



Havering

LONDON BOROUGH

GOVERNANCE COMMITTEE AGENDA

7.30pm	Tuesday 19 January 2010 <u>Please note day</u>	Havering Town Hall Main Road, Romford
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Members 10: Quorum 4

COUNCILLORS:

Conservative Group (6)	Residents' Group (2)	Independent Local Residents' Group (1)	Labour Group (1)
Frederick Thompson (C) Gary Adams (VC) Robert Benham Steven Kelly Eric Munday Michael White	Clarence Barrett Gillian Ford	Jeffrey Tucker	Keith Darvill

**For information about the meeting please contact:
Ian Buckmaster (01708) 432431
e-mail ian.buckmaster@havering.gov.uk**

NOTES ABOUT THE MEETING

1. HEALTH AND SAFETY

The Council is committed to protecting the health and safety of everyone who attends meetings of its Committees.

At the beginning of the meeting, there will be an announcement about what you should do if there is an emergency during its course. **For your own safety and that of others at the meeting, please comply with any instructions given to you about evacuation of the building, or any other safety related matters.**

2. MOBILE COMMUNICATIONS DEVICES

Although mobile phones, pagers and other such devices are an essential part of many people's lives, their use during a meeting can be disruptive and a nuisance. Everyone attending is asked therefore to ensure that any device is switched to silent operation or switched off completely.

3. CONDUCT AT THE MEETING

Although members of the public are welcome to attend meetings of the Committee, they have no right to speak at them. Seating for the public is, however, limited and the Council cannot guarantee that everyone who wants to be present in the meeting room can be accommodated. When it is known in advance that there is likely to be particular public interest in an item the Council will endeavour to provide an overspill room in which, by use of television links, members of the public will be able to see and hear most of the proceedings.

The Chairman of the meeting has discretion, however, to invite members of the public to ask questions or to respond to points raised by Members. Those who wish to do that may find it helpful to advise the Committee Officer before the meeting so that the Chairman is aware that someone wishes to ask a question.

PLEASE REMEMBER THAT THE CHAIRMAN MAY REQUIRE ANYONE WHO ACTS IN A DISRUPTIVE MANNER TO LEAVE THE MEETING AND THAT THE MEETING MAY BE ADJOURNED IF NECESSARY WHILE THAT IS ARRANGED.

If you need to leave the meeting before its end, please remember that others present have the right to listen to the proceedings without disruption. Please leave quietly and do not engage others in conversation until you have left the meeting room.

AGENDA ITEMS

1 CHAIRMAN'S ANNOUNCEMENTS

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

**2 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS
(if any) - receive.**

3 DECLARATION OF INTERESTS

Members are invited to declare any interests in any of the items on the agenda at this point of the meeting. Members may still declare an interest in an item at any time prior to the consideration of the matter.

4 MINUTES

To approve as a correct record the minutes of the meetings of the Committee held on 25 November 2009, and to authorise the Chairman to sign them.

5 APPOINTMENT OF MEMBERS TO COMMUNITY ASSOCIATIONS

6 APPOINTMENT OF SCHOOL GOVERNORS

**7 APPOINTMENT OF LOCAL AUTHORITY GOVERNOR OF THE DRAPERS'
ACADEMY**

**8 REVIEW OF THE COUNCIL'S CONSTITUTION – Part 3: Responsibility for
functions (Executive functions)**

**9 REVIEW OF THE COUNCIL'S CONSTITUTION – Part 4: Rules of Procedure for
Council Meetings**

**10 REVIEW OF THE COUNCIL'S CONSTITUTION – Part 4: Rules of Procedure for
Committee Meetings**

Governance Committee, 19 January 2010

- 11 **REVIEW OF THE COUNCIL'S CONSTITUTION – Part 5: Gifts and Hospitality protocol**
- 12 **REVIEW OF THE COUNCIL'S CONSTITUTION – Part 5: Member/Officer relations protocol**
- 13 **LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION ACT 2009 – petitions**

**Cheryl Coppel
Chief Executive**

**MINUTES OF A MEETING OF THE
GOVERNANCE COMMITTEE
Havering Town Hall
25 November 2009 (7.30pm – 9.45pm)**

Present:

COUNCILLORS:

Conservative Group Frederick Thompson (in the Chair), Gary Adams, Robert Benham, Steven Kelly, Eric Munday and Michael White

Residents' Group Clarence Barrett and Gillian Ford

An apology for absence was received from Councillor Keith Darvill.

All decisions were taken unanimously with no votes against unless shown otherwise.

The Chairman reminded Members of the action to be taken in an emergency.

17 MINUTES

The Minutes of the meeting of the Committee held on 7 October were agreed as a correct record subject to an amendment to correct the spelling of Councillor Brice-Thompson's name and were signed by the Chairman.

18 PAPERLESS COUNCILLOR

The Committee received a report from the Corporate Overview and Scrutiny Committee together with a supplementary paper giving further officer comments as part of its responsibility for overseeing matters related to the facilities available to support Members.

Members discussed several aspects of the circulation of hardcopy and electronic paperwork, including agendas; the working practices of Members who made great use of the available technology and those who did not; the frequency with which Members visited the Town Hall; and savings that might be achieved in the courier service if more staff material was sent electronically.

The Corporate Overview and Scrutiny Committee had adopted the report and recommendations of its Paperless Councillor Topic Group and had referred the report to this Committee for consideration.

The report set out a number of suggestions for revising the way in which information was communicated to Members.

RESOLVED

Governance Committee, 25 November 2009

1. That Members be encouraged to collect their own mail from the individual 'pigeon holes' provided within the Town Hall.
2. That the service to Members be modified by reducing courier deliveries to their homes to one day per week, Friday evening, to mop up mail not previously collected by Members from their 'pigeon holes'.
3. That service to Members be modified so that non-Members of committees who ask for copies of agendas receive, instead, an email version or a mail with a link to the agenda on the website, but still provide hard copies to those members who serve on the Committee.
4. To offer a dedicated training programme for members to facilitate their use of IT.

All Members voted in favour of these resolutions except Councillor Ford abstained on resolution 1 and Councillors Barrett and Ford abstained on resolution 2.

The Committee also decided to recommend to the Corporate Overview and Scrutiny Committee that courier services across the Council and to schools be reviewed.

19 **REVIEW OF COUNCIL'S CONSTITUTION**

At its meeting in September 2009, the Committee, had set up a Working Group of Members and officers to review the Council's Constitution with a view to recommending changes intended both to simplify the Constitution where possible and to ensure that its provisions met current (and anticipated) needs.

A summary of the agreed Part 1 of the constitution was appended.

RESOLVED:

That it be **RECOMMENDED to Council** that, subject to the agreed amendments, the revised Part 1 of the constitution be adopted.

20 **REVIEW OF COUNCIL'S CONSTITUTION, ARTICLES OF THE CONSTITUTION**

The Committee was presented with a second report arising from the work of the Working Group, that dealt with Part 2 of the Constitution and its Articles.

The power of the Monitoring Officer to amend the text of the Constitution was the only issue that required detailed consideration by the Committee.

It was agreed that no amendment to the proposed revised version of those powers was required.

A summary of the agreed Part 2 of the constitution was appended

RESOLVED:

to **RECOMMEND** to Council that the revised Part 2 of the constitution be adopted.

21 REVIEW OF COUNCIL'S CONSTITUTION, RESPONSIBILITY FOR FUNCTIONS (COUNCIL AND COMMITTEES)

This report outlined the initial component of Part 3 of the Constitution (which set out in detail who/what was responsible for which functions of the Council as a Local Authority). This component dealt with the way in which the Council, the Leader and Cabinet, and Council Committees inter-related.

It was agreed that future reports on other components of Part 3 would deal with functions exercisable by the Leader and Cabinet, and by staff.

RESOLVED:

That it be **RECOMMENDED to Council** that the revised Part 3 of the constitution be adopted.

22 MONITORING OFFICER'S NO 36 AMENDMENTS TO THE CONSTITUTION

The constitution provided that this Committee must be notified of any such amendment at the first reasonable opportunity.

Part 2 Article 15.02(c) of the Constitution authorised the Monitoring Officer to amend the Constitution to correct errors or to comply with any legal requirement or to reflect organisational changes to the Council's structure.

In addition to the Constitutional requirements the Monitoring Officer had determined that she would notify Group Leaders as soon as any Monitoring Officer amendments are made to the Constitution. The notification would then appear in Calendar Brief so that all Members were aware of the amendments. The notification of the amendments would be numbered so there was no confusion.

This meeting of the Committee was the first opportunity for the reporting of the most recent amendments made.

The Committee **NOTED** the report.

Chairman

19 January 2010



**GOVERNANCE
COMMITTEE**

REPORT

19 JANUARY 2010

Subject Heading:

APPOINTMENT OF MEMBERS TO
COMMUNITY ASSOCIATIONS

CMT Lead:

Christine Dooley, Assistant Chief
Executive/Monitoring Officer

Report Author and contact details:

Ian Buckmaster, Committee
Administration Manager
01708 432431

ian.buckmaster@havering.gov.uk

Policy context:

Arising from a review of the Council's
provision of community halls, Cabinet has
recommended that the Council cease to
appoint Members to serve on community
associations.

Financial summary:

There are no direct costs associated with
this review

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input checked="" type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input type="checkbox"/>

SUMMARY

At its meeting in December last, the Cabinet considered a report reviewing the Council's provision of Community Halls. In the course of that review, the report referred to the appointment by this Committee of Members to serve on a number of community associations' governing boards.

The report concluded that the practice should cease and Cabinet have recommended accordingly.

RECOMMENDATION

Of Cabinet –

That the Committee agree that the Council cease to make appointments to community associations.

REPORT DETAIL

- 1 At its meeting in December 2009, the Cabinet considered a report **“Outcomes achieved from the Community Halls project and the next steps”**, recommendation 6 of which was:

“To recommend to Governance Committee that Councillors be no longer allocated to Community Associations.”

- 2 The report stated:

“6.3 The Council does assign Councillors to some of the Associations. This has been happening for a number of years. This role is largely a historic practice rather than well defined in any constitutional sense and pre-dates the approach now taken in granting leases to Associations. The main reasons for seeking Member involvement was believed to be:

- (a) For the “prestige” of having a Member on their Committee. As the Community Association was using a Council-owned property, it was important for there to be a Councillor or two on the Committee to ensure propriety (since superseded with more formal leasing arrangements).
- (b) The “community leadership” aspect to the role.

“Associations have in the past been consulted on this practice and the general response was that Councillors should continue to be assigned to individual Associations. The Associations see this as beneficial in having a direct link to Council decision-making and for the Council there is the opportunity to receive Member feedback on the operation of the Association and its well-being. However, this role is not defined in any formal sense and some Associations are keener than others on the practice, with some Associations not having, or wanting, Member representatives. It can also cause confusion as to roles, responsibilities and powers.

“The Council is in reality the landlord granting a lease at a reduced rental on the basis that the Association conforms with its lease conditions. These include subscribing to Community Matters. Once they have done this, they have access to a wealth of information & advice and are able to adopt the constitution which is a model of good practice. This constitution as the governing document for the organisation, is designed for a Community Association established for charitable purposes and is suitable for a Community Association which owns or leases a community centre and aims to provide a wide range of community activities for its individual members, its sections and its affiliated voluntary or not for profit groups.

“With all this in mind, it is recommended that Councillors are no longer affiliated to Associations as a Councillor and instead the Councils relationship with the Associations is via the landlord and CED roles with the benefits being known via the annual community benefit assessment referred to above.”

- 3 The Committee generally makes such appointments annually, at its first meeting following the Annual Meeting of the Council. The Appendix to this report lists the current appointments, and provides related information.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no significant financial implications or risks arising from this change. The Council does not incur any expenditure in making these appointments other than some minor administrative costs related to notifying appointments. There is a very small possibility that a Member's involvement in a community association as a representative of the Council could expose the Council to risk of liability in the event of a community association experiencing financial or legal difficulties but that has not previously occurred and, if the Committee agrees that no further appointments should be made, will cease in respect of future liability and, over time, will diminish to none in respect of any possible present liability.

Legal implications and risks:

There are no significant legal implications or risks arising from this change. As with the financial implications and risks, there is a very small possibility that the Council could be exposed to risk but it is theoretical only and will cease in respect of future liability and, over time, will diminish to none in respect of any possible present liability.

Human Resources implications and risks:

There are none.

Equalities implications and risks:

All appointments have been made with equalities in mind. There are no equalities implications in ceasing to make appointments.

BACKGROUND PAPERS

There are none.

APPENDIX

Current appointments

Ardleigh House Community Association - Cllrs Lynden Thorpe and Michael White

Bretons Community Association – Cllr John Clark

Cranham Community Association – Cllr Gillian Ford

Elm Park Community Association – Cllr Barry Oddy

Emerson Park Community Association – Cllr Paul Rochford

Front Lane Community Association – Cllr June Alexander

Harold Hill & District Community Association – Cllrs Dennis Bull and Keith Wells

Harold Wood Neighbourhood Centre* – Cllr Lesley Kelly and Pam Light

Mardyke Youth & Community Centre* - Cllr John Clark and Cllr Linda van den Hende

North Romford Community Association – Cllr Sandra Binion

Rainham & Wennington Community Association – Cllr Jeffrey Tucker

Rush Green Community Association – Cllr Fred Osborne & Robert Benham

* may not be strictly considered community associations

One Member, Councillor Tom Binding, is known to be active in a Community Association, but in a personal capacity and not as an appointee of the Council.

There are also active Community Associations in Forest Row, Whybridge, South Hornchurch and Wennington Village, to which the Council is not asked to make appointments.

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GOVERNANCE COMMITTEE

REPORT

19 JANUARY 2010

Subject Heading:

APPOINTMENT OF GOVERNORS OF
COMMUNITY SCHOOLS

CMT Lead:

Christine Dooley, Assistant Chief
Executive/Monitoring Officer

Report Author and contact details:

Ian Buckmaster, Committee
Administration Manager
01708 432431

ian.buckmaster@havering.gov.uk

Policy context:

Arising from the on-going review of the
Council's Constitution, a change is
suggested in the arrangements for
appointing local authority governors of
schools

Financial summary:

There are no direct costs associated with
this review

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input checked="" type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input checked="" type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input type="checkbox"/>

SUMMARY

Arising from the review of the Constitution currently under way, consideration is invited of the way in which certain appointments of local authority nominated school governors is made.

It is suggested that all governor appointments now be dealt with by the Group Director, Social Care & Learning.

RECOMMENDATIONS

That the Committee **RECOMMEND** to Council that:

- 1 The requirement that this Committee make local authority-nominated school governor appointments where the candidate is a Member or employee of the Council, cease to have effect.
- 2 That all such school governors be appointed by the Group Director, Social Care & Learning

REPORT DETAIL

- 1 At its meeting in September 2009, the Committee set up a Working Group of Members and Officers to review the Council's Constitution. This report flows from their work, although it is not directly related to the review.
- 2 The Council, as local authority for education, makes appointments to the governing bodies of community schools. The individuals nominated for such appointment are identified by a process culminating in consideration by the Governor Panel, on which serve three Members (currently, Councillors Wendy Brice-Thompson, Gillian Ford and Geoff Starns). The majority of those approved for appointment are then formally appointed by the Group Direct, Social Care & Learning; but a few – Members and employees of the Council – are appointed by the Committee.
- 3 Over the course of a year, a dozen or so appointments are made by this Committee: none has ever been refused. The working group on the Constitution, when considering the functions of Committees as a general issue, concluded that no useful purpose was now served by continuing the involvement of this Committee in making such appointments and, accordingly, now invites the Committee to recommend to Council that it should cease.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no significant financial implications or risks arising from this exercise. The cost of reproducing the new Constitution will be met from existing budget provision.

Legal implications and risks:

There are no significant legal implications or risks arising from this change.

Human Resources implications and risks:

There are none.

Equalities implications and risks:

All appointments of school governor are made with equalities in mind.

BACKGROUND PAPERS

There are none.

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GOVERNANCE COMMITTEE

REPORT

19 JANUARY 2010

Subject Heading:

APPOINTMENT OF LOCAL AUTHORITY
GOVERNOR OF THE DRAPERS'
ACADEMY

CMT Lead:

Christine Dooley, Assistant Chief
Executive/Monitoring Officer

Report Author and contact details:

Ian Buckmaster, Committee
Administration Manager
01708 432431

ian.buckmaster@havering.gov.uk

Policy context:

The creation of the Drapers' Academy
gives rise to the need to appoint a local
authority member of its governing body

Financial summary:

There are no direct costs associated with
this review

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input checked="" type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input type="checkbox"/>
Value and enhance the life of every individual	<input type="checkbox"/>
High customer satisfaction and a stable council tax	<input type="checkbox"/>

SUMMARY

The Committee will be aware that The Drapers' Academy will succeed King's Wood School in September.

