



# Havering

L O N D O N   B O R O U G H

## GOVERNANCE COMMITTEE AGENDA

<b>7.30 pm</b>	<b>Wednesday 7 March 2018</b>	<b>Committee Room 3A - Town Hall</b>
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Members 13: Quorum 5

### COUNCILLORS:

#### **Conservative Group ( 5 )**

Philippa Crowder (Chairman)  
Melvin Wallace (Vice-Chair)  
Roger Ramsey  
Damian White  
Osman Dervish

#### **Residents' Group ( 3 )**

Ray Morgon  
Barbara Matthews  
Barry Mugglestone

#### **East Havering Residents' Group (2)**

Clarence Barrett  
Darren Wise

#### **UKIP Group 1)**

Lawrence Webb

#### **Independent Residents' Group ( 1 )**

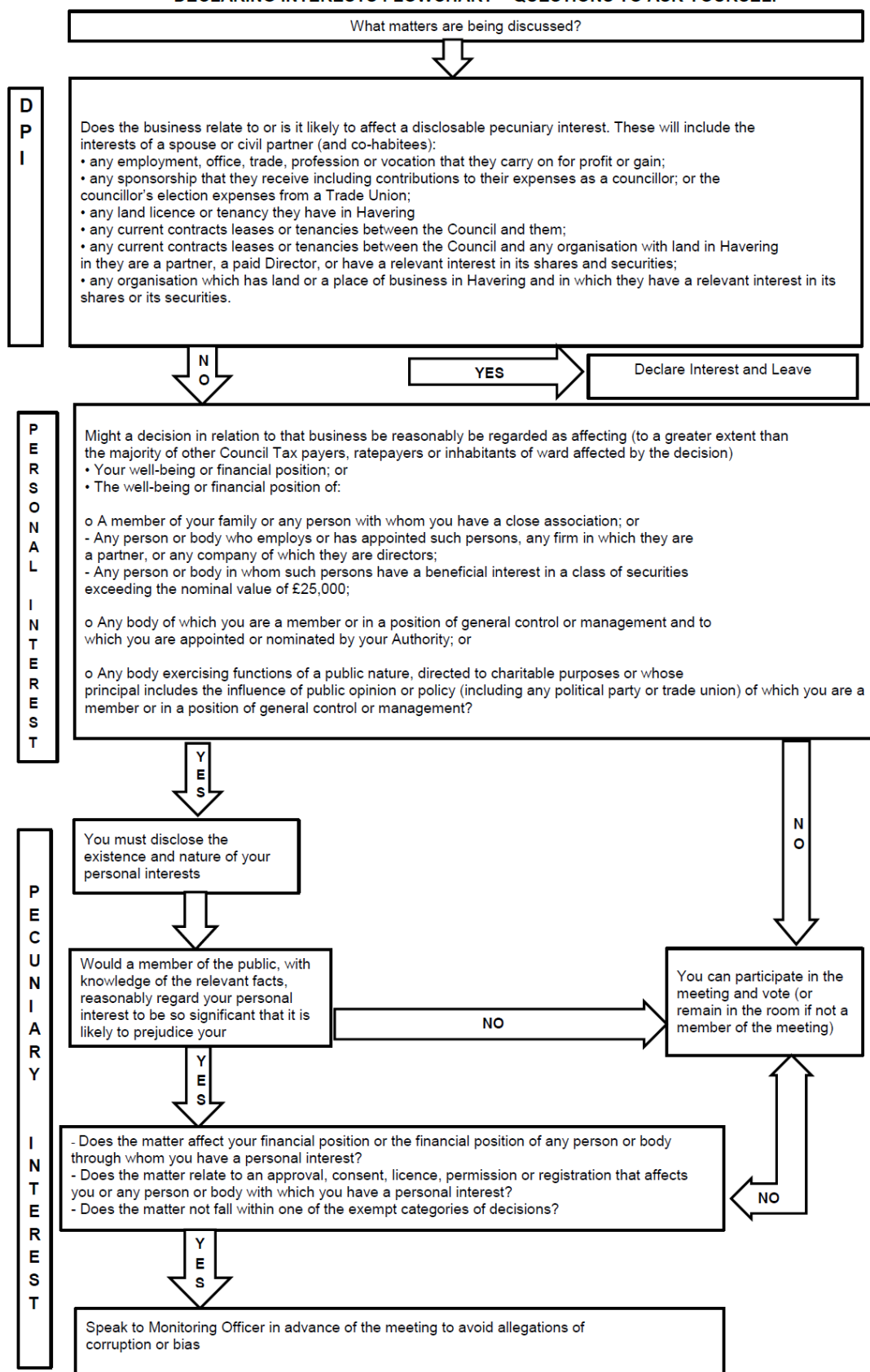
David Durant

#### **Labour Group ( 1 )**

Keith Darvill

**For information about the meeting please contact:  
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e-mail: [debra.marlow@onesource.co.uk](mailto:debra.marlow@onesource.co.uk)**

**DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF**



## **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 INTERESTS**

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

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

### **4 MINUTES** (Pages 1 - 2)

To approve as a correct record the minutes of the Committee held on 1<sup>st</sup> November, 2017, and to authorise the Chairman to sign them.

### **5 REVIEW OF PLANNING DECISION MAKING PROCESSES AND PROCEDURES** (Pages 3 - 70)

### **6 MEMBER INDUCTION PROGRAMME 2018 AND THE MEMBER LEARNING & DEVELOPMENT FRAMEWORK** (Pages 71 - 92)

### **7 REPORT OF THE CROSS PARTY REVIEW OF OVERVIEW & SCRUTINY** (Pages 93 - 130)

### **8 APPOINTMENTS TO OTHER ORGANISATIONS, 2017/18** (Pages 131 - 134)

**Andrew Beesley**  
**Head of Democratic Services**

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**MINUTES OF A MEETING OF THE  
GOVERNANCE COMMITTEE  
Town Hall, Main Road, Romford  
1 November 2017 (7.30 - 8.10 pm)**

**Present:**

**COUNCILLORS**

<b>Conservative Group</b>	Melvin Wallace (Chairman), Roger Ramsey, Damian White and Osman Dervish
<b>Residents' Group</b>	Ray Morgon, Barbara Matthews and Barry Mugglestone
<b>Labour Group</b>	Keith Darvill
<b>Independent Residents Group</b>	David Durant

Apologies were received for the absence of Councillor Meg Davis.

All decisions were taken with no votes against.

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

**10 DISCLOSURE OF INTERESTS**

There were no declarations of interest.

**11 AMENDMENT TO THE CONSTITUTION (MO NUMBER 12)**

The report before Members detailed Part 2 Article 11.02 of the Constitution which authorises the Monitoring Officer to amend the constitution to correct errors or to comply with legal requirements or changes to the Council Structure.

The Constitution specifies that the Governance Committee must be notified of any such amendment at the first reasonable opportunity.

The changes made to the Constitution under this provision were detailed in the report. The changes related to Part 3, Appendix A of the Constitution to replace the Consumer Rights Act, 1985, with the Consumer Rights Act 2015.

**The Governance Committee:**

- **Noted the changes made to the constitution as detailed in the report Notification No: 12.**

**12 APPOINTMENTS TO OTHER ORGANISATIONS, 2017/18**

Members considered the report of Jacqui Barr, noting that the Board of Tapestry (previously Age Concern) had written to the Council requesting that the number of representatives appointed to the Board be reduced from two to one.

The Committee noted that Councillor Wendy Brice-Thompson was content to leave the Board and that Councillor June Alexander was prepared to continue in the role.

**The Governance Committee therefore agreed that the Council Representative for the Tapestry Board be Councillor June Alexander.**

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**Chairman**

## GOVERNANCE COMMITTEE

<b>Subject Heading:</b>	Review of Planning Decision Making Processes and Procedures
<b>SLT Lead:</b>	Steve Moore
<b>Report Author and contact details:</b>	Mike Kiely (mike.kiely@haverling.gov.uk)
<b>Policy context:</b>	The proposed changes are designed to improve the delivery of the Council's planning policies through decisions made in committee on planning applications.
<b>Financial summary:</b>	The changes proposed may result in additional costs to the Council because of the creation of two planning committees.

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

Communities making Havering	[X]
Places making Havering	[X]
Opportunities making Havering	[X]
Connections making Havering	[X]

### SUMMARY

This report reviews the make-up and operation of Regulatory Service Committee and recommends reforms to improve the way the Council deals with planning applications and in particular strategic applications. Part 3 Responsibility for Functions, Part 4 Rules of Procedure and Part 5 Codes and Protocols within the Constitution are reviewed, alongside other consequential amendments to other parts of the Constitution, resulting in the setting up of a Strategic Planning Committee to deal with strategic applications and any other strategic matters and a Planning Committee to deal with everything else. The new Constitutional material is based on best practice, current law and nationally recommended procedures.

## **RECOMMENDATIONS**

That Governance Committee recommend to Full Council:

1. the setting up a new Strategic Planning Committee to deal with strategic applications and any other strategic planning matters and a Planning Committee to deal with other planning applications and planning matters.
2. the main changes to the Constitution set out in Appendix A and the consequential minor amendments to the Constitution set out in Appendix B.
3. that the following documents be included in the Constitution:
  - the Functions Delegated to Staff, in Appendix C;
  - the Functions Not the Responsibility of the Executive, in Appendix D;
  - the Planning Committee Procedure Rules, in Appendix F; and
  - the Planning Code of Good Practice, in Appendix G.
4. that these changes be implemented after the May 2018 local elections.

## **REPORT DETAILS**

### **1 INTRODUCTION**

- 1.1 New proposals for the governance of planning matters have been under review following a resolution at Full Council in October 2017 that the Governance Committee considers the current constitutional arrangements for determining planning applications and in particular major applications in addition to reviewing the right of members, other than those on the committee, to speak at Regulatory Services Committee meetings.
- 1.2 The regeneration and growth strategy that Havering has embarked upon is an exciting challenge. To achieve the quality of development that is both desired and needed, the Council is changing to be a more pro-active, delivery-focused planning authority. A myriad of changes will be needed to instil best practice throughout the organisation so that it is ready to handle the challenges that lie ahead. The involvement of Members in the pre-application stage is promoted as best practice<sup>1</sup>. It will be vital to ensure that strategically important planning applications are dealt with properly and that the involvement of Members is achieved in an effective and systematic way so that the Council succeeds in its ambitions.

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<sup>1</sup> “*Connecting Councillors with Strategic Planning Applications*” London First and POS London 2011 and “*10 Commitments for Effective Pre-Application Engagement*” LGA and BPF 2014



- 1.3 Key Members have already been briefed on how a new strategic application process will operate. This report goes into the detail of the changes that would be needed to the Constitution to facilitate these improvements.
- 1.4 In this part of the report the changes proposed will be summarised. A detailed rationale for the proposed changes is set out in Appendix A. Appendix B contains consequential minor changes that need to be made to the Constitution as a result of the main changes. The detailed text for key parts of the Constitution are set out in the following appendices:
- Appendix C Functions Delegated to Staff
  - Appendix D Functions Not the Responsibility of the Executive
  - Appendix F Planning Committee Procedure Rules
  - Appendix G Planning Code of Good Practice
- 1.5 Appendix E sets out the text in the Town and Country Planning (Mayor of London) Order 2008 of Potentially Strategically Important (PSI) applications for planning permission. This definition is proposed to be used in the Committee Consideration Criteria and is included for information.
- 1.6 Appendix H has a flow chart that illustrates the process (as set out in the Planning Committee Procedure Rules) for deciding which planning applications go to planning committee for determination and which are decided with under delegated powers.

## **2 BACKGROUND**

- 2.1 Havering has a higher than normal rate of major applications determined by the Council that are refused and subsequently allowed at appeal (nearly 10%). Over the last two years, nearly 85% of these were decisions by RSC against the recommendation of officers. Government uses this indicator as a measure of the quality of decision making and because of this poor performance Havering was at risk of being designated by DCLG.
- 2.2 Government looks at major application appeal performance as a % of all major applications determined over a defined two-year period (April 2015 to March 2017). If a LPA lose more than 10% of such appeals over the period, that is considered poor performance and designation can follow. Being designated means that an applicant on a major application can apply direct to the Planning Inspectorate to have the application determined and bypass the Council. This would result in significant reputational damage, as well as loss of jurisdiction and loss of fee income.
- 2.3 The risk of designation at the end of 2017 was because the Council had lost six appeals out of 65 such decisions and this puts LBH at 9.23% – of those six, five of the decisions were overturns at committee. This should mean the Council just escapes designation, but at the time of writing this report these figures have not yet been confirmed and agreed with DCLG. Nevertheless, the Council will be scrutinised by DCLG because it came so close to designation. It is therefore important that the Council can demonstrate that it has recognised the problem and are actively addressing it so that such a poor performance in the quality of decision-making is not likely to re-occur.
- 2.4 Whilst the Council was at risk, it was contacted by the Planning Advisory Service (PAS) as part of the Government's programme to assist LPAs who

are struggling in some way (there are other indicators on speed of determination and plan-making performance being used). The support has taken the form of a Planning Committee Review by two PAS specialist (a former Chief Planner and an experienced Planning Committee Chairman) assisted by a PAS Improvement Manager. They observed RSC in operation on two occasions and spoke to key members and officers. A report has been produced including the following key recommendations:

- Members should make decisions on borough wide issues rather than ward issues
- Planning committee needs to operate as an enabler and facilitator for development, rather than controlling or preventing it
- All committee members need to be adequately trained and agree to attend the entire programme – failure to do so needs to be effectively enforced
- A chief planner needs to be in place to manage the planning service and to act as the key go between with members

2.5 This report sets out the options for addressing these concerns.

### **3 AIMS OF THE REVIEW**

3.1 All planning applications, but strategic planning applications in particular, can raise tensions locally and it is vital that they are processed correctly so that the potential for challenge is minimised. A carefully drafted Constitution is crucial for this.

3.2 The rate of growth in the South East's population is not abating and pressure on London Boroughs to accommodate growth will remain and probably increase. The integration of the pre-application process into the Council's committee process will mean that Planning Committee Councillors can play a greater role in the design process and input into a scheme's development before it is submitted as a planning application. As a borough that wants to encourage high quality developments that enhances Havering, these changes will enable the Council to do that much more effectively.

3.3 These changes mean that Members, quite rightly, will be spending more of their time on this strategic application workload and there will be a need to make the space for this by ensuring that only those non-strategic applications that need to, actually come to committee. Planning Committee's valuable time will need to be spent on strategic placemaking, rather than on neighbourhood dispute mediating. Their focus must shift to the borough as a whole, rather than having narrower ward issues as their focus. The committee's role as enablers and facilitators of development will need to be established and developed, with less of a focus on controlling or preventing development. Members' active involvement in the pre-application stage will be vital to this culture change for the committee.

3.4 A further consideration is that an application costs significantly more to process when the decision is taken at committee rather than under delegated powers. The difference will vary by application type, but it will be over £1,000 per application in most cases. This adds up to a considerable sum over a year. In the context of reduced council funding, it is even more important to ensure that Planning Committee only deals with those matters that it really needs to.

3.5 Finally, the issues highlighted in the previous section (Background) are addressed where relevant to the matters covered by this report.

3.6 This report sets out the options for achieving these aims.

## **4 REGULATORY SERVICES COMMITTEE**

4.1 Planning applications are currently determined at Regulatory Services Committee (RSC). That committee also deals with the following matters, albeit very infrequently:

- Health and Safety
- Highways Use and Regulation
- Urban Development Corporation (this is the London Thames Gateway Development Corporation, which no longer exists)

4.2 Given the importance of determining planning applications in the context of a large growth and regeneration agenda, planning matters, particularly strategic ones, need to be dealt with in their own separate committee. This is the model most Council's adopt because it enables the level of expertise needed plus the training commitment necessary to be developed and delivered so that the committee is resourced to perform well.

4.3 It is proposed that there will be two planning committees: a Strategic Planning Committee (SPC) to deal with strategic applications and any other strategic planning matters and a Planning Committee (PC) to deal with everything else. The residual functions of RSC (Health and Safety and Highways Use and Regulation) will be allocated to the new Planning Committee.

4.4 The need for two committees should be kept under review. If a single committee is preferred after time, this can be accommodated with only minor changes to the procedures and provisions set out in this report.

4.5 The size of each committee needs to be considered. RSC is currently eleven members and it is proposed that number will remain for PC. Strategic planning committees are often smaller given the need to have a high-quality membership dealing with very important planning applications. It is recommended that seven members should be the size of the new SPC. The size of committees is determined by Full Council at the meeting in May along with the membership, based on political balance.

4.6 The existing Constitution (Part 2 The Articles of the Constitution, Appendix to articles – pg 28) states under the rules for RSC on membership requirements, "... of whom only one may be an Executive Member, or two if one is acting as a substitute". It is recommended that this be deleted as Cabinet members, sitting on SPC in particular, could be useful.

4.7 Finally, it is recommended that the following be added with respect to the membership of both committees:

*"When the membership of the committee is determined, there should always be at least one Councillor in each Ward who is not a member of SPC or PC to ensure that there will always be a Councillor with whom residents will be able to discuss planning matters."*

4.8 These changes are set out in Appendix B.

## **5 CONSTITUTION**

- 5.1 The Constitution sets out what RSC deals with and how these matters are handled. This is mainly contained in the following parts of the Constitution:
- Part 3 Responsibility for functions: sets out the functions for RSC and the functions delegated to staff
  - Part 4 Rules of procedure: contains general rules for committees
  - Part 5 Codes and protocols: contains a “Protocol on probity in planning matters”
- 5.2 The whole Constitution has been reviewed for this purpose and the recommendations include the changes that will be required if the approach set out in the introduction is to be implemented. There are a number of other consequential changes to the Constitution that have been identified which will also need to be implemented. These are summarised in Appendix B.

## **6 RESPONSIBILITY FOR FUNCTIONS**

- 6.1 This contains three things that will create, define and manage the remit of the new planning committees:
1. Council Functions
  2. Functions Delegated to [Head of Planning]
  3. Functions Not to Be the Responsibility of The Executive
- 6.2 The detailed design of and rationale behind these elements are set out in detail in Appendix A and summarised below.

### **COUNCIL FUNCTIONS**

- 6.3 Part 3, section 1 of the Constitution defines the broad matters Council has delegated to committees to deal with. It is recommended that both planning committees deal with the following application types:
- Applications for Planning Permission
  - Applications for Listed Building Consent
- 6.4 The other application types we deal with under planning legislation are either very minor and raise no significant issues, are limited in the way they can be determined (ie they are confirming what a legal position is and no judgement is exercised) or are very specialised and determination is driven by expert opinion (either from council experts or external bodies).
- 6.5 SPC will deal with those applications that raise strategic issues. It is not proposed to define these by reference to the size of the development because that is not the only determining factor. It will be a decision for the [Head of Planning] to make. Essentially it will be those applications that go through the Development Team Approach pre-application service and are presented to SPC in the pre-application stage. Clearly the Constitution will need to specify that SPC will also receive presentations in the pre-application or pre-determination stage.
- 6.6 Both committees have a catch-all provision to receive other planning matters that the [Head of Planning] considers should be referred to committee.

## **DELEGATION SCHEME**

### **Functions Delegated to [Head of Planning]**

- 6.7 Part 3, section 3.6 sets out the specific matters delegated to named officers. It is proposed to redraft this to make it simpler, clearer and more comprehensive than the current approach. The new scheme is explained in Appendix A and set out in Appendix C.

### **Functions Not to Be the Responsibility of the Executive**

- 6.8 Part 3, section 4 sets out the matters that are not Executive functions. The table also delegates matters to either officers or committees like PC/SPC. This is largely a statutory requirement to set out the different responsibilities between Full Council and the Executive. Essentially it is defined in legislation, but the way such documents are generally drafted in Constitutions (ie by reference to specific sections in legislation) mean that they can unintentionally miss some powers and quickly become out-of-date. Appendix D sets out an approach that refers to the parts of a statute (eg the Planning Act or other relevant statutes) rather than specific sections within an Act, which will ensure a more comprehensive approach and a much longer shelf life.

## **7 RULES OF PROCEDURE**

- 7.1 The proposed changes in this area represents a major improvement to the Constitution.
- 7.2 The current rules for RSC are mainly contained in the general Committee Procedure Rules and the Protocol on Probity in Planning Matters. There are also rules scattered across other parts of the constitution. This makes it very difficult to know what the rules are, plus in some instances (eg, public speaking) they are duplicated and different. It is recommended that pulling together existing procedures into a single document would be advantageous.
- 7.3 Supplementing this with what is required to handle the new procedures around pre-application presentations will also be required.
- 7.4 These Rules would therefore be subservient to the general Committee Procedure Rules in Part 4 of the Constitution: Rules of procedure. They should be called Planning Committee Procedure Rules and within the document make it clear that they apply to both of the Council's new planning committees.

### **PLANNING COMMITTEE PROCEDURE RULES**

- 7.5 The detailed design of and rationale behind these Rules are set out in detail in Appendix A. The new set of rules will have the following components:
- Committee Consideration Criteria
  - Public Speaking Procedure (including member speaking rights)
  - Pre-Committee Matters
  - Committee Agenda
  - Order of Proceedings
  - Decision Making
  - Voting Procedures
  - Committee Performance

- 7.6 A draft of the Rules is set out in Appendix F and they would be located in Part 4 of the Constitution: Rules of procedure.

## **8 CODES AND PROTOCOLS**

- 8.1 Part 4 of the Constitution (Codes and Protocols) contains a “Protocol on probity in planning matters”. This tries to perform two separate roles. It sets out the standards of behaviour that all Councillors and officers involved in the planning process should adhere to, but also has some, but not all, of the procedures and rules that govern the operation of RSC. The rest of the procedures and rules for RSC are elsewhere in the constitution or have not been documented.
- 8.2 It is already recommended in the previous section, that all the SPC/PC procedure rules should be in one place. Here it is recommended that there should be a new Planning Code of Good Practice that will deal with standards of behaviour only and not cover the operation of two new planning committees. A draft is set out in Appendix G.

### **PLANNING CODE OF GOOD PRACTICE**

- 8.3 The existing Code, in terms of standards of behaviour, seems to follow the Local Government Association’s (LGA) model code produced in 2009. There have been several subsequent changes to the legislation (eg Localism Act 2011) and the rules that sit behind such codes. The LGA therefore issued a new model code in 2013. Havering’s Code does not seem to pick these up and is therefore out of date in some places.
- 8.4 The new Code, based on the LGA 2013 model code, will cover the following areas:
- Aim of the Code
  - Role and conduct of Councillors and officers
  - Interests: registration and disclosure
  - Bias: predisposition/predetermination
  - Applications submitted by the Council, Councillors or officers
  - Lobbying of and by Councillors
  - Pre-application discussions
  - Post-submission discussions
  - Planning appeals
  - Planning enforcement
  - Councillor training
- 8.5 This can replace the current “Protocol on probity in planning matters” and should be in Part 5 of the Constitution: Codes and Protocols.

## **9 MEMBER BRIEFING**

- 9.1 The proposals in this report were presented to an all-Member Briefing on 29 January 2018 in the Council Chamber. The main proposal to increase member involvement in strategic applications, particularly at the pre-application stage, was broadly welcomed. Comments were made on the following areas:

- Can a substitute (for ward members or local residents) attend to present: it was confirmed that they could.
- Clarification that the role of committee was not to hold officers to account (in the manner of a scrutiny committee) but to deliver the council's planning policies through positively enabling development.
- Concern about the need to ensure member capacity to support 2 x committees: it was acknowledged that two committees may prove to be unnecessary, but the 2-committee model was recommended initially to ensure there was sufficient capacity and, as set out in paragraph 4.4 above, will be kept under review. It was pointed out that each committee could comprise the same members – that was a matter for the Political Parties.
- It was felt desirable to retain members on the committee so they gain expertise: this is agreed, but again it is a matter for the Political Parties.
- Concern that a petition of over 50 signatories may be too high a hurdle: it was confirmed that this was a standard number used in many Councils, but the Head of Planning has discretion to refer any planning matter to committee and where there was a good reason to accept a smaller petition (such as in an area with very few dwellings) that discretion could be exercised.
- Public speaking timings were being brought into line with best practice which means all speakers get the same time (3 minutes in PC and 5 minutes in SPC). The public/applicants currently have 2 minutes and members 4 minutes. There was debate over these timings but it was not resolved.

## **10 CONCLUSIONS**

- 10.1 This report covers the areas necessary to bring the Constitution up-to-date with respect to planning procedures and responsibilities and to enable it to deal with the expanded workload the regeneration and growth strategy is generating. It is hoped that the new elements have been clearly set out and that the new procedures will prove to be useable for members, officers and the public.

### **IMPLICATIONS AND RISKS**

**Financial implications and risks:** The recommendations in this report should be cost neutral, but it is not possible to be definite at this stage as new procedures are proposed and their effectiveness will depend on how they are used by the public and members. There may be cost implications for the Members' Allowance Scheme if the membership of the two planning committees, or the Chair arrangements, are different. Members are paid only one Special Responsibility Allowance and accordingly any increase to the overall Members' Allowance Scheme will depend on appointment choices. The operation of the new committees should be reviewed after they have been in operation for a year.

**Legal implications and risks:** This report and its recommendations have been drafted with the advice and assistance of the Council's Legal and Democratic Services to ensure they comply with the law and other requirements. A large part of the drafting changes are included to ensure the Council is in a strong position to avoid challenge to the operation of its planning committee.

**Human Resources implications and risks:** There are no human resources implications arising from the recommendations in this report because it will be managed by existing resources; however this will be kept under review.

**Equalities implications and risks:** The changes proposed are a combination of best practice and legal requirements and relate primarily to committee procedures and members' probity protocols. There are no specific equalities implications for people, including those with protected characteristics. An EA is therefore not necessary.



APPENDICES
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## APPENDIX A

### RATIONALE FOR MAIN CONSTITUTION AMENDMENTS

This appendix sets out the detailed considerations behind the proposed changes summarised in the Report Details in the main report.

#### 1 RESPONSIBILITY FOR FUNCTIONS

- 1.1 Part 3 of the Constitution defines, in section 1 under Council Functions, what broad matters Council has delegated to committees, like RSC, to deal with. This just confines each committee to dealing with certain things, as it would be odd if, for example, planning committee suddenly decided that it wanted to determine licensing applications and the Constitution didn't stop them!
- 1.2 Precisely when a committee deals with these matters is set out in a delegation scheme, which in LB Havering is called the "functions delegated to staff" and is in part 3, section 3 of the Constitution. Part 3, section 4 deals with the statutory requirement of defining the responsibilities between Full Council and Cabinet and is called the "Functions Not the Responsibility of the Executive".

