



# Brent

## **SUMMONS TO ATTEND ANNUAL COUNCIL MEETING – SUPPLEMENTARY AGENDA**

**Wednesday 4 June 2014 at 7.00 pm**

Grand Hall - Brent Civic Centre, Engineers Way,  
Wembley, HA9 0FJ

To the Mayor and Councillors of the London Borough of Brent and to each and every one of them.

I hereby summon you to attend the ANNUAL MEETING OF THE COUNCIL of this Borough.

CHRISTINE GILBERT  
Chief Executive

Dated: Wednesday 28 May 2014

**For further information contact:** Peter Goss, Democratic Services Manager  
020 8937 1353, [peter.goss@brent.gov.uk](mailto:peter.goss@brent.gov.uk)

For electronic copies of minutes, reports and agendas, and to be alerted when the minutes of this meeting have been published visit:  
**[democracy.brent.gov.uk](http://democracy.brent.gov.uk)**

**The press and public are welcome to attend this meeting**

# Agenda

Apologies for absence

**Item** **Page**

**7 Changes to the constitution** 1 - 54

To consider changes to the Constitution, including amendments to the executive arrangements, Full Council, the scrutiny arrangements and the terms of reference of some of the Council's committees.

**Ward Affected:** All Wards      **Contact Officer:** Fiona Ledden,  
Director of Legal and Procurement  
Tel: 020 8937 1292  
fiona.ledden@brent.gov.uk

**8 Representation of political groups on committees and political assistants** 55 - 62

This report deals with rules to be applied on the allocation to political groups of seats on committees established by the Council and the position regarding political assistants following the outcome of the elections.

**Ward Affected:** All Wards      **Contact Officer:** Fiona Ledden,  
Director of Legal and Procurement  
Tel: 020 8937 1292  
fiona.ledden@brent.gov.uk

**10 Members' code of conduct and Licensing and Planning codes of practice** 63 - 94

The Members' Code of Conduct forms part of the Constitution and under the Localism Act 2011 all Councils are required to adopt a Code. An allegation of breach of the Code may result in an investigation into that member's conduct by the Standards Committee. The Licensing and Planning Codes of Practice also form part of the Council's Constitution and set out the processes and Member conduct in relation to these regulatory functions. These Codes are periodically reviewed and this report sets out the recommendations for changes.

**Ward Affected:** All Wards      **Contact Officer:** Fiona Ledden,  
Director of Legal and Procurement  
Tel: 020 8937 1292  
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Please remember to **SWITCH OFF** your mobile phone during the meeting.

- The meeting room is accessible by lift and seats will be provided for members of the public.

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| <br><b>Brent</b> | <p style="text-align: center;"><b>Full Council Report<br/>4 June 2014</b></p> <p style="text-align: center;"><b>Report from Director of Legal and<br/>Procurement</b></p> |
| <p>To Action <span style="float: right;">Wards Affected:<br/>ALL</span></p>                       |   |
| <p><b>Changes to the Constitution</b></p>   |   |

## 1.0 Summary

This report sets out proposed changes to the Constitution. These include amendments to the executive arrangements, Full Council, Scrutiny Committee and the Terms of Reference of the some of the Council's committees. There will also be some changes of a more technical nature, for example in relation to contracts Standing Orders.

## 2.0 Recommendations

That Members;

- i) agree the changes to the Constitution shown in Appendix 1.
- ii) delegate authority to the Director of Legal and Procurement to make such miscellaneous and incidental changes to the Constitution as are necessary relating to the changes set out in this report.

## 3.0 Detail

3.1 The constitutional arrangements are periodically reviewed and it is suggested that the following amendments be made.

### ***Strong Leader and Cabinet***

3.2 The Council has a Leader and Cabinet model of governance that carries out the executive functions of the Council. The Local Government Act 2000

provides that under such arrangements the Leader shall decide the number, terms of office and portfolios of the Cabinet members, the arrangements for the Deputy Leader, and how executive functions should be discharged and by whom.

- 3.3 It is proposed that the Constitution be amended to better reflect the discretion given to the Leader by law. The proposed changes also provide for greater flexibility which allows the Council to respond more effectively to particular situations as they arise. To that end it is proposed that Part 9 of the Constitution be removed (Decisions of the Leader) and Part 2 Article 7 (Executive Arrangements) be varied. It is proposed that the Executive (the previous collective term for the Leader and Executive members) be referred to as the Cabinet. The proposed changes are shown in the appendices. There will also be other changes throughout the Constitution to reflect the amendments but the attached documents provide Members with the substance of the changes.
- 3.4 It is proposed that half of the Cabinet meetings take place during the day, alternating with Cabinet meetings in the evenings.
- 3.5 There are also changes to the Terms of Reference of the Highways Committee which is a committee appointed by the Leader.

### ***Full Council***

- 3.6 It is proposed that the items on the agenda of the Ordinary Meetings of Full Council be revised as follows:
- i) ***Standing Order 40 – Debate on Key Issues affecting the Borough***  
  
This will be deleted. This is considered to have been useful, particularly in relation to the Olympics and certain prominent speakers, but that it no longer serves a purpose.
  - ii) ***Standing Order 40 – Deputations***  
  
It is proposed that Deputations by members of the public be included in the agenda. A maximum period of 15 minutes will be provided in total, with 5 minutes maximum being provided for each speaker. Criteria are established requiring that such deputations relate to a significant matter concerning the borough.
  - iii) ***Standing Order 39 - Questions from the Opposition and Non executive Members***  
  
It is proposed that this be varied so as to provide for written notice of questions 7 days in advance, that there be no supplementary questions and that the number of questions be amended to reflect the new political balance of the Council.
  - iv) ***Standing Order 45 Motions***

It is proposed that the number of motions and the debate in relating to motions be amended to reflect the new political balance of the Council.

v) *Standing Order 48 (a) The Council Guillotine Procedure*

The time for terminating meetings of Full Council be amended to 10.00pm ( and also for other committees of the Council under Standing Order 66).

vi) *First Reading Debate Standing Order 44*

It is proposed that the procedure be amended to formally include provision for the Leader to have the right to reply.

### ***Overview and Scrutiny Functions***

- 3.7 The Local Government Act 2000 (as amended) provides that Councils must put in place at least one committee to undertake specific overview and scrutiny functions. Those prescribed matters can be summarised as holding the Cabinet and Full Council to account, considering call in matters, and considering the activities of external agencies such as health bodies.
- 3.8 The Act provides that the Council must have regard to any guidance issued by the Secretary of State. Guidance was issued in 2001 when the executive model of local government administration was first introduced. In summary, it advises that in larger local authorities there should be more than one overview and scrutiny committee, that a cross cutting approach should be taken to topics or issues, that it should provide an effective balance in relation to the executive model of governance, and the responsibility for different areas of overview and scrutiny should be apparent. The advice also provides that the number of such committees should be small. The document makes it clear that although the advice is provided, it is a matter for individual councils to decide their overview and scrutiny arrangements and various optional models are provided in the guidance, including one the same as that proposed below.
- 3.9 The Council currently has five overview and scrutiny committees and an ad hoc call in committee. While this structure has served the Council well, a stronger single committee that looks outwards is likely to have more impact. Five committees is a considerably higher number than most other London councils have following a random survey, and many have adopted a structure of a management or central committee which advises on and determines the area of review for any municipal year. A review of the council's arrangements suggests that the scrutiny of decisions and the review of the Council policies and activities (and those of other organisations and partner agencies) could be more effectively undertaken by a more focused and coordinated approach.
- 3.10 Having regard to the need to ensure that scrutiny and overview of the council and external agency practice and policies and their impact on local people are effective, targeted and timely, and taking into account the need to maximise

the use of limited resources, it is recommended that the overview and scrutiny arrangements in Brent be streamlined. It is proposed that there be one such Committee which is able to set an annual agenda identifying for review subjects that will bring about a real change or benefit for residents. Panels or commissions will be appointed by the committee and specific terms of reference and time scales for the review or enquiry will be provided. This central management will enable the Scrutiny Committee to coordinate and focus the reviews being undertaken and ensure that the findings and outcomes are given appropriate weight.

### ***Other Council committees***

- 3.11 It is proposed the terms of reference of the Pensions Sub Committee be varied for the purposes of clarity.
- 3.12 It is proposed that a Corporate Parenting Committee be established to assist the Council in fulfilling its obligations and responsibilities towards Looked After Children and care leavers. It will be an advisory and consultative body to the Council and its partners to provide challenge to ensure that the duties of the Council as corporate parent are carried out effectively and consistently. The Committee will raise awareness of the needs of children in care and care leavers across the Council and its partners.
- 3.13 It is proposed that the General Purposes Committee terms of reference be varied for the purposes of clarity, that the General Purposes Licensing Sub Committee be removed and its terms of reference transferred to the main committee, and that the Schools Disciplinary Sub Committee be removed on the basis it is no longer required.

### ***Membership of Committees***

- 3.14 Currently each member of the Council's committees has two alternates. It is proposed that there be a pool of alternates for each committee but an overall reduction in the number (Part 3 Standing Order 55). Previously the constitution prescribed who should chair certain committees. All committees have now been put on the same footing with the selection of Chair being a matter for Full Council (Part 3 Standing Order 53). Standing Order 56 has been amended to provide that a third rather than a quarter of members of a committee or sub committee may call a meeting of that committee

### ***Members Allowances***

- 3.15 The Members Allowance Scheme is governed by the Local Government and Housing Act 1989 and the regulations issued under that legislation. Every 4 years an Independent Panel reviews the allowance arrangements and a report is due shortly, following which the Council will need to undertake a full review of the allowance scheme.

### ***Miscellaneous changes***

- 3.16 In order to update the Constitution and ensure it complies with current legal requirements and is fit for purpose various minor changes are also proposed.
- i. changes to Contract Standing Orders to provide for advertising by electronic means instead of paper advert (Part 3 Standing Order 96)
  - ii. minor alterations to the delegation to officers in relation to land issues (Part 4 para 4.8)
  - iii. minor changes to the allocation of functions primarily relating to licensing (Part 4 Table 1)
  - iv. minor updates are made to the education exclusion and admission panels, changes are made to membership numbers on the Brent Housing Partnership Board (Part 2 , Article 11) and there is an update to the Teachers' Panel of the Teachers' Joint Consultative Committee (Part 2 Article 10)
  - v. Part 2 Article 1 para 1.10 of the Constitution provides that the Director of Legal and Procurement may make any changes to the Constitution required by law, but that these must be subsequently approved by the Council. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 came into effect on 25<sup>th</sup> February 2014 and required changes to the Council's Standing Orders regarding recording votes at budget meetings and Standing Order 47(c) shows the changes made.

#### **4.0 Financial Implications**

None

#### **5.0 Legal Implications**

These are set out in the body of the report

#### **6.0 Diversity Implications**

None

#### **7.0 Staffing/Accommodation Implications (if appropriate)**

None

#### **Background Papers**

Brent Constitution

#### **Contact Officers**

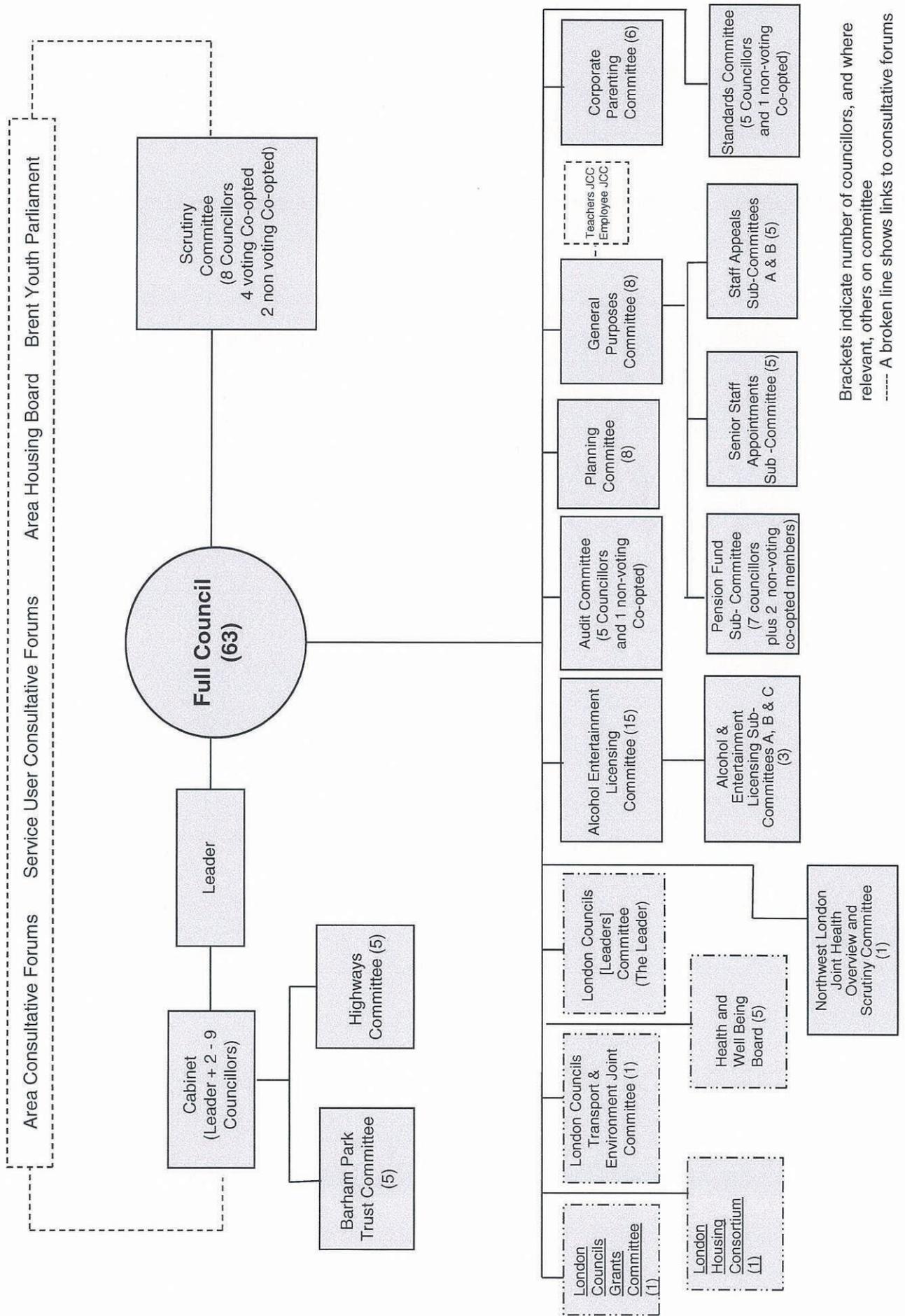
Kathy Robinson, Senior Corporate Solicitor

Telephone number 020 8937 1368

**Fiona Ledden**  
**Director of Legal and Procurement**

# Appendix 1

# LONDON BOROUGH OF BRENT DECISION MAKING STRUCTURE CHART



Brackets indicate number of councillors, and where relevant, others on committee  
 ----- A broken line shows links to consultative forums

# PART 2

## ARTICLES

- Article 1 The Constitution
- Article 2 Members of the Council
- Article 3 Citizens and the Council
- Article 4 Full Council
- Article 5 The Mayor
- Article 6 ~~Overview and~~ Scrutiny Committees
- Article 7 The ~~Executive~~Cabinet
- Article 8 Regulatory and other Committees
- Article 9 The Standards Committee
- Article 10 Consultative Forums
- Article 11 Other Bodies and Panels
- Article 12 Joint Arrangements
- Article 13 Officers
- Article 14 Decision Making
- Article 15 Finance, Contracts and Legal Matters

## Article 6 – The ~~Overview and~~ Scrutiny Committees and Sub-Committees

### Introduction

- 6.1 Effective, independent and rigorous examination of the proposals and decisions made by the ~~Cabinet Executive~~ are a significant feature of the Council's ~~executive~~ arrangements and provide a key role for non-executive members. Overview and scrutiny is the mechanism for holding ~~the Cabinet Executive~~ publicly to account. This function gives non-~~cabinet executive~~ members a significant opportunity to contribute to the proposals of the ~~Cabinet Executive~~, for example concerning the budget, as well as contributing to development of policy, reviewing the impact of policy decisions on the Borough and reviewing the quality of service performance. The Council has established ~~five main overview & a~~ Scrutiny committees. ~~These are: the One Council Overview and Scrutiny Committee, the Partnerships & Place Overview and Scrutiny Committee, the Health Partnerships Overview and Scrutiny Committee, the Budget and Finance Overview and Scrutiny Committee and the Children and Young People Overview and Scrutiny Committee. In addition a Call-in Overview & Scrutiny Committee has been established that will meet only when an Executive decision has been called in. The Scrutiny Committee will establish an annual work plan which identifies areas suitable for review and scrutiny and will establish commissions and or panels to undertake specific time limited work. The Scrutiny Committee will meet at regular intervals throughout the municipal year and will meet as and when required in relation to any Call in.~~
- 6.2 ~~All of t~~The ~~overview and s~~Scrutiny ~~C~~committees shall comprise ~~of~~ 8 members of the Council who shall not be members of the ~~Cabinet, and Executive, the Children and Young and People Overview and Scrutiny Committee shall comprise of 8~~ members of the Council who shall not be members of the ~~Executive~~, 4 voting co-opted members and 2 non-voting co-opted members appointed in accordance with Standing Order 54. Members, chairs and vice chairs of the committees will be appointed ~~to these committees~~ by Full Council.

### Annual Report and Work Programmes

- 6.3 ~~The Scrutiny Each C~~committee will be responsible for developing and agreeing its own work programme ~~and for appointing panels and commissions to undertake specific areas of work which will then report back to the Scrutiny Committee. The work programmes will be co-ordinated via an informal Chair's group~~
- 6.4 An annual report on the activities of ~~all of the overview and s~~Scrutiny ~~C~~committee will be produced and published
- 6.5 More information about the membership of the ~~overview and s~~Scrutiny ~~e~~Ccommittee is contained in Part 5 of this Constitution.

### General Role

- 6.6 Within ~~its their~~ terms of reference, the committees will:
- (a) make reports and/or recommendations to Full Council and/or the ~~Cabinet Executive~~, and/or partners as appropriate, in connection with the discharge of any relevant functions of the Council or partner organisations;

- (b) make reports and/or recommendations to Full Council and/or the Cabinet Executive, as appropriate, on matters which affect the Council's area or its inhabitants; and
- (c) review and/or scrutinise decisions made, or actions taken, in connection with the discharge of any of the functions of the Cabinet Executive or the Council and ~~the Call-in Overview & Scrutiny Committee~~ it will exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet Executive.

~~6.7 The One Council Overview and Scrutiny Committee, the Children and Young People Overview and Scrutiny Committee, the Partnership and Place Overview and Scrutiny Committee and the Health Partnerships Overview and Scrutiny Committee may establish time limited task groups to consider a set of issues or a service or part of a service or decision or other action taken or to be taken which will then report back to the relevant parent committee.~~

### Terms of Reference

6.7 The ~~overview and s~~Scrutiny ~~e~~Committees shall carry out the functions specified in Part 5 of, and elsewhere in, the Constitution but subject to the limitations and exceptions specified therein and may not discharge any other functions. The terms of reference for the ~~overview & scrutiny~~ committees are set out in Part 5 of this Constitution.

~~In summary they will:~~

- ~~• assist the Council and the Executive in the development of the Budget and Policy Framework by in-depth analysis of policy issues;~~
- ~~• consult with external organisations operating in the area to ensure that the interests of local people are enhanced by partnership and collaborative working;~~
- ~~• review and/or scrutinise the decisions made or to be made or other action taken or to be taken in connection with the discharge of any of the Council's functions; and~~
- ~~• review the performance of the Executive, other committees and sub-committees and officers and partners both in relation to individual decisions and over time.~~

### ~~Annual Work Programme and Annual Report~~

~~6.9 The overview and scrutiny committees will produce and publish an annual report on their work.~~

### Proceedings of the ~~Overview and Scrutiny Committees~~

6.8 The ~~overview and s~~Scrutiny ~~e~~Committees will conduct ~~their~~ its proceedings in accordance with Standing Orders and the Access to Information Rules.

