



Havering

LONDON BOROUGH

GOVERNANCE COMMITTEE AGENDA

7.30 pm

Tuesday
26 September 2023

Rooms 10 and 11,
Appointments Centre,
Town Hall, Main Road,
Romford

Members 12: Quorum 5

COUNCILLORS:

**Conservative Group
(4)**

Nisha Patel
Keith Prince
Michael White
Timothy Ryan

**Labour Group
(2)**

Mandy Anderson
Keith Darvill

**Havering Residents' Group
(5)**

Ray Morgon (Chairman)
Gillian Ford (Vice-Chair)
Christopher Wilkins
Graham Williamson
Gerry O'Sullivan

**East Havering Residents Group
(1)**

Martin Goode

**For information about the meeting please contact:
Anthony Clements tel: 01708 433065
e-mail: anthony.clements@onesource.co.uk**

Under the Committee Procedure Rules within the Council's Constitution the Chairman of the meeting may exercise the powers conferred upon the Mayor in relation to the conduct of full Council meetings. As such, should any member of the public interrupt proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room and may adjourn the meeting while this takes place.

Excessive noise and talking should also be kept to a minimum whilst the meeting is in progress in order that the scheduled business may proceed as planned.

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

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

Reporting means:-

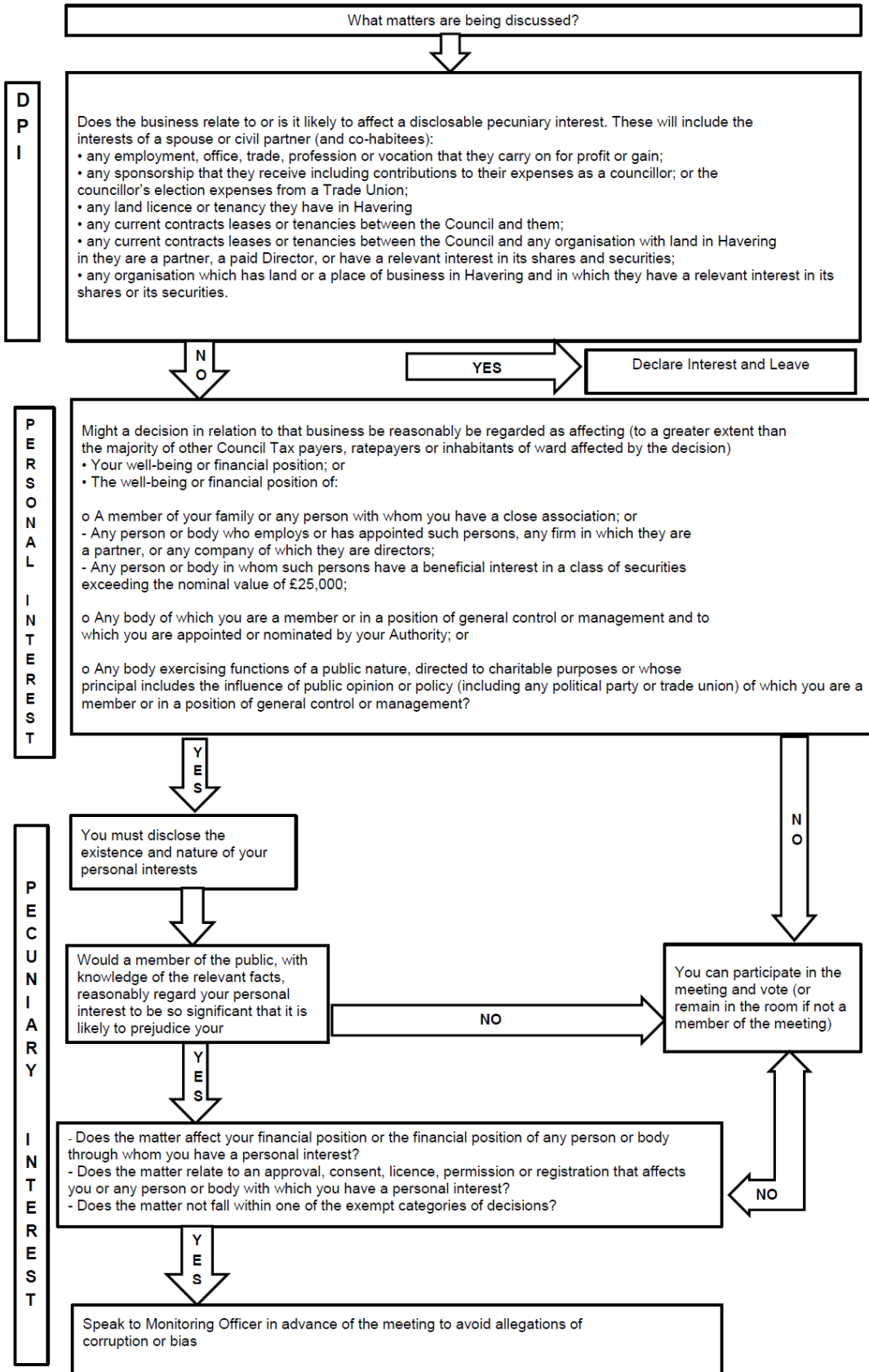
- filming, photographing or making an audio recording of the proceedings of the meeting;
- using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or
- reporting or providing commentary on proceedings at a meeting, orally or in writing,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

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

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

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

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 - 8)

To approve as a correct record the minutes of the Committee held on 7 June 2023 (attached) and to authorise the Chairman to sign them.

5 CONSTITUTIONAL REVIEW - UPDATE (Pages 9 - 32)

Report and appendices attached.

6 APPOINTMENTS TO OTHER ORGANISATIONS 2023/24 (Pages 33 - 42)

Report attached.

7 PENSIONS COMMITTEE - TRADE UNION VOTING RIGHTS (Pages 43 - 48)

Report attached.

Zena Smith
Head of Committee and
Election Services

**MINUTES OF A MEETING OF THE
GOVERNANCE COMMITTEE**
Appointments Centre, rooms 10 and 11, Town Hall, Main Road, Romford
7 June 2023 (7.30 - 7.48 pm)

Present:

COUNCILLORS

Conservative Group	Joshua Chapman, Nisha Patel, Keith Prince and Michael White
Residents' Group	Gillian Ford, Ray Morgon, Gerry O'Sullivan, Chris Wilkins and Graham Williamson
Labour Group	Mandy Anderson and Pat Brown
East Havering Residents Group	Martin Goode

All decisions were taken with no votes against.

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

1 APOLOGIES FOR ABSENCE & SUBSTITUTE MEMBERS

Apologies were received from Councillor Keith Darvill, Councillor Pat Brown substituting.

2 DISCLOSURE OF INTERESTS

There were no disclosures of interest.

3 MINUTES

The minutes of the meeting of the Committee held on 22 November 2022 were **AGREED** as a correct record and signed by the Chairman.

4 APPOINTMENTS TO OUTSIDE BODIES 2023/24

Executive Appointments

The Executive Appointments as shown in Appendix 1 to these minutes were recommended by the Committee to be made by the Leader.

Non-Executive Appointments

Havering Joint Forum

It was agreed that Councillor Prince should replace Councillor Damian White on the Havering Joint Forum and that Councillors Darvill and Goode should also be appointed to the Joint Forum.

Councillor Ford clarified that the Administration had met with Trade Unions but not through the Joint Forum. The Trade Unions would be asked if they wished to reinstate regular Joint Forum meetings.

It was agreed that appropriate wording on safeguarding the impact of any proxy votes being used should be brought to a future meeting of the Committee.

Councillor Morgon explained that no decisions had been taken as yet regarding replacement nominations for the Lucas Trust.

Councillor Morgon was appointed as the Council's interim representative on the Poyntz Charity.

It was suggested that contributions of those Members appointed to external organisations could be considered by Overview and Scrutiny or be included in a Peer Review.

