

COMMITTEE	APPOINTMENTS BOARD
MEMBERSHIP	Leader of the Council (or Deputy), Opposition Leader (or Deputy), Chairmen (or Vice-Chairmen) of the Strategy and Resources and the Performance, Governance and Audit Committees, plus two other named Members appointed by the Council (political balance provisions may apply).
LEAD OFFICER	Head of Paid Service
OFFICERS/UNITS PRIMARILY REPORTING	Head of Paid Service/Corporate Directors
SUB-COMMITTEE	None

TERMS OF REFERENCE

- 1 The appointment of the following:
 - (a) Head of Paid Service ~~(to be recommended to the Council);~~
 - (b) Section 151 Officer ~~(/Chief Financial Officer);~~
 - (c) Monitoring Officer;
 - (d) Directors;
 - ~~(e) Non-Council (Independent) Members to serve on the Standards Committee (tenure of office to be recommended to the Council);~~

- 2 To consider and report to the Council on appropriate levels of pay for the Director posts ~~detailed in 1 above.~~

OPERATING PROTOCOL

1. The Board will meet in accordance with arrangements determined by the Council and these are described **in Article 7 of this Constitution.**
2. The Board shall be advised by the Head of Paid Service or a Director as appropriate and by a suitably experienced Human Resources Officer provided they did not prepare the report under consideration.
3. In the event that the Board needs to make a decision about the appointment of Directors within its terms of reference, and that conflicting advice has been given to the Board by the in-house Professional teams, Board should seek independent advice at the earliest opportunity to avoid any undue delays in the appointment process.
4. **In all other respects and as appropriate, the Council and Committee Procedure Rules will apply.**

COMMITTEE	AREA PLANNING
MEMBERSHIP	Area-based – see below
LEAD OFFICER	Director of Service Delivery
OFFICERS/UNITS PRIMARILY REPORTING	Lead Specialist - Place
SUB-COMMITTEE	None

There are three Area Planning Committees whose memberships comprise the Ward Members for the following Planning areas of the Maldon District:

North-Western – Great Totham, Purleigh, Tollesbury, Tolleshunt D’Arcy, Wickham Bishops and Woodham Wards

Central – Heybridge East, Heybridge West, Maldon North, Maldon South, Maldon East and Maldon West Wards

South-Eastern – Althorne, Burnham-on Crouch North, Burnham-on-Crouch South, Mayland, Southminster and Tillingham Wards

TERMS OF REFERENCE

To exercise on behalf of the Council the following functions:

(A) The making of decisions or representations on planning and other applications falling to be considered by the District Council as a Local Planning Authority -

1. For residential development where the number of dwellings is nine or more, or where the number of dwellings is not given, the application site has an area of 0.2 hectares or more.
2. For all other development where the floor space to be built, or a change of use of a building is proposed for 1,000 sq. metres or more.
3. Where a Ward Member requests that an application in his/her Ward is referred to the Area Committee for determination in accordance with ANNEXE A.
4. Where proposals which, in the opinion of the Director of Strategy, Performance and Governance in consultation with the Chairman of the appropriate Area Committee or the Chairman of the ~~District Planning and Licensing~~ Committee are of significant public interest, would have a significant impact on the environment, or should otherwise be referred to Members.
5. Where proposals have been advertised as departures under the Town and Country Planning (Development Management Procedure) Order 2010 and where the Officers’ recommendation is that permission should be granted. Except where the principle of the development has already been approved through an extant planning permission.
6. Where proposals require the submission of or are accompanied by an environmental statement in accordance with the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988.
7. Where proposals require a planning obligation, or involve the variation of a planning obligation, under Section 106 of the Town and Country Planning Act 1990 to secure the payment of monies to the Council.

8. Where an application has been resubmitted following refusal by an Area Committee contrary to Officers recommendation.
9. Applications submitted by Members and Officers of the Council. This includes:
 - Spouses and Partners of a Member or Officer;
 - Where it is clear that an application has been submitted on behalf of a Member or Officer, e.g. by an agent or other immediate family member;
 - Where it is clear from the application and any subsequent discussion that a Member or Officer has a close association with the applicant such as might prejudice judgement of the public interest;
 - In the interests of openness and transparency, the Director of Strategy, Performance and Governance in consultation with the Monitoring Officer shall have discretion in the matter of referring an application to a committee instead of determining it under delegated powers.
10. Applications in respect of the Council's own development proposals or development on Council land.