- 6.9 If ~~any of the overview and the s~~Scrutiny ~~C~~committees intends to receive a report back from a task group of the committee ~~a Cabinet an Executive~~ member will be allowed to address it at the meeting that receives the report and the time allowed for this will be determined by the Chair acting reasonably.

### Members' Rights to Request Scrutiny

- 6.10 Any member of the ~~overview and s~~Scrutiny committees may, by giving written notice to the ~~Democratic Services Manager Head of Executive and Member Services~~, request that any matter which is relevant to the functions of the committee as the case may be is included in the agenda for, and is discussed at, a meeting of the committee such notice to be given at least 21 days prior to the date of the meeting at which the member wishes to raise the said matter.\*

### Councillor Call for Action

- 6.11 Any member of the council may, by giving written notice to the ~~Democratic Services Manager Head of Executive and Member Services~~, request that any matter (which is not an excluded matter under ~~Section 9FC~~ Local Government Act 2000) which is relevant to the functions of ~~the an overview and s~~Scrutiny ~~C~~committee be included in the agenda for, and be discussed at, a meeting of the committee.

- 6.12 Any member of the council may, by giving written notice to the ~~Democratic Services Manager Head of Executive and Member Services~~, request that a local crime and disorder matter (as defined by the Police and Justice Act 2006) be included in the agenda for, and be discussed at, a meeting of the ~~Partnership and Place Overview and~~ Scrutiny Committee.

- ~~6.14 The terms of reference of the each overview and scrutiny committee contains a power for the committee to consider a Councillor Call for Action in relation to a local government matter or in the case of the Partnership and Place Overview and Scrutiny Committee, a local crime and disorder matter.~~

- 6.13 Prior to referring a local government or local crime and disorder matter to overview and scrutiny a member should refer to the Council's Councillor Call for Action protocol which provides further information about the Call for Action process.

### Northwest London Joint Health Overview and Scrutiny Committee

- 7.1 In addition to the Council's ~~Overview and~~ Scrutiny Committees, the Council has membership on the Northwest London Joint Health Overview and Scrutiny Committee. The membership and terms of reference are set out in Part 5 of the Constitution.

## Article 7 – The ~~Executive Cabinet~~

### Role

- 7.1 ~~The Cabinet is the main decision making body of the Council, responsible for ensuring the implementation of the council's budgetary and policy frameworks. The Executive Cabinet is responsible for implementing the Council's policies. It is precluded from carrying out certain functions but is responsible for most day to day decisions not taken by officers.~~

### Form and composition

- 7.2 ~~The Executive Cabinet will consist of the Leader, with such other number of councillors (being not less than 2 or more than 9) as the Leader may appoint. The Leader has agreed to appoint nine members to the Executive.~~

### The Leader

- 7.3 The Leader will be a councillor elected to the position of Leader by Full Council at the first post election annual meeting held after the ordinary elections. If the Council fails to elect a Leader at that ~~Annual Meeting~~ then it shall elect a Leader at a subsequent meeting of the Council.
- 7.4 The Leader will hold office as Leader from the day of his election as Leader until the day of the post election Annual Meeting of the Council which is held after the ordinary local elections, which follows his/her election as Leader, unless he/she is removed from office in accordance with paragraph 7.7 .
- 7.5 The office of Leader continues to the post election annual meeting of the Council as in paragraph 7.4 above, whether or not the Leader is re elected as a Councillor to this authority.
- 7.6 The office of Leader becomes vacant if:
- (a) he/she resigns from the office; or
  - (b) he/she is suspended from being from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension) or he/she is disqualified from being a councillor; or
  - (c) he /she ceases to be a councillor ( save for the circumstances in paragraph 7.5)

### Removal of the Leader - Vote of No Confidence

- 7.7 ~~The Leader Cabinet shall cease to hold office following a vote of no confidence in him/her proposed and voted upon in accordance with Standing Orders.~~

### Other ~~Executive Cabinet~~ Members

- 7.8 ~~The Leader agrees will to appoint between two and nine members to the Executive Cabinet and shall notify the Head of Executive and Member Services of those appointments.~~
- 7.9 The Mayor and Deputy Mayor cannot be appointed to the ~~Cabinet Executive~~.

- 7.10 An ~~Executive Cabinet~~ member shall hold office until
- a) he/she resigns from office
  - b) he/she is suspended from being from being a councillor under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension) or they are disqualified from being a councillor; or
  - c) he/she ceases to be a councillor
  - d) he/she is removed from office by the Leader

#### Portfolios of ~~Executive Cabinet~~ Members

- 7.11 Portfolio responsibilities of the ~~Executive Cabinet~~ members are determined by the Leader. These portfolios provide the members of the ~~Executive Cabinet~~ with responsibility for setting the direction and being accountable for the operation of the services or functions comprised within their respective portfolios. The Leader agrees to provide details ~~to Full Council~~ of the portfolios allocated to the ~~Executive members~~ Cabinet members to the ~~Democratic Services Manager~~ Head of Executive and Member Services and those details shall be provided to Full Council.

#### The Deputy Leader

- 7.12 The Leader shall appoint one of the members of the ~~Executive Cabinet~~ to be Deputy Leader.
- 7.13 The Deputy Leader shall hold office until the end of the term of office of the Leader unless
- (a) he/she resigns as Deputy Leader, or
  - (b) he/she is suspended from being from being a councillor under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension) or they are disqualified from being a councillor; or
  - (c) ~~he/she ceases to be a member~~ councillor of the authority ~~the Leader removes the Deputy Leader from office~~
  - (d) ~~the Leader removes the Deputy Leader from office~~ he/she ceases to be a member of the authority
  - (e) until the Annual Meeting following his/her appointment as Deputy Leader
- 7.14 Where a vacancy occurs in the office of Deputy Leader, the Leader must appoint another person in his/her place.
- 7.15 If, for any reason, the Leader is unable to act or the office of Leader is vacant as in paragraph 7.6, the Deputy Leader must act in his/her place.

#### Appointments by the Leader

- 7.16 The Leader has agreed that appointments to and/or removal of members of the ~~Executive Cabinet~~ and the appointment and or removal of Deputy Leader shall only be effective upon receipt of written notice to that effect by the ~~Head of Executive and Member Services~~ Democratic Services Manager

#### Other Vacancies in the ~~Executive Cabinet~~

- 7.17 If the Leader is unable to act, or the office is vacant, and also the Deputy Leader is unable to act, or the office is vacant, all responsibilities of the ~~Executive~~

~~Cabinet~~ shall be carried out by the ~~Executive Cabinet~~ collectively, ~~subject to the power vested in the Chief Executive at Part 4 paragraph 2.3 to carry out all functions in cases of extreme urgency.~~

7.18 If at any time an ~~Executive Cabinet~~ member other than the Leader or Deputy Leader ceases to be a member of the ~~Executive Cabinet~~, the responsibilities of that member shall ~~revert to the Leader be carried out by the Executive Cabinet collectively~~ until such time as the Leader shall have appointed a replacement, or, where appropriate, re-appointed the member concerned.

7.19 In the event of there being no Leader or Deputy Leader appointed and an insufficient number of members of the ~~Executive Cabinet~~ appointed to achieve a quorum, all ~~e~~Executive functions shall in the interim be carried out by the Chief Executive.

7.20 The responsibilities and powers of the Deputy Leader may not be carried out by any other member of the ~~Executive Cabinet~~ in his/her absence, or if the post is vacant.

### Proceedings of the ~~Executive Cabinet~~

7.21 Proceedings of the ~~Executive Cabinet~~ take place in accordance with Standing Orders, where applicable. The ~~Executive Cabinet~~'s decision-making meetings are held in public except where confidential or exempt information would be discussed.

### Responsibility for the discharge of ~~E~~executive functions

7.22 Executive functions may be exercised by the Leader, or the Leader may delegate those functions to the ~~Executive Cabinet~~ as a whole, a committee of the ~~Executive Cabinet~~, ~~a joint committee, another Local Authority~~, an individual ~~Executive Cabinet~~ member, or officers. The ~~Executive Cabinet~~ may arrange for ~~E~~executive functions delegated to it to be carried out by a committee of the ~~Executive Cabinet~~, or an officer.

7.23 The Leader has agreed to delegate all executive functions to the ~~Executive Cabinet~~ except those which he/she has delegated to the Highways Committee ~~or through the Cabinet to the, Barham Park Trust Committee~~ or officers as set out in Part 4.

7.24 The Monitoring Officer shall maintain a list as set out in the Constitution of the committees of the ~~Executive Cabinet~~, officers or joint arrangements, which are responsible for the exercise of particular executive functions as delegated to them by the Leader. This is contained in Part 4 of the Constitution.

~~7.25 The Leader has agreed not to make executive decisions alone. Nor will he/she arrange for the discharge of executive functions by another individual member of the Executive,, including any decisions relating to their portfolio. The Executive will only make decisions collectively.~~

~~7.26~~5 The Leader may change the arrangements for the discharge of executive functions. The Leader has agreed that such changes shall only be made on written notice to the ~~Director of Legal and Procurement or Full Council Democratic Services Manager~~ and that such notified changes shall only be effective from the ~~at~~ date ~~they are reported to the next meeting of Full Council.~~

### Executive Cabinet Committees

- 7.276 The ~~Leader~~ Leader has established a Highways Committee, ~~to which he/she has delegated certain executive functions which~~. The Leader has agreed to delegate such functions to the Highways Committee as are set out in the Constitution in Part 4 (Terms of Reference). As the Highways Committee is exercising executive functions it is bound by the same procedural rules as the ~~Executive Cabinet~~ as set out in Parts 3, 4 and 6 of this Constitution.
- 7.287 The ~~Executive Cabinet~~ has established a sub-committee; the Barham Park Trust Committee, to decide matters relating to the Trust. ~~† The Cabinet has agreed to delegate such functions to the Barham Park Trust Committee as are set out in the Constitution in Part 4 (Terms of Reference).~~

# **PART 3**

## **STANDING ORDERS**

- (d) The Chair of the ~~Budget and Finance Overview and~~ Scrutiny Committee shall be allowed up to 10 minutes to present the findings of the committee. A procedural motion shall address the right to speak of the Group Leaders and the Lead Member for Resources including time limits. There will then be general debate. Provision shall also be made in the procedural motion for the Leader of the Council to have the right to make closing remarks with a time limit specified. Following which a vote will be taken.
- (e) At an Ordinary Meeting where Council Tax Setting is decided there shall be no motions (item (m) under the Ordinary Council Meeting items of business).

### 35 [Paragraph number not in use]

### 36. Extraordinary meetings

- (a) An Extraordinary Meeting of Full Council may be called at any time by the Mayor, or in the absence of the Mayor, by the Deputy Mayor. References in the following paragraphs of this Standing Order to the Mayor shall include the Deputy Mayor acting in his or her absence.
- (b) If the Mayor refuses to call an Extraordinary Meeting of Full Council after a requisition for that purpose, signed by five members of the Council, has been presented to him or her, or if, without so refusing, the Mayor does not call an extraordinary meeting within seven days after the requisition has been presented to him or her, then, any five members of the Council, on that refusal or on the expiration of those seven days, as the case may be, may forthwith call an Extraordinary Meeting of Full Council.
- (c) A requisition under paragraph (b) above for an Extraordinary Meeting of Full Council may be presented to the Mayor either personally or by leaving it with the ~~Democratic Services Manager~~, Head of Executive and Member Services or a member of his or her staff, who shall be empowered to receive the requisition on the Mayor's behalf. Any such requisition shall be accompanied by notice of the motion or motions to be debated at the Extraordinary Meeting. The requisition shall be marked with the date and time of receipt by the Mayor or the officer receiving it on the Mayors behalf.

### 37. Ordinary Meetings

Unless otherwise provided in these Standing Orders the order of business at ordinary meetings of Full Council except those concerning a first reading debate or the Council tax setting shall be:-

- (a)\* **Absence of Mayor:**

*To choose a person to preside if the Mayor or Deputy Mayor is absent.*

- (b)\* **Business required to be dealt with first:**

*If necessary, to deal with any business required by statute to be done before any other business.*

- (c) **Minutes:**

To approve as a correct record and sign the minutes of the last meeting or meetings of Full Council.

(d) **Declarations:**

Declaration by members of any personal and prejudicial interests and disclosable pecuniary interests in any matter to be considered at the meeting.

(e) **Mayor's announcements (including petitions received)**

(f) **Business from previous meetings:**

If necessary, to dispose of any business remaining from the last meeting of Full Council.

(g) **Appointments to Committees and Outside Bodies and Appointments of Chairs/Vice Chairs**

If necessary, to agree appointments to committees and outside bodies and to agree the appointment or replacement of Chairs and/or Vice Chairs of committees.

(h) **Reports from the Leader or members of the Executive Cabinet**

To receive reports from the Leader or Executive Cabinet in accordance with Standing Order 38

(i) **Deputations**

To enable deputations by Members of the public in accordance with Standing Order 39. ~~Questions from the Opposition and other Non Executive Members~~

~~To enable questions to be put to the Executive~~

(j) **Debate Questions from the Opposition and other Non Cabinet Members**

To enable questions to be put to the Cabinet~~To debate key issues affecting the Borough~~ in accordance with Standing Order 40.

(k) **Reports from the Chairs of the ~~Overview and~~ Scrutiny Committees**

To receive reports from the Chairs of the ~~Overview and~~ Scrutiny Committees in accordance with Standing Order 41

(l) **Other Business required to be dealt with:**

Including, by way of example but not limitation, election results, review of political balance, changes to the Constitution, recommendations from committees, ~~reports from Chief Officers~~, and any other business required to be dealt with.

(m) **Motions**

To debate Motions selected by the groups in accordance with Standing Order 45.

(n)\* **Urgent business:**

*If the Mayor so agrees, to consider any urgent business.*

Business falling under (a) to (f) shall not be displaced, but subject thereto the foregoing order of business may be varied by the Mayor at his/her discretion.

Where the Council is to consider a first reading debate item (j) does not take place.

Where the Council is to set the Council Tax items (h), (i), (j) and (k) will be replaced by the other items set out in Standing Order 34.

**38. Report from Leader or Members of the Executive Cabinet**

(a) The Leader or other member(s) of the Executive Cabinet shall be allowed up to 15 minutes to report to Full Council on any matter which is the responsibility of the Executive Cabinet including but not limited to all or any of the following matters:-

(i) **Reports to be discussed at a First Reading Debate:**

Any initial report to be debated at a First Reading Debate in accordance with Standing Order 44, including the initial report on the annual budget

(ii) **Policy proposals referred to Full Council for approval following a First Reading Debate:**

Any proposed plan, policy or strategy which has been through a First Reading Debate and which is being presented by the Executive Cabinet to Full Council for approval, the views (if any) of the ~~relevant Overview and~~ Scrutiny Committee and the way in which those views were taken into account by the Executive Cabinet;

(iii) **Other Policy proposals referred to Full Council for approval:**

Any other proposed plan, policy or strategy forming part of the Policy Framework or the Budget which is being presented by the Executive Cabinet to Full Council for approval, the views (if any) of the ~~relevant Overview and~~ Scrutiny Committee and the way in which those views were taken into account by the Executive Cabinet;

(iv) **Approval to depart from Policy Framework or Budget:**

Any decisions which the Executive Cabinet has ~~ve~~ purported to take or ~~is~~ is minded to take which, in the reasonable opinion of the Chief Executive, Monitoring Officer or the Chief Finance Officer are, or would be, contrary to the Policy Framework or contrary to or not wholly in accordance with the budget approved by Full Council and in respect of which decision is sought from Full Council in accordance with Standing Order 18

**(v) Urgent decisions outside the Policy Framework and the Budget:**

Any decisions which the ~~Executive Cabinet has have~~ taken and which were contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the budget but which were taken in accordance with the urgency provisions in Standing Order 18 (to include the reasons for urgency);

**(vi) Urgent decisions not included in the Forward Plan:**

Any decisions which were not included in the Forward Plan but were taken by the ~~Executive Cabinet~~ under the urgency provisions in Standing Order 16 and the reasons for such urgency;

**(vii) Urgent decisions called in:**

Any decisions which were called in for scrutiny and which were implemented under the urgency provisions in Standing Order 20 prior to consideration of the decision by the ~~Call In Overview and~~ Scrutiny Committee and the reasons for urgency;

**(viii) Non-compliance with Access to Information Rules:**

Any decisions which the ~~Executive Cabinet~~ have taken in respect of which the ~~Executive Cabinet~~ should have but did not comply with those parts of the Access to Information Rules relating to such decisions and any decisions which the Overview and Scrutiny Committees has required the ~~Executive Cabinet~~ to report to Full Council under the Access to Information Rules because it considers that the ~~Executive Cabinet~~ did not comply with the Access to Information Rules relating to the decision;

**(ix) The response of the ~~Executive Cabinet~~ to comments received:**

The response of the ~~Executive Cabinet~~ to any other comments or recommendations received from, or being presented by, the ~~Overview and~~ Scrutiny Committees or Full Council;

**(x) Any recommendations to Full Council.****39 Deputations**

(a) Deputations may be made by members of the public. Each deputation shall last not more than 5 minutes and there shall be a maximum of 3 deputations at any one council meeting on different subject matters. There shall be no more than one deputation made by the same person or organisation in a 6 month period and no repetition of the subject.

(b) Any deputation must directly concern a matter affecting the borough and relate to a Council function. Deputations shall not relate to legal proceedings or be a matter which is or has been the subject of a complaint under the Council's complaints processes. Nor should a deputation be frivolous, vexatious, or defamatory. The Director of Legal and Procurement shall have discretion to decide whether the deputation is for any other reason inappropriate and cannot proceed.

(c) Any person wishing to make a deputation shall give written notice to the Director of Legal and Procurement of the title and summary of the content of the deputation not less than 5 days before the date of the meeting.

(d) If more than three deputations are received a ballot will take place three days before the Council meeting to select the deputations to be presented before the Council.

#### **3940. Questions from the Opposition and Non ~~Executive Cabinet~~ Members**

(a) A period of not more than ~~45~~30 minutes shall be allowed to ask and respond to questions raised under this item.

(b) Non ~~executive Cabinet~~ members (except the Mayor and Deputy Mayor) will be permitted to put a maximum of 10 questions to the ~~Executive Cabinet~~. Each non-~~executive Cabinet~~ member may only put one matter to the ~~Executive Cabinet~~ in any one question time session. The 10 questions are to be divided as follows; ~~5~~3 from the main opposition group, 1 from the minority opposition ~~group~~ and ~~4~~6 from the administration. Such questions to be provided to Head of Executive and Member Services not less than 5 days before the date of the meeting.

(c) The party groups shall decide which of their members shall put the questions to the ~~Executive Cabinet~~.

(d) Each non ~~executive Cabinet~~ member shall have up to 1 minute within which to put their question.

(e) A member of the ~~Executive Cabinet~~ shall have up to 2 minutes to respond to the question.

~~(f) The non executive member shall be permitted to comment further for a maximum of 2 minutes. These follow up comments must relate to the subject matter of their original question and must not involve further or supplementary questions..~~

#### **40. ~~Debate on key issues affecting the borough~~**

~~(a) With agreement of all Group Leaders a speaker shall be invited to attend and speak on an issue pertinent to the London Borough of Brent. The speech shall not exceed 10 minutes.~~

~~(b) The lead executive member will be permitted to speak for 5 minutes on the topic addressed by the speaker within which time they will propose a motion for debate.~~

~~(c) The debate by members will not exceed 45 minutes. Questions or comments by members shall not exceed 2 minutes.~~

#### **41. Report from the Chairs of the ~~Overview and~~ Scrutiny Committee**

(a) The Chairs of not more than two ~~Overview and~~ Scrutiny Committees may present reports on any matter in respect of which the committees ~~have~~ has been consulted or which it has ~~they have~~ been reviewing or considering and ~~each~~ shall be permitted to speak for up to 5 minutes thereon.

