powers, until that post is deleted or until 31 December 2017, whichever is the sooner.

## 2. Pooling of Pension Fund Investment Management Arrangements

### 1. Background

- 1.1 As highlighted in the Pension Fund annual report to Council in July 2016, in the summer 2015 budget the Chancellor announced the Government's intention to invite Administering Authorities to make proposals for pooling the fund management function for Local Government Pension Scheme (LGPS) investments. Following the Autumn Statement on 25 November 2015 the Department for Communities and Local Government (DCLG) published its criteria for such pooling focusing on four elements:
  1. Scale – it is the Government's desire that pools of assets are created with at least £25bn of assets per pool.
  2. Strong Governance – authorities are charged with defining the mechanisms by which they can hold the pool to account.
  3. Reduced costs – including estimated savings over the next 15 years.
  4. Improved capacity to invest in infrastructure.
- 1.2 Notwithstanding these pooling arrangements, responsibility for determining asset allocation will remain with the individual Administering Authority pension funds. In the case of Essex, this remains the Investment Steering Committee.

- 1.3 Subsequently the Government published revised LGPS Management and Investment of Funds Regulations that came into force on 1 November 2016. The Regulations include the power for the Secretary of State to direct a fund to change its investment strategy or direct that a fund's investment function is undertaken by another organisation if the Secretary of State determines that a fund is failing to act in accordance with guidance issued, including the guidance to pool investments according to the criteria above.
- 1.4 The Investment Steering Committee has previously agreed that Essex be a joint signatory on the ACCESS pool proposal to Government in July 2016. Accordingly the Council has already signed a Memorandum of Understanding (MoU) with the 10 other authorities in the pool to underpin the initial work of establishing the pool. ACCESS contains the following funds:

Cambridgeshire	Kent
East Sussex	Norfolk
Essex	Northamptonshire
Hampshire	Suffolk
Hertfordshire	West Sussex
Isle of Wight	

## **2. Development of pooling proposals**

- 2.1 ACCESS's July 2016 submission was based on pooling investments via a Collective Investment Vehicle (CIV) that would be administered and maintained by a third party Operator, which it was believed at that time to be the Government's preferred means of investment pooling. The third party operator will be collectively managed by the pension funds by use of a joint committee made up of one elected councillor from each authority.
- 2.2 Following representations by some ACCESS Funds, including Essex, to the Secretary of State for Communities and Local Government in September 2016, all of the ACCESS funds agreed that the Government's pooling criteria could be met without the cost and complexity of a CIV Operator, through Collaborative Joint Procurement. ACCESS has put forward an amendment to its July 2016 submission in December 2016 to base the pool on Collaborative Joint Procurement instead of a CIV Operator. Discussions with the DCLG are continuing.
- 2.3 At the time of writing the ACCESS shadow joint committee cannot yet make a final recommendation to the 11 authorities as to the approach the ACCESS pool will adopt.
- 2.4 Regardless of which approach to investment pooling ACCESS pursues, a legally binding Inter-Authority Agreement (IAA) will be required and full Council will be required to agree to the creation of a joint committee to manage the pool and define the governance and cost sharing arrangements for the future operation of the pool.

### **Recommended:**

That Council notes the developments with regard to the pooling of pension fund investment management arrangements and that Council will be asked to agree to delegate certain decisions relating to this pooling and approve an Inter Authority Agreement which will be brought to a future meeting of Council once the shadow ACCESS joint committee has made a final recommendation to the 11 authorities on either a Collective Investment Vehicle or Collective Joint Procurement arrangement.

### **3. Changes to Memberships**

The following change has been made in accordance with the notification given by the Conservative Group Leader:

- Councillor Andy Erskine replaces Councillor Lady Newton as a member of the Essex Fire Authority.

## Article 1

### The Constitution

#### 1.7 Approval of Changes to the Constitution

Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Monitoring Officer.

However, if either:

- (i) the Head of Paid Service makes changes to the organisation of the Council's officers or the way in which the delivery of the functions is organised at officer level which impact on the specific powers of the Chief Executive, Chief Officers and other officers contained in part 3 of the Constitution (Responsibility for Functions); or
- (ii) the Executive Director, ~~for Corporate~~ and Customer Services (Section 151 Officer) determines that changes are necessary to the Financial Regulations contained within the Code of Corporate Governance for the proper administration of the Council's financial affairs;

and the said officers determine that in the interest of the Council the changes should be implemented in advance of the next available meeting of the full Council, then the officers may make such minimum amendments to those parts of the Constitution referred to above as necessary, provided always, that agreement is obtained from the Chairman of the Council or in his absence the Vice-Chairman of the Council, and notification of such changes shall be submitted to the next available meeting of the Council for formal approval.

