



Haverling

L O N D O N B O R O U G H

GOVERNANCE COMMITTEE AGENDA

7.30 pm	Wednesday 11 March 2015	Town Hall, Main Road, Romford
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Members 13: Quorum 5

COUNCILLORS:

**Conservative
(5)**

Michael White (Chairman)
Osman Dervish
Roger Ramsey
Melvin Wallace
Damian White

**Residents'
(3)**

Ray Morgon
Stephanie Nunn
Barry Mugglestone

**East Haverling Residents'
(2)**

Clarence Barrett (Vice-Chair)
Darren Wise

UKIP

(2)

Lawrence Webb
Ian de Wulverton

Independent Residents

(1)

Jeffrey Tucker

**For information about the meeting please contact:
Grant Soderberg tel: 01708 433091
e-mail: grant.soderberg@onesource.co.uk**

Protocol for members of the public wishing to report on meetings of the London Borough of Havering

Members of the public are entitled to report on meetings of Council, Committees and Cabinet, except in circumstances where the public have been excluded as permitted by law.

Reporting means:-

- filming, photographing or making an audio recording of the proceedings of the meeting;
- using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or
- reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later if the person is not present.

Anyone present at a meeting as it takes place is not permitted to carry out an oral commentary or report. This is to prevent the business of the meeting being disrupted.

Anyone attending a meeting is asked to advise Democratic Services staff on 01708 433076 that they wish to report on the meeting and how they wish to do so. This is to enable employees to guide anyone choosing to report on proceedings to an appropriate place from which to be able to report effectively.

Members of the public are asked to remain seated throughout the meeting as standing up and walking around could distract from the business in hand.

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 & SUBSTITUTE MEMBERS

(If any) - receive

3 DISCLOSURE OF PECUNIARY INTERESTS

Members are invited to disclose any pecuniary interest in any of the items on the agenda at this point of the meeting.

Members may still disclose any pecuniary interest in any item at any time prior to the consideration of the matter.

4 MINUTES (Pages 1 - 4)

To approve as a correct record the minutes of the Committee held on 14 January 2015, and to authorise the Chairman to sign them.

5 REVISION TO THE CALL-IN PROCEDURE FOR APPLICATIONS BROUGHT BEFORE THE REGULATORY SERVICES COMMITTEE (Pages 5 - 8)

6 FLOOD & WATER MANAGEMENT ACT 2010 (Pages 9 - 14)

7 REVISION TO THE PROCEDURE FOR THE NOMINATION AND APPOINTMENT OF HONORARY FREEMAN AND HONORARY ALDERMAN (Pages 15 - 20)

8 RESIGNATION OF THE MEMBER CHAMPION FOR THE OVER FIFTIES (Pages 21 - 22)

9 MEMBERS CODE OF CONDUCT COMPLAINTS PROCEDURE (Pages 23 - 58)

10 APPOINTMENTS TO OUTSIDE BODIES AND OTHER ORGANISATIONS (Pages 59 - 62)

11 LOCAL PENSIONS BOARD – Report to follow

Andrew Beesley
Committee Administration
Manager

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**MINUTES OF A MEETING OF THE
GOVERNANCE COMMITTEE
Town Hall, Main Road, Romford
14 January 2015 (7.30 - 7.50 pm)**

Present:

COUNCILLORS

Conservative Group	Michael White (Chairman), Melvin Wallace, +Ray Best, +Robert Benham and +Meg Davis
Residents' Group	Ray Morgon, Stephanie Nunn and Barry Mugglestone
East Havering Residents' Group	Clarence Barrett (Vice-Chair) and Darren Wise
UKIP Group	Ian de Wulverton and +Philip Hyde
Independent Residents Group	+David Durant

Apologies for absence were received from Councillors Roger Ramsey, Osman Dervish, Damian White, Lawrence Webb and Jeffrey Tucker who were substituted by councillors +Robert Benham, +Ray Best, +Meg Davis, +Philip Hyde and +David Durant respectively.

There were no disclosures of pecuniary interest

Decisions were taken without division unless otherwise stated.

18 MINUTES

The minutes of the meeting held on 19 November 2014 were agreed as a true record and signed by the Chairman.

19 CHANGES TO DELEGATED POWERS - REGULATORY SERVICES

The Committee was informed that following a review, the Head of Regulatory Services had identified two areas of operational activity— 7 day list of objections received and enforcement - which would benefit materially from changes to delegated powers to enable more effective and efficient service delivery.

The current position was that Sections 3.6.6(d) and (e) of the Constitution covered planning applications which were intended for an officer approval under delegated powers but which had attracted objection(s) by the public. In such cases the application was included within what was known as the "7 day list". This was included within the weekly Calendar Brief. The specific purpose of the list was to notify Members about planning applications which had

attracted at least one objection and which they might wish to consider calling in to be decided by the Regulatory Services Committee rather than under staff delegated powers.

It was proposed to retain the call-in process itself but to dispense with creation of the '7 day list' and its weekly publication within Calendar Brief as the result of a survey of all Members undertaken on 31 October 2014 which asked a series of questions concerning their perceived usefulness of the 7 Day List. The answers indicated that the majority of those Members who responded bore out officers' conclusions that there was no material benefit in retaining the 7 day list within the Call-in procedure.

Members were then informed that a similar situation existed with respect of planning enforcement notices which was specifically about the service of notices against breaches of planning control.

Members were reminded that the current position was that the limited range of prevailing delegated powers for enforcement meant that many straightforward cases, where a planning permission had not already been refused for that development, needed Regulatory Services Committee's authority.

A review of enforcement authority reports presented to Regulatory Services over the period January 2013 to date showed that in no instances did the Committee decline to authorise staff to initiate enforcement action and so extending delegated powers to cover all types of enforcement case would speed up the timeframe within which notices might be created and served and this would result in a reduction in reports to Committee which would create process efficiencies.

A Member raised a query about "stopping-up" orders and the Head of Regulatory Services explained that there was a difference between "Stop" notices and "stopping up" orders and that the amendment did not involve the latter in any way.

The Committee **recommended** to Council that the following changes be incorporated into Section 3.6.6 of the Constitution relating to the Head of Regulatory Services.

1) Section 3.6.6(e) be deleted and Section 3.6.6 (d) be altered to:

"Members may request that an application be referred to the Regulatory Services Committee for determination. Such request must be made in writing to either the Head of Regulatory Services or the Planning Manager personally. If no such request is received by the deadline of that period the Head of Regulatory Services may approve the application."

2) Section 3.6.6(p) be altered to:

"To issue Enforcement Notices, Stop Notices and Listed Building Enforcement Notices".

20 POLLING DISTRICT REVIEW

The Committee was reminded that at its meeting on 19 November 2014 a Member had raised a concern about the polling arrangements for Cranham Ward (Hornchurch & Upminster constituency) for the continued use of the Upminster Methodist Church Hall, Hall Lane as he considered that its positioning was not conducive to residents' use.

In response to this objection, a further evaluation had been undertaken to determine whether there were any viable alternative premises. Two options had been suggested:

1. Havering Sixth Form Centre, Wingletye Lane and
2. The Europa Music Centre, The Walk and Havering Music School, The Walk.

Both of these buildings were located within the St Andrews ward and were therefore outside of the ward and polling district. The review concluded that:

- With regard to the location of a polling station, Section 18(3) of the Electoral Administration Act stated that:

the polling place for a polling district must be an area in the district, unless special circumstances make it desirable to designate an area wholly or partly outside the district;

- Moving to either of the proposed stations would result in approximately 55% of the electorate being required to travel further to vote in their polling station. Those in the north of the polling district would have a significant increase in how far they had to travel.
- The low turnout in this polling station was listed as a factor for changing the location. Almost 20% of voters in this polling district had, however, opted for a postal vote. 75% of these electors voted by post in 2014 bringing the overall turnout in CM5 to 44%, higher than the overall average turnout across the borough.
- Upminster Church Hall was fully accessible to voters with disabilities. It was also of a suitable size to house a double polling station which was necessary as CM5 had the highest number of electors in the ward (2814).
- In addition, the Retuning Officer had, to date, received no complaints directly from voters with regards to this polling station.

The Committee **recommended** to Council that the polling station identified in the original report (Upminster Methodist Church Hall, Hall Lane), be retained.

21 **AMENDMENTS TO THE CONSTITUTION - FINANCIAL REGULATIONS, FINANCE POLICY AND BUDGET AND POLICY FRAMEWORK**

The Committee was reminded that following the establishment of the shared service between Havering and Newham Councils, officers had been reviewing the formal governance arrangements and associated policies and procedures. The aim of these reviews being to both rationalise and standardise them to make them, as far as possible, consistent. This brought a number of benefits including ease of maintenance, consistency, simplification and portability between the two councils, and was intended to ensure that all detailed procedures, including the operation of the Oracle suite of systems, took place in a consistent manner.