#### 2 COUNCIL FUNCTIONS

- 2.1 This is where the new planning committees will be created and defined. Part 3 Section 1.2 contains a table setting out the functions that are delegated to each of the Council's general committees to deal with. For RSC it states:

Committee	Functions
Regulatory Services	<p><b>Health and safety</b> To carry out functions relating to health and safety under any "relevant statutory provision" within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer</p> <p><b>Highways use and regulation</b> To exercise powers relating to the regulation of the use of highways as set out in Part 3, section 4: functions not to be the responsibility of an authority's or to staff</p> <p><b>Planning and conservation</b> To carry out functions relating to town and country planning and Planning Control as specified in:</p> <ul style="list-style-type: none"> <li>Part 3, section 4: functions not to be the responsibility of an authority's Executive</li> <li>Part 3, section 5: local choice functions that are not delegated to staff</li> </ul> <p><b>Urban Development Corporation</b> To form planning views on behalf of the Council in its role as consultee on applications to be decided by the Board of the Urban Development Corporation</p>

- 2.2 It will be necessary to delete the two sections headed “Planning and Conservation” and “Urban Development Corporation” (this relates to the London Thames Gateway Development Corporation, which no longer exists) for that committee. The residual functions of RSC will be allocated to the new Planning Committee.
- 2.3 To create and define the two new planning committees, a new section will be added to the table. This should contain three things, as appropriate for each committee:
1. SPC to receive presentations in the pre-application or pre-determination stage
  2. Specify the application types that both committees can deal with (see next section), rather than the current approach of cross referencing to other parts of the Constitution which can result in confusion and unintended consequences
  3. A catch-all for the [Head of Planning] to refer planning matters to committee

#### **APPLICATION TYPES**

- 2.4 The Constitution (part 3 section 3.6) sets out a long list of application types and sizes (over a page in length) that can be approved by officers, meaning the residual application types must always go to committee. This is a very odd way of drafting a delegation scheme as it can result in minor matters having to go to committee just because they were not included, plus it has some very low thresholds: eg, three houses or more must go to RSC. A different approach is needed where matters are delegated to officers unless there is some specific trigger that sends a particular application to committee. This part of the Constitution will identify the application types that the new committees will deal with. The triggers will be in the Committee Consideration Criteria in the Committee Procedure Rules.
- 2.5 It is recommended that there are only two application types that should go to planning committee:
1. Applications for planning permission
  2. Applications for listed building consent (often associated with an application for planning permission)
- 2.6 Applications for planning permission has a statutory meaning, so it is a good term to use, and includes the following:
- applications for outline planning permission
  - applications for full planning permission
  - applications to vary or delete conditions under s73 (this would include more significant “material” amendments).
- 2.7 The other application types we deal with under planning legislation are either very minor and raise no significant issues, are limited in the way they can be determined (ie they are confirming what a legal position is and no judgement is exercised) or are very specialised and determination is driven by expert opinion (either from council experts or external bodies). These other application types include:

- Approval of reserved matters: committees do not normally deal with these, but if they wished to be involved in the determination of a specific matter they can indicate that when determining the outline application
- Approval of conditions: these are minor matters
- Amendments to planning permissions under s96A: you can only permit an amendment where it is non-material, ie it has no materially different impact
- Advertisement consent: these are minor matters
- Hazardous substances consent: in practice, we must do what the Health and Safety Executive say
- Tree preservation order consents and trees in conservation areas notifications: these are highly specialised and the determination is driven by expert opinion
- Prior Notifications: permitted development with specified limited matters to be considered within a very tight timescale
- Certificates of lawful development: confirm a legal position with no planning judgement

2.8 None of these should come to committee, other than where the [Head of Planning] considers that it is necessary, which would be very rare.

#### **ENFORCEMENT ACTION**

2.9 The taking of enforcement action should be delegated and not be within the committee's remit, as is largely the case in Havering. However, according to section 4, there are some less-often used enforcement powers that are not delegated, such as completion notices, discontinuance orders and repair notices on listed buildings. The reason for these anomalies could have been that there may have been a fear of the Council being exposed to compensation or other unbudgeted expenditure. However, that should not be a reason for excluding them as delegated powers, because the exercise of any delegation is limited by the general provisions in section 3 which state in paragraph 3.1(b) that any such expenditure is, "subject to there being sufficient approved provision within the budget to cover that expenditure". The new drafting will therefore make all planning enforcement delegated.

#### **LEGAL AGREEMENTS**

2.10 Where a s106 agreement is necessary to make a development acceptable, that is intrinsically linked to the consideration of the planning application. An application should not need to come to committee merely because it has a s106 agreement. This should be delegated to officers. Section 4 of the Constitution currently puts all s106 agreements to committee, which is unnecessary.

#### **RECOMMENDATION**

2.11 Accordingly, the new section in the table for SPC & PC is recommended to be:

Committee	Functions
Strategic Planning	<ol style="list-style-type: none"> <li>1) To receive presentations in the pre-application or pre-determination stage.</li> <li>2) To determine: <ol style="list-style-type: none"> <li>a) Applications for Planning Permission; or</li> <li>b) Applications for Listed Building Consent; which, in the opinion of the [Head of Planning] acting in his or her discretion, raise strategic issues and should be determined by the Strategic Planning Committee.</li> </ol> </li> <li>3) Any other planning matter which, in the opinion of the [Head of Planning] acting in his or her discretion, raises strategic issues and should be referred to the Strategic Planning Committee.</li> </ol>
Planning	<p><b>Planning</b></p> <ol style="list-style-type: none"> <li>1) To determine: <ol style="list-style-type: none"> <li>a) Applications for Planning Permission; or</li> <li>b) Applications for Listed Building Consent; except where they are referable to the Strategic Planning Committee.</li> </ol> </li> <li>2) Any planning matter referred to the Planning Committee by the [Head of Planning] acting in his or her discretion.</li> </ol> <p><b>Health and safety</b> To carry out functions relating to health and safety under any “relevant statutory provision” within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council’s capacity as employer.</p> <p><b>Highways use and regulation</b> To exercise powers relating to the regulation of the use of highways as set out in Part 3, section 4: functions not to be the responsibility of an authority’s or to staff.</p>

### 3 DELEGATION SCHEME

- 3.1 This should be where you check whether a matter is delegated to officers to deal with or if a committee should deal with something. The way the Constitution is currently drafted makes this very difficult to understand. The main problems are:
- Part 3, section 3.6 sets out the specific matters delegated to named officers. However, within the text there are, by implication in some cases and explicitly in others, matters that need to be determined by RSC. This results in a confusing and complex document that, because RSC matters are not clearly identified, can leave gaps where it is not clear where responsibility lies.
  - Part 3, section 4 is a statutory requirement to set out the matters that are not executive functions. The table also delegates these matters to either officers or committees like RSC. This duplication sets up the potential for confusion and conflict between the matters in this table and those listed in

section 3.6. Furthermore, the conventional approach to the drafting of this table makes it difficult to produce a comprehensive position and keep it up-to-date.

- The Protocol on Probity in Planning Matters, in part 5 of the Constitution, contains further criteria that implies when RSC will deal with matters. This is both complex and potentially confusing as there are contradictions between these elements. For example, section 3.6 contains no triggers for objections but the Protocol states that objectors have the right to address the committee, which could be read as implying that if an application has an objection it must go to RSC so the right to address the committee can be exercised. That is not what happens, and nor is it the intention of the document, but this wording puts the council at risk of a judicial review and needs to be corrected.

3.2 What is proposed is the following general approach:

- Part 3, section 3.6 will have a clear statement of all matters that are delegated to the [Head of Planning]
- Part 3, section 4 will have a clear and comprehensive statement of all planning functions and who deals with them
- The new Planning Committee Procedure Rules will set out clearly the criteria that will trigger committee consideration of a matter that is within the committee's remit (as set out in part 3, section 1: council functions)

**RECOMMENDATION: FUNCTIONS DELEGATED TO [HEAD OF PLANNING]**

3.3 Appendix C sets out the functions of the Council that are delegated to the [Head of Planning] (part 3, section 3.6 of the Constitution). This is drafted as comprehensively as possible by covering all planning matters delegated from Council to officers and referring to the exceptions set out in part 3, sections 4, 5 and 6, rather than repeating them. This avoids any unintended consequences or gaps. It clearly indicates where the criteria for matters that are for planning committee are set out (ie in the Procedure Rules for the two new committees).

3.4 The draft also contains specific delegations to officers to cover planning matters that are referred to the Council to deal with (eg delegations from the GLA or a future development corporation) and how minor amendments to recommendations that have been agreed at Council, Cabinet or Planning Committee can be dealt with under delegated powers. This makes for a much more efficient planning process and protects the Council from judicial reviews.

3.5 In the current Constitution, the matters that were the responsibility of the former post of Head of Regulatory Service are set out at paragraph 3.6.6. An exercise has been carried out by Legal Services to redistribute the functions to the new AD post headings. Planning functions are grouped under the title Planning Control. What is drafted in Appendix C will replace what is currently under that title.

**RECOMMENDATION: FUNCTIONS NOT THE RESPONSIBILITY OF THE EXECUTIVE**

- 3.6 Appendix D sets out the newly drafted table of “Functions not to be the responsibility of the Executive” (part 3, section 4 of the Constitution) covering those functions relating to planning. It addresses the issue of conventional drafting outlined in the main report.
- 3.7 The way these tables are normally drafted is to list very specific powers, duties and responsibilities with respect to statutory functions and then to allocate them to officers or a committee as appropriate. The drawback with this approach is that some obscure or implicit powers may be missed and new powers or amendments to existing powers must be specifically included when they occur. It is very easy to miss this and expose the authority to judicial review. Several powers are missing from the current table.
- 3.8 A more generic approach, where reference is made to the parts of the Planning Act (or other relevant statutes) rather than specific sections, is better as it ensures that the scheme is automatically more comprehensive. This will also provide a much longer shelf-life for the table in the context of changes or additions to legislation, particularly where they are enacted as an amendment to existing legislation, which generally is how such changes are delivered by Parliament.

**4 PLANNING COMMITTEE PROCEDURE RULES**

- 4.1 The new set of Rules will cover the following areas:
- Committee Consideration Criteria
  - Public Speaking Procedure
  - Pre-Committee Matters
  - Committee Agenda
  - Order of Proceedings
  - Decision Making
  - Voting Procedures
  - Committee Performance
- 4.2 The proposed changes or new procedures in each area are highlighted below.

**COMMITTEE CONSIDERATION CRITERIA**

- 4.3 The final component that will determine when a Planning Committee Matter (ie an application for planning permission or listed building consent) will come to committee is the Committee Consideration Criteria. It is important that the rules around these matters are clear to ensure that the Council is in the strongest possible position where aggrieved applicants or objectors look to challenge decisions.
- 4.4 These criteria need to do two things in deciding what comes to committee:
1. Define what applications are strategically important and should always go to committee for approval
  2. Define what applications are controversial and therefore justifies a decision by committee

- 4.5 The first matter to consider is whether only recommendations to grant planning permission should go to committee and refusals are always delegated, as is Havering's current practice. It is recommended that the committee should only deal with approvals. The reason is that in negotiating applications where the applicant is refusing to budge on an issue, having the ability to say they "can have the refusal by close of play" often brings them to their senses. Where refusals are controversial (which is very rare and hard to define) the [Head of Planning] can use his or her discretion, and bring it to Planning Committee. The other important factor is that an aggrieved applicant has a right of appeal, so has an outlet. Current practice should therefore continue.

**Defining strategically important**

- 4.6 One way to define strategically important developments is to specify a number of dwellings, floorspace, site area etc. This is the approach used in the current constitution and is unnecessarily complex. In London, you have the Mayor of London Order which sets out a statutory definition of strategically important development. The thresholds contained therein are set by Parliament and cannot be unilaterally changed by the Mayor. Furthermore, they are part of the service's day-to-day working so, from an administrative perspective, it is very efficient to use that definition. The wording in the Order is set out in appendix E. The wording in the constitution would be:
- the application is within the categories which must be referred to the Mayor of London under the Town and Country Planning (Mayor of London) Order
- 4.7 This is a much simpler and clearer definition and is easier to incorporate into work procedures. It would reduce many of the application types that would automatically now come to committee for approval, but would be a logical approach to justify. The application types that are no longer defined as strategic would still come to committee for approval if they were triggered by the controversy criteria (eg level of objection, petition or member referral).

Departures from the development plan

- 4.8 The main consideration that drives decision making is the Development Plan. Other matters that can be considered must be material planning considerations. The statutory position (s38(6) of the 2004 Planning and Compulsory Purchase Act) requires that decisions MUST be in line with planning policy unless there are good and demonstrable planning reasons to do otherwise. There are special provisions in the statutory code to deal with significant departures from the development plan in a certain way. Such "departures" should come to planning committee for approval and the following wording is suggested:
- the application does not accord with the provisions of the Development Plan and, in the opinion of the [Head of Planning] acting in his or her discretion, constitutes a significant departure

Council's own development

- 4.9 The Council's own schemes must be treated no differently from any other development. However in the interests of openness, it is generally considered

good practice that any significant council own development should come to committee for approval irrespective of whether it receives objections or is referred by a Ward Councillor. The following wording is recommended:

- the application is by or on behalf of the Council and, in the opinion of the [Head of Planning] acting in his or her discretion, it is a significant development;

### **Defining controversial**

4.10 In most Councils there is generally a threshold of the number of objections received in response to publicity and advertisement of planning applications that triggers committee determination. In Havering, the level of objection is not a trigger. Applications can only be determined at committee in these circumstances if a Ward Councillor, or in specified circumstances any Councillor, refers it. This approach places a huge emphasis on the referral process. It is recommended that a reasonable objection threshold (12 is suggested) be introduced, coupled with an adjustment of member referral procedures so that they are used less frequently. This could be seen as the democratisation of the planning committee by enabling Havering residents and businesses (in sufficient numbers) to trigger committee consideration. The rules around this would have to be carefully drafted.

4.11 Defining what constitutes an objection is very important. There are several approaches that can be used to act as a filter to weed out unnecessary matters going to committee:

1. Being clear about what constitutes an objection
2. Have a threshold of objection letters that needs to be received
3. Clear rules around petitions
4. How the Member referral procedure should operate
5. Creating a gatekeeping function to filter out unsuitable matters

4.12 These methods are generally used in combination and they will be explained in turn below.

### **Defining an objection**

4.13 All representations that are made will be considered by officers, but it is important to be clear which ones (cumulatively) can trigger committee consideration. They need to be defined carefully (to avoid legal challenges) and it is recommended that it should be as follows:

An objection is a letter, an email or a petition from any party (Councillor, local resident, business etc) that meets all the following requirements:

- It is in response to an application that has been publicised or advertised by the Council
- It is not anonymous and includes the person's name and postal address
- It is from, or on behalf of, a person who lives at or operates from an address which is within the London Borough of Havering
- It is received by the Planning Service within the relevant timescales (these are the statutory consultation periods)
- It raises objections that are material planning considerations and are related to the application



- Any material planning objection raised cannot be overcome by scheme amendment, imposing planning condition(s) or securing planning obligation(s)
- 4.14 Identical or similar pro-forma letters or emails, which also meet the above requirements, will be treated as forming a Petition (ie, each letter potentially being a single signature on a petition) rather than being treated as individual Representations for the purposes of deciding whether they will trigger consideration by Planning Committee.

Level of objection

- 4.15 As stated earlier, a level of 12 objections is recommended. Additionally, objectors should be required to specifically state that they wish their objection to trigger committee consideration – the overall number target would still be required. Some objectors just want to make their case and do not necessarily wish that it should be considered by committee. This would also apply to petitions. This brings objectors and petitioners in line with the requirement for Councillors to do this. This would be made clear in the notification letters sent to neighbours etc on planning applications.

Petitions

- 4.16 A decision is needed on how many signatures are needed on a petition to trigger committee consideration. It is recommended that a requirement for 50 signatures would be reasonable for this. These should be clearly readable names and addresses from persons who own, live or operate from an address in Havering. The requirement for the petitioner to specifically state that they wish their petition to trigger committee consideration would also be included.

Member referral

- 4.17 It is important that a member referral procedure is properly designed and documented in the constitution. What constitutes a referral and the deadlines and procedures for their handling will need to be very clearly set out. Like other Representations, there should be a similar clear definition of what constitutes an appropriate referral request and, like individual or petition representations, clear time limits.
- 4.18 It is legitimate for members to be involved in the planning application process, to express their views and to have them considered. It is not appropriate for them to interfere with the process in a way that seeks to influence the outcome. The operation of the referral process in Havering does show signs of the latter, particularly the number of late referrals. This needs to be addressed as there is a danger that members may act unlawfully, or at least given that impression, if they try to refer an application to committee late in the process. It is important that the system of member referrals has integrity, is open and transparent and not susceptible to legal challenge.
- 4.19 Although the constitution states with respect to referrals, “If no such request is received by the deadline ... the Head of Regulatory Service may determine the application”, that deadline does not seem to be in the constitution. Any deadline has to be the statutory consultation period, because after that applications can, and should, be determined without delay (National Planning Policy Framework paragraph 14).

4.20 The following rules are recommended with respect to member referrals:

- Only a Councillor where the application site is within, partly within or adjoining their ward can refer an application for planning permission or listed building consent to committee.
- The current provision (in paragraph 3.6.6 of the Responsibility for Functions) for a Councillor, who is not a Ward Councillor, to refer an application in exceptional circumstances and with the approval of the [Head of Planning] to committee, is amended to make it clear that only applications that are within the remit of Strategic Planning Committee can be so referred.

4.21 This represents an expansion of the current position, to recognise that it may be legitimate for a non-ward Councillor to refer strategic applications to committee.

**Gatekeeping**

4.22 There does need to be a gatekeeper role, deciding which applications with representations (individual or petitions) over the trigger levels or with Ward Councillor referrals go on the committee agenda. The reason for this is that there is an expectation that if a member refers an application to committee, they are expected to attend the committee and explain their concerns. The same expectation would extend to local residents who regularly make representations, such as resident groups or amenity societies. To enable this requirement to be enforced, the Committee Consideration Criteria for Individual Representations, Petition Representations and Ward Councillor Representations would need to have words added along the lines of "... the [Head of Planning] (in consultation with the chairman) agrees to the item being placed on the Planning Committee agenda".

**Recommendations**

4.23 The new triggers for committee consideration would therefore be:

To approve Applications for Planning Permission or Applications for Listed Building Consent where at least one of the following applies:

- a) the application is within the categories which must be referred to the Mayor of London under the Town and Country Planning (Mayor of London) Order;
- b) the application does not accord with the provisions of the Development Plan and, in the opinion of the [Head of Planning] acting in his or her discretion, constitutes a significant departure;
- c) the application is by or on behalf of the Council and, in the opinion of the [Head of Planning] acting in his or her discretion, it is a significant development;
- d) Individual Representations have been received, in accordance with these Rules;
- e) a Petition Representation has been received, in accordance with these Rules; or
- f) a Representation from a Ward Councillor has been received, in accordance with these Rules.

- 4.24 Any application caught by these Criteria will be referred in the Rules collectively as a Planning Committee Matter. “In accordance with these Rules” will mean that Representations must meet both general requirements and specific referral criteria.
- 4.25 The general requirements are set out in paragraphs 4.13 and 4.14 above.
- 4.26 The specific referral criteria for individual, petition and Ward Councillor representations are set out below:

**Individual Representations**

- 4.27 A Planning Committee Matter may be reported to Committee where Individual Representations have been received that all meet the General Requirements for a Representation and additionally meet the following Criteria:
- Any Individual Representation clearly states that they wish the application to be determined by Committee; and
  - At least 12 such Representations have been received from individual properties within the London Borough of Havering for each application.
- 4.28 Representations for each application are those that are received from individual properties within the London Borough of Havering, ie not one from each member of a family, a household or a business within a property. If several objections are received from a single property, they will be treated as a single objection.

**Petition Representations**

- 4.29 A Planning Committee Matter may be reported to Committee where one or more Petition Representations (including pro-forma letters) have been received that all meet the General Requirements for a Representation and additionally meet the following Criteria:
- Any Petition Representation clearly states that they wish the application to be determined by Committee; and
  - All such Petitions must total at least 50 signatures with clearly readable names and addresses from persons who own, live at or operate from an address which is within the London Borough of Havering.
- 4.30 Where such petition(s) contain less than 50 such signatories they will individually (in the case of each petition) or collectively (in the case of pro-forma letters) be treated as each forming a single Individual Representation for the purposes of deciding whether a Planning Committee Matter will be referred to Committee.

**Ward Councillor Representations**

- 4.31 A Planning Committee Matter may be reported to Committee where a Councillor for the ward within which the application site is situated or adjoins has made a Representation that meets the General Requirements for a Representation and additionally meets all the following Criteria:
- The application site is within, partly within or adjoining the Councillor's ward;
  - It clearly states that the Councillor wishes the application to be determined by Committee;

- It gives specific reasons for this that relate solely to matters that are material planning considerations and justify consideration by Planning Committee rather than under delegated powers – just saying that the Councillor considers that the matter should be determined by Planning Committee will not be sufficient;
  - It states whether the Councillor has been approached by any person concerning the application; and
  - If so, provides details of that contact, including the identity of the person(s).
- 4.32 A Councillor, who is not a Ward Councillor, may request that a Planning Committee Matter be reported to committee if they consider that there are exceptional circumstances that justify it. The decision as to whether such a matter is reported to committee is for the [Head of Planning], acting in his or her discretion, to make. Generally, only matters that are within the remit of Strategic Planning Committee will be accepted under this provision.

### **PUBLIC SPEAKING PROCEDURE**

- 4.33 The resolution from Full Council requires the right of members to speak at committee to be reviewed. It is clear that Councillors within whose ward the application site is situated have such a right. The issue is the right of non-ward Councillors to address committee.
- 4.34 The current provision is set out in para 13 of the Committee Procedure Rules. This relates the right to speak with the right to call-in applications; members who do so are expected to address the committee on their call-in request. Non-ward Councillors can only call-in applications to committee in exceptional circumstances and the decision is for the [Head of Planning] to make.
- 4.35 In line with the proposed clarity around call-in rights set out above (paras 4.20 and 4.21) the same approach will be employed with respect to speaking rights for Councillors. The procedures around addressing committee will be based on the following principles:
- Clarity that for both committees there are up to three Councillor slots, but also clarity that Councillors should avoid duplication and coordinate their attendance at committee in the interest of efficiency.
  - For PC, the Councillor slots are for Councillors where the application site is within, partly within or adjoining their ward only, as these applications generally raise local issues. Non-ward Councillors and non-referring ward Councillors do not have a right to address the committee. The chair's discretion would remain but the default position would be clearly set out.
  - A non-ward Councillor can register as an objector and address the committee. The current procedure requires that a registering objector must have submitted an objection. This requirement is an unnecessary complication and the new rules just require that an objector registers (on a first come basis – as now).
  - For SPC, the three Councillor slots are open to all Councillors, but priority will be in the following order:
    - Referring ward Councillors
    - Referring non-ward Councillors
    - Non-referring ward Councillors

- Non-referring non-ward Councillors
- The ability of cabinet members to address the SPC on strategic cases to raise significant issues for their portfolio area will be included and this will be an additional slot over and above the other Councillor slots. However, where the council is the applicant and the promoting Cabinet Member wishes to address committee, this should be done in the applicant's slot; they should not use the cabinet member slot.
- Ward Councillors are able to address SPC on Development Presentations (again, three speaking slots a maximum of five minutes each), but they should confine their presentations to commenting on aspects of the development (eg its design, highway impacts, level of affordable housing etc) and not objecting to the principle of the development or the scheme as a whole. The reason for this is that the pre-application process is where the Council should work to improve schemes so they can be approved. The time for objecting to the development is once the application is made.

4.36 Other general public speaking procedural changes are as follows:

- In the interests of natural justice, most councils have slots of the same length. Therefore, all slots (ie the registered objector, a responding applicant and any councillors) will be 3-minutes long in PC and 5-minutes long in SPC.
- All speakers (objectors, responding applicants and Councillors) must register 15 minutes before the start of the meeting.
- Where an item is on the agenda solely because of the level of objections, a petition, or a Councillor referral, and nobody registers to address the committee before the meeting starts, that item comes off the agenda and be dealt with under delegated powers.

#### **PRE-COMMITTEE MATTERS**

4.37 The main issues here are to make it clear that committee members should raise areas of concern with officers in advance of the meeting wherever possible and to clarify the expectations and procedures around site visits. Essentially capturing current practice, that it is the responsibility of Members to be familiar with the sites on the agenda.

#### **COMMITTEE AGENDA**

4.38 The agenda will be divided into sections as follows:

1. Development presentations (SPC only)
2. Applications for decision
3. Other planning matters (eg an Article 4 Direction)
4. Items for information

4.39 Only item 2 would attract public speaking rights.

#### **General delegations**

4.40 In the reports to Committee an approach where they do not set out the full wording of planning conditions, reasons for refusal, informatives and planning obligations, but are a summary of them, will be adopted. A fully worded draft decision notice would have been prepared which would be available to look at

any detail, if needed. This approach is considered better for the following reasons:

- it communicates the details of the recommended decision more clearly to Members and the public than many pages of detailed conditions or grounds; and
- there can sometimes be a delay before a decision is issued (such as waiting for the signing of a legal agreement or views from the Mayor of London and/or the National Planning Case Unit) and something may arise which necessitates an amendment, a deletion or an addition.

- 4.41 It will therefore be necessary in the procedure rules to delegate to the [Head of Planning] the power to communicate the detailed wording of committee decisions to applicants.

### **Update Report**

- 4.42 It is important to set a deadline for matters to be included in the Update Report. Having to deal with last-minute submissions should be avoided. In addition, the report should be emailed to Planning Committee Members in advance of the meeting so that they have a bit longer to read it. It is therefore recommended that the deadline by which material must be received in the service will be noon on the day of the meeting. Generally, material received after this time will not be reported to the Committee unless the [Head of Planning] considers it necessary. The [Head of Planning] must have an absolute discretion in this regard

### **ORDER OF PROCEEDINGS**

- 4.43 This will set out how each item on the agenda will be dealt with, such as in what order the speakers are heard etc. it is not proposed to change what is standard practice at Havering in this area other than to split the officer presentation so that before the speakers, officers introduce the application (ie describe the development), and after the speakers, they will outline the material planning considerations that led to the recommendation. This will also give officers the opportunity to pick up any issues that may have come up in public speaking.
- 4.44 Part 4, section 8 of the general Committee Procedures Rules, sets a 2½ hour guillotine for committees like RSC, but this does not seem to be followed. Many Councils adopt this, as very late Planning Committees are not helpful to anyone. It is recommended sticking to the 2½ hour length with the provision of an extra 30 minutes to finish off the item that was started before the guillotine.
- 4.45 Items that have not been determined within the guillotine time limits should be automatically delegated to officers to determine in accordance with the recommendation set out in the report, unless the meeting determines otherwise by way of a resolution made prior to the guillotine and agreed on a majority vote. Generally, it would only be items that remain undetermined for which there are speakers that would be voted on to extend the guillotine time to deal with them. Other items should normally be left to officers to determine under delegated powers. This is a more efficient approach than having to reconvene the meeting to deal with undetermined items, especially ones that are uncontroversial.

### **DECISION MAKING**

- 4.46 This brings together probity advice around decision making, so it is all in one place.

### **VOTING PROCEDURES**

- 4.47 It is much better if the voting convention in Planning Committee is that the recommendation is voted on first, rather than having motions moved and seconded. The reason for this is that when the committee is looking to go against the officer recommendation, this triggers a critical set of procedures that are designed to protect the Council's interests. As will be explained below, there are circumstances where this might result in the item being deferred. Therefore, it is important to know that the committee wants to go down this road; hence they should decide first whether they agree the recommendation in the report. The recommendation can be amended (eg adding or varying a condition) before the vote in the usual way.
- 4.48 In all cases where the committee departs from the recommendation (either an alternative one or an amendment) the Rules will say that they must receive and consider advice from the [Head of Planning] or his or her representative on the proposed changes. Where the officer considers that he/she is unable to give that advice in the meeting, further consideration of the matter will be suspended and the agenda item will be adjourned so that a report can come to the next available committee setting out the advice, if necessary on the private business part of the agenda if legal advice is required. The reason for this is to avoid the situation where officers must advise in the meeting that grounds of refusal are weak or not defensible at appeal or that there is a risk of costs being awarded against the Council.
- 4.49 The legal requirement to accurately record reasons for decisions will also be clearly set out so that decisions that go against the recommendation in the report are soundly made and recorded, so that they are not liable to judicial review.

### **COMMITTEE PERFORMANCE**

- 4.50 This section is necessary to make sure that both committees perform in the way that is expected, in the same way as the planning service generally is so monitored. This is designed to ensure that the issues behind the designation risk that has emerged are picked up earlier and addressed through routine monitoring of both performance and quality indicators.

## **APPENDIX B CONSEQUENTIAL MINOR CONSTITUTION AMENDMENTS**

The following miscellaneous amendments will be needed to the Constitution:

### **PART 1: SUMMARY OF THE CONSTITUTION**

#### **7. Other Committees (pg 7)**

Reference needs to be made to the new SPC/PC.

### **PART 2: THE ARTICLES OF THE CONSTITUTION**

#### **Article 3: Citizens and the Council**

##### 3.02 Participation (pg 15):

Needs to exclude SPC/PC, as their public speaking rules will be set out in their own committee procedure rules – should not be up to the committees as consistency is vital – only the chair will have discretion.

#### **Article 9: Decision making**

##### 9.05 Referral of decision maker to higher authority (pg 23):

SPC/PC have their power delegated from Council – it is very rare for such committees to refer planning matters back to full council – this should be excluded by adding a new paragraph that says:

“Decisions of the SPC/PC cannot be referred to another body (except officers), including to the council.”

