



## SUMMONS TO ATTEND COUNCIL MEETING

**Monday 19 November 2012 at 7.00 pm**  
Council Chamber, Brent Town Hall, Forty Lane,  
Wembley, HA9 9HD

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 MEETING OF THE COUNCIL of this Borough.

CHRISTINE GILBERT  
Chief Executive

Dated: Friday 9 November 2012

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

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

# Agenda

Apologies for absence

Item	Page
<b>1 Minutes of the previous meeting</b>	1 - 10
<b>2 Declarations of personal and prejudicial interests</b>	
Members are invited to declare at this stage of the meeting, any relevant financial or other interest in the items on this agenda.	
<b>3 Mayor's announcements (including any petitions received)</b>	
<b>4 Appointments to committees and outside bodies and appointment of chairs/vice chairs (if any)</b>	
<b>5 Report from the Leader or members of the Executive</b>	11 - 14
To receive reports from the Leader or members of the Executive in accordance with Standing Order 42.	
<b>6 Questions from the Opposition and other Non- Executive Members</b>	
Questions will be put to the Executive	
<b>7 First reading debate on the 2013/14 - 2016/17 budget</b>	15 - 36
Reports from the Executive and the Deputy Director of Finance attached.	
<b>Ward Affected:</b> All Wards	<b>Contact Officer:</b> Mick Bowden, Deputy Director of Finance Tel: 020 8937 1460 mick.bowden@brent.gov.uk
<b>8 Reports from the Chairs of Overview and Scrutiny Committees</b>	37 - 42
To receive reports from the Chairs of the Overview and Scrutiny Committees in accordance with Standing Order 41.	
<b>9 Changes to Constitution</b>	43 - 112
There are changes to the Constitution brought about the Local Authorities	

(Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and other miscellaneous amendments relating to director functions, Executive Committee structures and contract standing orders.

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

**10 Treasury Management Annual report 2011/12** 113 -  
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The purpose of this report is to summarise borrowing and investment activity and performance compared to prudential indicators during 2011/12. The Executive has recommended this report to Full Council for approval. The report has also been considered by the Audit Committee meeting of 27 September 2012 as part of the scrutiny function required under the 2009 Treasury Management Code of Practice issued by CIPFA.

**Ward Affected:** All Wards      **Contact Officer:** Mick Bowden, Deputy  
Director of Finance  
Tel: 020 8937 1460  
mick.bowden@brent.gov.uk

**11 2012/13 Mid Year Treasury report** 123 -  
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This report updates members on recent treasury activity.

**Ward Affected:** All Wards      **Contact Officer:** Mick Bowden, Deputy  
Director of Finance  
Tel: 020 8937 1460  
mick.bowden@brent.gov.uk

**12 Motions**

To debate any motions submitted in accordance with Standing Order 45.

**13 Urgent business**

At the discretion of the Mayor to consider any urgent business.



- 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.
  - Toilets are available on the second floor.

- Catering facilities can be found on the first floor near The Paul Daisley Hall.
- A public telephone is located in the foyer on the ground floor, opposite the Porters' Lodge



## LONDON BOROUGH OF BRENT

Minutes of the ORDINARY MEETING OF THE COUNCIL  
held on Monday 10 September 2012 at 7.00 pm

### PRESENT:

**The Worshipful the Mayor**  
Councillor Michael Adeyeye

**The Deputy Mayor**  
Councillor Bobby Thomas

### COUNCILLORS:

Aden	Al-Ebadi
Allie	Arnold
Ashraf	Mrs Bacchus
Beck	Beswick
Brown	Butt
Cheese	Chohan
S Choudhary	A Choudry
Clues	Colwill
Crane	Cummins
Daly	Denselow
Gladbaum	Harrison
Hashmi	Hector
Hirani	Hopkins
Hossain	Hunter
John	Jones
Kabir	Kansagra
Kataria	Leaman
Long	Lorber
Mashari	Matthews
McLennan	Mitchell Murray
R Moher	Moloney
Naheerathan	Ogunro
Oladapo	BM Patel
CJ Patel	HB Patel
HM Patel	RS Patel
Pavey	Powney
Ms Shaw	Ketan Sheth
Krupa Sheth	Singh
Van Kalwala	

## **Apologies for absence**

Apologies were received from: Councillors Baker, Green and J Moher

Upon the Mayor declaring the meeting open, there was disruption from some members of the public present in the chamber. In light of requests not to continue to interrupt the meeting being ignored, the Mayor ordered that the people concerned leave the Council Chamber. Upon this request also being ignored, the Mayor adjourned the meeting. The disturbance in the Council Chamber continued so the Mayor called for the meeting to be reconvened in another room and the meeting restarted at 7:45pm in the Marriage Room.

