

Thurrock: A place of opportunity, enterprise and excellence, where individuals, communities and businesses flourish

General Services Committee

The meeting will be held at **7.00 pm** on **3 May 2017**

Committee Room 1, Civic Offices, New Road, Grays, Essex, RM17 6SL

Membership:

Councillors Robert Gledhill, Shane Hebb, Mark Coxshall, John Kent, Barbara Rice, Graham Snell and Roy Jones

Substitutes:

Councillors Garry Hague, Brian Little, Colin Churchman, Leslie Gamester, Angela Sheridan and Bukky Okunade

Agenda

Open to Public and Press

	Page
1. Apologies for Absence	
2. Minutes	5 - 8
To approve as a correct record the minutes of General Services Committee meeting held on 7 December 2016.	
3. Items of Urgent Business	
To receive additional items that the Chair is of the opinion should be considered as a matter of urgency, in accordance with Section 100B (4) (b) of the Local Government Act 1972.	
4. Declarations of Interests	

Exclusion of the Public and Press

Members are asked to consider whether the press and public should be excluded from the meeting during consideration of an agenda

item on the grounds that it involves the likely disclosure of exempt information as specified in Part I of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act.

In each case, Members are asked to decide whether, in all the circumstances, the public interest in maintaining the exemption (and discussing the matter in private) outweighs the public interest in disclosing the information.

5. Informal Discussion on Chief Executive's Performance Development Review

PUBLIC SESSION

The following items are public reports and are to be considered in public session.

- | | |
|---|----------------|
| 6. Chief Executive Performance Appraisal | 9 - 12 |
| 7. Review of Electoral Arrangements - Outcome of Public Consultation | 13 - 18 |
| 8. Procedure for a ward petition calling for a vote of no confidence or censure of an elected Member and calling for voluntary resignation | 19 - 28 |

Information for members of the public and councillors

Access to Information and Meetings

Members of the public can attend all meetings of the council and its committees and have the right to see the agenda, which will be published no later than 5 working days before the meeting, and minutes once they are published.

Recording of meetings

This meeting may be recorded for transmission and publication on the Council's website. At the start of the meeting the Chair will confirm if all or part of the meeting is to be recorded.

Members of the public not wishing any speech or address to be recorded for publication to the Internet should contact Democratic Services to discuss any concerns.

If you have any queries regarding this, please contact Democratic Services at Direct.Democracy@thurrock.gov.uk

Guidelines on filming, photography, recording and use of social media at council and committee meetings

The council welcomes the filming, photography, recording and use of social media at council and committee meetings as a means of reporting on its proceedings because it helps to make the council more transparent and accountable to its local communities.

If you wish to film or photograph the proceedings of a meeting and have any special requirements or are intending to bring in large equipment please contact the Communications Team at CommunicationsTeam@thurrock.gov.uk before the meeting. The Chair of the meeting will then be consulted and their agreement sought to any specific request made.

Where members of the public use a laptop, tablet device, smart phone or similar devices to use social media, make recordings or take photographs these devices must be set to 'silent' mode to avoid interrupting proceedings of the council or committee.

The use of flash photography or additional lighting may be allowed provided it has been discussed prior to the meeting and agreement reached to ensure that it will not disrupt proceedings.

The Chair of the meeting may terminate or suspend filming, photography, recording and use of social media if any of these activities, in their opinion, are disrupting proceedings at the meeting.

Thurrock Council Wi-Fi

Wi-Fi is available throughout the Civic Offices. You can access Wi-Fi on your device by simply turning on the Wi-Fi on your laptop, Smartphone or tablet.

- You should connect to TBC-CIVIC
- Enter the password **Thurrock** to connect to/join the Wi-Fi network.
- A Terms & Conditions page should appear and you have to accept these before you can begin using Wi-Fi. Some devices require you to access your browser to bring up the Terms & Conditions page, which you must accept.

The ICT department can offer support for council owned devices only.

Evacuation Procedures

In the case of an emergency, you should evacuate the building using the nearest available exit and congregate at the assembly point at Kings Walk.

How to view this agenda on a tablet device



You can view the agenda on your [iPad](#), [Android Device](#) or [Blackberry Playbook](#) with the free modern.gov app.

Members of the Council should ensure that their device is sufficiently charged, although a limited number of charging points will be available in Members Services.