The changes shall be submitted to the next available meeting of the Council for formal approval.

## Article 4

### Officers

#### 4.1 General

The full Council may engage such staff (referred to as "officers") as it considers necessary to carry out its functions.

The recruitment, selection and dismissal of employees will comply with the Officer Employment and Disciplinary Procedure Rules contained within Part 4 of this Constitution.

Officers will comply with the Officers' Code of Conduct contained in the Code of Corporate Governance and the Protocol on Officer/Member Relations contained within Part 5 of this Constitution.

The functions set out within this Article are in addition to those delegations to Chief Officers set out within Part 3 of this Constitution.

#### 4.2 The Nolan Principles: The seven principles of public life

All officers shall have regard to the seven principles of public life as set out in Article 3.3.

#### **4.3 Chief Officers**

All Chief Officers:

- (i) contribute to the corporate management of the County Council;
- (ii) represent and promote the County Council as a Local Authority securing high quality services for the people of Essex that demonstrates best value; and
- (iii) develop partnership working.

At any time when there is no Chief Executive in post, any reference in this Constitution to the Chief Executive shall be construed as a reference to the Head of Paid Service.

The following posts are designated Chief Officers.

##### **4.3.1 Chief Executive**

##### **4.3.2 Executive Director, Social Care and Education ~~for Place Commissioning~~**

##### **4.3.3 Executive Director, for People Commissioning Children and Families**

##### **4.3.4 Executive Director, for Corporate and Customer Services**

##### **4.3.5 Executive Director, Infrastructure and Environment ~~for People Operations~~**

##### **4.3.6 Executive Director, Economy, Localities and Public Health ~~for Place Operations~~**

##### **4.3.7 Executive Director, Corporate Development ~~for Strategy, Transformation and Commissioning Support~~**

##### **4.3.8 Director, Adult Social Care**

##### **4.3.9 Director, Organisational Development and People**

#### **4.4 Statutory Officers**

Full Council has designated the following posts as shown:

Post	Designation
Chief Executive	Head of the Paid Service under Section 4 of the Local Government and Housing Act 1989.
Executive Director, <u>for Corporate and Customer Services</u>	Chief Finance Officer appointed under section 151 of the Local Government Act 1972
Executive Director, <u>Children and Families for People Commissioning</u>	Director of Children's Services appointed under Section 18 of the Children Act 2004
Director, <u>Adult Social Care for Adult</u>	Director of Adult Social Services appointed under section 6 of the Local Authorities Social Services

Operations	Act 1970
Principal Lawyer (Governance)	Monitoring Officer under Section 5 of the Local Government and Housing Act 1989.
Director, <u>Well-being, Public Health and Communities of Commissioning Healthy Lifestyles</u>	Director of Public Health under section 73A of the National Health Service Act 2006
Scrutiny and Corporate Governance Manager	Scrutiny Officer under Section 9FB of the Local Government Act 2000.

The Post titles as shown in the first column of the above table may be varied by the Chief Executive.

## Article 6

### The Full Council

#### 6.3 The Functions of the Full Council

Only the Council will exercise the following functions:

- (i) adopt and change the Constitution, in accordance with the procedures contained in Article 1;
- (ii) approve or adopt the Policy Framework and the Budget;
- (iii) any matter in the discharge of an executive function which is covered by the Budget and the Policy Framework where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
- (iii) election of the Chairman and Vice-Chairman at the annual meeting of Council;
- (iv) appointing the Leader;
- (vi) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (vii) appointing Members to the Essex County Fire and Rescue Authority and the Essex Police and Crime Panel;
- (viii) appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;
- (ix) adopting an allowances scheme under Article 3.11;
- (x) confirming the appointment of the Head of Paid Service, Monitoring Officer, S.151 Officer, and the Scrutiny Officer ~~and Director for Essex Legal Services~~;
- (xi) dismissal of the Head of Paid Service, the Section 151 Officer or the Monitoring Officer;
- (xii) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (xiii) all Local Choice Functions contained within Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet;
- (xiv) designating all Statutory and Non-Statutory Chief Officers;
- (xv) all other matters which, by law, must be reserved to Council; and
- (xvi) appointing and amending the functions of Cabinet.