##### 9.06 Decision making (pg 23):

Need to refer to new SPC/PC Procedure Rules by adding new text at the end of paragraph (d) which states:

“... and the SPC/PC will additionally follow the SPC/PC procedure rules set out in part 4 of this Constitution.”

##### 9.08 Party Whip (pg 23):

Need to change the reference from RSC to SPC/PC.

#### **Article 12: Suspension, interpretation and publication of the Constitution**

##### 12.01 Suspension of the Constitution, (c) Rules capable of suspension (pg 27):

Reference to Planning Committee Rules will be needed so that they cannot be suspended other than as stated in the Rules, which will usually be at the chair's discretion.

#### **Appendix to Articles (pg 28)**

This will need a reference to the make-up of the new SPC/PC and their sizes. It is recommended that:

- SPC to be seven members
- PC to be eleven members
- The rules for RSC on membership requirements state, “... of whom only one may be an Executive Member, or two if one is acting as a substitute” – it is recommended that this be deleted as Cabinet members, on SPC in particular, is



beneficial and encouraged by the Local Government Association and the Planning Advisory Service.

- It is also recommended that the following is added:  
“When the membership of the committee is determined, there should always be at least one Councillor in each Ward who is not a member of SPC or PC to ensure that there will always be a Councillor with whom residents will be able to discuss planning matters.”

## **PART 4: RULES OF PROCEDURE**

### **Committee Procedure Rules (pgs 179 - 189)**

Need to delete/amend the following as they will be in the SPC/PC Procedure Rules:

#### 7. Attendance at Committee

(e) Members of the public wishing to address the committee (pg 182)

Need to add the note,

“This rule shall not apply to SPC/PC as the public speaking procedures for these committees are set out in their own committee procedure rules.”

#### 8 Conclusion of meetings (pg 182)

PC/SPC will have its own guillotine rules as they need to operate slightly differently. Therefore, need to add a new paragraph between (a) & (b) which says,

“The rules for the conclusion of SPC/PC meetings are set out in their own committee procedure rules.”

#### 13 Regulatory Services Committee (pg 184)

This relates to public speaking and will be covered in the new SPC/PC procedure rules, so should be deleted. There may need to be a note somewhere – perhaps here – that SPC/PC does have a separate set of procedural rules.

#### 18 Training and continuity of membership of certain committees (pg 188)

This allows a member to be on SPC/PC for 6 months with no training. Best practice is that all SPC/PC members and substitute members must receive basic training on planning and probity before being able to sit on committee. They should also be obliged to keep up-to-date by attending other training offered. This will be covered in the Committee Procedure Rules, so the following sentence should be added at the end of paragraph (a):

“The rules for training of SPC/PC members are set out in their own committee procedure rules.”

## **APPENDIX C FUNCTIONS DELEGATED TO STAFF**

The following amendments to part 3, section 3.6 of the Constitution are proposed:

### **[HEAD OF PLANNING]**

1. To deal with planning related matters in the following parts of the Constitution:
  - a. part 3 section 4: functions not to be the responsibility of the Executive;
  - b. part 3, section 5: local choice functions; and
  - c. part 3 section 6: proper officer functions,
2. except where it is indicated that it is a matter that:
  - a. is required to be determined by SPC/PC in accordance with the Committee Consideration Criteria in the Planning Committee Procedure Rules;
  - b. is an Executive function and is dealt with at Cabinet or by a Cabinet Member delegation; or
  - c. is retained by Council to determine.
3. Planning related matters delegated to the Council by other bodies except where a matter is required to be determined by Planning Committee in accordance with the Committee Consideration Criteria in the Planning Committee Procedure Rules.
4. Where Cabinet or Council determines an item on an agenda:
  - a. in the event of changes being made to an officer recommendation by Cabinet/Council, the task of formalising the wording of those changes, within the substantive nature of the Cabinet/Council decision, is delegated to the Report Author;
  - b. the Report Author has delegated authority to make changes to the wording of the Cabinet/Council decision prior to the decision being actioned, provided that the Report Author is satisfied that any such changes could not reasonably be regarded as deviating from the overall principle of the decision reached by Cabinet/Council nor that such changes could reasonably have led to a different decision having been reached by Cabinet/Council.
5. Where Planning Committee determines an item on an agenda:
  - a. in the event of changes being made to an officer recommendation by the committee, the task of formalising the wording of those changes, within the substantive nature of the committee decision, is delegated to the [Head of Planning];
  - b. the [Head of Planning] has delegated authority to make changes to the wording of the committee decision (such as to delete, vary or add conditions, informatives, planning obligations or reasons for the decision) and to accept changes to the application prior to the decision being actioned, provided that the [Head of Planning] is satisfied that any such changes could not reasonably be regarded as deviating from the overall principle of the decision reached by the committee nor that such changes could reasonably have led to a different decision having been reached by the committee.
6. Any other planning related matter delegated from Council to officers.

## APPENDIX D

### FUNCTIONS NOT THE RESPONSIBILITY OF THE EXECUTIVE

The following amendments to part 3, section 4 of the Constitution are proposed:

#### FUNCTIONS RELATING TO PLANNING

Function	Provision of Act or Statutory Instrument	Decision making body
Functions relating to development plans	Part 2 of the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004	[Head of Planning], except where: <ul style="list-style-type: none"> <li>approval by the Executive is required for consultation on a Local Development Framework Document;</li> <li>approval by the Executive is required for adoption of a Supplementary Planning Document, the Local Development Scheme, the Statement of Community Involvement or the Authority's Monitoring Report;</li> <li>approval by Council is required for submission or adoption of a Development Plan Document</li> </ul>
Functions relating to control over development (including the assessment of environmental effects)	Part 3 of the Town and Country Planning Act 1990	[Head of Planning], except where: <ul style="list-style-type: none"> <li>an application for Planning Permission is required to be determined by Planning Committee in accordance with the Committee Consideration Criteria in the Planning Committee Procedure Rules</li> </ul>
Functions relating to planning enforcement	Part 7 of the Town and Country Planning Act 1990	[Head of Planning]
Functions relating to special planning controls (e.g. trees, amenity land and advertisements)	Part 8 of the Town and Country Planning Act 1990	[Head of Planning]
Functions relating to highways and planning	Part 10 of the Town and Country Planning Act 1990	[Head of Planning]
Functions relating to statutory undertakers and planning	Part 11 of the Town and Country Planning Act 1990	[Head of Planning]

Function	Provision of Act or Statutory Instrument	Decision making body
Functions relating to Crown land and planning	Part 13 of the Town and Country Planning Act 1990	[Head of Planning]
Functions relating to financial provisions for planning	Part 14 of the Town and Country Planning Act 1990	[Head of Planning]
Functions relating to miscellaneous and general planning provisions (e.g. rights of entry)	Part 15 of the Town and Country Planning Act 1990	[Head of Planning]
Functions relating to listed buildings	Part 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990	[Head of Planning], except where: <ul style="list-style-type: none"> <li>an application for Listed Building Consent is required to be determined by Planning Committee in accordance with the Committee Consideration Criteria in the Planning Committee Procedure Rules</li> </ul>
Functions relating to conservation areas	Part 2 of the Planning (Listed Buildings and Conservation Areas) Act 1990	[Head of Planning], except where: <ul style="list-style-type: none"> <li>approval of the Executive is required to designate a conservation area</li> </ul>
Functions relating to general matters relating to listed buildings and conservation areas (e.g. Crown land and rights of entry)	Part 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990	[Head of Planning]
Functions relating to controls over hazardous substances	Planning (Hazardous Substances) Act 1990	[Head of Planning]
Functions relating to Certificates of Appropriate Alternative Development	Part 3 of the Land Compensation Act 1961	[Head of Planning]
Functions relating to the control of advertisements, displays etc	Part 3 of the London Local Authorities Act 1995	[Head of Planning]
Functions relating to surveillance and covert human intelligence sources	Part II of the Regulation of Investigatory Powers Act 2000	[Head of Planning]

Function	Provision of Act or Statutory Instrument	Decision making body
Functions relating to the civil recovery of the proceeds etc of unlawful conduct	Part 5 of the Proceeds of Crime Act 2002	[Head of Planning]
Functions relating to charging for discretionary services	Part 8 Chapter 1 of the Local Government Act 2003	[Head of Planning]
Functions relating to Nationally Significant Infrastructure Projects	Parts 1 to 9 of the Planning Act 2008	[Head of Planning]
Functions relating to the Community Infrastructure Levy	Part 11 of the Planning Act 2008	[Head of Planning], except where: <ul style="list-style-type: none"> <li>approval by Council is required to submit a draft charging schedule for examination, approve a charging schedule or withdraw a charging schedule</li> <li>approval by the Executive is required to consult on or adopt a new or amended Regulation 123 List</li> </ul>
Functions relating to Neighbourhood Planning	Part 6 Chapter 3 of the Localism Act 2011	[Head of Planning], except where: <ul style="list-style-type: none"> <li>approval by the Executive is required to authorise a Plan to be put to referendum or to agree that a Plan be Made</li> </ul>
Functions relating to self-build and custom house building	Part 1 Chapter 2 of the Housing and Planning Act 2016	[Head of Planning]

## APPENDIX E

### MAYOR OF LONDON ORDER

The Town and Country Planning (Mayor of London) Order 2008 sets out in a schedule Potentially Strategically Important (PSI) applications for planning permission. These are referred to the GLA for comment and potentially for determination by the Mayor.

It is recommended that this is a useful definition (by Parliament) of what constitutes a strategic planning matter across London and therefore in Havering.

The criteria for PSIs are grouped into three parts: large scale developments, major infrastructure and development which may affect strategic policies. The criteria in the Order vary for different parts of London. Those applicable to Havering are set out below.

#### 1. Large Scale Developments

- A. Development which comprises or includes the provision of more than 150 dwellings (*Government have consulted on reducing this to 50*)
- B. Development which comprises or includes the erection of a building or buildings with a total floorspace of more than 15,000 square metres
- C. Development which comprises or includes the erection of a building of one or more of the following descriptions:
  - a) the building is more than 25 metres high and is adjacent to the River Thames;
  - b) the building is more than 30 metres high
- D. Development which comprises or includes the alteration of an existing building where the development would increase the height of the building by more than 15 metres and the building would, on completion of the development, fall within a description set out in Category C above

#### 2. Major Infrastructure

- A. Development which comprises or includes mining operations where the development occupies more than 10 hectares
- B. Waste development to provide an installation with capacity for a throughput of more than:
  - a) 5,000 tonnes per annum of hazardous waste; or
  - b) 50,000 tonnes per annum of waste;
 produced outside the land in respect of which planning permission is sought; or  
 Waste development where the development occupies more than one hectare.
- C. Development to provide:
  - a. an aircraft runway;
  - b. a heliport (including a floating heliport or a helipad on a building);
  - c. an air passenger terminal at an airport;
  - d. a railway station or a tram station;
  - e. a tramway, an underground, surface or elevated railway, or a cable car;
  - f. a bus or coach station;
  - g. an installation for a use within Class B8 (storage or distribution) of the Schedule to the Use Classes Order where the development occupies more than 4 hectares;
  - h. a crossing over or under the River Thames; or

- i. a passenger pier on the River Thames.  
Development to alter an air passenger terminal to increase its capacity by more than 500,000 passengers per year.  
Development for a use which includes the keeping or storage of buses or coaches where:
  - a. it is proposed to store 70 or more buses or coaches or buses and coaches; or
  - b. the part of the development that is to be used for keeping or storing buses or coaches or buses and coaches occupies more than 0.7 hectares.
- D. Waste development which does not accord with one or more provisions of the development plan in force in the area in which the application site is situated and which falls into one or more of these sub-categories:
  - a. it occupies more than 0.5 hectares;
  - b. it is development to provide an installation with a capacity for a throughput of more than:
    - 1. 2,000 tonnes per annum of hazardous waste; or
    - 2. 20,000 tonnes per annum of waste.

### **3. Development Which May Affect Strategic Policies**

- A. Development which is likely to:
  - a. result in the loss of more than 200 houses, flats, or houses and flats (irrespective of whether the development would entail also the provision of new houses or flats); or
  - b. prejudice the residential use of land which exceeds 4 hectares and is used for residential use
- B. Development:
  - a. which occupies more than 4 hectares of land which is used for a use within Class B1(business), B2 (general industrial) or B8 (storage or distribution) of the Use Classes Order; and
  - b. which is likely to prejudice the use of that land for any such use
- C. Development which is likely to prejudice the use as a playing field of more than 2 hectares of land which:
  - a. is used as a playing field at the time the relevant application for planning permission is made; or
  - b. has at any time in the five years before the making of the application been used as a playing field
- D. Development:
  - a. on land allocated as Green Belt or Metropolitan Open Land in the development plan, in proposals for such a plan, or in proposals for the alteration or replacement of such a plan; and
  - b. which would involve the construction of a building with a floorspace of more than 1,000 square metres or a material change in the use of such a building
- E. Development:
  - a. which does not accord with one or more provisions of the development plan in force in the area in which the application site is situated; and
  - b. comprises or includes the provision of more than 2,500 square metres of floorspace for a use falling within any of the following classes in the Use Classes Order:
    - 1. class A1 (retail)

2. class A2 (financial and professional)
  3. class A3 (food and drink)
  4. class A4 (drinking establishments)
  5. class A5 (hot food takeaways)
  6. class B1 (business)
  7. class B2 (general industrial)
  8. class B8 (storage and distribution)
  9. class C1 (hotels)
  10. class C2 (residential institutions)
  11. class D1 (non-residential institutions)
  12. class D2 (assembly and leisure)
- F. Development for a use, other than residential use, which includes the provision of more than 200 car parking spaces in connection with that use
- G. Development which:
- a. involves a material change of use;
  - b. does not accord with one or more provisions of the development plan in force in the area in which the application site is situated,
  - c. where the application site is used or designed to be used wholly or mainly for the purpose of treating, keeping, processing, recovering or disposing of refuse or waste materials; and
  - d. the application site:
    1. occupies more than 0.5 hectares; or
    2. contains an installation with a capacity for a throughput of more than 2,000 tonnes per annum of hazardous waste; or
    3. contains an installation with a capacity for a throughput of more than 20,000 tonnes per annum of waste
- H. Development which:
- a. comprises or includes the provision of houses, flats or houses and flats;
  - b. does not accord with one or more provisions of the development plan in force in the area in which the application site is situated; and
  - c. is on a site that is adjacent to land used for treating, keeping, processing, recovering or disposing of refuse or waste materials with a capacity for a throughput of more than:
    1. 2,000 tonnes per annum of hazardous waste; or
    2. 20,000 tonnes per annum of waste
- I. Development which:
- a. involves a material change of use;
  - b. does not accord with one or more provisions of the development plan in force in the area in which the application site is situated; and
  - c. is either:
    1. on a site that is used for keeping or storing 70 or more buses or coaches or buses and coaches; or
    2. on a site on which an area of over 0.7 hectares is used for keeping or storing buses or coaches or buses and coaches



## **APPENDIX F**

### **PLANNING COMMITTEE PROCEDURE RULES**

The following to be inserted into Part 4 Rules of procedure of the Constitution:

#### **Contents**

1. Introduction
2. Committee Consideration Criteria
3. Public Speaking Procedure
4. Pre-Committee Matters
5. Committee Agenda
6. Order of Proceedings
7. Decision Making
8. Voting Procedures
9. Committee Performance

#### **1 INTRODUCTION**

- 1.1 These Rules apply to all meetings of the Council's Planning Committees in relation to the determination of planning applications and any other business dealt by the committee.
- 1.2 When the term "Councillor" is used, it means that the text is applicable to all Members of the Council. The term "Planning Committee Councillor" means a Member or a substitute Member of the Council's Strategic Planning Committee or Planning Committee.
- 1.3 The determination of planning applications is a statutory administrative process involving the application of national, strategic, local and neighbourhood level planning policies within a legislative framework. Planning decisions can be appealed by unsuccessful applicants and challenged by way of judicial review by aggrieved parties. Complaints about maladministration and injustice can also be made to the Local Government Ombudsman. To mitigate these risks, it is vital that those involved in the determination of planning applications, and particularly officers and Councillors, act reasonably and fairly to applicants, supporters and objectors.
- 1.4 These Rules are designed to help ensure that this is achieved, but they should not be read in isolation. Councillors need to also have regard to the Planning Code of Good Practice (the Planning Code) within this Constitution. Whilst both these Rules and the Planning Code interpret the Members' Code of Conduct with respect to planning matters, they are subordinate to the Members' Code of Conduct and, in the event of any inconsistencies arising between these Rules and the Members' Code of Conduct, the latter shall prevail.

#### **2 COMMITTEE CONSIDERATION CRITERIA**

- 2.1 Part 3 of the Constitution (Responsibilities for functions) sets out what functions are the responsibilities of committees and the functions delegated to staff.
- 2.2 Part 3.1.2 (Functions delegated to general council committees) set out the matters that are within the remit of a Planning Committee.

2.3 For Strategic Planning Committee, these are:

1. To receive presentations in the pre-application or pre-determination stage.
2. To determine:
  - a. Applications for Planning Permission; or
  - b. Applications for Listed Building Consent; which, in the opinion of the [Head of Planning] acting in his or her discretion, raise strategic issues and should be determined by the Strategic Planning Committee.
3. Any other planning matter which, in the opinion of the [Head of Planning] acting in his or her discretion, raises strategic issues and should be referred to the Strategic Planning Committee.

2.4 For Planning Committee, these are:

1. To determine:
  - a. Applications for Planning Permission; or
  - b. Applications for Listed Building Consent; except where they are referable to the Strategic Planning Committee.
2. Any planning matter referred to the Planning Committee by the [Head of Planning] acting in his or her discretion.

2.5 Part 3.3 (Functions delegated to staff) lists all the planning powers that have been delegated by Council to specific officers and identifies the exceptions where they need to be determined by a Planning Committee in accordance with the Committee Consideration Criteria in these Procedure Rules. These exceptions relate to applications for Planning Permission or Listed Building Consent only. All other planning application types are delegated to officers.

**COMMITTEE CONSIDERATION CRITERIA**

2.6 The Committee Consideration Criteria in relation to planning matters are:

Planning Committee to approve Applications for Planning Permission or Applications for Listed Building Consent where at least one of the following applies:

- a) the application is within the categories which must be referred to the Mayor of London under the Town and Country Planning (Mayor of London) Order;
- b) the application does not accord with the provisions of the Development Plan and, in the opinion of the [Head of Planning] acting in his or her discretion, constitutes a significant departure;
- c) the application is by or on behalf of the Council and, in the opinion of the [Head of Planning] acting in his or her discretion, it is a significant development;
- d) Individual Representations have been received, in accordance with these Rules;
- e) a Petition Representation has been received, in accordance with these Rules; or
- f) a Representation from a Ward Councillor has been received, in accordance with these Rules.

2.7 Any application caught by these Criteria is referred in these Rules collectively as a Planning Committee Matter.

## **GENERAL**

- 2.8 The Rules around Individual Representations, Petition Representations and Ward Councillor Representations (referred in these Rules collectively as Representations) comprise:
- **Timescales:** within which all Representations must be with the Planning Service
  - **General Requirements:** that all Representations must comply with
  - **Committee Referral Criteria:** that applies to the specific Representation categories
- 2.9 These will be applied in determining whether any Representation received in respect of a Planning Committee Matter would require it to be determined by a Planning Committee.
- 2.10 Any Representation that does not meet the Timescales, General Requirements and Committee Referral Criteria will therefore not be a factor in deciding whether the application will be considered by Committee. However, such Representations will still be considered by the case officer in finalising their report and recommendation, provided he/she receives the Representation before submitting their report for authorisation.
- 2.11 For probity reasons the Timescales, General Requirements and Committee Referral Criteria must be adhered to. The decision of the [Head of Planning] will be final in determining whether the Timescales, General Requirements or Committee Referral Criteria are met.
- 2.12 Nothing in these Rules interferes with the absolute right of the [Head of Planning] to refer a planning application or other matter to Committee as prescribed in the Constitution.

## **TIMESCALES**

### **Statutory notification period**

- 2.13 Applications may be publicised in a variety of different ways: letters to nearby neighbours, emails to Councillors and, in some cases, by the display of one or more site notices or an advertisement in the local paper. However, it does not matter how a person hears of a proposal, anyone is able to submit a Representation to the Planning Service.
- 2.14 The time limit for the public to make a Representation is specified on the Council's standard letter, notice or advert. The statutory period is usually 21 days.
- 2.15 Representations on applications must be made in writing (letter or email) to the Planning Service. They can also be made directly via the "View Planning Application Received" link and the "Enter Comment" button on a live application on the Council's website.
- 2.16 Representations on a planning application should not be sent to any email address other than the one on the notification email or advert (planning@haverling.gov.uk). This is important because other email addresses (eg, the case officer, team leader or service head) may not be monitored (eg, the officer may be on leave) and the email will therefore not be actioned.

- 2.17 Councillors must ensure that any Representations made directly to them must go through the Planning Service. It is important for probity reasons to ensure that all representations made on an application follow the same process.

**Amended plans**

- 2.18 Where the Council accepts amended plans on an application and it is considered necessary to republicise them, the Council will notify those people who have responded to the original publicity exercise and anyone considered to be affected by the amendment.
- 2.19 Amended plans are often negotiated in response to Representations. The Council may consider that an amendment it receives has overcome the Representations previously made, so it is therefore important that people consider whether they need to make a further Representation as follows:
- If the amendments do overcome their concerns, a person may write to confirm this, but the General Requirements (in particular paragraph 2.23 below) are designed to take account of such circumstances so people do not have to make a further Representation.
  - If someone has already made a Representation and the amendments do not overcome their concerns, they should make a further Representation to that effect.
  - If the amendment raises new concerns, such further Representations need to be made.

- 2.20 The time limit for responding to publicity of amendments will generally be at least 14 days.

**Councillor timescales**

- 2.21 All Councillors receive the weekly list of planning applications across the whole borough, listed by ward.
- 2.22 If a Councillor wishes to make or forward Representations on an application, they must respond by email to [planning@haverling.gov.uk](mailto:planning@haverling.gov.uk) (not to another email address – see paragraph 2.16 above) within the timescale given on that email.

**GENERAL REQUIREMENTS**

- 2.23 A Representation is a letter, an email or a petition from any party (Councillor, local resident or business, stakeholder etc) that meets all the following requirements:
- It is in response to an application that has been publicised or advertised by the Council;
  - It is not anonymous and includes the person's name and postal address;
  - It is from, or on behalf of, a person who owns, lives at or operates from an address which is within the London Borough of Havering;
  - It is received by the Planning Service within the relevant Timescales set out above;
  - It raises objections that are material planning considerations and are related to the application; and

- Any material planning objection raised cannot be overcome by scheme amendment, imposing planning condition(s) or securing planning obligation(s).
- 2.24 Identical or similar pro-forma letters or emails, which also meet the above requirements, will be treated as forming a Petition (ie, each letter potentially being a single signature on a petition) rather than being treated as individual Representations for the purposes of deciding whether they will trigger consideration by Planning Committee.
- 2.25 We will only notify the person who sends in a petition or a bundle of pro-forma letters about the progress of an application. Where we receive a petition that is not sent in by an individual, we will write to the first person on the petition, if a clear address is included. Pro-forma letters that are received individually will not be notified about the progress of an application. A pro-forma letter is a letter or email that has been produced and distributed for people to just sign and send to the Council.
- 2.26 See below for the Criteria for Petitions.

## **COMMITTEE REFERRAL CRITERIA**

### **Individual Representations**

- 2.27 A Planning Committee Matter may be reported to Committee where Individual Representations have been received that all meet the General Requirements for a Representation and additionally meet the following Criteria:
- Any Individual Representation clearly states that they wish the application to be determined by a Committee; and
  - At least 12 such Representations have been received from individual properties within the London Borough of Havering for each application.
- 2.28 Representations for each application are those that are received from individual properties within the London Borough of Havering, ie not one from each member of a family, a household or a business within a property. If several objections are received from a single property, they will be treated as a single objection.
- 2.29 The Planning Committee Matter will only be reported to Committee under these Criteria where:
- the recommendation is for approval; and
  - the [Head of Planning] (in consultation with the Chairman) agrees to the item being placed on the Planning Committee agenda.
- 2.30 Otherwise the Planning Committee Matter will be determined under delegated powers.

### **Petition Representations**

- 2.31 A Planning Committee Matter may be reported to Committee where one or more Petition Representations (including pro-forma letters – see paragraph 2.24 above) have been received that all meet the General Requirements for a Representation and additionally meet the following Criteria:
- Any Petition Representation clearly states that they wish the application to be determined by Committee; and

- All such Petitions must total at least 50 signatures with clearly readable names and addresses from persons who own, live at or operate from an address which is within the London Borough of Havering.
- 2.32 Where such petition(s) contain less than 50 such signatories they will individually (in the case of each petition) or collectively (in the case of pro-forma letters) be treated as each forming a single Individual Representation for the purposes of deciding whether a Planning Committee Matter will be reported to Committee.
- 2.33 The Planning Committee Matter will only be reported to Committee under these Criteria where:
- the recommendation is for approval; and
  - the [Head of Planning] (in consultation with the Chairman) agrees to the item being placed on the Planning Committee agenda.
- 2.34 Otherwise the Planning Committee Matter will be determined under delegated powers.

**Ward Councillor Representations**

- 2.35 A Planning Committee Matter may be reported to Committee where a Councillor for the ward within which the application site is situated or adjoins has made a Representation that meets the General Requirements for a Representation and additionally meets all the following Criteria:
- The application is within, partly within or adjoining the Councillor's ward;
  - It clearly states that the Councillor wishes the application to be determined by Committee;
  - It gives specific reasons for this that relate solely to matters that are material planning considerations and justify consideration by Planning Committee rather than under delegated powers – just saying that the Councillor considers that the matter should be determined by Planning Committee will not be sufficient;
  - It states whether the Councillor has been approached by any person concerning the application; and
  - If so, provides details of that contact, including the identity of the person(s).
- 2.36 A Councillor, who is not a Ward Councillor, may request that a Planning Committee Matter be reported to committee if they consider that there are exceptional circumstances that justify it. The decision as to whether such a matter is reported to committee is for the [Head of Planning], acting in his or her discretion, to make. Generally, only matters that are within the remit of Strategic Planning Committee will be accepted under this provision
- 2.37 The Planning Committee Matter will only be reported to Committee under these Criteria where:
- the recommendation is for approval; and
  - the [Head of Planning] (in consultation with the Chairman) agrees to the item being placed on the Planning Committee agenda.
- 2.38 Otherwise the Planning Committee Matter will be determined under delegated powers.

### **3 PUBLIC SPEAKING PROCEDURE**

- 3.1 People can only address the committee on items that are on the Applications for Decision part of the agenda. Other items on an agenda (such as Development Presentations) do not attract public speaking rights, except at the discretion of the Chairman.
- 3.2 Ward Members can address the committee on Development Presentations. The procedures for this are set out towards the end of this section.

#### **SPEAKING SLOTS**

- 3.3 Subject always to the limitations below, for each planning application on the “Applications for Decision” part of the agenda there the following separate categories of speaking slot, in the following order, allocated to:
  - 1. An objector who has registered a speaking slot (a “Registered Objector”)
  - 2. The applicant or his/her agent/representative/supporter(s) in response to a Registered Objector (a “Responding Applicant”)
  - 3. Councillors – maximum of 3 slots (see next section for rules)
  - 4. Cabinet Member on Strategic Planning Committee only (see subsequent section for rules)

#### **Allocation of speaking slots for Councillors**

- 3.4 For Planning Committee, the Councillor slots are for Councillors where the application site is within, partly within or adjoining their ward only, as these applications generally raise local issues, and those Councillors have also clearly indicated that they wish the application to be referred to Committee for consideration in accordance with these rules (Referring Ward Councillors).
- 3.5 Non-Ward Councillors and non-Referring Ward Councillors do not have a right to address the committee.
- 3.6 For Strategic Planning Committee, the three Councillor slots are open to all Councillors, but priority will be in the following order:
  - 1. Referring Ward Councillors
  - 2. Referring other Councillors
  - 3. Non-Referring Ward Councillors
  - 4. Non-referring other Councillors
- 3.7 For both committees. if a Referring Ward Councillor wishes to speak but is unable to attend the Committee, they may nominate a substitute Councillor to address the Committee on their behalf.
- 3.8 In all cases, Councillors should avoid duplication and coordinate their attendance at committee in the interest of efficiency.