The sponsors of the Academy, The Drapers' Company – a City of London livery company – have established the Academy's governing body and have invited the Council to appoint a local authority governor to sit on it.

The Committee is now invited to make an appointment to the governing body.

RECOMMENDATIONS

- 1 That the Committee appoint a local authority governor of The Draper's Academy, initially for a term expiring immediately before the local elections in May 2010.
- 2 For consideration as to whether future appointments should be for a four-year term commencing from the date of the meeting of this Committee in 2010 at which such appointments are considered, or reviewed annually.

REPORT DETAIL

- 1 Members will be aware of the forthcoming establishment of The Drapers' Academy at Harold Hill, in place of King's Wood School. As part of the funding agreement with the Secretary of State, the sponsors, the Drapers' Company, must seek the appointment of a local authority governor and they have now invited the Council to make a nomination accordingly. It is understood that the Company has not placed a restriction on the term of office and, accordingly, the Committee is invited to consider whether an appointment should be made for a four year term or reviewed annually.
- 2 In response to enquiry, the following nominations for the appointment have been received:

From Councillors Michael White and Frederick Thompson – Councillor Steven Kelly

From Councillor Clarence Barrett – Councillor Gillian Ford

From Councillor Keith Darvill – former Councillor Jeff Stafford.
- 3 This appointment will be treated as an "outside body" appointment rather than a school governing body appointment.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no significant financial implications or risks arising from this appointment.

Legal implications and risks:

There are no significant legal implications or risks arising from this appointment.

Human Resources implications and risks:

There are none.

Equalities implications and risks:

All appointments are made with equalities in mind.

BACKGROUND PAPERS

Invitation from The Drapers' Company to appoint a governor.

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GOVERNANCE COMMITTEE

REPORT

19 January 2010

Subject Heading:

**LOCAL DEMOCRACY, ECONOMIC
DEVELOPMENT AND CONSTRUCTION
ACT 2009 – petitions**

CMT Lead:

Christine Dooley
Assistant Chief Executive
01708 432442

Report Author and contact details:

Philip Heady
Democratic Services Manager
01708 432433
philip.heady@havering.gov.uk

Policy context:

Response to new duties around
engagement with the public through
petitions.

Financial summary:

New funding will be required to meet
statutory needs around electronic
petitions.

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

This report deals with new responsibilities arising from the Local Democracy, Economic Development and Construction Act 2009 so far as they relate to petitions.

The duties, which will come into effect on a date decided by the Secretary of State, include the requirement to facilitate the submission of petitions to the Council and the electronic collection of signatures.

In particular the report deals with a consultation paper seeking comments on some of the practicalities, including the contents of a 'petitions scheme', and on issues around the electronic submission of petitions.

RECOMMENDATION

1. That the comments set out in Appendix 2 to this report form the Council's response to the Department for Communities and Local Government (DCLG) in response to its Consultation Paper.
2. That it be noted that, in due course, the Council will be required to approve a Petitions Scheme and to facilitate the submission to the Council of petitions electronically once an operative date for the e-petitions aspects of the Act is known.

REPORT DETAIL

1 The requirements of the Local Democracy, Economic Development and Construction Act 2009 ("the Act")

- 1.1 The Act includes requirements for every Council such as Havering in respect of petitions. These provisions have yet to be brought into force, and the Government is consulting on the implementation of these provisions. The main statutory requirements are as follows –
 - (a) to have an on-line petition facility which allows anyone to set up a petition on the Council's system, and allows anyone to "sign" the petition on-line.
 - (b) to adopt a Petition Scheme which sets out how the Council will acknowledge receipt of petitions and advise the petition organiser how the petition will be dealt with. The Act requires that the Petition Scheme define three categories of petition, and set a minimum number of signatures for each type of petition.
 - (c) To come within the Scheme, the petition must relate to a Council function or, to an improvement in the economic, social or environmental well-being of the Council's area to which any of the its partner authorities could contribute.

- (d) The Council can delegate to an appropriate officer the power to reject petitions which they considers to be vexatious, abusive or otherwise inappropriate.
- (e) The new Petition Scheme does not apply to petitions received under other statutory procedures, such as petitions for a mayoral constitution, and the Secretary of State proposes to make provision that petitions in response to some statutory consultations, such as on planning or licensing applications, should also remain outside the new system.
- (f) For “ordinary petitions”, Councils are given wide flexibility to set the threshold number of signatures as high or low as they wish, and to determine how such petitions will be dealt with. The Act provides that a petition may be signed by anyone who lives, works or studies in the Council’s area.
- (g) “Petitions requiring Debate” must be reported to full Council for debate, and the Council can set a higher number of signatures as the threshold for such petitions.
- (h) “Petitions to hold an officer to account” must name a senior officer and will trigger an open meeting of the appropriate Overview and Scrutiny Committee at which the officer may be questioned by the Committee in relation to their actions on a particular matter. The Council can set a different threshold number of signatures for these petitions.
- (i) Where the petition organiser is not satisfied by the actions taken by the Council in response to a petition, the Petition Scheme must give a right of appeal to a relevant Overview and Scrutiny Committee

2 Government Consultation

- 2.1 The Government proposes to make statutory orders, bringing these provisions into force and to provide guidance on how Councils should discharge their new responsibilities. The full draft Guidance and the consultation paper is available in the Members Resource Room. Comments must be submitted to the Department for Communities and Local Government by 24th February 2010.
- 2.2 The consultation paper incorporates a draft model Petition Scheme (which is attached as Appendix 1) which Councils may adapt for their own use, and sets out 12 questions on which the Government seeks responses. The questions and a draft response to each is set out as Appendix 2 to this report.

3 Comments

3.1 The Act sets out a general framework for Councils to deal with petitions. It is suggested that some provisions might give rise to some difficulties for Councils, as follows –

(a) Debate in Council

The model scheme suggests that the petition organiser should be given 5 minutes to present the petition and that the petition will then be discussed by full Council for 15 minutes. This would mean that say, three “petitions requiring debate” at one meeting would take up a full hour, and six relevant petitions would take up two hours.

This could cause problems and compromise the time available for both routine business and business generated by the Opposition. It would therefore be helpful if the Order could provide that the petition scheme may specify a maximum period at any meeting to be taken up by petitions (which Guidance might acknowledge could reasonably be limited to 30 minutes per meeting), and that petitions which cannot be dealt with in the time available can then be dealt with as if they were “ordinary petitions” rather than petitions requiring debate” or “petitions to hold an officer to account”.

The consultation paper states that “a systematic review of evidence on empowerment found that when petitions are linked with decision making there are increased levels of empowerment”. However, many petitions are very likely to relate to matters which are the responsibility of the Executive, rather than Council: But Council will have no power to take an effective decision on the matter. Council can refer the matter to the Cabinet for decision, or to an Overview and Scrutiny Committee for review, but it cannot take an operative decision on the matter. Accordingly, for many petitions, there will be no direct link between the petition and the decision-maker.

Council members cannot be forced to debate a petition, especially where the petition relates to a matter over which they have no decision-making powers. Accordingly, Council should have the power in appropriate cases simply to refer the petition to the body or person who has the power to respond constructively to the petition, even if this means that no debate occurs at Council. In practical terms it is recognised that if a petition has been put before Council there will be members who feel that at least a public debate at a Council meeting would be appropriate

(b) Petitions to hold officers to account

The Act requires that the petition name the officer to be held to account and give grounds for the request which relate to the functions for which the officer is responsible. In practice, it is likely that in many cases the officer’s actions will be in the implementation of a member decision, whether a decision of Council, a Committee, a

Sub-Committee, Cabinet or an individual Cabinet Member. That being so the Scheme might best make provision too for an appropriate member to be required to participate in such a meeting.

Where any member of the Overview and Scrutiny Committee is of the opinion that the conduct of the named officer may amount to a disciplinary matter (either as misconduct or for lack of capability), the appropriate course would be to refer the matter immediately to the Chief Executive for disciplinary investigation, and it would then be inappropriate for the Overview and Scrutiny Committee to continue its consideration of the officer's conduct until any disciplinary process were completed.

The Act provides that the Chief Executive and Chief Officers must be open to "petitions to hold officers to account", but that each Council may extend this list of "relevant officers". The draft Guidance states that in practice this should be extended to heads of service. This is broadly consistent with the spirit of the Havering Constitution as currently applied.

(c) Appeal to Overview and Scrutiny Committee

In receiving an appeal by a petition organiser that the action taken by the Council on a petition has been inadequate, the Overview and Scrutiny Committee has no power to take an operative decision. It can make a recommendation to Council, a Committee, the Cabinet or an individual Cabinet Member (as appropriate) but it cannot over-ride the original decision.

(d) Signatures

The Act provides that petitions may be signed by persons who live, work or study in the Council's area. Had signatures for this purpose been limited to registered electors, it would have been relatively straight forward – though extraordinarily time consuming - for Councils to verify signatures. Verification of signatures on the basis suggested will be practically impossible for those who work or study in the area leaving the system open to abuse.

(e) Satisfaction with Council Services

The transition from Comprehensive Performance Assessment (CPA) to Comprehensive Area Assessment (CAA) includes measurement of public satisfaction with Council services. The number of standards complaints has already been taken as a proxy measure for the Council's ethical performance, even though this figure can be determined by matters outside the Council's control, such as local political tensions. Given the scope for different signature thresholds between authorities, and the use of petitions as a means of campaigning on particular issues, it is important that the number of

petitions and appeals should not be taken as a proxy measure for public satisfaction with Council services.

4 E-Petitioning

The arrangements for the electronic submission of petitions will require, among other things, that Councils will need to enable petitioners to add signatures to a petition electronically held by the Council. There are several issues around this, not least the issue of ensuring that the Council knows whether those signing are residents, or work or study in Havering. This will, in any event, require new software.

The DCLG is in dialogue with software providers so as to ensure that there will be software available to meet the Act's requirements. Some Councils have already put arrangements in place and there are three providers in the marketplace who, should the Act's provisions be enacted as they are immediately, could provide suitable software. A rough guide to prices shows the software cost plus training would be of the order of £3,000 to £5,000.

5 Next steps

It is suggested that the Council responds to the consultation as set out in Appendix 2.

Members might wish to note that the Council will need to adopt a petition scheme in due course. Any report on the Scheme would deal with any necessary officer authorisations. Administration of the process would fall to Democratic Services; and new software would have to be acquired in due course. It is not proposed to purchase any software until such time as there is certainty around the exact and precise requirements and the implementation date.

IMPLICATIONS AND RISKS

Financial implications and risks:

In due course additional funding will be needed for the procurement of a software package. The order of costs for the basic module is £3,000 to £5,000 and this would be funded from the contingency. There may well be annual licensing costs that would also have to be met. It is assumed that this will not be material and could be funded through the reprioritisation of existing budgets.

There would appear to be no other significant additional costs arising from the new duty at the present time. This will need to be reviewed once there has been a period of experience with the Act when the full implications, take up and actual extra workload can be determined.

Legal implications and risks:

Once the Regulations have been brought into effect, compliance with the requirements will be required.

Human Resources implications and risks:

There would appear to be no direct staffing implications at the present time, though this would need to be reviewed once there has been a period of experience with the Act.

Equalities implications and risks:

None emerging from the prospective responses to the consultation paper

BACKGROUND PAPERS

There are no background papers

Appendix One

Consultation questions and draft responses

Question 1:

Does the guidance clearly set out the key principles and requirements of the petitions duty?

Response

- A. The Act does not define what a “petition” is. So it would be useful if it said very simply something like a petition is a communication in writing or using an electronic facility which is “signed” by at least the number of qualifying persons as may be set out in a Council’s Petitions Scheme.

Question 2:

Are there any existing areas in the guidance which require further clarification?

Response

- A. The draft Guidance does not suggest a minimum threshold number of signatures for “ordinary petitions”. The Guidance might usefully set out that Councils which set a very low threshold (say, below 25) risk having to deal with an excessive number of petitions under the procedure laid down in their Petition Scheme, rather than being free to respond more rapidly and flexibly to the subject matter.
- B. The Guidance does not advise what degree of consideration is appropriate for Councils in respect of “petitions requiring debate” which relate to executive functions. Given that Council has no power to discharge such functions, the Guidance should say that it would be acceptable simply formally to refer the petition to the Executive for consideration and, in view of the petitioners’ expectations, debate the matter in public themselves.
- C. The suggestion that Councils might set different signature thresholds for different subject matters, including lower thresholds for “very local issues” (however such matters might be defined) demonstrates the difficulties of translating the general principle behind the legislation into a simple practical set of rules. The danger is that the Scheme becomes so complicated that it frustrates its overall purpose of providing the public with simple access to decision making on matters of general concern. The Guidance ought to give greater guidance to this point when in its final form

Question 3:

Are there any additional areas which you feel this statutory guidance should cover? If so, please state what they are and why you feel they should be included.

Response

- A. The regulations should provide that the Petition Scheme may specify a maximum period at any Council meeting to be taken up by petitions (which Guidance might acknowledge could reasonably be limited to 30 minutes per meeting), and that petitions which cannot be dealt with in the time available can then be dealt with as if they were “ordinary petitions” rather than petitions requiring debate” or “petitions to hold an officer to account”.
- B. A petition does not fall to be dealt with under the 2009 Act where it has been made in accordance with any other enactment. It would be helpful if the Guidance made it clear that a petition should also be excluded from the Act’s provisions if it is received in response to any statutory consultation, even though the relevant statutory provision does not specify that the response to consultation has to be in the form of a petition. This would apply, for example, where petitions are received in response to consultation on traffic orders.
- C. The Guidance should state that where a “petition requiring debate” is received, this should not preclude consideration of the subject matter of the petition by the Cabinet, a Cabinet Member, a Committee or Sub-Committee with responsibility for the matter, in advance of the Council meeting. Furthermore it ought also state that where such a person or body is able to take a decision on the matter in advance of the debate in Council, and the petition organiser agrees that the matter has been satisfactorily resolved, there should no longer be a requirement for a debate in Council.
- D. The Guidance might usefully suggest that, where a “higher tier authority” receives a “petition requiring debate” relating to a matter which is within the statutory responsibility of a partner authority, it might usefully invite a representative of the partner authority to attend and speak at full Council in response to the petition.
- E. The Guidance could usefully cover the position where the Council receives two or more petitions on the same issue, and advise that where the import of such petitions are similar, the Council should be able to treat those petitions as if they in aggregate amounted to just one “petition requiring debate”.

No comments are suggested on questions 4 to 8

Question 4:

Are there any additional areas which, while not appropriate for statutory guidance, you would like to see covered by the expert practitioners in their sector-led guidance?

Question 5:

Are there any areas covered in this statutory guidance which you feel would be more appropriately covered by the expert practitioners in their sector-led guidance? If so, please state what they are and why you feel they should be addressed in this way.

Model scheme

Question 6:

Do you think the model scheme is clearly expressed and easy for people to use? Please explain your reasons.

Question 7:

Do you think the standards set out in the model scheme are achievable and appropriate to citizens' expectations?

Question 8:

Do you think there is anything that should be added to the model scheme?

Questions 9 and 10 deal with comments on the Draft order which is included in the consultation paper. It is suggested that the comments here on the draft guidance apply also for the most part to the Order. Rather than tailor the comments for that specific purpose, any response to the DCLG make it clear that should the guidance not pick up the Council's comments, then consideration should be given to the comments being treated as comments on the Draft order

Additional questions – Next steps

Question 11:

Following on from this consultation, what do you consider the most appropriate timescale for bringing the petitions duty into force? Please explain your reasons.

Response

The provisions should be introduced after allowing for proper consideration of responses received, after consultation then on a revised draft order, and to take effect so as to enable Councils to consider a draft petition scheme properly and then for Councils to adopt a new petition scheme at or immediately following its Annual Meeting. In practice, this makes it very tight to implement for May 2010.

In practice, there would be merit in enabling authorities to introduce both petition scheme and e-petition facility at the same time. There is merit in publishing the final order and Guidance before May 2010 but not bringing in the requirement into effect until afterwards.

Question 12:

Initial discussions with both the local government and technology sector indicate that it would be wise to stagger the implementation of the e-petition element of the duty, bringing the e-petition requirements into force 12 months after the other elements of the duty are commenced. Do you agree? Please explain your reasons.

Response

In view of the technology sector's view on this, it might be as well to stagger implementation. Among other things this will allow a possible further maturation of the market regarding this kind of software as developers come to better understand the requirements.