## Article 8

### Council Committees

#### 8.1.9 Health and Wellbeing Board

The Board is established in accordance with Section 194 of the Health and Social Care Act 2012 and constituted to meet local requirements.

##### Quorum

The Quorum for the Health & Wellbeing Board will be one quarter of the voting membership and will include:

- at least one Essex County Council Elected Member
- at least one Clinical Commissioning Group Representative
- Essex County Council *either* Director of Adult Social Care, Director ~~for~~ of Children's Services or Director for Public Health

##### Membership

<b>Voting Members</b>	
<b>Statutory Members</b>	<b>How Nominated or Appointed</b>
3 x County Councillors*	As nominated by County Council Leader
Essex County Council Director <u>of</u> <del>for</del> Adult Social Care (DASS)	By appointment to post
Essex County Council Director <u>of</u> <del>for</del> Children's Services (DCS)	By appointment to post
Essex County Council Director <u>of</u> <del>for</del> Public Health (DPH)	By appointment to post
Representative of Health Watch Essex	Appointed by Health Watch Essex
Representative of North East Essex CCG	Appointed by North East Essex CCG
Representative of Mid Essex CCG	Appointed by Mid Essex CCG
Representative of West Essex CCG	Appointed by West Essex CCG
Representative of Basildon & Brentwood CCG	Appointed by Basildon & Brentwood CCG
Representative of Castle Point & Rochford CCG	Appointed by Castle Point and Rochford CCG
<b>Other Members</b>	<b>How Nominated or Appointed</b>
Chief Executive of Essex County Council	By appointment to post
4 Borough/City/District Council Representatives	Appointed by the Board on the nomination of the Borough/City/District Council Leaders and Chief Executives Group
Voluntary Sector representative	Appointed by the Board on the nomination of EACVS
NHS Commissioning Board Essex LAT Director	By appointment to post
2 Representatives of Essex Acute Hospital Trusts	Appointed by the Board on the nomination of the Trusts
2 Representatives from Essex mental	Appointed by the Board on the

health and non-acute providers	nomination of the Trusts
<b>Non-Voting Members</b>	
Essex Police and Crime Commissioner	By election to post
Independent Chair of the Essex Safeguarding Children's and Adults Boards	By appointment to posts

\*statutory requirement for at least one County Council elected member

Where two or more of the statutory director appointments are held by one person he/she may appoint another officer of the Council to represent one of the statutory roles

#### Substitute Members

Appointing and nominating bodies may appoint or nominate substitute members to attend meetings which their appointed member cannot attend.

Statutory director members, the Chief Executive of Essex County Council, the NHS England Essex Local Area Team Director and the Non-Voting members may also nominate a substitute to attend meetings which they cannot attend.

In such circumstances the member shall give the Secretary to the Board written notice not later than 5 pm on the working day prior to the meeting that the substitute named in the notice will attend in their place.

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

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

## Article 12

### Finance, Contracts and Legal Matters

#### 12.2 Contracts

12.2.1 This paragraph contains the Council's statutory standing orders about the making of contracts in accordance with section 135 of the Local Government Act 1972.

12.2.2 All those undertaking procurement activity for or on behalf of the Council are required to act in the best interests of the Council and with high standards of probity.

12.2.3 The Chief Financial Officer must from time to time issue Procurement Rules which shall be published on the Council's website. All contracts being entered into by the Council must comply with the Council's Procurement Rules.

12.2.4 The Procurement Rules must specify:

- (a) that there is no requirement to secure competition in contracts whose total value is below a value prescribed in the Procurement Rules ("the low value");
- (b) that contracts with a value which exceeds the low value but does not exceed the high value prescribed in the Procurement Rules ("the high value") shall be exposed to competition by means of inviting competitive quotations;
- (c) that contracts with a value which exceeds the high value but which do not exceed the threshold in (d) below shall be let following public notice which invites competitive tenders and requiring that any tenders received are required to be kept unopened in a secure location until the expiry of the deadline for the receipt of tenders;
- (d) that contracts with a value which exceeds the relevant threshold prescribed in accordance with the relevant public procurement directive made by the European Union are required to be awarded in a manner which complies with those rules;
- (e) the circumstances in which the Council is permitted to purchase via a framework agreement; and
- (f) that in addition to the exemptions from competition permitted under the preceding provisions of these Standing Orders, the Executive Director, Corporate and Customer ~~for Corporate Services~~ or another officer authorised by him may grant a waiver from any requirement in these Standing Orders or in the Procurement Rules if he considers that the exemption is justified by special circumstances.