To view any “exempt” information that may be included on the agenda for this meeting, Councillors should:

- Access the modern.gov app
- Enter your username and password

DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF

Breaching those parts identified as a pecuniary interest is potentially a criminal offence

Helpful Reminders for Members

- *Is your register of interests up to date?*
- *In particular have you declared to the Monitoring Officer all disclosable pecuniary interests?*
- *Have you checked the register to ensure that they have been recorded correctly?*

When should you declare an interest *at a meeting*?

- **What matters are being discussed at the meeting?** (including Council, Cabinet, Committees, Subs, Joint Committees and Joint Subs); or
- If you are a Cabinet Member making decisions other than in Cabinet **what matter is before you for single member decision?**



Does the business to be transacted at the meeting

- relate to; or
- likely to affect

any of your registered interests and in particular any of your Disclosable Pecuniary Interests?

Disclosable Pecuniary Interests shall include your interests or those of:

- your spouse or civil partner's
- a person you are living with as husband/ wife
- a person you are living with as if you were civil partners

where you are aware that this other person has the interest.

A detailed description of a disclosable pecuniary interest is included in the Members Code of Conduct at Chapter 7 of the Constitution. **Please seek advice from the Monitoring Officer about disclosable pecuniary interests.**

What is a Non-Pecuniary interest? – this is an interest which is not pecuniary (as defined) but is nonetheless so significant that a member of the public with knowledge of the relevant facts, would reasonably regard to be so significant that it would materially impact upon your judgement of the public interest.

Pecuniary

If the interest is not already in the register you must (unless the interest has been agreed by the Monitoring Officer to be sensitive) disclose the existence and nature of the interest to the meeting

If the Interest is not entered in the register and is not the subject of a pending notification you must within 28 days notify the Monitoring Officer of the interest for inclusion in the register

Unless you have received dispensation upon previous application from the Monitoring Officer, you must:

- Not participate or participate further in any discussion of the matter at a meeting;
- Not participate in any vote or further vote taken at the meeting; and
- leave the room while the item is being considered/voted upon

If you are a Cabinet Member you may make arrangements for the matter to be dealt with by a third person but take no further steps

Non- pecuniary

Declare the nature and extent of your interest including enough detail to allow a member of the public to understand its nature



You may participate and vote in the usual way but you should seek advice on Predetermination and Bias from the Monitoring Officer.

Thurrock: A place of opportunity, enterprise and excellence, where individuals, communities and businesses flourish

To achieve our vision, we have identified five strategic priorities:

1. Create a great place for learning and opportunity

- Ensure that every place of learning is rated “Good” or better
- Raise levels of aspirations and attainment so that local residents can take advantage of job opportunities in the local area
- Support families to give children the best possible start in life

2. Encourage and promote job creation and economic prosperity

- Provide the infrastructure to promote and sustain growth and prosperity
- Support local businesses and develop the skilled workforce they will require
- Work with communities to regenerate Thurrock’s physical environment

3. Build pride, responsibility and respect to create safer communities

- Create safer welcoming communities who value diversity and respect cultural heritage
- Involve communities in shaping where they live and their quality of life
- Reduce crime, anti-social behaviour and safeguard the vulnerable

4. Improve health and well-being

- Ensure people stay healthy longer, adding years to life and life to years
- Reduce inequalities in health and well-being
- Empower communities to take responsibility for their own health and wellbeing

5. Protect and promote our clean and green environment

- Enhance access to Thurrock’s river frontage, cultural assets and leisure opportunities
- Promote Thurrock’s natural environment and biodiversity
- Ensure Thurrock’s streets and parks and open spaces are clean and well maintained

Minutes of the Meeting of the General Services Committee held on 7 December 2016 at 7.00 pm

Present: Councillors Robert Gledhill (Chair), Shane Hebb, Barbara Rice, Graham Snell, Roy Jones, Bukky Okunade and Mark Coxshall

Apologies: Councillors John Kent (Vice-Chair)

In attendance: Lyn Carpenter (Chief Executive)
Jackie Hinchliffe (Director of HR, OD & Transformation)
David Lawson (Deputy Head of Legal and Monitoring Officer)
Karen Wheeler (Director of Strategy, Communications and Customer Services)
Matthew Boulter, Principal Democratic Services Officer

12. Minutes

The Minutes of the General Services Committee held on 27 June 2016 were approved as a correct record.

13. Items of Urgent Business

There were no items of urgent business.

14. Declarations of Interests

There were no declarations of interest.