### **1. Minutes of the previous meeting**

RESOLVED:-

that the minutes of the previous meeting held on 9 July 2012 be approved as an accurate record of the meeting.

### **2. Declarations of personal and prejudicial interests**

None declared.

### **3. Mayor's announcements (including any petitions received)**

The Mayor announced with regret that Sir Rhodes Boyson, former MP for Brent North, passed away on 28 August 2012. He was a Conservative MP for Brent North from 1974 until 1997. On behalf of the Council the Mayor had sent his best wishes to Sir Rhodes Boyson's wife, Lady Florette Boyson and family.

The Mayor announced with great sadness that, after a period of illness, Councillor Green's father had recently passed away. The Mayor passed on the Council's deepest sympathies to Councillor Green and his family.

The Mayor announced that Gareth Daniel was leaving the Council after 26 years service, 14 years of which were as Chief Executive. He wished him well for the future.

The Mayor was pleased to report that Councillor Baker was now on the road to recovery following a stroke he had at the start of August. The Mayor wished him a continued speedy recovery and looked forward to seeing him soon.

The Mayor gave notice that he would be holding his charity Christmas party on 30 November 2012. Tickets were available for purchase from his office.

The Mayor drew attention to a member development session on tackling procurement issues taking place on Wednesday 12 September, with a briefing from the Head of Procurement, Paul Davies. This topic had been requested by a number of councillors and so they were urged to support the session.

In accordance with Standing Orders a list of current petitions showing progress on dealing with them had been circulated.

Members stood for one minute's silence in memory of Sir Rhodes Boyson.

4. **Procedural motions**

Councillor Lorber moved a procedural motion that sought to require the Leader of the Council to make a statement on the position of the Chief Executive and allow other members to comment. Councillor Lorber asked that a recorded vote be taken. The procedural motion was put to the vote and declared LOST.

FOR Councillors Ashraf, Beck, Brown, Cheese, Clues, Cummins, Hashmi, Hopkins, Leaman, Lorber, Matthews, CJ Patel and Shaw

AGAINST Councillors Aden, Al-Ebadi, Arnold, Bacchus, Beswick, Butt, Chohan, Choudhary, Choudry, Crane, Daly, Denselow, Gladbaum, Harrison, Hossain, Hector, Kataria, McLennan, R Moher, Powney, John, Jones, Long, Hirani, Kabir, Mitchell Murray, Mashari, Moloney, Naheerathan, Oladapo, Ogunro, RS Patel, Pavey, Singh, Krupa Sheth, Ketan Sheth, Van Kalwala and Thomas

ABSTAINED Councillor Hunter

Councillor Beswick moved a procedural motion to suspend standing order 47(f) to allow councillors to vote from the seats they occupied following the relocation of the meeting.

RESOLVED:

that standing order 47(f) be suspended for the duration of the meeting.

5. **Appointments to committees and outside bodies and appointment of chairs/vice chairs (if any)**

RESOLVED:

that the following appointments be made:

Name	Appointment
Councillor Hopkins	To replace Councillor Allie as Chair of Budget and Finance Overview and Scrutiny Committee
Councillor Ashraf	To replace Councillor Green as first alternate to Councillor Hopkins on Budget and Finance Overview and Scrutiny Committee
Councillor Green	To replace Councillor Ashraf as first alternate to Councillor Brown on Budget and Finance Overview and Scrutiny Committee
Councillor Green	To replace Councillor Hopkins on Partnership and Place Overview and Scrutiny Committee
Councillor Hopkins	To replace Councillor Allie as second

	alternate to Councillor Clues on Partnership and Place Overview and Scrutiny Committee
Councillor Green	To replace Councillor Allie as second alternate to Councillor Cheese on General Purposes Committee
Councillor Sneddon	To replace Councillor Allie as second alternate for Councillor Cummins on Planning Committee
Councillor Beck	To replace Councillor Allie as second alternate to Councillor Lorber on Call-in Overview and Scrutiny Committee
Councillor Allie	To replace Councillor Kataria on Alcohol and Entertainment Committee and sub-committees
Councillor Allie	To replace Councillor Kataria as second alternate to Councillor J Moher on Employees JCC
Councillor Allie	To replace Councillor Kataria as second alternate to Councillor Van Kalwala on Budget and Finance Overview and Scrutiny Committee
Councillor Allie	To replace Councillor Kataria on Welsh Harp Joint Consultative Committee
Councillor Allie	To replace Councillor Kataria on Black and Minority Ethnic Forum
Councillor Allie	To replace Councillor Kataria on School Admissions Forum

**6. Debate - West London Alliance progress report**

This item was not taken.