The Non-Executive Appointments as shown in Appendix 2 to these minutes were agreed by the Committee.

Chairman

APPENDIX 1 - APPOINTMENTS RECOMMENDED BY THE COUNCIL TO OTHER ORGANISATIONS, 2023/24

ORGANISATION AND NUMBER OF APPOINTEES	EXECUTIVE MEMBER APPOINTMENTS	
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Capital Letters- 1

Cabinet Member for Housing – ***Cllr Paul McGeary***

CEME (Centre for Engineering & Manufacturing Excellence) - 1

Director of Regeneration Programme Delivery

East London Waste Authority - 2

Cabinet Member for Environment and Cabinet Member for Finance & Transformation– ***Cllr Barry Mugglestone*** and ***Cllr Chris Wilkins***

East London Waste Authority Board (officer)

Director of Neighbourhoods

London Councils (Leaders' Committee)

Representative (1): Leader of the Council – ***Cllr Ray Morgon***
 Deputy: (1) Deputy Leader of the Council – ***Cllr Gillian Ford***
 (2) ***Cllr Keith Darvill***

Transport & Environment Committee

Representative (1): ***Cllr Barry Mugglestone***
 Deputies (up to 4): ***Cllr Graham Williamson, Cllr Paul McGeary***

Grants Committee

Representative (1): ***Cllr Gillian Ford***

Appointments to other organisations, 2023/24

Deputy (up to 4): ***Cllr Oscar Ford, Cllr Keith Darvill***

Pensions CIV (Sectorial Joint Committee)

Representative (1): Chairman of Pensions Committee – ***Cllr Mandy Anderson***

Deputy (up to 2): ***Vice Chair of Pensions Committee***

Greater London Employment Forum

Representative (1): ***Cllr Gillian Ford***

Deputy Representative (1): ***Cllr Graham Williamson***

Newable (formerly Greater London Enterprise Limited) -1

Cllr Graham Williamson

London Riverside (BID) Ltd

Representative (1): Cabinet Member for Development & Regeneration - ***Cllr Graham Williamson***

Appendix 2 - Appointments to other Organisations 2023/24

ORGANISATION AND NUMBER OF APPOINTEES	MEMBER APPOINTED (Non-Executive Appointments)	COMMENTS AND NOTES
Adoption & Permanency Panel-2	Cabinet Member for Children & Young People – Cllr Oscar Ford and Cllr Joshua Chapman	
Children’s Executive Board	Cabinet Member for Children & Young People – Oscar Ford	
Coopers Company & Coborn Educational Foundation -1	Cllr Christopher Wilkins	
Havering Chamber of Commerce and Industry	Cabinet Member for Development and Regeneration- Cllr Graham Williamson	
Havering Community Safety Partnership – 2	Cabinet Member for Environment – Cllr Barry Mugglestone & the Chief Executive – Andrew Blake-Herbert	
Havering Joint Forum - 6	Leader of the Council – Cllr Ray Morgon Deputy Leader of the Council – Cllr Gillian Ford Leader of the Opposition Group – Cllr Keith Prince Cllr Keith Darvill Cllr Martin Goode Vacancy	
<i>Havering Local Board (formerly Havering Sixth Form College & Havering College of Further and Higher Education)- 1</i>	Cllr Keith Darvill (until October 2024)	<i>Proposed to be removed as Council appointments at the end of term of office</i>
Havering Theatre Trust	Cllr Paul McGeary Mr Melvin Wallace	
<i>Hornchurch Housing Trust (Nomination Trustees) - 1</i>	Mr John Mylod (until February 2026) Mr Roger Evans and Mr Peter Salisbury (until February 2025)	<i>Under the Trust’s new Constitution, only one Council representative is required. This is currently Mr John Mylod. As other appointments expire, they will not be replaced. Proposed to be removed as</i>

Appendix 2 - Appointments to other Organisations 2023/24

ORGANISATION AND NUMBER OF APPOINTEES	MEMBER APPOINTED (Non-Executive Appointments)	Council appointments at the end of term of office COMMENTS AND NOTES
<i>Lee Valley Regional Park Authority- 1</i>	Cllr Dilip Patel (until July 2025)	<i>Appointed by London Councils 21.07.21</i>
Local Government Association General Assembly - 4	Leader of the Council – Cllr Ray Morgon Councillor Gillian Ford Councillor Keith Darvill Councillor Michael White	<i>Appointed at Annual Council on 24th May, 2023</i>
Local Government Information Unit - 1	Leader of the Council- Cllr Ray Morgon	
London Road Safety Council - 2	Cabinet Member for Environment – Cllr Barry Mugglestone and Cllr Jane Keane	
London Youth Games-1	Cabinet Member for Corporate, Culture & Leisure – Cllr Paul Middleton	
<i>Lucas Children’s Play Charity Nominative Trustees – 2</i>	Cllr Robert Benham and Cllr Osman Dervish (appointed till November 2023)	Agreed at Governance on 14.11.19
North East London NHS Foundation Trust – 1	Director of Adult Services – Barbara Nicholls	
<i>Poyntz (a.k.a. Richard Poyntry’s) and other charities</i>	Cllr Ray Morgon (until March 2024) Mr Ron Ower (until March 2024)	Mr Ower’s appointment agreed by Governance on 13 January 2021 Proposed to be removed as Council appointments at end of term of office
Reserve Forces & Cadets Association -1	Champion for the Armed Forces- Cllr Barry Mugglestone	
Romford Town Management Partnership	Cabinet Member for Development and Regeneration- Cllr Graham Williamson	

Appendix 2 - Appointments to other Organisations 2023/24

ORGANISATION AND NUMBER OF APPOINTEES	MEMBER APPOINTED (Non-Executive Appointments)	COMMENTS AND NOTES
<i>Romford Combined Charity Nominative Trustees</i> – 2	Mr Melvin Wallace (until 3.11.23) Councillor Joshua Chapman (until 3.11.24) Mrs Wendy Brice Thompson and Councillor Jane Keane (until 3.11.26)	Mr Wallace’s appointment agreed by Governance on 14 November 2019. Cllr Chapman’s appointment agreed by Governance on 13 January 2021
Safer Neighbourhood Board	Cabinet Member for Environment – Cllr Barry Mugglestone	
Standing Advisory Council for Religious Education (SACRE) - 5	Councillor Laurance Garrard Councillor Jacqueline McArdle Councillor Philip Ruck Councillor David Taylor Councillor Katharine Tumilty	Appointed at Council on 7.09.22 and on 23.11.22
Tenant Management Organisations - 3	BETRA (Gooshays) – Councillor Paul McGeary DELTA (Squirrels Heath)- Ward Councillor – Councillor Keith Prince PETRA (St Andrews’) – Councillor Bryan Vincent	Cllr Prince appointed at Council on 23.11.22
Veolia ES Cleanaway Havering Riverside Trust - 1	Cabinet Member for Environment – Cllr Barry Mugglestone	
<i>Wennington Quarry Community Liaison Committee</i> - 1 (until May 2026)	Councillor Jacqueline McArdle	Cllr McArdle appointed at Council on 23.11.22

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GOVERNANCE COMMITTEE **26 September 2023**

Subject Heading:

**CONSTITUTIONAL REVIEW – GENEAL
UPDATE**

SLT Lead:

Gavin Milnthorpe
Deputy Director, Legal Services
01708 432838

Report Author and contact details:

Gavin Milnthorpe
Gavin.milnthorpe@havering.gov.uk

Policy context:

A well run Council that delivers for People and Place.

Financial summary:

There are no financial implications arising from this report.

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

People - Things that matter for residents

Place - A great place to live, work and enjoy

Resources - A well run Council that delivers for People and Place. X

SUMMARY

1. The Council's Constitution is not fit for purpose, being out of date and / or inaccurate in many areas. Good practice is to review a constitution every five years.
2. The Council has created a Constitutional Working Group (comprising members and officers) with a view to reviewing and updating the Constitution.