(B) The making of decisions on enforcement and related planning control matters falling to be considered by the District Council as Local Planning Authority, save in those cases where such decisions are delegated to the Director of Strategy, Performance and Governance:

1. To serve a Stop Notice under Section 183 of the Town and Country Planning Act 1990.
2. To seek injunctions under Section 187B or to commence any actions under Sections 94 (completion notices), 97 (revocation and modification orders) and 102 (discontinuance orders) of the 1990 Act.
3. To make and confirm directions under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995, including the consideration of any representations received.
4. To make and confirm Orders involving public rights of way including the consideration of any representations received.
5. The making and confirmation of Tree Preservation Orders, and the consideration of any representations or objections received.

Provisos:-

1. If any Area Planning Committee considers that a matter before it should be considered by either the District Planning Committee or the Council it may refer the matter to that Committee or the Council for determination save for those matters on which they are required to report to the Council.
2. The Director of Strategy, Performance and Governance has the discretion to refer to the District Planning Committee applications where a major policy decision is involved. In assessing whether a major policy decision is to be made the Director of Strategy,

Performance and Governance shall have regard to the scale of development, whether it involves a major departure from policy and whether the application is the subject of widespread public interest.

- 3 Proposals requiring reference to the Secretary of State for Transport Local Government and the Regions under the terms of the direction at Annex 1 of the Environment Circular 07/99 shall be referred to the District Planning Committee for determination.
- 4 Save for those cases described in 5 below in the event of a planning or related application falling to be determined by an Area Planning Committee but, due to the application site area, would involve more than one Committee, the following procedure shall apply:
 - (a) The application will be scheduled for determination by the District Planning Committee;
 - (b) In order to avoid undue delay in determination of the application a special meeting of the District Planning Committee will be arranged.
- 5 Meetings of the District Planning Committee will be convened and held for the sole purpose of considering and determining all applications for development of strategic interest as follows:

Development of Strategic Interest:

~~Any proposal which is subject to a completed Planning Performance Agreement.~~

- Any development proposal which directly relates to one of the Garden Suburbs or Strategic Allocations (sites S2(a) – (k)) included within Policy S2 the Local Development Plan (LDP).
- Any residential or mixed-use development proposal which includes provision for 75 dwellings or more.
- Any large-scale renewable and low carbon energy projects, including:
 - Any wind energy proposals whose output capacity is 1Mw or more or which proposes three or more turbines of 30m or more.
 - Any Solar energy proposals whose output capacity is 1Mw or more or which proposes 4,000 or more solar panels.
 - Energy from Waste Scheme of 1MW capacity or more.
- Any development proposal which directly relates to identified *new* employment sites allocated by Policy E1 of the LDP.
- Any retail development of 1,000 square meters or more which is proposed to be beyond existing town centres as defined by Policy E2 of the LDP.
- Any proposals for a new Community Hospital or similar healthcare facility to serve the needs of the District as defined by Policy I2 of the LDP.
- Any proposals for Primrose Meadow in Maldon as defined by Policy I3 of the LDP.

For the purpose of this proviso 5 “applications for development of strategic interest” shall include all applications establishing or varying the principle of development but

shall not include variations to conditions or the approval of reserved matters unless in accordance with a decision of the Council or at the discretion of the Director of Strategy, Performance and Governance. In all other respects, the existing provisions of the Scheme of Delegation will apply.

- 6 A development proposal not falling within the categories set out in paragraph 5 above may also be referred to a meeting of District Planning Committee at the discretion of the Director of Strategy, Performance and Governance in consultation with the Chairman of the District Planning Committee and the relevant Area Planning Committee where the proposal is considered to be of particular strategic importance and interest to the District.

OPERATING PROTOCOL

1. The Committee will meet in accordance with arrangements determined by the Council.
2. In all other respects and as appropriate, the Council and Committee Procedure Rules will apply, in particular Procedure Rule 13(1) which prevents a member of a Planning Committee from voting in connection with the determination of a planning application or related matter unless he/she has not undergone fundamental induction training.