#### **Allocation of speaking slot for a Cabinet Member**

- 3.9 A Cabinet Member can address Strategic Planning Committee on strategic cases where significant issues for their portfolio area arise. However, where the council is the applicant and the promoting Cabinet Member wishes to address committee, this should be done in the applicant's slot and not this slot.

**Length of Speaking Slots**

- 3.10 Each speaking slot for items on Strategic Planning Committee is a maximum of five minutes each. Each speaking slot for items on Planning Committee is a maximum of three minutes each.
- 3.11 If the Chairman, using his discretion, changes the time allocated to any speaker slot, all speaker slots will be offered the same length of time to speak.

**COMMITTEE NOTIFICATIONS**

- 3.12 Where a planning application is reported on the “Applications for Decision” part of the agenda, all the individuals and organisations (including Councillors) that made a Representation on the application will be notified (by letter or email) that the application will be considered by Committee.
- 3.13 The Council will only notify the person who sends in a petition or a bundle of pro-forma letters. Where we receive a petition that is not sent in by an individual, we will write to the first person on the petition, if a clear address is included. Pro-forma letters that are received individually will not be notified.
- 3.14 The applicant (or his/her agent) will be sent a similar notification.
- 3.15 The notification will explain the procedures regarding public speaking. Requests to address Committee will not be accepted prior to the publication of the agenda and these notifications.

**REGISTERING A SPEAKING SLOT**

- 3.16 Any objector who wishes to address Committee must notify the Council by the date specified in the notification to register a speaking slot. Email or telephone should be used for this purpose. This communication should provide the name and contact details (email address and/or phone number) of the intended speaker so that any changes to the arrangements can be communicated.
- 3.17 The Registered Objector speaking slot is allocated on a strictly first come basis. Any further objectors registering to speak will be told that the slot has been taken.
- 3.18 If there is a Registered Objector on an item, the applicant will be contacted by the Council and given the opportunity to register to speak in response to the Registered Objector.
- 3.19 If there are supporters wishing to address the committee, they must liaise with the applicant. However, the slot is for the applicant to decide how to use.
- 3.20 If a public speaker needs special arrangements this must be brought to our attention when registering a speaking slot so that arrangements can be made in good time. Havering Town Hall has facilities for wheelchair users, including level access and toilets. The Chamber is fitted with a hearing loop.

**REGISTERING ATTENDANCE**

- 3.21 On the night of the Committee meeting:
- Registered Objectors and Responding Applicants who have a registered speaking slot; and



- An eligible Councillor (or his/her nominated substitute – see paragraphs 3.4 to 3.9 above).

must register their attendance with the Committee Clerk at the meeting at least 15 minutes before the meeting starts.

### **Limitations**

3.22 Where an item is on the agenda only because of the level of Representations received and:

- no Registered Objector, Responding Applicant or Referring Councillor has registered a speaking slot; or
- a Registered Objector, Responding Applicant or Referring Councillor has registered a speaking slot but nobody has registered their attendance at the Town Hall in accordance with paragraph 3.21 above;

the item will be removed from the agenda and reverted to the [Head of Planning] to determine under delegated powers and will not be considered by the committee. In such circumstances, a Responding Applicant would lose their right to address the Committee.

### **SPEAKING**

3.23 All those involved in public speaking are restricted to an oral presentation only. The officers' presentation is therefore not available for use by public speakers.

3.24 Following the completion of a speaker's address to the Committee, that speaker shall take no further part in the proceedings of the meeting, unless permitted to do so by the Chairman of the Committee.

3.25 The distribution of additional material or information to Planning Committee Councillors is not permitted at the meeting. If a speaker, or any other member of the public, wishes to bring material to the Committee's attention they need to either supply it to the Planning Service, if it is written material, by noon on the day of the Committee, to include in the Update Report (see paragraphs 5.7 to 5.11 below for procedures, limitations and deadlines) or otherwise send it direct to Councillors in advance of the meeting. Councillors contact details are available from the Council's website.

### **ADDITIONAL CONSIDERATIONS FOR COUNCILLORS**

3.26 When a Councillor addresses the Committee in accordance with these Procedures (either as a Referring Councillor or as a Registered Objector) they must:

- declare, before making their speech, details of any material contact with the applicant, agent, adviser, neighbour, objector or other interested party and whether the speech is made on behalf of such person(s) or any other interest;
- sit separately from Planning Committee Councillors, to demonstrate clearly that he/she is not taking part in the discussion, consideration or vote; and
- not communicate in any way with Planning Committee Councillors or pass papers or documents to them during the meeting.

- 3.27 A Planning Committee Councillor may address the Committee in accordance with these Rules but, where they do so, they cannot take part in the debate or vote on the application they have made Representations on. They may address the Committee in accordance with these procedures provided they do not have a Disclosable Pecuniary Interest in the matter.
- 3.28 Where the Councillor has a Disclosable Pecuniary Interest, the Councillor may only address the Committee on any matter in which they have such an interest if they have been granted a dispensation by the Monitoring Officer for this purpose.

### **DEVELOPMENT PRESENTATIONS**

- 3.29 The Responsibility for Functions (part 3 of the Constitution) enables Strategic Planning Committee to receive presentations in the pre-application or pre-determination stage.
- 3.30 Ward Councillors can address the Committee when it is considering Development Presentations. There are three speaking slots a maximum of five minutes each. Ward Councillors will be notified that the development will be presented to Committee. On the night of the Committee meeting a Ward Councillor (or his/her nominated substitute) must register their attendance with the Committee Clerk in attendance at the meeting at least 15 minutes before the meeting starts.
- 3.31 If more than one Ward Councillor indicates that they wish to speak, Councillors should avoid duplication and coordinate their attendance at committee in the interest of efficiency.
- 3.32 Like all public speaking slots, Ward Councillors are restricted to an oral presentation only and the presentation is therefore not available for their use. The additional considerations for Councillors, set out above, also apply to these speaking slots.
- 3.33 Ward Councillors who elect to address the Planning Committee at a Development Presentation should remember that the purpose of these presentations is for participants (including Councillors) to be constructive and to try to improve schemes so that they can be approved if they are finally submitted as formal planning applications. Any presentation should be confined to commenting on aspects of the development (eg its design, highway impacts, level of affordable housing etc) and not objecting to the principle of the development or the scheme as a whole. If you are unable to do this then you should not register to speak at this stage. The time to address the Planning Committee on your objection will be when any subsequent planning application is reported on the applications for decision part of the agenda.
- 3.34 If you do not follow the advice in the previous paragraph, the Chairman may stop you from speaking.

### **CHAIRMAN'S DISCRETION**

- 3.35 At the discretion of the Chairman, such as in the interests of natural justice or in exceptional circumstances, the public speaking procedures may be varied. The reasons for any such variation shall be recorded in the minutes. The number of objectors or supporters should not, of itself, be a factor.

## **4 PRE-COMMITTEE MATTERS**

- 4.1 The work of Planning Committee mainly comprises the determination of planning applications. Delays in determining applications will jeopardise the Council's ability to meet national performance targets and impact adversely on the interests of residents and affected applicants.
- 4.2 The Council is expected to decide all applications within statutory timescales. Applications that are to be considered by Committee are included on the agenda of the first available Committee after completion of the officer's report so that a decision can be taken in the shortest possible time. For this reason, Councillors should avoid requests for officers to speed up or delay the determination or assessment of an application for their own personal or political convenience or following lobbying by applicants, agents/advisers, residents or other interested parties.

### **PRE-COMMITTEE BRIEFING**

- 4.3 A further potential cause of delay is the deferral by committee of agenda items for Councillors to undertake site visits or receive further information. To minimise this risk Planning Committee Councillors who consider that they need further information (including a site visit) or who have queries on an application should contact the [Head of Planning] as soon as possible before the meeting at which it will be considered.

### **SITE VISITS**

- 4.4 It is advisable that Planning Committee Councillors are familiar with the sites of the applications on the agenda to enable them to make informed decisions on the planning applications before them and to avoid deferring or adjourning those decisions pending site visits.
- 4.5 The presumption will be that planning Committee Councillors will be sufficiently familiar with the agenda sites and their locations before the meeting. Councillors may already be familiar with them from their local knowledge or will visit one or more of them in advance of the meeting. Advice on site visits by individual Planning Committee Councillors is given below.
- 4.6 In addition, photographs of sites will be presented by officers at committee.

### **By Planning Committee Councillors**

- 4.7 Where a Planning Committee Councillor visits the site before the meeting, care must be taken to ensure that they comply with the Planning Code of Good Practice in the Constitution. Such visits should be carried out discreetly and the Councillor should avoid making themselves known to the applicant or to neighbours. Accordingly, he/she should not go onto private land, such as the application site or a neighbouring property. The reason for this is that contact between a Planning Committee Councillor and the applicant or a local resident could be misinterpreted as lobbying and may create a suspicion of bias. Where such contact is made, this should be declared in Committee, but it should not prevent that Councillor from taking part in the consideration of that application, if he/she has followed the advice in the Planning Code of Good Practice and acts in accordance with the Members' Code of Conduct.

**By the Planning Committee**

- 4.8 Where the Chairman of the Committee considers that a whole committee site visit is necessary because a proposal appears to be particularly complex or it is difficult to visualise from the plans, wherever possible this should be made in advance of the Committee meeting.
- 4.9 If a request for a site visit emerges during the meeting of the committee, this request will be decided by a majority vote and the reasons for it recorded in the minutes.
- 4.10 The procedure for site visits by Committee shall be as follows:
- Only the Planning Committee Councillors and officers can attend a site visit.
  - Arrangements for visits will not normally be publicised or made known to applicants, agents or third parties, such as objectors.
  - Where permission is needed to go onto land, contact will be made with the owner by officers. The owner cannot take any part in the visit, other than to effect access onto the site.
  - The purpose of a site visit is to enable Planning Committee Councillors to view the site and to better understand the impact of the development. The Committee should not receive representations or debate issues during a site visit. They can ask the Planning Officer present questions of clarification.
  - The Planning Officer will make a note of the site visit and it will be placed on the planning file.
  - Where new information emerges from a site visit that needs to be brought to the attention of the Committee, this will be included in the Update Report.
  - Failure to attend a formal site visit shall not bar a Planning Committee Councillor from voting on an item at the Committee meeting that considers it, provided the Planning Committee Councillor is satisfied that he/she is sufficiently familiar with the site and its location.

**5 COMMITTEE AGENDA**

- 5.1 The Committee's agenda may contain the following sections for planning reports:
- **Development presentations:** to enable the Committee to receive presentations on proposed developments, including when they are at the pre-application stage. These items do not attract public speaking rights, other than Ward Councillors.
  - **Applications for decision:** these items attract public speaking rights as detailed above.
  - **Other planning matters:** non-application matters that require Committee consideration. These items do not attract public speaking rights.
  - **Items for information:** reports that are for information only. These items do not attract public speaking rights.

## **REPORTS**

- 5.2 Each planning application for decision is the subject of a written report with an officer recommendation. Reports will be produced in a standard form provided by the [Head of Planning], and will identify and analyse the material considerations, of which the Committee need to take account when considering the application on its planning merits.
- 5.3 In addition to the written report, illustrative material will usually be presented at the meeting to explain the scheme. The planning files will also be available (via the document management system) at the meeting for inspection by Planning Committee Councillors.

## **RECOMMENDATIONS AND DELEGATIONS**

- 5.4 The recommendations in the reports to Committee do not set out the full wording of planning conditions, reasons for refusal, informatives and planning obligations, but are a summary of them. There are two reasons for this:
1. It communicates the details of the recommended decision more clearly to Planning Committee Councillors than many pages of detailed conditions or grounds; and
  2. There can sometimes be a delay before a decision is issued (such as waiting for the signing of a legal agreement or views from the Mayor of London and/or the National Planning Case Unit) and something may arise which necessitates an amendment, a deletion or an addition.
- 5.5 It is hereby delegated to the [Head of Planning] to communicate the detailed wording of Committee decisions to applicants.
- 5.6 The Functions Delegated to Staff states that where the Committee determines an item on an agenda and either the committee makes changes to the recommendation or it is necessary for officers to subsequently make changes (such as to delete, vary or add conditions, informatives, planning obligations or reasons for the decision or to accept changes to the development), the making of these changes, provided that they are within the substantive nature of the committee decision, is delegated to the [Head of Planning].

## **UPDATE REPORT**

- 5.7 It is common for material (such as late representations) to be received by the Planning Service after the close of the agenda. Such material will be considered and placed on the public planning file along with all the other papers for the application, subject only to any public exclusion restrictions.
- 5.8 Where this material needs to be brought to the attention of the Committee, so that it can be considered, it will be presented in the Update Report. It will comprise a summary of what has been raised, in the same way as representations are summarised in the main Committee report.
- 5.9 The Planning Service will email the Update Report to Planning Committee Councillors and publish it on the Council's website as soon as it is ready, but before the Committee commences.
- 5.10 The practicality of producing such a report means there must be a cut-off point for the receipt of late material by the Planning Service. This is noon on the day of the meeting. Generally, material received after this time will not be

reported to the Committee. The [Head of Planning] has an absolute discretion in this regard.

- 5.11 Material must not be distributed to Planning Committee Councillors by members of the public (including public speakers) or other Councillors during the meeting. The distribution of such material should be done in advance of the meeting as explained in paragraph 3.25 above.

## **6 ORDER OF PROCEEDINGS**

- 6.1 Except as otherwise stated on the agenda, generally meetings take place at Havering Town Hall. The time the meeting is expected to begin will be stated on the agenda papers.
- 6.2 At the discretion of the Chairman, the agenda may be re-ordered at the meeting.

### **DEVELOPMENT PRESENTATIONS**

- 6.3 The procedure for considering each item shall be as follows:
- The [Head of Planning], or his/her representative, will introduce the main issues;
  - The developer will present their scheme for no longer than 15 minutes unless the Chairman, exercising his/her discretion, has allowed a longer period;
  - A Ward Councillor, if registered to speak in accordance with Rule 3 (Public Speaking Procedure), can address the committee for no longer than 5 minutes unless the Chairman, exercising his/her discretion, has allowed a longer period;
  - Through the Chairman, Planning Committee Councillors may ask questions; and
  - The [Head of Planning], or his/her representative, will summarise the issues raised by the Committee which will form the minute for the item.

### **APPLICATIONS FOR DECISION**

- 6.4 The procedure for considering applications where there are public speakers shall be as follows:
- The [Head of Planning], or his/her representative, will introduce the development the subject of the application;
  - Public speaking in accordance with Rule 3 (Public Speaking Procedure) will take place;
  - The [Head of Planning], or his/her representative, will present the material planning considerations and address, where necessary, any issues raised during public speaking; and
  - The Committee will consider the item and reach a decision.
- 6.5 The procedure for considering applications where there are no public speakers shall be as follows:
- If requested by the Chairman, the [Head of Planning], or his/her representative, will present the main issues; and
  - The Committee will consider the item and reach a decision.

**OTHER PLANNING MATTERS**

- 6.6 The procedure for considering any item shall be as follows:
- If requested by the Chairman, the [Head of Planning], or his/her representative, will present the main issues;
  - Through the Chairman, Planning Committee Councillors may ask questions of clarification; and
  - The Committee will consider the item and, if required, reach a decision.

**OTHER PROCEDURAL ISSUES**

**Attendance**

- 6.7 Where a decision is made on an agenda item, to be able to vote a Planning Committee Councillor must be present throughout the whole of the Committee's consideration of that item, including the officer introduction and any public speaking. Any dispute as to whether the Planning Committee Councillor in question should be permitted to vote shall be decided by the Chairman, in consultation with legal and other officers as necessary.
- 6.8 This does not apply to Development Presentations because no decisions are being made as they are part of an informal pre-application process, rather than the formal planning application decision making process.

**Duration of meetings**

- 6.9 Planning Committee meetings are subject to a guillotine that they should finish within 2½ hours of the time that the meeting was due to start (as listed on the agenda papers). An item started before the guillotine can continue to be considered for a further 30 minutes to enable it to be determined.
- 6.10 Where a report has been placed on a Planning Committee agenda but the meeting either fails to start to consider that item prior to the guillotine, or starts consideration before the guillotine but fails to complete determination of it within the additional 30 minutes, further consideration of the matter will be suspended and it will be delegated to officers to determine in accordance with the recommendation set out in the report.
- 6.11 The meeting can only suspend these provisions if it does so by way of a resolution made prior to the guillotine and agreed on a majority vote. Generally, the committee would only suspend the guillotine for undetermined items with speakers.

**Minutes**

- 6.12 The minutes of the meeting will record:
- The Councillors and officers present at the meeting;
  - Any disclosures of interest made by Councillors or officers;
  - For each item, the identity of any public speakers and the decision;
  - Where a decision goes against the recommendation, the reason(s) for doing so;
  - Where a decision is deferred, the reason(s) for doing so;
  - Any decision to suspend the guillotine, and the reason(s) for doing so;
  - The use of the Chairman's discretion to depart from these Procedure Rules, and the reason(s) for doing so; and

- The time the meeting finished.

## **7 DECISION MAKING**

7.1 In coming to a decision on a planning application, a Planning Committee Councillor must:

- Come to meetings with an open mind.
- Comply with these Rules.
- Not allow anyone (except officers, other Planning Committee Councillors and public speakers when they are addressing the Committee) to communicate with you (orally, electronically, in writing or by any other means) during the Committee's proceedings as this may give the appearance of bias. For the same reason, it is good practice to avoid such contact in the period before the meeting starts and when it ends.
- Consider the advice that planning, legal or other officers give the Committee in respect of the recommendation, any proposed amendment to it or on any other matter.
- Comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and always make decisions in accordance with the development plan unless there are good and demonstrable planning reasons to come to a different decision.
- Come to a decision only after due consideration of all the information reasonably required to base a decision upon. This will include the local information that Planning Committee Councillors are uniquely placed to access, but always remembering to take decisions on planning grounds alone.
- Raise any queries you may have on an application with the [Head of Planning] prior to the meeting.
- If you feel that there is insufficient time to digest new information or that there is insufficient information before you, seek an adjournment to allow these concerns to be addressed.
- Not vote on a proposal unless you have been present to hear the entire debate, including the officers' introduction and any public speaking. The Chairman should be prepared to consider adjourning briefly to allow any necessary comfort breaks during meetings.
- Make sure that if you are proposing, seconding or supporting a decision contrary to the officer's recommendation or the Development Plan, that you clearly identify and understand the planning reasons leading to this conclusion and that you consider any advice planning, legal or other advice officers give you. Your reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

## **8 VOTING PROCEDURES**

- 8.1 The Chairman will bring the Committee to a vote when he/she considers that there has been sufficient debate of an item.
- 8.2 The Committee will vote on the recommendation set out in the report, unless a motion is made and seconded to defer or adjourn consideration of an item (for example for a site visit or further information/advice).



- 8.3 If a Planning Committee Member wishes to amend the recommendation (such as an additional condition or a variation to a condition) they will need to move this and have it seconded prior to any vote on the recommendation.
- 8.4 The committee must consider carefully any advice officers give on the proposed amendment, including legal advice. If the [Head of Planning] (or his/her representative) and the legal representative consider that they are unable to give that advice immediately, further consideration of the matter will be suspended and the agenda item will be adjourned so that the [Head of Planning] can bring a report to the next available committee setting out his/her advice. If legal advice is required, this may need to be on the private business part of the agenda. In such cases, it will be important that the Chairman communicates clearly to the meeting that a decision on the application has not been made and that it will be considered further at a future committee meeting.
- 8.5 For the vote on the recommendation (or an amendment to the recommendation) to be successful there needs to be a majority vote in favour of it. In the event of an equality of votes, the Chairman has an additional casting vote. This can be exercised irrespective of whether the Chairman voted.

#### **DECISIONS CONTRARY TO THE RECOMMENDATION**

- 8.6 A motion to go against the recommendation must always be considered after a vote on the recommendation (or an amendment to the recommendation) has taken place, so that officers are clear that the committee may be minded to go against the recommendation and can prepare their advice accordingly.
- 8.7 When the recommendation is not supported, a new motion to either grant or refuse the application must be moved and seconded. However, before a new motion is proposed, the Committee must first receive advice from the [Head of Planning], or his/her representative, as to what form a new motion could take. That advice will be based upon the material planning considerations that have been discussed by the Committee and whether there are grounds that could be defended in the event of an appeal or legal challenge.
- 8.8 The solicitor advising the Committee may be called upon as necessary to give advice on legal matters, but cannot advise the committee on planning matters.
- 8.9 Once the Committee has received the advice of the [Head of Planning], or his/her representative, they can proceed to a vote. A detailed minute of the Committee's reasons to go against the officer's recommendation, which as a matter of law (Dover District Council v CPRE Kent [2017] in the UK Supreme Court) must be clear and convincing, shall be made and a copy placed on the application file.
- 8.10 If the [Head of Planning] (or his/her representative) and the legal representative consider that they are unable to give that advice immediately, the procedure outlined in paragraph 8.4 above must be followed. In such cases, it will be important that the Chairman communicates clearly to the meeting that a decision on the application has not been made and that it will be considered further at a future meeting of the Committee.

## **DECISIONS CONTRARY TO THE DEVELOPMENT PLAN**

- 8.11 The law requires that where the Development Plan is relevant, decisions must be taken in accordance with it unless there are good planning reasons to do otherwise. If a Committee intends to approve an application which does not accord with the provisions of the Development Plan, the material considerations must be clearly identified and the justification for overriding the Development Plan clearly demonstrated. The application must be advertised in accordance with Article 15 of the Town and Country Planning (Development Management Procedure) Order 2015 and, depending upon the type of development proposed, may also have to be referred to the Secretary of State for Communities and Local Government (National Planning Case Unit).
- 8.12 If the recommendation in the officer report would not accord with the provisions of the Development Plan, the justification will be included in that report and the necessary advertisement would have been undertaken.
- 8.13 If the Committee is minded to make a decision which would be contrary to the officer recommendation (whether for approval or refusal) and that decision would not accord with the provisions of the Development Plan, such a motion may only contain the Committee's initial view and must be subject to a further report detailing the planning issues raised by such a decision. Further consideration of the matter will be suspended to a future meeting of the Committee when officers will present a report setting out the proposed new position and explaining the implications of the decision. If legal advice is required, this may need to be on the private business part of the agenda. Any necessary advertisement of the application will also be undertaken. In such cases, it will be important that the Chairman communicates clearly to the meeting that a decision on the application has not been made and that it will be considered further at a future meeting of the Committee.
- 8.14 If, having considered the report, the Committee decides to determine the application contrary to the provisions of the Development Plan, a detailed minute of the Committee's reasons, which as a matter of law (*Dover District Council v CPRE Kent* [2017] in the UK Supreme Court) must be clear and convincing, shall be made and a copy placed on the application file.

## **9 COMMITTEE PERFORMANCE**

- 9.1 Planning Committee carries out the Council's statutory planning application determination function and, like all local planning authorities, are expected to do so properly and lawfully. Decisions "must be made in accordance with the [development] plan unless material considerations indicate otherwise" (s38(6) of the Planning and Compulsory Purchase Act 2004). Government have a range of planning performance monitoring regimes and have taken powers from Parliament to take action where performance is under specified levels. Both speed and quality of decisions are measured.
- 9.2 It is therefore important that the performance of Planning Committee is monitored like other parts of the planning service. The following indicators will be used to monitor performance:
- The percentage of officer recommendations that are overturned

- The percentage of agenda items that are deferred
- 9.3 Such performance management reports shall be reported at least annually, to Planning Committee in the first instance and then to Council.
- 9.4 Where an application is determined against the recommendation and it goes to appeal, particular consideration will be given to those cases where:
- The appeal was allowed;
  - The appeal was dismissed, but not all grounds were supported; or
  - Costs were awarded against the Council.
- 9.5 Such matters shall be considered as they arise and reported to Planning Committee in the first instance and then to Council. A summary of these matters shall be included in the annual performance management report.

## **APPENDIX G**

### **PLANNING CODE OF GOOD PRACTICE**

The following to be inserted into Part 5 Codes and Protocols of the Constitution:

#### **Contents**

1. Introduction
2. Aim of the Code
3. Role and conduct of Councillors and officers
4. Interests: Registration and Disclosure
5. Bias: predisposition/predetermination
6. Applications submitted by the Council, Councillors or officers
7. Lobbying of and by Councillors
8. Pre-application discussions
9. Post-submission discussions
10. Planning appeals
11. Planning enforcement
12. Councillor training

#### **1 INTRODUCTION**

- 1.1 This Code has been prepared using advice in the Local Government Association's revised guidance note on good planning practice for Councillors and officers dealing with planning matters – Probity in Planning for Councillors and Officers (November 2013).

##### **KEY PURPOSE OF PLANNING**

- 1.2 Planning has a positive and proactive role to play at the heart of local government. It helps Councils to stimulate growth whilst looking after important environmental areas. It can help to translate goals into action. It balances social, economic and environmental needs to achieve sustainable development.
- 1.3 The planning system works best when Councillors and officers involved in planning understand their roles and responsibilities and the context and constraints in which they operate.
- 1.4 Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework. In doing this, decision-makers need an ethos of decision-making in the wider public interest on what can be controversial proposals.

#### **2 AIM OF THE CODE**

- 2.1 In today's place-shaping context, early Councillor engagement is encouraged to ensure that proposals for sustainable development can be harnessed to produce the places that communities need. This guidance is intended to reinforce Councillors' community engagement role whilst maintaining good standards of probity that minimizes the risk of legal challenge.
- 2.2 Planning decisions can be controversial. The risk of controversy and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the development plan and

decision notices. Nevertheless, it is important that the decision-making process is open and transparent.

- 2.3 One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. Opposing views are often strongly held by those involved. Whilst Councillors must take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they may appear to be doing so. It is important, therefore, that the Council makes planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons.
- 2.4 The process should leave no grounds for suggesting that those participating in the decision were biased or that the decision itself was unlawful, irrational or procedurally improper.

### **WHEN THE CODE APPLIES**

- 2.5 This code applies to Councillors when they are involved in the planning process. This includes, where applicable, when part of decision making meetings of the Council, in exercising the functions of the planning authority or when involved on less formal occasions, such as meetings with officers or consultative meetings. It applies as equally to planning enforcement matters or site-specific policy issues as it does to planning applications. If you have any doubts about the application of this Code to your own circumstances you should seek advice early from the Monitoring Officer, and preferably well before any meeting takes place.
- 2.6 This Code applies to all meetings of the Council's Planning Committees in relation to the determination of planning applications and any other business dealt with at these committees. When the term "Councillor" is used, it means that the text is applicable to all Members of the Council. The term "Planning Committee Councillor" means a Member or a substitute Member of the Council's Strategic Planning Committee or Planning Committee.

### **RELATIONSHIP TO THE MEMBERS' CODE OF CONDUCT**

- 2.7 Councillors are reminded that this Code is designed primarily for Planning Committee Councillors and Councillors who, for whatever reason, find themselves involved in the planning process. It should not be read in isolation. Whilst this Code interprets the Members' Code of Conduct with respect to planning matters, it is subordinate to the Members' Code of Conduct and, in the event of any inconsistencies arising between this Code and the Members' Code of Conduct, the latter shall prevail.

## **3 ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS**

### **GENERAL ROLES OF COUNCILLORS AND OFFICERS**

- 3.1 Councillors and officers have different but complementary roles. Both serve the public. Officers are responsible to the Council as a whole, whilst Councillors are responsible to the electorate.

- 3.2 Officers are not appointed to serve any political group and therefore advise all Councillors. Officers carry out the daily functions of the Council's business in accordance with Council or Committee decisions or under powers delegated to them pursuant to the Constitution. Officers are governed by the Officers Code of Conduct contained in the Constitution. In addition, planning officers, who are Members of the Royal Town Planning Institute (RTPI), are subject to a professional code of conduct and breaches may be subject to disciplinary action by the RTPI. Similarly, officers who are solicitors are subject to regulation by The Solicitors Regulation Authority. Officers in other professions will have corresponding codes.
- 3.3 The Localism Act 2011 sets out a duty for each local authority to promote and maintain high standards of conduct by Councillors and to adopt a code of conduct. The Members Code of Conduct in the Constitution is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. It embraces the standards central to the preservation of an ethical approach to Council business, including the need to register and disclose interests, as well as appropriate relationships with other Councillors, staff and the public. The Council's constitution set down rules and orders which govern the conduct of Council business.