15. Review of Electoral Arrangements

The Monitoring Officer introduced the report explaining that Full Council had agreed to consult on four yearly elections having formerly received a recommendation from overview and scrutiny. The proposed consultation would start in January 2017 and run for twelve weeks and the results would return to the General Services Committee for comment. The latest a Council meeting could be convened to decide on the results would be November 2017 as any changes to elections would need to be in place for May 2018. It was explained that the information on the consultation document was kept simple and factual and officers were keen for feedback on the wording of the consultation question.

Councillor Rice felt that the question should use the term 'election' rather than 'Members to be elected' as elections were much better understood in the general public. Councillor Snell felt that the terms 'proposed new system' and

'existing system' could be added appropriately in brackets at the end of each option.

Councillor Okunade felt that there should be an equal amount of pros and cons for each option and suggested that the existing system could have a pro of 'continuity of elected members', which the committee agreed was a valid point.

Councillor Coxshall noted that the form asked for a postcode but wondered whether an email address could also be requested to allow the Council to inform residents of the results.

The committee briefly discussed Councillor Aker's comments at the previous Council meeting about value for money on the consultation and all recognised that the proposed consultation was cost effective and reaching many residents with low cost.

The Committee agreed to amend the wording of the question in line with Councillor Rice's suggestions and this would be agreed by the committee via email.

Resolved: That:

- 1. The Consultation process, timeline and format set out in this report and Appendix 2 be approved as amended by the Committee.**
- 2. The committee note a special meeting of Council will need to be convened by November 2017 in order for the Council to consider the results of the consultation and determine proposals for any change in its electoral governance arrangements.**
- 3. A report be brought to General Services Committee to consider the results of the consultation and make a recommendation to be considered by Full Council.**

16. Variation of Notice Periods for Employees

The Director of HR, OD and Transformation informed the committee that extending notice periods would enable the Council to maintain continuity in service delivery, help the recruitment process and reduce the need for agency workers. The proposed extensions would bring Thurrock in line with other councils and the proposals had been agreed by the trades unions, People's Board and Directors Board. These bodies had also agreed for the Council to introduce extended notice periods with new employees immediately. Extended notice periods had also been assigned to hard to recruit posts.

Officers confirmed that the extension of notice periods was a low risk action and it was unlikely to put people off joining the Council as it simply aligned with what other councils were doing. Officers added that the policy was flexible enough for them to review those roles considered hard to recruit. It was also clarified that contractual notice periods applied to redundancies as well and the Council would honour these.

RESOLVED: That:

1. The Committee approve the contractual notice periods for employees of the council as set out in 5.2 of the report:

- **With immediate effect for new employees**
- **With effect from 1 April 2017 for all current employees.**

17. Chief Executive Performance Appraisal Procedure

The Committee confirmed that the stakeholders to be involved in the Chief Executive's appraisal would not be confined to the public sector and would include key partners relevant to the objective set.

Councillor Hebb felt the Performance Development Review (PDR) form needed to be amended for next year to show how well the Chief Executive fulfilled her day to day job but also identified the value added work she did, her behaviours and how these all linked to the key ambitions and visions of the Council. Councillor Hebb also felt these changes could be made across all Council PDRs. Officers agreed to have a discussion with Councillor Hebb outside the meeting and bring any subsequent proposals to the committee. The Committee agreed to leave the process and procedure as it was for this year.

RESOLVED: That:

- 1. The revised Performance Appraisal Procedure for the Chief Executive be agreed.**
- 2. Members note the procedure will apply for the end of year appraisal 2016/17.**

18. Chief Executive Performance Appraisal

The Chair stated that the process of agreeing the Chief Executive's PDR was very open and was to be commended. It was clarified that the ratings for each objective were formed via consensus and reached by the Chief Executive having conversations with each group leader throughout the year, plus the stakeholder assessments. The final ratings would then come to the General Services Committee for agreement. The Chief Executive stated that she

sought meetings with each group leader throughout the year and expected feedback from them at these meetings.

RESOLVED: That:

- 1. Members note the mid-year appraisal review of the Chief Executive.**
- 2. Members agree the objectives for the remainder of 2016/17.**

The meeting finished at 7.43 pm

Approved as a true and correct record

CHAIR

DATE

**Any queries regarding these Minutes, please contact
Democratic Services at Direct.Democracy@thurrock.gov.uk**

3 May 2017	ITEM: 6
General Services Committee	
Chief Executive Performance Appraisal	
Wards and communities affected: All	Key Decision: No
Report of: Jackie Hinchliffe - Director of HR, OD & Transformation	
Accountable Head of Service: N/A	
Accountable Director: Jackie Hinchliffe - Director of HR, OD & Transformation	
This report is: Public	

Executive Summary

Under Thurrock Council's constitution (Chapter 5, Part 5) the General Services Committee is responsible for the performance appraisal of the Chief Executive in line with the performance appraisal procedure.