3. This reports sets out the progress to date and seeks the consent of Governance Committee to present the changes to Full Council.
4. Please note that one of the most important aspect of the Constitutional review is the update to Part 3, the Responsibility for Functions. This is particularly true of Part 3.3, the officer Scheme of Delegations. This is currently being updated to both improve the form and function of the delegations and to align the delegations as against the new target operating model (TOM) structure. A report showing the amended delegations will follow later in the year. It is not anticipated that the changes referred to in this report will be approved by Full Council until the revised Part 3 is ready to be approved also, so as to allow all the changes to be introduced together in a coherent fashion.

RECOMMENDATIONS

5. Governance Committee is asked to make the following recommendations to Full Council:
 - (a) to approve the changes to the Constitution in respect of the political balance on the Licensing Committee;
 - (b) to approve the revised Part 4.1, Access to Information;
 - (c) to note the proposed deletion of the majority of OneSource delegations;
 - (d) to approve the amendments to the Code of Conduct for Members in light of the updated Social Media Protocol for Members;
 - (e) to approve the flag-flying and lighting up policy;
 - (f) to note the executive decision guidance note;
 - (g) to note the reallocated portfolios.
6. The revised Constitution shall be submitted to Full Council for approval in due course.

REPORT DETAIL

Licensing Committee

7. Like most other Council sub-committees, the Licensing Committee is not subject to the political balance rules. However, given the sensitive nature of the Licensing Committee it is proposed that all efforts are made to maintain political balance on

the Licensing Committee. An amendment is therefore proposed to the Constitution.

8. Annex 2 of Part 2 of the Constitution currently states as below. The proposed amendment is shown shaded yellow and bolded.

2: *Licensing Committee*

2.1 *Most of the work of this Committee is carried out through Licensing Sub-Committees comprising a Chairman and two other Members, all drawn from the main Committee. In general, Sub-Committees will be chaired either by the Chairman of the main Committee, or one of the three Vice-Chairmen.*

2.2 *The substitute rule does not apply to Licensing Sub-Committees, which are not required to be politically balanced. **Whilst not required to be politically balanced, Council / Cabinet shall use all reasonable endeavours to ensure political balance when appointing to the Committee.***

9. Part 4.3 11(a)(iv) currently states as below. Again, the proposed amendment is shown in yellow.

(iv) *the political balance rules shall not apply to the composition of a Sub-Committee or Hearings Panel. **Whilst not required to be politically balanced, Council / Cabinet shall use all reasonable endeavours to ensure political balance when appointing to the Committee.***

10. Governance Committee is asked to make the recommendation appearing at 5(a) above.

Access to Information

11. Part 4.1 of the Constitution as it currently stands is fairly muddled in that it concerns information that may be provided to the public, whilst also covering some of the provisions applicable to members. It also ventures into the Council's decision making process, such as the timings concerning the Forward Plan.
12. Part 4.1 has therefore been redrafted to focus upon information available to the public only. The revised document is attached. (A further update to the Constitution is envisaged, to properly capture a member's right to access to information).
13. Governance Committee is asked to make the recommendation appearing at 5(b) above.

OneSource

14. A recent Cabinet decision agreed that certain functions within OneSource should return to the sovereign control of each constituent borough. Only Legal Services and Exchequer & Transactional will remain as a shared service. The London Borough of Newham reached the same decision.
15. The constitution provides for certain delegations into OneSource. Many of these will be redundant once the separation takes place. Further, it seems that the “legal” delegations into OneSource have been underused, with officers preferring to seek authority from the constitution of the relevant council.
16. It is therefore proposed that the OneSource delegations are removed in their entirety from the Constitution, with the exception of those relating to Exchequer & Transactional. Further details will be contained within the Part 3 scheme of delegations report which will follow later in the year.
17. Governance Committee is asked to note the proposed action in 5(c) above.

Member Code of Conduct

18. The Member Code of Conduct (the Code) is generally fine, and is largely consistent with other codes in place at other councils. They are just a couple of small points requiring an update, as set out below.
19. Part 5.1 of the Constitution currently provides:

“As a Member of the Council, each Member will in particular address the statutory principles of the code of conduct by:

 - *Dealing with representations or enquiries from residents, members of local communities and visitors fairly, appropriately and impartially.”*
20. The Code does not currently oblige Members to respond to enquiries, nor does it give a timescale by which a response will be given. Dealing with representations or enquiries “appropriately” could encompass the ability not to reply, where that is reasonable under the circumstances.
21. Guidance issued by the Local Government Association does not explicitly state that Members must respond to queries from constituents, although it does refer to an expectation from constituents to a reply. It is therefore suggested that the following wording is added, as shown highlighted yellow and bolded:
 - “Dealing with representations or enquiries from residents, members of local communities and visitors fairly, appropriately and impartially. **Members shall reply to each piece of correspondence within 10 working days of receipt. Where members are not able to substantively respond to query within 10**

working days, the member should acknowledge the query and set out the timescales and / or other arrangements for dealing with the query.”

22. The second issue relates to the Council’s social media protocol which dates from July 2018. The vast majority of the protocol remains relevant. However, in light of certain recent developments the protocol has been updated. The revised version is attached. Changes to the July 2018 protocol are shown in red font and bolded.
23. The Code does not, at present, specifically refer to the social media protocol. The following amendment is therefore proposed to Part 5.1:

“Members will be expected to comply with the Council’s policies on Equality in Employment, Equality in Service Provision and Harassment and Bullying at Work as well as the Council’s Social Media Protocol.”
24. Governance Committee is asked to recommend to Full Council that the revised protocol and consequential amendment to the Code of Conduct be approved as per 5(d) above.

Flags & Lighting Up Policy

25. The Council currently has a flag-flying policy which, again, has not been revised for some time. Further it does not account for the lighting up of buildings, a relatively recent innovation.
26. As such, a revised policy is attached for approval. It places emphasis upon the Leader / Deputy Leader to make decisions on a case by case basis as against agreed criteria. This allows for flexibility going forward so as to allow for changing circumstances, both locally and globally.
27. Governance Committee is asked to agree the recommendation at 5(e) above.

Recording Executive Decisions

28. Under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, a written statement of officer decisions made in connection with the discharge of executive functions must be published as soon as reasonably practicable after they are made.
29. This is reflected in Part 4.6 of the Constitution which states:
 - (a) *As soon as reasonably practicable after an individual Executive decision has been made, the Proper Officer shall produce a written statement in respect of that decision which includes:*
 - (i) *A record of that decision;*
 - (ii) *A record of the reasons for that decision;*

(iii) *Details of any alternative options considered and rejected at the time;*

(iv) *A record of any conflict of interest or of any dispensation granted*

30. The Council records its decisions by way of Executive Decision (“ED”) report. The process for finalising such a decision is largely the same as seeking Cabinet authority, and brings with it, some degree of bureaucracy and delay.
31. Not all councils go via the ED report route. Some allow for an officer to record their decision in a different format. These are then publicised as normal. Other councils draw a distinction between administrative and operational decisions, which do not need to be recorded, and those of an important or political nature, which do.
32. The Council has no guidance as to what should and shouldn’t be recorded by way of ED. Those decisions which are recorded via ED at the Council have largely been self-selected over the course of time.
33. The Council’s monitoring officer has therefore prepared an advice note, which is attached at Appendix 1. It is not intended to change the decision recording process at this stage, for example by making use of an officer decision record. However, this will be kept under review and any amendment to this position will be brought back to Governance Committee.
34. Governance Committee is asked to note the recommendation at 5(f) above.

Portfolios

35. With the introduction of the TOM the various allocated portfolios to Members have been revised. The allocation of portfolios is at the discretion of the Leader of the Council. The following changes have been made and are reported to Governance Committee for information.

Leader.