- (b) In the absence of the Chair, the report shall be presented by the Vice Chair of the Committee or, in the absence of the Vice Chair, by another member of the Committee selected for that purpose by the Chair or, if no person has been selected by the Chair, a person selected for that purpose by the Mayor or other person presiding at the meeting of Full Council.
- (c) The Chair or other person nominated to speak shall where appropriate include in his or her report:-
- (i) details of the decisions or proposals of the ~~Executive Cabinet~~, which have been called in for scrutiny and are being referred to Full Council in accordance with Standing Order 20;
  - (ii) details of decisions or proposals of the ~~Executive Cabinet~~, other than those permitted to be made by the ~~Executive Cabinet~~ under Standing Order 16 (urgency) or 19 (virement and in year changes to policy), which ~~an the Overview and~~ Scrutiny Committee considers are or, if made, would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Council's budget and the recommendations to Full Council thereon;
  - (iii) details of the decisions of the ~~Executive Cabinet~~ which ~~an the Overview and~~ Scrutiny Committee considers were made by the ~~Executive Cabinet~~ other than in accordance with those parts of the Access to Information Rules applicable to such decisions.

42. [Paragraph number not used]

43. [Paragraph number not used]

#### 44. First Reading Debate

At an Ordinary Meeting where the first reading debate is to take the place, item j, in Standing Order 37, shall be replaced by the following;

(a) The Leader shall present the initial report to the meeting setting out the budget or any plan, policy or strategy forming part of the Policy Framework

(b) Where a First Reading Debate is to be held in respect of the budget or any plan, policy or strategy forming part of the Policy Framework a period of 60 minutes shall be allowed for a debate on the budget or that plan, policy or strategy (or longer if the Mayor so agrees).

~~(b)-(c) The Leader shall have the right to respond.~~

(d) At the conclusion of the First Reading Debate, Full Council shall note the contents of the report and any other information submitted to it, the debate concerning any questions raised and any other relevant issues. The proposal may be referred to the ~~Chair of the Budget and Finance Overview and~~ Scrutiny Committee ~~or if appropriate one of the other Overview and Scrutiny Committees~~, in accordance with Standing Orders 25 (c) and/or 26 (b) as the case may be.

#### 45. Motions

(a) Members may put motions to council. ~~A period of no more than 45 minutes shall~~

~~be allowed for this item.~~

- (b) A maximum of ~~32~~ motions will be put to Council at any one meeting (one per party group) which will be debated.
- (c) Each group must give notice in writing of their motion to the Head of Executive and Member Services ~~Democratic Services Manager~~ not less than 5 days before the date of the meeting. This shall include a copy of the Motion they are intending to move at the meeting. A copy of the motion shall be circulated to all members at least 2 days before the date of the meeting.
- ~~(d) The time allowed to debate and vote on each of the 3 motions shall not exceed 15 minutes~~
- ~~(e)~~(d) The debate shall commence with the proposer being invited to speak for up to 3 minutes during which time they shall move the Motion notified to the Head of Executive and Member Services ~~Democratic Services Manager~~. Further speakers shall then be called by the Mayor.
- ~~(f)~~(e) Up to 6 4 speakers shall be allowed for each motion (2 from each group), each limited to 2 minutes
- ~~(g)~~ The matter shall be put to the vote at the end of the debate 15 minutes permitted for each of the three Motions.
- ~~(h)~~(f) Any amendments to the motions can be accepted provided they are set out in writing to the Mayor prior to a vote taking place

#### 46. Rules Of Debate For Meetings of Full Council

- (a)\* *Any motion or amendment to a motion may be moved without notice but must relate to an item of business specified in the summons for the meeting.*
- (b) Each amendment shall relate to the subject matter of the motion and shall not have the effect of negating the motion.
- (c) Motions or amendments to motions shall not be open to debate until formally moved.
- (d) Motions and amendments to motions which have not been circulated in advance of the meeting shall be read aloud before they are open to debate, and the Mayor will require that the motion or an amendment to a motion is written down and handed to him/her.
- (e) Procedural motions shall be put to the vote without discussion, provided that the Mayor may, in his or her absolute discretion, allow or require the proposer to give (for such brief period as the Mayor may allow) reasons for proposing the motion.
- (f) A member shall stand when speaking and shall address the Mayor. If two or more members rise the Mayor shall call on one to speak.
- (g) Speeches shall be directed to the matter under discussion or to a personal explanation or to a point of order.
- (h) No speech shall exceed three minutes except where otherwise provided in these Standing Orders or by the consent of Full Council and except for a Chair or the Leader replying to a debate whose speech shall not exceed five minutes. Any

motion or amendment to a motion shall be put within the time allowed for the speeches.

- (i) With the exception of ~~a Cabinetan Executive~~ Member responding to a question put to the ~~Cabinet Executive~~ by a non-~~Cabinet executive~~ member, or a Chair of a committee or sub-committee replying to a debate on a report referred from the committee or sub-committee or where otherwise provided in these Standing Orders, a member shall not speak more than once on any item of business except on rising to a point of order or in personal explanation.
- (j) A member may rise to a point of order or in personal explanation, but a personal explanation shall be confined to some material part of a former speech by the member at the same meeting, which may have been misunderstood. A member so rising shall be entitled to be heard forthwith.
- (k) Subject to the provisions of Standing Order 4(b) the ruling of the Mayor on a point of order or on the admissibility of a personal explanation shall not be open to discussion.
- (l) Whenever the Mayor rises during a debate, all those present then speaking or standing shall resume their seat and Full Council shall be silent.
- (m) A motion or amendment to a motion may be withdrawn or altered by the proposer of the motion or amendment with the consent of Full Council, which shall be signified without discussion. Where a motion is withdrawn there shall thereafter be no further debate on the item.
- (n) At the commencement of a debate, any member may move that only a specified number of members from each of the political groups shall be permitted to speak before a vote is taken or at the commencement of any meeting of Full Council or during the course thereof any member may move that only a specified number of members of each political group shall be permitted to speak on each motion or amendment thereto.
- (o) A member may move without comment at the conclusion of another member's speech: *"That the question be now put"*, *"That the debate be adjourned (to some stated time)"* or *"That the Council do now adjourn (to some stated time)"* on which the Mayor shall proceed as follows:-
  - (i) On a motion that the question be now put, the Mayor shall first put that motion to the vote without further discussion; if it is passed the motion(s) and/or amendment(s) relating to the subject of the debate will then also be put to the vote;
  - (ii) On a motion to adjourn the debate or the meeting, the Mayor shall put that motion to the vote without further discussion; if it is passed the debate or meeting shall stand adjourned to the time stated; if the debate is adjourned the Council will proceed to the next item of business; if the meeting is adjourned no further business will be transacted until the adjourned meeting

AND no second motion that the question be now put or that the debate or meeting be adjourned shall be made during the consideration of the same business unless it shall be proposed by the Mayor.
- (p) The Mayor may at any time invite an officer to respond to any issue raised or question asked.

#### 47. Voting

- (a) Prior to voting on a Motion there shall be put to the vote any amendments to that Motion that have been moved.
- (b)\* *Amendments to Motions shall be taken in the order in which they were moved and shall be voted upon in succession unless, subject to the advice of the Director of Legal and Procurement or the Chief Executive, it is agreed by the meeting that the amendments shall be taken en bloc.*
- (c) The mode of voting at meetings of Full Council shall be by show of hands and, on the requisition of the leader of a political group, or of any member of the Council supported by 14 other members of the Council raising their hands, made before the vote is called, the voting on any question shall be recorded in the minutes of the meeting so as to show whether each member present gave their vote for or against that question or abstained from voting. Immediately after any vote is taken at a budget decision meeting of an authority on the budget or council tax there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.
- (d)\* *Where immediately after a vote is taken any member so requires, there shall be recorded in the minutes whether that person voted for the question or against the question or abstained.*
- (e) Except in the case of a vote taken under any provision of Standing Orders 48 (Guillotine) 49 (Minutes) or 50 (Disorderly Conduct), at least one full minute before a vote is taken at a meeting of Full Council, a bell shall be rung to draw members' attention to the impending vote.
- (f) For the purpose of voting and for recording votes at meetings of Full Council, members shall be present and seated in their places.
- (g)\* *In the case of an equality of votes the person presiding at the meeting shall have a second or casting vote.*
- (h)\* *Once a vote has been taken on any matter, the matter shall not be reconsidered by the meeting other than to clarify any points or if the matter is a procedural matter only.*

#### **48. The Council Guillotine Procedure**

- (a) Every ordinary meeting of Full Council shall terminate no later than 10:30pm provided that Full Council may decide to adjourn the meeting to a specified date on a motion to this effect being proposed and put to the vote without discussion.
- (b) If the meeting is not adjourned, then any outstanding items of business shall be dealt with as follows:
  - (i) in the case of reports from committees and sub-committees and reports of Chief Officers the Mayor shall invite motions to be proposed in respect of them. Any such motion(s) shall be moved without supporting comment and voted upon without debate. If no such motion is proposed, or if three successive motions are voted upon and defeated, the matter shall be adjourned to the next Ordinary Meeting of Full Council.
  - (ii) any other business shall be adjourned to the next ordinary meeting of Full Council.

**49.\* Minutes**

- (a)\* *Minutes of any meeting of Full Council shall be put forward for approval as a correct record and for signing to the next ordinary meeting of Full Council or to the Annual Meeting whichever shall first occur.*
- (b) The Mayor shall put the question that the minutes of the meeting of the Council held on the ..... day of ..... be approved as a correct record.
- (c) No discussion shall take place upon the minutes except upon their accuracy and any question of their accuracy shall be raised by motion. If no such question is raised or if it is raised then as soon as it has been disposed of, the Mayor shall sign the minutes.
- (d) There shall be recorded in the minutes of any meeting of Full Council any declarations of interests made by members in accordance with the Brent Members Code of Conduct both in the minute concerning the declaration of interests item itself and in the minute concerning the item of business to which the declaration relates.

**50. Disorderly Conduct**

- (a) If at any meeting of any part of the Council any member is, in the opinion of the person chairing the meeting, guilty of misconduct by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly, or offensively, or by wilfully obstructing the business of the Council, then the Chair or any other member may move "That [Councillor X] not be heard further", and the motion shall be put and determined without discussion.
- (b) If the member named is guilty of further misconduct after a motion under the foregoing sub-paragraph has been carried the Chair shall:-
  - (i) move "That [Councillor X] shall now leave the meeting" and the motion shall be put and determined without discussion. If the Chair's motion is carried and the member(s) concerned fail(s) to leave the meeting, the Chair shall take such action, as he/she deems appropriate in the circumstances to bring the member(s) concerned to order; or
  - (ii) adjourn the meeting for such period, as the Chair shall consider expedient.
- (c) In the event of general disturbance which, in the opinion of the Chair of a meeting, renders the due and orderly despatch of business impossible, the Chair may adjourn the meeting for such period as the Chair shall consider expedient.
- (d) Members shall not at any time make any improper remark nor use unseemly language nor make offensive gestures nor make personal attacks on any person.
- (e) The Chair may call a member to order for irrelevance, repetition, imputation of dishonourable conduct or improper remark, unseemly language, offensive gestures or any breach of order and may direct a member if speaking to discontinue their speech.
- (f) If a member of the public interrupts the proceedings at any meeting the Chair shall warn them that if they continue to interrupt the proceedings of the meeting he or she may be removed from the meeting room, as the case may be. If they continue the interruption the Chair shall order their removal from the meeting

room. In case of general disturbance in any part of the meeting room open to the public the Chair shall order that part to be cleared.

- (g) Members of the press and public may be excluded from Council meetings either in accordance with the Access to Information Rules in part 6 of the Constitution or Standing Order 50(f).

**51. Smoking and Mobile Phones at Meetings**

- (a) No person shall smoke at any meeting of the Council or the ~~Cabinet Executive~~ or a committee or sub-committee thereof.
- (b) Any mobile phone taken into a meeting is to be switched off for the duration of the meeting.

**COMMITTEES AND SUB-COMMITTEES OF THE COUNCIL****52. Standing Orders to apply to Council Committees and Sub-Committees**

- (a) The Standing Orders shall, where appropriate, apply with suitable modifications to meetings of committees and sub-committees of the Council except to the extent specified herein or to the extent that they are not necessary or relevant or would conflict with any other requirement in the Constitution in relation to that meeting including any code of conduct or code of practice.
- (b) In the event that there is any disagreement as to whether or not any part of these Standing Orders should or should not apply to a meeting of a committee or sub-committee whether with or without suitable modification the question shall be determined by the Chair on the advice from the Director of Legal and Procurement or the Head of Executive and Member Services Democratic Services Manager or their representatives.

**53. Appointments to and chairs of Council Committees and Sub-Committees**

- (a) Full Council may appoint such Council committees as it is required or permitted to appoint, such committees to be set out in Part 5 of the Constitution, together with their terms of reference and the number of members to be appointed.
- (b) Full Council shall appoint a Chair for each of the Council Committees and if it so wishes a Vice Chair.
- ~~(c) The Chair of the One Council Overview and Scrutiny Committee, and the Budget and Finance Overview and Scrutiny Committee shall be members from the opposition.~~
- ~~(d) The Chair of the Call-in Overview and Scrutiny Committee shall be the same as the Chair of the One Council Overview and Scrutiny Committee.~~
- ~~(e)(c)~~ The vice chairs of the ~~overview and Sscrutiny C~~committees shall be from a different political group as the chair.
- ~~(f)(d)~~ Full Council may at any time dissolve a committee or remove any of its members or change the size of its membership.
- ~~(g)(e)~~ Other than in the case of the Alcohol & Entertainment Licensing sub-committees, Full Council shall determine the extent to which any functions may be exercised by any sub-committee and the terms of reference will be set out in Part 5 of the Constitution. In the case of the Alcohol and Entertainment Licensing sub-committees the Alcohol & Entertainment Licensing Committee will determine the extent to which any functions may be exercised by them and will agree their terms of reference
- ~~(h)(f)~~ Appointment of the Council's sub-committees and agreeing the number of members to be appointed shall be by the parent committee and the Chair and (if considered necessary) Vice Chair of the sub-committees shall be appointed by the parent committee.
- ~~(i)(g)~~ No councillor may be appointed to any committee or sub-committee so as to hold office later than the next Annual Meeting or the meeting of Full Council which meets after the next Annual meeting to agree appointments to committees.

- (j)(h) Co-opted members may be appointed to committees and sub-committees in accordance with Standing Order 54 and the rules for membership for committees and sub-committees contained in Part 5 of the Constitution.

#### 54. Independent and Co-opted Members

- (a) The Council shall appoint one co-opted non-voting Member ~~and an alternate~~ to its Standards Committee and one co opted non voting member for the Audit Committee. The Council shall also appoint up to 4 non voting co opted members on its Corporate Parenting Committee.
- (b) The ~~co opted Independent~~ Members shall hold office for up to two years or until the date of the Annual Meeting nearest to the expiry of that two year period (or until the date of the meeting of Full Council that takes place after that Annual meeting to agree appointments to committees). Such appointments shall be subject to confirmation by Full Council at each Annual Meeting that follows the appointment (or at the meeting of Full Council that takes place after the Annual Meeting to agree appointments to committees as the case may be).
- (c) The ~~M~~membership of the ~~Children and Young People Overview and~~ Scrutiny Committee and any other Council committee or sub-committee whose terms of reference include consideration of matters relating wholly or partly to any education functions which are the responsibility of the ~~Cabinet Executive~~ shall include as Voting Co-opted Members, 2 parent governor representatives, 1 representative nominated by the Diocesan Board of Education for any Church of England Diocese which falls within the Council's area and 1 representative nominated by the bishop of any Roman Catholic Diocese which falls within the Council's area and such representatives shall be appointed by the appropriate appointing body.
- (d) The term of office of the parent governor Voting Co-optees appointed under paragraph (c) of this Standing Order shall be 3 years (or less if otherwise so determined by Full Council).
- (e) The ~~M~~membership of the ~~Children and Young People Overview and~~ Scrutiny Committee and any other Council Committee or sub-committee whose terms of reference include consideration of matters relating wholly or partly to any education functions which are the responsibility of the ~~Cabinet Executive~~ may include 2 Non Voting Co-opted Members who represent the governing bodies of schools which are faith schools not covered in paragraph (c) above and such representatives shall be appointed by the appropriate appointing body.
- (f) A Co-opted Member appointed under this Standing Order shall be entitled to receive all papers and take part in the entire discussion that takes place at a meeting of the relevant committee or sub-committee and Voting Co-opted Members shall be entitled to vote on any question which falls to be decided at the meeting and which relates to any education functions which are the responsibility of the ~~Cabinet Executive~~ as determined by the Director of Legal and Procurement or his or her representative.
- (g) No Voting Co-opted Member appointed by Full Council shall be entitled to act as a Co-opted Member until they have delivered to the Monitoring Officer a signed undertaking agreeing to be bound by the Brent Members Code of Conduct and shall register any interest which by that Code they are required to so register in the Register of Member Interests.

- (h) No Non-voting Co-opted Member shall be entitled to act as a Non Voting Co-opted Member until they have delivered to the Monitoring Officer a signed undertaking in a form notified to them by the Director of Legal and Procurement.

## 55. Appointment of and Changes to Alternate Members

- (a) The Council may appoint a pool of substitute members from which a member may be selected to first alternate member to attend, speak and vote in the absence of a each member of the a committee and a second alternate member to attend, speak and vote in the absence of each member and his or her first alternate, provided that the substitute member in either case that the alternate member is not already a member of the committee. Each pool shall number up to the number of members comprising membership of the committee and be divided according to the political balance on the committee, save that where a group has only one member on the committee up to two members may be appointed to the pool. A member of a committee (or the appropriate appropriate Group Whip) shall notify the Democratic Services ManagerHead of Executive and Member Services at least two hours before a meeting that a substitute member will be attending in their place.
- ~~(b) The Council may appoint non-voting co-opted Members as first and second alternates of the Standards Committee.~~
- (b) A parent committee may appoint a pool of substitute alternate members to its sub-committees in the same manner as is described in (a), and (b) above.
- ~~(c) No member is able to act as a substitute. If, apart from this part of the Standing Order, a person would otherwise be entitled to act at the same time as an alternate for more than one primary member of the committee at any one time, that person shall be the alternate for the member whose surname has alphabetical priority.~~
- (d) Any member acting as an alternate substitute shall notify the meeting as soon as he or she arrives, and once the meeting has received such notification, that member shall be duly appointed for the remainder of the meeting (which, for the avoidance of doubt, includes a meeting adjourned to continue on a subsequent day) to the exclusion of the member for whom he or she is substituting alternating.

## 56. Special Meetings of Committees or Sub-Committees

The Chair of a committee or sub-committee, or in the absence of the Chair, the Vice Chair may, if necessary, call a meeting of that committee or sub-committee at any time. A meeting of a committee or sub-committee may also be called upon the requisition of a quarter-third of the whole number of the committee or sub-committee (including any voting co-opted members), delivered in writing to the Democratic Services ManagerHead of Executive and Member Services provided that the number of members so calling the meeting shall not be less than 3. Meetings called under this Standing Order shall be known as a Special Meeting.

## 57. Adjournment and Cancellation of Meetings of Committees and Sub-Committees

- (a) The Chair of a committee meeting may specify a time at which the committee shall adjourn for twenty minutes or two times at which the committee shall adjourn

- (b) In the case of an equality of votes the person presiding at the meeting shall have a second or casting vote.
- (c) Voting at a meeting of a committee or sub-committee shall be by show of hands.
- (d) On the requisition of one member of the committee or sub-committee made before any vote is taken by show of hands and supported by not less than half of the members of the committee or sub-committee then present, voting shall be recorded so as to indicate whether each member present has voted for the motion, against it or abstained.
- (e) Where immediately after a vote is taken any member of the committee or sub-committee so requires, there shall be recorded in the minutes whether that person voted for the question or against the question or abstained.