It was recognised that the overarching governance arrangements between the two councils did differ, and this had been reflected in carrying out the review. The basic principles to be applied did not currently differ in any substantive way, however, and this had therefore facilitated bringing the two sets of rules together into a single set.

The areas dealt with in the report were the Financial Regulations, a new Finance Policy to provide the platform on which the Regulations would operate and the Budget and Policy Framework. The Committee was asked to note that further work was underway on the delegations to the Joint Committee created to oversee the operations of the shared service and a further report on this would be brought forward in due course.

A Member raised a query about whether Corporate Governance had been adequately addressed in connection with audit and was informed that this had been addressed (paragraph A.6 of the Financial Regulations).

The Committee **recommended** to Council that the revised Financial Regulations, Finance Policy and Budget and Policy Framework be adopted.

22 **MONITORING OFFICER NO 04 AMENDMENTS TO THE CONSTITUTION**

Members considered a report of the Monitoring Officer containing various changes to the Constitution.

The Committee **noted** the changes within the appendices to the report.

23 **APPOINTMENTS TO OTHER ORGANISATIONS- HORNCHURCH HOUSING TRUST**

The Chairman announced that this report had been withdrawn for further consideration

Chairman



GOVERNANCE COMMITTEE

11 March 2015

Subject Heading:

Revision to the call-in procedure for applications brought before the Regulatory Services Committee

Report Author and contact details:

Andrew Beesley, Committee Administration & (Interim) Member Support Manager
01708 432437;
Andrew.beesley@onesource.co.uk

Policy context:

Council's Constitution

Financial summary:

None arising from this report

SUMMARY

Following a request from members of the Regulatory Services Committee, it is proposed that a revision be made to the call-in procedure for planning applications brought before the Regulatory Services Committee. The proposal is for the call-in of a planning application to be restricted specifically to the Councillors for the ward in which the planning application site is located.

RECOMMENDATIONS

The Committee recommend to Council that:

1. Committee Procedure Rule 13(a) of the Council's Constitution be revised the read the following:

(e) Only a Councillor representing the ward in which the planning application is located may call-in an application before the Regulatory Services Committee. Any such request for call-in must be received by the Head of Regulatory Services in writing (to include email 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.

2. The Council's Monitoring Officer be authorised to make the necessary change to the Council's Constitution, should the proposal be agreed by Council.

REPORT DETAIL

1. Committee Procedure Rule 13(e) of the Council's Constitution sets out the provisions for the call-in of a planning application for consideration by the Regulatory Services Committee which would otherwise be determined by Council Officers in accordance with the delegated scheme of authority. It states:

“Any request for call-in by a Member must be received by the Head of Regulatory Services in writing (to include email 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.”

2. Members of the Regulatory Services Committee have proposed that a revision be made to the call-in procedure. The proposal is for the call-in of a planning application to be restricted specifically to the Councillors for the ward in which the planning application site is located. This would change the existing arrangement which permits any Member of the Council to call-in a planning application irrespective of whether he/she is the ward Councillor where the planning application site is located.
3. It would continue that for a call-in to be valid it would require detailed reasons which must be related solely to matters of material planning concern. Similarly, any Member of the planning committee calling in a matter must continue to 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.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no financial impacts resulting from the proposed revision to the Council's Constitution.

Legal implications and risks:

It is for Council to determine the procedures it shall follow for the calling in of planning applications before the Regulatory Services Committee.

Human Resources Implications and risks:

There will likely be a very minor reduction in the volume of work for staff as the proposal, if agreed, would result in fewer reports making their way onto the Regulatory Service Committee agenda for consideration.

Equalities implications and risks:

There are none arising from this report.

BACKGROUND PAPERS

None

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GOVERNANCE COMMITTEE

11 March 2015

Subject Heading:

Flood & Water Management Act 2010

Report Author and contact details:

Patrick Keyes – Head of Regulatory Services x2721

Policy context:

Monitoring Officer Amendments to the Constitution to reflect legislation change

Financial summary:

These changes are mainly procedural but will have financial implications for resourcing new duties.

SUMMARY

In 2010 the Flood & Water Management Act 2010 introduced provisions for the management of risks in connection with flooding and coastal erosion.

The Government, in liaison with the Environment Agency and DEFRA (Department for Food and Rural Affairs) has since been scoping arrangements for requiring Sustainable Urban Drainage Systems (SUDS) to be provided within certain categories of new development as part of a suite of measures to combat flood risk. The Government recently announced that SUDS matters will now be incorporated within the planning application process from April 2015. Further national guidance on the exact process is awaited.

This report accordingly seeks to delegate the provisions of the Flood & Water Management Act into the executive functions of the Head of StreetCare and Head of Regulatory Services.

RECOMMENDATIONS

That the provisions of the Flood and Water Management Act 2010 be delegated into the executive functions of the Head of StreetCare and Head of Regulatory Services.

REPORT DETAIL

1. Stemming from the 2007 Pitt Review of Flooding in the UK, the Flood & Water Management Act was enacted in 2010.
2. This designates *Lead Local Flood Authorities* of which Havering is one, in its London Borough capacity.
3. Over the last 2-3 years Government, in liaison with the Environment Agency and DEFRA has been consulting on proposals to require SUDS (Sustainable Urban Drainage Systems) to be provided within larger categories of new development.
4. Amid local authority and developer concerns about the resource impact of the Government's original proposals, including future maintenance, Government late last year announced simpler proposals to require applicants for Major development to seek consent for their SUDS proposals as part of their planning application. On receipt of a "SUDS" proposal, the Local Planning Authority would consult technically with the Lead Local Flood Authority ie that separate function of this Council. The process for consulting this Council's StreetCare service on SUDS proposals would be similar to how the Council, as Local Planning Authority, consults the StreetCare's Highway Authority function (ie also the Council) on receipt of proposals which have a highways impact.
5. To give effect to the above, and any similar aspects confirmed by the Flood & Water Management Act 2010 ("the 2010 Act"), this reports seeks that within the Constitution the powers of that Act be delegated into the functions of the Head of StreetCare and Head of Regulatory Services.

IMPLICATIONS AND RISKS

Financial implications and risks:

DEFRA grant in the short term may cover initial expenditure. However longer term financial resource may be required by StreetCare if the DEFRA grant does not fully cover costs.

Officers will need to review any impact following the introduction of the new SUDS arrangements. This cannot currently be quantified, but may be a pressure.

Legal implications and risks:

Following closure of Government consultation on proposals not to implement schedule 3 of the 2010 Act in the form drafted on 24th October 2014, the Secretary of State for Communities and Local Government announced in a Ministerial Statement on 18th December 2014 that the Government was proposing to progress revised proposals for implementation on 6th April 2015. The assessment of Sustainable Drainage (SUDS) as part of the planning application process for major applications will become a statutory requirement in line with the proposals set out in the Ministerial Statement. A copy of the Ministerial Statement is appended to this report at Appendix 1 and it sets out the proposals and the definition of major applications.

This report seeks to delegate legislative provisions in the interests of enabling timely and effective decisions on SUDS submissions made as part of major development proposals.

Human Resources implications and risks:

There is likely to be a mid to longer term impact on staffing requirements depending on the detail of guidance awaited from Government.

Equalities implications and risks:

There are no implications for equality and diversity.

BACKGROUND PAPERS

*There is a **statutory** obligation to list papers relied on in the preparation of the report, **unless**:*

- 1. It is an exempt report.*
- 2. Papers relied upon are already in the public domain as “published papers”. This can include: books, magazines and newspapers; Government publications; Council publications (including previous reports and minutes of meetings).*

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APPENDIX 1 - MINISTERIAL STATEMENT

House of Commons: Written Statement (HCWS161)

Department for Communities and Local Government

Written Statement made by: **The Secretary of State for Communities and Local Government (Mr Eric Pickles)** on 18 Dec 2014.

Sustainable drainage systems

As part of the Government's continuing commitment to protect people and property from flood risk, my Department and the Department for Environment, Food and Rural Affairs recently consulted on a proposal to make better use of the planning system to secure sustainable drainage systems. Today we are publishing our response to the consultation explaining how we will be strengthening existing planning policy. This will make clear that the Government's expectation is that sustainable drainage systems will be provided in new developments wherever this is appropriate.

To this effect, we expect local planning policies and decisions on planning applications relating to major development - developments of 10 dwellings or more; or equivalent non-residential or mixed development (as set out in Article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2010) - to ensure that sustainable drainage systems for the management of run-off are put in place, unless demonstrated to be inappropriate.