Communications, Engagement, Strategy, Policy, Performance and HR, Legal

Cabinet Member for Adults, Health and Culture and Deputy Leader

Living Well (Excluding Housing Demand), Aging Well, Health and Public Health

Cabinet Member for Climate Change and Housing Need

Cross Council Climate Change and Living Well Housing Demand

Cabinet Member Children

Starting Life Well, Children with Disability, Youth Services, Safeguarding, Schools and Early Help

Cabinet Member Housing and Property
Housing and Corporate Property Asset Management, Estates Management,
Hostels and H&S

Cabinet Member Environment
Environment, Waste Collection, Parks, Highways, Parking, Public Protection,
Community Safety and Emergency Planning

Cabinet Member Regeneration
Regeneration, Joint Ventures, Mercury Land Holdings, Planning, Building Control
and Inward Investment

Cabinet Member Finance
Finance Management, Audit, Pensions, oneSource transactional Services,
Commissioning and Procurement

Cabinet Member for Digital, Transformation and Customer Services.
IT Services, Transformation, Customer Services, Libraries and Bereavement &
Registrars

36. Governance Committee is asked to note the reallocation in accordance with 5(g) above.

IMPLICATIONS AND RISKS

Equalities implications and Risks

37. None.

Legal implications and Risks

38. A key role for the Governance Committee is to be aware of the strengths and weaknesses of the constitution adopted by the Council and to make recommendations for ways in which it could be amended, in order better to achieve the purposes set out in Article 1, including setting the framework within which the Council operates, enabling the Council to provide clear leadership to the community and providing an effective means of holding decision-makers to public account.
39. Changes to the constitution will be approved by the full Council only after consideration of the proposals by the Governance Committee.
40. It is the Monitoring Officer's responsibility to maintain an up-to-date version of the constitution and ensure that it is widely available for consultation by Members, staff and the public. The proposals set out in the report are intended to meet these requirements.

Financial implications and risks:

41. There are no financial implications arising from the contents of this report.

Human Resources implications and risks:

42. The recommendations made in this report do not give rise to any identifiable HR risks or implications that would affect either the Council or its workforce.

Environmental and climate change implications and risks

43. None.

BACKGROUND PAPERS

None

Appendix 1
Executive Decision Guidance

The Council is a creature of statute. Everything it does has to have a legislative basis. As you exercise certain Executive powers of the Council, it follows that every decision you take has to have sufficient authority. You would generally find this in the Council's scheme of delegations. I would advise you to make frequent reference to it, so that you are aware of what you are authorised to do and whether your delegation is subject to any restrictions.

The Council is obliged by statute to record all Executive decisions. This is a terribly onerous provision and no council actually complies with the letter of the law. But all councils do set parameters of what decisions needs to be recorded, so as to comply with the spirit of the law.

As such, I wanted to confirm to you the kind of decisions that require an ED.

1a. All decisions made by a Member to be by way of ED / KED.

For officers:

1. Any key decision requires a KED. A decision is key where it is likely:
 - (i) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates. For this purpose "significant" is defined as (a) In excess of £500,000 (b) In excess of 10% of the gross controllable composite budget at Head of Service level (subject to a minimum value of £250,000) Whether relating to revenue expenditure/savings or capital expenditure
 - (ii) To be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

And please remember that all key decisions must go on the forward plan.

2. Any decision that falls into the following categories requires an ED (the list and examples are not intended to be exhaustive):
 - (i) A decision relating to expenditure or receipts (in respect of grant funding for example) above £[]k in aggregate in either revenue or capital.
 - Eg Setting rents and charges.
 - Sale of assets.
 - (ii) A decision to make a statutory order or issue a statutory notice or to apply for the same.
 - Eg Issuing a CPO.
 - Applying for planning permission.

- (iii) A decision to enter into or extend a contract or legal agreement.
- (iv) A decision to close or significantly reduce levels of service at a public facing service or facility.
- (v) A decision to open a new service or facility or to significantly increase the level of service offered.
- (vi) A decision to go out to tender for a particular service, product or set of works where the likely contract to be let as a result exceeds the thresholds set out in the contract procedure rules.
- (vii) A decision to terminate a contract, including land contracts.
- (viii) A decision to enter into any type of agreement relating to land or buildings such as a license, lease (including a lease extension) or easement or to enter any land or building on any sort of register which might affect its use or value.
- (ix) A decision to issue legal proceedings or decide a court settlement.
- (x) A decision to waive or make use of an exemption in respect of any part of the constitution.
 - Eg Approving exceptions to contract procedure rules.

PART 4.1

ACCESS TO INFORMATION PROCEDURE RULES APPLICABLE TO MEMBERS OF THE PUBLIC

Note:

- Members have the benefit of these rights (by virtue of being members of the public) alongside those additional rights of access as detailed in [] of the Constitution which apply to all Members.
- Further additional rights for the benefit of the Overview and Scrutiny Committee, Audit Committee are detailed at [] of the Constitution.

1. SCOPE

- 1.1 These rules apply to all meetings of the Council and its committees (including joint committees) held under the auspices of the Local Government Act 1972 and to public meetings of the Cabinet (together called meetings).
- 1.2 These rules do not apply to meetings whose sole purpose is for members of staff to brief members.
- 1.3 They are complementary to the statutory rights of access to information conferred by Sections 100A to H and schedule 12A of the Local Government Act 1972, as amended, the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, as amended.

2. DEFINITIONS

- 2.1 In these Rules, “clear days” means a normal working day, excluding:
 - 2.1.1 the day of publication in hard copy
 - 2.1.2 the day of the meeting
 - 2.1.3 Saturday and Sunday
 - 2.1.4 Public or bank holidays
 - 2.1.5 Other days when the Council’s offices are closed (other than in circumstances that could not reasonably have been foreseen)

3. GENERAL PRINCIPLE

- 3.1 All Council meetings will be open to the public except where the public may be excluded in accordance with the law or the provisions of these rules.
- 3.2 The circumstances in which the public must or may be excluded from meetings are set out in Appendix A to this Part 4.1.

4. NOTICES OF MEETING

The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at Havering Town Hall and on the Council website.

5 ACCESS TO PAPERS BEFORE MEETINGS

5.1 At least five clear days before the meeting, the Council will post electronic versions of:

5.1.1 the agenda and the minutes of the previous meeting and any subsequent special meeting(s) (if available);

5.1.2 such reports (including background papers) as are open to the public on its website.

5.2 A paper copy of these documents will be available for inspection at Havering Town Hall at least five clear days before the meeting.

5.3 If a report is published later than the agenda or an item is added to the agenda, that report and any revised agenda will be made available to the public for inspection at the same time as it is sent to Members of the Council. Such agendas and reports will be added to the Council's website as soon as possible. This rule does not apply to meetings of the Cabinet (because the law does not permit late or additional reports).

6. SUPPLY OF COPIES

6.1 The Council will supply to any person on request copies of:

6.1.1 any agenda and reports (including background papers) which are open to public inspection

6.1.2 any further statements or particulars necessary to indicate the nature of the items in the agenda

6.1.3 if the proper officer thinks fit, copies of any other documents supplied to councillors in connection with an item

6.2 A charge for postage and any other costs may be made for the supply of all such documents.

7. ACCESS TO PAPERS AFTER MEETINGS

7.1 The minutes of a meeting will not normally be available until they are published in draft / unconfirmed form with the agenda for the following meeting.

- 7.2 Electronic copies of documents will be available on the Council’s website. The Council reserves the right to place documents in an electronic archive from which copies will be made available on request.

8 RECORD OF DECISIONS OF CABINET

- 8.1 The law requires that, as soon as practicable after any meeting of the Cabinet, whether held in public or private, a record must be made of every decision taken at that meeting, including a statement of the reasons for each decision and of any alternative options considered and rejected at that meeting.

- 8.2 The minutes of a meeting will usually constitute this record of decisions.

9. FORWARD PLAN

The Council has a statutory duty to publish all key decisions in its forward plan. This is a publicly accessible document.