Annex A

Draft model scheme

In order to demonstrate how the framework set out in the 2009 Act can translate in practice we have created a model scheme which local authorities can choose to adopt or adapt. The example below is based on an authority with a population of 150,000 and is the public facing information about their petition scheme published on their website. The model authority has chosen to respond to all the petitions it receives. Petitions which contain 1500 signatures will be debated by the full council and petitions which call for evidence from a senior officer, and have 750 signatures, will trigger that response. [‘link’ indicates where the council’s webpage includes a link to related information]

Petitions

The council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the council will receive an acknowledgement from the council within 14 days of receipt. This acknowledgement will set out what we plan to do with the petition.

Paper petitions can be sent to:

[insert address]

Or be created, signed and submitted online by following this link [link]

Petitions can also be presented to a meeting of the council. These meetings take place on a monthly basis, dates and times can be found here [link]. If you would like to present your petition to the council, or would like your councillor to present it on your behalf, please contact [insert name] on [insert phone number] at least 5 working days before the meeting and they will talk you through the process.

What are the guidelines for submitting a petition?

Petitions submitted to the council must include

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take
- the name and address and signature of any person supporting the petition

Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. If a petition does not follow the guidelines set out above, the council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

What will the council do when it receives my petition?

An acknowledgement will be sent to the petition organiser within 14 days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply. Further information on all these procedures and how you can express your views is available here [insert links]

We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

To ensure that people know what we are doing in response to the petitions we receive the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed). When you sign an e-petition you can elect to receive this information by email. We will not send you anything which is not relevant to the e-petition you have signed, unless you choose to receive other emails from us. [link to account settings]

How will the council respond to petitions?

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by the council’s overview and scrutiny committee*
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition

*Overview and scrutiny committees are committees of councillors who are responsible for scrutinising the work of the council – in other words, the overview and scrutiny committee has the power to hold the council’s decision makers to account.

In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in a petition. The table below gives some examples.

Petition subject	Appropriate steps
Alcohol related crime and disorder	If your petition is about crime or disorder linked to alcohol consumption, the council will, among other measures, consider the case for placing restrictions on public drinking in the area by establishing a designated public place order or, as a last resort, imposing an alcohol disorder zone. When an alcohol disorder zone is established the licensed premises in the area where alcohol related trouble is being caused are required to contribute to the costs of extra policing in that area. The council’s response to your petition will set out the steps we intend to take and the reasons for taking this approach.

Petition subject	Appropriate steps
Anti-social behaviour (ASB)	<p>As the elected representatives of your local area, as social landlord and licensing authority, the council plays a significant role to play in tackling anti-social behaviour. The council, in conjunction with our partners in the local crime and disorder partnership have set out minimum service standards for responding to issues of anti-social behaviour, you can find more details about these standards here [insert link].</p> <p>When responding to petitions on ASB, we will consider in consultation with our local partners, all the options available to us including the wide range of powers and mechanisms we have to intervene as part of our role as social landlord and licensing authority. For example, we will work with the neighbourhood policing team in the affected area to identify what action might be taken, consider identifying a dedicated contact within the council to liaise with the community and neighbourhood partners on issues of ASB in the area in question and, where appropriate, we will alert the crime and disorder reduction partnership and crime and disorder overview and scrutiny committee to the issues highlighted in the petition.</p>
Under-performing schools	<p>We will consider, in consultation with local partners, all the options available to us when working with schools to secure their improvement. For example, on our behalf, the school improvement partner (SIP) will play a pivotal role, challenging and brokering support for poorly performing schools. Where a school is under performing we will consider whether it is appropriate in the circumstances to issue a warning notice outlining expectations and a timeframe for the school to improve its performance standards. Other measures available to us, where schools fail to comply with a warning notice or are in an Ofsted category of notice to improve (requiring significant improvement) or special measures including; appointing additional governors, establishing an interim executive board, removal of the school's delegated budgets, requiring the school to enter into a formal contract or partnership or, only if the school is in special measures, closure.</p>

Petition subject	Appropriate steps
Under-performing health services	We will work with local health partners to consider the matter raised in the petition including, where appropriate, exploring what role the Local Involvement Network (LINK) might have in reviewing and feeding back on the issue (the LINK is run by local individuals and community groups and independently supported – their role to find out what people want in terms of local health services, monitor those services and to use their powers to hold them to account). The health overview and scrutiny committee will also be alerted to the petition and where the matter is sufficiently or potentially serious, the issue will be referred to them to consider for review.

If your petition is about something over which the council has no direct control (for example the local railway or hospital) we will aim to make representations on behalf of the community to the relevant body. The council works with a large number of local partners [link to list of LAA partners] and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then we will set out the reasons for this to you. You can find more information on the services for which the council is responsible here [link].

If your petition is about something that a different council is responsible for we will give consideration to what the best method is for responding to it. It might consist of simply forwarding the petition to the other council, but could involve other steps. In any event we will always notify you of the action we have taken.

Full council debates

If a petition contains more than 1,500 signatures it will be debated by the full council unless it is a petition asking for a senior council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes. The council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

Officer evidence

Your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If your petition contains at least 750 signatures, the relevant senior officer will give evidence at a public meeting of the council's overview and scrutiny committee. A list of the senior staff that can be called to give evidence can be found here [insert link]. You should be aware that the overview and scrutiny committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the committee by contacting [insert details] up to three working days before the meeting.

E-petitions

The council welcomes e-petitions which are created and submitted through our website [link]. E-petitions must follow the same guidelines as paper petitions [link to guidelines]. The petition organiser will need to provide us with their name, postal address and email address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for six months, but you can choose a shorter or longer timeframe, up to a maximum of 12 months.

When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature.

If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 14 days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.

When an e-petition has closed for signature, it will automatically be submitted to [insert details]. In the same way as a paper petition, you will receive an acknowledgement within 14 days. If you would like to present your e-petition to a meeting of the council, please contact [insert details] (details above) within five days of the petition closing.

A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on this website.

How do I 'sign' an e-petition?

You can see all the e-petitions currently available for signature here [insert link].

When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your 'signature' will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the council's overview and scrutiny committee review the steps that the council has taken in response to your petition.

The committee will consider your request within 30 days of receiving it. Should the committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the council executive and arranging for the matter to be considered at a meeting of the full council.

Once the appeal has been considered the petition organiser will be informed of the results within seven days. The results of the review will also be published on our website.

Consultation questions – Model scheme:

Question 6:

Do you think the model scheme is clearly expressed and easy for people to use? Please explain your reasons.

Question 7:

Do you think the standards set out in the model scheme are achievable and appropriate to citizens' expectations?

Question 8:

Do you think there is anything that should be added to the model scheme?



GOVERNANCE COMMITTEE

REPORT

19 JANUARY 2010

Subject Heading:

APPOINTMENT OF MEMBERS TO
OTHER ORGANISATIONS – further
report

CMT Lead:

Christine Dooley, Assistant Chief
Executive/Monitoring Officer

Report Author and contact details:

Ian Buckmaster, Committee
Administration Manager
01708 432431

ian.buckmaster@havering.gov.uk

Policy context:

The Council appoints members of certain
local charitable bodies.

Financial summary:

There are no direct costs associated with
this review

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input checked="" type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input type="checkbox"/>

HORNCHURCH HOUSING TRUST

The Council appoints the six Trustees of the Hornchurch Housing Trust. Each serves for a (renewable) four year term, with pairs of trustees retiring in successive years. Trustees do not need to be Members of the Council.

The terms of office of Mr Ivor Cameron and Mrs Peggy Munday have recently expired. It is understood that both are willing to be re-appointed for a further four year term.

RECOMMENDATION

That two Trustees be appointed to the Hornchurch Housing Trust for the term expiring in February 2013.

Governance Committee, 19 January 2010

GOVERNANCE COMMITTEE

REPORT

19 JANUARY 2010

Subject Heading:

CMT Lead:

Report Author and contact details:

Policy context:

Financial summary:

REVIEW OF THE COUNCIL'S
CONSTITUTION – Part 4: Rules of
Procedure for Committee Meetings

Christine Dooley, Assistant Chief
Executive/Monitoring Officer

Ian Buckmaster, Committee
Administration Manager

01708 432431

ian.buckmaster@havering.gov.uk

The Council's Constitution is being
reviewed prior to the introduction of new
executive arrangements in May 2010

There are no direct costs associated with
this review

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input checked="" type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

This is the sixth report arising from the review of the Council's Constitution. It concerns the Committee Procedure Rules in Part 4 of the Constitution (which sets out in detail the Rules governing various procedures relating to the governance of the Council). These Rules deal with the way in which Committee meetings are conducted (and are commonly known as "Standing Orders").

Future reports on other components of Part 4 will deal with other procedural matters.

RECOMMENDATIONS

- 1 That the Committee consider the various issues referred to in the report and determine what, if any, changes are to be made to the draft text of the appended component of Part 4.
- 2 That the draft, as (if) amended, be approved as the revised component of Part 4.
- 3 That the Committee **RECOMMEND** to Council that the revised first component of Part 4 be adopted.

REPORT DETAIL

- 1 At its meeting in September 2009, the Committee set up a Working Group of Members and Officers to review the Council's Constitution. This is the third report arising from the work of that Working Group, and deals with the a component of Part 4 of the Constitution, which contains a range of Rules governing various aspects of the Council's internal governance. This first component deals with the conduct of meetings of the Council's Committees.
- 2 Other components of Part 4 will be the subject of separate reports in the future.
- 3 The text of this component of Part 4 is appended. The characters in highlighted italics are cross-references to other parts of the Constitution, where the numbers etc may change in the course of the later stages of the review. When the whole text is finalised, these numbers will be corrected.
- 4 The Working Group have identified issues to refer to this Committee for to consideration in detail, as follows:
 - (a) In Rule 1(b), there is reference to the Chairman of a Committee consulting its Members before agreeing to a change of date, etc. It has been suggested that, since it may not always be possible or practicable to consult in detail on such issues, the requirement be dispensed with.

The Committee is requested to consider the point.

- (b) Rule 7(b) requires that all votes be recorded. A suggestion was made, however, that votes at meetings of the Appointments Committee should not be recorded because of the special circumstances of those meetings.

The Committee is requested to consider the point.

- (c) Rule 8(b) expresses an expectation that Members who requisition an Executive Decision should attend the Overview & Scrutiny Committee meeting at which it is considered.

As this is a new requirement, the Committee is asked specifically to confirm that it be included.

- (d) **Special Rule 6 expresses an** expectation that Members who are appointed to certain Committees will undertake relevant training within six months of, if not before, being appointed.

As this is a new requirement, the Committee is asked specifically to confirm that it be included

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no significant financial implications or risks arising from this exercise. The cost of reproducing the new Constitution will be met from existing budget provision.

Legal implications and risks:

The Council has a legal obligation to adopt a Constitution and to keep it under review. The new executive arrangements effective from May 2010 require extensive review to be undertaken.

Human Resources implications and risks:

There are none.

Equalities implications and risks:

The purpose of the Constitution is to assist the community to understand how the Council works and to make its processes and procedures accessible.

BACKGROUND PAPERS

There are none.

Committee Procedure Rules

1 Ordinary meetings of committees

(a) An ordinary meeting of a committee shall begin at 7.30pm (or such other time as the Chairman may agree shall be specified in the agenda) on the date specified for that meeting in the schedule of meetings published annually, and shall be held at Havering Town Hall or such other place as may be specified.

(b) The Chairman of a committee may, following consultation with its members, agree to a variation of the date, time or place of meeting or its cancellation, as appropriate.

(c) The Committee Administration Manager shall publish a schedule of meetings for each municipal year. Subject to the provisions of this Rule and of Rule 4 following, all meetings shall be convened in accordance with the schedule.

2 Conduct of meeting

(a) The Chairman of a meeting shall have power to exercise the powers conferred on the Mayor in relation to the conduct of meetings of the Council.

(b) The Chairman may vary the order of the agenda where it is necessary to do so for the proper conduct of the business of the meeting. Where the Chairman is of the opinion that there is insufficient information available to the committee to enable a proper decision to be reached, consideration of the report in question may be deferred to a future meeting.

(c) The Chairman's ruling in relation to any aspect of the conduct of the meeting shall not be questioned.

3 Special meetings of committees

(a) The Chairman of a committee may direct the Chief Executive to summon a special meeting of the committee at any time.

(b) A special meeting shall also be summoned on the requisition in writing of a quarter of the members of the committee, delivered to the Chief Executive not less than fourteen days before the date of the next ordinary meeting of the committee, specifying the business to be considered at the special meeting.

(c) No business other than that specified by the Chairman or in the requisition when the meeting is convened shall be considered at that meeting, which shall be held before the next ordinary meeting of the committee on a date and time, and at a place, to be fixed by the Chairman.

4 Quorum of committees

- (a) No business shall be done at any committee meeting unless a quorum is present, or there is authority by law to continue or the Council or, in the case of a Sub-Committee, the parent committee have so ordered.
- (b) Subject to any provision in law, or unless these rules provide, or the Council agree, otherwise in any particular case, the quorum is one third of the whole number of the committee or sub-committee or other body, but must not be less than three members in the case of a committee, nor less than two members in the case of a sub-committee or other body.

5 Appointment of Chairman and Vice-Chairman of committees

- (a) The Chairman and Vice-Chairman of committees and sub-committees (other than the area committees) shall be appointed by the Council, and shall hold office until the next annual meeting of the Council
- (b) (i) The Chairman of each area committee shall be elected by that committee and shall hold office until the first meeting of the area committee after the next annual meeting of the Council. If at its first meeting an Area Committee does not make an appointment, Council shall be so notified at its next meeting and shall either
 - (1) Make the appointment from among the Area Committee's membership, or
 - (2) Empower the Area Committee to make the appointment at a second or subsequent meeting.
- (ii) The election of Chairman shall be the first item of business to be transacted at the meeting. If present and eligible, the Member who was Chairman for the preceding municipal year shall take the Chair during that election. In the absence of the out-going Chairman, the election shall be conducted by the senior Committee Officer present at the meeting.
- (iii) *The Vice-Chairman of each area committee shall be elected by that committee and shall hold office until the first meeting of the area committee after the next annual meeting of the Council .*

- (c) If the Chairman is unable to preside at a particular meeting of the committee, the Vice-Chairman will preside; if neither Chairman nor Vice-Chairman is able to be present, the committee shall elect another member to preside.
- (d) In the event of the appointed member becoming unable to act, or of a casual vacancy arising, then until either that member is able to resume the appointment, or a successor is appointed by the Council (or, as the case may be, by the Area Committee):
 - (i) in the absence of a Chairman, the Vice-Chairman shall act as Chairman
 - (ii) in the absence of both Chairman and Vice-Chairman, the leader of the group of which the Chairman is or was a member shall nominate a member of the Committee to act as Chairman.
- (e) Where two more Committees meet jointly, the chair shall be taken by whichever of the Chairmen of those Committees is appointed by the Committees so to act.

7 Voting in committee

- (a) All questions in committee shall be determined by a majority of members present and entitled to vote. Voting shall be by use of the voting equipment (if available), or by show of hands.
- (b) With the exception of voting at meetings of the Appointments Committee, all votes shall be recorded.
- (c) Where two or more Committees meet jointly:
 - (i) A separate vote shall be taken by each Committee and recorded accordingly
 - (ii) Any Member who is a Member of more than one Committee (whether as an appointed Member or as substitute for an appointed Member) shall be entitled to participate in the voting by each of the Committees of which he is a Member.
- (d) If more than two people are nominated for any position to be filled the votes will be recorded as between those nominated and the Member gaining the greatest number of votes shall be declared the nominee. In the event that there is an equality of votes then the Chairman may exercise a casting vote.

This rule shall not be suspended.

8 Attendance at committees

(a) Mover of motion referred to committee

A member who has moved a motion at a meeting of the Council which has been referred to any committee shall have notice of the meeting at which it is proposed to consider the motion and, if the member attends, shall have an opportunity of introducing it.

(b) Requisition of Executive Decision to Overview & Scrutiny Committee

Members who have signed a requisition of an Executive Decision to an Overview & Scrutiny Committee shall have notice of the meeting at which it is proposed to consider the requisition and shall be expected to attend the meeting to explain the reasons for the requisition.

(c) Member not appointed to Committee

A member of the Council who has not been appointed to a particular committee may nevertheless attend its meetings and, with the agreement of the Chairman, speak. The Chairman's agreement shall not, however, be required in the case of a Group Leader.

This rule shall not apply to meetings of Hearings Panels, Sub-Committees of the Licensing or Standards Committees or where the rules of natural justice, human rights, compliance with the Members' Code of Conduct or similar legal principles prevent a Member from attending.

(c) Substitute members

(i) Where a council member of a committee is listed as a member of a political group for the purpose of allocation of seats, all other listed eligible members of that group who are not members of that committee are appointed as substitute members with entitlement to attend, speak and vote in the event that the appointed member is absent from the meeting. Only the first eligible substitute so to declare at the meeting may replace an absent member. The identities of the substitute and of the substituted members shall be declared at the outset of the meeting and recorded in the minutes.