Under these arrangements, in considering planning applications, local planning authorities should consult the relevant lead local flood authority on the management of surface water; satisfy themselves that the proposed minimum standards of operation are appropriate and ensure through the use of planning conditions or planning obligations that there are clear arrangements in place for ongoing maintenance over the lifetime of the development. The sustainable drainage system should be designed to ensure that the maintenance and operation requirements are economically proportionate.

To protect the public whilst avoiding excessive burdens on business, this policy will apply to all developments of 10 homes or more and to major commercial development. The Government will keep this under review, and consider the need to make adjustments where necessary. The current requirement in national policy that all new developments in areas at risk of flooding should give priority to the use of sustainable drainage systems will continue to apply.

These changes will take effect from 6 April 2015. For avoidance of doubt this statement should be read in conjunction with the policies in the National Planning Policy Framework. This statement should be taken into account in the preparation of local and neighbourhood plans, and may be a material consideration in planning decisions.

To support local authorities in implementing these changes, we will publish revised planning guidance in time for the policy changes to take effect, and engage with local government on a capacity building programme.

My Department will today begin consulting on a proposal to make lead local flood authorities a statutory consultee on planning applications for surface water management; and makes changes to the statutory consultee role of the Environment Agency to better reflect the Agency's strategic expertise and reflect the new responsibilities for local flood management exercised by lead local flood authorities.

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GOVERNANCE COMMITTEE
11 March 2015

Subject Heading:

Revision to the procedure for the nomination and appointment of honorary freeman and honorary alderman

Report Author and contact details:

Andrew Beesley, Committee Administration & (Interim) Member Support Manager
01708 432437;
Andrew.beesley@onesource.co.uk

Policy context:

Council's Constitution

Financial summary:

None arising from this report

SUMMARY

This report proposes revisions to the procedure for the nomination and appointment of Honorary Freemen and Honorary Aldermen and the adoption of a protocol for such matters.

RECOMMENDATIONS

The Committee recommend to Council:

1. That the protocol for the nomination and appointment of honorary freemen and honorary aldermen for the London Borough of Havering attached as Appendix A be approved.
2. That the Council's Monitoring Officer be authorised to make the necessary change to the Council's Constitution.

REPORT DETAIL

1. Under the provisions of Section 249 of the Local Government Act 1972, the Council may, by resolution passed by not less than two-thirds of the councillors voting thereon at a meeting specially convened for the purpose:
 - (i) Admit to be Honorary Freemen of the Borough persons of distinction and persons who have, in the opinion of the Council, rendered eminent service to the Borough; and
 - (ii) Confer the title of Honorary Alderman upon persons who have, in the opinion of the Council, rendered eminent service to the Council as part councillors.
2. Current practice in Havering is for nominations for the appointment of honorary freeman and honorary alderman to be submitted for consideration at the annual meeting of Council. To support the nominations, details of the eminent service or the reasons for distinction for which the award is to be conferred, are required.
3. In recent years there has been an increase in the number of nominations with an annual expectation that nominations will be made. To ensure that the honour is regarded as the highest accolade a Council can award, the Administration has proposed a protocol which would amend existing procedures and which would also remove the likelihood of a nomination not achieving the requisite two-thirds majority at Council.
4. It is proposed that in the first instance Group Leaders will attempt to reach agreement on the nomination to ensure that it would meet the requisite two-thirds majority. Once Group Leaders have discussed the matter, it will be referred to the Governance Committee which will in-turn recommend to Council for its consideration the names of those individuals nominated for the award of honorary freeman or honorary alderman.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no financial impacts resulting from adopting this protocol. Also the appointment of "honorary freeman/alderman" does not create any financial implications as they are the award of titles only.

Legal implications and risks:

Section 249 of the Local Government Act 1972 states the statutory position in respect of the conferment of award for the position of honorary freeman and

honorary alderman. It is for Council to determine the procedures it shall follow for the nomination of persons for such awards.

Human Resources Implications and risks:

There will be a minor impact as additional report drafting will be required to future meetings of the Governance Committee. This will however be met by existing resources within Legal and Governance.

Equalities implications and risks:

There are none arising from this report.

BACKGROUND PAPERS

None

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Protocol on the nomination and appointment of Honorary Freemen and Honorary Aldermen for the London Borough of Havering

Background

The Council may admit a person of distinction as an honorary freeman of the borough in recognition of their eminent services to the borough; or confer the title of honorary alderman upon a past member of the Council in recognition of their services to the borough. This is done in accordance with the provisions of Section 249 of the Local Government Act 1972 and in accordance with the Council's Constitution.

In recent years there has been a rapid increase in the number of nominations with an annual expectation that nominations will be made. On one occasion a motion did not achieve the required majority causing embarrassment to the nominee and his family. With the Council having now 5 groups it is desirable to have a cross-group accord to ensure that the honour is regarded as the highest accolade a Council can award and not an annual routine and that a nominee has sufficient support to command the two thirds majority. A protocol in the following form is therefore adopted in order to achieve this. Such a protocol does not remove the constitutional rights of members of the Council but signifies a process which has general support.

Protocol

1. Save for exceptional circumstances, nomination will only be made once a year at the Annual Council Meeting.
2. It will not be expected that there must be nomination every year.
3. Before a nomination for an honour is made there should be a meeting of Group Leaders to discuss and evaluate the proposal. Consideration will be given to the suitability for a Mayor's Civic Award as a suitable alternative.
4. Group Leaders will try and reach agreement if possible in order to ensure a requisite majority.
5. Once Group Leaders have discussed the matter Governance Committee shall consider the matter and be able to make a recommendation to confer the honour to Council following the receipt of a report prepared by the Committee Administration Manager.
6. The Group Leaders' discussion and the consideration of the report to Governance Committee shall be confidential out of respect for the nominees.

7. Once agreement has been reached by Group Leaders they will seek to ensure that their Groups adhere to the agreement to avert embarrassment to the nominee. In the absence of agreement from Group Leaders that makes it clear that the required majority will be achieved or, even if the required majority can be achieved, that one Group will vote or speak against the nomination, it will still be the prerogative of any Group Leader to nominate as they see fit. In such circumstances it will be the nominating Group Leader's responsibility to warn the nominee that some members of the council may speak or vote against the nomination and that it therefore may not be agreed.



GOVERNANCE COMMITTEE
11 March 2015

Subject Heading:

**Resignation of the Member Champion
for the Over Fifties**

CMT Lead:

Andrew Blake-Herbert
Group Director, Communities & Resources

Report Author and contact details:

Andrew Beesley
Committee Administration & (Interim)
Member Services Manager
Andrew.beesley@onesource.co.uk
01708 432437

Policy context:

Local Government Act 2000
Council Constitution

Financial summary:

There is no financial impact on the
Council

SUMMARY

This report notifies Members of the resignation of the Over Fifties Champion, Councillor Patricia Rumble. The report also explains that a successor will need to be appointed at the next ordinary meeting of Full Council on 25 March.

RECOMMENDATIONS

That Governance Committee **note** the resignation of Councillor Patricia Rumble as the Member Champion for the Over Fifties and that her successor will be appointed at the next meeting of Council.

REPORT DETAIL

- 1 Member Champions were introduced as part of the Local Government Act 2000 as a means of providing a voice for traditionally underrepresented

groups, and for highlighting issues which needed to be kept at the forefront of Council business.

- 2 The London Borough of Havering has seven Member Champions:
 - Champion for Over Fifties
 - Champion for Younger Persons
 - Champion for Diversity
 - Champion for the Historic Environment
 - Champion for Standards
 - Champion for the Voluntary Sector Compact
 - Champion for the 14-19 Diploma Scheme

- 3 On 23 January 2015, Councillor Rumble resigned from her position as Member Champion for the Over Fifties. It will be for Council to appoint a successor at its next ordinary meeting which is scheduled for 25 March 2015.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no direct financial implications and risks arising from this report.

Legal implications and risks:

There is no statutory requirement for Member Champions to be appointed. It will be for Council to appoint a successor at the earliest available opportunity.

Human Resources implications and risks:

There will be a minor impact to resources as staff will be required to undertake some administrative duties following the appointment of the new Member Champion; this will however be met by existing resources.

Equalities implications and risks:

There are no direct equalities implications and risks

BACKGROUND PAPERS

None

GOVERNANCE COMMITTEE

11 March 2015

Subject Heading:

Members Code of Conduct Complaint Procedure

Report Author and contact details:

Graham White, Interim Head of Legal Services

Graham.white@havering.gov.uk

01708 432484

Policy context:

Providing clear guidance to Members – ensure efficient use of Council Resources

Financial summary:

While there are no specific material financial implications, the proposed changes are designed to promote a more efficient use of council resources.

SUMMARY

A report, considered by the Adjudication & Review Committee at its meeting on 4 February 2015 concerning arrangements for dealing with allegations that a Member or a Co-opted Member has failed to comply with the Members' Code of Conduct, has been referred to the Governance Committee for it to consider whether to include the arrangements in the Council's Constitution.