**APPENDIX A
EXCLUSION OF PUBLIC**

1. Confidential information – requirement to exclude public

- 1.1 The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.
- 1.2 “Confidential information” means information given to the Council by a Government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by court order.

2. Exempt information – discretion to exclude public

- 2.1 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.
- 2.2 Where the meeting will determine any person’s civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified below. The parties to a hearing will be able to remain throughout until the meeting adjourns to consider a decision.
- 2.3 Exempt information means information falling within the following categories:

Category	
1	Information relating to any individual
2	Information which is likely to reveal the identity of an individual
3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)
4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6	Information which reveals that the authority proposes: to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or to make an order or direction under any enactment
7	Information relating to any action taken or to be taken in connection with the prevention investigation or prosecution of crime.

Category	

- 2.4 Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:
- 1.4.1 the Companies Act 1985;
 - 1.4.2 the Friendly Societies Act 1974;
 - 1.4.3 the Friendly Societies Act 1992
 - 1.4.4 the Industrial and Provident Societies Acts 1965 to 1978;
 - 1.4.5 the Building Societies Act 1986; or
 - 1.4.6 the Charities Act 1993
- 2.5 Information is not exempt if it relates to proposed development for which the local planning authority may grant itself planning permission under regulation 3 of the Town and Country Planning General Regulations 1992.
- 2.6 Information which—
- 2.6.1 falls within any of exemptions paragraphs 1 to 7 (within para. 2.3 of this appendix A) above; and
 - 2.6.2 is not prevented from being exempt by virtue of the above paragraphs
- is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

3. Cabinet

- 3.1 The provisions of this legislation are modified in their application to meetings of the Cabinet as follows:
- 3.2 The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, as amended, provide for additional requirements in respect of key decisions.
- 3.3 Generally, a meeting must be held in public where a key decision will be made or where there will be discussion of matters relating to a key decision to be made subsequently. Where a meeting is to be held in public there must be advance publication of agendas, reports and background papers for the meeting. Likewise, where key decisions are to be made by individuals the documents relating to these decisions must be available to the public. In general, the terms of the Regulations are identical to those of the 1972 Act

and, in particular, the Regulations use the Act's definitions of exempt information.

LONDON BOROUGH OF HAVERING
SOCIAL MEDIA PROTOCOL FOR MEMBERS

Purpose of this protocol

1. The widespread availability and use of social media networking presents the Council with new opportunities to understand, engage and communicate with our residents. However, if misused, it has the potential to cause considerable damage to the Council, and to those we seek to engage with.
2. The Council welcomes Members' use of social media and would like to support this by giving guidance so that Members have greater clarity as to what is and is not acceptable usage of social media.
3. This protocol is intended to provide such guidance and complements the general rules under the Members' Code of Conduct.

What is Social Media?

4. Social media is the term to describe websites and online tools which allow people to interact with each other by creating their own content. The content could, for example, be blogs, videos, or short messages; these are posted on a wide range of social media platforms including (but not limited to) Facebook, Twitter, LinkedIn, Snapchat, Instagram, YouTube etc.
5. It is an innovative way of engaging with people in consultation and participative activities. Local Authorities are expected to lead the way in engaging with residents in local decision making and in improving and strengthening communities and neighbourhoods, and used effectively, social media can be particularly useful in engaging with those who would not normally have access to local councillors and politics.

Social Media and Members

6. It is not a requirement for Members to use other forms of social media to fulfil their job as a Member. However, if you are using or planning to use social media in connection with your work as a councillor, or are already using such media in your private capacity, these guidelines will be relevant.
7. Remember that, whenever you act or appear to act in your official capacity, you must comply with the Members' Code of Conduct.
8. Social Media can be used:

- a. To support councillors in performing their community leadership role
- b. To keep in touch with or obtain local views and opinions
- c. For political campaigning
- d. For campaigning on local issues

Things to bear in mind

- 9. Any communication is capable of being misinterpreted. While the use of social media should not be more susceptible to this problem than any other form of communication, something about the immediacy of social media seems to magnify the problem.
- 10. By the nature of such media, misinterpretation or misrepresentation, particularly with regard to something that is perceived as being more controversial than it was expected to be, is likely to lead to rapid and wide broadcasting of that apparently “controversial’ item.
- 11. Keep your communications clear, positive, polite and professional; avoid being ironic or sarcastic, it can be misinterpreted.
- 12. There are no special, additional legal or ethical burdens relating to the use of social media. The same rules apply here that govern the rest of your behaviour as a councillor – you just need to think about them in this new context – their immediacy and ease of dissemination.
- 13. Although the best use of social media is conversational in tone, publishing to the web is still publishing. What you have said on the web is recorded and it is permanent. Most pitfalls will be avoided if your online content is accurate, informative and thought through. Think of it as speaking in public. Think before you commit each word.
- 14. This doesn’t mean that Members cannot, in the appropriate context, communicate politically. This is expected of a councillor, but you should be careful not to say anything that you would not be comfortable repeating or justifying, for example, at a public meeting.
- 15. On Facebook, you will need to monitor, and if necessary, censor the contributions that other people make to your site; delete them if they do not match your required standards of behaviour or language. Defamatory and offensive language will be attributed to the publisher as well as the original author and could incur financial liability. It is up to you to decide if you want to remove posts that disagree with your political position, however if you do

remove them you may be accused of censoring contributions on political grounds.

16. On Twitter, you can block people who are habitually offensive or vexatious. Remember however, blocking them only stops them engaging directly with you, their tweets will continue to be public to all of their followers.

Some legal issues

17. **You are personally responsible for any content that you publish on social media.**
18. **Abusive, bullying or racist posts may amount to a criminal offence.**
17. **Libel. If you publish an untrue statement about a person which is damaging to their reputation, they may consider it as defamatory and consider legal action. The same thing may happen if, for example, someone publishes something defamatory on your website and you know about it and do not take swift action to remove it. A successful legal claim could result in the award of damages against you.**
18. Copyright – Placing images or text on your site from a copyright source (for example, extracts from publications or photos), without obtaining permission, is likely to breach copyright laws. Therefore, do not publish anything you are unsure about, or obtain prior permission. Again, a successful claim for breach of copyright would be likely to lead to an award of damages against you.
19. Data Protection – Do not publish the personal data of individuals unless you have their express permission **(which may also include photographs)**. Personal information in an email or personal exchange should not be presumed to imply any consent to pass it on to others. If you place personal information on a public forum you should expect it to be published by others.
20. Bias and Predetermination – If you are involved in making planning, licensing or other quasi-judicial decisions, do not say anything through social media (or indeed anywhere) that suggests you have made your mind up on an issue that is due to be formally decided. While your likely view on a particular application may be well known, you need to be able to show that you attended the committee or hearing prepared to take on board and weigh all the evidence in reaching your view otherwise the decision may be later challenged as invalid. Predisposition is permitted, pre-determination is not. If a person has suffered some sort of detriment as a result of such an invalid decision, they may have a claim against the Council for damages and the Council's decision is put at risk of challenge by way of judicial review.

Social Media and the Members' Code of Conduct generally

21. Aspects of the Members' Code of conduct will apply to your online activity in the same way as they do to any other communication you may use. The key to whether your online activity is subject to the Code is whether you are, or appear to be, acting in your capacity as a councillor rather than a private individual.
22. If you are acting in a private capacity then the Code of Conduct does not apply. The opposite occurs of course when you are acting as a councillor. If you sign off as 'councillor', or are commenting on matters directly pertinent to the council and its business it is highly likely you will be regarded as acting in your official capacity.
23. One way of avoiding this, and avoiding potential problems related to the Members' Code of Conduct, may be to consider keeping your online accounts as a councillor separate from those where you communicate in personal capacity.
24. Where possible, a Councillor should make clear who they are in the profile of any account. In any biography where the Councillor is identified as a Councillor, the account should state that the views are those of the Councillor in question and may not represent the views of the Council.