#### **66. Time and duration of meetings of Committees and Sub-Committees**

- (a) Subject to paragraph (b) below, the time specified on the summons for commencement of a committee or sub-committee meeting shall not be later than 10.15pm-9.30pm unless the Chair is satisfied on reasonable grounds that:-
  - (i) each item of business to be transacted at that committee or sub-committee meeting should be dealt with as a matter of exceptional urgency; and
  - (ii) the meeting cannot be called to commence at an earlier hour without undue inconvenience.
- (b) The summons for a committee or sub committee meeting may specify that the meeting will commence at the time specified on the summons or upon the rising of another meeting of the Council, committee or sub-committee, if later.
- (c) Subject to paragraphs (d) and (e) below, transaction of business at every committee or sub-committee meeting shall end no later than 10.30pm provided that if at 10.30pm there is business not yet dealt with which the committee or sub-committee considers would be more conveniently dealt with on that day rather than on a subsequent day, the meeting may continue until not later than 10.30pm in accordance with the following procedure (which shall be known as "the guillotine procedure"):-
  - (i) the meeting shall identify those items of business to be transacted;
  - (ii) unless the meeting decides otherwise, the items of business so identified will be taken in the order determined by the last procedural resolution establishing the order of business, or, in the absence of such a procedural resolution, in the order set out in the agenda accompanying the summons for the meeting;
  - (iii) members will be permitted to ask questions of officers but will not be allowed to make speeches unless the meeting decides otherwise.
- (d) The Planning Committee, the Alcohol & Entertainment Licensing Sub-Committees, the General Purposes Licensing Sub Committee and the Standards Committee may by majority vote taken no later than 10.03pm, decide to:-
  - (i) fix such time as they may choose for the transaction of business to end provided that no business shall be transacted later than midnight; and/or

- (ii) disapply the guillotine procedure entirely or fix such later time as they may choose for that procedure to commence.
- (e) Paragraph (c) above shall not apply to:- (i) meetings of the Senior Staff Appointment Sub-Committee, the Staff Appeals Sub-Committees, or Schools Disciplinary Sub-Committee; and
  - (i) any meeting of a committee called to determine the size and political balance or membership of one or more of its sub-committees or to remove or appoint the Chair or Vice Chair of such a sub-committee.
- (f) Any items not dealt with at the time a meeting closes shall be considered at the next meeting of the same committee or sub-committee or at such earlier meeting of that committee or sub-committee as the Chair shall determine.
- (g) Where a meeting is adjourned to a subsequent day to transact remaining business, the committee or sub-committee shall, notwithstanding that adjournment, have power to deal with the business in question at any earlier meeting on the summons or agenda for which the relevant business is specified.

#### **67. Minutes of Committees and of Sub-Committees**

- (a) Minutes of each committee or sub-committee meeting shall be put before the next suitable meeting of that committee or sub-committee for approval as a correct record. No discussion shall take place upon the minutes except as to their accuracy and as soon as they are approved as a correct record the Chair shall sign them.
- (b) Minutes of each sub-committee meeting shall be submitted to the next suitable meeting of the relevant parent committee for information.
- (c) Under "Matters Arising from the Minutes" members may seek information on the current position but no motion to vary or rescind the minutes nor any other motion may be permitted.
- (d) Minutes taken at hearings of the Alcohol & Entertainment Licensing Committee and Sub Committees must be kept for 6 years from the date of the Sub Committees determination or, where an appeal is brought against the determination of the authority, the disposal of the appeal if later.

#### **67A. Rights of Certain Committees and Sub-Committees to require attendance of members and officers**

- (a) If the Audit Committee so agrees then any member of the ~~Executive Cabinet~~ or any officer of the Authority (not normally below the level of director or service unit manager) shall, upon receiving reasonable notice so to do, (which will not normally be less than 2 weeks notice) attend a meeting of the committee to answer appropriate questions from the members of that committee on any matter falling within its remit.
- (b) The Audit Committee may decide to request the attendance of any other person, not covered by paragraph (a) above, at a meeting of the committee.
- (c) If the ~~overview and sScrutiny eC~~committee agrees or if at least 40% of the members of the relevant committee so request by giving notice to the ~~Democratic~~

contracts on the Council's behalf. Appropriate arrangements shall be implemented to monitor any procurement managed by consultants.

**93. Appointment to the Evaluation Panel**

For High Value Contracts the Director of Legal and Procurement and the Chief Finance Officer shall, if he/she considers it appropriate, be part of or appoint a representative to the evaluation panel or shall advise the panel as he/she sees fit.

**94. Prior Information Notice**

Chief Officers should ensure that a Prior Information Notice is published in OJEU as soon as possible after the commencement of each financial year detailing the intended total procurement for the year for services, supplies and works contracts to be tendered which are subject to European Procurement Legislation.

**95. Inviting Tenders for Contracts Subject to Full EU Rules**

Where a services (Part A services), supplies or works contract is above the EU threshold then Tenders shall be invited in accordance with European Procurement Legislation using the open, restricted, negotiated or competitive dialogue procedure by placing a notice in OJEU no later than any other advertisement placed in any other publication.

**96. Contracts for Part B Services and Contracts not Subject to EU Rules**

(a) Where a contract is for a Part B service or is below the EU threshold then Tenders shall be invited in accordance with:-

- (i) any requirements in the European Procurement Legislation relating to Part B Services if appropriate;
- (ii) these Contract Standing Orders; and
- (iii) the requirements of either (b) or (c) below.

**(b) Single Stage Tender**

Tenders shall be invited by way of public notice published ~~in at least one local newspaper and at least one relevant trade journal on the London Tenders Portal~~ and by such other additional means as is considered appropriate, stating the nature of the contract being tendered and stating the last date when Tenders will be accepted which shall not normally be less than 21 days after the date that the notice was first published. The estimated value of the contract may also be included.

**(c) Two-Stage Tender**

- (i) Expressions of interest shall be invited by public notice ~~in at least one local newspaper and at least one relevant trade journal published on the London Tenders Portal~~ and by such other additional means as is considered appropriate, stating the nature of the contract being tendered stating the last date when expressions of interest will be accepted which shall not normally be less than 21 days after the date that the notice was first published.

# PART 4

## RESPONSIBILITY FOR FUNCTIONS

### General

#### Powers Delegated to Officers

#### Exemptions Restrictions and Limitations on Powers Delegated to Officers

#### Acquiring, managing and disposing of land and buildings

#### Decisions by individual members

#### Decisions to be taken only by Full Council

Table 1 Functions which cannot be exercised by the [Cabinet Executive](#)

Table 2 Functions where the Council has a choice of exercising them through either the [Cabinet Executive](#) or the Council and the person or body to whom, if any, the function has been delegated

Table 3 Functions not to be the sole responsibility of the [Cabinet Executive](#)

Table 4A The Membership and Terms of Reference of the Highways Committee of the [Cabinet Executive](#)

Table 4B The Membership and Terms of Reference of the Barham Park Trust Committee of the [Cabinet Executive](#)

Table 5 Proper and Statutory Officer Provisions

Table 6 List of functions that may only be

**exercised by Full Council**

# RESPONSIBILITY FOR FUNCTIONS

## 1. General

1.1 The Authority's functions may lawfully be exercised by:-

- Full Council
- The Leader ~~(although for the time being the Leader will not exercise executive functions alone)~~
- The Executive Cabinet
- Individual members of the Executive Cabinet ~~(although for the time being individual members will not be exercising functions)~~
- Committees and sub committees of the Council or the Executive Cabinet
- Joint committees
- Officers

Other persons so authorised where the law permits.

A description of the decision making structure and the management structure of the Council and the Service Areas within which various functions are generally dealt with is included in Part 1 of this Constitution.

1.2 This Council operates a Leader and Cabinet executive Model. The Leader and Councillors appointed to the Cabinet are collectively referred to as the Cabinet.

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 give effect to section ~~13~~ 9D of the Local Government Act 2000 by specifying which functions are not to be the responsibility of the Executive Cabinet, which functions may (but need not) be the responsibility of the ~~Executive Cabinet~~ ('Local Choice Functions') and which functions are to some extent the responsibility of the Executive Cabinet. All other functions not so specified are to be the responsibility of the Executive Cabinet. These Regulations have been amended from time to time and those amendments are reflected in this Constitution. ~~1.4~~ This Part of the Constitution and the Tables set out below describe whether the various functions of the Authority Council are 'Council functions' or 'Executive Cabinet functions' and whether, in either case, those functions have been delegated by the Council in the case of Council functions, or the Leader in the case of executive functions, to a committee, sub-committee, joint committee, officer or other person or body, or delegated by the Leader in the case of executive functions in accordance with 1.3 below

1.3 This Council operates a Leader and Cabinet Executive Model. The Leader and Councillors appointed to the Cabinet Executive are collectively referred to as the Cabinet. The Leader may exercise the executive functions or may delegate those functions to the Cabinet, a committee of the Cabinet or a Joint Committee, another local authority, an individual member of the Cabinet or officers. The allocation of executive functions and delegations by the Leader are set out in Part 4 and elsewhere in this Constitution.

1.4 The Leader delegates to the Cabinet all executive functions except those which he/she has delegated to the Highways Committee, the Barham Park Trust Committee, or officers as set out in this Constitution. If the Leader makes any changes to the allocation of functions and delegations he/she shall either:

- (i) Report the change to the Council or;
- (ii) Notify the Director of Legal and Procurement in writing of the change

And no change shall be effective until either (i) or (ii) has been complied with. The Director of Legal and Procurement shall as soon as practicable report any change notified to him/her to ~~Full~~the Council.

- 1.5 Table 1 sets out the functions, listed in Schedule 1 to the Regulations (as amended), which cannot be the responsibility of the ~~Executive Cabinet~~ and specifies which part of the Authority will be responsible for them. It also specifies to whom, if anyone, those functions have been delegated. For instance, in the case of development control, all functions are delegated to the Strategic Director Regeneration and Growth and/or the Head of Area Planning except those which are specified as being the responsibility of the Planning Committee.
- 1.6 Similarly, Table 2 sets out the Local Choice Functions which may or may not be ~~the executive Cabinet~~ responsibility ~~ies of the Executive~~ and specifies which part of the Authority will be responsible for them. It also specifies to whom, if anyone, those functions have been delegated by the Council in the case of Council functions, or the Leader in the case of ~~E~~executive functions. For instance, functions under local Acts of Parliament are included here and so may lawfully be exercised either by the Council or ~~Executive Cabinet~~. Table 2 specifies whether, in Brent, they will be ~~Executive Cabinet~~ or Council functions.
- 1.7 Table 3 sets out the functions which are not ~~to be the solely executive responsibilities~~ ~~sole responsibility of the Executive~~. So far as those functions are to be executive functions, the Leader has agreed to arrange for these functions to be carried out by the ~~Executive Cabinet~~. The Table describes the plans, policies and strategies, which form the Authority's Policy Framework and specifies what role the ~~Executive Cabinet~~ will play in relation to those plans, policies and strategies. Essentially, the ~~Executive Cabinet~~ will develop and consult on the plans, policies and strategies listed and will then refer them to Full Council ~~for consideration and approval~~. If approved, the ~~Executive Cabinet~~ will then be responsible for ~~implementing them~~ ~~ensuring they are implemented~~.
- 1.8 Table 4A sets out the functions to be exercised by the Highways Committee which is a ~~sub~~-committee of the ~~Executive Cabinet~~ appointed by the Leader. Table 4B sets out the functions to be exercised by the Barham Park Trust Committee which is a ~~sub~~-committee of the Executive ~~appointed by the Cabinet~~ ~~Leader~~.
- 1.9 Part 5 of the Constitution describes the membership and terms of reference for the Council committees and sub-committees. These are:-
- Standards Committee
  - ~~Audit Committee~~
  - ~~One Council Overview and~~ ~~The~~ Scrutiny Committee
  - ~~Partnerships and Place Overview and Scrutiny Committee~~
  - ~~Health Partnerships Overview and Scrutiny Committee~~
  - ~~Budget and Finance Overview and Scrutiny Committee~~
  - ~~Children & Young People Overview and Scrutiny Committee~~
  - ~~Call in Overview and Scrutiny Committee~~
  - General Purposes Committee
  - Pension Fund Sub-Committee

- Senior Staff Appointments Sub-Committee
- Staff Appeals Sub-Committees A and B
- ~~Schools Disciplinary Sub-Committee~~
- Planning Committee
- ~~General Purposes Licensing Sub-Committee~~
- Alcohol and Entertainment Licensing Committee
- Alcohol and Entertainment Licensing Sub-Committees A, B and C
- Corporate Parenting Committee

- 1.10 In addition to the powers described in the Tables as being specifically delegated to officers, any other Council and ~~e~~Executive functions are delegated to officers in accordance with paragraph 2, 'Powers Delegated to Officers'.
- 1.11 Table 5 sets out the 'proper officers' designated for the purposes of certain statutory provisions. Any reference in any Act or any part of this Constitution to 'the proper officer' will be a reference to the person so specified in the Table but if none is specified, the Chief Executive or a person nominated by him or her for the purpose will be identified. Any other function not otherwise specified in the Tables or elsewhere in this Constitution is the responsibility of the ~~Executive Cabinet~~, unless specifically precluded by law from so being, in which case it shall be the responsibility of the General Purposes Committee (unless specifically reserved to Full Council in which case it shall be exercised by Full Council).
- 1.12 All functions shall be exercised in accordance with this Constitution including, for the avoidance of doubt, the Standing Orders and Financial Regulations and this Part 4 and Part 5.
- 1.13 In exercising any function or making any decision, the decision making body or person shall take into account all relevant considerations and ignore all irrelevant considerations and shall comply with the Access to Information Rules.
- 1.14 A number of joint committees have been established with other London Boroughs under the umbrella of the London Councils. The London Council's Committee and the Transport and Environment Committee exercise executive and non-executive functions. The terms of reference and make up of these committees and the sub-committee are described in Part 5.

## 2. Powers Delegated to Officers

- 2.1 Those officers named in the Tables or elsewhere in the Constitution have delegated to them the powers specified therein but subject to the limitations specified therein. For the avoidance of doubt, this includes an officer appointed to a named post on an acting interim or temporary basis.
- 2.2 References in this Part 4 to a 'director' or 'relevant director' are references to one or more of the officers specified in paragraph 2.4 below.
- 2.3 The Chief Executive may exercise any functions delegated to other officers and may delegate decisions or functions to one or more officers in any of the Council's ~~directorates~~ departments unless expressly prohibited by law from doing so. The Chief Executive shall also have authority to carry out all executive functions in the interim in the event of there being no Leader, or Deputy Leader appointed and insufficient members of the executive appointed to achieve a quorum.
- 2.4 The Chief Executive and Strategic Directors listed below shall have responsibility for the following general and related areas:-

**4. Acquiring, managing and disposing of land and buildings**

- 4.1 Only the Operational Director Property and Projects may acquire or dispose of an interest in land or buildings. The restrictions placed upon such acquisitions or disposals are set out in paragraphs 4.2 and 4.3 below.
- 4.2 The Operational Director Property and Projects may dispose of or acquire freehold land or buildings up to a value, in his or her view, of £250k. The Operational Director Property and Projects may acquire or dispose of leases, licences, and easements in respect of land or buildings except where
- (i) the annual rental value (excluding other outgoings) exceeds 50k
  - (ii) if acquired or disposed of at a premium the value would, in his or her view, exceed 250k in value or
  - (iii) where the leasehold term exceeds 25 years
- 4.3 Where any disposal or acquisition of an interest land or buildings is, in the view of the Operational Director Property and Projects of a value over 150k and below 250k, or where any leasehold interest has an annual value over 25k or below 50k he or she shall consult with the Lead Member.
- 4.4 The Chief Finance Officer should be advised of any disposal or acquisition undertaken by this delegated authority within three months of any transaction.
- 4.5 All Members of the Executive the Cabinet will receive a report at least yearly on all these delegated authority transactions.
- 4.6. The Operational Director Property and Projects may not sell or grant any lease or easement, licence or otherwise dispose of any land or buildings unless the consideration received, as confirmed by the Operational Director Property and Projects is the best that can reasonably be obtained, whether or not the grant, sale or disposal is covered by a general or specific consent from the relevant Secretary of State.
- 4.7 Nothing in this paragraph 4 shall prevent the Strategic Director Regeneration and Growth from granting, in accordance with the Council's policies and procedures, any secure tenancy of housing accommodation nor from selling the leasehold or freehold interest in any residential property pursuant to the right to buy scheme or the voluntary sales scheme as promoted by the Secretary of State from time to time.
- 4.8 Nothing in this paragraph 4 shall prevent the Operational Director Property and Projects acquiring or disposing of freehold land or acquiring granting or disposing of leasehold land for any term of years or licences and easements in respect of land and buildings where:
- (a) there is an statutory entitlement to a freehold or leasehold interest arising from a claim made in respect of residential land under the statutory enfranchisement provisions of the Leasehold Reform, Housing and Urban Development Act 1993 or Leasehold Reform Act 1967 as amended or re-enacted or
  - (b) there is an statutory entitlement to a freehold or leasehold interest in accordance with the Academies Act 2010 as amended or re-enacted or other education legislation regulation order direction under education legislation or where the acquisition grant or disposal of a freehold or long leasehold term or easement is advised in accordance with a circular or guidance issued by the Secretary of State from time to time in respect of school land inclusive of the designation provision or conversion of a school into an academy or the provision of land for any school or

(c) statutory undertakers, telecommunication undertakings or other utilities are providing installations or equipment or laying cables pipes or other service media to in and over or through land or buildings

- 4.9 In acquiring, selling or disposing of any land or buildings or granting any lease, licence or easement in respect thereof regard shall be had to any relevant Corporate Standards on property acquisitions, management and disposals.
- 4.10 No person shall create or grant a service tenancy or service occupancy without the prior written approval of the Chief Executive.
- 4.11 In any cases where officers do not have or may not exercise delegated powers in respect of land or buildings the matter shall be determined by the ~~Cabinet Executive~~ (unless precluded by law or the Constitution from exercising that power in which case the matter will be determined by the General Purposes Committee where possible or the Full Council if not possible).
- 4.12 For the avoidance of doubt the rules in this paragraph 4 do not apply to the adoption of highways and footways if there is no legal transfer of title to land.

#### **5. Decisions by individual Members**

At the present time ~~no member~~ the Leader has not ~~are not delegated authority to members (including the Leader and members of the Executive) have authority~~ to make any individual decisions.

#### **6. Decisions to be taken only by Full Council**

- 6.1 Legislation provides that some Council functions/decisions can only be exercised or made by the Full Council, that is all the members or a specified number or percentage of them meeting together.
- 6.2 Table 6 sets out a list of functions which may only by law be undertaken by Full Council.

|  |  |  |
|--|--|--|
| <p><b>11.</b> Power to grant permits in respect of premises where amusements with prizes are provided.</p>                                 | <p>Schedule 3 to the Lotteries and Amusements Act 1976.</p>  |  |
| <p><b>12.</b> Power to issue cinema and cinema club licences.</p>  | <p>Section 1 of the Cinema Act 1985.</p>   |  |
| <p><b>13.</b> Power to issue theatre licences.</p>   | <p>Sections 12 to 14 of the Theatres Act 1968.</p>   |  |
| <p><b>14.</b> Power to issue entertainment licences.</p>   | <p>Section 12 of the Children and Young Persons Act 1933 section 52 of, and Schedule 12 to, the London Government Act 1963, section 79 of the Licensing Act 1964, sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982.</p> |  |
| <p><b>14A.</b> <del>Functions related to alcohol and public entertainment licensing</del> <u>Any function of a licensing authority</u></p> | <p>Licensing Act 2003 <u>and any regulations or orders made under that Act.</u></p>  |  |
| <p><b>14AZA</b> <u>Powers and functions relating to late night levy requirements</u></p>   | <p><u>Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 and any regulations made under that Chapter.</u></p>   |  |
| <p><b>14AA</b> <u>Duty to comply with requirement to provide information to Gambling Commission.</u></p>                                   | <p><u>Section 29 of the 2005 Act.</u></p>  |  |
| <p><b>14AB</b> <u>Functions relating to exchange of information.</u></p>   | <p><u>Section 30 of the 2005 Act.</u></p>  |  |

|   |   |   |
|---|---|---|
| <b>14AC</b> <u>Functions relating to occasional use notices</u>   | <u>Section 39 of the 2005 Act.</u>  |   |
| <b>14B</b> <u>Power to resolve not to issue a casino premises licence.</u><br><del>Functions related to gambling licensing, including the power to resolve not to issue a casino premises licence</del> | <u>Section 166 of the 2005 Act.</u><br><del>Gambling Act 2005</del>                 | Full Council in respect of the power to resolve not to issue a casino premises licence under section 166 of the Gambling Act 2005 |
| <b>14C</b> <u>Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises.</u>   | <u>Section 304 of the 2005 Act.</u>   |   |
| <b>14CA</b> <u>Power to make order disapplying section 279 or 282(1) of the 2005 Act in relation to specified premises.</u>   | <u>Section 284 of the 2005 Act.</u>   |   |
| <b>14D</b> <u>Power to institute criminal proceedings</u>   | <u>Section 284 of the 2005 Act.</u>   |   |
| <b>14E</b> <u>Power to exchange information.</u>  | <u>Section 350 of the 2005 Act.</u>   |   |
| <b>14F</b> <u>Functions relating to the determination of fees for premises licences.</u>  | <u>The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007.</u>   |   |
| <b>14G</b> <u>Functions relating to the registration and regulation of small society lotteries.</u>   | <u>Part 5 of Schedule 11 to the 2005 Act.</u>                                       |   |
| <b>15.</b> Power to license sex shops and sex cinemas.  | The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3. |   |
| <b>16.</b> Power to license performances of hypnotism.  | The Hypnotism Act 1952.   |   |

**TABLE 4A**

**THE MEMBERSHIP AND TERMS OF REFERENCE OF THE HIGHWAYS COMMITTEE OF THE EXECUTIVE CABINET**

**Membership**

The committee ~~is comprised of~~ 5 members of the Executive Cabinet appointed by the Leader.~~Leader.~~

**Chair and Vice Chair**

To be appointed by the Leader.