RECOMMENDATIONS

1. That the report be noted and its appendices as presented, be adopted for use by the Council
2. That the Council's Monitoring Officer be authorised to make the necessary changes to the Council's Constitution.

REPORT DETAIL

1. Background

- 1.1 The Localism Act 2011 amended the statutory provision of an ethical framework for local authority Members and Co-opted Members. The primary requirement was that authorities must promote and maintain high standards of conduct and in discharging that duty must adopt a code dealing with the conduct that is expected of Members and Co-opted Members when they are acting in that capacity. This Council has adopted such a code which is in the Council's Constitution and to which each member and Co-opted Member has undertaken to abide.
- 1.2 Section 28 of the Localism Act 2011 provides that in addition to adopting a Code of Conduct pursuant to the revised ethical framework, an Authority must have in place arrangements under which allegations (of breach) can be investigated and arrangements under which decisions on allegations can be made.
- 1.3 The Adjudication and Review Committee has requested a review of the current arrangements which has been undertaken by the Deputy Monitoring Officer together with Democratic Services officers and revised arrangements attached at Appendix 1 are submitted to Committee for consideration.

2. Detailed Provisions

- 2.1 The revised arrangements provide that an allegation of a breach of the Code of Conduct by a Member/Co-opted Member shall be made to the Monitoring Officer who shall make an initial assessment of the validity of the allegation. The Arrangements provide a number of reasons why the Monitoring Officer may determine that the allegation does not merit any further action or endeavour to reach an informal resolution to the satisfaction of the parties.
- 2.2 If none of these reasons apply or an informal resolution is not achievable, the Monitoring Officer shall refer the allegation to an Adjudication and Review Assessment Panel which may either dismiss the allegation or decide that it merits further investigation. In the former case reasons must be given and in the latter the Monitoring Officer is requested to conduct an investigation. The Monitoring Officer may appoint an Investigating Officer.
- 2.3 Following the investigation, an Investigation Report is submitted to the Adjudication and Review Assessment Panel. Depending upon whether the report concludes that there is/is not evidence of failure to comply with the Members' Code of Conduct, the Assessment Panel may dismiss the allegation, remit the report to the Monitoring Officer for

- further consideration, or refer it on to the Adjudication and Review Hearing Panel to conduct a hearing.
- 2.4 Detailed provisions for how a hearing should be conducted are set out in the arrangements. The Panel will conduct hearings in an inquisitorial manner rather than in an adversarial manner. Members who are not members of the Panel or party to the proceedings may attend hearings but must withdraw when the Panel deliberates upon its determination.
- 2.5 Where the Panel determines that there has been a breach of the Code of Conduct, the Panel shall then determine the sanction/penalty, if any, following representations from the Member/Co-opted Member who has been found to be in breach.
- 2.6 Before any decisions are made by the Panel, the Localism Act 2011 requires that the views of the Independent Person be sought and taken into account.
- 2.7 It is proposed that there is no appeal from the final determination of an allegation at any stage in the process, either by the person making the allegation or the Member/Co-opted Member against whom the allegation is made.
- 2.8 It would be inappropriate for a person making an allegation to have the capacity to challenge the Monitoring Officer's determination or interpretation of the allegation which could lead to unnecessary disputes. The Monitoring Officer must be assumed to act in good faith and lawfully at all times. An aggrieved person making an allegation could always challenge the Monitoring Officer's decision by way of complaint to the Ombudsman if the person perceived maladministration or by challenge to the court upon an application for Judicial Review if the person perceived that the decision was unlawful.
- 2.9 Similarly with a determination by the Assessment Panel. If a decision is made to dismiss an allegation for specified reasons the considerations referred to in the previous paragraphs refer equally here. Where a decision is made for an allegation to be investigated, the determination is deferred to a later stage in the process.
- 2.10 The aspect which is likely to prove to be more controversial is in respect of an appeal from a decision of the Hearings Panel. In line with the arrangements in other authorities (a sample of about 15 other authorities has been reviewed) there is no appeal proposed from a determination of the Hearings Panel. There are a number of reasons for this:
- 2.10.1 Firstly, a member found to be in breach of the code may seek to appeal the decision regardless of merit in the hope that another Panel of Members might come to a different decision. A Member would have nothing to lose by so doing. From the Council's perspective this would drag out the process for several months and incur additional cost and time in organising what would in effect be a re-run of the hearing.

- 2.10.2 Secondly, it would prove difficult if not impossible to establish an Appeal Panel. The Adjudication and Review Committee is comprised of 10 Members. 3 have taken part in the Initial Assessment Panel. The same 3 may form the Assessment Panel for consideration of the Investigation Report but if that is not possible another 3 Members may be called upon. A further 3 Members would comprise the Hearing Panel. If up to 9 Members have participated by the time the Hearing Panel has made its decision there would be an insufficient number of Members who have not had any involvement to form an Appeal Panel.
- 2.11 If the Adjudication and Review Panel could not determine an Appeal because of Members who have already participated, the only place for an Appeal to be heard would be at full Council. It is wholly inappropriate for a matter of this nature to be considered by full Council which due to the political nature of its considerations is not best suited to the determination of a quasi-judicial matter. Moreover, with the withdrawal of those Members who have already participated together with the Member against whom the allegation was made, full Council would be a much reduced forum which could affect the political balance. Whilst political balance should not play a part in matters of this nature, it would be unrealistic to imagine that it could be set-aside totally in the context of full Council. However, that inability to set aside political considerations would render any decision more likely to challenge and potentially much harder to defend.
- 2.12 For the foregoing reasons it is considered that the arrangements are more robust and the Council better protected by having no appeals to determinations within the process. External scrutineers in the form of the form of the Local Government Ombudsman or the High Court are in a much better and independent position to review any determination.

IMPLICATIONS AND RISKS

Legal implications and risks:

1. Section 28 of the Localism Act 2011 provides that an Authority must revise its existing Code of Conduct having regard to the statutory changes to the ethical framework whereby an authority fulfils its statutory duty to promote and maintain high standards of conduct by Members and Co-opted Members. The Council has revised its code in the light of those matters and the Member's Code of Conduct forms part of the Council's Constitution. All Members and Co-opted Members have signed an undertaking to conduct themselves in accordance with the Code.
2. The Section also provides that an Authority must have in place arrangements under which allegations (of failure to comply with the Code of Conduct) can be investigated and arrangements under which decisions on

allegations can be made. The Arrangements attached at Appendix 1 meet these criteria.

3. Additionally, an authority is required to appoint at least one Independent Person whose views are sought and taken into account by the Authority before it makes its decision on an allegation that it has decided to investigate. Further that the views of the Independent Person may be sought in relation to an allegation in circumstances other than the foregoing, and by a Member/Co-opted Member who is the subject of the allegation. The Council has appointed appropriate Independent Persons and the Arrangements attached at Appendix 1 make provision for all the statutory requirements to be met.

Financial implications and risks:

This report proposes a revised set of arrangements for dealing with allegations that a Member or a Co-opted Member has failed to comply with the Members Code of Conduct. The proposed changes seek to, amongst other things, streamline procedure, and this should lead to a more efficient use of Council resources. There are no other specific material finance comments.

Human Resources implications and risks:

There are no HR implications or risks arising directly as a result of this report. The Council's Monitoring Officer is fully aware of their statutory obligations and responsibilities with regard to dealing with any allegations against Members.

Equalities implications and risks:

The Public Sector Equality Duty says that public bodies must have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation
- Advance equality of opportunity between different groups
- Foster good relations between different groups.

The Council has the duty to act, and is committed to all the above in its recruitment and employment practices and the provision and procurement of its services. This can also apply to elected members if they do something in a discriminatory manner when undertaking council business.

It is advisable that elected members undertake equality & diversity training to ensure that they do not act discriminatory while undertaking council business.

Individuals involved in Member Code of Conduct Complaints Procedure should receive Equality & Diversity Training to ensure the Council and its elected comply with the Equality Act, especially when it is equality related breaches of Members Code of Conduct. This should include elected and co-opted members, as well as the Monitoring Officer.

Governance Committee, 11 March 2015

Reasonable adjustments should be made for disabled elected members to ensure they can fully participate in the member Code of Conduct Complaints Procedure.