1. Recommendation(s)

- 1.1 **Members are asked to note the End of Year appraisal review of the Chief Executive and confirm final rating and wording.**
- 1.2 **Members are asked to agree the objectives for 2017/18.**

2. Introduction and Background

- 2.1 This report is being presented to General Services Committee to consider and agree the end of year appraisal of the Chief Executive.
- 2.2 The 2016/17 objectives for the Chief Executive were agreed by General Services Committee on 27 June. The objectives cover:

- Financial Management
- Working with Members of all parties with shared agendas
- Representing Thurrock amongst stakeholders and maximising investment within the borough
- Delivering a resident survey in the autumn

- Effectively managing the senior team
- Addressing the Council's Placemaking agenda

3. Current Position

3.1 The Chief Executive has completed the appraisal documentation setting out:

- Assessed performance over the year
- Proposed objectives for 2017/18

Members were provided with the documentation in advance of the meeting to enable consideration of content. In addition, members were provided with the feedback from a range of stakeholders.

4. Consultation (including Overview and Scrutiny, if applicable)

4.1 In accordance with the Performance Appraisal Procedure, consultation with representatives from Leadership Group and external stakeholders was conducted as part of the end of year appraisal.

5. Impact on corporate policies, priorities, performance and community impact

5.1 The objectives and performance of the Chief Executive impacts on the whole organisation and the borough.

6. Implications

6.1 Financial

Implications verified by: **Laura Last**
Management Accountant, Corporate Finance

There are no direct financial implications arising from this report.

6.2 Legal

Implications verified by: **David Lawson**
Deputy Head of Law & Governance

There are no direct legal implications arising from this report.

6.3 Diversity and Equality

Implications verified by: **Natalie Warren**
**Community Development and Equalities
Manager**

There are no direct Diversity and Equality issues arising from this report.

6.4 **Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder

None

7. **Conclusion**

7.1 The performance management of the Chief Executive is a formal function of the General Services Committee.

8. **Background papers used in preparing the report**

Chief Executive – Performance Appraisal Procedure

9. **Appendices to the report**

None

Report Author:

Jackie Hinchliffe

Director HR, OD & Transformation

This page is intentionally left blank

3 May 2017	ITEM: 7
General Services Committee	
Review of Electoral Arrangements – Outcome of Public Consultation	
Wards and communities affected: All	Key Decision: Key
Report of: David Lawson, Monitoring Officer	
Accountable Head of Service: David Lawson, Monitoring Officer	
Accountable Director: Lyn Carpenter, Chief Executive	
This report is Public	

Executive Summary

On 7 December 2016, General Services Committee, in accord with its terms of reference, agreed the process, format and detail of a proposed public consultation on the principal of changing the Council’s electoral cycle. A reference link to that earlier report to the Committee is contained in the background papers. This was pursuant to an earlier resolution of Full Council on 27 July 2016 requesting that such a consultation should be undertaken to ascertain public preference for either continuing to elect councillors by thirds or move to whole council elections in May 2018.

This report provides an analysis as to the outcome of that public consultation to assist the Committee with its remit under paragraph 9 of its terms of reference, “to make recommendations to the Council in respect of any change to the electoral arrangements for the authority.”

1. Recommendation(s)

- 1.1 **That General Services Committee note the result of the public consultation and make a recommendation to a Special meeting of Full Council on whether to continue to elect councillors by thirds or move to whole Council elections in May 2018;**
- 1.2 **To note that a Special meeting of Full Council will need to be convened in the next few months and no later than November 2017 to consider the Committee’ recommendations and the results of the consultation for Full Council to determine any change in its electoral governance arrangements.**

2. Introduction and Background

- 2.1 Under the provisions of the Local Government and Public Involvement in Health Act 2007, councils such as Thurrock that elect by thirds can move to whole-council elections by passing a resolution at a special meeting of the Full Council, the resolution will only be deemed carried if there are two-thirds majority of those voting vote in favour of a proposed change to the electoral cycle.
- 2.2 Therefore if an authority wishes to move from thirds to whole-council elections, it must:
- a. Consult such persons as it thinks appropriate on the proposed change;
 - b. Convene a special meeting of Council;
 - c. Pass a resolution to change by a two-thirds majority of those voting;
 - d. Publish an explanatory document on the decision and make this available for public inspection; and
 - e. Give notice to the Electoral Commission.