**Quorum**

3 Executive Cabinet members.

**Terms of Reference**

The Leader has agreed to delegate the following executive functions to the committee: -

1. Scheme approval for traffic management and related matters associated with the public highway, ~~public rights of way~~ and off-street car ~~and lorry~~ parks. Traffic management includes traffic calming, signals, pedestrian crossings, bus lanes, cycle routes, stopping up orders, controlled parking zones, waiting restrictions and charges for parking and penalty charges.
2. Reviewing performance of the implementation of schemes and of parking enforcement.
3. Any other matter relating to traffic management which the Strategic Director Environment and Neighbourhoods considers should be referred to the Committee for a decision.

The Leader has not delegated to the Highways Committee the strategic and high level highways and transportation matters which includes decisions relating to more than four wards, matters involving expenditure over £500k, or matters which have a significant effect on income, strategies or policies in respect of highways and transportation. These will be considered by the Cabinet.

**TABLE 4B**

**THE MEMBERSHIP AND TERMS OF REFERENCE OF THE BARHAM PARK TRUST COMMITTEE OF THE EXECUTIVE CABINET**

**Membership**

The sub-committee ~~is comprised~~s of 5 members of the Cabinet appointed by the ~~Executive Cabinet~~.

**Chair and Vice Chair**

To be appointed by the Barham Park Trust Committee

**Quorum**

3 ~~Cabinet Executive~~ members

**Terms of Reference**

The ~~Cabinet Executive~~ has agreed to delegate the following executive functions to the sub committee:-

- (1) the trustee functions in relation to Barham Park Trust including decisions to dispose of land, vary or cease the charitable purpose, or change the trustee, except those functions it has delegated to officers
- (2) an annual review of how the trust is carrying out its charitable purposes and a review of the Trust's finances
- (3) any other matter which the Operational Director Neighbourhoods considers ought to be referred to the committee for a decision

The Committee shall meet not less than once per year.

# **PART 5**

## **TERMS OF REFERENCE FOR COUNCIL COMMITTEES AND SUB- COMMITTEES**

## **CORPORATE PARENTING COMMITTEE**

### **Membership:**

Lead member for children and young people (Chair), five members of the Council and up to four non-voting co-opted members.

### **Terms of reference:**

1. To secure sustained improvements in the life chances of looked after children and care leavers in Brent and work within an annual work plan to that end.
2. To ensure the Council is fulfilling its duties for looked after children and care leavers corporately and with other partners and statutory agencies to ensure services are responsive to the needs of looked after children and care leavers.
3. To monitor and review the quality and effectiveness of services across the council, partner agencies and commissioned services to achieve continuing improvements in outcomes for looked after children and care leavers.
4. To provide a forum for children in care in Brent to talk about issues relating to their experience of being looked after by the Council and to participate in decision making.
5. To directly receive the views of children and young people looked after and leaving care via the Children in Care Council mechanisms and annual consultation to ensure their views and experiences directly influence decisions made at this level.
6. To promote joint-working arrangements between council departments and partner agencies in order to improve outcomes for looked after children.
7. To consider recommendations from internal and external inspections and reviews, to agree the actions needed to address any issues identified and to evaluate the implementation of any agreed plan.
8. To champion the educational achievement of children in care.
9. To develop, maintain and keep under review the Brent Looked After Children and Care Leaver Strategy and Action Plan.
10. To consider matters referred to the Committee within its terms of reference and to make recommendations as appropriate to the relevant committee, portfolio holder, officer or partner agency.
11. To provide an annual report on the work of the Committee, highlighting strengths and areas for development in supporting looked after children in Brent.

## **SCRUTINY COMMITTEE**

### **Membership**

- The Committee consists of fourteen members in total comprising of eight Councillors, 4 voting education co-opted members and 2 non voting education co-opted members.

None of the members shall be members of the Cabinet. Membership should not include members who are members of the Health and Wellbeing Board

### **Terms of reference**

The Scrutiny Committee shall perform the following functions. These functions are subject to the limitations set out below.

1. To review or scrutinise the decisions made or other action taken in connection with the discharge of any of the Authority's executive functions.
2. To make reports and/or recommendations to the Council, or to the Cabinet in connection with the discharge of executive functions, or to their respective committees or sub-committees as the case may be.
3. To review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive and to make reports or recommendations to the Council or the Cabinet in respect of such matters.
4. To make reports and/or recommendations to the Council and/or the Cabinet or their committees or sub-committees on matters which affect the Council's area or the inhabitants of that area.
5. To review and scrutinise the performance of any organisational body carrying out any function on behalf of or in partnership with the Council
6. To scrutinise and review planning, provision and operation of health providers in the area.
7. To consider and draft recommendations to Full Council in response to any consultation relating to a substantial development of or variation in the health service in the local authority's area.
8. To coordinate the activities of the Committee with scrutiny undertaken by the voluntary sector and other bodies.
9. To meet as and when required to consider any matter 'called in' in accordance with Standing Orders and to make recommendations thereon.

10. To consider appeals on petitions as set out in the council's Standing Orders relating to petitions.
11. To produce and publish an annual report of it's work.
12. To commission a number of in depth evidence based reviews.

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**Limitations**

- (a) The Scrutiny Committee will not scrutinise decisions made in respect of matters concerning individual applications for consent, permission, approval or grants, particularly individual decisions on planning, licensing, registration, etc.
- (b) The voting co-opted members may only vote on matters relating to school education and the non-voting co-opted members may not vote on any matter.

## GENERAL PURPOSES COMMITTEE

### Membership

- The committee is comprised of ~~10~~ 8 councillors.

### Terms of Reference

1. Subject to paragraph 10 below, to carry out those functions specified in this Constitution as being the responsibility of the General Purposes Committee, except to the extent that those functions have been delegated to officers or sub-committees of the General Purposes Committee, including but not limited to: -
  - (a) closing and creating footpaths, public rights of way and bridleways;
  - (b) public path and railway extinguishment orders; and
  - (c) agreeing changes to appointments to outside bodies.
2. To appoint its sub-committees as set out in the Constitution.
3. To set the Council Tax Base.
4. To agree the calculation of estimated income from National Non-Domestic Rates.
5. To determine the terms and conditions on which staff appointed by the Senior Staff Appointments Sub-Committee shall hold office, including procedures for their dismissal, and to determine the grading structure to be applied to posts appointed by the Senior Staff Appointments Sub-Committee.
6. To determine ~~other matters involving the Council as an employer (excluding those matters relating to health and safety at work where the Council is acting in its capacity as an employer) including~~ the overall framework of terms and conditions of service for employee.
- ~~7. To consider matters relating to union membership, negotiations and agreements and to develop relations with all staff unions.~~
- ~~7.~~ To determine matters referred to it by the Chief Finance Officer or the Pension Fund Sub-Committee concerning the Council's functions under the Local Government Pension Scheme.
- ~~8.~~ To hear and determine applications under licensing legislation (other than the Licensing Act 2003 or the Gambling Act 2005) which are considered significantly contentious by the Strategic Director Environment and Neighbourhoods or in respect of which an applicant is entitled to be heard by a committee or sub-committee of members.
- ~~9.~~ To hear and determine appeals against officer decisions regarding licence applications under the Scrap Metal Dealers Act 2013.
- ~~8.~~

## TERMS OF REFERENCE OF COUNCIL COMMITTEES AND SUB-COMMITTEES

- | ~~9.10.~~ To carry out any non-executive functions which are not the responsibility of any other person or Council committee or sub-committee, except where prevented by law from doing so or by any other provision in this Constitution.
  
- | ~~10.11.~~ To carry out any other functions which are non-executive functions and which have been delegated to its sub-committees or officers but which the relevant sub-committee or officer is for whatever reason unable or unwilling to so exercise.
  
- | ~~11.12.~~ ~~To carry out the Council's regulatory functions under the health and safety legislation.~~

## PENSION FUND SUB-COMMITTEE

### Membership

- The sub-committee ~~is~~ comprised ~~s~~ of 7 councillors and 2 non-voting co-opted members from the College of North West London and Brent Care at Home.

### Terms of Reference

- ~~To determine the overall investment strategy and strategic asset allocation for the Brent Pension Fund, on the basis of advice from the Chief Finance Officer, the Independent Auditor and the investment managers.~~
  - ~~To appoint the investment managers for the Brent Pension Fund.~~
  - ~~To keep under review the investment managers performance and processes.~~
  - ~~To oversee the management and administration of the Brent Pension Fund.~~
  - ~~To determine matters referred to it by the Chief Finance Officer or the General Purposes Committee concerning the Council's functions under the Local Government Pension Scheme.~~
- To undertake statutory functions on behalf of the Local Government Pension Scheme and ensure compliance with legislation and best practice.
  - To determine policy for the investment, funding and administration of the pension fund.
  - To consider issues arising and make decisions to secure efficient and effective performance and service delivery.
  - To appoint and monitor all relevant external service providers for the Brent Pension Fund, namely:
    - fund managers;
    - custodian;
    - corporate advisers;
    - independent advisers;
    - actuaries;
    - governance advisers;
    - all other professional services associated with the pension fund.
  - To monitor performance across all aspects of the service.
  - To ensure that arrangements are in place for consultation with stakeholders as necessary
  - To consider the annual statement of pension fund accounts.
  - To consider and approve the Brent Pension Fund actuarial valuation

## **~~PART 9~~**

# **~~Executive Arrangements and the Discharge of Executive Functions~~**

## **~~Decisions of the Leader~~**

## ~~The Leader's decisions in relation to Executive Arrangements and the Discharge of Executive Functions~~

### ~~Introduction~~

~~The Local Government Act 2000 vests certain powers and duties in relation to the Executive in the Leader. Most particularly the Act provides that the Leader shall make decisions in relation to the form and composition of the Executive. The Act also provides that functions which in this Council are the responsibility of the Executive are to be discharged by the Leader, or alternatively the Leader may make arrangements for the discharge of these functions by the Executive, another member of the executive, a committee of the executive or an officer of the Council.~~

~~This document sets out the manner in which the Leader has decided to discharge the main functions, powers and duties vested in him/her and the procedures the Leader has agreed to for the purposes of changing these arrangements.~~

### ~~Statement of the Leader~~

- ~~1. I confirm that the Constitution accurately reflects the decisions I have made in relation to the form and composition of the Executive and the arrangements for the discharge of executive functions.~~
- ~~2. I have delegated all of the executive functions to the Executive except for those which I have delegated to the Highways Committee and to officers and other persons or bodies as set out in the Constitution. I have arranged for executive decisions to be made by the Executive collectively and will not make any decisions alone, nor delegate sole decision making powers to others on the executive.~~
- ~~3. I will not make any changes to the discharge of these executive functions without written notification to the Democratic Services Manager and I agree that any changes I may make will not come into effect until reported to the next meeting of Full Council.~~
- ~~4. I have the authority to choose between two and nine members to the Executive. I agree to appoint nine members to the Executive. The details in relation to appointment, removal, allocation of portfolios etc are set out in the constitution.~~
- ~~5. I will notify the Democratic Services Manager in writing of any appointments to and changes to the Executive including the allocation of portfolios.~~
- ~~6. I will appoint a Deputy Leader as soon as reasonably practicable after my appointment as Leader who will remain in post until the annual meeting following his/her appointment. Shortly before each Annual Meeting I will notify the Democratic Services Manager of my choice of Deputy Leader. In the event that the post becomes vacant I will appoint a replacement. Details in relation to term of office, roles etc are as set out in the constitution.~~

~~Signed  
Dated:~~



## Full Council

4 June 2014

### Report from the Director of Legal and Procurement

For Action

Wards Affected:  
ALL

## Representation of Political Groups on Committees and Political Assistants

### 1.0 Summary

- 1.1 This report deals with rules to be applied on the allocation to political groups of seats on committees established by the Council. It also considers the position regarding Political Assistants following the outcome of the elections.

### 2.0 Recommendations

2.1 That the Council:

- (i) note the size of each committee
- (ii) agrees (where the rules of political balance apply) the allocation of seats on committees to each of the political groups as set out in paragraph 3.9
- (iii) note that the political balance on sub-committees will be reviewed at the first meetings of the General Purposes Committee and the Alcohol and Entertainment Licensing Committee.
- (iv) agree the Labour Group and Conservative Group be allocated political assistants and that the Constitution be amended in accordance with Appendix 1.

### 3.0 Detail

#### *Political Balance of Committees*

- 3.1 The Council is required to review and determine the representation of the political groups on committees and allocate committee places to political groups accordingly at, or as soon as practicable after, it's Annual Meeting.

- 3.2 In accordance with the Local Government (Committee and Political Groups) Regulations 1990 a political group for this purpose is a group of two or more members.
- 3.3 The allocation is determined by applying the “political balance rules” under the Local Government and Housing Act 1989. These are designed to ensure that the political composition of the Council’s decision making and deliberative committees as far as possible replicates the political composition of the full Council. Committees are subsequently required to carry out a similar process in relation to any sub-committees they may have.
- 3.4 The rules are that seats must be allocated so far as reasonably practicable in accordance with 4 overriding principles:
- (a) that not all the seats on the body are allocated to the same political group;
  - (b) that the majority of the seats on the body is allocated to a particular political group if the number of persons belonging to that group is a majority of the authority’s membership
  - (c) subject to paragraphs (a) and (b) above, that each political group is allocated the same proportion of the total seats across all the ordinary committees of the Council as the proportion of the members of the authority that belong to that group; and
  - (d) subject to paragraph (a) and (c) above, that each political group is allocated the same proportion of the seats on each relevant body as the proportion of the members of the authority that belong to that group.
- 3.5 Principle (c) refers to “ordinary committees” which under the Act means those appointed under S102 of the Local Government Act 1972, namely General Purposes Committee, Audit Committee, Standards Committee, Corporate Parenting Committee and Planning Committee.
- Principle (d) applies to a “body” to which the Council makes appointments. The Act provides that the bodies to which this principle applies include ordinary committees (as defined above) and ordinary sub committees, advisory committees and sub-committees, and joint committees where at least 3 seats are allocated. By virtue of the Local Government Act 2000 principle (d) also applies to the Scrutiny Committee.
- 3.6 Accordingly under principle (c) above the General Purposes Committee, Audit Committee, Standards Committee, Corporate Parenting Committee and Planning Committee first have to be taken together to determine the number of seats that should be allocated to each group. Then, in accordance with paragraph (d) above, the political balance rules have to be applied to each of those committees individually.

In relation to the Scrutiny committee only principle (d) applies; the additional requirement in c), namely consideration of the combined impact of seat allocation, does not apply.

- 3.7 The political balance principles do not apply to the London Councils Joint Committees or the Joint Health Overview and Scrutiny Committee because only one appointment is made to each.
- 3.8 The current membership of the authority is 63 consisting of 56 Labour Group councillors, 6 Conservative Group councillors, and 1 Liberal Democrat councillor
- 3.9 The table below sets out the required allocation of seats on the ordinary committees and other committees of the Council according to the Political Balance rules described above. These figures are reached by “rounding out” fractions of seats so as to produce the minimum achievable deviation from the principles set out at paragraph 3.4 above.

| <b>Ordinary Committees</b>   | <b>Size</b> | <b>Labour<br/>56<br/>88.88%</b> | <b>Liberal Democrat<br/>1<br/>1.58%</b> | <b>Conservative<br/>6<br/>9.52%</b> |
|--|-------------|---------------------------------|---|-------------------------------------|
| General Purposes Committee   | 10          | 9                               | 0                                       | 1                                   |
| Planning Committee   | 11          | 10                              | 0                                       | 1                                   |
| Audit Committee  | 5           | 4                               | 0                                       | 1                                   |
| Standards Committee  | 5           | 4                               | 0                                       | 1                                   |
| Corporate Parenting Committee  | 5           | 4                               | 0                                       | 1                                   |
| <b>Total</b><br>in accordance with principle (c) above the balance across these three committees taken together: | <b>36</b>   | <b>31</b>                       | <b>0</b>                                | <b>5</b>                            |

| <b>Other Committees</b> | <b>Size</b>  | <b>Labour</b>              | <b>Liberal Democrats</b> | <b>Conservative</b>      |
|-------------------------|--|----------------------------|--------------------------|--------------------------|
|                         |  | <b>56</b><br><b>88.88%</b> | <b>1</b><br><b>1.58%</b> | <b>6</b><br><b>9.52%</b> |
| Scrutiny Committee      | 8 (plus 4 voting co-opted members and 2 non-voting co-opted members) | 7                          | 0                        | 1                        |

3.10 In addition, the Council has two committees which are not required by law to be subject to the political balance rules described above but to which appointments fall to be made at this meeting. Under the Local Authority (Public Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 the above provisions of the 1989 Act are disapplied in relation to the Health and Wellbeing Board. It has been previously agreed that this Board comprise of 4 members from the Cabinet and one member from the opposition. Nor do the political balance rules apply to the Alcohol and Entertainment Licensing Committee. It is agreed that the political balance rules will as a matter of policy (not law) be applied to the Alcohol and Entertainment Licensing Committee. The effect of this is that the allocation of seats on this committee is as follows:

| <b>Committee</b>                              | <b>Size</b> | <b>Labour</b>              | <b>Liberal Democrats</b> | <b>Conservative</b>      |
|---|-------------|----------------------------|--------------------------|--------------------------|
|   |             | <b>56</b><br><b>88.88%</b> | <b>1</b><br><b>1.58%</b> | <b>6</b><br><b>9.52%</b> |
| Alcohol and Entertainment Licensing Committee | 15          | 13                         | 0                        | 2                        |

3.11 It will be for committees to review the political balance of sub-committees. The review and a determination of the allocation of seats on sub-committees must be carried out as soon as practicable after any occasion on which the members of the committee are changed in consequence of a determination under the 1989 Act and may be carried out on other occasions. It is proposed that such a review take place at the first meeting of the General Purposes Committee which is the only committee to have sub-committees to which the political balance rules apply. Due to the balance of seats held by the political parties the political balance rules do not readily apply to the Alcohol and Entertainment Licensing sub-committees of 3 and accordingly the sub-committees will not always be politically balanced.

### *Political Assistants*

- 3.12 Section 9 of the Local Government and Housing Act 1989 provides for the appointment of political assistants. Where a council decides to make such appointments specific rules apply which vary depending on the size and number of the political parties. Following the elections in May 2014 there is only one party which has one tenth or more of the membership of the Council and in those circumstances the following rules apply:

*Where the members of a relevant authority are divided into political groups only one of which has a membership that comprises one-tenth or more of the membership of the authority—*

*(a) the groups qualifying for a post shall be that group and one other group; and*

*(b) the other group shall be the one with the next largest membership or, in a case in which there is more than one group with the next largest membership, such one of those groups as may be determined by the authority;*

On application of those rules the Labour Party and the Conservative Party qualify for political assistants.