BACKGROUND PAPERS

None

LONDON BOROUGH OF HAVERING

Arrangements for dealing with allegations that a Member or a Co-opted member of the London Borough of Havering has failed to comply with the Members' Code of Conduct

1. INTRODUCTION

- 1.1 These arrangements set out how an allegation may be made that an elected Member or Co-opted Member of the London Borough Havering has failed to comply with the Members' Code of Conduct and how the Council will deal with such allegations.
- 1.2 Under Section 28 of the Localism Act 2011 the Council must have arrangements in place whereby allegations can be investigated and decisions upon them can be made. In addition the arrangements must provide for the Council to appoint at least one Independent Person whose views must be sought and taken into account by the Council before it makes a decision and who may be consulted by the Council at other stages in the process or by the Member/Co-opted Member against whom an allegation has been made. The arrangements fulfil the Council's statutory obligations.
- 1.3 In these arrangements a number of terms are used which have the following meanings.

Member	An elected Councillor
Co-opted Member	A person who is not an elected Member of the Council but has been appointed to a committee or sub-committee of the Council

Monitoring Officer	An officer of the Council designated under Section 5 of the Local Government and Housing Act 1989 to undertake the statutory duties prescribed which include ensuring that the Council and its Members and Officers act lawfully at all times. Under Section 29 of the Localism Act 2011 the Monitoring Officer must establish and maintain a Register of Interests of Members and Co-opted Members.
Investigating Officer	An appropriate person appointed by the Monitoring Officer to conduct an investigation into an allegation.
Independent Person	A person appointed by the Council pursuant to Section 28 of the Localism Act 2011 whose views are sought and taken into account before decisions upon allegations against Members/Co-opted Members are taken and who may be consulted by a Member/Co-opted Member who is the subject of allegations or by the Council generally.
Adjudication and Review Assessment Panel	An ad hoc Panel of three Members taken from the membership of the Adjudication and Review Committee established to decide whether allegations against Members/Co-opted Members are worthy of investigation.
Adjudication and Review Hearing Panel	An ad hoc Panel of three Members taken from the membership of the Adjudication and Review Committee established to conduct Hearings into allegations of breaches by Members/Co-opted Members of the Members' Code of Conduct

2. THE MEMBERS' CODE OF CONDUCT

- 2.1 The Council has adopted a members' Code of Conduct which is available on the Council's website and on request from the Monitoring Officer.

<https://www.havering.gov.uk/Pages/Category/Councillors.aspx?l1=90001>

3. MAKING AN ALLEGATION

- 3.1 Allegations concerning possible breaches of the Code of conduct should be made in writing to:

Monitoring Officer

London Borough of Havering

Town Hall,

Main Road,

Romford RM1 3BD

Tel: 01708 432484

Or by email to complaints@havering.gov.uk marked for the attention of the Monitoring Officer.

- 3.2 It is preferable that allegations are made on the form available on the Council's website:

[Insert link to form (not yet available)]

- 3.3 It is important that a person making an allegation provides his/her name and a contact address or email address so that the Monitoring Officer can acknowledge receipt of the allegation and keep the person informed of its progress.
- 3.4 The person must indicate if he/she wants to keep his/her name and address confidential and the Monitoring Officer will consider any such requests. The Monitoring Officer has to balance the rights of the Member/Co-opted Member

to understand who is making an allegation against them, against the rights of the person making the allegation who will have to provide reasons why their name and/or address ought to remain confidential

- 3.5 If the Monitoring Officer accepts the reasons for maintaining anonymity and the name and/or address of the person making the allegation will not be disclosed to the Member/Co-opted Member without prior consent.
- 3.6 If the Monitoring Office does not consider those reasons justify anonymity, the person making the allegation will be given the opportunity to withdraw the allegation if they do not wish to proceed without anonymity.
- 3.7 Even where anonymity is agreed at the outset it may not always be possible to maintain that anonymity throughout the entirety of the process. For example, the person making the allegation may be requested to give evidence at a Hearing. If anonymity cannot be maintained the Monitoring Officer will liaise with the person making the allegation to establish whether the person wishes to continue with the allegation or withdraw it.
- 3.8 The Council does not normally investigate anonymous allegations unless there is a clear public interest in so doing.
- 3.9 The Monitoring Officer will acknowledge receipt of an allegation within five clear working days of receiving it and will keep the person making the allegation informed of progress.
- 3.10 The Monitoring Officer will inform the Member/Co-opted Member against whom an allegation has been made and will give details of the allegation and the remedy sought by the person making the allegation. In exceptional circumstances the Monitoring Office has discretion not to inform the Member/Co-opted Member if in his/her opinion to do so would risk an investigation being frustrated or prejudiced in some way.

4. ASSESSMENT OF AN ALLEGATION

- 4.1 The Monitoring Officer will review every allegation received and may consult the Independent Person before taking a decision as to whether or not the allegation merits reference to an Adjudication and Review Assessment Panel.
- 4.2 If the Monitoring Officer requires additional information in order to reach a decision, he/she may revert to the person making the allegation for such information and may request information from the Member/Co-opted Member against whom the allegation is directed. If the person making the allegation fails to provide the additional information requested, the allegation may be dismissed by the Monitoring Officer pursuant to Paragraph 4.4(a), below.
- 4.3 The Monitoring Officer will use a number of criteria for assessing allegations and may consult the Independent Person and if necessary the appropriate political Group Leaders. The decision whether to submit the allegation to an Adjudication and Review Assessment Panel will be a proportionate response to the issues raised and likely outcomes.
- 4.4 The Monitoring Officer may determine that an allegation does not merit any further action where:
- (a) There is insufficient information upon which to base a decision and/or the person making the allegation has failed to co-operate with the Monitoring Officer to specify the allegation sufficiently; or
 - (b) The allegation is about someone who is no longer a Member/Co-opted Member of the Council; or
 - (c) The allegation does not demonstrate a breach of the Members' Code of Conduct; for example the allegation relates to matters whilst the Member/Co-opted Member was not acting in his/her official capacity but rather relates to their private life to which the Code does not apply or it is about dissatisfaction with a Council decision or service; or

- (d) The same or a similar allegation has been investigated and determined;
or
- (e) It is an anonymous allegation which does not include sufficient documentary evidence to indicate a significant breach of the Members' Code of Conduct; or
- (f) The allegation is considered to be frivolous or vexatious; or
- (g) The matters to which the allegation refers took place longer than three months before the date of receipt of the allegation and there are no exceptional circumstances which merit the investigation of matters outside that timescale, nor is it otherwise appropriate to investigate the allegation; or
- (h) The Member/Co-opted Member about whom the allegation is made has admitted making an error and/or has apologised and the matter would not warrant a more serious sanction; or
- (i) The Monitoring Office facilitates an informal resolution. This may involve the Member/Co-opted Member accepting that his/her conduct was inappropriate or otherwise unacceptable and offering an apology and/or taking other remedial action. If the Monitoring Officer considers an offer of informal resolution is reasonable but the person making the allegation is not willing to accept it, the allegation will be referred to the Adjudication and Review Panel for consideration.

4.5 If the allegation is dealt with under Paragraph 4.4 above, the Monitoring Officer shall notify the person making the allegation and the Member/Co-opted Member of the outcome giving reasons for the decision. Normally such notification shall be given within 20 clear working days of receipt of the allegation.

4.6 Except as provided for in Paragraph 4.4 above, the Monitoring Officer shall refer all allegations to an Adjudication and Review Assessment Panel for

consideration which normally shall meet within 20 clear working days from receipt of the allegation.

- 4.7 Where the Monitoring Officer refers an allegation to an Adjudication and Review Assessment Panel for consideration, the Panel shall determine whether the allegation:
- (a) Merits no further investigation and is dismissed; or
 - (b) Merits further investigation
- 4.8 An Adjudication and Review Assessment Panel may determine that an allegation merits no further investigation for whatever reasons it thinks fit, but it may have regard to the criteria set out in Paragraph 4.4 above and to the following additional criteria:
- (a) The allegation is not considered sufficiently serious to warrant investigation; or
 - (b) The allegation appears to be motivated by malice or is “tit-for-tat”; or
 - (c) The allegation appears to be politically motivated
- 4.9 Where an Adjudication and Review Assessment Panel considers that an allegation merits further investigation, the Monitoring Officer shall undertake such investigation. The meeting of the Panel shall adjourn and reconvene when the Investigation Report is available.
- 4.10 The Monitoring Officer will inform the person making the allegation and the Member/Co-opted Member of an Adjudication and Review Assessment Panel’s decision and if the allegation is to be investigated will provide an indication of the timescale for the investigation. The Monitoring Officer will keep the person making the allegation and the Member/Co-opted Member informed if the initial timetable changes substantially.