#### 12.3 Legal Proceedings

The Monitoring Officer and the Director, for Corporate Law ~~Legal and Assurance and the Director for Legal Services~~ are authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Monitoring Officer Director for Corporate Law and Assurance or the Director, Legal and Assurance ~~for Legal Services~~ consider that such action is necessary to protect the Council's interests.

## 12.4 Authentication of Documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Monitoring Officer or the Director, for Corporate Law, Legal and Assurance or ~~the Director for Legal Services~~ or some other person authorised by him, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £1,000,000 entered into on behalf of the local authority in the course or the discharge of an Executive Function shall be made in writing. Such contracts must either be signed by the Chief Executive or a direct report of the Chief Executive (Tier 1 Officers) of the authority or made under the Common Seal of the Council attested by at least one officer.

## 12.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Chairman of the Council.

A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.

The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer or the Director, Legal and Assurance ~~for Corporate Law or the Director for Essex Legal Services~~ should be sealed.

The affixing of the Common Seal will be attested by the Monitoring Officer or the Director, Legal for Corporate Law and Assurance or ~~the Director for Legal Services~~ or some other person authorised by either of them, or by the Chairman or in his absence the Vice-Chairman or in his absence a past Chairman of the Council.

## 15. Scheme of Delegation to Officers

### 15.1.1 General Principles

This scheme, which has been agreed by the full Council and by the Leader of the Council, authorises officers of the Council to take decisions about the exercise of the Council's statutory functions.

The Council wants its officers to be empowered to manage the services entrusted to them. This scheme is intended to be interpreted broadly.

This scheme ~~and~~ applies to all of the Council's powers and duties derived from legislation or otherwise and all incidental powers and duties.

Executive Functions are delegated by the Leader under section 9J of the Local Government Act 2000 (as amended). References to 'the Regulations' are references to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

~~Subject to the following paragraph, this Scheme of Delegation also allows any officer identified in this scheme of delegation to authorise any other officer of the Council (identified by name or description) to exercise any of their delegated powers, subject to any conditions or limitations or exceptions which they may specify. All such authorisations shall be recorded in a register kept by the Monitoring Officer.~~

~~Officers identified in this scheme of delegation may not authorise anyone other than an Executive Director to make any decision on executive functions with financial implications in excess of £500,000.~~

Officers identified in this document as exercising delegated powers will be politically restricted under s2(1)(g) of the Local Government and Housing Act 1989.

Executive Decisions taken by officers must be recorded as required by law.

In exercising any delegated powers, officers are expected to undertake appropriate consultation with other members and officers and shall have regard to any advice given.

An Officer may choose not to take a decision if they feel it is not appropriate for them to make a decision and may refer a matter to the Cabinet Member or to the appropriate committee for a decision.

Officers taking decisions are required to keep Members (including local members) properly informed about relevant decisions.

### **15.1.2 Who can take decisions under this scheme of delegations**

The primary delegated officers are listed in paragraph 15.3 below. In addition, this Scheme of Delegation also allows any other officer of the Council to exercise delegated powers if they have been authorised to do so by any officer listed in 15.3.

- Authorisations can be general or specific in terms of the powers delegated and the officers to which the authorisation applies.

- Authorisations are subject to any restrictions and limits set out in the authorisation.
- Authorisations cannot allow anyone other than the Chief Executive or an Executive Director to:
  - make a decision with financial implications of more than £500,000; or
  - make a decision which the authorising officer could not make.
- Authorisations must be recorded in a register maintained by the Monitoring Officer.

### **15.1.3 Decisions with financial implications of over £500,000**

~~Executive Decisions taken by officers must be recorded as required by law. This scheme does not authorise anyone other than Where the Chief Executive or an Executive Director to take an officer takes a decision on executive functions with financial implications which exceed £500,000. Where an Officer with delegated powers takes a decision with financial implications which exceed £500,000 the decision may only be taken after the officer has:~~

- considered a written report
- consulted the relevant Cabinet Member or in the absence of the relevant Cabinet Member, the Leader.

As soon as practicable after the decision has been taken the report and the decision must be:

- published on the Council's website; and
- circulated to the relevant overview and scrutiny committee.

Nothing in this paragraph requires anything to be published if it includes exempt or confidential information.