**7. Report from the Leader or members of the Executive**

This item was not taken.

**8. Questions from the Opposition and other Non- Executive Members**

Councillor Shaw asked what the Executive and the Council planned to do to address the problem of social landlords who did not take their responsibilities seriously in dealing with the problem of anti social behaviour by their tenants. Councillor Beswick (Lead Member for Crime and Community Safety) replied that the Council already worked with the Registered Social Landlords in the borough on anti social behaviour issues and this included working with Brent Tenants Rights Group and addressing their responsibilities to curb the behaviour of some tenants. Regular meetings took place but if there were specific cases that came to the attention of councillors, Councillor Beswick invited them to escalate them to him. Councillor Shaw pointed out that Brent Tenants Rights Group covered only a small



part of the number of tenants in the borough and the work undertaken needed to be broader than this.

Councillor Brown asked if the Leader had full confidence in Councillor Powney as Lead Member for Environment and Neighbourhoods or was it time for him to leave the Executive. Councillor Butt (Leader) replied that his Executive worked very hard to serve the residents of Brent and that he had every confidence in all the Executive members to deliver services to all Brent residents. Councillor Brown responded that the Leader had not mentioned Councillor Powney by name and he did not consider his answer very convincing. He felt the Executive was pulling in different directions and there was a paralysis in decision making within the Council.

Councillor Ashraf referred to the decision taken by the Council to reduce the number of school crossing patrols. He asked how many patrols there were in place at the start of the school term and why there was not a patrol at Our Lady of Grace Junior School during the last week. Councillor Powney (Lead Member for Environment and Neighbourhoods) replied that he would have to write to Councillor Ashraf to let him have the figures he was asking for. However, Councillor Powney pointed out that during 2011 the Council had received transport related awards that included recognition of the work the Council had done to provide school crossing patrols and introduce a broad range of road safety measures. With reference to Our Lady of Grace Primary School, Councillor Powney explained that, as had been reported before, some sites encountered recruitment difficulties. He undertook to include details of this in his written answer to Councillor Ashraf. Councillor Ashraf responded by expressing his dissatisfaction with the answer saying that he felt young people were being put at risk and that the indication given by the new Leadership that the situation would be reviewed had not been fulfilled.

Councillor Cheese asked what the Council had provided for the library campaigners since the Leader promised in June to review the actions taken by the Council. Councillor Powney (Lead Member for Environment and Neighbourhoods) replied that the newly refurbished Kilburn Library had that day re-opened following an investment of £650,000, despite the view being expressed by the Leader of the Opposition that the library was not needed because Camden had one nearby. Councillor Cheese responded that it appeared that the offer by the Leader to look again at the library programme was a cynical move because there was no intention to change anything.

Councillor Lorber stated that Councillor Powney had recently indicated full confidence in the Chief Executive and Corporate Management Team but asked if he had the same confidence in members of the Executive. Councillor Powney (Lead Member for Environment and Neighbourhoods) replied that he had complete confidence in all members of the Executive. Councillor Lorber responded by saying that he had never heard of a situation before where a lead member had more confidence in the Chief Executive than he did have in his fellow lead members.

Councillor Colwill referred to the disruption in the Council Chamber that had caused great inconvenience to councillors and had required the meeting to be reconvened in another room. He asked how the situation had been allowed to happen and what would be done to ensure it did not happen again. Councillor Butt (Leader) accepted the point made by the question and asked that the Director of Legal and

Procurement address the issues raised and take whatever action was necessary to tighten up procedures. Councillor Colwill accepted the answer given.

Councillor Mashari asked what effect the changes made to English exam grades had had on the pupils in Brent. Councillor Arnold (Lead Member for Children and Families) replied that the lowering of expected C grades to D grade in English would have a crucial effect on pupils who could now lose higher education opportunities. She felt it was immoral to change the grade boundaries mid-way through the year and that this had ruined the position some pupils had been aspiring to. In spite of this, Councillor Arnold was pleased to report that the provisional 'A' level results for pupils in Brent appeared to be very good. Councillor Mashari stated that the change of goal posts mid-way through the year was a reckless action to take that affected the future of young people and hoped the Council would join with the shadow Education Minister to lobby government to review the situation.

Councillor McLennan asked what progress had been made on the library transformation programme. Councillor Powney (Lead Member for Environment and Neighbourhoods) replied by restating that the programme was intended to provide investment in the six libraries in the borough in order to ensure they were all of an excellent standard and open seven days a week. He stated that each of the libraries had either been refurbished or were undergoing works. The overall book stock had been maintained and the home learning service improved. There was also now an enhanced outreach service in the Kilburn area. Councillor Powney anticipated the visitor numbers for August would show a pleasing rise. Councillor McLennan was very pleased to hear the progress that had been made.