5. THE INVESTIGATION

- 5.1 The Monitoring Officer may conduct the investigation personally or may appoint an Investigating Officer who may be another senior officer of the Council, an officer of another Authority, or an external investigator.
- 5.2 The Monitoring Officer/Investigating Officer will decide if he/she needs to meet or speak to the person making the allegation to understand the nature of the allegation and so that the person can explain his/her understanding of events and identify what documents he/she considers the Monitoring Officer/Investigating Officer needs to see and who he/she considers the Monitoring Officer/Investigating Officer needs to interview.
- 5.3 The Monitoring Officer/Investigating Officer will normally write to the Member/Co-opted Member against whom the allegation is made and provide him/her with a copy of the allegation and ask the Member to provide his/her explanation of events and to identify what documents he/she considers the Monitoring Officer/Investigating Officer needs to see and who he/she considers the Monitoring Officer/Investigating Officer needs to interview.
- 5.4 Where it is appropriate to keep confidential the identity of the person making the allegation the Monitoring Officer/Investigating Officer will delete the person's name and address from the pages given to the Member/Co-opted Member. Where disclosure of details of the allegation to the Member/Co-opted Member might prejudice the investigation, the Monitoring Officer/Investigating Officer may delay notifying the Member/Co-opted Member until the investigation has progressed sufficiently.
- 5.5 The Monitoring Officer/Investigating Officer has absolute discretion about which are the appropriate witnesses to interview and documents to consider but will follow best practice in conducting investigations. Having considered all relevant documentation identified and having interviewed all relevant witnesses, at the end of the investigation the Monitoring Officer/Investigating Officer shall produce as appropriate a draft report and may where appropriate

send copies of that draft report, in confidence, to the person making the allegation and to the Member/Co-opted Member concerned to give them an opportunity to identify any matter in that report with which there is disagreement or which is considered to require more consideration.

- 5.6 Where an Investigating Officer has been appointed, having received and taken account of any comments which the person making the allegation and/or Member/Co-opted member have made on the draft report, the Investigating Officer will send his/her final report (The Investigation Report) to the Monitoring Officer. If the Monitoring Officer is not satisfied that the investigation has been conducted properly he/she may ask the Investigating Officer to reconsider the report or may appoint a new Investigating Officer.
- 5.7 Where the Monitoring Officer is satisfied with the Investigation Report, and where the conclusion in the Investigation Report is that there is evidence of failure to comply with the Members' Code of Conduct by the Member/Co-opted Member, where appropriate he/she may seek to achieve an informal resolution. The Monitoring Officer will consult the Independent Person and the person making the allegation and seek to agree what the person making the allegation considers to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member/Co-opted Member accepting that his/her conduct was inappropriate or otherwise unacceptable and offering an apology and/or taking other remedial action. If the Member/Co-opted Member complies with the suggested resolution, the Monitoring Officer will report the matter to an Adjudication and Review Assessment Panel which will note the outcome and formally resolve that the allegation is determined by way of informal resolution, the details of which will be published.
- 5.8 Where the Monitoring Officer has undertaken the investigation personally, having received and taken account of any comments which the person making the allegation and/or the Member/Co-opted Member has made on the draft report and, where appropriate having sought to achieve an informal resolution pursuant to Paragraph 5.7 above, the Monitoring Officer shall produce the Investigation Report.

6. CONSIDERATION OF THE INVESTIGATION REPORT

- 6.1 When the Monitoring Officer is satisfied with the Investigation Report and an informal resolution is either inappropriate or incapable of achievement, the Monitoring Officer will refer the Investigation Report to an Adjudication and Review Assessment Panel and the Independent Person. Normally this will be within 30 clear working days of an Adjudication and Review Assessment Panel having determined that the allegation merits further investigation.
- 6.2 Where the conclusion of the Investigation Report is that there is no evidence of failure to comply with the Members' Code of Conduct by the Member/Co-opted Member, an Adjudication and Review Assessment Panel may:
- (a) Accept the conclusion, resolve that no further action is required and dismiss the allegation; or
 - (b) Remit the report to the Monitoring Officer for further consideration; or
 - (c) Remit the allegation to an Adjudication and Review Hearing Panel to conduct a Hearing for the consideration of the allegation and the Investigation Report and to determine the allegation.
- 6.3 Prior to making a determination under Paragraph 6.2(a) above an Adjudication and Review Assessment panel shall seek and take into account the views of the Independent Person.
- 6.4 Where the conclusion of the Investigation Report is that there is evidence of failure to comply with the Members' Code of Conduct by the Member/Co-opted Member and where an informal resolution pursuant to Paragraph 5.7 above is either inappropriate or incapable of achievement, an Adjudication and Review Assessment Panel may:
- (a) Remit the report to the Monitoring Officer for further consideration; or
 - (b) Remit the allegation to an Adjudication and Review Hearing Panel to conduct a Hearing for the consideration of the allegation and the Investigation Report and to determine the allegation.

6.5 Where the Adjudication and Review Assessment Panel remits the Investigation Report to the Monitoring Officer for further consideration under Paragraph 6.2(b) or 6.4(a) the meeting of the Panel shall adjourn and reconvene when the Monitoring Officer has reconsidered.

7. THE PRE-HEARING PROCESS

7.1 the Monitoring Officer (and/or his/her nominees) shall:

- (a) Agree a date for the hearing with all relevant parties
- (b) Provide a timetable for the person making the allegation, the Member/Co-opted Member (hereinafter called 'the parties') to provide details about whether they wish to give evidence (and whether orally or in writing) at the Hearing and any witnesses they intend to call and additional papers they may wish to provide in time for inclusion in the Committee papers;
- (c) Establish whether the parties will be represented or accompanied at the Hearing;
- (d) Establish whether the parties wish any part of the Investigation Report to be kept confidential or the Hearing itself to be held in private and the reasons for this.
- (e) Provide information about the procedure to be used at the Hearing.
- (f) Establish whether the parties disagree with any of the findings of fact in the Investigation Report.
- (g) Establish whether the Investigating Officer intends to call any witnesses.

7.2 Normally Hearings conducted by an Adjudication and Review Hearing Panel shall take place within 20 clear working days of the referral by the Adjudication and Review Assessment Committee to the Adjudication and Review Hearing Panel.

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8. THE HEARING

- 8.1 A hearing of the Adjudication and Review Hearing Panel shall take place in public unless a resolution is passed to exclude the public and the press due to exempt material which may be disclosed in the course of the proceedings.
- 8.2 Where a resolution to exclude the public and the press has been passed, the following persons only may remain in attendance:
- (a) Members of the Panel
 - (b) Officers supporting/advising the Panel
 - (c) The Independent Person
 - (d) The Monitoring Officer and/or The Investigating Officer
 - (e) The Member/Co-opted Member against whom the allegation is made together with a single representative, if any
 - (f) The person making the allegation together with a single representative, if any.
 - (g) Witnesses to be called by any party
 - (h) Members of the Council who are not Members of the Panel
- 8.3 When the Panel reaches the point of deliberation upon the allegation or the sanction/penalty, the following persons only may remain in attendance:
- (a) Members of the Panel
 - (b) Officers supporting/advising the Panel
 - (c) The Independent Person
 - (d) The Monitoring Officer but only where the Monitoring Officer is present to support/advise the Panel and not where the Monitoring Officer has presented the Investigation Report.

The Chairman shall invite all other persons present to withdraw to enable the Panel to deliberate upon the allegation, and any such persons shall withdraw.

- 8.4 Normally an Adjudication and Review Hearing Panel will conduct the Hearing in an inquisitorial manner.
- 8.5 The Monitoring Officer/Investigating Officer will make an opening statement with reference to the Investigation Report. The parties will then make opening statements in relation to the allegation and to the Investigation Report. Each party may have a single representative who may participate on behalf of the relevant party. Participation may be by the party or the party's representative but not by both.
- 8.6 Following the opening statements, the Adjudication and Review Hearing Panel may ask questions of the Monitoring Officer/Investigating Officer and/or the parties by way of inquiry into the matters the subject of the allegation and/or the Investigation Report.
- 8.7 The Monitoring Officer/Investigating Officer and the parties will be afforded the opportunity to make closing statements.
- 8.8 If the Member/Co-opted Member fails to attend the Hearing, an Adjudication and Review Hearing Panel may decide to proceed in the Member's/Co-opted Member's absence and make a determination, or to adjourn the Hearing to a later date.
- 8.9 Full details of the process to be undertaken at the Hearing are contained in the Hearings Procedure note comprising Appendix A to these arrangements.
- 8.10 An Adjudication and Review Hearings Panel having sought and taken into account the views of the Independent Person may conclude:
- (a) That the Member/Co-opted Member did not fail to comply with the Members' Code of Conduct and dismiss the allegation; or
 - (b) That the Member/Co-opted Member did fail to comply with the Members' Code of Conduct.
- 8.11 In the event of a finding under Paragraph 8.7(b) above, the Chairman will inform the Member/Co-opted Member of this finding and an Adjudication and

Review Hearing Panel will then consider what action, if any, it should take as a result of the Member's/Co-opted Member's failure to comply with the Members' Code of Conduct.

8.12 An Adjudication and Review Hearing Panel will give the Member/Co-opted Member an opportunity to make representations to the Panel as to whether any action should be taken and what form any action should take.