Staying out of Trouble – Some Do's and Don'ts

Do's

25. **Be mindful of the Code of Conduct for Members. It applies to your social media presence.**
25. Set appropriate privacy settings for your blog or networking site – especially if you have a private, non-political blog.
26. **Think before you tweet or post or blog. Do not say anything that you would not be prepared to discuss face to face with the person you are speaking about or write on a placard and carry down your high street and discuss and defend with anyone who sees it.**
27. **Keep an eye out for defamatory, obscene or inappropriate posts from others on your social media and remove them as soon as possible to avoid the perception that you condone such views. Be aware that the higher your profile as an elected member, the more likely it is you will be seen as acting in your official capacity when you use social media.**

28. Consider keeping your personal and elected member profiles on social networking sites separate and maintain appropriate professional boundaries.
29. Ensure you use Council facilities appropriately; if you use a Council provided blog site or social networking area, any posts you make will be viewed as made in your official capacity.
30. Be aware that you will be seen as acting in your official capacity if you publish information that you could only have accessed by being an elected member.

Don'ts

31. **Blog, post or tweet in haste, particularly in circumstances where your judgement might be impaired; for example, if you are tired or have consumed alcohol.**
32. Use Council facilities for personal or political blogs.
33. Request or accept a Council employee or contractor providing services to the Council as a "friend" on a social networking site where this suggests close personal association.
34. Use social media in any way to attack, insult, abuse, defame or otherwise make negative, offensive or discriminatory comments about council staff, service organisations, other Members, or the Council.
35. **Publish confidential information that you may have learned or had access to as part of your role as an elected member. This includes personal information about service users, their families or friends or others e.g. contractors, council staff as well as related information.**
36. **Represent your personal views, or those of any political party or interest group you belong to, as being those of the Council on any social medium.**
37. **Browse, download, upload or distribute any material that could be considered inappropriate, offensive, defamatory, illegal or discriminatory. Do not share, like, retweet or repost such material.**
38. Make conspicuous or excessive use of social media technology during the course of a Council or committee meeting so that you give the impression to the public of not being respectful of the proceedings and, more seriously, taking decisions that are not based on full engagement with the facts and arguments.

39. **Use social media to promote personal financial interests. This includes the promotion of particular commercial activities that Council representatives may have an interest in.**
40. **Think that a disclaimer in our bio will save you from potential legal action. It won't.**

Staying safe:

40. Councillors, just like anyone else, should be careful about internet security. If you lose control of a Social Media account to a hacker, you could suddenly find all sorts of inappropriate comments being published to the world in your name!
41. Use secure passwords (generally over eight characters long and using a mix of letters, numbers and symbols) and never share your password with anyone. If you are using shared IT equipment, don't store your password on the computer.
42. Councillors must be aware of their own safety when placing information on the internet and should not publish anything that could leave them vulnerable.
43. Any Councillor receiving threats, abuse or harassment via their use of social media should report it to their political group leader, Members' services and /or the Police.

Concluding Remarks

44. **The Council wishes to encourage Members' use of new technology. This guidance is intended to help Members use social media in a way that avoids legal and reputational risk.**
45. If you have any doubt at all about whether content is appropriate, it probably isn't! If you are still in any doubt, you should contact the Council's Monitoring Officer before posting.
46. If you need any assistance with the technical or IT issues mentioned in this protocol please contact the IT Service Desk on 01708 432515

LONDON BOROUGH OF HAVERING
FLAG FLYING AND SPECIAL LIGHTING POLICY
(revised 2023)

1. This document sets out the Council's policy for raising flags over, and lighting up of, the Council's owned (or otherwise controlled) land and buildings.
2. The Council recognises the importance and significance of such gestures. However, it needs to be mindful of being consistent in its approach and also of the logistical burden it places upon the Council to comply with such requests.
3. Please note this is not a technical guide as to how flags should be flown, nor does it describe when flags should be flown at half-mast. The Council will follow central government guidance on such matters.
4. Further, the Council reserves the right to suspend this policy and to remove any existing flags where directed by central government and / or local political circumstances. For example, as a mark of respect to a deceased monarch or the death of the Council's mayor.
5. The Council currently flies the Union Flag, the Cross of St George and the Havering flag on the central green (at the Town Hall).
6. Residents may make requests to the Council, via the Council's Assistant Director of Regeneration & Place Shaping or Director of Housing & Property. The Director / Assistant Director shall refer the matter to the Leader of the Council (or Deputy Leader in his / her absence) for a decision, such decision to be taken in consultation with the Chief Executive.
7. The decision will be at the discretion of the Leader / Deputy Leader, but the decision maker shall be mindful of the criteria below. The same criteria shall apply to any internal decision of the Council to fly a flag or light up a building.
8. Requests are more likely to be accepted if they mark:
 - (a) Events of exceptional local, national or international significance or achievement, such as: (list not intended to be exhaustive)
 - (i) Holocaust Memorial Day, 27 January
 - (ii) St George's Day, 23 April
 - (iii) LGBTQ+ Month, June
 - (iv) Remembrance Sunday

- (v) Armistice Day, 11 November
 - (b) Events directly organised or financially supported by the Council;
 - (c) Events not directly organised by the Council but which may be held wholly or in part in the Borough and be regarded as of significant benefit to the Borough from a tourism or promotional perspective; and
 - (d) Significant anniversaries or occasions for charitable, community or other non-profit making organisations based in or with a significant connection to the Borough
9. Requests will not be approved where such flag / lighting is:
- (a) Linked to a party political issue or issue that is politically sensitive;
 - (b) Obviously contentious and risks reputational damage to the Council;
 - (c) Generates a commercial advantage; and
 - (d) Is not in keeping with the purpose and dignity of our civic buildings.
10. Requests should normally be made at least one month in advance of the date on which the buildings are to be illuminated or the flag is to be flown.



GOVERNANCE COMMITTEE 26 September 2023

Subject Heading:

**APPOINTMENTS TO OTHER
ORGANISATIONS, 2023/24**

SLT Lead:

**Gavin Milnthorpe
Deputy Director of Legal & Governance**

01708 432838

Report Author and contact details:

Jacqui Barr
Governance Officer
jacqui.barr@onesource.co.uk
01708 432439

Policy context:

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

Financial summary:

There are no significant financial implications.

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

[x] People - Things that matter for residents

[x] Place - A great place to live, work and enjoy

[x] Resources - A well run Council that delivers for People and Place.

SUMMARY

The Council makes appointments to a large number of other organisations, some statutory, others voluntary.

Since the executive governance arrangements were revised, responsibility for making Executive 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 **NOTE**:

1. The addition of two Executive Appointments; the first in respect of the Board of Governors of the North East London Foundation Trust and the second in respect of the Thames Freeport Governance Board.
2. The current situation in regard to the Poyntz Charity

REPORT DETAIL

1. NORTH EAST LONDON FOUNDATION TRUST BOARD OF GOVERNORS

- 1.1 It is a statutory requirement that all Foundation Trusts have a Council of Governors to ensure that decisions are made in the best interest of the local population.
- 1.2 The Constitution of the Foundation Trust makes provision for a seat on the Council of Governors for Havering Local Authority. The Trust contacted Councillor Morgon earlier this year and invited him to nominate a representative to the vacancy.
- 1.3 Councillor Gillian Ford, who holds the Cabinet portfolio for Adults & Health was nominated to the Council of Governors for a period of three years until July 2026.
- 1.4 The full Terms of Reference for this position are attached as Appendix 1.

2. THAMES FREEPORT GOVERNANCE BOARD

- 2.1 Thames Freeport is a private sector led body, which was approved by government on 15 December 2021.
- 2.2 Thurrock Council is the Lead Authority and as part of the governance structures that have been put in place, the Thames Freeport Governance

Board was established. This is an unincorporated body, directly accountable to the Government for delivery of the Thames Freeport strategy.