Result of Consultation

- 2.3 Residents, businesses and organisations were asked whether they would like the current system of electing councillors to remain or if it should change to once every four years.
- 2.4 The consultation was open from Monday 9 January to Friday 31 March 2017 and was promoted in line with the communications plan as agreed at the General Services Committee meeting held in December 2016. This included:
- Printed posters in council buildings including libraries and hubs
 - Social media posts, with video and link to consultation including Facebook advertising
 - An advert each month in the Gazette newspaper
 - Information on the front page of the leaflet included in council tax bills
 - Press releases
 - On the homepage of the council's website
 - Stakeholder engagement – via community forums, CVS and their community contacts, CCG and Essex Police, Business Board etc.
 - Included in e-newsletter with 11,500 subscribers
 - Email to all staff and councillors
- 2.5 After validation, the results of the consultation are as follows:

Total responses	466	
3 years out of 4	187	40.1%
Once every 4 years	279	59.9%

2.6 Respondents to the consultation were asked if they would like to offer any reasons for their preference. The most frequent reasons given are summarised below:

Elections to council for one third of councillors at a time, 3 years out of 4 (current system)

- Experienced councillors can assist newly elected councillors
- Keeps politicians active
- No dramatic change in the council
- Prevents party with most money dominating
- Current system works well

Elections to council for all councillors at the same time, once every 4 years (proposed new system)

- Allows for long-term planning and stability
- More cost effective to the council
- Effective decision making
- Maintains political balance
- More public engagement and turnout

Timing

2.7 The consultation lasted for a period of 12 weeks, the outcomes have been assessed and validated in line with standard procedures for such consultations and petitions. The consultation was open rather than using a methodology that would ensure the results are statistically representative of the Thurrock population. The response rate is therefore low compared to the population overall.

2.8 A report containing the Committee recommendations and the results of the consultation now needs to be brought to a Special meeting of Full Council in the next few months and no later than November 2017 to allow sufficient time for any implementation before the May 2018 elections, should there be a recommendation in favour of change.

3. Issues, Options and Analysis of Options

3.1 The Local Government and Public Involvement in Health Act received Royal Assent in December 2007. The Council is required to follow the process prescribed within the Act. The option not to consult was, therefore, not available. It is the role of the Committee under Paragraph 9 of its terms of reference, “to make recommendations to the Council in respect of any change

to the electoral arrangements for the authority.” It is the function of Full Council to decide on any change or otherwise at a Special meeting of Council, with any decision to change the election cycle requiring a two thirds majority. Such a Special meeting could be held immediately before an Ordinary meeting of Full Council with the Ordinary meeting being expressed to, “commence at 7 pm or on the rising of the Special Meeting of the same date” if this is thought convenient.

4. Reasons for Recommendation

- 4.1 To progress the resolution of Council to consult on the proposal for changing the electoral cycle from elections by thirds to whole-Council elections before making a decision.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 As set out in the report.

6. Impact on corporate policies, priorities, performance and community impact

- 6.1 Becoming an excellent and high performing organisation.

7. Implications

7.1 Financial

Implications verified by: **Laura Last**
Management Accountant

The cost of an election is met by the body or bodies whose representatives have been elected and therefore, any occasion where a local election is combined with another would see a reduction in costs to the council.

The average cost of an election by thirds, where the costs are not shared with any other election, is £180k and so £540k over a four year period. An all out election is estimated at £230k and so would recognise a cost reduction of £310k over the same period.

The above would be reduced if combined with any other election whilst it should be recognised that all out elections can increase the need for by-elections and associated costs.

7.2 Legal

Implications verified by: **Lindsey Marks**
Deputy Monitoring Officer

The legal implications are addressed in the report as to the requirements of the Local Government and Public Involvement in Health Act 2007 (as amended).

7.3 **Diversity and Equality**

Implications verified by: **David Lawson**
Monitoring Officer

None.

7.4 **Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None.