~~Decisions taken by Officers must comply with such procedural or other requirements as may from time to time be prescribed by the Section 151 Officer or the Monitoring Officer.~~

~~In exercising any delegated powers, officers are expected to undertake appropriate consultation with other members and officers and shall have regard to any advice given. An Officer may choose not to take a decision if they feel it is not appropriate for them to make a decision and may refer a matter to the Cabinet Member or to the appropriate committee for a decision. To ensure political accountability for decisions, if the decision has financial implications in excess of £500,000 the Officer may not make a decision until they have consulted the Cabinet Member or in the absence of the Cabinet Member, the Leader of the Council. Nothing in this paragraph prevents the Cabinet Member from requiring consultation at a lower level.~~

~~Officers taking decisions are required to keep Members (including local members) properly informed about relevant decisions.~~

### **15.1.42 Limitations on delegations**

(a) Officers may not take decisions on executive functions if the proposed decision is contrary to the Policy Framework approved by full Council. Any proposal to take a decision contrary to the Policy Framework must be the subject of a report to ~~Where an officer is minded to do this a recommendation must be made to the~~ Cabinet who will make a recommendation to full Council.

(b) Any exercise of delegated powers must comply with:

- (i) any restrictions contained in the law;
  - (ii) the Constitution (including standing orders, procurement rules and financial regulations).
- (c) Officers may not take delegated decisions unless adequate budgetary provision has been made for the likely financial consequences of the decision.
- (d) Except as otherwise stated in the scheme of delegation, no officer may take a Key Decision (see paragraph 15.3.1(iii) for the Chief Executive's power to make key decisions)
- (e) Other than as set out below, this scheme does not authorise officers to change fees, charges or concession policies:
- (i) officers may apply inflationary increases to fees, charges and concession policies;
  - (ii) officers may determine fees for one off events or activities;
  - (iii) officers may determine the fees to be charged to other public bodies for services which the Council provides on a commercial or full-cost recovery basis;
- (f) This scheme does not authorise the making of a compulsory purchase order.
- (g) This scheme does not authorise the acquisition of an interest in land in anticipation of future requirements.
- (h) Unless otherwise stated, this scheme does not authorise the confirmation of any order or grant of any permission, consent or licence or other determination where any response is received expressing opposition to the proposed course of action.
- (i) Nothing in this Scheme of delegation authorises any officer of the Council who is not a permanent employee to make any decision with financial implications in excess of £500,000.
- (j) Decisions taken by Officers must comply with such procedural or other requirements as may from time to time be prescribed by the Section 151 Officer or the Monitoring Officer.

## 15.2 General Delegations

All officers ~~listed in this scheme of delegation~~ listed in paragraph 15.3 have delegated authority to exercise any of the Council's functions and powers so far as it is necessary or conducive to do so in order to provide any service for which they have from time to time been given management responsibility. This includes, but is not limited to:

- (a) managing the human and material resources made available for the services they manage and the authority, in accordance with the Council's policies on pay and recruitment;
- (b) entering into contracts;
- (c) implementing a policy or decision previously approved or taken by the full Council, a committee, the Cabinet or a Cabinet Member;
- (d) doing anything to facilitate or which is incidental to the implementation of such a policy or decision;
- (e) taking enforcement action, servinge any notice or makinge any order;

- (f) ~~to authorising~~ other officers to ~~exercise their delegated functions or to take~~ any other steps necessary for or conducive to the performance of any such powers; or
- (g) exercising discretion as to the institution of legal proceedings.

### **15.3 Specific Delegations**

In addition to the general delegations the officers specified in this scheme have the following specific delegations.

#### **15.3.1 To the Chief Executive**

- (i) To act as head of the paid service for the purposes of section 4 of the Local Government and Housing Act 1989 and to make any decision which the Council may make as employer.
- (ii) To determine and publish the management structure of the Council.
- (iii) To take key decisions where a decision is urgent and neither the Leader nor the Deputy Leader is available.
- (iv) To incur expenditure in the event of a civil emergency.
- (v) To exercise in case of urgency the functions delegated to anyone under this scheme of delegation ~~to Executive Directors~~ (but this does not authorise the Chief Executive to discharge the personal responsibility of the Executive Director, ~~for Corporate and Customer Services~~ under section 151 of the Local Government Act 1972 or the Monitoring Officer under section 5 of the Local Government and Housing Act 1989).
- (vi) To have responsibility for and to determine any matter relating to elections.
- (vii) To determine the level of performance pay to be awarded to officers and recommend levels of performance pay to be awarded to Executive Directors.