#### **RELATIONSHIP BETWEEN COUNCILLORS AND OFFICERS**

- 3.4 Mutual trust, respect and understanding between Councillors and officers are the keys to achieving effective local government. A successful relationship can only be based upon mutual trust and understanding of each other's positions. This relationship, and the trust that underpins it, must never be abused or compromised.
- 3.5 Planning officers' views, opinions and recommendations will be presented based on their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Councillors.
- 3.6 Councillors must not put pressure on officers to put forward a particular recommendation or deal with a planning matter in a particular way. This does not prevent a Councillor from asking questions or submitting views to an officer. These views must be received in written form and be placed on the planning file, so that they can be considered together with other material planning considerations.

#### **4 INTERESTS: REGISTRATION AND DISCLOSURE**

- 4.1 A Councillor should refer to the Members' Code of Conduct for assistance in identifying Disclosable Pecuniary Interests or any Other Interests or seek advice from the Monitoring Officer prior to attending a meeting. A failure to properly register a Disclosable Pecuniary Interest or to participate in discussion or voting in a meeting on a matter in which a Councillor has a Disclosable Pecuniary Interest, are criminal offences. Ultimately, responsibility for fulfilling the requirements rests with each Councillor.
- 4.2 The provisions of the 2011 Act seek to separate interests arising from the personal and private interests of the Councillor from those arising from the Councillor's wider public life. Councillors should think about how a reasonable

Member of the public, with full knowledge of all the relevant facts, would view the matter when considering whether the Councillor's involvement would be appropriate.

### **REGISTRATION OF INTERESTS**

- 4.3 A Councillor must provide the Monitoring Officer with written details of relevant interests within 28 days of their election or appointment to office. Any changes to those interests must similarly be notified within 28 days of the Councillor becoming aware of such changes.

### **DISCLOSURE OF INTERESTS**

- 4.4 It is always best to identify a potential interest early on. If a Councillor thinks that they may have an interest in a matter to be discussed at a Planning Committee, he or she should raise this with the Monitoring Officer as soon as possible.

### **Personal and Pecuniary Interests**

- 4.5 The Council's Members' Code includes provisional for declaration of interests that are wider than Disclosable Pecuniary Interests under the Localism Act 2011. Some personal interests may amount to pecuniary interests that impact on members' ability to participate and vote on that item.

### **Disclosable Pecuniary Interests**

- 4.6 Where a Councillor has a Disclosable Pecuniary Interest relating to an item under discussion, the Councillor may not participate (or participate further) in any discussion of the matter at the meeting or participate in any vote (or further vote) on the matter. The Councillor should also withdraw from the Chamber. This means that a Councillor with a Disclosable Pecuniary Interest is precluded from making representations orally to the committee or from making representations on behalf of a party to the hearing.
- 4.7 A Councillor with a Disclosable Pecuniary Interest can still present their views to the committee through other means. For example, the Councillor can:
- make written representations in their private capacity in accordance with the Committee Consideration Criteria as set out in the Planning Committee Procedure Rules – the existence and nature of the interest should be disclosed in such representations and the Councillor should not seek preferential consideration for their representations – such written representations should be addressed to officers rather than to other Councillors;
  - use a professional representative to make a representation on the Councillor's behalf in circumstances where the Councillor's planning application is under consideration; or
  - arrange for another Councillor (eg, a fellow ward Councillor) to represent the views of the Councillor's constituents on matters in which the Councillor has a Disclosable Pecuniary Interest.
- 4.8 Although a Disclosable Pecuniary Interest relating to an item under discussion requires the withdrawal of the Councillor from the committee, in certain circumstances, a dispensation can be sought from the Monitoring Officer to be present for that item of business.

- 4.9 Members should also have regard to the requirements regarding personal and pecuniary interests under the Code since these may also require a declaration of interest and may impact on members' ability to participate in an item.

## **5 BIAS: PREDETERMINATION/PREDISPOSITION**

- 5.1 In addition to being aware and taking appropriate action in relation to interests, Planning Committee Councillors need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application, on planning policies or on other planning matters, such as enforcement. Avoidance of bias or predetermination or the appearance of bias or predetermination is a principle of natural justice that the decision maker is expected to adhere to.
- 5.2 The courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a "closed mind" and likely to leave the committee's decision susceptible to challenge by Judicial Review. The latter is the perfectly normal process of someone making up their mind.
- 5.3 Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a Councillor makes it clear that, although they have an initial view, they are willing to listen to all the material considerations presented at the committee and keep an open mind before deciding on how to exercise their vote (predisposition). The latter is acceptable; the former is not and may result in a Court quashing such a planning decision.
- 5.4 Section 25 of the 2011 Act provides that a Councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. This enacted the common-law position that a Councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and potentially changing their mind in the light of information presented at the meeting. Nevertheless, a Councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the Councillor was biased.
- 5.5 For example, a Councillor who states, "Windfarms are blots on the landscape and I will oppose each and every windfarm application that comes before the committee" will be perceived very differently from a Councillor who states, "Many people find windfarms ugly and noisy and I will need a lot of persuading that any more windfarms should be allowed in our area". The former has a closed mind and is predetermined, whereas the latter is predisposed but is maintaining an open mind.
- 5.6 This distinction is particularly important in the context of the Council's practice of facilitating presentations to Strategic Planning Committee by developers of schemes at the pre-application stage. After these presentations, Planning Committee Councillors question details of the development so that they can input into the design development of these strategic developments. They will therefore express views on aspects of the development (such as its external appearance, impact on neighbours or transport network implications) which



will display predisposition around these elements. What a Planning Committee Councillor should not do at this pre-application stage is to express a firm view on the development as a whole, as this could amount to predetermination. Such a view should only be formed at the end of the process, when all the material considerations are available to the Planning Committee Councillors to consider and weigh up before finalising their view.

### **DEALING WITH LOBBYING**

- 5.7 A Planning Committee Councillor who has been lobbied and wishes to support their constituents or is a Ward Councillor and wishes to campaign for or against a proposal, will need to consider whether this is likely to be regarded as amounting to bias and going against the fair determination of the planning application. If they have predetermined their position or have given that impression, they should avoid being part of the decision-making body for that application. A Planning Committee Councillor could speak at a Planning Committee (in accordance with the Council's public speaking procedures) on behalf of their constituents, having declared their pre-determined position but could not take part in the planning decision.
- 5.8 Participation as a Planning Committee Councillor where a Councillor is or may be perceived to be biased, in addition to the risk of a complaint against the individual Councillor, also places the decision of the Committee at risk from legal challenge. As such, if a Planning Committee Councillor considers that they are or have given the impression that they are biased or predetermined they must carefully consider whether it is appropriate for them to participate in the matter.

## **6 APPLICATIONS SUBMITTED BY THE COUNCIL, COUNCILLORS OR OFFICERS**

### **APPLICATIONS SUBMITTED BY THE COUNCIL**

- 6.1 Proposals for a Council's own development can give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted to and determined by the Council. Proposals for a Council's own development will be treated no differently from any other application.
- 6.2 Certain Councillors may, through their other roles outside of a Planning Committee (eg a Cabinet Member), have been heavily committed to or involved in a Council's own development proposal. In such circumstances, when an item comes to be considered at Planning Committee, the Councillor concerned, if they sit on the Committee, must consider whether they have an interest or degree of involvement with the proposals that could give the impression of bias. If in doubt, they are encouraged to seek advice from the Monitoring Officer. The most appropriate course of action, if that is the case, is that the Councillor concerned may address the Committee in the applicant's speaking slot (see the Planning Committee Procedure Rules) but does not take part in its consideration and determination. It is important that the Councillor should restrict their address to the Committee to relevant planning considerations rather than wider non-planning issues that are not material to the determination of the application.

## **APPLICATIONS SUBMITTED BY COUNCILLORS OR OFFICERS**

- 6.3 It is perfectly legitimate for planning applications to be submitted by Councillors and members of staff. However, it is vital to ensure that they are handled in a way that gives no grounds for accusations of bias or pre-determination.
- 6.4 If a Councillor or an officer submits their own proposal to the Council which they serve, they should take no part in its processing. A Councillor who acts as an agent or representative for someone pursuing a planning matter with the authority should also take no part in its processing.
- 6.5 The 1APP planning application form requires an applicant to indicate whether they are a member of staff or a Councillor or a partner/spouse of a member of staff or a Councillor. Decisions relating to applications where members of staff or Councillors are the applicant should be reported to Committee where they relate to the following:
- Councillors
  - Senior officers of the Council (Service Head and above)
  - Officers of the Local Planning Authority.
- 6.6 The term “Officers of the Local Planning Authority” means officers within the Council who, in the opinion of the [Head of Planning], are closely involved in the day-to-day work of the Council’s planning function.
- 6.7 The procedures to be followed in Committee in such circumstances are as follows:
- The consideration in Committee of an application from a Councillor may be considered a Disclosable Pecuniary Interest for that Councillor and he/she will need to be mindful of their obligations in relation to Disclosable Pecuniary Interests as set out in the Members’ Code of Conduct.
  - If such a Councillor does not have a Disclosable Pecuniary Interest, they may address the Committee as the applicant in accordance with the Council’s public speaking procedures. If, however, such a Councillor has a Disclosable Pecuniary Interest they may not participate in the consideration of the matter and may therefore not speak on the matter. They would need to have a representative speak on their behalf.
  - The Planning Committee Councillors must consider whether the nature of any relationship means that they have a Disclosable Pecuniary Interest in relation to the matter and if so, they may not participate in the consideration of that matter.
- 6.8 The principle in the final bullet point also applies to an application submitted by a member of staff when it is considered in Committee.

## **7 LOBBYING OF AND BY COUNCILLORS**

- 7.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their Ward Councillor or to a Planning Committee Councillor.

- 7.2 As the Nolan Committee's 1997 report stated: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the Councillors themselves".
- 7.3 Lobbying, however, can lead to the impartiality and integrity of a Councillor being called into question, unless care and common sense are exercised by all the parties involved.

### **LOBBYING OF COUNCILLORS**

- 7.4 A Planning Committee Councillor should explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said, it may prejudice their impartiality and ability to participate in the Committee's decision making if they are asked to express either an intention to vote one way or another or such a firm point of view that it amounts to the same thing. Planning Committee Councillors should ensure that it is made clear to any lobbyists that they will only be able to reach a final decision on any planning matter after they have heard all the relevant arguments and looked at the relevant information during the sitting of the determining Committee.
- 7.5 Planning Committee Councillors should therefore:
- suggest to lobbyists that they write to the Planning Service in order that their views can be included in the officer report prepared for determination under delegated powers or by Committee;
  - pass on any lobbying correspondence received (including plans, data, correspondence etc in respect of an application) to the Planning Service ([planning@haverling.gov.uk](mailto:planning@haverling.gov.uk)) as soon as practicably possible so that it can be considered and included in the report on the application;
  - refer the matter to another ward member;
  - remember that their overriding duty is to the whole community not just to the residents and businesses within their ward and that they have a duty to make decisions impartially and should not improperly favour, or appear to improperly favour, any person, company, group or locality;
  - not accept gifts or hospitality from any person involved in or affected by a planning proposal, but if a degree of hospitality is unavoidable (eg, refreshments at a meeting), ensure that they comply with the provisions in the Members' Code of Conduct on gifts and hospitality; and
  - inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up where necessary.
- 7.6 Planning Committee Councillors should note that, subject to the requirements to ensure that they comply with the Members' Code of Conduct and the rules regarding bias and pre-determination and ensure that they take appropriate action in relation to Disclosable Pecuniary Interests, they are not precluded from:
- listening or receiving viewpoints from residents or other interested parties;
  - making comments to residents, interested parties, other Councillors or appropriate officers, provided they do not consist of or amount to predetermination and they make clear they are keeping an open mind;

- seeking information through appropriate channels; or
- being a vehicle for the expression of opinion or speaking at the meeting as a Ward Councillor, provided they explain their actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, they have not committed themselves to vote in accordance with those views and will make up their own mind having heard all the facts and listened to the debate.

- 7.7 In the interest of openness, Planning Committee Councillors should declare any lobbying to which they have been subject.
- 7.8 It is very difficult to convey every nuance of these situations and to get the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, the responsibility of the individual Councillor.

### **LOBBYING BY COUNCILLORS**

- 7.9 Planning Committee Councillors should not become a Member of, lead or represent a national or local organisation whose primary purpose is to lobby to promote or oppose planning proposals. If a Councillor does, he/she may appear to be biased. Whilst they may be able to address the Committee as a Ward Councillor or an objector, they are not able to participate or vote on any matter in respect of which they have such an interest, unless they have received a dispensation for this purpose from the Monitoring Officer.
- 7.10 Planning Committee Councillors can join general groups which reflect their areas of interest and which concentrate on issues beyond particular planning proposals, but they should disclose a personal interest and consider whether that also amounts to a pecuniary interest where that organisation has made representations on a particular proposal. Where a Planning Committee Councillor is able to participate they should make it clear to that organisation and the Committee that they have reserved judgement and the independence to make up their own mind on each separate proposal.
- 7.11 Councillors should not excessively lobby Planning Committee Councillors regarding their concerns or views on a planning application, nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- 7.12 Councillors should not put pressure on officers for a particular recommendation or decision, and should not do anything which compromises, is likely to compromise, or could be seen as compromising the officers' impartiality or professional integrity. Nor should they request officers to speed up or delay the determination or assessment of an application for their own personal or political convenience or following lobbying by applicants, agents/advisers, local residents or other interested parties.
- 7.13 Call-in requests, whereby in certain circumstances a Ward Councillor can require a proposal that would normally be determined under officers' delegated authority, to be determined by Committee, require the reasons for call-in to be recorded in writing and to refer solely to material planning

considerations. The Councillor must additionally commit to attending the Planning Committee at which the application is to be determined, to explain their concerns. A Councillor who fails to do so on two or more occasions within a year may be excluded from exercising these rights. The procedures for this are set out in the Planning Committee Procedure Rules.

- 7.14 Planning Committee Councillors should not decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Planning Committee Councillor to do so.
- 7.15 As previously outlined, Councillors must always be mindful of their responsibilities and duties under their Code of Conduct. These responsibilities and duties apply equally to matters of lobbying as they do to the other issues of probity explored elsewhere in this Code.

## **8 PRE-APPLICATION DISCUSSIONS**

- 8.1 Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit to both parties and are encouraged by the National Planning Policy Framework. However, it would be easy for such discussions to become, or to be seen by objectors to become, part of a lobbying process on the part of the potential applicant. For this reason, the Council have developed a pre-application process that enables engagement at the pre-application stage.
- 8.2 For major strategic applications, the Council offers a service to potential applicants, which includes presenting their schemes to the Council's Planning Committee. Details of this are set out in the Planning Committee Procedure Rules. This is the way in which Planning Committee Councillors engage with these schemes and there should therefore be no need to attend any other meeting with potential applicants or their agents/representatives.
- 8.3 In other cases, potential applicants may seek to meet Planning Committee Councillors. For minor or household applications, these can be treated as a form of lobbying and Councillors, including Planning Committee Councillors, should follow the advice set out above in section 7.
- 8.4 Where the application is more substantial, but not subject to pre-application committee presentations, these meetings will be subject to the following procedures:
- No meeting involving Planning Committee Councillors shall be convened without the presence of a Council planning officer for the entire duration of the meeting.
  - Understand that such meetings will attract a fee and make sure the applicant understands this.
  - Both this Code and the Members' Code of Conduct will apply when attending such meetings.
  - Any Planning Committee Councillor involved in such a meeting, who sits on the Committee that subsequently considers any resulting application, should declare their attendance at the meeting in the same way as lobbying would be declared.

- Officers (and any Councillor, if present) should make it clear from the outset that the discussion will not bind the Council to making a particular decision and that any views expressed are personal and provisional.
- Any advice given should be consistent and in accordance with the Development Plan and officers should agree, prior to any meeting, on a consistent interpretation of Development Plan policies as applied to the particular proposal.
- Councillors should not become drawn into any negotiations, which should be done by officers to ensure that the authority's position is co-ordinated.
- A contemporaneous note of the meeting should be prepared by the planning officer attending and a copy sent to all parties for their agreement.
- The final version of the note of the meeting will be placed on the planning file and should a planning application subsequently be received, it will thereby be open to public inspection.

8.5 Councillors should not seek to arrange meetings that would circumvent the Council's normal pre-application procedures, including the need to charge applicants for such meetings.

8.6 Planning Committee Councillors should not attend pre-application meetings that are not organised through officers.

## **9 POST-SUBMISSION DISCUSSIONS**

9.1 A Planning Committee Councillor should not usually be involved in discussions with a developer or agent when a planning application has been submitted and remains to be determined. Potentially, these discussions could be interpreted, particularly by objectors to a proposal, as an indicator of predetermination or bias.

9.2 There are limited circumstances when Planning Committee Councillors may legitimately engage in post-submission discussions. An example would be in the case of a large-scale development, where it is desirable for there to be a full understanding of the Council's planning and economic objectives. Such meetings will be organised by officers and run under the same procedural rules as pre-application discussions.

9.3 If a Planning Committee Councillor is contacted by the applicant, their agent or objectors, they should follow the rules on lobbying and consider whether it would be prudent in the circumstances to make notes when contacted. A Councillor should report to the [Head of Planning] any significant contact with the applicant or other parties, explaining the nature and purpose of the contact and their involvement, so that it can be recorded on the planning file.

9.4 Planning Committee Councillors should not attend post-submission meetings that are not organised through officers.

## **10 PLANNING APPEALS**

10.1 Appeals against the planning decisions of the Council are heard by a Planning Inspector appointed by the Secretary of State. Any hearing or inquiry will be open to the public and Councillors are able to attend. Councillors are encouraged to attend such hearings, as they can be a good learning

experience. This part of the Code is concerned with Councillors who wish to actively participate in these appeals.

- 10.2 If a Councillor wishes to attend a public inquiry or informal hearing as a Ward Councillor or as a member of the public, they are free to do so. It is strongly recommended that they discuss their participation with the [Head of Planning] to ensure that they are aware of the process and that they do not act in a manner which compromises their position as a Councillor, brings the Council into disrepute or puts the decision made at risk of challenge.
- 10.3 A Planning Committee Councillor cannot attend an appeal on behalf of the Council's Planning Committee, even if they sat on the Committee that made the decision, unless this is as part of the Council's case as decided by the [Head of Planning]. The decision of the Committee will be documented in the minute and set out in the decision notice. The planning officer will present the Council's case on its planning merits, in accordance with the Committee's decision. The inspector is required to determine the appeal on its planning merits and therefore all representations should be so directed.
- 10.4 Where the appealed decision was contrary to the officer's recommendation, officers are generally able to present the Council's case in a satisfactory manner. Where this may not be possible, the case will be presented by a planning consultant employed by the Council.

## **11 PLANNING ENFORCEMENT**

- 11.1 It is perfectly legitimate for Councillors to bring to the attention of the Planning Service suspected breaches of planning control so that they may be investigated to see whether any action is possible or necessary. They should bring these to the attention of the [Head of Planning].
- 11.2 The Council's planning enforcement service operates to a priority system so that those breaches that cause the most harm are dealt with first. This priority system is designed to produce a fair and responsive enforcement service. Councillors must not seek to have matters that they have raised given preferential treatment merely because they are a Councillor.

## **12 COUNCILLOR TRAINING**

- 12.1 Councillors may not participate in decision making at meetings of the Council's Planning Committee unless they have attended mandatory training. This will be provided by the Council's planning and legal services and will cover the principles of planning and probity in planning.
- 12.2 Whilst all new Planning Committee Councillors (and new substitutes) must attend this compulsory training before they can participate in the Council's Planning Committees, all other Planning Committee Councillors (and substitutes) are also encouraged to attend so that they can ensure that they keep up-to-date on these matters. All Planning Committee Councillors (and substitutes) must attend this training at least every two years, or as recommended individually or collectively by the Monitoring Officer.
- 12.3 All Planning Committee Councillors should endeavour to attend any other specialised training sessions provided, since these will be designed to extend

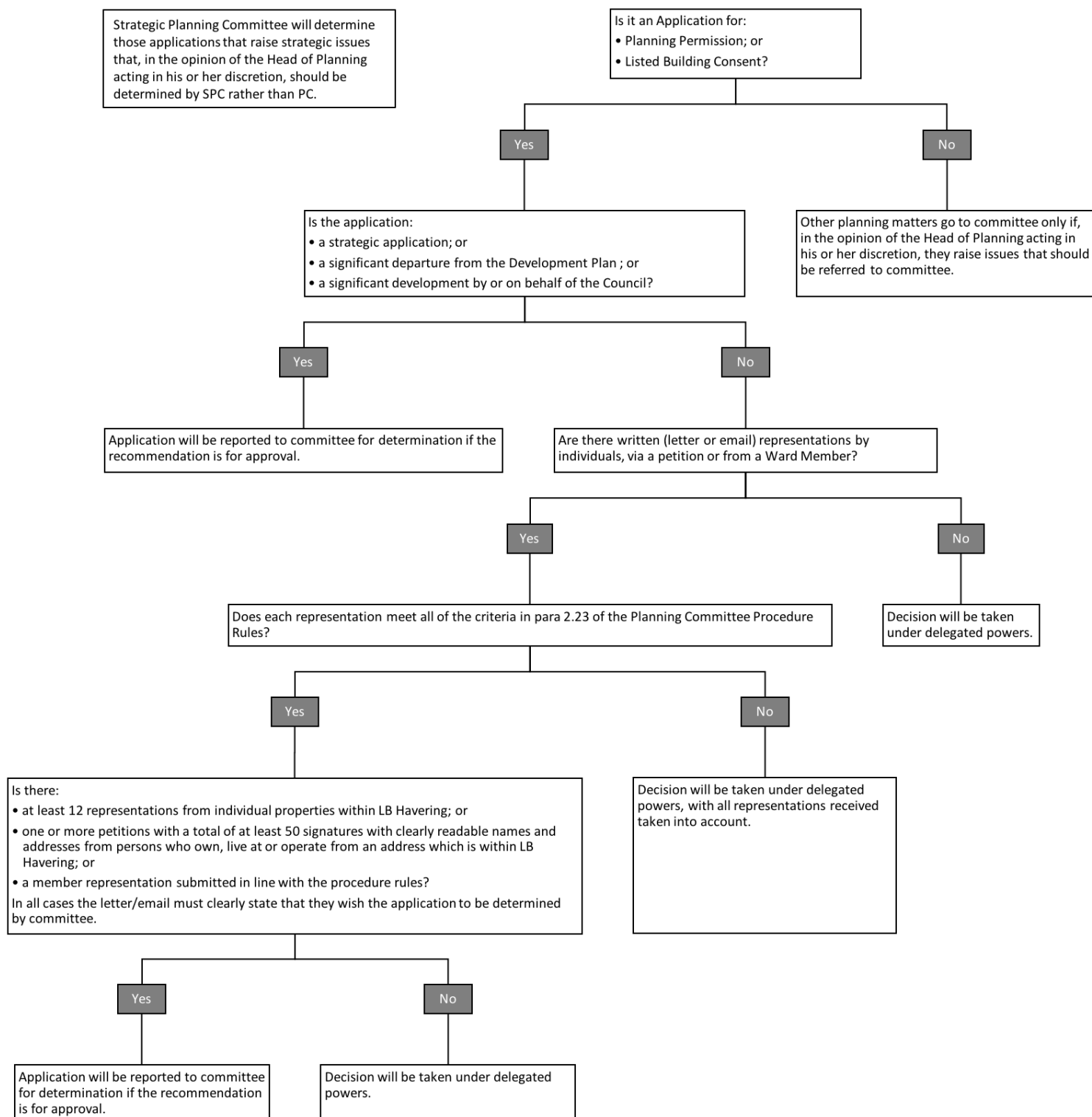
their knowledge of planning law, policy, procedures, and good practice, which will assist them in carrying out their role.

- 12.4 Training provided on planning related matters, whilst aimed at Planning Committee Councillors, is open to any Councillor with an interest to attend.



## APPENDIX H DELEGATION PROCESS FLOW CHART

This flow chart relates to planning applications only and whether they are determined by Committee or under delegated powers. It does not cover pre-application presentations or other non-application planning matters, nor does it deal with speaking rights at either committee.



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## GOVERNANCE COMMITTEE

7 March 2018

<b>Subject Heading:</b>	Member Induction Programme 2018 and the Member Learning & Development Framework
<b>SLT Lead:</b>	Andrew Blake-Herbert
<b>Report Author and contact details:</b>	Andrew Beesley Head of Democratic Services <a href="mailto:Andrew.beesley@onesource.co.uk">Andrew.beesley@onesource.co.uk</a>
<b>Policy context:</b>	Following the local elections in May 2018 there is a requirement to run an induction programme to brief and train members on a variety of topics.
<b>Financial summary:</b>	There will be a series of costs, estimated at £10k, associated with the provision of training which will be contained within the Member training & development budget

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

Communities making Havering	<input type="checkbox"/>
Places making Havering	<input type="checkbox"/>
Opportunities making Havering	<input checked="" type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

### SUMMARY

With the forthcoming local elections taking place in May 2018 there is a requirement to deliver a range of training and information sessions to new and re-elected members, commonly known as the Member Induction Programme.

The Induction Programme compliments the Member Learning & Development Framework aims to promote learning and development opportunities for all Members, and which ensures that they are engaged with the learning and development process.

Following approval of the induction programme and the learning and development framework by the Member Development Group, it was agreed that both matters be reported to the Governance Committee for noting.

**RECOMMENDATIONS**

- 1 That the Committee notes the enclosed programme of information and training sessions for new and re-elected members following the local elections in May 2018.

**REPORT DETAIL**

**1. Member Induction 2018**

- 1.1 Following previous local elections a variety of training and information sessions have been held to assist new and re-elected Members in the conduct of their duties.
- 1.2 These sessions have included both mandatory and optional activities and have been designed to ensure that Members are equipped with the necessary skills and information with which to perform their roles.
- 1.3 Working with the Member Development Group, a review was undertaken of what sessions had been delivered in the past, with feedback received from Members on the efficacy of previous and existing programmes.
- 1.4 For 2018, the Induction Programme will comprise two post-election event days, followed by a series of mandatory training and information sessions delivered in the weeks thereafter (see Appendix A). The mandatory sessions will be particularly relevant for those Members who will be required to attend as part of a constitutional requirement concerning their appointments to committees such as Regulatory Services, Licensing and Pensions.
- 1.5 New and existing Members will receive additional support in the form of a handbook. In 2014 a Member handbook was introduced, primarily for newly-elected Members, which set out basic information such as support services for Members, access to IT and the Members' Code of Conduct amongst other things.
- 1.6 The 2018 version of the handbook will be expanded to cover basic introductions such as the organisational structure of the Council, how the Constitution works, the Council's governance model, the planning and licensing regimes, the data protection regime, and local government finance.
- 1.7 The handbook will supplement mandatory sessions which are to be delivered to Members in the weeks following the election. As well as being

produced in hard copy form the handbook will also be available to view on the Members' intranet pages.

- 1.8 Individual Member development plans are to be developed in the weeks and months following the election. Members will identify their own individual and priorities regarding their training and development needs, with progress reviewed on a six-monthly basis. Personal development plans are covered elsewhere in this report as part of the Member Learning & Development Framework.