2.3 Membership of the Thames Freeport Governance Board has expanded to include representation from the London Borough of Barking & Dagenham and the London Borough of Havering, both of which have geographic boundaries with Thames Freeport. In total, the Board will comprise 12 members including an independent Chair, the Rt. Hon Ruth Kelly.

2.4 This is an Executive Appointment, but for the sake of transparency, Governance Committee is asked to endorse Councillor Morgon's appointment to the Thames Freeport Governance Board.

3. POYNTZ CHARITY

At the last meeting on 7th June, the Committee agreed that Councillor Morgon should be appointed to the vacancy on the Poyntz Charity, pending further enquiries by Officers as to the Charity's active status.

The latest position is that the Reverend Marian Williams, Vicar of St Mary Magdalene North Ockendon and ex-officio Chair of the Charity, is arranging to meet with Mr Ower, the Council's other appointee, to resume meetings of the Trust Board. Previous members of the Board have either passed away or retired and consequently the Charity has become dormant. Further reports will be provided when more information becomes available.

IMPLICATIONS AND RISKS

Financial implications and 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 and cost is minimal.

Legal implications and risks:

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

Human Resources implications and risks:

There are none directly associated with this report.

Equalities implications and risks:

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

Environmental implications and risks:

There are none directly associated with this report.

NELFT Appointed governors

One person shall be appointed to sit on the Council of Governors from each of the following organisations:

- Thurrock Unitary Authority – 1 member
- Kent County Council – 1 member
- Barking & Dagenham Local Authority – 1 member
- Havering Local Authority – 1 member
- Redbridge Local Authority – 1 member
- Waltham Forest Local Authority – 1 member
- Essex County Council – 1 member

Total of Appointed governors – 7

Total Elected and Appointed governors – 32

5. COUNCIL OF GOVERNOR VACANCIES 5.1 Where a vacancy arises on the Council of Governors for any reason other than expiry of term of office, the following provisions shall apply:

5.1.1 Where the vacancy arises amongst the appointed governors, the appointing organisation will be requested to appoint a replacement.

COUNCIL OF GOVERNORS - composition

11.1. The trust is to have a Council of Governors, which shall comprise both elected and appointed governors.

11.2. The composition of the Council of Governors is specified in Annex 3.

11.3. The members of the Council of Governors, other than the appointed members, shall be chosen by election by their constituency or, where there are classes within a constituency, by their class within that constituency. The number of governors to be elected by each constituency, or, where appropriate, by each class of each constituency, is specified in Annex 3.

11.4. A person may not vote at an election for the Council of Governors of an NHS foundation trust unless, within the specified period, they have made a declaration in the specified form of the particulars of their qualification to vote as a member of the constituency, or class within a constituency, for which the election is being held.

11.5. A person may not stand for election to the council of governors unless they have within the specified period made a declaration in the specified form of the particulars of their qualification to vote as a member of the constituency, or class within a constituency, for which the election is being held.

11.6. A person elected to the council of governors may not vote at a meeting of the Council of Governors unless they have within the specified period made a declaration in the specified form of the particulars of their qualification to vote as a member of the trust.

11.7. This section does not apply to an election held for the staff constituency.

11.8. "Specified" means specified in the trust's constitution.

11.9. A person is guilty of an offence if they:

11.9.1. make a declaration under this section which they know to be false in a material particular, or

11.9.2. recklessly make such a declaration which is false in a material particular.

11.10. A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

12. COUNCIL OF GOVERNORS - Election of Governors

12.1. Elections for elected members of the Council of Governors shall be conducted in accordance with the Model Election Rules.

12.2. The Model Election Rules as published from time to time by the Department of Health form part of the constitution. The current Model Election Rules are attached at Annex 8.

12.3. A subsequent variation of the Model Election Rules by the Department of Health shall not constitute a variation of the terms of this constitution.

12.4. Elections for the Council of Governors shall be conducted in accordance with any regulations which may be made under Section 59 of the 2006 Act.

12.5. An election, if contested, shall be by secret ballot.

13. COUNCIL OF GOVERNORS - Tenure

13.1. An elected governor may hold office for a period of up to three years.

13.2. An elected governor shall cease to hold office if they cease to be a member of the constituency or class by which they were elected.

13.3. An elected governor shall be eligible for re-election at the end of their three-year term.

13.4. An elected governor may not hold office for more than nine consecutive years.

13.5. An appointed governor may hold office for a period of up to three years.

13.6. An appointed governor shall cease to hold office if they cease to be employed by the organisation which they are representing.

13.7. An appointed governor shall cease to hold office if the appointing organisation withdraws its sponsorship of them.

13.8. An appointed governor shall be eligible for re-appointment at the end of their three-year term.

13.9. An appointed governor may not hold office for more than nine consecutive years.

14. COUNCIL OF GOVERNORS – disqualification and removal

14.1. The following may not become or continue as a member of the Council of Governors:

14.1.1. a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged

14.1.2. a person who has made a composition or arrangement with, or granted a trust deed for, their creditors and has not been discharged in respect of it,

14.1.3. a person who within the preceding five years has been convicted in the British Islands of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on them.

14.1.4. A person who is under sixteen years of age at the date they are nominated for election or appointment.

14.1.5. A person who is a Director of a Foundation Trust, or a Governor or Director of a national health service trust (unless they are

- appointed by an appointing organisation that is the health service trust);
- 14.1.6. A person who is the spouse, partner, parent or child of a member of the Board of Directors of the trust;
- 14.1.7. A person who is a member of a local authority's scrutiny committee covering health matters;
- 14.1.8. A person who is a member of a local Healthwatch group;
- 14.1.9. A person who is subject to a sex offender order or has received a caution or a conviction for a sexual offence;
- 14.1.10. A person who has been disqualified from being a member of a relevant authority under the provisions of the Local Government Act 2000
- 14.1.11. A person who has at any time, been dismissed or removed, other than by reasons of redundancy or incapacity, from any paid employment or office with a health service body; or
- 14.1.12. A person whose tenure of office as a Chair or member or director of a health service body has been terminated on the grounds that their appointment is not in the interests of the health service, for non-attendance at meetings, or for the non-disclosure of a pecuniary interest.
- 14.1.13. A person who refuses to sign a declaration in the form specified by the Trust of their qualification to vote as a member of the Trust and of their eligibility to be a member of the Council of Governors. This does not apply to Appointed Governors.
- 14.1.14. A person who failed to disclose to the Trust any spent or unspent criminal convictions
- 14.1.15. Where a person has declared a spent or unspent criminal conviction and the spent or unspent conviction does not fall within any of the disqualification provisions contained in this constitution the person must be assessed by the trust as to their fitness to hold office as a governor as a fit and proper person
- 14.2. A person holding office as a governor shall immediately cease to do so if:
- 14.2.1. They resign by notice in writing to the Secretary;
- 14.2.2. They fail to attend three consecutive meetings, unless the other governors are satisfied that:
- 14.2.2.1. The absences were due to reasonable causes; and
- 14.2.2.2. They will be able to start attending meetings of the Council of Governors again within such a period as the other governors consider reasonable.
- 14.2.3. In the case of an elected governor, they cease to be a member of the constituency or class of constituency by which they were elected;
- 14.2.4. In the case of an appointed governor, where the appointing organisation terminates the appointment;

14.2.5. They have refused without reasonable cause to undertake any training which the Council of Governors requires all members to undertake;

14.2.6. They have failed to sign and deliver to the Secretary a statement in the form required by the Secretary confirming the acceptance of the Code of Conduct for Governors;

14.2.7. A governor may be removed from the Council of Governors by a resolution approved by not less than three quarters of the remaining governors present and on the grounds that:

14.2.7.1. They have committed a serious breach of the code of conduct;

14.2.7.2. They have acted in a manner detrimental to the interests of the Foundation Trust; and

14.2.7.3. The Council of Governors considers that it is not in the best interests of the Foundation Trust for them to continue as a governor.