- 3.13 Members are advised to agree to the changes to the Constitution shown as track changes in Appendix 1

### **4.0 Financial Implications**

- 4.1 There are none arising directly from this report.

### **5.0 Legal Implications**

- 5.1 These are addressed in the body of the report.

### **6.0 Diversity Implications**

- 6.1 This report has been screened by officers and there are not considered to be any diversity implications arising from it.

### **Background Papers**

The Brent Constitution  
Local Government and Housing Act 1989

### **Contact Officers**

Kathy Robinson, Senior Solicitor, Borough Solicitor's Office at the Town Hall Annexe, Town Hall, Wembley. Tel: 020 8937 1368.

**Fiona Ledden**  
**Director of Legal and Procurement**

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- (i) the name of the person whom it is intended to dismiss;
  - (ii) any other particulars relevant to the dismissal which have been notified to the Operational Director Human Resources; and
  - (iii) the period within which any objection to the dismissal is to be made by the Leader of the Executive on behalf of the Executive to the Operational Director Human Resources.
- (c) The Leader shall within the period specified in the notice from the Operational Director Human Resources notify the person or body proposing the dismissal and the Operational Director Human Resources of any objection which the Leader or any other member of the Executive has to the proposed dismissal.
- (d) If no such objection is received by the Operational Director Human Resources or the person proposing the dismissal the Operational Director Human Resources may proceed to give notice of the dismissal to the employee. If an objection is made the person or body proposing the dismissal shall consider whether to proceed with the dismissal. If satisfied that the objection is not material or is not well founded then the Operational Director Human Resources may proceed to give notice of the dismissal to the employee.
- (e) In the case of the dismissal of the Chief Executive the proposed dismissal must be approved at a meeting of Full Council before notice of dismissal is given.

#### 80. Staff Appeals Against Dismissal

Appeals by members of staff against dismissal for misconduct shall be heard by the Staff Appeals Sub-Committees.

#### 81. Political Assistants

An appointment of an assistant to a political group pursuant to section 9 of the Local Government and Housing Act 1989 shall be made in accordance with the wishes of that political group and in accordance with the provisions of that Act and any other applicable legislative provision.

The provisions include:

(i) No appointment shall be made to any post allocated to a political group until the Council has allocated a post to each group which qualifies for one

(ii) There shall be no more than one political assistant for each group that qualifies.

(iii) Where a group does not qualify the group is prohibited from being allocated a political assistant.

~~(ii) Parties must have at least 10% of the membership of the authority to qualify for a political assistant.~~

~~(iii) On application of the rules the Labour Group and Liberal Democratic Group are allocated political assistants.~~

(iv) Where only one group has a membership of one tenth or more of the

membership of the authority the groups qualifying shall be that group and the group with the next largest membership .

(v) On application of the rules the Labour Group and Conservative Group are allocated political assistants

**81A. Appointment and Dismissal of the Director of Public Health**

- (a) The arrangements for the appointment of the Director of Public Health are set out in the National Health Service Act 2006 Section 73A (as amended by the Health and Social Care Act 2012). The Council must have regard to the statutory guidance issued concerning the recruitment and appointment processes
- (b) The Local Authority must act jointly with the Secretary of State in the appointment of a Director of Public Health
- (c) Before terminating the appointment of the Director of Public Health the Local Authority must consult the Secretary of State

|   |  |
|---|--|
| <br><b>Brent</b>                   | <p style="text-align: center;"><b>Full Council<br/>4 June 2014</b></p> <p style="text-align: center;"><b>Report from the Director of Legal<br/>and Procurement</b></p> |
| <p>For Action <span style="float: right;">Wards Affected:<br/>ALL</span></p>  |  |
| <p style="text-align: center;"><b>Members' Code of Conduct and Licensing and<br/>Planning Codes of Practice</b></p> |  |

## 1.0 Summary

- 1.1 The Members' Code of Conduct forms part of the Constitution and under the Localism Act 2011 all Councils are required to adopt a Code. An allegation of breach of the Code may result in an investigation into that member's conduct by the Standards Committee. The Licensing and Planning Codes of Practice also form part of the Council's Constitution and set out the processes and Member conduct in relation to these regulatory functions. These Codes are periodically reviewed and this report sets out the recommendations for changes.

## 2.0 Recommendations

That Members

- i. Agree the changes made to the Licensing Code of Practice attached as Appendix 1
- ii. Agree the changes made to the Planning Code of Practice attached as Appendix 2
- iii. Agree the revised Members' Code of Conduct attached as Appendix 3

### 3.0 Detail

- 3.1 The Licensing and Planning Codes of Practice and the members' Code of Conduct are reviewed periodically to ensure that they comply with any legal requirements, are fit for purpose and that they are being properly applied. The Council appointed an independent person to review the Codes and report on recommended changes which were then considered in detail and approved by the Standards Committee on 24<sup>th</sup> March 2014. There has been one substantive addition to the Members' Code of Conduct since it was considered by the Standards Committee and that relates to training for members in relation to safeguarding.

#### *Members Code of Conduct*

- 3.2 The Members' Code of Conduct was revised in 2012 following changes to the Standards regime introduced by the Localism Act 2011. Councils were no longer required to adopt a prescribed Model Code and the position regarding disclosure of members' interests, save for specific requirements regarding Disclosable Pecuniary Interests (certain financial, property and business interests), was largely left at the discretion of individual Councils. This Council, along with many others, did not replicate the previous personal interest register and requirements, although the law on bias was still applied and members continued to be prompted at each council meeting of the need to declare any interest which may affect their ability to participate.
- 3.3 In March and September 2013 the Department for Communities and Local Government (DCLG) issued guidance on "Openness and Transparency on Personal Interests" which emphasised that members "should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships". The September 2013 guidance reiterated the duty to uphold the principle of integrity and advised members that "All sitting councillors need to register their declarable interests – both declarable pecuniary interests, and other interests that must be declared and registered as required by your authority's code, or your duty to act in conformity with the Seven Principles of Public Life, such as your membership of any Trade Union."
- 3.4 This guidance has evolved from the previous minimalist approach encouraged by DCLG in 2012. The new guidance recognises that there needs to be openness and transparency about the full range of private and public interests (both pecuniary and non-pecuniary) that members can have which may give rise to a conflict of interest (or to the public perception that such a conflict exists). It follows that it is reasonable to consider obliging members to register their membership of organisations such as trade unions, charities and lobby groups (which also exist to influence public policy), or where the particular relationship between a member and an individual or organisation might unduly influence that member's decisions as a councillor. Depending on the extent of such personal interests this may affect a member's ability to participate in a particular aspect of council business.
- 3.5 For these reasons changes to the main Code of Conduct are recommended and that the related codes also be amended accordingly. Members will be provided with training on the Codes as part of the member induction

programme and Monitoring Officer Advice Notes and other training material will also be provided.

#### *Licensing Code*

- 3.6 One of the main reasons for commissioning this review was to update the Licensing Code in line with the requirements set out in the Localism Act 2011 regarding Disclosable Pecuniary Interests and bias and predetermination, and a number of changes recommended relate to these matters. Members will note as explained above that it is recommended retaining personal and prejudicial interest declarations in the Licensing Code (and indeed the Planning Code – see below).
- 3.7 The review of the Licensing Code also provides some helpful suggestions in relation to process, including a reminder about the importance of members recording approaches, and a recommendation that the Monitoring Officer should maintain this register so as to be consistent with the arrangements under the Planning Code. In order to ensure that members are aware of this requirement a reminder will be sent by way of a Monitoring Officer Advice Note and the need to comply with this aspect of the Code will be addressed in the members' induction training and training for members of the Licensing Committee.
- 3.8 It is also suggested that the Licensing Code should reflect the current practice regarding officer attendance and advice in closed session where the referral is made by the Council as Licensing Authority. There are also minor changes recommended in relation to site visits.
- 3.9 The independent review also addressed the question of training for members and the extent to which it should be compulsory for members of the Licensing Committee and or a condition of membership. The same observations were also made in relation to training for Planning Committee members. It is recognised that it is very important that members of these committees should be provided with and should attend training sessions so that they may be fully aware of the current legal position, the requirements of the Code etc. Training is provided at regular intervals and will form an important part of the induction process in June 2014. The importance of training is expressed in proposed changes to the Codes.

#### *Planning Code*

- 3.10 As with the Licensing Code the independent review did not uncover any significant problems with member and officer compliance and implementation of the Planning Code. The focus of the review and of the proposed changes concentrated on updating the Planning Code to reflect the legal changes made by the Localism Act 2011 and to take into account guidance issued regarding good practice. The proposed changes regarding personal interests, the inclusion of Disclosable Pecuniary Interests and an update regarding bias and predetermination in the Planning Code are along similar lines to those recommended in relation to the Licensing Code. Site visits and member training were also repeated themes in the Planning Code review. As with approaches in Licensing cases, members will also be reminded by way of a

Monitoring Officer Advice Note of the process to be followed. The aspect specific to planning identified as benefitting from inclusion in the Code was the position where the Council is the applicant or landowner.

- 3.11 As explained above the Standards Committee has considered the independent reviews and the proposed changes in detail at its recent meeting on 24<sup>th</sup> March 2014 and the changes proposed to Full Council reflect the recommendations of the Standards Committee.

#### **4.0 Financial Implications**

- 4.1 This report contains no specific financial implications.

#### **5.0 Legal Implications**

- 5.1 The legal requirements relating to members' Code of Conduct and the Standards regime are set out in the Localism Act 2011.

#### **6.0 Diversity Implications**

- 6.1 This report contains no specific diversity implications.

#### **7.0 Staffing Implications**

- 7.1 This report contains no specific staffing implications.

#### ***Background papers***

*Brent Members' Code of Conduct, the Licensing Code and the Planning Code  
Localism Act 2011*

#### ***Contact Officers***

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**Fiona Ledden**  
**Director of Legal and Procurement**  
**Telephone number 020 8937 1292**

# LICENSING CODE OF PRACTICE

## Purpose of this Code

The Licensing Code of Practice has been adopted by Brent Council to regulate the performance of its licensing function. Its major objectives are to guide members and officers of the Council in dealing with licensing related matters and to inform potential licensees and the public generally of the standards adopted by the Council in the exercise of its licensing functions. The Alcohol and Entertainment Licensing Sub-Committees exercise functions under the Licensing Act 2003 (the sale by retail of alcohol, the supply of alcohol, the provision of regulated entertainment, and the provision of late night refreshment), and the General Purposes Licensing Sub-Committee exercises the Council's licensing functions under all other legislation. Except where otherwise stated, references in this Code are to both committees and the expression "Licensing Committee" should be interpreted accordingly. The Licensing Code of Practice is in addition to the Brent Members Code of Conduct adopted under the provisions of the Localism Act 2011. Members should follow the requirements of the Brent Members Code and apply this Code in light of the Members Code-Government Act-2000. The provisions of this code are designed to ensure that licensing decisions are taken on proper licensing grounds, in a fair consistent and open manner and that members making such decisions are, and are perceived as being, accountable for those decisions. The Code is also designed to assist members in dealing with and recording approaches from applicants, licensees and objectors and is intended to ensure that the integrity of the decision-making process is preserved.

This Code also draws members' attention to the different status of the Licensing Committees from normal Council committees, by their quasi-judicial nature and the requirement to strictly follow the rules of natural justice.

If a member does not abide by the Code the member may put the Council at risk of proceedings on the legality or maladministration of the relate decision and the member may be at risk of either being names in a report to the Standards Committee or Council; or of the failure to abide by the Code is also likely to be a breach of the Member Code of Conduct, of a complaint being made to the Monitoring Officer.

If you have any doubts about the interpretation of this Code, you should consult appropriate officers on the point.

## The Code

- A. On the Licensing Committees, Members are exercising quasi-judicial functions and as a consequence have a duty to follow the rRules of nNatural jJustice and act in accordance with the Council's duty to act in a way that is compatible with the Convention rights under the Human Rights Act 1998. accordingly the following provisions apply:
- B. The rules of natural justice include: the duty to act fairly; the duty to give all those who will be affected by a decision the opportunity of a hearing before a decision is made; and the principle that no person should be a judge in his or her own cause. That principle means that Members must be and be seen to be impartial and without bias, and that Members should not take part in any decision that affects their own interests.
- C. The Human Rights that are particularly relevant to the Licensing process are Article 6, the right to a fair hearing; Article 1 of the First Protocol, the right to peaceful enjoyment of a person's property and possessions; and Article 8, the right to respect for a person's private and family life, home and possessions. Further information about these rights is set out in Annexe 1 to this Code.

## 1. General provisions as to conduct

### Bias and predetermination

- 1.1 No one should decide a case where they are not impartial or seen to be impartial. Licensing members should not take a decision on a matter when they are actually biased in favour or against the application, or when it might appear to be fair and informed observer that there was a real possibility of bias, or where a member has predetermined the matter by closing their minds to the merits of the decision before they come to it.
- 1.2 Section 25 of the Localism Act 2011 provides that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to a particular matter.
- 1.3 Although the Localism Act recognises the reality of the role of the members in matters of local interest and debate, it does not amount to the abolition of the concept of pre-determination. A member of the licensing committee must not make up their mind on how they will vote on any licensing matter prior to formal consideration of the matter at the meeting of the Licensing Committee and the member hearing the evidence and arguments on both sides. A member should not make comments on Licensing policy or procedures, or make any commitment in advance as to how they intend to vote on a matter, which might indicate that they have closed their mind. Any licensing decision made by a member who can be shown to have approached the decision with a closed mind will expose the council to the risk of legal challenge.

### Accountability and Interests

- 1.42 If a member of the Council has a personal interest in any licensing application or other matter before the Licensing Committee, then the member shall, if present, declare a personal interest at that meeting unless the interest arises because the member is a member of or is in a position of general control or management in a body to which they were appointed or nominated to by the Council or that exercises functions of a public nature. In which case the member only needs to disclose the personal interest if they address the Licensing Committee meeting on that item.
- 1.5 If a member has a disclosable pecuniary interest in any application or other matter before the Licensing Committee, and the interest is not entered in the council's register, the member must disclose the interest to the meeting.
- 1.36 If a member has a disclosable pecuniary interest or personal interest in a matter and if that interest is also a prejudicial interest in a matter then –the member shall withdraw from the room where the meeting is being held and not take part in the discussion or a vote on the matter save that if the member they has –made representations under the Licensing Act, and are-is therefore entitled to speak at the meeting, the member may make representations, answer questions or give evidence in respect of the application or matter in question in so far as the public have the right to do so. A member must then withdraw from the room for the rest of that item and play no further part in ~~the discussion~~.

1.4 ~~Additionally, Members should not determine a particular application when they are actually biased in favour or against the application or it might appear to a fair and informed observer that there was real possibility of bias.~~

1.57 Members of the Licensing Committees should not determine any application if the member, his/her relative, friend or associate is the applicant or agent for that matter or an objector.

1.68 Members who have business or other interests which may bring them into contact with the Council's licensing system on a regular basis should not be considered for membership of the Licensing Committees.

#### Approaches

1.79 If an approach is received by a member of a Licensing Committee from an applicant, objector, their agents or an interested party in relation to a particular licensing application or any matter which may give rise to a licence application, the member shall:

- (a) inform such applicant or agent or interested party that such approach should only be made to officers or to elected members who are not members of the Licensing Committees;
- (b) forthwith notify in writing to the ~~Director of Health, Safety and Licensing~~ Monitoring Officer the fact that such an approach has been made, identifying the application, the nature of the approach, by whom it was made, and the action taken by the Member concerned;
- (c) keep an adequate written record so as to enable the Member to disclose the fact and nature of such an approach at any relevant meeting of the Licensing Committee.

1.108 If an elected member who is not a member of the Licensing Committee is contacted by an applicant objector or interested party then that member should discuss the issues raised by their constituent with the appropriate licensing officer and may forward any representations or evidence to that officer, who will include the relevant information in the report to the Licensing Committee. If an elected member wishes to make their own representations about a matter they should likewise make those representations to the appropriate Licensing officer.

1.11 Any elected member who is not a member of the General Purposes Licensing Sub-Committee but who is a member for the Ward in which the premises are located (or a member of an adjoining Ward which is affected by the application) shall be entitled to address a meeting of the General Purposes Licensing Sub-Committee on the subject of a particular licence application. However he/she shall disclose whether he/she has been in contact with the applicant, objectors their agents or an interested party and whether they have a personal or disclosable pecuniary interest or prejudicial interest in the license application. If a Ward member has a disclosable pecuniary interest or a prejudicial interest in a matter before the General Purposes Licensing Sub-Committee, the members shall withdraw from the room where the meeting is being held and not take part in the discussion or vote on the matter, save that where a member of the public has the right to make representations, answer questions, or give evidence, then a member will have the same right, after which the member must then withdraw from the room for the rest of that item and play no further part in the discussion or

vote. (This paragraph does not apply to the Alcohol and Entertainment Licensing Sub-Committees)

- 1.129 No amendment to any licence application shall be considered at the Licensing Committees unless it can be taken into account without causing prejudice to objectors or persons who might otherwise have objected.

## 2. Site visits

- 2.1 If a site visit takes place, its purpose is to gain information relating to the premises which are the subject of the licensing application or revocation to be considered by the Licensing Committees. A site visit may also assist members in matters relating to the context of the application or revocation, the characteristics of the premises and the surrounding area. Members should avoid expressing opinions during site visits to any person present, including other members-

- 2.2 During site visits, members of the Licensing Committees shall not engage individually in discussion with applicants or objectors.

- 2.3 On site visits applicants, agents, objectors or other interested parties shall only be permitted to point out to Members features to look at either on the premises or in the vicinity, which are relevant to the application. No discussion will take place on the merits of the application or revocation.

- 2.4 A Member of a Licensing Committee may request a site visit, prior to the meeting of the Committee, in which case their name shall be recorded. They shall provide and a record be kept of:

- (i) their reason for the request; and
- (ii) whether or not they have been approached concerning the application and if so, by whom

and unless the member provides these at least one week prior to the relevant meeting, the site visit will not proceed.

- 2.5 If any Member of the Licensing Committee wishes to informally view an applications site than that viewing must only take place if it can be done from a public place. Members of Licensing Committee shall not enter any premises which are the subject of a licensing application or known by them to be likely to become such in order to meet the agent, applicant, licensee or other interested party, save in the course of a formal accompanied site visit. In exceptional circumstances such as where a member is unable to attend the official site visit that has been arranged, a site visit by an individual member may be carried out provided that the member is accompanied by a licensing officer.

## 3. Involvement of officers

- 3.1 Members of the Licensing Committee shall not attempt in any way to influence the terms of the officers' report upon any application.

- 3.2 Any criticism by Members of the Licensing Committees or an officer in relation to the *handing of any licence application shall be made in writing to the ~~Director of Health Safety and Licensing~~ a Strategic Director of Environment and Neighbourhoods and not to the Officer handling the application.* No such criticism shall be raised in public.

- 3.3 If any officer feels or suspects that pressure is being exerted upon him/her by any member of the Council in relation to any particular application, he or she shall forthwith notify the matter in writing to the ~~Director of Health, Safety and Licensing~~ Monitoring Officer.
- 3.4 If any officer of the Council who is involved in dealing with any licensing application has had any involvement with an applicant, agent or interested party, whether or not in connection with the particular application being determined, which could possibly lead an observer with knowledge of all the relevant facts to suppose that there might be any possibility that the involvement could affect the officer's judgement in any way, then that officer shall declare a prejudicial interest in the public register held by the ~~Director of Health, Safety and Licensing~~ Monitoring Officer and take no part. This public register to be available for inspection at Licensing Committee meetings.
- 3.5 No officer of the Council shall engage in any paid work for any licensing matter for which Brent is the Licensing Authority other than on behalf of the Council.