- (ii) For the purposes of this rule, a meeting which has commenced on one date and re-convenes following adjournment on a different date shall be treated as two separate meetings so as to allow for the possibility of different attendance on the different dates.

(d) **Members of the public wishing to address the Committee**

The Chairman has discretion to permit one or more members of the public to address the Committee on a matter before it, provided he is satisfied that to do so will assist the Committee in coming to a decision on that matter. In giving such permission, the Chairman may attach such conditions (including as to the time permitted for that address) as he thinks fit.

This rule shall not apply to the Standards Committee when hearing a complaint or to Hearings Panels, Sub-Committees of the Licensing and Standards Committees or where the rules of natural justice, human rights or similar legal principles prevent such an address.

9 **Conclusion of meetings**

- (a) Meetings of the Appointments Committee when interviewing applicants prior to making an appointment to a post, Standards Committee when hearing a complaint, Hearings Panels, and Sub-Committees of the Licensing Committee shall finish at such time as the committee or panel shall agree. The remainder of this rule shall not apply to those meetings.
- (b) As soon as two and a half hours (including any time spent in adjournment) have elapsed from the beginning of any other meeting:
 - (i) the business of the meeting will continue only until the end of the item being considered.
 - (ii) at that point the Chairman will propose a procedural motion to suspend this rule and extend the finishing time of the meeting.
 - (iii) if the procedural motion is lost the Chairman will then call for a vote immediately on any items remaining and votes will then be taken in the usual way on those items without further discussion.
- (c) If it is necessary to adjourn and reconvene in order to complete the business of the meeting, such adjournment shall be to a date, time and place to be fixed by the committee in question, or failing that, by the Chairman.

10 **Definitions**

In these rules, unless the context indicates otherwise, the term “committee” includes any committee, sub-committee, panel or working party of Councillors or predominately of Councillors appointed by the Council (other than the Cabinet and any committee of the Cabinet).

This rule shall not be suspended.

11 **Suspension of Rules**

All of these Rules may be suspended for the duration of a meeting by motion without notice, except where a Rule is noted as not being capable of suspension.

Rules for specific meetings

These Rules may not be suspended

1 Sub-Committees of the Licensing Committee and Hearings Panels of the Adjudication & Review Committee:

(a) Membership

Membership of Sub-Committees and Hearings Panels is open only to members of the respective Committees. Rule 8(c) (attendance of substitute members) shall not apply to such Sub-Committees or to Hearings Panels.

In constituting the membership of a Sub-Committee or Hearings Panel for a particular hearing, regard shall be had to the following principles:

- (i) each hearing shall be Chaired by either the Chairman or a Vice-Chairman of the appointing Committee (unless none of them is available)
- (ii) a Sub-Committee or Panel shall comprise members who neither represent, nor have a connection with, the appellant or complainant, the ward in which the appellant or complainant resides or in which any premises concerned are located
- (iii) so far as practicable, the members shall include one male member and one female member
- (iv) the political balance rules shall not apply to the composition of a Sub-Committee or Hearings Panel.

(b) Independent persons

Where an independent person is included in the membership of a Sub-Committee or Hearings Panel, that independent person shall have no connection with the appellant or complainant, the ward in which the complainant or appellant resides or in which any premises concerned are located.

Except where required otherwise by law, the quorum for a meeting shall not include an independent person, and a hearing may proceed even though the independent person is absent.

2 Area committees

(a) Nature of business

Only business concerning the whole or part of the area shall be discussed at a meeting of an area committee, unless the Council directs, or the Chairman agrees, that a specific matter shall be considered.

This shall not preclude discussion of matters that relate to the whole or a substantial area of the borough that are to be discussed by all affected Area Committees, nor that relate to a neighbouring Area Committee where the matter in question may also affect the Area Committee.

(b) Executive business

Where business discussed at a meeting of an area committee arises from the delegation of functions by the Leader, the written report to, and minutes of, the meeting shall indicate that fact.

3 Pensions Committee

The bodies that are Scheduled or Admitted Bodies of the Havering Pensions Fund for the purposes of the Local Government Pensions Scheme are entitled between them to nominate a representative who shall be co-opted to serve on the Committee in a non-voting capacity.

The trade unions representing staff who are members of the Council's pension fund may between them appoint two representatives who shall be entitled to attend and speak at meetings of the Pension Committee, but not to vote. The representatives shall be entitled to remain should the public be excluded on the grounds that exempt information is to be considered.

4 Regulatory Services Committee

(a) Where one or more objections have been received to an application, the objector(s) shall have an opportunity to address the committee before the application is determined. Any objector wishing to make an address must notify the Head of Development and Building Control not less than three days before the meeting at which the objection is to be held.

(b) If there is more than one objector, they shall be invited to agree among themselves before the meeting who shall speak for them all; in the event that no agreement can be reached, the Chairman shall draw lots to determine who shall speak.

- (c) If an objector speaks against an application, the applicant or their designated representative shall be entitled to respond.
 - (d) Addresses by both objector and applicant shall not exceed four minutes or such lesser time as the Committee by resolution, either generally or in relation to a specific application, may agree.
- (a) Any request for call in by a Member must be received by the Head of Development and Building Control in writing (to include e-mail and facsimile) and setting out detailed reasons for the call in which must be related solely to matters of material planning concern. Any Member of the planning committee calling in a matter must take care to express themselves in a manner which would not amount to bias or pre-determination should they intend to take part in the meeting.
 - (b) A Councillor calling in a planning matter should attend the Planning Committee or appoint a substitute to explain the reasons for the call in.
 - (c) A Councillor calling in an application or speaking as a Ward Councillor on an item shall be limited to four minutes in addressing the Planning Committee.
 - (d) Speeches by Ward Councillors should not involve a cross examination of staff but Members of the Committee may seek clarification from staff.

5 Standards Committee

- (a) The Committee and any Sub-Committee shall be inquorate unless at least one Independent Person who has been appointed to the Committee is present. The chair at every meeting of the Committee or of any Sub-Committee shall be taken by an Independent Member.
- (b) The following specific rules shall apply to meetings at which the Committee or one of its Sub-Committees is considering a complaint against a particular Member ("complaints meetings"). For the avoidance of doubt, the general rules of committee procedure shall apply to meetings of the Committee at which general business is conducted.
 - (i) Rule 8(c) (attendance of substitute members) shall not apply to complaints meetings.
 - (ii) Complaints meetings shall be conducted in accordance with procedures from time to time adopted by the Standards Committee for the hearing of complaints.

6 Training and continuity of membership of certain committees

In the interests of business continuity, each Group and Group Leader shall ensure that any Member appointed to a place allocated to that Group on the each of the Committees referred to in the following table shall have received, or shall within six months of appointment receive, training appropriate to its membership.

Each Group and Group Leaders shall strive to avoid making changes to their representation on the Committees referred to in the table for as long as possible and shall accordingly seek to ensure that their members remain on the particular committee for the period indicated:

Committee	Period
Adjudication and Review	At least two years
Audit	Full four year term
Licensing	At least two years
Pensions	Full four year term
Regulatory Services	At least two years
Standards	At least two years

For the Audit, Pensions, Regulatory Services and Standards Committees, Groups shall nominate members other than those appointed to the respective Committees to be “designated substitutes”, to attend a meeting in the event that an appointed member is unable to do so. “Designated substitutes” shall participate in the same training opportunities as appointed members.

This rule shall operate without prejudice to the ability of the Council and the Standards Committee to require changes in membership where to do so is appropriate for other reasons, or to comply with statutory requirements.

APPENDIX

RULES AND CONVENTIONS FOR AREA COMMITTEES

1. Area Committee meetings be treated as just one element of community engagement and be used as a means by which community engagement can be promoted.
2. Area Committees will be constituted under the Local Government Act 1972 and will have the purpose set out in Article 10 of Part 2 of the Constitution (as revised).
3. There will be nine Area Committees, each covering two electoral wards as set out in Article 10 of Part 2 of the Constitution (as revised).
4. Each Area Committee will decide where its meetings will be held. The venue may be fixed, or the Committee may decide to meet at different locations within the Area for successive meetings.
5. Ordinary Area Committee meetings will start at 7.30pm.
6. Area Committees will meet four times a year, but will have the facility for holding special meetings. The Chairman may also arrange informal meetings of the Area Committee, alone or jointly with others, where to do so is conducive to dealing with particular items of business.
7. Area Committees should and can –
 - (a) consult the public to inform the decision makers;
 - (b) be used for the Council to inform the public;
 - (c) be used for non-Council agencies to inform or consult;
 - (d) be entitled to specifically invite appropriate people or organisations to meetings.
8. Area Committee Chairmen –
 - (a) operate under the Job Description, as agreed from time to time by the Governance Committee;
 - (b) take the role of steering committee and collective Member activity, and
 - (c) be required to report to each area committee meeting on their activities since the last meeting as well as an annual report to be submitted to the last ordinary meeting of the Committee of the Municipal Year.
9. In respect of Public Question Time -
 - (a) 30 minutes be allocated for questions from the public at each ordinary meeting, with the Chairman having discretion to modify that length of time, as the first part of the Agenda;
 - (b) Area Committee Chairman be responsible for dealing with questions and co-ordinate their replies.

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10. Area Committee Members appointed to area-specific bodies on behalf of the Area Committee by the Governance Committee be required to report to the Area Committee at least once a year on their activities.
11. Area Committees shall –
 - (a) make decisions in respect of traffic matters or (the parameters to be defined) from time to time by the Governance Committee to be recommendation-makers to those taking the decisions;
 - (b) be allocated a budget of £5,000 and be delegated authority to spend on minor locally-focused environmental initiatives (on the basis of criteria established by the Governance Committee from time to time).
 - (c) be entitled to bid for an allocation from a £45,000 budget held on behalf of Cabinet, such bid to be accompanied by a business case

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GOVERNANCE COMMITTEE

REPORT

19 JANUARY 2010

Subject Heading:

CMT Lead:

Report Author and contact details:

Policy context:

Financial summary:

REVIEW OF THE COUNCIL'S
CONSTITUTION – Part 4: Rules of
Procedure for Council Meetings

Christine Dooley, Assistant Chief
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The Council's Constitution is being
reviewed prior to the introduction of new
executive arrangements in May 2010

There are no direct costs associated with
this review

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input checked="" type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

This is a further report arising from the review of the Council's Constitution. It concerns the Committee Procedure Rules in Part 4 of the Constitution (which sets out in detail the Rules governing various procedures relating to the governance of the Council). These Rules deal with the way in which (full) Council meetings are conducted (and are commonly known as "Standing Orders").

Future reports on other components of Part 4 will deal with other procedural matters.

RECOMMENDATIONS

- 1 That the Committee consider the various issues referred to in the report and determine what, if any, changes are to be made to the draft text of the appended component of Part 4.
- 2 That the draft, as (if) amended, be approved as the revised component of Part 4.
- 3 That the Committee **RECOMMEND** to Council that the revised first component of Part 4 be adopted.

REPORT DETAIL

- 1 At its meeting in September 2009, the Committee set up a Working Group of Members and Officers to review the Council's Constitution. This is the third report arising from the work of that Working Group, and deals with the a component of Part 4 of the Constitution, which contains a range of Rules governing various aspects of the Council's internal governance. This first component deals with the conduct of meetings of the (full) Council.
- 2 Other components of Part 4 will be the subject of separate reports in the future.
- 3 The text of this component of Part 4 is appended. The text at 11.9 (iii) (amendments to motions at Budget meetings) reflects the current Rules but may be subject to separate recommendations for change at a later date.
- 4 The Working Group have identified several issues to refer to this Committee for to consideration in detail, as follows:

(a) Rule 9.1 – conduct of business

The Working Group considered whether specific times should be set aside at Council meetings for particular business (building on the long-standing provision to restrict Members' question time ordinarily to 30 minutes).

A possible approach is set out in the text.

The Committee is requested to consider whether to recommend that such provision be made, or that the existing approach – that business takes as much time as it needs, within the overall time limit – should continue.

- (b) The current Rules specify a timetable for the construction of the agenda for Council meetings by reference to “days before the meeting” in narrative form. Customarily, this timetable is set out in a tabular form published in Calendar Brief about a month before the meeting to which it refers and then subsequently, as a reminder, at the end of the Initial and Revised agendas.

The tabular format is easier to follow than the narrative version. The Working Group considered that the tabular should replace the narrative.

The Committee is asked to confirm that the tabular approach is preferred for future use.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no significant financial implications or risks arising from this exercise. The cost of reproducing the new Constitution will be met from existing budget provision.

Legal implications and risks:

The Council has a legal obligation to adopt a Constitution and to keep it under review. The new executive arrangements effective from May 2010 require extensive review to be undertaken.

Human Resources implications and risks:

There are none.

Equalities implications and risks:

The purpose of the Constitution is to assist the community to understand how the Council works and to make its processes and procedures accessible.

BACKGROUND PAPERS

There are none.

COUNCIL PROCEDURE RULES

Rule CONTENTS

1. Annual meeting of the Council
2. Ordinary meetings
3. Council Tax setting meeting
4. Extraordinary meetings
5. Time and place of meetings
6. Notice of and summons to meetings
7. Chairman of meeting
8. Quorum
9. Duration of meeting
10. Questions by members
11. Motions on notice
12. Motions without notice
13. Rules of debate
14. Previous decision and motions
15. Voting
16. Minutes
17. Exclusion of public
18. Members' conduct
19. Disturbance by the public
20. Suspension and amendment of Council Procedure Rules
21. Audio-Visual aids
22. Recording of proceedings
23. Petitions
24. Conferment of Awards for Eminent Service
25. Interpretation

1. ANNUAL MEETING OF THE COUNCIL

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will normally take place in May but may, if the Council so agrees, take place in March or April.

The annual meeting will:

- (i) choose a Member to preside if the Mayor is not present and to receive apologies for absence;
- (ii) elect the Mayor of the Borough and receive notice of the appointment of the Deputy Mayor;
- (iii) approve the minutes of the last meeting and of any subsequent extraordinary meeting;
- (iv) receive any announcements from the Mayor and/or Chief Executive;
- (v) in a year when there is an ordinary election of Councillors, elect the Leader of the Council, and receive notice of the appointment of the Deputy Leader of the Council and the Members of the Cabinet
- (vi) other than in a year when there is an ordinary election of Councillors, consider whether to confer on any person of distinction or who has rendered eminent service to the borough the Honorary Freedom of the Borough
- (vii) appoint the overview and scrutiny committees, the Standards Committee and any such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions; appoint (other than for area committees) their Chairmen and Vice Chairmen and appoint the following seven Champions:
 - for Diversity
 - for the Historic Environment
 - for the 14-19 Diploma Scheme
 - for the Over Fifties
 - for Standards
 - for the Voluntary Sector Compact
 - for Younger Persons

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- (viii) deal with any consequential or other amendments to Rules, delegations or powers and duties, financial regulations, or the scheme for the payment of allowances to members that may only be determined by the Council;
- (ix) consider any business set out in the notice convening the meeting relating to policy or budgetary matters;
- (x) receive a statement by (or on behalf of) the Leader of the Council relating to any aspect of the Council policy or in respect of any issue affecting the Council or the borough.

The Initial, Revised and Final Agendas for the Annual Meeting, and any papers or other submissions for consideration at that meeting, shall be delivered in accordance with Timetable 1 appended to these Rules.

2. **ORDINARY MEETINGS**

Ordinary meetings of the Council will take place in accordance with a programme decided by the Council at the last ordinary meeting of the preceding municipal year. Ordinary meetings will:

- (i) choose a Member to preside if the Mayor is absent and to receive apologies for absence;
- (ii) approve the minutes of the last meeting and of any subsequent extraordinary meeting;
- (iii) receive any declarations of interest from members;
- (iv) at the first ordinary meeting after the Annual Meeting immediately following an ordinary election of Councillors, consider whether to:
 - (a) confer on any former Member who has rendered eminent service to the Council the office of Honorary Alderman;
 - (b) to present to any other Member a certificate of service; and
 - (c) confer on any person of distinction or who has rendered eminent service to the borough the Honorary Freedom of the Borough
- (v) receive any announcements from the Mayor, the Leader of the Council and/or the Chief Executive;
- (vi) receive any petitions pursuant to rule 24;
- (vii) receive and consider the following business, in the order indicated:
 - (a) recommendations from the Cabinet and the Council's committees;

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- (b) reports of the Chief Executive, Monitoring Officer or Chief Finance Officer;
 - (c) proposals from the Cabinet in relation to the Council's budget and policy framework;
 - (d) reports of the overview and scrutiny committees and/or the Member Champions;
 - (e) any statutory or other plans submitted for the Council's approval;
 - (f) at the last ordinary meeting in the Municipal year, approve a programme of ordinary meetings of the Council for the following year;
 - (g) any motions relating to the appointment of Chairmen or Vice-Chairmen of Committees (which shall be submitted in accordance with Rule 11 following);
- (viii) receive reports for the previous year from the Chairmen of the Overview and Scrutiny Committees, the Audit Committee, the Standards Committee and the Pensions Committee:
- (a) except in the year when there are Borough Elections, at the first ordinary meeting in the Municipal Year; and
 - (b) in the year when there are Borough Elections, at the last ordinary meeting before those elections;
- (ix) at the second ordinary meeting of each Municipal Year, receive reports for the previous year from the Member Champions;
- (x) consider questions from members submitted in accordance with Rule 10;
- (xi) consider any motions submitted in accordance with the procedure set out in Rule 11; and
- (xii) consider any other business specified in the summons to the meeting.