15. COUNCIL OF GOVERNORS – duties of governors

15.1. The general duties of the Council of Governors are:

15.1.1. to hold the non-executive directors individually and collectively to account for the performance of the Board of Directors.

15.1.2. to represent the interests of the members of the trust as a whole and the interests of the public.

15.2. The Trust must take steps to secure that the governors are equipped with the skills and knowledge they require in their capacity as such.

16. COUNCIL OF GOVERNORS - meetings of governors

16.1. The Chair of the trust (or in their absence the Vice-Chair), shall preside at meetings of the Council of Governors.

16.2. Meetings of the Council of Governors shall be open to members of the public. Members of the public may be excluded from a meeting for special reasons as set out in the Standing Orders of the Council of Governors (Annex 4).

16.3. For the purpose of obtaining information about the trust's performance of its functions or the directors' performance of their duties (and deciding whether to propose a vote on the trust's or directors' performance) the Council of Governors may require one or more of the directors to attend a meeting

17. COUNCIL OF GOVERNORS – standing orders

17.1. The standing orders for the practice and procedure of the Council of Governors, as may be varied from time to time, are attached at Annex 4.

18. COUNCIL OF GOVERNORS – referral to the Panel

18.1. In this paragraph, the Panel means a panel of persons appointed by NHS Improvement to which a governor of an NHS foundation trust may refer a question as to whether the trust has failed or is failing:

18.1.1. To act in accordance with its constitution

18.1.2. To act in accordance with provision made by or under Part 2 Chapter 5 of the 2006 Act

18.2. A governor may refer a question to the Panel only if more than half of the members of the Council of Governors voting approve the referral

19. COUNCIL OF GOVERNORS - Conflicts of interests of governors

19.1. If a governor has a pecuniary, personal or family interest, whether that interest is actual or potential and whether that interest is direct or indirect, in any proposed contract or other matter which is under consideration or is to be considered by the Council of Governors, the governor shall disclose that interest to the members of the Council of Governors as soon as they become aware of it. The Standing Orders for the Council of Governors shall make provision for the disclosure of interests and arrangements for the exclusion of a governor declaring any interest from any discussion or consideration of the matter in respect of which an interest has been disclosed.



GOVERNANCE COMMITTEE **26 September 2023**

Subject Heading:

**PENSIONS COMMITTEE – TRADE
UNION VOTING RIGHTS**

SLT Lead:

Gavin Milnthorpe
Deputy Director, Legal Services
01708 432838

Report Author and contact details:

Gavin Milnthorpe
Gavin.milnthorpe@havering.gov.uk

Policy context:

A well run Council that delivers for People and Place.

Financial summary:

There are no financial implications arising from this report.

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

People - Things that matter for residents

Place - A great place to live, work and enjoy

Resources - A well run Council that delivers for People and Place. X

SUMMARY

1. The Council's Pensions Committee does not currently allow any Trade Union representative to vote.
2. UNISON have approached the Council's Monitoring Officer to see if a change can be made to the constitution so as to allow a vote for Trade Union representatives.

3. Governance Committee is asked to decide whether or not to recommend the proposal to Full Council for approval.

RECOMMENDATIONS

4. Governance Committee is asked to decide either that:
 - (a) No change be made to the constitution; OR
 - (b) That the Monitoring Officer be asked to make the necessary amendments to the Constitution so as to allow voting rights for Trade Unions.
5. In the event that Governance Committee adopts the recommendation at 4(b) above, the revised Constitution shall be submitted to Full Council for approval.

REPORT DETAIL

6. The Pensions Committee is comprised of: 7 Councillors, one co-opted Member and two non-voting observers.
7. Although not strictly Members of the Committee, in accordance with the Constitution, two representatives of staff are appointed by the unions to attend and contribute to meetings of the Committee. These appointees have no voting rights but are present during all discussions including those concerning any exempt business. The trade union attendees undertake the same level of training as Members and have a good level of attendance at committee.
8. As indicated above, UNISON has made the following request:

“Havering UNISON would like to propose for the terms of reference to the Havering’s Pensions Committee Constitution are reviewed.

“For many years UNISON and GMB have held observer status across the Havering Councils Pensions Committee however we are aware that some other London Boroughs have reviewed and amended the constitutions to include the unions to have voting rights at these committee meetings.

“Union activists are employees of the local authority and have a real importance in the collective decision making.”

9. The Monitoring Officer commissioned a review of the arrangements of a number of other London Boroughs to see how their pension committee arrangements compared with those of the Council.

10. The review looked at 10 other London Boroughs and found that 2 of those do explicitly allow Trade Union voting rights, whilst 8 do not. Please see attached schedule. However, in the course of the review it became clear that some councils who do not allow for explicit trade union voting / membership do allow for the appointment of scheme / employee representatives, which may well be nominated via the trade union.
11. Governance Committee will note that the picture is mixed and confirms that there is no definitive approach. The Council is therefore free to form its own view as to what is appropriate.
12. The views of Governance Committee are therefore invited.

IMPLICATIONS AND RISKS

Equalities implications and Risks

13. None.

Legal implications and Risks

14. There are no legal implications arising directly from recommendations in this report.
15. The Pensions Committee is responsible for the management of the Council's Pension Fund investment portfolio and may take decisions on those matters that are not the responsibility of the Executive under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 relating to matters concerning the Local Government Pension Scheme.

Financial implications and risks:

16. There are no financial implication arising from the contents of this report.

Human Resources implications and risks:

17. The recommendations made in this report do not give rise to any identifiable HR risks or implications that would affect either the Council or its workforce.
18. Committee should note that, if it decides to recommend the change at 4(b), the decision is not intended to indicate a wider role in future for the trade unions in other areas of HR practice and procedure.

Environmental and climate change implications and risks

19. None.

BACKGROUND PAPERS

None

Schedule

<u>Borough</u>	<u>Comprising</u>	<u>Trade Union vote?</u>
Brent	The sub-committee comprises 7 councillors and 2 non-voting co-opted members from the College of North West London and Brent Care at Home.	NO.
Croydon	One non-voting Trade Union Representative nominated by the three Trade Unions.	NO
Hammersmith & Fulham	Members 6 voting Councillors Political proportionality 5 Administration members 1 Opposition member	NO.
Hillingdon	Councillor membership of the Committee will be 5, will be politically balanced and have voting rights. In addition, the Independent Adviser and Investment Consultant would normally attend meetings along with relevant officers in an advisory, non-voting capacity.	NO.
Lambeth	The Committee will comprise the following voting members: a. five elected members as employer representatives (plus two substitutes); and, b. representatives from the following groups will be co-opted onto the Committee with full voting rights as follows: i. one representative from members of Staff of the London Borough of Lambeth, elected by a ballot of members of the Fund; ii. one representative of Pensioners of the Fund elected by a ballot of Pensioners of the Fund; and, iii. one Trades Union Representative (plus one substitute), nominated by the trade union.	YES
Merton	Membership: 3 Councillors who shall be voting members plus two non-voting members comprising one staff representative and one pensioner representative to be appointed at the discretion of the Council	NO.
Newham	A representative from each of the Unison, Unite and GMB trade unions, shall be invited to meetings of the Pensions Committee and given observer status. The trade union representatives shall not have voting rights but, at the Chair's discretion, will be entitled to participate in the Committee's discussions.	NO.
Southwark	The Board shall consist of six voting members, as follows: Three Scheme Member Representatives; and Three Employer Representatives A total of three scheme member representatives shall be appointed by the Administering Authority, on the nomination of the recognised trade unions, with two representing employees who are Scheme members of the Fund and one representing pensioner or deferred employees, who is a Scheme member of the Fund.	YES
Tower Hamlets	7 Councillors, 1 representative of the Admitted Bodies and 1 Trade Union representative. The Admitted Body and Trade Union representatives will be non-voting members of the Committee.	NO
Wandsworth & Richmond	9 Members – 6 appointed by Wandsworth Council and 3 by Richmond Council.	NO

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