#### **15.3.2 To the Executive Director, ~~for Corporate and Customer Services~~**

- (i) To act as the Council's officer appointed under section 151 of the Local Government Act 1972 and to make such decisions as are necessary for the proper administration of the Council's financial affairs.
- (ii) To be the Proper Officer under Section 115 of the Local Government Act 1972.
- (iii) To be responsible for:
  - a. all financial management including treasury management
  - b. Democratic Services
  - c. Corporate Operations and payroll
  - d. ~~Property and facilities management~~
  - d. external funding
  - e. all the Council's powers and duties with respect to pensions including the Essex Pension Fund and the Council's involvement with other pension schemes
  - f. Emergency Planning

- g. Health and Safety
- h. Business Continuity
- i. Legal Services

Note: The Executive Director, ~~for~~ Corporate and Customer Services is not empowered to change the managers of the Pension Fund or, unless the Chief Executive agrees, to agree the early termination of the employment of any Executive Director or the Monitoring Officer.

- (iv) To be responsible for the Council's Democratic, Governance and Assurance framework, including democratic support, scrutiny, performance, audit, risk, health and safety, business continuity and insurance and its powers to prevent and detect fraud.
- (v) To act as a Deputy in respect of the management of the finance and property of an individual lacking capacity in accordance with the Mental Capacity Act 2005.
- (vi) 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.
- (vii) To act as the Accountable Body representative on all matters in respect of which the Council has agreed to act as or has been appointed as Accountable Body.
- (viii) To exercise the Council's functions relating to acting as accountable body for any organisation or association (including the South East Local Enterprise Partnership).
- (ix) To authorise the making and issue of any formal documents and to authenticate documents on behalf of the Council.
- (x) To exercise the Council's powers to trade and to make any decision which the Council may make as a shareholder in any company.
- (xi) To exercise the Council's functions relating to
  - (a) Registration of Births, Deaths and Marriages
  - (b) Coroners.

### **15.3.3 To the Executive Director, Education and Social Care for People Commissioning**

#### ***Children***

- ~~(i) To be the statutory director of children's services and to exercise the functions designated in section 18 of the Children Act 2004 and associated regulations.~~
- (ii) To exercise the Council's functions relating to education and training.
- ~~(iii) To exercise the Council's functions relating to Children's Social Care.~~
- ~~(iv) To exercise the Council's functions relating to the Youth Offending service.~~

~~(v) To exercise the Council's functions relating to the health of children.~~

~~(vi) To make decisions on the licensing of the employment of children.~~

### **Adults**

(i) To exercise the Council's social services functions relating to adults.

(ii) To exercise the Council's powers and duties to people who lack the mental capacity to make some decisions themselves.

### **Other services**

(i) To exercise the Council's powers relating to public health, community wellbeing and joint working with the NHS.

~~(ii) To exercise the Council's functions relating to sport and physical activity.~~

~~(iii) To exercise the Council's functions relating to employment policies and practice.~~

~~(iv) To exercise the Council's functions relating to publication of material and relations with the press.~~

## **15.3.4 To the Executive Director, Children and Families**

(i) To be the statutory director of children's services and to exercise the functions designated in section 18 of the Children Act 2004 and associated regulations.

(ii) To exercise the Council's functions relating to Children's Social Care.

(iii) To exercise the Council's functions relating to the Youth Offending service.

(iv) To exercise the Council's functions relating to the health of children.

## **15.3.5 To the Executive Director, Infrastructure and Environment**

(i) To exercise the Council's functions relating to highways, transportation and traffic other than determination of applications or proposals for modification of the Definitive Map and Statement of Public Rights of Way.

(ii) To exercise the Council's functions relating to waste and recycling.

(iii) To exercise the Council's functions relating to improving the environmental performance and wellbeing of Essex including flood management.

(iv) To exercise the Council's powers with respect to property and facilities management.

## **15.3.6 To the Executive Director, Economy, Localities and Public Health**

(i) To exercise the Council's functions relating to sport and physical activity.