## **2. Member Learning & Development Framework**

- 2.1 Havering has faced significant challenges in a constantly changing local government environment, with a continuing focus on modernising how local government operates. It is important to recognise that Members have a key role in taking forward the Council's aims and objectives and their continuous development is an important activity in contributing to that. It is essential that Members have the skills, knowledge and expertise to deliver the needs and expectations of communities.
- 2.2 In 2014, Havering experienced a near 50% turnover of Members. The influx of new Members with no previous local government experience tested the efficacy of the induction programme and the programme of ongoing Member training and development, as mentioned elsewhere in this report.
- 2.3 Discussions with the Member Development Group identified the need for a continuous programme of training and development which built upon that delivered in the first few weeks / months after the election. Members need the opportunity to learn and develop in their own time and in their own way. Essentially, a more co-ordinated approach was required.
- 2.4 The Member Development Group has therefore devised a Member Learning and Development Framework (attached at Appendix B) which aims to promote learning and development opportunities for all Members, and which ensures that they are engaged with the learning and development process.
- 2.4 The Local Government Association has, for a number of years, been working with regional employers' organisations to establish and support the Charter for Member Development. The Charter provides a robust and structured framework to:
- encourage councils to develop an effective strategy or approach to member development
  - recognise those councils that have developed an effective approach
  - encourage councils to continue that development and share their experiences and learning.
- 2.5 The framework is based upon the principles of the Charter: It should focus on:

- Developing Elected Members as effective community leaders and assisting in the delivery of the Council's ambitions.
- Adopting a Member lead strategic approach to Member development.
- Having a Member Development plan in place that clearly identifies the difference development activities can make.
- Ensuring that learning and development is effective in building capacity.

2.6 The framework identifies, amongst other things, the support and resources available to Members in achieving those objectives. Members create their own individual development plan with identified objectives and timescales for delivery, utilising a syllabus of training opportunities from which they can pick and choose in order to meet those objectives. A set of sessions will be identified as mandatory for all Members to attend and which feature as part of the induction programme.

2.7 The framework will identify delivery methods which will give Members the freedom to achieve development plan objectives according to their own needs and preferences. These include but are not limited to:

- Core programme courses
- E-learning packages
- Member briefings
- External conferences and seminars
- Sharing knowledge with other elected members
- Written learning materials

## **IMPLICATIONS AND RISKS**

### **Financial implications and risks:**

There will be a series of costs, estimated at £10k, associated with the delivery of the Member Induction Programme which will be contained within the Member Training and Development Budget.

### **Legal implications and risks:**

Members are required to receive a range of training around equalities and diversity, standards, expenses, register of interests, planning, licensing and safeguarding for example. Failure to undertake these sessions would put Members and the reputation of the Council at risk.

### **Human Resources implications and risks:**

Overseeing the delivery of the Member Induction Programme and Learning and Development Framework will be met by existing resources in Democratic and Member Services. Individual service areas will assume responsibility for the delivery of training activities specific to their areas of expertise, again by utilising existing resources.

**Equalities implications and risks:**

It is a requirement for Members to undertake Equalities and Diversity training, particularly with the legal duties now placed on Members. Failure to undertake these sessions would put Members and the reputation of the Council at risk.

**BACKGROUND PAPERS**

None

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## Induction 2018

### Legal & Democratic Services

Tuesday, 8<sup>th</sup> May 2018

ESSENTIAL  
for NEW  
MEMBERS

#### Member Induction - Welcome to the Council, Part 1

6.30pm-9.30pm, Havering Town Hall

This is part one of the corporate induction session. It will give you the opportunity to get to know the other new Councillors and key officers who will support you through your induction. There will be a welcome address by the Chief Executive of the Council and you will be able to collect your security pass. **Please bring identification with you and details of your bank account so we can process your Member Allowance.**

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Saturday, 12<sup>th</sup> May 2018

ESSENTIAL  
for NEW  
MEMBERS

#### Member Induction - Welcome to the Council, Part 2

9.30am-12.30pm, Havering Town Hall

This is part two of the corporate induction session. You will receive essential information about your role as a Councillor, how the Council works and some of the key issues facing Local Government.

**Tuesday, 15<sup>th</sup> May 2018**

**Introduction to Local Government  
Finance (CIPFA)  
10am-4pm, Havering Town Hall**



**ESSENTIAL  
for NEW  
MEMBERS**

This course will provide new Councillors with a solid understanding of the complex structure and functions of the local government finance system, including an understanding of the principles underpinning local government budgeting, financial reporting and governance and the impact of the local government financial reform agenda.

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**Wednesday, 16<sup>th</sup> May 2018**

**Code of Conduct/Standards  
6pm-8pm, Havering Town Hall**



**ESSENTIAL**

The aim of the session is to ensure that all Councillors have a clear understanding of the Councillors' Code of Conduct, the Standards expected of Members and the consequences of breaching those Standards. You will also receive information on how to identify "personal" and "prejudicial" interests and how to declare them at Committee meetings and on your Register of Interests.

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**Thursday, 17<sup>th</sup> May 2018**

**The 21<sup>st</sup> Century Councillor  
workshop- delivered by the Local  
Government Association  
10am-4pm, Havering Town Hall**



**ESSENTIAL**

The workshop will provide an overview of the national picture in respect of public sector funding and the role of the councillor in modern local government.

The session will consider the current issues facing local government, how the role of the Councillor has changed over time and the skills needed to be an effective councillor. This will include considering how to balance local and borough-wide interests, representing the Council in the community and being an effective community leader.

Members will be invited to consider the implications for them in their role as Havering councillors and this should help inform personal development goals.

**Thursday, 17<sup>th</sup> May 2018**

**How Council Meetings Work**

**7:30pm-9pm, Havering Town Hall**

**ESSENTIAL  
For NEW  
MEMBERS**

This session will provide Councillors with an introduction to the committee system, Council procedure rules and the decision-making process. Topics covered will include:

- Types of committees
  - Council Questions, Petitions and Public Questions
  - Council Motions
  - Rules of Debate
  - Voting
- 

**Tuesday, 22<sup>nd</sup> May 2018**

**Introduction to Overview & Scrutiny**

**7:30pm-9pm, Havering Town Hall**

**ESSENTIAL  
For NEW  
MEMBERS**

This session will provide Councillors with an understanding of the purpose of Scrutiny and how it fits into the decision-making process of the Council. Topics covered will include:

- Why do we have Scrutiny?
  - How does Scrutiny operate in Havering?
  - The Call-In Procedure
  - Partner Organisations
- 

**Wednesday, 23<sup>rd</sup> May 2018**

**Annual Council Meeting**

**7.30pm-10pm, Havering Town Hall**

**ESSENTIAL**

The Annual Council meeting will take place in the Chamber at 7.30pm. The Mayor-making ceremony will be followed by the election of the Leader of the Council and the appointment of Committee Chairs and Vice-Chairs.

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**Thursday, 24<sup>th</sup> May 2018**

**Equalities & Diversity**

**7.30pm-9pm, Havering Town Hall**

**ESSENTIAL**

**Tuesday, 29<sup>th</sup> May 2018**

**Your Role as a Corporate Parent  
7.30pm-9pm, Havering Town Hall**

**ESSENTIAL**

This session gives an overview of a Councillor's role as a Corporate Parent and an insight into the lives of looked after children in Havering.

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**Wednesday, 30<sup>th</sup> May 2018**

**IT Matters  
7.30pm-9pm, Havering Town Hall**

**ESSENTIAL**

This is an informal session for all Councillors, giving an overview of the Members' Area of the Intranet and an introduction to the Havering website. This will help you with casework and reporting problems online. The session will also cover the Member IT policy and Members responsibilities towards data protection.

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**Tuesday, 5<sup>th</sup> June 2018**

**Guide to Planning  
7.30pm-9pm, Havering Town Hall**

**ESSENTIAL**

The aim of this session is to provide Councillors with the skills to understand:

- The general principles of the planning process
  - Planning enforcement
  - Planning reports and information from Planning officers
  - Rules of procedure for the Regulatory Services Committee
- 

**Wednesday, 6<sup>th</sup> June 2018**

**Guide to Licensing  
7.30pm-9pm, Havering Town Hall**

**ESSENTIAL**

The aim of this session is to provide Councillors with the skills to understand how the Licensing Committee works: Topics covered will include:

- General Licensing
- Alcohol Licensing
- Participating in Hearings
- Procedural Fairness

**PLEASE NOTE**

If you are a member of Regulatory Services Committee or Licensing, it is **Mandatory** to attend development sessions, otherwise you will not be able to participate in these meetings.

**Tuesday, 12<sup>th</sup> June 2018**

**Performance Management Introduction  
7.30pm-9pm, Havering Town Hall**

Details to be confirmed

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**ESSENTIAL**

**Thursday, 14<sup>th</sup> June 2018**

**Member Development Framework  
7.30pm-9pm, Havering Town Hall**

Details to be confirmed



**ESSENTIAL**

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# **LONDON BOROUGH OF** **HAVERING**

## **MEMBERS'** **LEARNING &** **DEVELOPMENT** **FRAMEWORK**



## **Member Development Framework**

### **Commitment to Member learning and development**



Havering has faced many significant challenges in a constantly changing local government environment, with a continuing focus on modernising how local government operates. It is essential therefore that it recognises the key role Members have in taking forward the Council's aims and objectives and their continuous development is an important activity in contributing to that. It is essential that Members have the skills, knowledge and expertise to deliver the needs and expectations of communities.

The learning and development framework broadly outlines the skills and knowledge required by Councillors to perform their different roles and provides an indication of how they might carry them out effectively. It is not intended to be exhaustive or prescriptive but provides a structure the delivery of learning & development programmes and which act as a prompt for new and existing Councillors to identify areas where they wish to improve their skills and knowledge.

The framework is designed to be flexible, so that Councillors can work with officers to identify the most effective methods to meet learning development needs. This support could be in the form of information, training, facilitated workshops, coaching and mentoring, or opportunities to learn from observation.

The development of the framework has been overseen by the Member Development Group (MDG). The Group is made up of representatives from all parties and is tasked with overseeing Councillor training on behalf of the Council and for leading on the development of strategies, policies and programmes for Councillors.



The MDG will review the framework annually to ensure that it reflects the Council's approach and commitment towards Member development.

## **The ROLE OF COUNCILLORS**

Councillors are elected to serve the best interests of their constituents, the Council and the community as a whole. Key responsibilities therefore include, but are not limited to:

- Developing the strategic direction of the authority
- Representing the interests of local residents
- Scrutinising the work of the Council and its partners
- Promoting high standards of behaviour across the Council.

## **MEMBER DEVELOPMENT CORE ELEMENTS**

The Council recognises that there are four core elements towards delivering Member training and development:

### **1. Induction**

The purpose of the Member Induction Programme is to provide initial comprehensive support for the development needs of Members following their election. It is the opportunity, through induction events, to meet other Councillors and senior officers and learn about the workings of the Council, its processes and procedures.

### **2. Individual Member Development Plan**

With support from officers, each Member will create their own individual development plan with identified objectives and timescales for delivery. It will be the responsibility of Members and their parties to undertake six-monthly reviews of those plans, with a focus on outcomes and identification of key themes which need to be fed into the core Member development syllabus.

### **3. Member development syllabus**

A core syllabus of training and development opportunities will be available for Members to select from which meets the objectives as outlined in their individual development plans. The syllabus will be reviewed and updated by the MDG to accommodate new legislation, emerging corporate themes, or changes in corporate practice and process.

### **4. Monitoring and evaluation**

It is the responsibility of Members, officers and the MDG to ensure that the Member development syllabus and the wider provision of resource and support remain relevant to the aims of the framework and that it achieves its target outcomes. Monitoring and evaluation is therefore critical in delivering this.

Members must be encouraged to be self-aware in recognising their own strengths and weaknesses, and that Members achievements are recognised and acknowledged both individually and within political groups.

## **SUPPORT AND RESOURCES**

### **Peer support**

Members will be encouraged to share their knowledge and expertise with other Members where appropriate by:

- Supporting newly-elected Members (mentoring)
- Disseminating knowledge gained from external conferences and seminars

### **Officer support**

- Provide support through Democratic Services and HR Organisational Development for all Member learning and development matters.

- Devising and delivering a programme of induction training for newly-elected Members, in consultation with the Member Development Group.
- Devising and delivering a comprehensive syllabus of training and development opportunities for all Members based on individual Member development plans.
- Provide comprehensive support to the operation of the Member Development Group.
- Assist in the development and maintenance of the Members' intranet pages and the information contained within it

### **Methods of delivery**

Members need the freedom to achieve development plan objectives according to their own learning preferences. Whether delivered through the Council's own in-house expertise or through specialist external training providers, access to learning and development will be offered through the following means:

- Core programme courses
- E-learning packages
- Member briefings
- External conferences and seminars
- Sharing knowledge with other elected members
- Written learning materials

### **IT Resources**

Members are provided with IT equipment which enables them to communicate with residents, the Council and other partners. IT also provides Members with the tools to engage in e-learning and in their own time.

## **PROMOTING THE DISSEMINATION OF LEARNING**

Council-funded attendance at external events is invaluable in acquiring information about a wide range of issues, both on a local and national level.

Members who attend such events should make any material available by placing copies in the Member's Resources Room. On occasion, it may be necessary to prepare a short written report or briefing to other Members.

### **Communicating Awareness**

Communicating the commitments of this framework is essential in delivering successful learning and development for Members.

It is the goal of the Member Development Group to create a supportive environment in which all Members can participate and direct their own learning and development.

Likewise, the Council Senior Leadership Team reinforces the Council's commitment to developing Members and Officers alike and raising the profile and awareness of the framework.

### **Protocol for Member Attendance at external events**

The protocol sets out the process for the approvals of requests to attend external events, including training, seminars, conferences where there is a cost incurred by the Council. Approval of expenses arising from attendance at such events is done so in accordance with the provisions of the Member Allowances Scheme. Party political events and any associated costs or expenses are excluded from this protocol.

### **Approval process**

Using the Member training and development request form, all requests for attendance at external events should be submitted to the Head of Democratic Services and Chairman of the Member Development Group for approval.

When submitting such requests, Members will need to demonstrate how attendance at the event relates to the work of the Council and/or to their role.

## **Event evaluation**

All Members attending external events will be require to complete an evaluation form upon their return.

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## MEMBER DEVELOPMENT REQUEST

### ***COURSE/CONFERENCE/DEVELOPMENT ACTIVITY DETAILS***

Course/Development Activity Title:

Date:

Location:

Cost:

### ***DELEGATE DETAILS***

Name:

Group Leader Name:

### ***Please provide some brief details***

1. How do you think you may benefit from this development opportunity?
  
  
  
  
  
  
  
  
  
2. How and when will you share the skills/information gained with your colleagues?  
(please circle appropriate choice(s))
  - Feedback at a meeting
  - Written report or summary
  - Other please specify .....

*Please return this form to Anthony Clements, Principal Democratic Services Officer  
(anthony.clements@onesource.co.uk, tel: 01708 433065).*

For completion after receipt from Member:

Member Development Budget Holder Approval:

Signed:

Date:

Member Development Group Agreement:

Signed:

Date:

Group Leader Comments (Optional):

## **POST DEVELOPMENT FEEDBACK FORM**

Members attending training and development activities are encouraged to provide a brief report to the Member Development Group (using for instance the questions suggested below):

**Would recommend this course to Members:**

**YES / NO**

**What have you done/are planning to do differently as a result of this training?**

**Did this workshop/conference/ training course influence your way of thinking/ understanding of the subject?**

**YES/NO**

Please elaborate on your answer:

**How did this development/training enable you to better represent your electorate or carry out your role as a Councillor?**

*Please return this form to Anthony Clements Principal Democratic Services Officer  
(anthony.clements@onesource.co.uk, tel:01708 433065)*

*Please note that your thoughts above may be discussed at the future Member Development Group Meetings and possibly displayed on the Council's Intranet under the Member Development section.*





## GOVERNANCE COMMITTEE 7 March 2018

**Subject Heading:**

**CROSS PARTY REVIEW OF OVERVIEW  
& SCRUTINY**

**SLT Lead:**

**Andrew Blake-Herbert**  
Chief Executive

**Report Author and contact details:**

Andrew Beesley  
Head of Democratic Services  
[Andrew.beesley@onesource.co.uk](mailto:Andrew.beesley@onesource.co.uk)

**Policy context:**

Local Government Act 2000  
Localism Act 2011  
Council Constitution

**Financial summary:**

The proposals, if agreed by Council, will likely have impact on the Member Allowances Scheme

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

Communities making Havering	<input type="checkbox"/>
Places making Havering	<input type="checkbox"/>
Opportunities making Havering	<input checked="" type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

**COVERING REPORT**

A cross party group was established to review the Council's overview & scrutiny arrangements. That review has now concluded and the attached report sets out the group's findings. Governance Committee is invited to note the findings and provide comment.

It will be for the Council, post-May elections, to determine its arrangements for overview & scrutiny. A report will therefore be presented to the Governance Committee in June 2018 for that purpose. The cross group's findings will be included as part of those discussions.

**RECOMMENDATIONS**

That Governance Committee notes the findings of the cross party review.

## **GOVERNANCE COMMITTEE**

**7 March 2018**

### **REPORT OF THE CROSS PARTY REVIEW OF OVERVIEW & SCRUTINY**

#### **SUMMARY**

At its meeting in June 2017, Council resolved to establish a cross party working group to review the Council's overview and scrutiny (O&S) arrangements. This report presents the findings of that review which proposes a series of recommendations which seek to alter the O&S governance regime within the Council.

#### **RECOMMENDATIONS**

That Governance Committee notes the findings of the cross party review.

#### **REPORT DETAIL**

#### **1. Background**

- 1.1 The concept of Overview & Scrutiny (O&S) originated in the Local Government Act 2000. It was intended as an essential part of the "checks and balances" to the introduction of strong executive governance model within local government, to provide oversight of an executive able to make almost all strategic, policy and service decisions. Subsequent legislation - most recently the current Government's Localism Act 2011 - has reinforced the role of O&S in holding the Executive to account. O&S also provides non-executive councillors with an opportunity to ensure that local people receive high quality services and with a robust overview of those services.
- 1.2 Havering initially adopted an O&S structure whereby individual committees took ownership for scrutinising specific areas of responsibility, operating their own requisition powers.
- 1.3 A Member-led review of O&S took place in 2013. The primary focus of the review was the O&S governance arrangements. The review identified that

various models for O&S had been developed across the country and that a “no one size fits all” approach existed. It identified that the majority of councils across London, and many nationally, had adopted a single, overarching O&S committee with sub-committees (known by a variety of names).

- 1.4 A single O&S Board was subsequently established in Havering which undertook all call-in functions and which acts as a vehicle by which the effectiveness of scrutiny is monitored and where work is undertaken by six themed sub-committees. That governance model has been in place since October 2014.

## **2. 2017 Cross Party review**

- 2.1 At its meeting in June 2017, Council resolved to establish a cross party working group to undertake a further review of the Council’s O&S arrangements. It was the intention that the review group would recommend changes which would effect from the May 2018 (following the local elections of that month).
- 2.2 The review group consisted of six members, one from each of the political groups on Council and was chaired by Councillor Michael White. It met on six separate occasions. The report author would like to place on record his thanks to the Members for their co-operation and assistance in delivering the review.
- 2.3 The review considered how effective the current operation was in delivering the aims of O&S and the value it added to the democratic process. In doing so, there was an in-depth look at how O&S had developed in Havering since its inception in 2002 and an assessment of how that compared against the Centre for Public Scrutiny’s four core principles of good scrutiny, which are:
  - To provide a ‘critical friend’ challenge to executive policy-makers and decision- makers.
  - To enable the voice and concerns of the public.
  - To be carried out by ‘independent minded governors’ who lead and own the scrutiny role.
  - To drive improvement in public service.
- 2.4 With those core principals as its guide the Review Group established that its objective was to formulate recommendations which would facilitate a consensual approach to O&S, with an emphasis on delivering outcomes and service improvements (pre, post and horizon methodology); overseen by Members with defined roles and responsibilities, and with the knowledge, skills and expertise to scrutinise and influence change.
- 2.5 In order to achieve this, the review undertook a number of tasks:

- Interviews were arranged with the current cohort of Chairmen and Vice-Chairmen of the O&S Board and sub-committees;
- It conducted a survey issued to all Members; of which 23 responses were received. An analysis of the responses received is attached at Appendix A. The survey findings were used to highlight areas for further consideration and those are reflected throughout the report;
- It reviewed the Communities and Local Government Committee report on the 'Effectiveness of local authority overview and scrutiny committees', published in November 2017;
- It undertook an analysis of the O&S governance structure of all 33 London boroughs; and
- Members of the Review Group also contributed with their own experiences of O&S during their time in Havering

### **3. Summary of findings**

3.1 Through the activities it had undertaken the review group identified a number of key issues which required more detailed attention. These were:

- The organisational culture and attitude towards O&S;
- Developing an O&S regime which focusses on delivery and monitoring of outcomes; including setting the O&S agenda and methods of delivery
- Clearly defined roles and responsibilities;
- Key skills required for O&S and a commitment to ongoing training and development for Members;
- O&S governance structure;
- Remuneration;
- Officer support.

## **4 Developing a positive organisational culture towards O&S**

4.1 The Review Group considered that the most significant factor in determining whether or not O&S is effective is the organisational culture of the council. Having a positive culture where it is universally recognised that O&S can play a productive part in decision-making process is vital.

4.2 As the CLG report on the effectiveness of local authority overview and scrutiny committees identifies. "Scrutiny needs to operate in an environment that welcomes constructive challenge and democratic accountability. When this does not happen and individuals seek to marginalise scrutiny, there is a risk of damaging the council's reputation, and missing opportunities to use scrutiny to improve service outcomes."

4.3 That headline message manifests itself within a number of key drivers which, going forward, should underpin the authority's approach to Overview & Scrutiny:

- Overview & Scrutiny is given a high status within the local authority.
- Ensure that Members take a clear lead in deciding the overview and scrutiny programme.
- Focus on policy considerations, and not let party loyalties overwhelm discussions.
- Be pro-active, and not only be about scrutinising decisions (pre-decision and horizon-focussed scrutiny)
- Communicate effectively and openly – with the executive and the public.

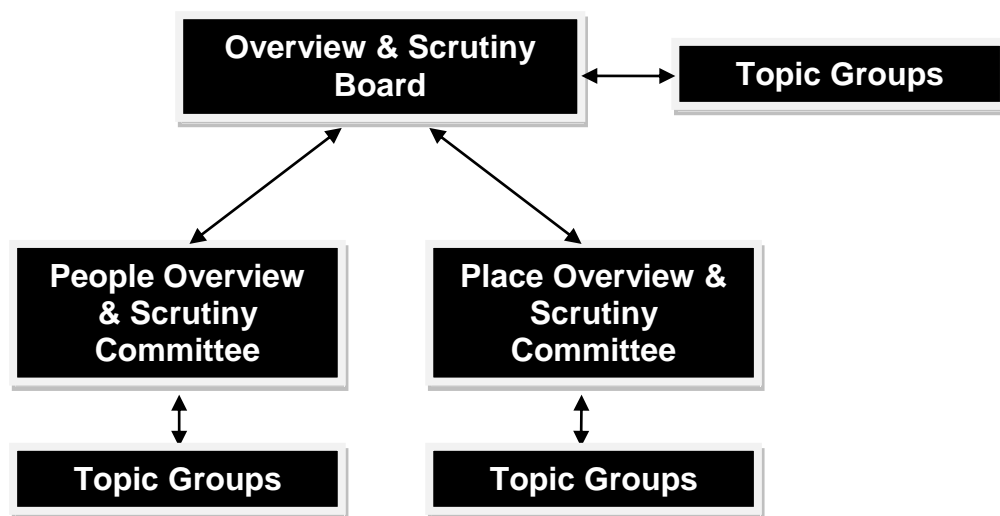
## **5. The O&S governance structure in Havering**

- 5.1 The structure by which O&S is governed was a topic of considerable debate for the review group with many contrasting views expressed as to the preferred model.
- 5.2 The review group noted that within the legislation, local authorities are free to determine how scrutiny will operate. By law, each local authority is required to have at least one Overview and Scrutiny Committee. It noted that across London and nationally there are a wide variety of different models in operation.
- 5.3. The models of O&S committees seen may be summarised into three broadly different approaches:
- i. A single Overview and Scrutiny Committee, with possible “task and finish” groups or ad-hoc subcommittees,
  - ii. Several standing committees with different competencies to consider different thematic policy and service areas,
  - iii. An Overview and Scrutiny Committee and one other specialised standing committee, (e.g. to consider health scrutiny).
- 5.4 Mindful of the outcome of the 2013 review, the review group sought the views of Members on the current O&S governance set up and requested suggestions on proposed revisions (set out in Appendix 1). The responses offered no conclusive support for a preferred model with a mixed response on the current O&S committee set up, particularly in respect of the O&S Board.
- 5.5. A recurring point of discussion amongst the review group was the capacity and expertise of Members to drive O&S and maintain the focus of it being Member-led. There was a sense amongst review group members that the current high number of O&S committees and its cycle of meetings (seven including the O&S Board), together with the requirement for political balance and formally scheduled meetings was a stark contrast to the freedom offered by topic groups (not constrained by political balance or formality of scheduled meeting dates).

- 5.6 The review group was therefore keen to strike the balance of finding a model which provides the maximum flexibility for the scrutiny function to undertake its work according to priorities whilst making the maximum impact, and one which allows it to schedule its inquiries around the different timescales for making an impact and the resources available to support the process.
- 5.7 The review concluded that the number of O&S committees should be reduced in order to free up Member capacity. It also considered that the committees needed to better reflect the departmental organisation of the Council and to demonstrate closer alignment with the Council's objectives around communities, places, connections and opportunities.
- 5.8 The reduction in sub-committees is offset by the increased role and anticipated workload that will be placed upon topic groups. The review group considered that topic groups are best suited to make the most effective contribution to service and other improvements. That is because it provides the time and resources to enable solid evidence to be gathered on which good recommendations are based.
- 5.9 The review group was particularly drawn to the freedom and flexibility that topic groups have in terms of membership (free of political balance constraints) and in terms of scope of operation. Topic Groups can consist of **in-depth reviews** where Council officers, officers from partner organisations and external witnesses are invited to provide evidence for a review and where members may visit and observe services where appropriate to see them in action and talk to service users. Alternatively, a topic group could be a **rapid review** where evidence is collected at one meeting and a brief report with recommendations produced for the next meeting of the parent O&S committee. It is anticipated that the Board and committees will each operate up to four topic groups per year.
- 5.10 It is proposed that the O&S Board, whilst not universally popular amongst Members, should be retained with greater emphasis placed upon it to drive the O&S agenda. It would also retain its status as the O&S body for considering all call-ins.
- 5.11 The review group is of the view that the number of seats on the O&S Board and O&S committees is a matter for consideration in May at Annual Council. The review group is mindful of the high number of committees operating across the Council and the numerous evening commitments attending meetings. It stresses the importance of Member capacity and resilience and therefore suggests that membership be limited to a manageable number, mindful however of the requirement to maintain political balance. The review group also noted that co-opted Members for education and crime and disorder matters are included.

5.12 The review group noted the comments of some Members that the Chairmen and Vice-Chairmen positions should be independent of the administration; this was considered a matter for Full Council when it appoints to such positions at Annual Council.

5.13 The review group therefore proposes the following O&S committee structure, along with their respective areas of responsibility:



Overview and Scrutiny	Area of responsibility
<b>Board</b>	<ul style="list-style-type: none"> <li>• Strategy and commissioning</li> <li>• Local Strategic Partnership</li> <li>• Partnerships with Business</li> <li>• Customer access</li> <li>• E-government and ICT</li> <li>• Finance (although each committee is responsible for budget processes that affect its area of oversight)</li> <li>• Human resources</li> <li>• Asset Management</li> <li>• Property resources</li> <li>• Facilities Management</li> <li>• Communications</li> <li>• Legal &amp; Governance</li> </ul>



	<ul style="list-style-type: none"><li>• Councillor Call for Action</li><li>• Call-ins</li></ul>
<b>People *</b>	<ul style="list-style-type: none"><li>• Pupil and Student Services (including the youth service)</li><li>• Children's Social Care</li><li>• Safeguarding Children</li><li>• Adult education</li><li>• Issues relating to the Children and Families Act 2014.</li><li>• Personalised services agenda</li><li>• Adult Social Care</li><li>• Diversity</li><li>• Scrutiny of NHS bodies including the Havering Clinical Commissioning Group, NHS trusts, NHS foundation trusts and other providers of NHS services within the borough or to residents of the borough</li><li>• To consider and provide recommendations on any proposed substantial development of the health service in the borough or any substantial variation of health services currently provided which are referred to it by the relevant health service commissioner or provider. (except any referral to Secretary of State, which is reserved to the Council by resolution)</li><li>• Councillor Call for Action</li></ul>
<b>Place **</b>	<ul style="list-style-type: none"><li>• Environment</li><li>• Local Development Framework and Strategic Transport</li><li>• Transport for London</li><li>• Environment</li><li>• Community safety</li><li>• Parking</li><li>• Regulatory Services</li><li>• Planning and Building Control</li><li>• Town centre strategy</li><li>• Licensing</li><li>• Leisure, arts, culture</li><li>• Housing Retained Services</li><li>• Community safety</li><li>• Social and economic regeneration</li><li>• Parks</li><li>• Exercise of the functions conferred by the Police &amp; Justice Act 2006</li><li>• Councillor Call for Action</li></ul>

\*- The People O&S Committee must include in its membership the following co-opted Members:

- (i) One Church of England diocese representative
  - (ii) One Roman Catholic diocese representative
  - (iii) Three parent governor representatives (elected by all governors in each of the three sectors of education)
- Each of these appointees has statutory rights to attend and vote at meetings of the People Overview & Scrutiny on **education matters only**.