The Initial, Revised and Final Agendas for an ordinary meeting, and any papers or other submissions for consideration at that meeting, shall be delivered in accordance with Timetable 2 appended to these Rules.

3. COUNCIL TAX SETTING MEETING

At the meeting at which the Council Tax for any year is to be set, the order of business shall be:

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- (i) to choose a Member to preside if the Mayor is absent and to receive any other apologies for absence;
- (ii) to approve the minutes of the last ordinary meeting of the Council and of any subsequent extraordinary meeting that may have been held;
- (iii) to receive any announcements by the Mayor and/or the Leader of the Council;
- (iv) to consider proposals from the Cabinet in relation to the Council's budget and any reports of the overview and scrutiny committees in respect of those proposals;
- (v) to agree the Council's budget; and
- (vi) to set the council tax.

The Initial, Revised and Final Agendas for the Council Tax setting meeting, and any papers or other submissions for consideration at that meeting, shall be delivered in accordance with Timetable 3 appended to these Rules.

4. EXTRAORDINARY MEETINGS

4.1 Calling extraordinary meetings

Those listed below may request the Proper Officer to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Mayor;
- (iii) the Monitoring Officer;
- (iv) pursuant to statute, any five members of the Council if they have signed a requisition presented to the Mayor and he has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

The Mayor shall, at his absolute discretion, set the date and time for the extraordinary meeting (subject to the statutory right of the Members who have requisitioned a meeting to do so in the event that the Mayor fails to do so) for any time prior to the commencement of the next ordinary meeting of the Council (including the Annual Meeting and the meeting at which the Council Tax is set).

The timetable for extraordinary meetings and rules as to amendments etc., will be set by the Mayor (or by the proper officer, in the event of Members exercising their default right) when the meeting is convened.

4.2 Business

The extraordinary meeting will:

- (i) choose a Member to preside if the Mayor is absent and receive any other apologies for absence; and
- (ii) consider the business specified in the summons for the meeting.

5. TIME AND PLACE OF MEETINGS

Meetings of the Council will be held at Havering Town Hall (or such other place that may be determined either by the Council generally or by the Mayor for a particular meeting) and begin at 7.30pm unless an earlier time is agreed in advance by the Council, or by the Mayor, and the change is notified in the summons.

6. NOTICE OF AND SUMMONS TO MEETINGS

The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least 5 clear days before a meeting, the Proper Officer will send a summons signed by the Chief Executive by post to every member of the Council or leave it at their usual place of residence; a Member may request the Proper Officer to make the summons, agenda and papers available by electronic means (and the sending of such documents by electronic means on request shall be deemed to be due delivery). The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

The Chief Executive shall also circulate to Members, for their information, an Initial Agenda and a Revised Agenda before the Final Agenda is issued, but neither shall be regarded as defining the agenda for the meeting.

The Chief Executive may publish one or more supplementary agenda(s) after publication of the final agenda, where to do so is necessary in the interests of the proper conduct of the meeting.

7. CHAIRMAN OF MEETING

- (i) the person presiding at the meeting may exercise any power or duty of the Mayor in relation to the conduct of that meeting;
- (ii) the ruling of the Mayor in relation to any aspect of the conduct of the meeting shall not be questioned;
- (iii) whenever the Mayor rises during a debate, any member then speaking or standing shall be seated and the Council shall be silent.

- (iv) the Mayor shall in addition to statutory and common law powers and any other powers herein, have power to govern the meeting, curtail any debate, keep order, alter the order of business, amalgamate debates and in general organise the business of the meeting.

8. QUORUM

The quorum of a meeting will be one quarter of the whole number of members. During any meeting if the Mayor counts the number of members present and declares there is not a quorum present, then the meeting will be adjourned immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he does not fix a date, the remaining business will be considered at the next ordinary meeting.

9. DURATION OF MEETINGS

9.1 Conduct of business at ordinary meetings

- (i) One hour shall be allowed for the conduct of the business specified in paragraphs (i) to (xvi) of Rule 2. If at the expiration of that time not all of the business has been completed, any outstanding items shall be dealt with by vote only.
- (ii) At the conclusion of the business specified in (i) above, Members' Questions shall be dealt with (Rule 2, paragraph (xvii)).
- (iii) At the conclusion of the Members' Questions, Motions shall be dealt with (Rule 2, paragraph (xviii)).

The Mayor may vary the times referred to where, in his opinion, it is necessary to do so for the proper conduct of the meeting. If less than an hour is required for the business referred to in (i), the meeting shall proceed to deal with the business in (ii) (Members' Questions). The Mayor may adjourn the meeting at a convenient time during (ii) or (iii) as appropriate in order for Members to take refreshments.

9.2 Conclusion of ordinary and special meetings

- (i) Once two and a half hours have elapsed from the beginning of any meeting (including any time spent in adjournment), if the Mayor believes that an item could not properly be considered in the time remaining available, then notwithstanding rules 11 and 13.4, the Mayor may at his absolute discretion direct that an item be not taken, or may modify the length of speeches and general debate in respect of any item. In the case of an item already being debated, the Mayor may at his absolute discretion modify the length of speeches or restrict the number of speakers

- (ii) Unless a procedural motion has been passed to suspend this rule and to extend the time of the meeting, once convening that meeting) no further papers shall be issued and three hours have elapsed from the beginning of the meeting, the meeting will continue until the end of the debate then in progress. At that point the Mayor will call for a vote immediately on any items remaining and votes will then be taken in the usual way on those items without further discussion.
- (iii) in the event of an adjournment of any meeting of the Council being necessary such an adjournment shall be to a date to be fixed by the Council, and in the event of no date being fixed then on a date to be fixed by the Mayor. For the purposes of rules (i) and (ii) above, any reconvened meeting shall be treated as a new meeting but (other than notice of the time and date) no further business may be added to the agenda.

(iv) **Motions and recommendations not dealt with**

If there are other motions or recommendations on the agenda that have not been dealt with (or withdrawn by the mover, with the consent of the Council) by 10.30 p.m. they are deemed formally moved and seconded (together with any amendments). No speeches will be allowed on these items and the vote will be taken in the usual way.

(v) **Motions which may be moved**

The only other motions which may be moved are that a matter be withdrawn or that a matter be delegated or referred to an appropriate body or individual for decision or report.

(vi) **Close of the meeting**

When all motions and recommendations have been dealt with, the Mayor will declare the meeting closed.

9.3 Conclusion of the Annual Meeting and of the Council Tax Setting meeting

The Annual Meeting and the Council Tax Setting Meeting shall continue until all motions and recommendations have been dealt with, whereupon the Mayor will declare the meeting closed.

10. QUESTIONS BY MEMBERS

10.1 Questions on notice at full Council

Subject to Rule 10.2, a member of the Council may ask:

- (i) The Leader of the Council

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- (ii) A member of the Cabinet
- (iii) Any Committee Chairman who is a Member of the Council
- (iv) A Champion

a question on any matter relating to the business of the Council.

In the absence of the Chairman of a Committee, the Chairman shall arrange for another Member to respond on the Chairman's behalf.

10.2 Notice of questions

Members may only ask questions under Rule 10.1 if either:

- (i) they have given at least 6 clear days notice in writing of the question to the Proper Officer signed by the member or by the Group Leader on behalf of the member; or
- (ii) the question relates to an urgent matter of which prior notice could not, in the circumstances, have been given and the Mayor accepts the question before the start of the meeting.

10.3 The Chief Executive shall refer to the Mayor any question that appears improper. If the Mayor agrees that the question is vexatious, scurrilous, frivolous or derogatory, is contrary to any provision of any Code, protocol or convention of the Council, does not relate to the business of the Council, or is otherwise improper or inappropriate it shall not be asked and the Chief Executive shall inform the questioner accordingly.

10.4 Order of questions

10.5 Subject to the following provisions, questions shall be dealt with in order of receipt.

10.6 Where there are questions from more than one Member of a Group or from Members not attached to a Group, questions shall be dealt with by rounds, such that:

- round one shall comprise the first of the questions asked by any of the Members of each Group or by any unattached Member(s);
- round two shall comprise the second such question;
- subsequent rounds shall comprise successive questions in such order
- once every Group's Members or unattached Member have had to the opportunity to ask one question in the rounds, any questions remaining shall be dealt with in order of receipt

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10.7 Where appropriate in the public interest or to facilitate the business of the meeting, the Mayor may give priority to answering one or more questions.

10.8 Response

An answer may take the form of:

- (i) a direct oral answer;
- (ii) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (iii) where the reply cannot conveniently be given orally, a written answer shall be provided later to the questioner and included in the minutes of the meeting.

10.9 Supplementary question

A member asking a question may ask one supplementary question without notice, of the member to whom the principal question was asked. The supplementary question must arise directly out of the original question or the reply. If that member does not wish to ask a supplementary question then one other member only may do so.

There shall be no discussion or debate on any question. Members must phrase supplementary questions appropriately and not seek to make a statement, introduce new business or initiate a debate on the matter.

A summary of the supplementary question and answer shall be included in the minutes of the meeting.

10.10 Time for questions

- (i) No more than 30 minutes ordinarily shall be allowed for questions at a Council meeting. At the end of that period, the question being dealt with shall be answered (including any supplementary questions and answers, if the Mayor so wishes) and the Council will pass to the next business. Any question then remaining to be asked shall be dealt with as if it had been put for written answer.
- (ii) The Mayor may extend this period if he thinks fit.

10.11 Absence of questioner

Where a member has given notice of a question but is absent from the meeting, the Group Leader may ask the question on the Member's behalf, otherwise the question shall be dealt with as if it had been put for written answer.

10.12 Alteration of question

A member asking a question, or the Leader of the Group on behalf of that member, may at any time prior to the publication of that question in the final agenda for the meeting require the Chief Executive to alter the wording of that question in order to correct factual or typographical error. No alteration shall affect the sense of any such question, and where the Chief Executive doubts the propriety of such an alteration, the Mayor may agree that it shall not be accepted. The Mayor's ruling on the matter shall not be questioned.

10.13 Withdrawal of question

A question may be withdrawn at any time by the person who submitted the question or by the Leader of a member's Group (with that member's consent).

10.14 List of Questions

The agenda for each meeting shall include a list of the questions (indicating those for written answer) to be answered at that meeting.

The minutes of the meeting shall include:

- (i) the text of the question and answer of every question dealt with orally, in the order in which each was dealt with
- (ii) a summary of any supplementary question and answer
- (iii) the text of the question and answer of every question dealt with by written reply.

11. MOTIONS OF WHICH NOTICE IS GIVEN

11.1 Subject to Rule 11.2 following and except for motions which can be moved without notice under Rule 12, written notice of every motion, signed either by at least two members or by the Leader or Secretary of a Group, must be delivered to the Proper Officer not later than 10 clear days before the date of the meeting. Notice of such motions will be available for public inspection.

11.2 If a member satisfies the Mayor that:

- (i) there are special circumstances of sufficient urgency to require debate by the Council but due notice could not be included on the final agenda for the meeting as the issue in question arose after the deadline provided for in Rule 11.1 and
- (ii) where applicable, those reasons are sufficient to permit admission of the motion on to the agenda in exercise of the

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power conferred by section 100B(4) of the Local Government Act 1972

the Mayor shall have power to agree that the motion be moved as an urgent motion at the meeting notwithstanding that due notice has not been given. If possible, the Proper Officer shall include any urgent motion on the Final Agenda for a meeting but if that is not possible, shall issue a Supplementary Agenda including it.

11.3 Scope

- (i) Motions must be about matters for which the Council has a responsibility, which affect the borough or relate to an issue of general importance or interest to the people of the borough
- (ii) The Proper Officer shall refer to the Mayor any notice of motion which appears to be improper, vexatious, frivolous, derogatory, contrary to any code, protocol, guidelines, convention, which does not comply with paragraph (i) above or which is otherwise improper or inappropriate. If the Mayor agrees, it shall not be included in the summons and the Proper Officer shall inform the mover accordingly.
- (iii) The Proper Officer shall be entitled to clarify the wording of motions and amendments with the proposer before committing the motion or amendment to the agenda and shall be entitled to amend the wording of a motion or amendment in consultation with the proposer and Monitoring Officer prior to the meeting to clarify, correct, or make sense of the particular wording. The Proper Officer shall consult the Mayor if agreement on such clarification cannot be reached and the Mayor may direct that the motion or amendment shall not be included in the summons.
- (iv) Where it would assist the proper or efficient conduct of the Council's business, the Mayor may direct that two or more motions relating to the same matter shall be debated together, with a separate vote on each one at the conclusion of the debate.

11.4 Reports to Council

Reports of Cabinet, Committees or officers to Council to which an amendment is proposed shall be deemed subject to a motion "that the report be adopted and its recommendations carried into effect", which shall be moved and seconded by members of the Administration or the relevant committee chairman and vice-chairman. In these Rules, "motion" includes a deemed motion in respect of a report. The provisions of Rules 11.1 and 11.2 shall not apply to a deemed motion (except insofar as section 100B(4) applies to that motion).

11.5 Motion set out in agenda

Motions of which notice has been given will be listed on the agenda in the order in which notice was received and, subject to that where more than one motion is submitted by a group at the same time, in the order in which the group submitting the motions expresses a preference.

11.6 Amendments to motions and reports

Notice of amendment (other than to an urgent motion) must be signed by at least two members or by the Leader or Secretary of a Group and must be delivered to the Proper Officer at least 6 clear days before the date of the meeting.

An amendment to an urgent motion may be proposed and seconded without notice at any time before the debate on it is concluded.

11.7 An amendment shall not be debated unless it has been moved and seconded. The mover or seconder of an amendment may not move or second any other amendment on the same motion without the consent of the Mayor.

11.8 An amendment to a motion must be relevant to the motion and will either be:

- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (b) to leave out words;
- (c) to leave out words and insert or add others; or
- (d) to insert or add words.

provided that the effect of (b) to (d) is not to negate the motion.

If there is any doubt about the effect of the carrying of any amendment upon the original motion, the Mayor may direct that it be read out (or displayed, if projection equipment is available) require the amended motion to be read out before accepting any further amendments, or if there is none, put it to the vote is taken on the substantive motion.

11.9 Amendments to any reports before Council shall be submitted to the Proper Officer as follows:

- (i) To reports issued with the final agenda, no later than the Monday before the meeting (but if the Monday is a Bank Holiday, the time limit will be extended to noon on the Tuesday before the meeting).

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(ii) An amendment to an urgent report may be proposed without notice at any time before the debate on it is concluded.

(iii) An amendment to a motion/report on the annual Council tax setting must be submitted to the Chief Executive no later than 6 clear days before the Council tax setting meeting, and must be such that the amendment would, if passed, in the view of the Chief Finance Officer¹ enable a robust budget to be set.

Upon receipt of such amendment, the Chief Finance Officer shall consider whether it meets the "robust budget" test:

(a) If it does meet the test, the Proper Officer shall include it on the agenda for the meeting.

(b) If it does not meet the test but the Chief Finance Officer considers that, duly altered, it will do so, he shall consult the proposers and, if they accept the alteration(s), the Proper Officer shall include it, as altered, on the agenda for the meeting.

(c) If it does not meet the test and the Chief Finance Officer considers that, whether or not altered, it will not do so, he shall refer the amendment to the Proper Officer who shall proceed with it as an improper amendment under Rule 11(4)(ii).

¹ As it is imperative that there is a level playing field, any new base information relating to or affecting Council tax that comes to light after the Cabinet has made its Council tax recommendations will be supplied to all Groups at the same time by the Chief Finance Officer.

11.10 Alteration of motion and/or amendment

(i) The mover of a motion or amendment, or the Leader of the Group on behalf of which a motion or amendment is proposed, may at any time prior to the publication of that motion or amendment in the final agenda for the meeting require the Proper Officer to alter the wording of that motion or amendment in order to correct factual or typographical error or to improve clarity;

(ii) At a meeting, the mover of a motion or amendment, or the Leader of the Group on behalf of which a motion or amendment is proposed or has been moved, may seek the consent of the Council to alter that motion or amendment.