ANNEXE A

Determination of Planning Applications – Member Call-In

- (i) The effect of this facility is to enable a Member to request that an application is referred to an Area Planning Committee for determination instead of being determined under powers delegated to the Director of Strategy, Performance and Governance.
- (ii) A Member may ‘call in’ an application from their Ward or another Ward within the following areas:

Central Area Planning Committee:

Call-in area 1 – Maldon North, South, East, West Wards

Call-in area 2 – Heybridge East and West Wards

South Eastern Area Planning Committee:

Call-in area 1 – Burnham-on-Crouch North and South Wards

Call-in area 2 – Althorne, Mayland, Southminster and Tillingham Wards

North Western Area Planning Committee:

Call-in area 1 – Tollesbury, Tolleshunt D’Arcy, Great Totham Wards

Call-in area 2 – Purleigh, Wickham Bishops and Woodham Wards

- (iii) Requests must be made in writing to the dedicated email address – and within 28 days of the date an application appears on a published Weekly List produced by Planning Services. When an application is amended, and the parish or town council is re-consulted, requests can be made in writing to the dedicated email address provided it is within the consultation period provided to the parish or town council.
- (iv) A Member must provide a justified or substantive reason to support a call-in request.
- (v) A Member is under no obligation to invoke this provision on the basis of any public representation or request he or she may have received, including town or parish council, but may wish to take this into consideration, as he or she may also wish to do when reviewing the request as set out below.
- (vi) Where a Member’s request is the only reason for an application being referred to the Area Committee, the Director of Strategy, Performance and Governance will notify the Member of his recommendation on the application following which the Member may withdraw his or her request.
- (vii) Due to the limited time available all responses to Certificates of Lawful Use for Proposed Development and prior notifications, including those in relation to agricultural buildings, telecommunications, hedgerows, trees in conservation areas and demolition are delegated to the Director of Strategy, Performance and Governance unless he considers that they should be referred to the appropriate Area Planning Committee, time permitting.

COMMITTEE	JOINT STANDARDS
MEMBERSHIP	5 Members of the Council (politically balanced) appointed annually plus 2 representatives of Parish/Town Councils nominated by the Essex Association of Local Councils
LEAD OFFICER	Monitoring Officer
OFFICERS/UNITS PRIMARILY REPORTING	Monitoring Officer
SUB-COMMITTEE	None

TERMS OF REFERENCE

- 1) Promoting and maintaining high standards of conduct by Members and co-opted members (with or without voting rights) of the District Council and also Parish / Town (Local) Councils, and considering relevant issues to enable the Committee to fulfil this role;
- 2) Advising and assisting Councillors to maintain high standards of conduct and to make recommendation to Local Councils on improving standards or actions following a finding of a failure by a Local Councillor to comply with the Code of Conduct;
- 3) Advising the Council and Local Councils on the adoption or revision of the applicable Member Code of Conduct;
- 4) Receiving and considering referrals from the Monitoring Officer into allegations of misconduct;
- 5) Receiving reports from the Monitoring Officer and assessing the operation and effectiveness of the Member Code of Conduct;
- 6) Advising, training or arranging to train Councillors and co-opted Members on matters relating to the Member Code of Conduct;
- 7) Assisting Councillors and co-opted Members to observe the Member Code of Conduct;
- 8) Conducting hearings and determining complaints as necessary about District and Local Councillors and co-opted Members where an investigation is undertaken to consider whether an allegation that there has been a breach of the Member Code of Conduct has been undertaken;
- 9) Following a hearing the Joint Standards Committee is able to make one of the following findings:-
 - (a) That the Member has not failed to comply with the Member Code of Conduct and no further action needs to be taken in respect of the matters considered at the hearing; or
 - (b) That the Member has failed to comply with the Member Code of Conduct but that no further action needs to be taken in respect of the matters considered at the hearing; or
 - (c) That the Member **has failed** to comply with the Member Code of Conduct and that a sanction and/or an informal resolution should be imposed in respect of the matters considered at the hearing;