\*\* - The Place Overview & Scrutiny Committee may include co-opted Members in accordance with the provisions of Regulation 3 of the Crime and Disorder (Overview and Scrutiny) Regulations 2009 and decide whether they should have voting rights.

## **6 Developing an O&S regime which focusses on outcomes and service improvements in addition to holding the Executive to account**

6.1 Through analysis of the O&S survey results and discussions with O&S Chairmen, considerable emphasis was placed upon the role of holding the Executive to account for its decision-making. Whilst recognising the importance attached to this element of O&S, it appeared that same emphasis wasn't attributed to the role of delivering service improvements and identifying targeted outcomes.

6.2 The review group aims to develop an overview and scrutiny regime which achieves a balance in delivering the following:

- Influences key decisions and policies before they are made (pre-decision scrutiny)
- Reviews key decisions after they are made (post-decision scrutiny and call-in)
- Reviews council policy, the way policies are implemented and their impact on local people and contributes to driving up performance and developing policy by investigating issues of concern and making recommendations (performance monitoring and policy development).

6.2 The proposals outlined in the change to the operation of the O&S governance aim to deliver that in part. The onus is then placed on the Board and committees to co-ordinate the development of annual work programmes. The development of those work programmes needs to be based on criteria which seeks to prioritise those issues which are affecting people who live or work in the borough, or which are strategically important to the authority; and which O&S could seek to influence by reviewing service provision and/or process to deliver improvements for service users.

- 6.3 The workload will be distributed between formal meetings of the committee and topic groups, which are required to keep the committee apprised of progress during its activity..
- 6.3 The review group recommends that the O&S Board and committees hold a meeting at the beginning of each municipal year dedicated solely to establishing the work programme for that year, based on a prioritisation flowchart set out in the 'Guide to Overview & Scrutiny' document which accompanies this report as Appendix 2.
- 6.4 In addition, through the Council's Continuous Improvement Model it is proposed that O&S recommendations proposed to either Cabinet or Full Council are monitored to assess the impact once implemented and to review whether any further changes are required. Again, the parent O&S committee responsible will undertake this role.

## **7 Remuneration**

- 7.1 At present, special responsibility allowances (SRAs) are awarded to the Chairman of O&S Board and its sub-committees. Given the proposed revision to the O&S governance structure and increased prominence and responsibility afforded to topic groups and the work undertaken outside of formal committee meetings, the review group recommends that the SRA award for O&S be reviewed at the Annual Council meeting in May when the committees of Council are appointed.

## **8 Clarity and mutual understanding of the roles and responsibilities for participants in O&S**

- 8.1 Identified as one of the four core principles of O&S by the Centre for Public Scrutiny, the Review Group recognises the importance of O&S being Member-led. It therefore places an emphasis on ensuring that there was sufficient clarity and mutual understanding of the roles and responsibilities placed upon those participants involved in the process, most prominent of whom are the scrutineers themselves.
- 8.2 All O&S members have an individual and collective responsibility to play an active part in O&S meetings by reading agenda papers, contributing to discussions, asking questions, suggesting lines of inquiry, assessing evidence, and producing recommendations. Overall the success or otherwise of O&S is intricately linked to the contribution made by each individual member who should take a proactive and equal part in O&S, in whatever capacity that might be.
- 8.3 The role of the O&S Chairmen (whether it be of the Board, committee or topic group) is critically important in setting the agenda and building solid relationships with Members, officers and other interested parties involved in

the O&S process. Greater emphasis should also be placed on the role of the Vice-Chairmen.

- 8.4 The review group identified a number of key tasks for which the chairmen are responsible and which increases the accountability for those individuals who undertake such roles. Those key tasks are identified in the Guide to Overview & Scrutiny (attached as Appendix 2).

## **9 Key skills required for O&S and a commitment to ongoing training and development for Members**

- 9.1 In emphasising the accountability afforded to Members in leading O&S, the review group considered it essential that Members have the necessary skills to fulfil their influencing role and deliver a positive impact for scrutiny. Whilst the review group noted the results of the survey in respect of training and development, nevertheless it believes that a renewed effort in ensuring positive outcomes and delivering change will likely require Members to work in new ways with a new set of skills.
- 9.2 As part of the Council's commitment to continuous training and development, it will facilitate sessions on developing questioning skills, analytical skills, team working, listening skills and chairing skills, which are all considered to be essential for driving O&S.
- 9.3 The review group recognised that the Council must continue to invest in order to equip new and experienced members with the skills, knowledge and expertise to undertake effective scrutiny and to contribute to the improvement and review of services

## **10 Production of a Overview & Scrutiny handbook**

- 10.1 Despite being a common feature in many local authorities, the review group noted that Havering has not produced a handbook which sets out its approach to O&S (other than in its Constitution).
- 10.2 The purpose of the handbook is to:
- Provide a brief overview of the Council's approach to O&S, including the legal framework and the O&S governance structure;
  - Provide a consistent approach to O&S across the Council, setting out best practice in terms of the setting, monitoring, managing and delivering of the O&S agenda
  - Outline the roles and responsibilities of those involved in O&S, with an emphasis on the importance of ongoing training and development and skills required to deliver meaningful outcomes.

- 10.3 In view of the changes proposed by the review group, it strongly recommends that the handbook (attached as ??) be adopted for Havering

## **11. Conclusions**

- 11.1 In summary, the review group concluded that O&S in Havering required adjustment as opposed to a fundamental overhaul. It recognised that nationally, many local authorities had experienced similar challenges in grappling with O&S and that it would continue to be a work in progress. It therefore also recommends that, subject to adoption of the proposals by Full Council, the Overview & Scrutiny Board review the implementation in May 2019.

- 11.2 A summary of the review group findings:

1. In order for O&S to be Member-led, there needed to be increased accountability for those involved in the process. Clarity and mutual understanding of the roles and responsibilities in respect of O&S was much needed.
2. There is insufficient focus on outcomes and delivering service improvements. O&S activities and methods of delivery needs to be revisited with guidance on best practice.
3. There was insufficient clarity on the rationale O&S and what it could / couldn't do
4. To be effective O&S needed to be consensual with party politics left at the door. O&S should more closely follow the Commons select-committee model
5. All too frequently the work of O&S is delivered by those Members who have the skills or expertise to drive the agenda. To that extent, the O&S governance structure (Board and six sub-committees) and the requirement for political balance is counter productive, with increased responsibility to be placed upon topic groups.
6. Increased emphasis on the continuous training and development is required to give Members the skills, knowledge and expertise to hold decision makers to account, influence policy formulation and drive service improvements.

<b>IMPLICATIONS AND RISKS</b>
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**Financial implications and risks:**

Revisions will likely be required to the Member Special Responsibility Allowance Scheme if the proposals are approved by Full Council post-election.

**Legal implications and risks:**

Section 9F of the Local Government Act 2000 provides that executive arrangements by a local authority must include provision for the appointment by the authority of one or more committees to undertake the specified functions of overview & scrutiny.

Subject to the foregoing it is within the discretion of every authority as to how its Overview & Scrutiny arrangements are organised. The proposals in this report satisfy the legal requirements and there are no other immediate legal implications arising from this report.

**Human Resources implications and risks:**

Owing to a reduction in the number of committee meetings there will be a reduced impact on staffing resources. It is anticipated however that there will be increased overview and scrutiny activity as a consequence of the proposals with existing staffing resources reallocated to support that activity.

**Equalities implications and risks:**

There are no direct equalities implications and risks

<b>BACKGROUND PAPERS</b>
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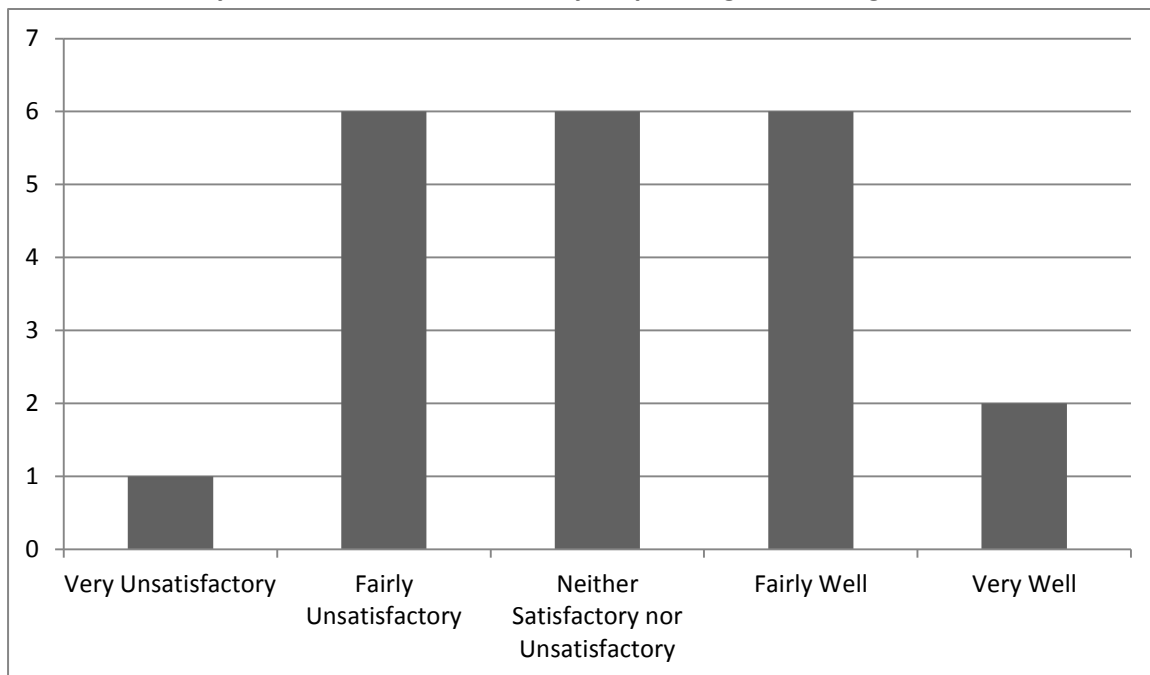
None



## London Borough of Havering – Overview & Scrutiny Survey

Total number of responses: 23 (2 of which were provided in the form of general comments rather than via the survey).

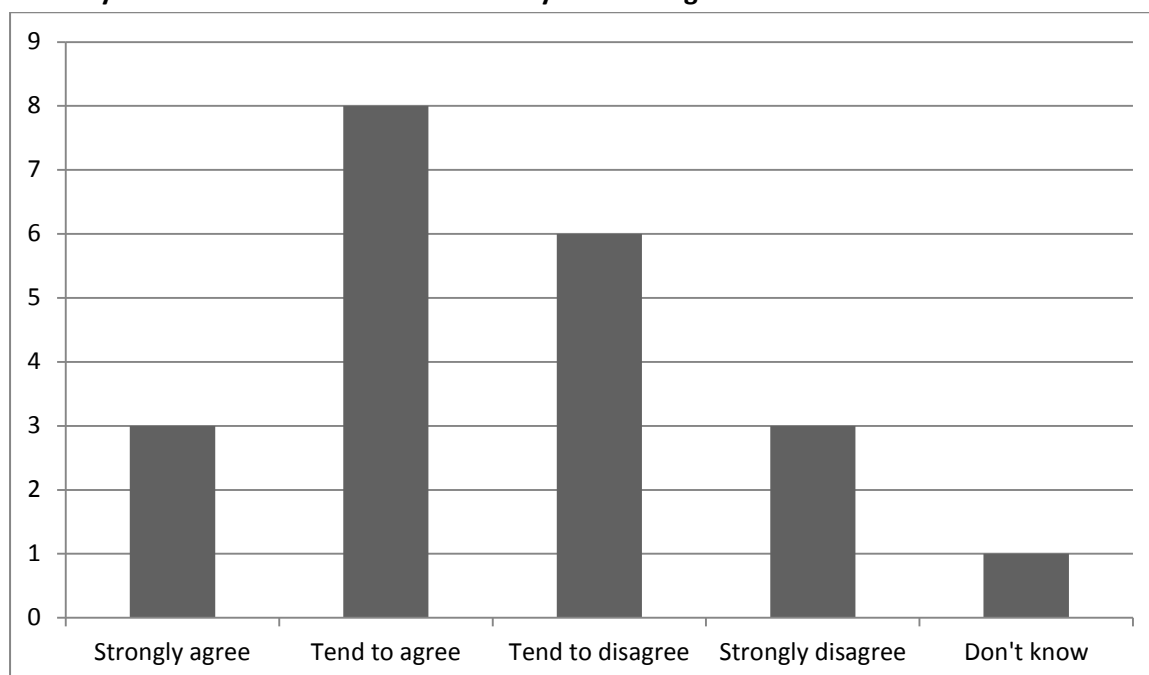
### 1. How well do you think Overview & Scrutiny is operating in Havering?



#### Comments:

1. Members need to be more involved.
2. Not active enough.
3. Some are better than others.
4. Never seem to learn of the end result.
5. Needs improving.
6. No-one is publishing it's success
7. I feel that in my individual committee, we are very diligent in our approach to our investigations.
8. Unable to gauge either way and difficult to establish and confirm whether decisions or recommendations made by members are acted upon.
9. O&S in Havering needs a fundamental overhaul to ensure that the objectives of the LGA 2000 are achieved.
10. There are attempts to hold the Administration to scrutiny but little focus on improving services.
11. Doesn't function in the interest of members.

## 2. Do you think that Overview and Scrutiny in Havering is Member - led?

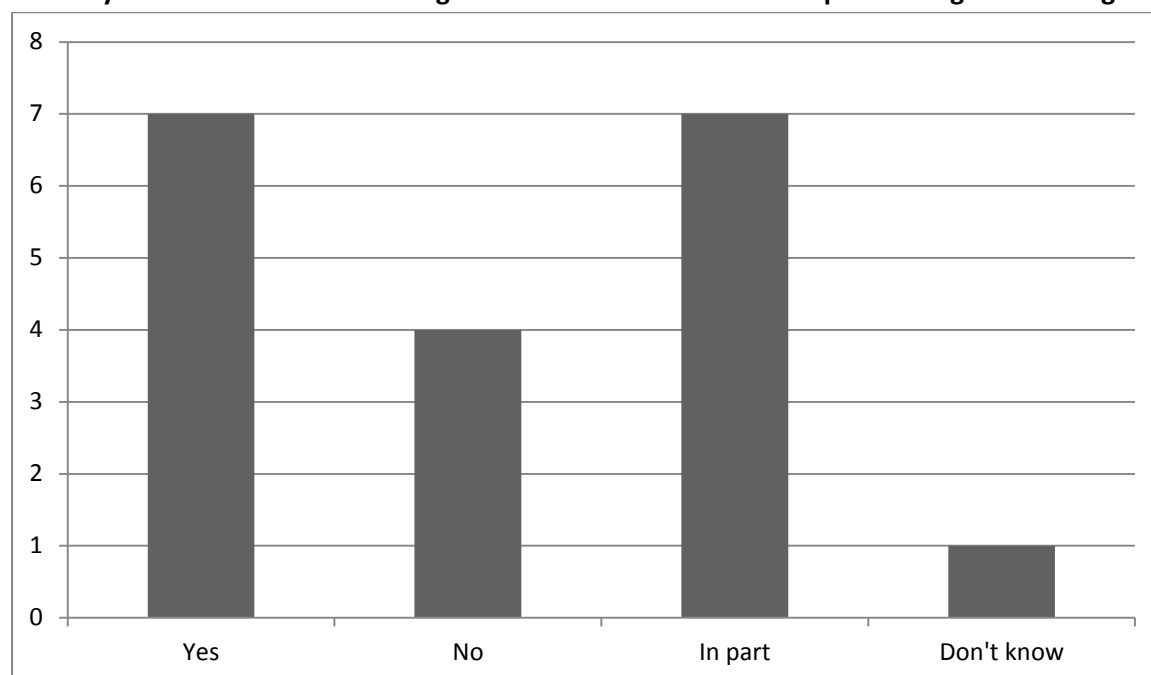


### Comments:

1. Perhaps this is one of the weaknesses. It leads to the small band of committed councillors who get involved undertaking much of the work.
2. It should be member led!
3. Topic groups – one meeting then forgotten.
4. It's led by administration chairs who guide and decide outcomes.
5. Yes but not in all cases.
6. Chair for C&L works up a work programme with officers, agreed by committee, members are asked for agenda items.
7. It seems that the officers choose the subject matter.
8. Members are not always committee.
9. I imagine a weak chair could be officer led.
10. We aim to ensure that every committee member has the opportunity to contribute to our discussions on every subject matter.
11. Members may select topics but the research and direction is often directed by officers.
12. To a certain extent yes but sometimes it appears to be driven by officers.
13. There are a number of challenges facing Havering which will not be addressed until the culture of O&S in the borough has changed. Recognition by officers and members that O&S is as important as the administration/executive. From the day after the local election a change of culture will be a priority. This will mean an enhanced induction process for members, new and re-elected, to ensure that we take advantage of what appears to be a consensus for change.
14. Limited number of members actively involved.



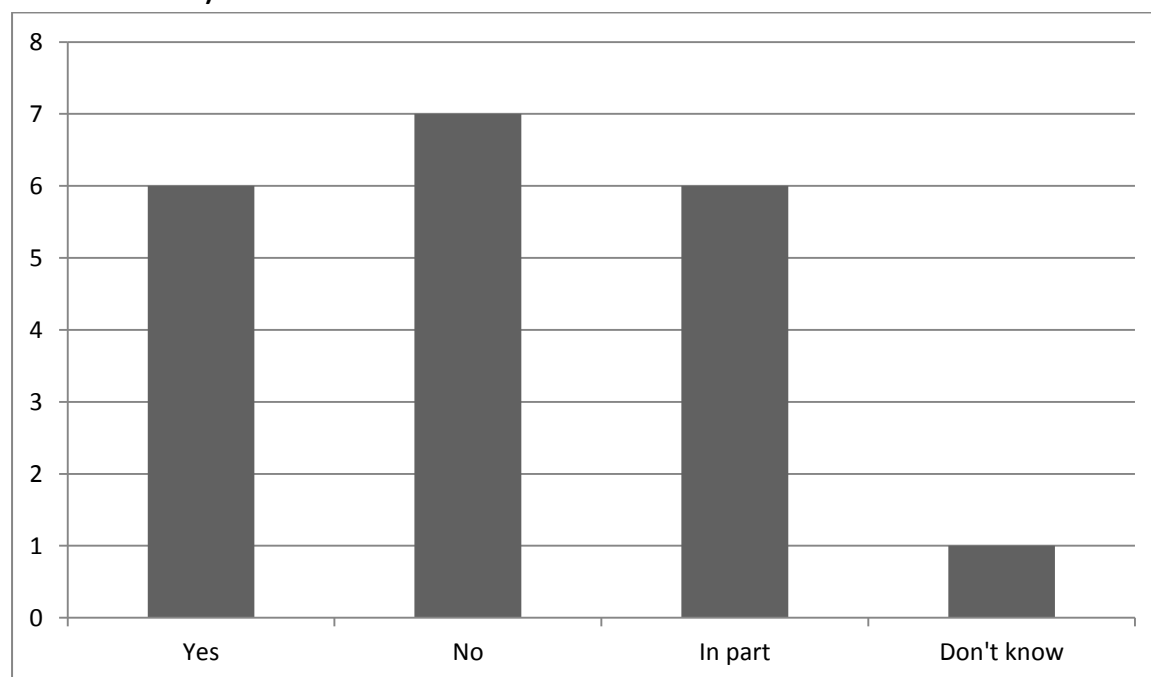
### 3. Do you contribute to the management of the committee work plan and agenda setting?



#### Comments:

1. Chairman of the Rainham and South Hornchurch working party.
2. Cabinet member.
3. Agenda already set.
4. Did work on working party for debt recovery, worked well and positive result.
5. As a vice chairman of the health committee. I am totally committed to set the agenda and work plan.
6. But it does depend on the committee.
7. As and when advised.
8. Not involved in process.
9. Absolutely, we discuss as a committee, our aims, written guidance from the officer.
10. When I was a V/C I did contribute to the agenda setting and work plan for meetings but topic groups tended to come out of things that were topical or known to be an issue, e.g. fly-tipping.
11. As chair I sat down with officers and gave them areas that we wished to look at. I also emailed other members on the committee for input on what they would like discussed.
12. Members do in part but the agenda in many ways is set by the executive. I would like to see a debate about priorities in full council which leads to a recognition of the areas of scrutiny which require examination and scrutiny. Also, there should be a mechanism for pre-decision scrutiny.
13. Contributed via the committee's discussion on setting up topic groups.

**4. Do you believe the existing Overview & Scrutiny structure (over-arching Board and six sub committees) works well?**



**Comments:**

1. Mindful of the primacy of the executive with regards decision making. When a clash of wants comes into being between the vested interests of the two entities, the outcome can so many times be determined by the strength of character of the elected member, as opposed to the merits of the intension.
2. Board is worthless.
3. It gives back benchers the opportunity to engage.
4. It makes sub committees irrelevant.
5. It isn't independent of the administration.
6. I have no reason to doubt that all the other committees are as diligent and hard working as ours are.
7. I consider that there should be less O&S sub-committees. There should be one dealing with scrutiny of outside bodies i.e. police, NHS and private contractors, and probably one or maybe two dealing with cross council issues. The sub-committees should be larger i.e. more members. The savings from this reduction need to be reinvested in the resources available to the O&S.
8. I have never fully understood the role of the overarching board. It seems that on occasion, meetings take place just to clarify details which should be done outside of formal meetings. I have not seen any evidence that it co-ordinates OVS committees but it have limited experience. I have been told it's more like a talking shop on issues which should be debated elsewhere.
9. Not to a great extent as we have had terms of reference on the other committees overlap each other and the main board along with officers should have discussed this when the new structure was revised.

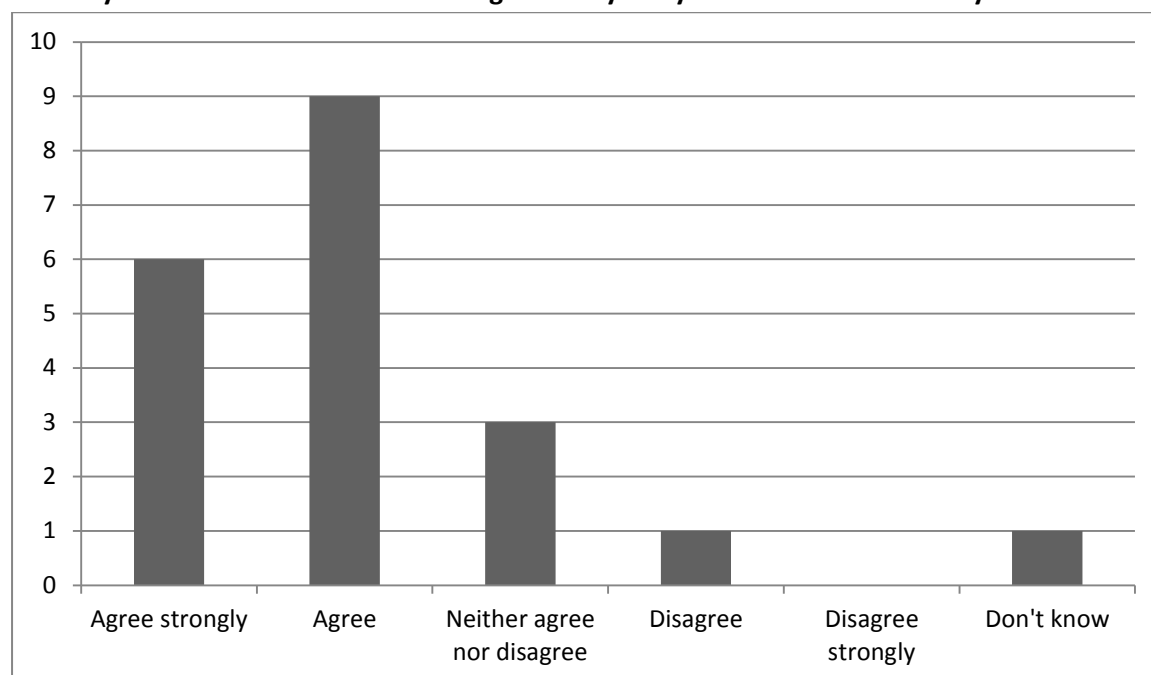
10. Essentially, sharing the committee's responsibility with sub-committees elongates the time and decision making/recommendation process. Replace the sub-committees with task and finish groups as and when (possibly retain those with statutory functions?)

## **5. What is your preference for the size and structure?**

### **Comments:**

1. Not having the opportunity to all of the other committees, the ones I have visited, I feel work well and provide a very useful purpose.
2. Truly there is not one. Small does not automatically bring into being better communication nor does larger prohibit good discourse.
3. Outcomes are what are needed.
4. It should comprise of opposition members only.
5. No bigger than it is already.
6. Current size allows for deeper dive scrutiny.
7. Committee should be smaller but I am happy with current structure as long as all the committee members are contributing and understand what is required of them.
8. Current structure works well.
9. All present is fine.
10. Mixed political and experience. Max 5 people (Cllrs)
11. Leave sub committees as it, look again at the board.
12. It would be preferable to have fewer members, but those that are on the committee are interested in the subject and contribute at meeting by playing an active role.
13. What works!
14. Works well in its current format and size.

**6. Do you have the skills and knowledge to carry out your Overview & Scrutiny duties?**



**7. How do you think individual committee work plans should be determined?**

**Comments:**

1. The chair has to be confident in the subject area, enabling direction of work plans. Committee recommendations and ratification by the committee offers ownership. Each agenda could have an item before urgent business. Member agenda recommendations – This needs to take into consideration existing work plan.
2. Consultation with other members rewards experience.
3. A debate involving all members and not a selected individual.
4. I, as the chairman consult with our committee, and discuss with our officer on the relevant items raised for future investigation.
5. 1) By direction of the elected chamber. 2) By agreement by members of the committee prompted by topic of interest.
6. By the committee and liaising with officers.
7. By the chairman and vice chairman
8. Work plan and agenda should be wet by the chairman and vice chairman together with the officers i.e. performance targets etc.
9. Determined by the chairman in consultation of committee.
10. Instrumental with the chairperson and liaise with committee.
11. To ensure life is not too pressured as a Cllr with long or too regular of meetings.

12. Long term councillors should help the new ones.
13. Each member should be able to raise a subject to discuss and work through each issue.
14. Try to encourage councillors that do not sit on a specific committee to attend and bring knowledge and information. To not keep looking at the same subjects year in – year out.
15. By an overarching board/committee.
16. Cabinet priorities.
17. Much as now depending on the idea floated. These could come from staff.
18. By member in conjunction with officers. Also, we need to know what key decisions have been made by officers/executive at the start of each sub-committee meetings or perhaps a summary of these to be circulated with the agenda a week before the meeting and an item made in the agenda to discuss these.
19. At present the agenda is often for too 'chair-led', the agenda should be set by the committee members.
20. Ultimately by the members themselves but it should be informed by debate and personal knowledge and independent thinking. It is important that those members taking on O&S should be well-informed on the subjects they are considering.