- (ii) To exercise the Council's functions relating to the economic development of Essex and its residents.
- (iii) To exercise the Council's functions as a trading standards (weights and measures) authority, as a health and safety enforcement authority, as a food authority, all powers to protect animal health and welfare and all regulatory services relating to the protection of consumers.
- (iv) To exercise the Council's functions relating to unlawful encampments.
- (v) To exercise the Council's powers with respect to regulatory services and licensing and decisions in connection with permits, regulations, permissions or certificates.
- (vi) To exercise the Council's functions as a local planning authority except for:
  - (a) approval of planning applications where objections are raised by other Local Authorities or where there are more than two individual representations raising planning related objections;
  - (b) approval of planning applications where it has been determined that an environmental impact assessment is required;
  - (c) approval of planning applications where there are objections and the Chairman of the Development and Regulation Committee determines, in consultation with the County Planning Manager, that the application should be determined by the Committee; and
  - (d) approval of planning applications which amount to a significant departure from the development Plan.
- (vii) To exercise the Council's functions relating to the promotion of tourism.
- (viii) To exercise the Council's functions relating to the prevention and reduction of crime and disorder.
- (ix) To exercise the Council's powers to improve the health of the public.

### **15.3.7 To the Executive Director, Corporate Development**

- (i) To exercise the Council's functions relating to publication of material and relations with the press.
- (ii) To decide how technology is provided and used by the Council.
- (iii) To develop strategies for trading and commercial activities to be undertaken by or on behalf of the Council.

### **15.3.8 To the Director, Adult Social Care**

To exercise any power delegated to the Executive Director, Education and Social Care to the extent that it relates to adult social care.

### **15.3.9 To the Director, Organisational Development and People**

- (i) To exercise the Council's functions relating to employment policies and practice.

- (ii) To exercise such of the Chief Executive's functions relating to the Council's role as employer as the Chief Executive may agree.

#### **15.3.4 To the Executive Director for Place Commissioning**

- ~~(i) To exercise the Council's functions relating to highways, transportation and traffic other than determination of applications or proposals for modification of the Definitive Map and Statement of Public Rights of Way.~~
- ~~(ii) To exercise the Council's functions relating to the economic development of Essex and its residents.~~
- ~~(iii) To exercise the Council's functions relating to waste and recycling.~~
- ~~(iv) To exercise the Council's functions relating to improving the environmental performance and wellbeing of Essex including flood management.~~
- ~~(v) To exercise the Council's functions as a trading standards (weights and measures) authority, as a health and safety enforcement authority, as a food authority, all powers to protect animal health and welfare and all regulatory services relating to the protection of consumers.~~
- ~~(vi) To exercise the Council's functions relating to unlawful encampments.~~
- ~~(vii) To exercise the Council's functions relating to libraries, heritage, culture, arts and events and country parks.~~
- ~~(viii) To exercise the Council's functions relating to~~
- ~~(a) Registration of Births Deaths and Marriages~~
- ~~(b) Coroners.~~
- ~~(ix) To exercise the Council's powers with respect to regulatory services and licensing and decisions in connection with permits, registrations, permissions or certificates.~~
- ~~(x) To exercise the Council's functions as a local planning authority except for:~~
- ~~(a) approval of planning applications where objections are raised by other Local Authorities or where there are more than two individual representations raising planning related objections;~~
- ~~(b) approval of planning applications where it has been determined that an environmental impact assessment is required;~~
- ~~(c) approval of planning applications where there are objections 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 planning applications which amount to a significant departure from the Development Plan.~~
- ~~(xi) To exercise the Council's functions relating to the promotion of tourism.~~
- ~~(xii) To exercise the Council's functions relating to the prevention and reduction of crime and disorder.~~

### **~~15.3.5 To the Executive Director for People Operations~~**

~~To exercise any power which is listed above as related to Adults and delegated to the Executive Director for People Commissioning where:~~

- ~~(i) the decision is an operational decision relating to a service for which they have responsibility; and~~
- ~~(ii) the decision does not conflict with a decision taken or instruction given by the relevant Executive Director for Commissioning.~~

### **~~15.3.6 To the Executive Director for Place Operations~~**

~~To exercise any power which is listed above as delegated to the Executive Director for Place Commissioning where:~~

- ~~(i) the decision is an operational decision relating to a service for which they have responsibility; and~~
- ~~(ii) the decision does not conflict with a decision taken or instruction given by the relevant Executive Director for Commissioning.~~

### **15.3.107 To the Director, Legal for Corporate Law and Assurance**

- (i) To authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal including the making of appeals, but they shall consult the relevant Director and the Director, Organisational Development and People before settlement of employment tribunal proceedings.
- (ii) To authorise officers of the Council to appear in courts or tribunals where permitted by law.
- (iii) To authorise the giving of any indemnity by the Council.
- ~~(iv) To be the Proper Officer of the Council for the purposes of the Local Government Act 1972 and the local Government Act 2000, or for any other purpose, unless the constitution names any other officer.~~
- (iv) To authorise the making and issue of any formal documents and to authenticate documents on behalf of the Council and to determine whether a document should be sealed by the affixing of the Common Seal.
- (vi) To attest the affixing of the Council's Common Seal and to appoint others to do so.
- (vii) To exercise the Council's powers and duties to make arrangements with respect to appeals against decisions to expel or to refuse to admit someone to any school.
- (vii) To discharge the functions of the Council with respect to the pensions complaints procedure.
- (viii) To take any step to collect any debt owed to the Council.