- 10) After making a finding at a hearing the Committee shall, through the Monitoring Officer, provide written notice of its findings immediately. Detailed reasons for its decision shall be given to the subject Member and the complainant in the form of a decision notice within 10 days of the hearing;
- 11) Advising the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council;
- 12) Maintaining oversight of the Council's arrangements for dealing with complaints against Councillors;
- 13) Informing the Council and the Head of Paid Service of relevant issues arising from the determination of Code of Conduct complaints;
- 14) Developing and adopting:
 - (a) Arrangements for dealing with complaints against councillors and publicising the arrangements;
 - (b) Such other provisions and procedures as may be required;
- 15) The Committee may impose any action or combination of actions available to it, or impose any informal resolution or combination of informal resolutions in accordance with the approved Complaints Procedure. The following list is an indication of the actions or combination of actions available:
 - Reporting its findings to Council (or to the Local Council) for information;
 - Recommending to Council that the Member concerned be issued with a formal censure or reprimand (or to the Local Council);
 - Recommending to the Member's Group Leader (or in the case of ungrouped Members, recommend to the Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - Recommending to the Leader of the Council that the Member be removed from, or removed from any particular posts or responsibilities they hold;
 - Instructing the Monitoring Officer to (or recommend that the Local Council) arrange training for the member;
 - Removing (or recommend to the Local Council that the Member be removed) from all outside appointments to which he/she has been appointed or nominated by the authority (or by the Local Council);
 - Withdrawing (or recommend to the Local Council that it withdraws) facilities provided to the Member by the Council, such as a computer, website and/or email and internet access; or
 - Excluding (or recommend that the Local Council exclude) the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 16) Granting dispensations to elected and co-opted Members in respect of Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests.
- 17) Determining arrangements for the remuneration of the Independent Person(s).

- 18) Recommending to the Council on the appointment of the Independent Person(s).

OPERATING PROTOCOL

1. The Committee will meet in accordance with arrangements determined by the Council and these are described **in Article 7 of this Constitution**.
2. When dealing with matters deemed to be private / confidential where the public is to be excluded from the meeting, it is essential that the Committee's work is confined to the Members of the Committee only at the time, and circulation of papers will be restricted accordingly. Notwithstanding Procedure Rule 20 and the general acceptance of the practice which enables Members to attend meetings of other Committees, private sessions of meetings of this Committee should proceed only with the appointed Members, the Independent Person and required support of Officers present.
3. In all other respects and as appropriate, the Council and Committee Procedure Rules will apply.

COMMITTEE	INVESTIGATING AND DISCIPLINARY
MEMBERSHIP	5 Members of the Council appointed annually and politically balanced
LEAD OFFICER	Head of Paid Service/Monitoring Officer/Director as appropriate
OFFICERS/UNITS PRIMARILY REPORTING	As above
SUB-COMMITTEE	None

TERMS OF REFERENCE

- 1 Consider any allegation of misconduct, capability or breakdown of trust against the Head of Paid Service, the Section 151 (Chief Financial Officer), ~~or~~ the Monitoring Officer, or a Director in a non-statutory role, and to suspend (~~underin terms of the Officer Employment Council and Committee Procedure Rules 16(11)(b)~~) the Officer concerned for the purpose of investigating the allegation.
- 2 Authorise an investigation in relation to matters referred to in paragraph ~~3.1~~ above in accordance with the Council's statutory obligations.
- 3 Decide whether the matter can be dealt with by informal resolution or other appropriate procedures or that there is no case to answer.
- 4 Report to the Council on any issues, including disciplinary action, arising from steps taken above, in accordance with the Council's statutory obligations.
- 5 Hear and decide appeals ~~by Directors in a non-statutory role and~~ arising from Human Resources (HR) Policies.

NOTE:

- 1 See role of Investigating and Disciplinary Panel in relation to dismissal.
- 2 The exercise of the Committee's duties under paragraph 5 above will have regard to relevant HR Policies / Procedures and related employment advice and is not subject to the Operating Protocol set out below.

OPERATING PROTOCOL

1. The Committee will meet as and when required, subject to compliance with Access to Information requirements.
2. The Committee shall be advised by the Head of Paid Service, Monitoring Officer or a Director as appropriate and suitably experienced Human Resources Officer, provided that they did not prepare the report to the Committee.