8.13 An Adjudication and Review Hearing Panel will seek and take into account the views of the Independent Person, following which it will decide what action, if any, to take in respect of the matter.

9. ACTION WHICH MAY BE TAKEN WHEN A MEMBER/CO-OPTED MEMBER HAS FAILED TO COMPLY WITH THE MEMBERS' CODE OF CONDUCT

9.1 Having determined that the Member/Co-opted Member has failed to comply with the Members Code of Conduct, an Adjudication and Review Hearing Panel may:

- (a) Publish its findings in respect of the Member's/Co-opted Member's conduct.
- (b) Reports its findings to Council for information;
- (c) Issue the Member/Co-opted Member with a formal censure or reprimand, a report of which may be submitted to Council.
- (d) Recommend to the Member's Group Leader (or in the case of ungrouped Members/Co-opted Members recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-committees of the Council;
- (e) Recommend to the Council that the Member/Co-opted Member be replaced as Chairman or Vice-Chairman of any Committee.

- (f) Recommend to the Leader of the Council that the Member be removed from the Cabinet or removed from particular portfolio responsibilities;
 - (g) Instruct the Monitoring Officer to arrange training for the Member/Co-opted Member.
 - (h) Recommend the Council or Cabinet, as appropriate, that the Member be removed from outside appointments to which he/she has been appointed or nominated by the Council/Cabinet.
 - (i) Withdraw facilities provided to the Member/Co-opted Member by the Council such as a computer, website and/or email and internet access;
 - (j) Exclude the Member/Co-opted Member from Council offices or other premises with the exception of meeting rooms as necessary for attending Council, Cabinet, Committee and Sub-committee meetings;
 - (k) Take no further action;
 - (l) Any other appropriate sanction which may be available to an Adjudication and Review Hearing Panel;
- 9.2 An Adjudication and Review Hearing Panel has no power to suspend or disqualify a Member or to withdraw Members' or special responsibility allowances;
- 9.3 At the end of the Hearing the Chairman shall state the decision of the Adjudication and Review Hearing Panel as to whether the Member/Co-opted Member failed to comply with the Members' Code of Conduct and as to any action which the Panel has resolved to take.
- 9.4 Within 10 working days following the Hearing, the Monitoring Officer shall prepare a formal decision notice, after consultation with the Chairman of the Adjudication and Review Hearing Panel and send a copy to the person making the allegation and to the Member/Co-opted Member concerned. The Monitoring Officer shall make that decision notice available for public

inspection and report the decision to the next convenient meeting of the Council.

10. APPEALS

- 10.1 There is no right of appeal for either the person making the allegation or for the Member/Co-opted Member against whom the allegation is made against a decision of the Monitoring Officer, an Adjudication and Review Assessment Panel or an Adjudication and Review Hearing Panel.

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HEARING PROCEDURE

The model procedure which follows comprises good and equitable practice and should be followed closely wherever possible. There may be occasions when circumstances require variations and subject to the maintenance of the principles of natural justice these may be effected at the discretion of the Adjudication and Review Hearing Panel and advised to the Parties.

1. The Chairman shall facilitate introductions and explain the procedure for the Hearing.
2. The Monitoring Officer/Investigating Officer shall be invited to make an opening statement with reference to the Investigation Report.
3. The person making the allegation and the Member/Co-opted Member or their representatives (hereinafter called 'the Parties') shall be invited to make opening statements with reference to the allegation and/or the Investigation Report.
4. Members of the Adjudication and Review Hearing Panel may question the Monitoring Officer/Investigation Officer upon the content of the Investigation Report.
5. Members of the Adjudication and Review Hearing Panel may question the Parties upon the allegation and/or with reference to the Investigation Report.
6. The Monitoring Officer/Investigating Officer may make a closing statement.
7. The Parties or their representatives may make closing statement.
8. The Chairman shall invite the persons who may not be present during the Panel's deliberation upon the allegation to withdraw to enable the Panel to deliberate upon the allegation. Prior to reaching a determination the Panel shall seek and take into account the views of the Independent Person.

9. The Monitoring Officer/Investigating Officer and the Parties shall be invited to return and the Chairman shall announce the Panel's decision in the following terms:

- (a) The Panel has determined that the Member/Co-opted member has failed to comply with the Members' Code of Conduct; or
- (b) The Panel has determined that the Member/Co-opted Member has not failed to comply with the Members' Code of Conduct and the allegation is dismissed.

The Panel will give reasons for its decision.

10. If the Panel has determined that the Member/Co-opted Member has failed to comply with the Members' Code of Conduct it shall consider any representations from the Member/Co-opted Member or his/her representative as to whether any action should be taken and what form any action should take.

11. The Chairman shall invite the persons who may not be present during the Panel's deliberation upon the allegation to withdraw to enable the Panel to deliberate upon what action, if any, should be taken. Prior to reaching a determination the Panel shall seek and take into account the views of the Independent Person.

12. In addition to any action upon the current matter, the Panel shall consider whether in consequence it should make recommendations to the Council with a view to promoting high standards of conduct amongst Members/Co-opted Members.

13. The Monitoring Officer/Investigating Officer and the Parties shall be invited to return and the Chairman shall announce the Panel's decision.

14. A full written decision shall be issued to the person making the allegation and the Member/Co-opted Member within 10 clear working days following the Hearing and shall be published.

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COMPLAINT FORM: CODE OF CONDUCT FOR MEMBERS

(Please read the 'INFORMATION FOR POTENTIAL COMPLAINANTS' before completing this Form).

To The Monitoring Officer

A. Your details

1. Please provide us with your name and contact details. Anonymous complaints will only be considered if there is independent evidence to substantiate the complaint and a clear public interest in investigating.

Title:	
First name:	
Last name:	
Address:	
Contact telephone:	
Email address:	
Signature:	
Date of complaint:	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

The following people will see this form:

- The Member(s) you are complaining about
- The Monitoring Officer of the Authority
- Members of the Assessment Panel of the Council's Adjudication and Review Committee

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details of your complaint being released please complete Section C of this form.

2. Please tell us which complainant type best describes you:

- A member of the public
- An elected or co-opted Member of the Council
- A Member of Parliament
- A Monitoring Officer
- Other council employee, contractor or agent of the Council
- Other ()

3. Equality Monitoring Form - please fill in the attached form. This is for statistical purposes only and will not be seen by Councillors.

B. Making your complaint

The sanctions available in respect of a breach of the Code of Conduct are governed by law

Please provide us with the name of the member(s) you believe have breached the Council's Code of Conduct:

Title	First name	Last name

4. Please explain in this section (or on separate sheet(s)) what the Member is alleged to have done that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done, with dates / witnesses to substantiate the alleged breach.

It is also important that you provide all the evidence you wish to have taken into account by the Monitoring Officer when it decides whether to take any action on your complaint or not. For example:

- You should be specific, wherever possible about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said or did to insult you.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.

- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information or other relevant documentary evidence to support your allegation(s).

Please provide us with the details of your complaint

(Continue on separate sheet(s), as necessary)

C. Confidentiality of complainant and the complaint details

Only complete this next section if you are requesting that your identity is kept confidential

5. In the interests of fairness and in compliance with the rules of natural justice, we believe members who are complained about have a right to know who has made the complaint and the substance of the allegation(s) made against him/ her. We are, therefore, unlikely to withhold your personal details or the details of your complaint unless you have good reasons to believe that:
- You may be at risk of physical harm should your identity be disclosed
 - You work closely with the Member and are concerned about the consequences to your employment
 - You have a serious health condition and there are medical risks associated with your identity being disclosed.

Evidence may be required in respect of the above and consideration will need to be given by the Monitoring Officer as to whether it is possible to investigate the

complaint without making your identity known. If your request for confidentiality is not granted, we will usually allow you the opportunity, if you so wish, of withdrawing your complaint.

However, it is important to understand that - in exceptional circumstances, where the matter complained about is very serious - we may proceed with an investigation (or other action) and may have no choice but to disclose your personal and complaint details, because of the allegation(s) made, even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

(Continue on separate sheet(s), as necessary)

D. Remedy sought

7. Please indicate the remedy or remedies you are looking for or hoping to achieve by submitting this complaint.

(Continue on separate sheet(s), as necessary)

E. Additional information

8. Complaints must be submitted in writing. This includes fax and electronic submissions.

In line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language.

If you need any support in completing this form, please contact the Monitoring Officer as soon as possible.

F. Process from here

9. Once a valid complaint relating to an alleged breach of the Code of Conduct for Members has been received by the Monitoring Officer. If the Monitoring considers an investigation to be appropriate it will be presented to a meeting of the Adjudication and Review Assessment Panel for consideration/determination. This meeting will be private and you and the Member complained about will not be allowed to attend. You will be notified after the meeting of the outcome and the further stages in the process.