- (ix) To determine applications and proposals for modification of the Definitive Map and Statement of Public Rights of Way pursuant to Section 53 or 53A of the Wildlife and Countryside Act 1981.
- (x) To determine applications and proposals concerning the registration of commons or town or village greens.
- (xi) To act as a Deputy in respect of the management of the finance and property of an individual lacking capacity in accordance with the Mental Capacity Act 2005.
- (xviii) The power to determine whether any particular claim for payment under the Members Allowances Scheme is in order.
- ~~(ix) Following consultation with the Council's Independent Persons, to appoint substitute Independent Persons to the Statutory Officer Advisory Panel where the Essex County Council appointed Independent Persons are unable to act. If the Director is unable to discharge this delegation personally, this delegation may be exercised by the Section 151 Officer.~~
- ~~(x) To be the Proper Officer to receive and manage the determination of complaints of failure by Members to comply with the Code of Conduct and to advise the Joint Standards Committee and Sub-Committee thereon.~~
- ~~(xi) To investigate complaints against councillors or to arrange for such an investigation to be carried out or to seek a decision from the Standards Committee on whether to investigate and to notify.~~
- ~~(xii) To determine that no further action be taken following a finding that there has been no breach of the Code, subject to consulting an Independent Person.~~
- ~~(xiii) To grant applications for dispensations to members with respect to their or their spouse's interest which arises as a result of membership of another public body.~~
- ~~(xiv) To grant dispensations under the Code of Conduct or the Localism Act 2011 after consulting an Independent Person and the Chairman of the Joint Standards Committee.~~

### **15.3.118—To the Monitoring Officer Director for Essex Legal Services**

- (i) To authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal including the making of appeals, but they shall consult the relevant Director and the Director, Organisational development and People before settlement of employment tribunal proceedings.
- (ii) To authorise officers of the Council to appear before Magistrates' Courts or District Judges.
- ~~(iii) 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.~~
- (iiiiv) To authenticate documents on behalf of the Council.

- (iv) To determine whether a document should be sealed by the affixing of the Common Seal.
- (vi) To attest the affixing of the Council's Common Seal and to authorise others to do so.
- ~~(vi) To be the Proper Officer of the Council for the purposes of the Local Government Act 1972 and the Local Government Act 2000, or for any other purpose, unless the constitution names another officer.~~
- ~~(vii) To discharge the functions of the Council with respect to the pensions complaints procedure.~~
- ~~(viii) To take any step to collect any debt owed to the Council.~~
- ~~(ix) To determine applications and proposals for modification of the Definitive Map and Statement of Public Rights of Way pursuant to Section 53 or 53A of the Wildlife and Countryside Act 1981.~~
- ~~(x) To determine applications and proposals concerning the registration of commons or town or village greens.~~
- ~~(xi) To act as a Deputy in respect of the management of the finance and property of an individual lacking capacity in accordance with the Mental Capacity Act 2005.~~
- (ix) Following consultation with the Council's Independent Persons, to appoint substitute Independent Persons to the Statutory Officer Advisory Panel where the Essex County Council-appointed Independent Persons are unable to act. If the Director is unable to discharge this delegation personally, this delegation may be exercised by the Section 151 Officer.
- (x) To be the Proper Officer to receive and manage the determination of complaints of failure by Members to comply with the Code of Conduct and to advise the Joint Standards Committee and Sub-Committee thereon.
- (xi) To investigate complaints against councillors or to arrange for such an investigation to be carried out or to seek a decision from the Standards Committee on whether to investigate and to notify.
- (xii) To determine that no further action be taken following a finding that there has been no breach of the Code, subject to consulting an Independent Person.
- (xiii) To grant applications for dispensations to members with respect to their or their spouse's interest which arises as a result of membership of another public body.
- (xiv) To grant dispensations under the Code of Conduct or the Localism Act 2011 after consulting an Independent Person and the Chairman of the Joint Standards Committee.