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- The Cycle of Local Government Elections in England – Consultation Paper – Electoral Commission (2003)
- The Cycle of Local Government Elections in England – Recommendations for change - Electoral Commission (2004)
- The Economic Development and Construction Act 2009
- Local Government and Public Involvement in Health Act 2007
- Localism Act 2011
- Local Government Boundary Commission for England – Electoral Reviews (2014)

Report to General Services Committee – 7 December 2016 – Web link:

<http://democracy.thurrock.gov.uk/documents/s10691/Review%20of%20Electoral%20Arrangements.pdf>

9. **Appendices to the report**

None

Report Author:

David Lawson
Monitoring Officer
Law & Governance

This page is intentionally left blank

3 May 2017	ITEM: 8
General Services Committee	
Procedure for a ward petition calling for a vote of no confidence or censure of an elected Member and calling for voluntary resignation	
Wards and communities affected: All	Key Decision: Non-key decision
Report of: David Lawson, Monitoring Officer	
Accountable Head of Service: David Lawson, Monitoring Officer	
Accountable Director: Lyn Carpenter, Chief Executive	
This report is public	

Executive Summary

This report considers the options for a “Right of Recall Scheme” for local government either through calling upon government to introduce national legislation or the options that might be available to Thurrock Council to develop a local scheme and is pursuant to a successful amended Motion at debated at Full Council in July 2016.

The amended resolution read as follows:

“Thurrock Council calls upon the government to introduce legislation to provide for a right of "Recall" of local government councillors, alongside Thurrock Council also exploring the possibilities to introduce its own local recall scheme”

- 1. Recommendation(s)**
 - 1.1 That the Committee consider whether to recommend to Full Council the proposed amendments to the Constitution at Appendix 1 to address the situation where ward residents may have lost confidence in their elected Member and wish to petition for a Full Council debate of No Confidence or Censure and Call to resign.**
 - 1.2 Alternatively ask officers to undertake further research.**
- 2. Introduction and Background**

- 2.1 Elected Members of a unitary Council such as Thurrock, on taking office, declare that they will duly and faithfully fulfil the duties of the office according to the best of their judgment and ability. They also undertake to observe the Code of Conduct. There is a procedure for addressing complaints relating to the Code of Conduct but there is no procedure at present for electors to censure or request the resignation of a Member who, by action or inaction effectively repudiates the solemn declaration made upon taking the office of Councillor.
- 2.2 Full Council resolved in July last year to request the Secretary of State for Communities and Local Government to legislate for a Recall Scheme in Local Government, and meanwhile that consideration be given to a scheme for introduction in Thurrock. In the interim a number of possible options for both submission to the Secretary of State and for a local scheme have been consulted upon with Group Leaders.
- 2.3 By way of background the Local Government Association has published a Guide to Becoming a Councillor which states that

“being an effective Councillor requires both commitment and hard work. Councillors have to balance the needs and interests of residents, the political party they represent (if any) and the Council. The Councillor’s role and responsibilities include:

- *representing the ward for which they are elected*
- *decision-making*
- *developing and reviewing Council policy*
- *scrutinising decisions taking by the Councillors on the Cabinet*
- *regulatory, quasi-judicial and statutory duties*
- *community leadership and engagement.*

Most Councillors hold regular drop-in surgeries... a chance for residents to meet you and discuss their problems and concerns. You may also need to spend time visiting constituents in their homes. On top of this you will be dealing with letters, emails and phone calls from constituents. When dealing with casework or Council business you may need to meet with Council staff, during the working day...Then there are Council and Scrutiny meetings...and quasi-judicial Committee. The number and length of these meetings varies from Council to Council. If you are a member of a political party you will also be expected to attend political group meetings, party training and other events”.

- 2.4 Even A level students in the UK are required consider the extent of “democratic deficit” in the curriculum for Politics A and AS-level examinations.

“A democratic deficit occurs where a government institution falls short in their representation practices or where individual members of the institution have low esteem in the eyes of the public”.

Measures to address the issue, however, are few and limited in the UK. A research article on the use of recall in different Parliamentary jurisdictions including the United States and Canada, and the use of “collective recall” by citizens’ action to initiate elections in Japan, Switzerland and Germany was published in the Law Journal of the University of New South Wales in 2011. The author was Professor Anne Twomey, who is now the Professor of Constitutional Law at the University of Sydney, and was writing when the proposal for legislation in the UK was at a very preliminary stage and is listed as a background paper to this report.

2.5 Parliament since has enacted legislation in respect of the House of Commons under the Recall of MPs Act 2015 using a petition procedure. The Act establishes three alternative conditions for opening a recall petition:

- first, that an MP is convicted in the UK of an offence and receives a custodial sentence that is not overturned on appeal brought within usual time limits; or
- secondly, following a report from its Committee on Standards, the House of Commons orders the suspension of an MP from the service of the House for a period of at least 14 days, or 10 sitting days; or
- thirdly, an MP is convicted under Section 10 of the Parliamentary Standards Act 2009 (the offence of providing false or misleading information on allowances claims) regardless of the sentence imposed.