No alteration under this rule shall affect the sense of any such motion or amendment, and where the Proper Officer doubts the propriety of such an alteration, upon considering such doubts the Mayor may agree that it shall not be accepted. The Mayor's ruling on that matter shall be final.

The meeting's consent will be signified without discussion.

- (iii) The Mayor may accept at the request of the relevant Group Leaders and the original proposers of the motion and amendment either prior to the meeting or at the meeting, an agreed composite motion which unites the motion and amendment into one and which is capable of being placed before the meeting as an agreed composite motion.

11.11 Withdrawal of motion or amendment

The member moving a motion or amendment may withdraw it at any time before the motion is called. No member may speak on the motion or amendment after the mover has withdrawn it.

12. MOTIONS WITHOUT NOTICE

12.1 The following procedural motions may be moved at any time during the meeting, where appropriate before the conclusion of the business to which they relate, without notice and shall be voted on without discussion:

- (i) in relation to the accuracy of the minutes
- (ii) to change the order of business in the agenda
- (iii) to refer something to an appropriate body or individual;
- (iv) to appoint a committee or member to a committee arising from an item on the summons for the meeting;
- (v) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- (vi) to withdraw a motion;
- (vii) to clarify a motion or amendment;
- (viii) to adjourn a debate to a time specified;;
- (ix) that the meeting continue beyond 10.30 p.m.;
- (x) to suspend a particular council procedure rule in accordance with Rule 21
- (xi) to exclude the public and press in accordance with s.100B of the Local Government Act 1972;
- (xii) not to hear further a member named or to exclude them from the meeting under Rule 19; or
- (xiii) that the time limit for speeches or addresses be altered.

12.2 A member who has not previously spoken in the debate may, at the conclusion of a speech of another member, move one of the following special procedural motions:

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- (i) “That the question be put”, or
- (ii) “That the Council proceed to the next business”, or
- (iii) “That the Council adjourn”.

If the special procedural motion is seconded, it shall be put to the vote forthwith and, if it is carried, then:

- in case (i): the rights of reply given by Rule 13.12 may be exercised. The motion before the meeting shall then be put to the vote, or
- in case (ii): the motion then before the Council shall be regarded as lost and the Council shall proceed to the next item on the agenda (if any), or
- in case (iii): the meeting shall stand adjourned to a date to be fixed in accordance with Rule 9.1 (iii)

13 RULES OF DEBATE

13.1 No speeches until motion seconded

No speeches may be made after the mover has moved a proposal until the motion has been seconded.

13.2 Right to require motion in writing

Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to him before it is discussed and may require it to be made available to all members.

The text of such a motion may be displayed using the audio-visual display system within the Council Chamber.

13.3 Secunder’s speech

When seconding a motion or amendment, a member may reserve the right to speak until later in the debate.

13.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation, clarification, point of order or point of information. No speech may exceed the time limits below without consent of the Mayor.

- (i) ten minutes for a mover of a motion or an amendment

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- (ii) eight minutes for a seconder of a motion or amendment (irrespective of whether that speech follows that of the mover or, pursuant to Rule 13.3, takes place later in the debate)
- (iii) five minutes for other speeches in any debate
- (iv) at the meeting setting the council tax under rule 3, the speeches of any Group Leader (or of a member nominated to speak on behalf of a Group Leader) on any motion or amendment relating to the council tax shall not exceed twenty minutes.

13.5 When a member may speak again

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (i) in exercise of a right of reply;
- (ii) on a point of order;
- (iii) by way of personal explanation;
- (iv) by way of clarification; or
- (v) on a point of information.

13.6 Rights of reply

At the close of each debate upon a motion or report, or after a motion "That the question be put" has been carried, rights of reply may be exercised in the following order:

- (i) The Leader of the Group by which any motion, recommendation or amendment was proposed (if not the Leader of the Council or the Leader of the Opposition), or, if the mover is not a member of a Group, that Member.

Where more than one Group or individual Member has proposed a motion or amendment, each shall be entitled to exercise a right of reply, in the order in which the motion or amendment(s) appears on the agenda.

- (ii) The Leader of the Opposition
- (iii) The Leader of the Council.

In each case, the appropriate Leader may nominate another member to reply on his behalf.

13.7 A member may raise a point of order at any time. The Mayor will hear this immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he considers it has been broken. The ruling of the Mayor on the matter will be final.

13.8 Personal explanation

A member may seek to make a personal explanation at any time during the course of another member's speech if he has been referred to by name or position, either immediately if the member speaking gives way or at the end of the speech. A personal explanation may only relate to the statement made by the other member in his speech. The ruling of the Mayor on the admissibility of a personal explanation and the time allowed for any personal explanation will be final.

13.9 Clarification

A member may seek leave from the Mayor to clarify a point made in an earlier speech by that member if it appears from comments made in a subsequent speech that the earlier speech by the member had been misunderstood. The ruling of the Mayor on the admissibility of a clarification and the time allowed for any clarification will be final.

13.10 Point of Information

A member may seek to make a point of information at any time **but may not pursue it if the member speaking declines to give way**. It shall be a simple question to clarify factual statements made during the course of a speech. It may not be a long or rhetorical question or become a cross-examination of the speaker. The ruling of the Mayor on the admissibility of a point of information will be final.

14. PREVIOUS DECISIONS AND MOTIONS

14.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months shall not be moved unless the notice of motion is signed by at least 25 per cent of the members.

A motion to rescind may be included within a motion seeking to alter the previous decision in question and the two motions shall be treated as one matter for debate.

14.2 Motion similar to one previously rejected

- (i) A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months shall not be moved unless the notice of motion or amendment is signed by at least 25 percent of members. Once the motion or amendment is

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dealt with, no one can propose a similar motion or amendment for six months.

- (ii) This rule shall not apply to motions moved in respect of a report or recommendation of a committee but shall apply to amendments to such a recommendation.

15. VOTING

15.1 Majority

Subject to any statutory requirement otherwise (notice of which shall appear in the relevant agenda), all matters before Council shall be decided by a simple majority of those members voting and present in the room at the time the question is put.

This rule shall not be suspended.

15.2 Mayor's casting vote

If there are equal numbers of votes for and against, the Mayor will have a second or casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote.

15.3 Recording of Votes

All votes shall be recorded.

15.4 Voting on appointments

If more than two people are nominated for any position to be filled the votes will be recorded as between those nominated and the Member gaining the greatest number of votes shall be declared the nominee. In the event that there is an equality of votes then the Mayor shall exercise a casting vote.

16. MINUTES

16.1 Signing the minutes

The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only discussion of the minutes shall be as to their accuracy.

Any other matter arising from the minutes shall be discussed only if a motion relating to the matter is moved and seconded in accordance with Rule 11.

This rule shall not be suspended

16.2 No requirement to sign minutes of previous meeting at extraordinary meeting

Minutes of previous meetings shall be signed only at ordinary meetings (including the Annual Meeting and the Council Tax Setting Meeting).

This rule shall not be suspended.

16.3 Form of minutes

Subject to Rule 16.4, Minutes will contain all motions and amendments in the exact form and order the Mayor put them.

16.4 For the purpose of ensuring the accuracy of minutes, the Proper Officer is authorised to adjust the text of the substantive motion as finally carried to reflect the sense of the meeting where, in consequence of more than one amendment being carried, the meaning is not otherwise clear.

17. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the provisions of s100B of the Local Government Act 1972 or Rule 20 (Disturbance by Public).

18. MEMBERS' CONDUCT

18.1 Standing to speak

When a member speaks at full Council they must stand (unless prevented from doing so by illness or disability) and address the meeting through the Mayor. If more than one member stands, the Mayor will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order, clarification, a point of personal explanation or information.

18.2 A member shall confine a speech to the matter under discussion or to an explanation, clarification, to a point of order or upon a point of information.

18.3 Defamatory and unparliamentarily language

(i) Although Members have qualified privilege in respect of defamation at Council meetings, they must not abuse that privilege so as to make personal attacks on individuals. Officers at Council meetings are not permitted to criticise a member's personal conduct, judgement or ability and Members for their part must not criticise an officer personally at any meeting. The Mayor will take this into account in conducting the meeting.

(ii) The use in debate of unparliamentarily language is prohibited and any use of it will be considered to be offensive under rule 19.3 below.

It is considered that “unparliamentarily language” is language which offends against the conventions of politeness such as insulting or abusive language and accusations of lying, being drunk or misrepresenting another’s words.

18.4 Member not to be heard further

- (i) If a Member, disregarding any ruling of the Mayor, behaves in an improper or offensive manner or deliberately obstructs business, any other Member, including the Mayor, may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.
- (ii) If the motion is carried, the Member named in it shall immediately be seated and be silent for the remainder of the item then under discussion.

18.5 Member to leave the meeting

If the member continues to behave improperly after a motion under Rule 19.4 is carried, the Mayor may move either that the member leaves the meeting and/or that the meeting be adjourned for a specified period. If seconded, the motion will be voted on without discussion.

This rule shall not be suspended.

19. DISTURBANCE BY THE PUBLIC

19.1 Removal of member of the public

If a member of the public interrupts proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room.

19.2 Clearance of part of meeting room

If there is a disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared.

19.3 General disturbance

If there is a general disturbance making orderly business impossible, the Mayor may issue a warning and if the disturbance continues adjourn the meeting for as long as he thinks necessary. Such action shall be at the Mayor’s discretion and may be taken without putting the matter to the vote.

19.4 Rules 19.1 to 19.3 shall not be suspended.

20. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

20.1 Suspension

Except as noted in 21.2 below, all Council Rules of Procedure may be suspended for the duration of a meeting by motion without notice.

20.2 The following Rules may not be suspended:

15.1 – question to determined by majority vote

16.1 - signing of minutes - procedure

16.2 – minutes to be signed only at ordinary meetings

18 - Members' conduct

19 - Disturbance by the public

20.3 Amendment

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the Governance Committee.

21. AUDIO-VISUAL AIDS

21.1 A member may request the use of any audio-visual aids available within the Council Chamber (or other meeting place). Reasonable notice shall be given to the Chief Executive of the intended use of such facilities in order to ensure their availability when required and the availability of appropriate staff to prepare, or assist in the preparation of, such aids.

21.2 The Mayor may, however, direct that, in the circumstances of a particular meeting, such aids may not be used.

22. WEBCASTING, BROADCASTING AND RECORDING OF PROCEEDINGS

22.1 A webcast may be made of any meeting (or part thereof) of the Council (but not so as to permit the webcasting of any confidential or exempt information) but the Mayor is authorised to determine that a particular meeting, or part of a meeting, shall not be webcast.

22.2 The Mayor may consent to the making an audio-visual or photographic record (including a radio or television broadcast) of any particular meeting (but not so as to permit the recording or broadcast of any confidential or exempt information).

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Such consent may be given for a specific meeting or for meetings generally.

- 22.3 An audio recording will ordinarily be made of each meeting of the Council so as to facilitate the transcribing of any part of the meeting where necessary.

23. PETITIONS

- 23.1 Petitions may be presented to the Mayor by members of the Council during an ordinary Council meeting as referred to in Rule 2, subject to notice being given to the Proper Officer of the intention to present a petition at least 6 clear days before the meeting.
- 23.2 There will be no debate on any petition under this rule but the member presenting the petition may make a brief statement on the content of the petitions.
- 23.3 Any petitions received by the Mayor at Council or at any other time will be referred to the appropriate Head of Service for action, reply or report.

24. CONFERRMENT OF AWARDS FOR EMINENT SERVICE

- 24.1 Other than in a year in which there is an ordinary election of Councillors, Council shall consider at the Annual Meeting whether to confer on any person the Honorary Freedom of the borough, in recognition of their distinction or eminent services to the borough.
- 24.2 In a year in which there is an ordinary election of Councillors, Council shall consider at first ordinary meeting following the Annual Meeting
- (a) whether to confer upon on any person of distinction or who has rendered eminent service to the borough the Honorary Freedom of the Borough
 - (b) whether to confer upon any former Councillor the office of Honorary Alderman, in recognition of their eminent services to the Council; or
 - (c) the presentation to any Member or former Member of a certificate in recognition of service to the Council.
- 24.3 Notwithstanding rules 24.1 and 24.2, the Council may by motion consider conferring Honorary Freedom or the office of Honorary Alderman on a qualifying person, or presenting a certificate to a Member, where in the circumstances it is inappropriate to await the next Annual Meeting or the meeting following it, as the case may be.
- 24.4 The mover and/or seconder of a motion to confer the Honorary Freedom or the office of Honorary Alderman shall set out, either in the text of the motion or in the course of speaking in support of it, details of the "eminent service", or the reason for "distinction" for which the award is to be

conferred, and it shall be passed if two thirds of those present and voting at the meeting vote in favour.

25. INTERPRETATION

For the purposes of the Council Procedure Rules:

- (a) the term “clear days” means a normal working day, excluding:
 - the day on which a document is first made available
 - the day of the meeting
 - Saturday and Sunday
 - Public or bank holidays
 - Other days when the Council’s offices are closed
- (b) “Proper Officer” shall include, if the Chief Executive is absent or unable to act, reference to any Group Director or the Assistant Chief Executive Legal & Democratic Services who may from time to time be authorised to deputise for the Chief Executive for the purposes of these procedure rules
- (c) “Group” means any Group of members constituted under the statutory rules for political balance
- (d) “Group Leader” means the member notified to the Proper Officer as leader of a Group
- (e) “Deputy Group Leader” means “the other authorised representative” of the group
- (f) “Group Secretary” means the member notified to the Proper Officer as holding that office within the Group
- (g) “Leader of the Council” means the Member elected to hold that office
- (h) “Leader of the Opposition” means the Leader of the largest group not forming, or forming part of, the administration.
- (i) For the avoidance of doubt, it is declared that:
 - (a) any notice required to be given in writing may validly be given in writing on paper, by fax or by e-mail provided that the e-mail is from an address recognisably that of the person giving notice or known to be associated with him or her.
 - (b) any document required to be served upon the Proper Officer or the Chief Executive may be handed to the Democratic Services Manager or a member of his staff.

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- (c) any document required to be served upon the Mayor may be handed to the Proper Officer, Chief Executive or the Democratic Services Manager or a member of his staff on behalf of the Mayor.
- (d) Any document handed to the Proper Officer, Chief Executive, Democratic Services Manager or staff member under (b) or (c) shall be deemed served upon the person to whom it is addressed.
- (e) Where more than one signature is required, each may validly be given by the member(s) in question by notice in writing, by fax or by e-mail from a recognisable e-mail address or one known to be associated with him or her and different Members may use different means of signature..

APPENDIX

These timetables assume that the meeting of Council is held on a Wednesday. If a meeting is held on another day, the relevant timetable shall be adjusted accordingly.

1 Annual Meeting Timetable

		Day, week, and “clear days” before meeting
1	Publication of INITIAL Agenda	Thursday: three weeks before 13
2	Last date for receipt of notices of motion relating to the business to be transacted at the Annual Meeting	Tuesday: two weeks before 10
3	Last date for receipt of nominations for the conferment of the Honorary Freedom of the borough	Tuesday: two weeks before 10
4	Publication of REVISED Agenda	Thursday: two weeks before 8
5	Last date for receipt of notice of amendment of any motion relating to business to be transacted at the Annual Meeting or report published with the Initial or Revised Agenda	Monday: one week before 6
6	Publication of FINAL AGENDA incorporating all agenda papers	Tuesday: one week before 5
7	Last date for receipt of notice of amendment to any report published with the Final Agenda	Monday: same week 1

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2 Ordinary Meeting Timetable

		Day, week, and “clear days” before meeting
1	Publication of INITIAL Agenda	Thursday: three weeks before 13
2	Last date for receipt of notices of motion	Tuesday: two weeks before 10
3	Last date for Mayor or Leader of the Council to give notice of arrangements for an address to the Council	Tuesday: two weeks before 10
4	Publication of REVISED Agenda	Thursday: two weeks before 8
5	Last date for receipt of questions	Monday: one week before 6
6	Last date for receipt of notice of amendments to motions published in the Revised Agenda	Monday: one week before 6
7	Last date for receipt of notice of intention to present a petition	Monday: one week before 6
8	Issue of FINAL AGENDA incorporating all agenda papers	Tuesday: one week before 5
9	Last date for receipt of notice of amendments to reports issued with the Final Agenda	Monday: same week 1

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3 Council Tax Setting Meeting Timetable

		Day, week, and “clear days” before meeting
1	Publication of INITIAL Agenda	Tuesday: three weeks before 13
2	<i>Cabinet meeting at which budget recommendations will be determined</i>	<i>Wednesday: two weeks before</i> 9
3	Publication of REVISED Agenda	Thursday: two weeks before 8
4	Issue of FINAL AGENDA incorporating all agenda papers (but Supplementary Agenda(s) will be published)	Tuesday: one week before 5
5	Last date for receipt of any amendment to the Council Budget	Thursday: one week before 3

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GOVERNANCE COMMITTEE

REPORT

19 JANUARY 2009

Subject Heading:

REVIEW OF THE COUNCIL'S
CONSTITUTION – Part 5: MEMBER/
OFFICER RELATIONS

CMT Lead:

Christine Dooley, Assistant Chief
Executive/Monitoring Officer

Report Author and contact details:

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Policy context:

The Council's Constitution is being
reviewed prior to the introduction of new
executive arrangements in May 2010

Financial summary:

There are no direct costs associated with
this review

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input checked="" type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

This is another of the reports arising from the review of the Council's Constitution. It concerns the Protocol on Member/Officer Relations, which provides the framework within which Members and Officers deal with each other.