3. Allegations or complaints falling within the remit of the Committee will normally be sent or passed to the Chairman of the Committee who will ensure circulation to other Members of the Committee as required. Allegations or complaints may in the first instance be received by the Leader of the Council or one of the Council's Statutory Officers.
4. It is for the Committee expeditiously to undertake an initial, but not detailed, investigation having regard to the facts and, if necessary, to seek further information/clarification from the complainant including an indication of how the matter might be resolved.
5. As soon as practicable the Committee will inform the Officer the subject of the allegation, seek a response, and provide an opportunity to appear in person and call witnesses and be represented.
6. It is for the Committee to consider and decide whether –
 - a. The matter requires any further formal action, or
 - b. The matter is suitable for informal resolution or other action/procedure and therefore resolved, or
 - c. The matter should be the subject of a formal investigation and appoint a Designated Independent Person (DIP),and advise the Officer accordingly.
7. An allegation or complaint must be considered by the Committee, meetings of which are subject to the normal rules around notice, summons and publication of the agenda. For the most part, it is likely that the business of the Committee will be conducted in private session due to the confidentiality and sensitivity of the subject matter.
8. In the light of the above, and the potential for further consideration, investigation, and report to the Council, and also potential conflicts of interest, arrangements for meetings of the Committee need to remain flexible with the appointment of substitutes. The fairness and integrity of the process must be maintained at all times.
9. It is essential that the Committee's work is confined to the Members of the Committee only at the time, and circulation of papers will be restricted accordingly. Notwithstanding Procedure Rule 20 and the general acceptance of the practice which enables Members to attend meetings of other Committees, private sessions of meetings of this Committee should proceed only with the appointed Members and required support Officers present (e.g. Human Resources, Committee / Governance). A quorum shall be three Members.
10. The appointment of a DIP must be agreed between the Committee and the Officer the subject of the complaint. In the event of failure to agree, the Council will ask the Secretary of State to make an appointment. It is essential that this stage is progressed

expeditiously particularly if the Officer has been suspended, as there is a two month time limit on suspension.

11. The Committee will provide terms of reference to the appointed DIP, and may consider and recommend to the Council on appropriate remuneration. The timescale for an investigation should be agreed between the Committee and the Officer in question.
12. The DIP has the power to direct the Council to terminate any suspension of the Officer, to extend the suspension beyond the two month limit, or to vary the terms of the suspension.
13. The DIP reports to the Council, but in reality this will be Committee. The Officer in question will be given a further opportunity to state his / her case before a decision is made. The Committee is required to report to the Council on any issues arising from the process it has operated, including disciplinary action, in accordance with the Council's statutory obligations. The Committee will notify the Officer, and keep him / her advised at all relevant stages.
14. In all other respects and as appropriate, the Council and Committee Procedure Rules will apply.

NB: The Council has agreed to adopt in its entirety the procedures laid down within the Joint Negotiating Committee for Local Authority Chief Executives model for use in connection with the exercise by this Committee of its remit in relation to the posts of Head of Paid Service, Section 151 Officer or Monitoring Officer.

APPENDIX A

COMMITTEE	INVESTIGATING AND DISCIPLINARY PANEL
MEMBERSHIP	Minimum of five Members of the Council – politically balanced – of which three have not served on the initial investigation carried out by the Investigating and Disciplinary Committee. In addition, two or three Independent Persons appointed by the Council to assist the Joint Standards Committee under the Localism Act 2011
LEAD OFFICER	Monitoring Officer/Director as appropriate
OFFICERS/UNITS PRIMARILY REPORTING	As above
SUB-COMMITTEE	None

TERMS OF REFERENCE

- 1 To receive and consider references from the Investigating and Disciplinary Committee on proposed disciplinary action culminating in dismissal against the Head of Paid Service, Chief Financial Officer (Section 151 Officer), ~~or the~~ Monitoring Officer, or a Director in a non-statutory role.
- 2 To recommend to the Council on any proposed course of action involving or culminating in dismissal.

OPERATING PROTOCOL

1. The Committee will meet as and when required, meetings being convened by or on behalf of the Monitoring Officer with 20 days notice and subject to compliance with Access to Information requirements.
2. In all other respects and as appropriate, the Council and Committee Procedure Rules will apply.