A recall petition will not be opened where a UK Parliamentary general election is to be held within the next six months; a recall petition is already underway in respect of the MP; or the MP’s seat has already been vacated. The fact that the MP loses his or her seat under a recall petition does not prevent that MP standing as a candidate in the by-election.

2.6. Group leaders have been consulted on the possible criteria for a local Thurrock “recall scheme” and advised:

- there is currently no statutory right of recall for elected councillors in local government nor any option of suspension from office for a breach of the Code of Conduct since the enactment of the Localism Act 2011
- Beyond this an elected Member will cease to be an elected councillor if any of the following occurs:
 1. Non-Attendance: Section 85(1) of the Local Government Act 1972 provides that if a member of an authority fails, throughout a period of 6 successive months from the date of their last attendance, to attend any meeting of the authority, they shall cease to be a member of the authority, unless the non attendance was for a

reason approved by the authority before the expiry of the 6 month period;

2. Employed by the local authority or holds a paid office under the authority (including joint boards or committees but certain limited exceptions);
3. Holds a politically restricted post;
4. Bankruptcy restrictions order or interim order (subject to detailed rules);
5. Sentenced to a term of imprisonment of three months or more (including a suspended sentence), without the option of a fine;
6. Disqualified under the Representation of the People Act 1983 (which covers corrupt or illegal electoral practices and offences relating to donations);
7. Disqualification upon conviction in court for failing to register or declare a DPI or participating or voting with a DPI;
8. Ceasing to be a registered local government elector when only ground to stand as a candidate (If this was the only qualification claimed by the Member their name must appear on the register at the time of their nomination and throughout their term of office - this is an ongoing qualification.

- Voluntary Non Binding local Protocols

- i. Kingston Council last year put forward and passed a “councillor recall scheme” – apparently a number of scenarios can trigger a petition calling for a by-election. Where one or more of these criteria are met, the Monitoring Officer considers the circumstances and whether a petition should be launched on the council web site calling for the resignation of the councillor concerned.
- ii. If more than 33% of the registered electors in the ward in question sign the petition, there would be an expectation that the councillor concerned would resign thereby triggering a by-election. But the arrangement is a non-statutory protocol with no statutory basis and could be ignored by the Member concerned.
- iii. No other council in the UK has followed this example to date. It is also open to criticism that it appears to be unclear over the boundaries between the scheme and the Members Code of Conduct and the statutory roles of the Monitoring Officer and the Statutory Independent Person(s)

Options and Analysis of Options

- 3.1 It is clear that any mandatory scheme will require enabling legislation for central government but that still poses the question of what sort or nature of enabling legislation local government may wish to seek, even if Parliament is minded to accede to the request. In order to give the request more traction it suggested that the Committee agree an agenda of its requirements and consult with other authorities to gain support for their submission to the Secretary of State.
- 3.2 As to developing an interim local scheme of recall it has been seen that Kingston Council has issued such a local scheme of “recall” but that this is open to criticism because it is not actually a “recall scheme” but rather a procedure initiated by unelected officers to launch a public petition to canvass residents’ views as to whether a elected Member should effectively resign and cause a by-election. It also arguably blurs the roles of the Monitoring Officer and Statutory Independent Persons as well as the parameters of the Members Code of Conduct. Finally it appears to be misnamed because the Member concerned could simply ignore the recommendation and refuse to resign.
- 3.3 It is important to note that there are existing provisions under the Thurrock Constitution to bring an item to Full Council on the confidence or otherwise of Council as to whether a Member is discharging their office effectively. Firstly Members have a right under Council Procedure Rule (**CPR**) 17 to submit a Motion of “no confidence in any office holder.” The effect of such a Motion, if carried, is not to remove the office holder from their office but rather to express Full Council’ opinion as to their discharge of their office. Clearly the Leader, a portfolio holder, a committee chair are office holders but equally it can be argued so are individual councillors. Secondly a sufficient number of residents can already trigger a Full Council debate by a petition containing 1,500 signatures.
- 3.4 Therefore under our existing provisions either Members or a sufficient number of residents could initiate a debate at Full Council on whether they had confidence in an individual office holder (Member) which arguably is the same outcome as the Kingston Council Scheme as the decision whether to resign or not would still rest with the individual Member concerned.
- 3.5 In the circumstance rather than design a “recall scheme” which isn’t really a recall scheme because it has no mandatory power it was recommended in consultation with Group Leaders that a clarification and amendment of the existing Petition Scheme could address a situation where a sufficient number of ward residents wished to object to the performance of their elected Member. For example via a “Petition of No Confidence or Censure and Call to Resign” This could be done already under Petition Scheme Rule 7 above but

at **Appendix 1** is a suggested modification of the Petition Scheme to address the situation of ward residents feel they are being badly served.