The protocol has been approved by the Standards Committee.

RECOMMENDATION

That the Committee **RECOMMEND** to Council that the revised Protocol be adopted.

REPORT DETAIL

- 1 At its meeting in September 2009, the Committee set up a Working Group of Members and Officers to review the Council's Constitution. This is the third report arising from the work of that Working Group, and deals with the Protocol on Gifts and Hospitality.
- 2 The Protocol has been considered also by the Standards Committee, which has agreed the appended, revised text.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no significant financial implications or risks arising from this exercise. The cost of reproducing the new Constitution will be met from existing budget provision.

Legal implications and risks:

The Council has a legal obligation to adopt a Constitution and to keep it under review. The new executive arrangements effective from May 2010 require extensive review to be undertaken.

Human Resources implications and risks:

There are none.

Equalities implications and risks:

The purpose of the Constitution is to assist the community to understand how the Council works and to make its processes and procedures accessible.

BACKGROUND PAPERS

There are none.

PROTOCOL ON MEMBER/OFFICER RELATIONS

Introduction

1. Given the variety and complexity of Member and Officer relations, this Protocol does not seek to cover everything or be prescriptive in its application. General guidance is offered on some of the issues that most commonly arise or cause concern.
2. This Protocol seeks to encourage best practice and to promote greater clarity and certainty between the various relationships. If any Member is unsure about any matter, s/he should contact the Monitoring Officer for appropriate advice and assistance. If any Officer is unsure about any matter, s/he should contact the relevant Group Director and/or the Monitoring Officer.
3. The Standards Committee and the Monitoring Officer may issue general guidance on the Code of Conduct for Members, this Protocol on Member/Officer relations and the Protocol on Probity in Planning. Where appropriate, the Monitoring Officer will also consult the Chief Financial Officer and the Chief Executive on any further general guidance.

General Member/Officer Issues

4. The opportunity is taken to reinforce the following points:-
 - (i) In order to ensure the business of the Council is transacted in an effective and efficient manner and with a view to ensuring that the Council is not brought into disrepute, the key guiding principle for Members and Officers has to be one of “engendering mutual trust, openness, honesty, fairness, transparency and treating everyone with respect”;
 - (ii) Officers, being employees of the Council, must act in the best interests of the Council, as a whole, and must not give politically partisan advice. Anyone breaching this requirement, will face disciplinary action and may, ultimately, be dismissed by the Council;
 - (iii) Political Group meetings, whilst they perform an important part in the preliminaries to Council decision-making, are not formal decision-making bodies of the Council and, as such, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as Council decisions and it is essential that Members and Officers understand and interpret such decisions accordingly;
 - (iv) Officer support to Political Groups must not extend beyond providing information and advice in relation to Council business;
 - (v) it is good practice for Party political debates and decision-making to take place in the absence of Officers, in order to avoid any suspicion of impropriety or misunderstanding;
 - (vi) Officers must respect the confidentiality of any Political Group discussions at which they are present; and

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- (vii) any breach of this part of the Protocol by an Officer must be brought to the attention of the Chief Executive and / or the Monitoring Officer for consideration.

Legal and Audit Commission Considerations

- 5. Members of the Council do not, as elected members, have any special immunity from civil or criminal wrongs that they may commit against fellow Members, Officers or members of the public. Members must abide by the Code of Conduct for Members and ensure they do not, for example, slander or libel another person. During the course of their normal duties for the Council, Members will, therefore, only have a qualified (not absolute) protection against prosecution or civil action. This requires that there must of necessity be an absence of malice.
- 6. Members must also not pressurise any Officer to change his/her professional opinion on any Council business matter or do anything that compromises, or which is likely to comprise, the impartiality of Officers or those who work for, or on behalf of the Council. It is also imperative that Members are clear about their roles and the roles of Officers, so as to avoid getting inappropriately involved in, for example, the internal office management, discipline and/or other employment related issues, as the actions of the Member(s) may be held to be the actions of the Council, as an "employer".

Standards Issues

- 7. Any member of the public (including Officers and other members) can complain to the Standards Committee of the Council about a Member's breach of the Code of Conduct for Members and/or bring private civil litigation proceedings against an elected member. The District Auditor can also take legal action against an elected member and the Council, as a whole, for any breaches of the law.

Public Relations Issues

- 8. The Council's Communications Section are responsible for dealing with the press and other media organisations on behalf of the Council. It is important, therefore, that all official communication relating to the Council (but not party political or private matters) is dealt with by this section, so as to ensure the proactive, effective and efficient management of the Council's public image, relations and interface. The Council will have regard to the Code of Recommended Practice on Publicity.

Specific Points on Member/Officer Relations

- 9. The relationship between Members and Officers generally is characterised by mutual trust, respect and courtesy. These are essential for good local government and serve to enhance local democracy.
- 10. Close personal familiarity between individual Members and Officers can damage professional relationships and can prove embarrassing to other Members and Officers. Situations should be avoided, therefore, that could give rise to suspicion and/or appearance of improper conduct or behaviour.

Employer/Employee Issues

11. Members should recognise and pay due regard to their role as an employer in their dealings with Officers, as Officers could use inappropriate behaviour and conduct of Members in bringing employment cases against the Council.
12. Members must guard against putting inappropriate pressure, in particular, on junior officers and must ensure that all communication between them (including written communication) does not bring the Council into disrepute or cause any embarrassment to them.
13. In seeking advice and support, Members should have due regard to the seniority of the Officer with whom they are dealing and recognise that, whilst those Officers owe an overriding duty to the Council as a whole, such duties are first expressed to their respective line managers and the Chief Executive and not to any individual Member. For this reason, Members should not give direct instructions to staff, and where possible should ensure their communications are with staff at an appropriate managerial level within the Council.

Equality Issues

14. The Council has statutory duties with regard to equality issues and in accordance with the Code of Conduct for Members, Members must also promote equality by not discriminating against others. Members and Officers shall not, therefore, by their behaviour or speech act in a discriminatory manner with regard to, for example, a person's gender, race, disability, religion, ethnicity, nationality, sexual orientation or age. Such principles will apply to the implementation of personnel policies, recruitment and promotion as they apply to day to day dealings.

Officer Conduct or Capability Issues

15. Members should not raise matters relating to the conduct or capability of an Officer (or of Officers, collectively) at meetings held in public or before the Press, as Officers have no means of responding to the same in public. Neither should members display any inappropriate behaviour or language to Officers at such meetings or at any other meetings to which they are invited or are represented. Inappropriate behaviour or language is considered to be as described in paragraph 26. If any Member feels that s/he has not been treated with the proper mutual trust, respect or courtesy or has any concern about the conduct or capability of an Officer, s/he should raise the matter, in private, with the Group Director of the directorate concerned. Any concerns with regard to a Group Director should be discussed, in private, with the Chief Executive and/or the Leader of the relevant Political Group. Whispering campaigns against Members and Officers do not project a healthy environment for engendering mutual trust, openness, honesty, fairness, transparency, respect or courtesy and should be avoided.
16. It is legitimate for Members to appropriately challenge Officers' advice but there is a potential breach of the Code of Conduct for Members if they require any Officer to:
 - (a) change his/her professional advice; or

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- (b) take any action which the Officer considers to be unlawful or illegal or which could amount to maladministration or breach any relevant Codes of Conduct (including professional codes of conduct).

Havering's Code of Conduct states that a Member must not bully any person which would include staff

Monitoring Officer/Chief Financial Officer Consultations

- 17. Members are required to consult with the Monitoring Officer and the Chief Financial Officer over any legality, maladministration, financial impropriety, or probity issues or where they have any doubt as to whether particular decisions are or were likely to be contrary to the Council's Budget and Policy Framework Rules or the law. Inappropriate or late consultation will not satisfy the need to consult those Officers at the relevant time.

Political Impartiality

- 18. Members shall, at all times, respect the political impartiality of Officers and must not expect or encourage Officers to give a political view on any matter.
- 19. For the avoidance of doubt, it must be recognised by all that, in discharging their duties, Officers serve the Council, as a whole, and not exclusively any Political Group, combination of groups, or any individual Members.
- 20. Officers may properly be called upon to support and contribute to the deliberations of Political Groups but they must, at all times, maintain political neutrality. This applies, in particular, to Politically Restricted Officers, who are governed by the Local Government and Housing Act 1989. All Officers must, in their dealings with Political Groups and individual Members, treat them in a fair and even handed manner.
- 21. Any request for advice given to a Political Group or Member will be treated with the strictest of confidence by the Officers concerned and will not be accessible to any other Political Group(s). Factual information upon which any advice is based will, if requested, be available to all Political Groups.
- 22. When attendance is requested for Political Group meetings:
 - (a) The request to attend a Political Group meeting must normally be made through the relevant Group Director;
 - (b) Such a request can only be made in relation to Council business; and
 - (c) Officers will:-
 - (i) provide relevant factual advice and assistance;
 - (ii) leave during the deliberations of the Political Group on the issue;
 - (iii) respect the confidentiality of any Political Group decision at which they are present; and

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- (iv) not champion, defend, action or spend any resources of the Council, or be held responsible for actioning in any way whatsoever the decisions of the Political Group(s), unless and until such decisions have become the formal decisions of the Council.

Specific Points on Overview and Scrutiny Arrangements

- 23. The Council's Overview and Scrutiny Committees will seek the advice of:-
 - (a) The Monitoring Officer, where they consider there is doubt about the legality of any Executive decision(s); or
 - (b) The Monitoring Officer, Chief Financial Officer and other relevant Group Directors, where they consider a decision (or decisions) of the Executive might be contrary to the Council's Budget and Policy framework.
- 24. When asking Officers to give evidence before any Overview and Scrutiny Committee, questions should be confined, so far as is possible, to questions of fact and explanation of any professional opinion relating to policies and decisions. Officers must respond to questions from Members in an open, constructive and helpful manner. Officers must not mislead or be economical with the truth.
- 25. Where they consider it appropriate, the Chairman of the relevant Overview and Scrutiny Committee may ask Group Directors to explain any advice given by them to Members of the Executive and explain any decision(s) the Group Director may have taken under the Scheme of Delegations to Officers. For the avoidance of doubt, this will not apply to any private or confidential matters.

Unacceptable or Inappropriate Behaviour

- 26. The relevant Chairman of the Overview and Scrutiny Committee shall ensure that Members of the Executive and Officers who appear before the Committee are not questioned by Members of the Committee (whether through the nature, tone or language used), in such a manner as could be considered by a reasonable person to be hostile, offensive, derogatory, harassing, bullying, victimising, discriminatory or otherwise unacceptable or inappropriate.
- 27. Any allegation of unacceptable or inappropriate behaviour by a Member will be reported to the Leader of the relevant Political Group for consideration and/or the Standards Committee of the Council, if there has been a breach of the Code of Conduct for Members. The relevant Leader may also refer the matter to the Standards Committee for consideration, guidance or sanction, if the matter is a breach of other Protocols.

Use of Local Authority Resources

- 28. The only basis on which the Council can lawfully provide support services to Members (e.g. computers, telephone, mobile phones, blackberries, stationery, typing, printing, photo-copying, transport etc.) is to assist them in the effective and efficient discharge of their duties and role as Members of the Council. Such support services must, therefore (as set out in paragraph 6 of the Code of

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Conduct for Members), be only used for Council business save for under the Council's IT Protocol, limited personal use of telephones only is permissible upon payment of the bill relating to personal use. In all other circumstances the same should never be used for or in connection with Political, Party Political or campaigning activities or for private purposes.

Access to Information – 'Need To Know'

Statutory provisions

29. The Local Government (Access to Information) Act 1985 (which is Section 100F of the Local Government Act 1972) was introduced to give additional rights to Elected Members. The Act was at pains to stress that these rights were in addition to those at common law.
30. Section 100F makes it clear that any document which is in the possession or under the control of the Council and contains material relating to any business to be transacted at a meeting of the Council, or a committee or a sub-committee of the Council will be open to inspection by a Member of the Council, unless it contains confidential/exempt information as defined within the section. A non-committee member's right to information is therefore enhanced by Section 100F subject to the Proper Officer withholding confidential/exempt information within those paragraphs.
31. Section 100F does not, however, go as far as the common law, vis-à-vis, the Committee Member. For non-Committee Members, their position is enhanced by section 100F. In both cases, however, if there appears to be confidential/ exempt information, by virtue of the other parts of the Act, there is still the discretion for the relevant Proper Officer to withhold the confidential/exempt information.
32. It is also a matter of fact as to whether or not the information is 'in the possession or under the control of the Council'. The key issue to be determined is whether or not the information belongs to the Council or to another person. If it belongs to another person, Officers will only release any confidential information after an appropriate consent to release such information has been obtained from the relevant person. Officers will not, therefore, "hand over" their files to a Member, without the Officer being clear about the reasonableness of the request and the Officer's ability to share confidential information with a Member. If any Officer is unsure about a request for information, s/he must discuss the same with his/her line manager and/or the Monitoring Officer.
33. Under the Local Government Act 2000 Executive arrangements and subject to important exceptions (see paragraph 35 below), any relevant document which:
 - (a) is in the possession, or under the control, of the Executive; and
 - (b) contains material relating to any business to be transacted at a public meeting of the Council, will be available for inspection by Members of the Council.
34. The exceptions, to the above general requirement of paragraph 34, are that exempt information in respect of Schedule 12A of the Local Government Act 1972 – see paragraph 36 below) would be disclosed

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35. In addition to the above and subject to important exceptions (see paragraph 37 below), an Overview and Scrutiny Committee Member will be entitled to a copy of the relevant document which:
- (a) is in the possession or under the control of the Executive;
 - (b) contains material relating to:-
 - (i) any business carried out at a private or public meeting of the Council;
 - (ii) any decision taken by a relevant Cabinet Member; or
 - (iii) any key decision of the Cabinet.
36. The exceptions to the above general requirements of paragraph 36 are that such a document (or part of it) contains exempt or confidential information, unless it is relevant to any action or decision being reviewed or scrutinised under the overview and scrutiny arrangements
37. For the purposes of completeness, Appendix A provides an extract of the statutory exempt information paragraphs, which permit reports to be considered in private. As a guiding principle and in keeping with good open government, Executive Members, Chairmen of relevant Committees and Officers will ensure that, so far as is possible and permitted by law, reports are considered in public. If any Member or Officer has any concerns over whether a private report ought to be (or should have been) considered in public, s/he should raise the matter, at the earliest opportunity, with the relevant Group Director, Chairman of the Committee or the Monitoring Officer for a decision.

Common law principles

38. In addition to the statutory provisions, the common law right of Members to access information is based on the principle that any Member has a *prima facie* right to inspect Council documents *so far as his/her access to the documents is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council*. This principle is commonly referred to as the “need to know” principle.
39. This principle applies equally to leaders of the Political Groups and, under common law principles; the courts have not determined that any leader has an ‘automatic’ right to information. Accordingly, for the purpose of legal considerations, leaders fall to be considered as ordinary Members, if they wish to see Council documents; although they will, in most situations, be able to readily satisfy the ‘need to know’ requirements on the submission of reasonable information or by reasonable implication to substantiate the same. Leaders of Political Groups will, therefore, still have to demonstrate that their request is a proper and reasonable one and give adequate reasons for requiring the information.
40. In addition, it should be remembered that the access to information right will vary from Member to Member, will arise at different times and, as such, a Member's

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'need to know' will be considered on a case by case basis and will not last indefinitely.