#### 4. Conduct of meetings

- 4.1 Members of the Licensing Committees shall refrain from personal abuse and party-political considerations shall play no part in the committee's deliberations. Members shall be respectful to the Chair and to each other and to officers and members of the public including applicants, their agents and objectors and shall not bully any person. Members should not make up their minds before hearing and considering all relevant information at the meeting and should not declare in advance of the ~~meeting~~ vote how they intend to vote on a particular application.
- 4.2 The ~~Director of Health, Safety and Licensing~~ Monitoring Officer shall maintain a register of contact made by applicants, licensees, objectors, agents or interested parties with individual members of the Council on each and every licence application.
- 4.3 Members of the Licensing Committees should not speak to members of the public (including applicants and agents) during a meeting of the Licensing Committee or immediately prior to or after the meeting concerned other than in accordance with this Code or Standing Orders.
- 4.4 When questioning witnesses at a meeting of a Licensing Committee, members shall ensure that their questions relate only to licensing considerations relevant to the particular application.
- 4.5 The Licensing Committee should hear both sides of the case, in accordance with the rules of natural justice. ~~This means that the~~ The Committee must ensure that both the applicant and the objectors receive a fair hearing. Applicants must have the opportunity *in advance of the hearing* to prepare their case in answer to the objectors.
- 4.6 —It is permissible for the Chair of the meeting to curtail statements of parties or witnesses, if they are merely repeating matters which have already been given in evidence.
- 4.7 —Hearsay evidence, whilst admissible, must be treated with great reservation by members, who must make an assessment of its weight and credibility.
- 4.86 When new matters are raised as objections by any person at a hearing of the General Purposes Licensing Sub-Committee, the Committee is not obliged to

hear them. However, if members feel that the new matter raised by the objector should be considered, but the applicant needs further time to consider his/her response then the applicant should be offered an adjournment of the meeting (either for a short period during the meeting itself or if necessary to a new date). (This paragraph does not apply to the Alcohol and Entertainment Licensing Sub-Committees, as new objections cannot be raised at the hearing)

## 5 Licensing Sub-Committee Procedures

### *Alcohol and Licensing Sub-Committee*

(A) The following procedure should be followed at meetings of the Alcohol and Entertainment Licensing Sub-Committees.

A.1 The Chair will ask the parties to the hearing to identify themselves and confirm whether they are represented or not.

A.2 The sub-committee will consider any requests that have been made by any party for another person to speak at the hearing.

A.3 The Chair will explain the procedure to be followed at the hearing.

A.4 Where there are a number of parties bringing representations either in support or objection to the granting of the licence application officers will attempt before the hearing to agree a limit in the number of people who will address the sub-committee.

A.5 If any party has indicated that they will not attend or failed to indicate whether or not they will attend and is absent, the Sub-Committee may hold the hearing in that party's absence or decide to adjourn.

A.6 A Licensing Officer will give details of the application and of the number and type of representations received as set out in the papers circulated.

A.7 Persons who have made representations will be allowed to address the sub-committee for up to 5 minutes each (unless the Chair permits a longer period). They should not repeat what is already set out in their representations or notice. In their address they should provide clarification on any points previously requested by the Council. Petitions will be treated as representations provided they meet the requirements for relevant representations set out in the Licensing Act 2003. Members should proceed with caution when relying upon petitions used as evidence due to the structure and wording used.

A.8 The order in which persons making representations shall be called to speak is as follows;

- i. Statutory Parties including the Police, Environmental Health, Fire Authority, Child Protection Unit or other bodies as appropriate
- ii. Interested parties making representations in objection to the licence application
- iii. Interested parties making representations in support of the licence application

A.9 The members of the sub-committee may ask questions of the person making representations after their address.

A.10 Officers may ask questions of such person in order to clarify points for the sub-committee.

A.11 Where a person making relevant representations has requested that another person be permitted to speak and the sub-committee have allowed this under 2 above, they will may be entitled to speak for up to 5 minutes (unless if the chair permits a longer period this) after questioning of the objector who made the request and provided that this does not disadvantage another party to the proceedings.

A.12 The members of the sub-committee may ask questions of such other person after they have spoken.

A.13 Officers may ask questions of such person in order to clarify points for the sub-committee.

A.14 The same procedure as set out in 2.7 to 2.11 above is followed in respect of the applicant.

A.15 The members of the sub-committee may ask further questions of any party or other person allowed to appear at this stage.

A.16 Cross examination of any party or any other person allowed to appear will not be allowed unless specifically permitted by the Chair.

A.17 The sub-committee will consider its decision in private save that the licensing officer, legal adviser and committee clerk will be entitled to remain.

A.18 The Chair will intervene at any stage of the hearing to prevent repetitious or irrelevant points being raised.

A.19 Documentary evidence will only be considered by the Sub-Committee if this has been provided to the Council and the other party (or parties) prior to the hearing, or with the consent of other parties, at the hearing. The Chair does have the discretion to accept the filing of late evidence provided that all relevant parties agree and are not adversely affected by late disclosure. Each case will need to be looked at on its own merits and advice given by officers accordingly.

*(B) General Purposes Licensing Sub-Committee*

The following procedure should be followed at meetings of the General Purposes Licensing Sub-Committee.

B.1 The Chair outlines details of the application

B.2 The Chair invites identification of persons at the meeting:

- the applicant;
- those attending to object or give evidence; and
- those Officers and Members forming the Committee.

B.3 The Chair outlines the procedure of the hearing to those present

#### B.4 The Objectors state their case:

- The individual objectors (or their representatives) will be invited to state their case;
- The applicant (or their representative) will be invited to question the objectors or their witnesses; and
- Members of the Committee may ask questions of the objectors through the Chair.

#### B.5 Non-Members of the Committee (if any present) will address the Committee

- Non-members who are entitled to address the Committee (see 1.6 above) and wish to, will be invited to do so.
- The applicant (or their representative) will be invited to question the non-members who have spoken.
- The objectors (or their representative) will be invited to question such non-members.
- Members of the Committee may ask questions of such non-members through the Chair.

#### B.6 The Technical Officers Report

- Where appropriate, technical officers advising the Committee will make their observations.
- The applicant and objectors will be invited to ask questions of the technical officers.
- Members of the Committee may ask questions of the technical officers through the Chair.

#### B.7 The Applicants State Their Case

- The applicant is invited to state their case.
- The objectors (or their representative) will be invited to question the applicant.
- Members of the Committee may ask questions of the applicant through the Chair.

#### B.8 Summing Up

- The objectors will be permitted to "Sum Up".
- The applicant will be permitted to "Sum Up".

### 6. **Making the decision**

- 6.1 The decision whether or not to grant a licensing application is a decision for the members of the Licensing Committee only. [*The assessment of the weight and credibility of evidence is for Committee members alone to decide.*]
- 6.2 Members shall retire to decide the matter in closed session. The Legal Officer, Licensing Officer and Democratic Services Officer present at the meeting will retire with them. During such closed session, the Legal Officer and Licensing Officer will only provide advice on legal issues relating to the application.
- 6.3 In accordance with regulations, members of the Alcohol and Entertainment Licensing Sub-Committees should disregard any information provided by any party which is not relevant to;
- a) their application, representations or notice (as applicable); and
  - b) the promotion of the licensing objectives or the crime prevention objective where notice has been given by the Police
- 6.4 The Licensing Committee will return to open session to announce its decision, and will confirm its decision in writing with reasons usually within 5 working days (in respect of the Alcohol and Licensing Sub-Committee) and 7 days (in respect of the General Purposes Licensing Committee). The written notice will set out the rights of appeal against a decision.
- 6.5 Members own knowledge of the circumstances surrounding an application is valid, provided that they are put to the applicant for a response. In reaching their decision members must have regard to the evidence presented at the hearing, both the documents circulated in advance and the oral evidence. The decision must be based on the evidence alone and members have a duty to ensure that they have regard to all the relevant matters before them and only those matters.
- 6.6 Members considering an application have a duty to determine it only on the facts before them relating to that individual case and not decide it as a matter of general policy. Members must not make unreasonable decisions that no other reasonable licensing authority would arrive at, having regard to the legal principle of "Wednesbury reasonableness".
- 6.7 Members should be aware that an unreasonable decision taking into account the above criteria, is unlikely to be sustained on appeal. In this instance, the authority foregoes the opportunity to attach terms and conditions to a licence and may have to pay costs. The role of officers is to point this out and advise members as to the potential risk of losing an appeal and being required to pay the other parties costs as a consequence. This needs to be balanced with the Council's fiduciary duty towards the local taxpayer in terms of the Council being a public body spending public money.

## 7. **Appeals**

- 7.1 The Licensing Committee's decision is not a final one. In respect of decisions of the General Purposes Licensing Sub-Committee, the applicant has the right to appeal to the Magistrates Court, subsequently to the Crown Court (or in certain instances directly to the Crown Court), and beyond.
- 7.2 In respect of decisions of the Alcohol and Entertainment Licensing Sub-Committees, all parties (the Applicant(s), interested parties and responsible

authorities) have the right of appeal to the Magistrates' Court. The Magistrates' decision is however final.

- 7.3 An appeal must be lodged with the Justices' Chief Executive for the Magistrates' Court within 21 days beginning on the day on which the appellant was notified by the Licensing Authority of the decision to be appealed against.
- 7.4 On such appeals the hearing takes on an increasingly formalised nature, based solely on the evidence given. The Council will only be able to sustain its defence if it can substantiate its grant or refusal of a licence by relevant admissible evidence.
- 7.5 Members who consider basing the grant or refusal of a licence on their personal knowledge should be prepared to testify to the relevant facts in any appeal proceedings.
- 7.6 Taking this factor into account along with the real risk of costs against the Council, members must be wary of relying on any matters which could not readily be proved in evidence. In short, for Committee decisions to "stand up" on appeal and to avoid costs being awarded against the Authority, decisions to grant or refuse licences or impose conditions must be justified.

## 8. TRAINING

- 8.1 Members of the Licensing Committee (and alternate members) must participate in a programme of training on the planning system and related matters agreed by and organised by officers. The programme will consist of compulsory and discretionary elements. If a Member of the Licensing Committee fails to participate in compulsory elements of the training this may result in that member being asked to stand down as a member of Licensing Committee.
- 8.2 Members should be aware that training is particularly important for members who are new to the Licensing Committee and for members who have not attended training in the recent past.
- 8.3 Where a member has a genuine difficulty in attending any particular training session officers will try when practicable to accommodate a request for an individual or repeat session.

## ANNEXE 1 Convention Rights

### ARTICLE 6

Article 6 of the European Convention on Human Rights provides (in part):

"In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."

The Licensing Committee's decisions on most licensing functions are subject to independent tribunals, usually the Magistrates' or Crown Courts, so satisfying the provisions of Article 6.

The Committee must however conduct a fair hearing in accordance with the rules of natural justice.

### ARTICLE 1 OF THE FIRST PROTOCOL

Article 1 of the First Protocol also has relevance to the licensing function. This states:

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principals of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

An existing licence is a possession under Article 1 of the First Protocol.

Any decision to, for example, revoke a licence must be according to the law. Any decision to impose terms and conditions on the grant of a licence will need to be proportionate and necessary to protect the interests of a democratic society.

Article 1 of the First Protocol also has relevance in respect of any third parties objecting to a licensing application, because of their right to the enjoyment of their property.

### ARTICLE 8

The impact of a decision on a neighbouring property also brings into play the right to respect for home, privacy and family life (Article 8)

Article 8 states:

"1. Everyone has the right to respect for his private and family life, his home and his correspondence

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the

country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others."

## PLANNING CODE OF PRACTICE

### Purpose of this Code

The Planning Code of Practice has been adopted by Brent Council to regulate the performance of its planning function. Its major objectives are to guide Members and officers of the Council in dealing with planning related matters and to inform potential developers and the public generally of the standards adopted by the Council in the exercise of its planning powers. The Planning Code of Practice is, in addition to the Brent Members Code of Conduct, adopted by the Council under the provisions of the Localism Act 2011, Government Act 2000—Members should follow the requirements of the Brent Members Code and apply this Code in light of the Member Code. The purpose of this Code is to provide more detailed guidance on the standards to be applied specifically in relation to planning matters.

The Code seeks to ensure that officers and members consider and decide planning matters in a fair impartial ~~open~~ and transparent manner. The provisions of this code are designed to ensure that planning decisions are taken on proper planning grounds, are applied in a consistent and open manner and that Members of the Planning Committee making such decisions are, and are perceived as being, accountable for those decisions. The Code is also designed to assist members of the Council in dealing with and recording approaches from developers and objectors and is intended to ensure that the integrity of the decision-making process is preserved.

If a member does not abide by this Code the member may put the Council at risk of proceedings on the legality or maladministration of the related decision; and the member may be at risk of either being named in a report to the Audit and Governance Committee or Council; or if the failure to abide by the Code is also likely to be a breach of the Member Code of Conduct, of a complaint being made to the Monitoring Officer.

If you have any doubts about the interpretation of this code, you should consult appropriate officers on the point.

### General

1. Members of the Planning Committee shall determine applications in accordance with the Unitary Development Plan unless material considerations indicate otherwise. The Brent Members Code of Conduct and the law relating to Brent Council members' disclosable pecuniary interests, personal interests and prejudicial interests must be complied with throughout the decision making process. Decisions should not be influenced by the personal or prejudicial interests of Councillors or because of undue pressure exerted by applicants, agents or third parties. Members of the Planning Committee must take decisions in the public interest and take account only of material planning considerations. They should not allow themselves to be influenced by members of the public and applicants, agents or third parties who might approach them and they should not be influenced by party politics. This Code sets out further rules applicable to the planning process in Brent.
2. The council's planning process is a quasi-judicial process and members of the Planning Committee have a duty to follow the rules of natural justice and in accordance with the council's duty to act in a way that is compatible with Convention rights under the Human Rights Act 1998.

3. The rules of natural justice include; the duty to act fairly; the duty to give all those who will be affected by a decision the opportunity of a hearing before a decision is made; and the principle that no person should be a judge in his or her own cause. That principle means that members must be and be seen to be impartial and without bias, and that members should not take part in any decision that affects their own interests.
4. The Human Rights that are particularly relevant to Planning decisions are Article 6, the right to a fair hearing; Article 1 of the First Protocol, the right to peaceful enjoyment of a person's property and possessions; and Article 8, the right to respect for a person's private and family life, home and possessions.

### **Bias and Predetermination**

5. Members should not take a decision on a matter when they are actually biased in favour or against the application, or when it might appear to a fair and informed observer that there was real possibility of bias, or where a member has predetermined the matter by closing their mind to the merits of the decision before they come to take it.
6. Section 25 of the Localism Act 2011 provides that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter.
7. Although the Localism Act recognises the reality of the role of members in matters of local interest and debate, it does not amount to the abolition of the concept of pre-determination. A member taking part in a decision on a planning matter must be open to any new arguments about the matter up until the moment of a decision. A member should not comment or make any commitment in advance as to how they intend to vote which might indicate that they have closed their mind. Any planning decision made by a member who can be shown to have approached the decision with a closed mind will still expose the council to the risk of legal challenge.

### **Review of Code of Practice**

2. ~~The Director of Legal and Procurement is instructed to commission a report independent of the planning service once every two years on the operation of this Code of Practice. The report should address the extent of compliance with the Code by officers and members, contain an analysis of decisions being made against officers' recommendations and set out any appropriate recommendations for improvement. This report should be presented annually to the Standards Committee.~~

### **Accountability and Interests**

3. ~~Except as provided for in paragraph 7 of this Code members of the Council should not take part in any discussion of, or vote on, any item if they or their relative, friend or associate is the applicant, agent or objector for that matter.~~
48. Members of the Council who have business or other interests which may bring them into contact with the Council's planning system on a regular basis should not be considered for membership of the Planning Committee. Those interests might include acting as an agent or consultant with respect to planning applications in the borough.

- | 95. Members of the Council who are consistently unable to support the Council's planning policies should not be considered by their political group for membership of the Planning Committee.
- | 106. If the Chair decides to allow a non-member of the Committee to speak, the non-member shall state the reason for wishing to speak. Such a member shall disclose the fact that he/she has been in contact with the applicant, agent or interested party if this be the case.

Interests

- | 711. If a member of the Council has a personal interest in any planning application or other matter before the Planning Committee, then the member shall, if present, declare a personal interest at that meeting unless the interest arises because the member is a member of or is in a position of general control or management in a body to which they were appointed or nominated to by the Council or that exercises functions of a public nature. In which case the member only needs to disclose the personal interest if they address the Planning Committee meeting on that item.
- | 12. If a member has a disclosable pecuniary interest in any planning application or other matter before the Planning Committee, and the interest is not entered in the council's register, the member must disclose the interest to the meeting.
- | 813. If a member has a discosable pecuniary interest or personal interest in a matter and if that interest is also a prejudicial interest in a planning matter the member shall withdraw from the room where the meeting is being held and not take part in the discussion or vote on the matter, save that they where a member of the public has the right to attend the meeting, make representations, answer questions, or give evidence, then a member will have the same right. Once the member has exercised that right then may make representations, answer questions or give evidence in respect of the application or matter in question in so far as the public have the right to do so. A the member must then withdraw from the room for the rest of that item and play no further part in itthe discussion or vote.
- | 914. If a member of the Council has a disclosable pecuniary interest or a prejudicial interest in a planning application or other matter before the Committee, he/she shall not exercise his or her discretion to require the application or other matter to be referred from officers to the Planning Committee for consideration and nor shall he/she exercise his/her right to request a site visit.
- | 4015. For the avoidance of doubt, where a member of the Council is a Freemason or a member of a similar secret society and is aware that the applicant, agent or other interested party in relation to a particular planning application is also a Freemason or a member of the same secret society, the member shall treat this as a prejudicial interest for the purposes of paragraphs 8-13 and 14 above.
- | 4416. The Monitoring Officer shall maintain a register of contact made by applicants, agents or interested parties with individual members of the Council on each and every planning application, in which members of the Planning Committee must record approaches referred to in paragraph 47-24 and other members of the Council may record such approaches if they so wish.
- | 4217. If any officer of the Council who is involved in making recommendations or decisions on planning applications has had any involvement with an applicant, agent or interested party, whether or not in connection with the particular application being determined, which could possibly lead an observer with knowledge of all the relevant facts to suppose that there might be any possibility

that the involvement could affect the officer's judgement in any way, then that officer shall declare a prejudicial interest in the public register held by the Strategic Director Regeneration and Growth and take no part in the decision making process. The declaration of such interest shall also be recorded in the minutes of the meeting. This public register to be available for inspection at Planning Committee meetings.

- | ~~4318~~. No officer of the Council shall engage in any paid work for any town planning matter for which Brent is the Local Planning Authority other than on behalf of the Council.
- | ~~4419~~. In relation to all matters not addressed above, all such officers shall comply with the Royal Town Planning Institute Practice Advice Note No.5 relating to Consultancy by Current and Former Employees or any guidance replacing this.

### Call-in powers

- | ~~4520~~. Where under the provisions of the Constitution three members of the Council ask for an application or other matter to be decided by Committee rather than by officers, their request shall state:
  - (i) the reason(s) which should solely relate to matters of material planning concern why they feel the application or other matter should not be dealt with under delegated powers; and
  - (ii) whether or not they have been approached by any person concerning the application or other matter and if so, by whom.

This information shall then be included in the relevant Planning Committee report.

Unless the request and the necessary supporting information outlined above has been provided by both members at least one week prior to the relevant meeting then the matter shall proceed to be determined by officers in accordance with their delegated powers.

21. A member considering using the "call-in" power should consider whether their objective could be achieved by an alternative means, for example by discussing the matter further with the relevant officer or facilitating a meeting between an objector and an officer, bearing in mind the additional cost to the council when a matter has to be considered by Committee. Where the call-in power is exercised the sponsoring member should attend the associated site visit and committee meeting.

### Development proposals submitted by Councillors who sit on the Planning Committee

- | ~~4622~~. The Council's monitoring officer should be informed of such a planning application and the application should be reported to the Planning Committee and not dealt with by officers under delegated powers.

### Development proposals where the Council is the applicant or landowner

23 Where the council itself is the landowner or planning applicant then a Planning member should consider whether he or she has had such a significant personal involvement in advocating for, preparing or submitting the planning proposal that the member would be likely to be perceived as no longer able to act impartially or to determine the proposal purely on its planning merits. A member would not be required to withdraw simply because they were, for example, a member of both the Cabinet, or a proposing committee, as well as the planning committee. However a

member with a relevant portfolio or individual responsibility for implementing a particular policy should carefully consider whether that role makes it inappropriate for them to participate in a particular planning decision.