- 3.6 In this suggested modification to the Petition Scheme there is a ward threshold necessary to generate a Full Council debate, a limited number of objective grounds for bringing such a petition, taking care not overlap with the existing procedures for Members' Code of Conduct complaints. It is suggested that the advantage of this approach is that it builds and clarifies an existing provision, it tailors it to ward concerns, the threshold and grounds would tend to exclude vexatious, frivolous or party political petitions whilst allowing Council to demonstrate transparency and preparedness to debate ward residents' concerns where a sufficient level of concern has arisen
- 3.7 Should such a local scheme allowing for a "Ward Petition of No Confidence and Call to resign" prove acceptable to the Committee it may also inform any submission to the Secretary of State for a mandatory scheme via legislation.

4. Reasons for Recommendation

- 4.1 This report follows the resolution and debate at Full Council

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 Group Leaders were consulted prior to drafting the report

6. Impact on corporate policies, priorities, performance and community impact

- 6.1 The proposal is intended to address democratic deficit and provide electors with a means of expressing censure against elected Members who fail to carry out responsibilities

7. Implications

7.1 Financial

Implications verified by **Laura Last**
Management Accountant

All costs will be funded from existing legal budgets

7.2 Legal

Implications verified by **David Lawson**
Deputy Head of Legal and Monitoring Officer

The implications are contained within the body of the report.

7.3 **Diversity and Equality**

Implications verified by **Natalie Warren**
**Community Development and Equalities
Manager**

No direct implications as a result of this report

7.4 **Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

Local Government Association publication: "Making a Difference – Your Guide to Becoming a Councillor". The publication is on the LGA website with an open copyright.

"The Recall of Members of Parliament and Citizens Initiated Elections" by Anne Twomey, now Professor in Constitutional Law at Sydney University published in the University of New South Wales Law Journal, Volume 34(1) (2011) protected by copyright.

9. **Appendices to the report**

- Appendix A - Ward Petition for Vote of No Confidence and Call to Resign

Report Author:

David Lawson

Deputy Head of Legal and Monitoring Officer

Legal and Democratic Services

APPENDIX A

Draft Constitution Chapter 1, Part 2 – Article 3 Petition Scheme

6. Ward petition relating to no confidence or censure in an elected Member and call to resign

6.1 A petition in respect of any matter relating to a recommendation that an elected Member of Council should consider resigning from office will be dealt with as at 6. 2 – 6.5 below.

6.2 The petition to be initiated on the Council's e-petition site for a period of 2 calendar months or until the specified electoral threshold at 6.4 is reached, whichever is the sooner. A petition in writing may also be submitted fulfilling the requirements set out in 6.4 below.

6.3 The petition must cite one of more of the following grounds:

- the Member has attended less than 20% Council meetings of which they are a Member, as defined by section 85(1) Local Government Act 1972, within a municipal year at the date upon which the petition is launched and where the Member's absence has not been approved by the Council itself;
- the Member has been convicted of a crime since election for which a prison sentence (whether suspended or not) has been imposed and the appeal period has expired without the sentence being overturned or becoming spent;
- the Member has since election and without reasonable excuse or explanation failed to engage in constituency work for a period of 6 months;
- the Member has since election been subject to a finding of a breach of the Members Code of Conduct after a hearing by the Standards & Audit Committee Panel for which a sanction of public censure has been imposed by the Council and any relevant appeal period has expired without the finding and sanction being overturned or no more than 3 months has elapsed since the expiry of any appeal period at the date upon which the petition is launched.

6.4 The petition must reach a specified electoral threshold (being calculated by reference to local government electors registered on the first day of the month in which the petition is launched or submitted) of at least 33 % of electorate numbers for the Member' ward being validly subscribed to the e-petition.

6.5 If the petition reaches specified electoral threshold it will be debated by the full Council unless otherwise contrary to the provisions of the petition scheme or is within 6 months of the scheduled election of the elected Member concerned.

6.6 The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be debated by Councillors for a maximum of 15 minutes.

6.7 The Council will then debate, without amendment the recommendation contained in the petition that the elected Member of Council should consider resigning from office.

This page is intentionally left blank