41. The above statements on the common law position are subject to additional safeguards to protect Council information; namely, if the motive of a Member requesting to see documents is indirect, improper or ulterior, this may be raised by the Council as a bar to the Member's entitlement to inspect documents that are addressed to the Council. The entitlement of a relevant Committee Member to inspect documents of the Committee is a strong one and certainly stronger than that of a non-Member of the Committee. However, as indicated earlier, the rights of the former are not absolute, as it would still be open to the Committee/ Council to raise a bar to the exercise of such a right on the grounds of the Member's motives being improper, indirect or ulterior.
42. Furthermore, the law does not entitle a Councillor to go on a "roving or a fishing expedition" or to receive every working document that Officers have access to or may have had access to in the past. As a Councillor, s/he will only be entitled to see those documents that are relevant background papers mentioned in any report received by the (Sub-) Committee or other reasonable requests for relevant papers in order to comply with his/her 'right to know'. Clearly, any confidentiality attached to the same remains and the same must be kept confidential and not released to any other person. This includes, of course, members of the press. A breach of confidence by a Member is actionable by way of a complaint to the Council's Standards Committee. If the breach is serious enough, the person whose confidence has been betrayed may also bring a civil action against the Member (and/or the Council) for damages.
43. By equal token, any unreasonable requests for information can and will be declined. A balance has therefore to be struck between a Member's right to know and an individual's/ business'/ organisation's need for confidentiality, especially where the individual/ business/ organisation has requested confidentiality of the information provided to Council Officers.
44. If any confidential information is contained in public documents then it will, of course, lose its confidentiality. Equally, draft-working documents are subject to change and it is reasonable for those documents to be withheld until the matter is formally reported to the relevant committee / decision-maker.

Election Period and Special Responsibility Posts

45. During the election period, special rules apply with regard to local authority publicity and these can be found in "The Code of Recommended Practice on Local Authority Publicity",.
46. In terms of any serving Councillor who may be standing for re-election, it is imperative that s/he maintains a clear distinction between his/her private wish to stand for re-election and his/her official duties as a serving Councillor. S/he should, therefore, be particularly careful to guard against giving any impression that Council resources are being or could have been used for his/her re-election and/or private purposes. To do so, could amount, in serious cases, to a breach of the Code of Conduct for Members and a written complaint could be made to the Council's Standards Committee.

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47. The fact that the Councillor is a serving Councillor can, of course, be stated on any elections material. However, the Council address and/or his/her Council e-mail address facilities should not be used or allowed to be used on any elections material produced by him/her or produced on his/her behalf by another person.
48. Members are provided with officer support to assist them with the discharge of their duties for the Council. Such staff should never be asked or used to carry out Party political purposes or private purposes.

Sanctions for Breach of the Code of Conduct for Members and this General Guidance

49. Complaints against any breach of the Code of Conduct for Members must be referred to the Council's Standards Committee, which could lead, ultimately, in the most serious of cases and a referral to the Standards for England, to the disqualification of a Member. Complaints against any breach of this Protocol by a Member may be referred to the Standards Committee. Complaints against any breach of this Protocol by an Officer may be referred to the relevant Group Director, the Chief Executive or the Monitoring Officer.

APPENDIX A

Meaning of exempt information

Exempt information means information falling within the following 10 categories (subject to any condition):

Category	Notes
1	Information relating to any individual
2	Information which is likely to reveal the identity of an individual
3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)
4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6	Information which reveals that the authority proposes: <ul style="list-style-type: none"> (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment
7	Information relating to any action taken or to be taken in connection with the prevention investigation or prosecution of crime.

“employee” means a person employed under a contract of service;

“financial or business affairs” includes contemplated, as well as past or current activities;

“labour relations matter” means:

(a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or

(b) any dispute about a matter falling within paragraph (a) above;

and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;

“office holder”, in relation to the authority, means the holder of any paid officer appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;

“registered” in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).

Any reference in Parts 1 and 2 of this Part of this Schedule to “the authority” is a reference to the principal council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether

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	Category	Notes
8	<p>Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:</p> <p>(a) [the Companies Acts (as defined in Section 2 of the Companies Act 2006);</p> <p>(b) the Friendly Societies Act 1974;</p> <p>(c) the Friendly Societies Act 1992</p> <p>(d) the Industrial and Provident Societies Acts 1965 to 1978;</p> <p>(e) the Building Societies Act 1986; or</p> <p>(f) The Charities Act 1993</p>	<p>information is exempt or not falls to be determined and includes a reference:</p> <p>(a) in the case of a principal council, to any committee or sub-committee of the council; and</p> <p>(b) in the case of a committee, to:</p> <p>(i) any constituent principal council;</p> <p>(ii) any other principal council by which appointments are made to the committee or whose functions the committee discharges; and</p> <p>(iii) any other committee or sub-committee of a principal council falling within sub-paragraph (i) or (ii) above; and</p>
9	<p>Information is not exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p>	<p>(c) in the case of a sub-committee, to:</p> <p>(i) the committee, or any of the committees, of which it is a sub-committee and</p> <p>(ii) any principal council which falls within paragraph (b) above in relation to that committee</p>
10	<p>Information which:</p> <p>(a) falls within any of paragraphs 1 to 7; and</p> <p>(b) is not prevented from being exempt by virtue of paragraph 8 or 9 above</p> <p>is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>	

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**GOVERNANCE
COMMITTEE**

REPORT

19 JANUARY 2009

Subject Heading:

CMT Lead:

Report Author and contact details:

Policy context:

Financial summary:

REVIEW OF THE COUNCIL'S
CONSTITUTION – Part 5: Gifts and
Hospitality protocol

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Executive/Monitoring Officer

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The Council's Constitution is being
reviewed prior to the introduction of new
executive arrangements in May 2010

There are no direct costs associated with
this review

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input checked="" type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

This is a further report in the series arising from the review of the Council's Constitution. It concerns the Protocol on Gifts and Hospitality, which provides the framework within which Members and Officers deal with offers of hospitality and gifts provided in the course of the Council's business.

The protocol has been approved by the Standards Committee.

RECOMMENDATION

That the Committee **RECOMMEND** to Council that the revised Protocol be adopted.

REPORT DETAIL

- 1 At its meeting in September 2009, the Committee set up a Working Group of Members and Officers to review the Council's Constitution. This is the third report arising from the work of that Working Group, and deals with the Protocol on Gifts and Hospitality.
- 2 The Protocol has been considered also by the Standards Committee, which has agreed the appended, revised text.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no significant financial implications or risks arising from this exercise. The cost of reproducing the new Constitution will be met from existing budget provision.

Legal implications and risks:

The Council has a legal obligation to adopt a Constitution and to keep it under review. The new executive arrangements effective from May 2010 require extensive review to be undertaken.

Human Resources implications and risks:

There are none.

Equalities implications and risks:

The purpose of the Constitution is to assist the community to understand how the Council works and to make its processes and procedures accessible.

BACKGROUND PAPERS

There are none.

PROTOCOL ON GIFTS AND HOSPITALITY

1. Meaning of gifts and hospitality

- 1.1 The expressions 'gifts' and 'hospitality' have wide meanings and no conclusive definition is possible. Gifts and hospitality include:
 - (a) The gift of any goods or services;
 - (b) The opportunity to acquire any goods or services freely or at a discount or at terms not available to the general public;
 - (c) The offer of food, drink, accommodation or entertainment or the opportunity to attend any cultural or sporting event on terms not available to the general public.
- 1.2 Common gifts include pens, diaries, calendars and other business stationery, key rings, articles of clothing, books, flowers, bouquets and promotional items.
- 1.3 Common hospitality includes lunches, dinners or refreshments.

2. General Caution

- 2.1 The fundamental principle must always be that any offer of a gift or hospitality should be treated with great care. Your prime duty as a Member is to ensure that there is no conflict of interest in the performance of your duties. Treat with caution any gift or hospitality that is made to you personally. Your personal reputation and that of the Council can be seriously jeopardised by the inappropriate acceptance by you of a gift or hospitality.
- 2.2 You should consider carefully all the circumstances surrounding the offer of a gift or hospitality. The scale, amount of the offer and the potential frequency and source are relevant factors as are personal relationships with those making the offer. Also be sensitive to the timing of the offer in relation to decisions which the Council may be taking, affecting those making the offer.
- 2.3 You should avoid hospitality in situations where you would be the sole guest.
- 2.4 You may have to estimate the value of the gift or hospitality.
- 2.5 The decision for you in every case is whether or not it is appropriate to accept any gift or hospitality that might be offered to you, having regard to how it might be perceived by an ordinary member of the public. No hard and fast rules can be laid down to cover every circumstance as to what is appropriate or inappropriate. In any case of doubt, advice should be sought from the Monitoring Officer.

To refuse may cause misunderstanding or offence; however to accept may give rise to questions of impropriety or conflict of interest.

Where the decision whether to accept hospitality is left to your judgement, you must ask yourself some commonsense questions: for instance, whether there is a benefit to the Council in your accepting the invitation; whether the entertainment is lavish, on a scale which you could not personally afford; whether you are accepting too much hospitality from the same source; and, if your position is prominent, whether just your attendance at an event might be open to interpretation as a signal of support.

3. Code of Conduct requirements

- 3.1 The Member Code of Conduct requires that you register in your Register of Personal Interests (maintained by the Monitoring Officer), any gifts or hospitality with an estimated value of £25 or more, which are received and accepted by you, in the conduct of the business of the Council, the business of the office to which you have been elected or appointed or when you are acting as representative of the Council. You must also register the source of the gift or hospitality.
- 3.2 You must register the gift or hospitality as soon as possible but in any event within 28 days of its receipt/ acceptance.
- 3.3 The Member Code of Conduct provides that you automatically have a personal interest in a matter under consideration at a Council meeting, if it is likely to affect the person who gave you the gift or hospitality which you have registered. In practical terms, this means that, although you have registered the gift or hospitality and its source in your Register of Personal Interests, you must still orally, at the meeting, disclose as a personal interest, the existence and nature of the gift and hospitality, the person who gave it to you and how the business under consideration relates to that person and then decide whether your interest is also prejudicial. If the interest is prejudicial, then you must declare you have a prejudicial interest and comply with the rules on prejudicial interests.
- 3.4 You must continue to disclose the existence and nature of the gift or hospitality etc at relevant Council meetings, for 3 years from the date you first registered the gift or hospitality. This disclosure requirement ceases for gifts and hospitality interests registered more than 3 years ago.
- 3.5 Where any gift (no matter the value) is accepted, the donor should always be advised that acceptance will not confer any advantage for that donor in his/her dealings with the Council.

4. Series of gifts or hospitality adding up to £25 or more in value

The registration requirement in the Code is limited to gifts or hospitality worth £25 or more. If you receive a series of gifts or hospitality from the same source that add up to £25 or more, then this must be registered on your Register of Personal Interests as an accumulation. You may have to estimate the value of the gifts or hospitality. Occasionally there are frequent offers of hospitality from the same source e.g. Queens Theatre. This should be registered if tickets exceed the limit

and are accepted and should be registered cumulatively if more than one offer is received. Any donation to the Queens Theatre in lieu of the ticket price or part thereof should be deducted from the hospitality.

5. What to avoid

- 5.1 In deciding whether it is appropriate to accept any gift or hospitality, you must apply the following principles:
- (a) do not accept a gift or hospitality as an inducement or reward for anything you do as a Member. If you have any suspicion that the motive behind the gift or hospitality is an inducement or reward, you must decline it. 'Reward' includes remuneration, reimbursement and fee.
 - (b) do not accept a gift or hospitality of significant value or whose value is excessive in the circumstances.
 - (c) do not accept a gift or hospitality if you believe it will put you under any obligation to the provider as a consequence.
 - (d) do not solicit any gift or hospitality and avoid giving any perception of doing so.
 - (e) do not accept a gift or hospitality, if acceptance might be open to misinterpretation. Such circumstances will include gifts and hospitality:
 - (i) from parties involved with the Council in a competitive tendering or other procurement process.
 - (ii) from applicants for planning permission and other applications for licences, consents and approvals.
 - (iii) from applicants for grants, including voluntary bodies and other organisations applying for public funding.
 - (iv) from applicants for benefits, claims and dispensations.
 - (v) from parties in legal proceedings with the Council.
- 5.2 It is a criminal offence corruptly to solicit or receive any gift, reward or advantage as an inducement to doing or forbearing to do anything in respect of any transaction involving the Council. The onus would be on you to disprove corruption in relation to the receipt of a gift or hospitality from a person holding or seeking to obtain a contract from the Council.
- 5.3 Cash or monetary gifts should always be refused without exception and the refusal notified to the Monitoring Officer.

It is a well-established and recognised rule that no Councillor or other public servant should accept gifts, hospitality, or services from anyone, which would or might appear to place him/her under an obligation. If you are in doubt about what is proper, there are three particular things you should bear in mind;

- ***DO*** err on the side of caution. If the thought of the acceptance of the gift or hospitality becoming public makes you uncomfortable, do not accept;
- ***DO*** consult the Monitoring Officer or a Deputy Monitoring Officer if you are still unsure;
- ***DO*** consider if you decide to go ahead to record with the Monitoring Officer that you have addressed the issue of propriety and setting out your reasons for believing that your actions comply with this Protocol.

6. Gifts and hospitality which need not be registered

There are some circumstances where you may accept gifts and hospitality without the need to register the gift or hospitality. Some situations will require the exercise of your personal judgement. You should always be cautious, when additional services, privileges or advantages are offered, which might be related to your position as a Member. Remember - always register a gift or hospitality if it could be perceived as something given to you because of your position.

- (i) Official hospitality such as a civic reception or a working/business lunch in Council owned premises or hosted elsewhere, by a partner organisation of the Council.
- (ii) Civic hospitality provided by another public authority.
- (iii) Refreshment in connection with any meeting in the course of your work as a member e.g. tea, coffee and other normal beverages and refreshments.
- (iv) Meals or refreshments funded by other public sector partners, as part of joint working/collaboration.
- (v) Meals or refreshments provided as part of a ceremony or event to promote/or launch a project or initiative.
- (vi) Meals or refreshments provided at design/progress meetings, by a consultant, contractor or advisor who is already appointed by the Council for that project, scheme or initiative.
- (vii) Drinks or other refreshment in the normal course of socialising arising consequentially from Council business e.g. inclusion in a round of drinks after a meeting.
- (viii) Small low value gifts, such as pens, calendars, diaries, flowers and other mementos and tokens.
- (ix) Gifts and hospitality arranged and paid for wholly by your own political party.
- (x) Gifts and hospitality not related or connected with your membership of the Council i.e. received by you outside the performance of your functions as a Member.

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- (xi) Gifts and hospitality you may receive from family and friends e.g. birthday presents that are not related to your position as a Member.
- (xii) Gifts given to the Council that you accept formally on the Council's behalf and are retained by the Council and not by you personally e.g. a commemorative goblet for display in the Mayor's parlour.
- (xiii) Gifts given as prizes at exhibitions, conferences, seminars etc. as part of a free raffle or draw.
- (xiv) Gifts and hospitality which you do not accept (refer to the guidance in paragraph 7 of this Protocol).
- (xv) Gifts which you donate to the Mayor's charity, subject to you indicating this intention to the donor of the gift.
- (xvi) Gifts known to be available to all members of the Council e.g. badges and ties bearing the Council's coat of arms.
- (xvii) Souvenirs and gifts from other public bodies intended as personal gifts e.g. arising from town-twinning and other civic events.
- (xviii) Hospitality known to be available to all members of the Council e.g. Annual Meeting/Mayor making refreshments
- (xix) Hospitality ancillary to the Council business being conducted, such as an overnight stay for an 'away – day with a partner organisation of the Council'.
- (xx) Hospitality ancillary to attendance at conferences, seminars and courses where the hospitality is corporate, rather than personal.
- (xxi) Hospitality ancillary to attendance at functions where you represent the Council (opening ceremonies, public speaking events, conferences).
- (xxii) Hospitality ancillary to attendance as Mayor or Deputy Mayor, at charity events, garden parties, fetes, schools, concerts etc.
- (xxiii) Trips in the UK or abroad which are paid for by the Council or which involve reciprocity of payment with other local authorities, government bodies/ departments or outside bodies/organisations, together with any hospitality associated with such visits and available to all participants.

7. Gifts and hospitality declined

There is no requirement to register gifts and hospitality offered but declined. When gifts or hospitality are declined, the offeror should be courteously but firmly informed of the procedures and standards operating within the Council.

8. Reporting of inappropriate gifts and hospitality offered

It is a criminal offence for a person corruptly to give or offer any gift, reward or advantage as an inducement or reward to you for doing or forbearing to do anything as a member of the Council. You must immediately report to the Monitoring Officer any circumstances where an inappropriate gift or hospitality has been offered to you including repeated or persistent offers (even if declined). You may thereafter be required to assist the Police in providing evidence.

9. Overseeing this Protocol

The Standards Committee has responsibility for overseeing compliance with this guidance and allegations of any failure to meet the guidance must be made in writing to the Monitoring Officer.