The Sub-Committee may resolve to:

- (a) dismiss your complaint, with reasons;
- (b) ask you for additional information, with reasons;
- (c) refer your complaint to the Monitoring Officer for investigation (or other action);

10. You will be notified after the meeting and given information on any further stage(s) in the process at that time.

The Monitoring Officer can be reached in writing and his address is Town Hall, Main Road, Romford, RM1 3BD or by e-mail to grahm.white@oneSource.co.uk

Telephone No. 01708 432442

December 2014

EQUALITY MONITORING QUESTIONS

I would describe myself as: (please tick as appropriate)

White:

- British
 Irish
 Any other white background

Please specify background

Mixed:

- White and Black Caribbean
 White and Black African
 White and Asian
 Any other mixed background

Please Specify

Asian or Asian British

- Indian
 Pakistani
 Bangladeshi
 Any other Asian

Please specify

Black or Black British:

- Caribbean
 African
 Any other black background

Please specify

Chinese or other ethnic group:

- Chinese
 Any other ethnic background

Please specify

Age Group

- 16 - 20 36 - 45 60 and over
 21 - 25 46 - 55
 26 - 35 56 - 59

Disability/Special Needs:

Do you consider you have a disability? Yes No

Faith / Religion

- Sikh Buddhist Any other
 Christian Muslim Please specify
 Hindu Jewish

Gender

Male Trans Man Female Trans Woman

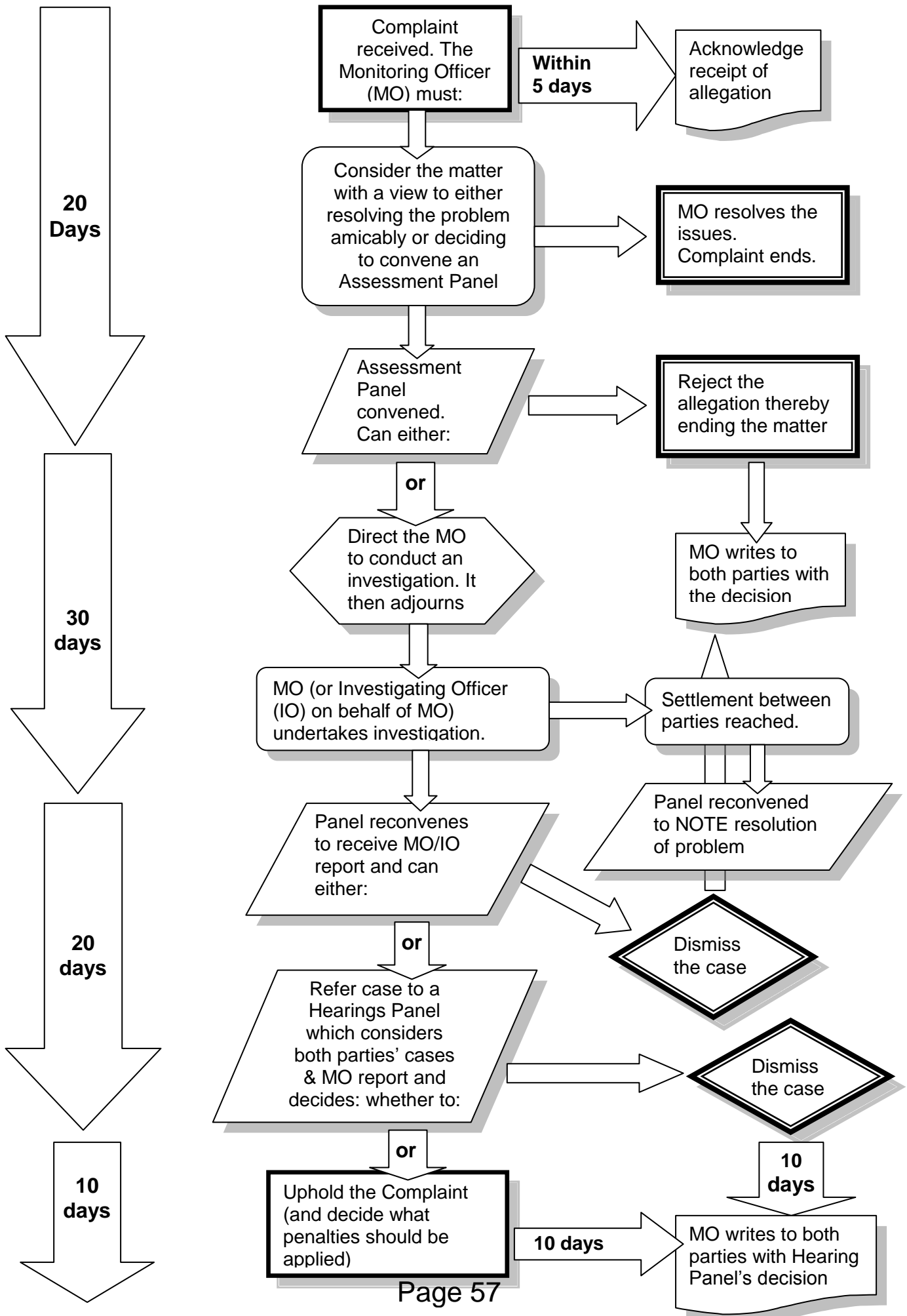
Sexual orientation

- Lesbian Bisexual Any other
 Heterosexual woman Gay man Please specify
 Heterosexual man Decline to answer

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Flow chart showing the process for dealing with allegations against Members

NB: Days are "working days" therefore exclude weekends and Bank Holidays



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GOVERNANCE COMMITTEE

11 March 2015

Subject Heading:

Appointments to Outside Bodies and Other Organisations

CMT Lead:

Andrew Blake Herbert

Group Director Communities and Resources

01708 432201

Report Author and contact details:

Jacqui Barr

Research & Information Officer,
Committee Administration

jacqui.barr@havering.gov.uk

01708 432439

Policy context:

The Council appoints Members and others to serve on a variety of other bodies

Financial summary:

There are no significant financial implications.

SUMMARY

The Committee is asked to consider the following three outside body appointments and make or confirm appointments as appropriate.

RECOMMENDATIONS

Hat the Committee:

1. In respect of the Hornchurch Housing Trust, the Committee **either**:
 - a. **Appoints Mr David Williams and Ms Pamela Freer** as Trustees to the Hornchurch Housing Trust for the term of office expiring in February 2019.

or

- b. **Appoints Ms Pamela Freer and Councillor John Wood** as Trustees to the Hornchurch Housing Trust for the term of office expiring in February 2019.
2. In respect of the Havering Twinning Association, the Committee **note** the position.
3. In respect of the ELWA Waste Authority, the Committee **confirms** the appointment of Andrew Blake-Herbert as ELWA Director of Environment.

REPORT DETAIL

1. **The Hornchurch Housing Trust**

The Council appoints a number of nominative trustees to the Trust for four year terms of office expiring in sequence over each four year period.

The terms of office for both Mr David Williams and Ms Pamela Freer expired at the end of February 2015. Both have indicated that they wish to be re-appointed and the Hornchurch Housing Trust supports both nominations.

In addition, the Administration has put forward nominations for Ms Pamela Freer and a Councillor from St Andrew's Ward, in this case Councillor John Wood.

2. **Havering Twinning Association**

The Havering Twinning Educational Association is charitable organisation that has been in existence for some years to promote the Borough's links with its twin towns and assist young people to visit the towns for educational purposes.

Unfortunately, due to a number of circumstances, the decision has been taken to wind up the Trust and there will be no more formal meetings.

In accordance with Charity Commission practice, the Trust will remain a formally constituted body until such time as the accounts have been closed, but Member appointments will no longer be required.

3. **East London Waste Authority – Change of Authorised Officer**

In accordance with the ELWA Constitution, the four member Boroughs are required to appoint two Councillor representatives each to the Management Board annually, a number of 8 in total.

In addition, each Borough appoints a Director level officer to the Management Board.

The former Group Director Culture, Community and Economic Development - Cynthia Griffin - was the Authorised Officer for the London Borough of Havering,

but following her recent departure, this position has fallen vacant and now requires formal appointment.

It is therefore proposed that Andrew Blake-Herbert Director of Communities and Resources should be appointed as ELWA Director of Environment to the Management Board with immediate effect.

IMPLICATIONS AND RISKS

Equalities and Social Inclusion Implications and Risks

There are no specific implications or risks. Appointments should be made with the Council's equalities policies in mind.

Legal, Finance and Environmental Implications and Risks

These appointments are administrative and have no direct legal, financial or environmental implications or risks.

BACKGROUND PAPERS

Files are held by Committee Administration containing background information on the organisations to which appointments are being made.

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