**8. What do you believe is the aim of Overview and Scrutiny and what obstacles if any do you feel there are to this happening?**

**Comments:**

1. To scrutinize the decisions of the relevant cabinets and to be re-assured that officers are working effectively and efficiently. The majority party ultimately makes all decisions – it's undemocratic.
2. To review what cabinet members are doing and to see if issues can be dealt with better.
3. Oversee the running of the council – lack of interests at all levels.
4. Outcome for the best using common sense not 90% on outcomes in favour of council.
5. Main aim is to scrutinise for a positive and constructive outcome.
6. Holding officers to account. However sometimes it can be political, objectives just for the sake of it.
7. To hold to account, add value, to invite outside body to improve.
8. To scrutinise the workings of council depts. with regards to wastage, finance and efficiency. To monitor how council tax payers money is spent. Don't know what 'overview' does.
9. I wholly support the 'critical friend' interpretation. However, I believe there is a place for some form of mandatory direction prompted by particular committed findings. Elected member apathy is a bar to change.
10. Our aim is to investigate any area which we feel would benefit from our recommendations and endeavour to ensure that these improvements are implemented.
11. It is to bring to account officers who fail in their duties to our residents.

12. To improve services and delivery. Outvoted by the administration generally.
13. Scrutiny is there as a checks and balances system of policy and strategy. However, areas such as children's services, including listening to the voice of the child. The 'story' from residents on services can be heard through the scrutiny process.
14. Hold administration to account. Improve efficiency and performance. Not enough member commitment.
15. I feel that generally OVS goes through the motions rather than truly scrutinises. Some of the problem is that officer support is minimal given the reduction in staff which means that the research is not undertaken in a timely manner making the process very drawn out. Topic groups take far too long, again through lack of officer support.
16. Improve council services without costing more.
17. To review and scrutinise decisions made by the executive and senior council management.
18. To scrutinise executive decisions and review council processes. Obstacles: lack of member interest and training. Too much focus on scrutiny with limited success or motivation. No incentive to focus on review of processes and topic groups are often seen as educational rather than tools for change/improvement.
19. To provide constructive challenge to the administration's policy decision and strategy. A continuing ignorance among members as to what exactly is expected of them in an O&S role.
20. The aim should be to ensure that the residents we serve get good value and we as a council provide efficient public services which meet local requirements. We need to do that not in opposition to the administration but as a critical friend. The obstacles to this happening include a lack of positive recognition for what O&S can and should do; a lack of commitment by members; probably a lack of resource which includes at least an officer who should be solely a champion for scrutiny; and the recognition that O&S is not in opposition to the executive but that its role is important to ensure the right balance between the two wings.

## **9. If you could make two changes to Overview and Scrutiny, what would they be?**

### **Comments:**

1. 1) 1 additional scrutiny sub-committee meeting per year, Children and learning have 12 corporate panel meeting per year, in addition to scrutiny sub-committee meeting. It may therefore not be necessary to increase meeting in this sub-committee. 2) Members allocated to a sub-committee for at least two years. The re-visiting of bringing members up to speed on a particular scrutiny area, can delay effective scrutiny time.
2. 1) An independent chair. 2) Acknowledgement from members and officers that scrutiny is or should be a positive contribution not a negative.
3. 1) Not to be undermined by O&S board
4. 1) I feel that we need more committee time to conduct more and deeper investigations and interview more people. 2) Feel that our committee should go from 4 to 6 meeting each year.

5. 1) Much of local government work is conducted by well-meaning volunteers (formed governments view of elected members). 2) Councillor should be paid a wage commensurate with their responsibilities.
6. 1) That meeting should not clash. 2) Mobiles/PCs should be banned – which with the latter has been made difficult as we are ‘expected’ to not receive hard copies of minutes.
7. 1) Ask the members if they want to be on O&S committee and if they understand they have to contribute to make the committee work. 2) Members training – very important.
8. 1) Concentrate on Overview. 2) Continue improving resources available to members.
9. Works well in current form.
10. 1) Mixture of political parties and of chairs. 1 from each party who reside at chair every 5 weeks.
11. 1) Bring call in back to sub-committee. 2) Scrap performance reviews – too much on quantity and none on quality.
12. 1) Make all members of committees put forward comments and raise questions.
13. 1) The make-up of the O&S committees should be changed to include only members that are interested in the subject and not there to provide political balance. 2) Members training in relevant O&S subject.
14. Make the overall structure smaller and more focussed. Allowance based upon what individuals do. Task and finish groups only.
15. No idea.
16. Decision sheets/forms implemented that captures the recommendation/comments made to officers on a specific matter/topic and that there is an audit trail of these with actions clearly documented. These could be signed by the chair once officers can provide feedback as to whether they can/will implement. Early notification of proposals on officers ideas on what new processes, policies or procedures may be implemented as a result of forthcoming budgets.
17. Incentivise and upgrade task and finish groups. If the letter be composed of willing members and thus not taking account of political balance it will help de-politicise the committee work.
18. Training of new members in effective scrutiny and challenge and member-led agenda setting.
19. The chair of O&S and any sub-committees should be from opposition members. At least one officer of the council is solely dedicated to O&S.

**10. Do you have any other general comments regarding Overview and Scrutiny or anything in relation to the above questions that you would like to add?**

**Comments:**

1. Educate members, especially newly elected ones, on the subject of the specific O&S and the function of the committees.
2. Board needs overview. It's not working.
3. I basically feel that I have to scrutinise from behind a closed door. Does it not make more sense for the overarching board to be attached by chairman and/or vice chairman?
4. We need to get rid of proportional representation which is administration led. Nothing gets done.



# **LONDON BOROUGH OF** **HAVERING**

## **A GUIDE TO** **OVERVIEW & SCRUTINY**



## **INTRODUCTION**

This handbook has been designed to provide information and guidance on the London Borough of Havering's Overview and Scrutiny (O&S) arrangements. It is targeted at Members, Officers, the public, local partner organisations and other interested stakeholders who are interested in O&S generally.

### **Overview & Scrutiny - the legal framework**

The Local Government Act 2000 introduced new arrangements that defined a scrutiny role for elected members sitting on O&S committees. They were to hold the cabinet to account and to scrutinise the work of other agencies providing local services. It created a clear distinction between the executive's role in developing and implementing policies and the role of non-executive members in reviewing policy and scrutinising executive decisions.

O&S has the power to review decisions and policies of bodies other than councils operating in their areas and to require council officers and cabinet members to attend and answer questions. They are able to make recommendations and propose changes to be considered by the executive.

Through the scrutiny process Members have power to hold partner organisations to account.

### **Health scrutiny**

The Health and Social Care Act 2012 gave councils responsibility for scrutinising local NHS trusts including primary care trusts.

It gives the power to summon officers of health trusts to meetings and to require information from NHS bodies on the planning and provision of health services. It can also initiate reviews on any topic that affects the health and well being of local residents.

NHS bodies must consult O&S on any substantial variations of service provision. If there is a substantial variation in service which affects more than one local authority, the authorities must set up a joint scrutiny committee. Havering is part of the Outer North East London Overview & Scrutiny Committee (ONEL). O&S has the power to refer contested NHS proposals to the Secretary of State.

### **Crime and disorder**

Powers were further extended by the Police and Justice Act 2006 which provided powers to scrutinise the work of crime and disorder reduction partnerships.

The Act requires every Council to have a scrutiny committee with the power to review or scrutinise decisions made, or other action taken by the Council and the

other responsible authorities in the exercise of their crime and disorder functions. The other responsible authorities are the police, the police authority (Metropolitan Police Authority), the fire and rescue authority and the Primary Care Trust.

### **Councillor Call for Action**

Councillor Call for Action (CCA) was introduced by the Local Government & Public Involvement in Health Act 2007. It enables a Member of the Council to ask Scrutiny to review an issue of importance to that Member's ward (excluding planning and licensing). It can be exercised by any Member, including those in the Cabinet.

CCA is intended to enable a Member to seek a resolution to a problem in the first instance but, if it cannot be resolved, to ask the relevant Sub-Committee to review it and, if need be, to report upon action needed to the Cabinet (which, under different legislation, is bound to consider that report).

## **Overview & Scrutiny in Havering**

### **Governance of the Council**

#### **Full Council**

The Council is made up of 54 ward councillors – three elected by each of the 18 wards within the borough. It sets the annual budgets and council tax and agrees the Council's Constitution. In Havering, Council delegates a number of its responsibilities to its committees, eg. planning, licensing and pensions. Such matters are specifically non-executive.

#### **The Cabinet**

The Leader is elected by the 54 members of the Council to serve a 4 year term of office. The Leader can select up to nine councillors to form the Cabinet. Each Cabinet member is allocated a specific area of responsibility.

Collectively, either at meetings of the Cabinet or individually, they take decisions about all matters which are not the responsibility of another part of the Council. Members of the Cabinet are responsible, together with officers, for delivering the Council's policies.

## **Overview & Scrutiny in Havering**

Section 21 of the Local Government Act 2000, requires that the Overview & Scrutiny be empowered to undertake the following activities:

- a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Cabinet, including power—
  - (i) to recommend that the decision be reconsidered or

- (ii) to arrange for the Council to review that decision;
- (b) to make reports or recommendations to the Council or the Cabinet with respect to the discharge of any functions which are the responsibility of the Cabinet;
- (c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Cabinet;
- (d) to make reports or recommendations to the Council or the Cabinet with respect to the discharge of any functions which are not the responsibility of the Cabinet; and
- (e) to make reports or recommendations to the Council or the Cabinet on matters which affect the Council's area or the inhabitants of that area.

The Health Overview & Scrutiny Sub-Committee has powers under the National Health Service Act 2006; and the Crime & Disorder Scrutiny Sub-Committee has powers under the Police & Criminal Justice Act 2006. (except any referral to Secretary of State, which is reserved to the Council by resolution)

Overview and Scrutiny	Area of responsibility
<b>Board</b>	<ul style="list-style-type: none"> <li>• Strategy and commissioning</li> <li>• Local Strategic Partnership</li> <li>• Partnerships with Business</li> <li>• Customer access</li> <li>• E-government and ICT</li> <li>• Finance (although each committee is responsible for budget processes that affect its area of oversight)</li> <li>• Human resources</li> <li>• Asset Management</li> <li>• Property resources</li> <li>• Facilities Management</li> <li>• Communications</li> <li>• Legal &amp; Governance</li> <li>• Councillor Call for Action</li> <li>• Call-ins</li> </ul>
<b>People</b>	<ul style="list-style-type: none"> <li>• Pupil and Student Services (including the youth service)</li> <li>• Children's Social Care</li> <li>• Safeguarding Children</li> <li>• Adult education</li> </ul>

	<ul style="list-style-type: none"> <li>• Issues relating to the Children and Families Act 2014.</li> <li>• Personalised services agenda</li> <li>• Adult Social Care</li> <li>• Diversity</li> <li>• Scrutiny of NHS bodies including the Havering Clinical Commissioning Group, NHS trusts, NHS foundation trusts and other providers of NHS services within the borough or to residents of the borough</li> <li>• To consider and provide recommendations on any proposed substantial development of the health service in the borough or any substantial variation of health services currently provided which are referred to it by the relevant health service commissioner or provider. (except any referral to Secretary of State, which is reserved to the Council by resolution)</li> <li>• Councillor Call for Action</li> </ul>
<b>Place</b>	<ul style="list-style-type: none"> <li>• Environment</li> <li>• Local Development Framework and Strategic Transport</li> <li>• Transport for London</li> <li>• Environment</li> <li>• Community safety</li> <li>• Parking</li> <li>• Regulatory Services</li> <li>• Planning and Building Control</li> <li>• Town centre strategy</li> <li>• Licensing</li> <li>• Leisure, arts, culture</li> <li>• Housing Retained Services</li> <li>• Community safety</li> <li>• Social and economic regeneration</li> <li>• Parks</li> <li>• Exercise of the functions conferred by the Police &amp; Justice Act 2006</li> <li>• Councillor Call for Action</li> </ul>

## MEETING FREQUENCY

### O&S Board

The intention is that the O&S Board shall hold 6 scheduled meetings each year. One meeting, at the start of the municipal year, shall agree the annual work programme of the Board. One meeting, in January, shall consider the Cabinet's budget proposals. The remaining meetings shall undertake the work programme and consider the reports from the topic groups.

### O&S Committees

The intention is that the O&S committees shall hold 5 scheduled meetings each year. One meeting, at the start of the civic year, shall agree the annual work programme of the committee. The remaining meetings shall undertake the work programme and consider the reports from the topic groups.

The principles of effective scrutiny outlined by the Centre for Public Scrutiny are that O&S should aspire to be:

- **Member-led**

This means that each O&S committee determines its own work programme and decides what evidence to seek. Members take an active role in the scrutiny process, for example by going on visits and taking part in consultation activities with service users, residents and local organisations.

- **Consensual**

Effective O&S works towards developing a non-party political, consensus-based view of the service or issue under consideration, focussed on the needs of service users and residents.

- **Evidence-based**

O&S takes evidence from a wide and balanced range of sources in order to enable them to develop a rounded view of the service or issue under consideration. Recommendations made by O&S should be firmly supported through the evidence received.

There are three key roles scrutiny plays:

- **Policy review:** where a policy or service has been identified for consideration, O&S can conduct a detailed review and make recommendations to Cabinet before final decisions are taken.
- **Policy development:** O&S can play a part in developing and recommending new policies, often at the request of the executive but sometimes under scrutiny Members' own initiative.
- **Hold the Executive to account:** asking Cabinet Members or senior officers to attend O&S committee meetings provides the opportunity to assess performance of services against agreed standards and, where necessary, make recommendations for improvements. As a last resort, scrutiny committees can require the Cabinet, or a Cabinet Member, to reconsider a decision not yet implemented through **call-in**.

## Overview & Scrutiny work programmes

At the start of each municipal year, each O&S committee decides its own work programme which is published on the Council's website and forms part of every O&S committee agenda. The aim is to prioritise issues for in-depth work where O&S can make an impact, add value or contribute to service development. Items for the programme are drawn from a number of sources, including:

- Issues arising from discussions with members of the public and other interested stakeholders
- Issues that the committee is required to consider by virtue of its terms of reference
- Decisions due to be made by Cabinet, individual Cabinet Member or officer
- Standard reviews of policy implementation or performance, which is based on a regular schedule (the Council's Continuous Improvement Model)
- Suggestions from officers
- Items requiring follow up from committee reviews and recommendations

When drawing up the draft work programme, O&S committees must ensure that the matters suggested can be delivered in the time available, taking into account the capacity of Members and officers. Meetings are two and a half hours long and it is generally advised that there should be three to four items per meeting in order to allow sufficient time for proper scrutiny of items on the agenda.

As well as agenda items for committee meetings, the work programme can include a small number of topics identified as being suitable for in-depth scrutiny by a topic group. It is recommended that there should be a maximum of two topic groups per O&S committee in operation at any one time, with the aim of completing a maximum of four topic groups a year per committee. The number completed will of course depend on how extensive the scope of each topic group review is.

At the start of each municipal year a topic selection workshop is held to which all councillors, co-opted members and senior officers are invited. The committee clerk will provide a list of potential scrutiny topics as a basis for discussion at the workshop. This list is drawn from suggestions received from councillors, officers, partner organisations, local community and voluntary organisations and individual members of the public.

Workshop participants discuss each of the items in the list and prioritise these in accordance with the work programme prioritisation flowchart. In particular, participants are encouraged to prioritise issues that relate to the Council's strategic priorities or where there is underperformance; issues of public interest or concern and issues where O&S could make a difference.

A work programme prioritisation process flowchart is detailed below which should be used to assist in identifying those matters which the committee

## O&S Work Programme – Prioritisation Process





## Topic Group reviews

Topic Group reviews are the projects which enable Members to make the most effective contribution to service and other improvements. That is because it provides the time and resources to enable solid evidence to be gathered on which good recommendations are based. An evidence-based approach is important if O&S is to succeed in making the case for their recommendations to Cabinet and Full Council.

As explained previously, topic group reviews vary in scope and scale. Some reviews are undertaken by Groups consisting, typically, of three or more Members nominated by the parent O&S committee. These can last up to a year and end by making recommendations formally to the parent O&S committee, Cabinet or Full Council. At the other end of the scale, a smaller number of Members could engage in a small review examining a tightly-defined issue over one or two evidence-gathering meetings. Topic Group reviews produce the best results where the Members who sit on them have a particular interest, or even some level of previous experience, in the topic.

When topic groups are established by the parent O&S Committee, the committee will:

- appoint the members of the task group (membership of a topic group should be open to all O&S members, not just those on the parent O&S committee)
- appoint a Chairman
- provide clear terms of reference and a timescale, with a finish date for reporting back to the parent body

The topic group will develop its own work programme, within the agreed terms of reference, and report back on progress to the parent O&S committee as and when appropriate. It will be the responsibility of the Topic Group Chairman to undertake this task.

Each topic group will inform the relevant Cabinet Member(s) of its terms of reference, timescale and work programme and will invite them to a meeting in order to discuss its recommendations before they are finalised. This discussion helps to develop a joint understanding of the purpose and intention of the recommendations and enable any potential difficulties to be resolved informally.

The topic group will present a written report of its findings and recommendations to the parent O&S committee for its approval. The report will be presented by the topic group's chair. The report will be evidence based, drawing on and reflecting the wide range of written and oral evidence received.

Recommendations should be SMART, that is:-

- \_ Specific
- \_ Measurable
- \_ Achievable
- \_ Realistic
- \_ Timely/time-specific

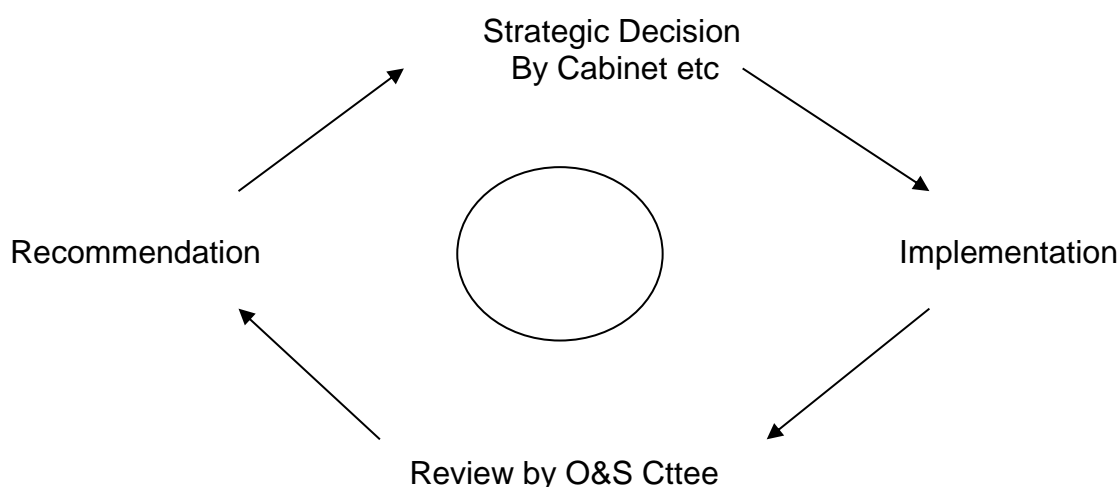
The O&S committee will then send the report to the Cabinet for consideration and response. The report will normally be presented to Cabinet by the chair of the topic group.

The Cabinet is required by law to respond to the report within two months. This response should, for each recommendation, set out how and when the recommendation will be implemented. Reasons should be given for the non-acceptance of any recommendation.

After twelve months, the parent O&S committee checks the outcomes of the agreed recommendations to see whether the intended benefits have been achieved. This can be incorporated as part of the Council's Continuous Improvement Model (see below).

### **The Council's Continuous Improvement Model (CCIM)**

First introduced in 2008 and a model specific to Havering, the Council's Continuous Improvement Model aims to place O&S at the forefront of continuous improvement in service delivery. The model encourages O&S to review key policies and decision made by the Executive to ensure it contributes to learning and a culture of continuous improvement using the model below.



This model suggests that Cabinet strategy decisions are to be put to the O&S Board after a given period subject to O&S choosing to review that policy. While the O&S Board and committees can pick and choose which policies they would like to examine, it is desirable that any review of the policy chosen is undertaken in the context of the Council's declared policy priorities. The O&S Board oversees this process.

## **Call-in**

On occasion, there will be decisions made by the Cabinet, individual Cabinet Member or officer which cause concern to some councillors to the extent that they believed the decision should be revisited. It should be noted however that day-to-day management decisions or routine operational matters are not subject to this process.

The call-in procedures are set out in the 'Overview & Scrutiny Rules of Procedures' within the Council's Constitution.

In brief:

- Executive decisions subject to call-in are included in Calendar Brief (published each Thursday); published on the Council's website and notified by email to all councillors
- The call-in period (3 working days) starts at midnight on the Sunday following publication of Calendar Brief and runs until midnight Wednesday the following week;
- The request for call-in must be made in writing to the Head of Democratic Services by 2 councillors from 2 different political groups; and
- The request must specify the reasons for the call-in.

All call-ins are referred to the O&S Board for consideration which aims to meet within 10 working days of the request being received. Those Members who submitted the call-in are expected to attend the O&S Board meeting considering the matter to explain the reasons for the call-in. The Cabinet Member with responsibility for the service subject to the call-in is also expected to attend to answer questions from the O&S Board. There are specific rules regarding Cabinet Member attendance at O&S committee meetings in the Council's Constitution.

The Board can either uphold the call-in and refer the matter to Cabinet for further consideration, or dismiss the call-in at which point the decision can be acted upon.

## Roles and responsibilities

### Councillors

Councillors from all political groups are involved in O&S, and should work towards developing a non-party political, consensus-based view of the service or issue under consideration, focussed on the needs of service users and residents. It should be recognised that O&S is an important mechanism for enabling councillors to represent the views of their constituents and other service users, and to ensure that these views are taken into account in the development of policy.

The membership of O&S is drawn from those councillors who are not members of the Executive, and are often referred to as non-Executive members.

The allocation of seats on the O&S Board and committees is done so on the basis of political balance to reflect the political make up of Council. The membership of each committee is agreed by the respective Groups with the positions of Chairman and Vice-Chairman appointed by full Council. Topic Groups are not however bound by political proportionality rules but must not include executive members.

### The role of the O&S Member

In terms of role, members of O&S committees:

- provide leadership and direction for scrutiny;
- are responsible for the outputs (ie what they actually do, and how that translates into what is produced) and outcomes of scrutiny (ie what is actually achieved by having reviewed an issue); and
- make recommendations based on their deliberations.

All O&S members have an individual and collective responsibility to play an active part in O&S meetings by reading agenda papers, contributing to discussions, asking questions, suggesting lines of inquiry, assessing evidence, and producing recommendations. Overall the success or otherwise of a review is intricately linked to the contribution made by each individual member who should take a proactive and equal part in a review.

Four broad responsibilities of Members involved in OS are set out below:

- **Challenge** - Challenging how and why the Council or a partner under review delivers its services. This should be done in the form of a critical friend.
- **Accountability** - Being reliable, trustworthy, and not afraid to stand by decisions.
- **Leadership** - Setting an example by showing strategic vision, working alongside each other, thinking corporately, and engaging with the community.

- **Innovative** - Being forward thinking, innovative and open to new ideas, while continuing to develop knowledge away from the environment of an O&S committee meeting or topic group.

## **The role of the O&S Board and Committee Chairmen**

One of the principals for effective scrutiny is that it is Member-led. The role of the Chairman is therefore critically important in setting the agenda and building solid relationships with Members, officers and other interested parties involved in the scrutiny process.

A number of key tasks fall to those persons who assume the role following their appointment by Full Council:

1. Take lead responsibility in setting agenda and developing the work programmes.
2. Liaising with officers to discuss the progress of items in the committee work programme and topic groups.
3. Ensure that the debate at meetings is focussed and inclusive, and that there is a clear understanding of the outcome of the discussion. Often being required to start or stimulate the discussion, to provide a concise summary and to suggest further courses of action.
4. Acting as the spokesperson for the committee and therefore usually being the one to present and champion the findings and recommendations that are developed through scrutiny processes on behalf of the committee.
5. Provide an annual report to O&S Board outlining the activity of the committee and outcomes achieved.

## **Key Skills**

It is essential that Members have the necessary skills to fulfil their influencing role and deliver a positive impact for scrutiny. It will likely require Members to work in new ways with a new set of skills.

The key skills that a Member will need to be successful in Overview and Scrutiny are:

- **Questioning skills** - the ability to probe witnesses for information and ask the right questions without appearing aggressive and avoiding interrogation of witnesses.
- **Analytical skills** - to be able to review and interpret data and information and reach conclusions
- **Team working** - to be able to work effectively as a team with Members from other Political Groups as well as their own to achieve a common goal.

- **Listening skills** - to be able to listen to the information being put forward and the views of others whose views may differ from their own in order to be entirely objective and make evidence based recommendations.
- **Chairing skills** – aside from the Chairman of an O&S committee, a Member may be asked to lead a Topic Group review. In that role the Member will need to work with the officers to plan meetings, ensure that all Members are given an equal opportunity to contribute and are briefed, to ensure that meetings remain focused on achieving outcomes and to encourage all witnesses to fully engage in the O&S process.

### **Commitment to ongoing training and development**

It is accepted that involvement and participation in O&S requires particular competencies and members have identified this as an ongoing development need. O&S training has featured in previous member development programmes and is something in which the Council must continue to invest in order to equip new and experienced members with the skills to undertake effective scrutiny and to contribute to the improvement and review of services.

Continuous training and development should:

- help members to understand the role of O&S,
- give members an awareness of how their communication skills impact upon the effectiveness of scrutiny, and
- build confidence and develop the skills of individual members, which will in-turn strengthen O&S as a collective.

Furthermore specific training will be provided for chairmen and vice-chairmen of committees with a view to developing and refining their chairing skills in relation to a scrutiny meeting.



## GOVERNANCE COMMITTEE

7 March 2018

**Subject Heading:**

**APPOINTMENTS TO OTHER ORGANISATIONS, 2017/18**

**SLT Lead:**

**Kathryn Robinson**  
Monitoring Officer  
01708 432242

**Report Author and contact details:**

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Senior Democratic Services Support Officer  
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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.

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

Havering will be clean and its environment will be cared for  
People will be safe, in their homes and in the community  
Residents will be proud to live in Havering



<b>SUMMARY</b>
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The Council makes appointments to a large number of other organisations, some statutory, others voluntary.

Since the new executive governance arrangements came into force, responsibility for making some appointments has passed from this Committee to the Leader of the Council but the Constitution provides that in the case of non-executive appointments, it is for this Committee to make decisions

## **RECOMMENDATIONS**

That the Committee:

1. In respect of the Havering College of Further and Higher Education **make a nomination** to the Search and Governance Committee to appoint a Governor.
2. In respect of the Hornchurch Hosuing Trust, **appoint** two nominative trustees until February 2022.

## **REPORT DETAIL**

### **1. HAVERING COLLEGE OF FURTHER & HIGHER EDUCATION:**

- 1.1 Governors play a central role in the continuing development of the College and in fostering good relations between the College and the local Community A full description of the role and person specification is attached as an appendix to this report.
- 1.2 The Council has received a request for a nomination to the Board which will be approved by the College's Search and Governance Committee. The appointment is for a four year period. Thereafter, a Governor can be reappointed for another four year term subject to a satisfactory performance review.

### **2. HORNCHURCH HOUSING TRUST:**

- 2.1 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.
- 2.2 The terms of office for Councillor Joshua Chapman and Councillor Barbara Matthews expired at the end of February 2018.
- 2.3 Councillor Chapman has indicated the he wishes to be re-appointed to serve as a Trustee for another four year term, but Councillor Matthews does not wish to be re-appointed.

It should be noted that in accordance with the Trust's Scheme, the person appointed may be, but need not be, a Member of the Council



<b>IMPLICATIONS AND RISKS</b>
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**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. In some cases, membership of an organisation is dependent upon the Council paying a subscription: where relevant, the subscription will be met from within an appropriate budget provision.

Members who sit on outside bodies will need to consider whether (a) they are required to register their interests with the Council and, where appropriate, declare the interests at meetings and (b) seek advice when they are potentially involved in Council decisions that may affect the outside body. As there is no remuneration for the appointments, they are very unlikely to be discloseable pecuniary interests. Trustee status means that the trustee must always act in the best interests of the trust. The Monitoring Officer is available to provide advice as and when necessary.

<b>BACKGROUND PAPERS</b>
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None

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