Approaches to members of the Planning Committee

1724. If an approach is made to a member of the Planning Committee from an applicant or agent or objector or other interested party in relation to a particular planning application or any matter which may give rise to a planning application, the member of the Planning Committee shall:

- (i) inform the person making such an approach that such matters should be addressed to officers or to members who are not members of the Planning Committee.
- (ii) disclose the fact and nature of such an approach at any meeting of the Planning Committee where the planning application or matter in question is considered; and
- (iii) record the approach in the register maintained by the Monitoring Officer under paragraph 11.

For the avoidance of any doubt, if the applicant, agent or objector or other interested party attend and/or speak at a Council organised briefing for members of the Planning Committee then that briefing does not constitute an approach which has to be registered with the Monitoring Officer or disclosed under (ii).

1825. Where a planning application is to be determined under delegated powers Councillors should not put improper pressure on officers for a particular recommendation or do anything which compromises, or is likely to compromise the officer's impartiality.

Site Visits

1926. ~~Save as provided by paragraph 14 above. Save as provided by paragraph 9 above, if any~~ two members of the Council can request a site visit prior to a meeting of the Planning Committee at which the application in respect of the request is to be considered. The members, ~~they~~ shall provide the following details at least two weeks before the date of the meeting at which the application is to be considered and a record shall be kept of those details:

- (i) their name;
- (ii) the reason for the request; and
- (iii) whether or not they have been approached concerning the application or other matter and if so, by whom.

If the details are not provided then the site visit shall not proceed. Alternatively, during any meeting of the Planning Committee, any member of the Planning Committee may request a site visit in respect of any application on the agenda of the meeting. The member must give the reason for the request.

207. The purpose of a site visit is to gain information relating to the land or buildings which are the subject of the planning application or other matter to be considered by the Planning Committee. A site visit may also assist members of the Planning

Committee in matters relating to the context of the application or other matter in relation to the characteristics of the surrounding area. ~~Members attending the site visit should avoid expressing opinions on site visits to any person present.~~

~~248.~~—Members of Planning Committee shall not enter any premises which are the subject of a planning application or other matter or known by them to be likely to become such in order to meet the agent, applicant or other interested party, save in the course of a formal accompanied site visit. In exceptional circumstances such as where a member of the Planning Committee is unable to attend the official site visit that has been arranged, a site visit by an individual member may be carried out provided that the member is accompanied by a planning officer.

~~292.~~ On site visits applicants or other interested parties shall only be permitted to point out to those members of the Planning Committee attending the site visit the features to look at either on the site or in the vicinity, which are relevant to the application or other matter. No discussion will take place on the merits of the application or other matter.

~~3023.~~ Whilst on site visits, members of Planning Committee shall keep together as a group and shall not engage individually in discussion with applicants or objectors. Members should take care not to show any apparent partiality to people they already know when acknowledging members of the public or applicants that are present. Members attending the site visit should avoid expressing opinions about the application either to another Planning member, or to any person present.

### **Membership and Jurisdiction of the Planning Committee**

~~3124.~~ When the membership of the Planning Committee is determined, care shall be taken to ensure that for each Ward there is always at least one Councillor who is not a member of Planning Committee. This is so that there will always be a Councillor who is not a member of the Planning Committee with whom residents will be able to discuss planning matters.

~~2532.~~ Any briefings which may be held prior to the Planning Committee meetings shall be open to all members (and alternates) of the Planning Committee. These briefings can help to speed up decision making by giving officers notice of additional information members of the Planning Committee may require at the meeting.

~~2633.~~ All members of Planning Committee, and in particular the Chair, shall be informed from time to time about the relevant provisions concerning access to information contained in the Local Government Act 1972 and in the event of any dispute between members of the Planning Committee and officers as to the application of the 1985 Act, the advice of the Director of Legal and Procurement or his or her representative shall be obtained forthwith.

### **Meetings of the Planning Committee**

~~2734.~~ No material revision to any planning application which might lead to a change in the recommendation of officers shall be considered at Planning Committee unless it has been submitted such reasonable period in advance of the relevant Planning Committee meeting as is agreed by the Head of Area Planning and has been the subject of a full appraisal by officers and consultation where necessary and that the minutes shall record the fact that revisions have been made to the application and the reasons for these shall be recorded in the supplementary information.

~~2835.~~ If the Planning Committee wishes to grant planning permission contrary to officers' recommendations the application shall be deferred to the next meeting of the Committee for further consideration. Following a resolution of "minded to grant

contrary to the officers' recommendation", the Chair shall put to the meeting for approval a statement of why the officers' recommendation for refusal should be overturned, which, when approved, shall then be formally recorded in the minutes. When a planning application has been deferred, following a resolution of "minded to grant contrary to the officers' recommendation", then at the subsequent meeting the responsible officer shall have the opportunity to respond both in a further written report and orally to the reasons formulated by the Committee for granting permission. If the Planning Committee is still of the same view, then it shall again consider its reasons for granting permission, and a summary of the planning reasons for that decision shall be given, which reasons shall then be formally recorded in the minutes of the meeting.

- | **2936.** When the Planning Committee vote to refuse an application contrary to the recommendation of officers, the Chair shall put to the meeting for approval a statement of the planning reasons for refusal of the application, which if approved shall be entered into the minutes of that meeting. Where the reason for refusal proposed by the Chair is not approved by the meeting, or where in the Chair's view it is not then possible to formulate planning reasons for refusal, the application shall be deferred for further consideration at the next meeting of the Committee. At the next meeting of the Committee the application shall be accompanied by a further written report from officers, in which the officers shall advise on possible planning reasons for refusal and the evidence that would be available to substantiate those reasons. If the Committee is still of the same view then it shall again consider its reasons for refusing permission which shall be recorded in the minutes of the meeting.
- | **3037.** Members of the Planning Committee shall refrain from personal abuse and party political considerations shall play no part in their deliberations. Members of the Planning Committee shall be respectful to the Chair and to each other and to officers and members of the public including applicants, their agents and objectors and shall not bully any person. Members of the Planning Committee should not make up their mind before hearing and considering all relevant information at the meeting and should not declare in advance of the meeting vote, how they intend to vote on a particular application or other matter.
- | **3138.** Members of the Planning Committee should not speak to members of the public (including applicants, and agents and journalists) during a meeting of the Planning Committee or immediately prior to or after the meeting concerned, other than where permitted by this Code or Standing Orders.
- | **3239.** When questioning members of the public or the applicant who have spoken at a meeting of the Committee, members of the Planning Committee shall ensure that their questions relate only to planning matters relevant to the particular application, and the question should not be party political.
- | **3340.** The minutes of the Planning Committee shall record the names of those voting in favour, against or abstaining:
- (i) on any resolution of "Minded to grant or minded to refuse contrary to Officers Recommendation";
  - (ii) on any approval or refusal of an application referred to a subsequent meeting following such a resolution.
- | **3441.** A member of the Planning Committee shall not vote in relation to any planning matter unless he or she has been present in the meeting of the Planning Committee throughout the consideration of that particular matter as required by Standing Orders. Any dispute as to whether the member of the Planning

Committee in question should be permitted to vote shall be decided by the Chair having taken appropriate advice from legal or other officers present.

3542. Unless all members of the Planning Committee indicate that they intend to vote in accordance with the officers' recommendation on a particular item, the responsible officer shall be allowed time, at the beginning of the consideration of each application, to summarise his or her advice. If after discussion it appears that any member of the Planning Committee is minded to vote contrary to the officers' recommendation, the officer shall be allowed a further opportunity to respond to new points which have been raised, and to address the implications of a contrary decision.

### **Member and Officer Relations**

4336. Any criticism by members of Planning Committee of officers in relation to the handling of any planning matter shall be made in writing to the Strategic Director Regeneration and Growth and not to the officer concerned. No such criticism shall be raised in public.
3744. If any officer feels or suspects that pressure is being exerted upon him or her by any member of the Council in relation to any particular planning matter, he or she shall forthwith notify the matter in writing to the Strategic Director Regeneration and Growth.
3845. Members of Planning Committee shall not attempt in any way to influence the terms of the officers' report or recommendation upon any planning matter.

### **Training**

- 46 Members of the Planning Committee (and alternate members) must participate in a programme of training on the planning system and related matters agreed by and organised by officers. The programme will consist of compulsory and discretionary elements. If a Member of the Planning committee fails to participate in compulsory elements of the training this may result in that member being asked to stand down as a member of Planning Committee.
- 47 Members should be aware that training is particularly important for members who are new to the Planning Committee and for members who have not attended training in the recent past.
- 48 Where a member has a genuine difficult in attending any particular training session officers will try when practicable to accommodate a request for an individual or repeat session.

### **Review of Code of Practice**

- 50 2. The Director of Legal and Procurement is instructed to commission a report independent of the planning service once every three years on the operation of this Code of Practice. The report should address the extent of compliance with the Code by officers and members, contain an analysis of decisions being made against officers' recommendations and set out any appropriate recommendations for improvement.

**BRENT COUNCIL CODE OF CONDUCT FOR MEMBERS**

**PART 1**

**Introduction and interpretation**

1. (1) This code applies to **you** as a member of Brent Council.
- (2) It is your responsibility to comply with the provisions of this Code
- (3) In this Code –

“meeting” means any meeting of –

- (a) Full council;
- (b) The Cabinet ;
- (c) Any of the council's or Cabinet's committees, sub-committees, joint committees or joint sub-committees;

“member” includes a co-opted member and an appointed member.

**Scope**

2. (1) You must comply with this Code whenever you –
  - (a) Conduct the business of the council (which, in this Code, includes the business of the office to which you are elected or appointed); or
  - (b) Act, claim to act, or give the impression you are acting as a representative of the council,
 and references to your official capacity are construed accordingly.

- (2) Where you act as a representative of the council –

- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct, or
- (b) on any other body, you must, when acting for that other body, comply with Brent Council's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject

**PART 2**

**High standards of conduct**

3. You must maintain a high standard of conduct, and comply with the following general conduct principles:

**The General Principles**

**Selflessness** – you should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

**Integrity** – you should not place yourself in situations where your integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

**Objectivity** – you should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

**Accountability** – you should be accountable to the public for your actions and the manner in which you carry out your responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to your particular office.

**Openness** – you should be as open as possible about your actions and those of their authority, and should be prepared to give reasons for those actions.

**Honesty** – you should be truthful in your council work and avoid creating situations where your honesty may be called into question.

**Leadership** – you should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

**General Obligations**

4. (1) You must treat others with respect.
- (2) You must not –
- (a) do anything which may cause the council to breach any of the duties under the Equality Act 2010.;
  - (b) Bully any person;
  - (c) Intimidate or attempt to intimidate any person who is or is likely to be –
    - (i) A complainant,
    - (ii) A witness, or
    - (iii) Involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with the council's code of conduct; or
  - (d) Do anything which comprises or is likely to compromise the impartiality of those who work for, or on behalf of, the council.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the council into disrepute.

6. You must not –
- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –
    - (i) you have the consent of a person authorised to give it.
    - (ii) you are required by law to do so;
    - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
    - (iv) The disclosure is –
      - (aa) reasonable in all the circumstances and
      - (bb) in the public interest; and
      - (cc) made in good faith and in compliance with the reasonable requirements of the council; or
  - (b) prevent another person from gaining access to information to which that person is entitled by law.

7. You –
- (a) Must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage, and

(b) Must, when using or authorising the use by others of the resources of the council –  
 (i) Act in accordance with the council's reasonable requirements;  
 (ii) Ensure that such resources are not used improperly for political purposes (including party political purposes)

8. (1) when reaching decisions on any matter you must have regard to any relevant advice provided to you by –  
 (a) The council's Chief Finance Officer; or  
 (b) The council's Monitoring Officer ,  
 where that officer is acting pursuant to his or her statutory duties.  
 (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the council.

9. You must attend training sessions in accordance with the Planning Code of Practice and Licensing Code of Practice  
 10. You must attend Safeguarding training provided by the local authority and receive, attend and consider updates as appropriate.

**PART 3**  
**Interests**  
**Registration of Interests**  
 11 (1) Within 28 days of this Code being adopted by the Council, or of your election, re-election or your appointment as a co-opted member (whichever is the later), you shall notify the Monitoring Officer of any interests which fall within the categories specified in Appendix A (Disclosable Pecuniary Interests) or Appendix B (Personal Interests).  
 11 (2) You shall notify the Monitoring Officer of any change to interests or any new interests in Appendices A and B within 28 days of becoming aware of it.  
 11 (3) The Monitoring Officer will maintain the council's register of interests and enter onto that register all interests notified to him/her.

**Sensitive Interests**  
 12. (1) A member will have a Sensitive Interest if the nature of the member's interest is such that the member and the Monitoring Officer consider that disclosure of the details of the interest could lead to the member, or a person connected with the member, being subject to violence or intimidation.  
 12 (2) Where the member has a Sensitive Interest then the council's public register of interests will not include details of the interest, but may state that the member has an interest the details of which are withheld under this subsection.  
 12 (3) If sections 16 and 17 of this Code apply in relation to the sensitive interest those provisions are to be read as requiring the member to disclose not the nature of the interest but merely the fact that the member has an interest in the matter concerned.

**Definition of Interests**

**Personal Interests**

13 (1) For the purposes of this code you have a **personal interest in any** business of the authority where either

- (a) The business of the authority relates to or is likely to affect an interest that you are required to register under Appendix B or
- (b) where a decision in relation to that business of the authority might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

And that interest is not a Disclosable Pecuniary Interest.

13 (2) For the purpose of Paragraph 13 (1) (b) a “relevant person” is

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed a member of your family or a person with whom you have a close association, any firm in which a member of your family or a person with whom you have a close association is a partner, or any company of which they are a director; or
- (c) any person or body in whom a member of your family or a person with whom you have a close association has a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in Appendix B, of which a member of your family or A person with whom you have a close association is a member or in a position of general control or management.

**Prejudicial Interests**

14 (1) For the purposes of this code where you have a personal interest in any matter to be considered or being considered by your authority you also have a **prejudicial interest** in that matter where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgment of the public interest **and** where that matter:

- (a) affects your financial position or the financial position of a person or body described in paragraph 13 above, **or**
- (b) relates to the determining of any approval, consent, licence, permission, or registration in relation to you or any person or body described in paragraph 13 above.

14 (2) A personal interest in any matter to be considered or being considered by your authority is not a prejudicial interest where that matter relates to the functions of your authority in respect of

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(iv) an allowance, payment or indemnity given to members;

(v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

#### **Disclosable pecuniary interests**

15. For the purposes of this code you have a disclosable pecuniary interest if it is of a description specified in regulations made by the Secretary of State as set out in Appendix A to this Code.

#### **Disclosure of Interests and Participation in Meetings**

##### **Disclosure of personal interests**

16 (1) Where you have a personal interest in any matter being considered by your authority and you are present at a meeting of the authority at which the matter is considered, you should declare the existence and nature of the interest before the matter is discussed or as soon as it become apparent to you, but this is subject to section 12.

16 (2) Paragraph 16(1) only applies where you are aware or ought reasonably to be aware of the existence of the interest.

##### **Disclosure of pecuniary interests and prejudicial interests and effect on participation**

17. (1) Subsections (2) (3) (4) and (5) apply to you if you –

(a) Are present at a meeting of the council or of any committee, sub-committee, joint committee or joint sub-committee, Cabinet or Cabinet subcommittee meeting,

(b) Have a disclosable pecuniary interest **or** a prejudicial interest in any matter to be considered, or being considered, at the meeting, and

(c) Are aware that the condition in paragraph (b) is met.

(2) You must disclose the existence and nature of the interest to the meeting, but this is subject to section 12.

(3) If the interest is a disclosable pecuniary interest not yet entered in the council's register and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.

(4) If the interest is a **disclosable pecuniary interest or a prejudicial interest** you may not

- (a) participate, or participate further, in any discussion of the matter at the meeting, or
  - (b) participate in any vote, or further vote, taken on the matter at the meeting, (but this is subject to section 18 save that you may remain in the meeting only for the purpose of making representations, answering questions or giving evidence relating to the matter, and provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. You should withdraw from the room in which the meeting is held for the duration of any discussion or vote on the matter once you have made representations, answered questions or given evidence relating to the matter.
- (5) Sub sections (6) and (7) apply if –
- (a) a function of the Council may be discharged by a member acting alone,
  - (b) you have a disclosable pecuniary interest **or** prejudicial interest in any matter to be dealt with, or being dealt with, by you in the course of discharging that function, and
  - (c) you are aware that the condition in sub section(b) is met.
- (6) If the interest is a disclosable pecuniary interest not yet entered in the Council's register and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date when you become aware that the condition in sub section (6) (b) is met in relation to the matter.
- (7) You must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by you).
- (8) Where you give a notification for the purposes of sub sections (3) and (6), the Monitoring Officer will enter the interest notified in the Council's register.
- (9) You will be excluded from a meeting while any discussion or vote takes place in which, as a result of the operation of sub section (4), you may not participate.
- (10) for the purpose of this section, an interest is "subject to a pending notification" if –
- (a) under this section or section 11, the interest has been notified to the Monitoring Officer, but
  - (b) that interest has not yet been entered in the council's register in consequence of that notification.

**Dispensations**

18 On a written request made to the council's monitoring officer, the council may grant you a dispensation to participate in a discussion and/or vote on a matter at a meeting where you would otherwise not be allowed to if the council believes that the number of members otherwise prohibited from taking part in the meeting would impede the transaction of the business; or it is in the interests of the inhabitants in the council's area to allow you to take part or it is otherwise appropriate to grant a dispensation.

**APPENDIX A**

**Disclosable Pecuniary Interests**

Such interests of:

1. the member, or
2. the member's spouse or civil partner, or
3. a person with whom the member is living as husband and wife, or
4. a person with whom the member is living as if they were civil partners'

and the member is aware that that other person has the interest

Please note: any person mentioned in 2, 3 & 4 above is known as a "relevant person"

"Member" includes co-opted member and appointed members.

| <i>Subject</i>   | <i>Prescribed description</i>   |
|--|---|
| <i>Employment, office, trade, profession or vocation</i> | <i>Any employment, office, trade, profession or vocation carried on for profit or gain.</i>   |
| <i>Sponsorship</i>                                       | <i>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by the member in carrying out duties as a member, or towards the election expenses of the member.<br/>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992</i> |
| <i>Contracts</i>   | <i>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—<br/>(a) under which goods or services are to be provided or works are to be executed; and<br/><br/>(b) which has not been fully discharged.</i>  |
| <i>Land</i>  | <i>Any beneficial interest in land which is within the area of the relevant authority.</i>  |
| <i>Licences</i>  | <i>Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.</i>   |
| <i>Corporate tenancies</i>                               | <i>Any tenancy where (to the member's knowledge)—<br/>(a) the landlord is the relevant authority; and<br/>(b) the tenant is a body in which the relevant person has a beneficial interest.</i>  |

*Securities*

*Any beneficial interest in securities of a body where—*  
*(a) that body (to the member's knowledge) has a place of business or land in the area of the relevant authority; and*  
*(b) either—*  
*(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or*  
*(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.*

**APPENDIX B**

**Personal Interests**

- 1) any body of which the member is in a position of general control or management, and to which he / she is appointed or nominated by the Council.
- 2) any body:
  - a) exercising functions of a public nature;
  - b) directed to charitable purposes; or
  - c) whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which the member of the Council is a member or in a position of general control or management;
- 3) any gifts or hospitality worth more than an estimated value of £50 which the member has received by virtue of his / her office.

**PART 4  
Miscellaneous**

**Related documents**

14. The council has adopted other codes and protocols which do not form part of this Code but which deal with specific activities you may be required or wish to carry out in the course of your duties as a councillor. You are required to comply with these and any breach may be regarded as a breach of this Code. The following codes and protocols are currently in effect:
  - (1) Planning Code of Practice
  - (2) Licensing Code of Practice
  - (3) Local Authority Code of Publicity
  - (4) Protocol for Member/Officer Relations
  - (5) IT Policies and Procedures