Councillor Choudry asked what the latest position was on the efforts being made to provide a school place for all children in Brent who needed one. Councillor Arnold (Lead Member for Children and Families) replied that this was a top priority issue for the service. All applications for reception age children received by the closing date had been offered a place. Since the closing date, 671 applications had been received. This totalled 4,783 applications of which 599 were from outside the borough, which showed the level of popularity of Brent schools. There were still 176 children that had yet to receive an offer but there would soon be an additional 256 places available. Councillor Choudry thanked the Lead Member for her reply.

Councillor Naheerathan asked what the impact would be of the coalition government's introduction of Universal Credit. Councillor Long (Lead Member for Housing) replied that for many it would have a devastating effect and stated that it would amount to social cleansing in Brent because many poorer families would no longer be able to afford to live in the borough. She added that these reforms, which had been supported by the Liberal Democrats, would lead to the Council being unable to offer suitable accommodation to people within Brent. She warned councillors not to make promises about housing that the Council would not be able to deliver on.

## **9. Reports from the Chairs of Overview and Scrutiny Committees**

This item was not taken.

## **10. Motions**

## 10.1 **Ward working**

Councillor Hopkins moved the motion circulated in her's and Councillors Lorber, Beck and Brown's names which asked the Council to reaffirm that ward councillors should be able to consider all applications submitted to the ward working scheme and that decisions made by councillors should be respected and adhered to. She added that this was a matter that affected all councillors and was about local democracy. Councillor Hopkins stated that the decisions being taken by councillors were being ignored by officers when the process was meant to provide for ward councillors to determine local priorities for officers to review and refer back to them. Instead there were cases where officers were rejecting proposals without discussion. She asked how councillors were expected to represent residents when they were not being kept informed of what was happening.

Councillor Jones responded by saying that the ward working scheme involved all councillors and was successfully delivering many projects to many residents across the borough. However, if a project did not meet the criteria then it could not be funded. This included any project that was designed to overturn a decision taken by the Council. She refuted any allegation that councillors were not being kept informed and stated that councillors should be aware of all the projects being submitted for funding.

Councillor Colwill recognised that the ward working scheme could not make up for decisions taken by the Council on libraries or festivals but added that of the many projects he had seen submitted he was aware of only one being stopped. His experience of working with the scheme was good and he urged all councillors to ensure their ward working funding was spent.

Following a vote the motion was declared LOST.

## 10.2 **Free schools**

Councillor Kansagra moved the motion circulated in his name which sought to promote the idea of free schools and increase their number within Brent. He took the opportunity to remember Sir Rhodes Boyson who had been a headteacher within the borough and had made schools successful. Councillor Kansagra stated that 24 free schools had opened around the country during the previous year, with about 50 opening in the current year and some 200 due to open during next year. He urged the Council to promote and encourage the establishment of free schools within the borough.

Councillor Arnold referred to the new Education Minister, David Laws, as not having much education experience. She supported choice for parent to send their children to excellent schools but stated that the government had not provided enough funding for schools and had instead redirected funding into a political driven project to provide free schools that were often established in the wrong areas and without proper consultation. Councillor Arnold added that the Council needed to generate more school places and so had taken the decision to find suitable partners with whom the Council could work to provide new schools but free schools were only one option for this.

No member of the Liberal Democrat Group chose to speak on this motion.

Following a vote the motion was declared LOST.

### 10.3 **Loan sharks**

Councillor Pavey moved the motion circulated in his name by emphasising the exploitative nature of loan sharks and the huge APR rates they levied on loans. He stated that this was something that was hurting many residents of Brent. Councillor Pavey referred to an increase in debt related enquiries being received by advice agencies and urged greater support for promoting credit unions which would help remove the blight on the borough caused by loan sharks.

Councillor Pavey was congratulated on his inaugural speech to the Council.

In supporting the motion, Councillor Lorber referred to what he saw as a lack of consistency on many issues regarding debt, one being the expansion of gambling outlets on the high streets. He stated this aspect also needed to be tackled and felt that it was a shameful error on the part of the last government to allow the proliferation of gambling outlets.

Councillor HB Patel stated that it was recognised how some debt was bad and that this could be seen in the perspective of the legacy of the last government that had promoted a something for nothing culture. Councillor Patel added that the present government was doing its best to tackle the situation by supporting industry, cutting taxes and keeping interest rates low.

The motion was put to the vote and declared CARRIED.

RESOLVED:

that Council:

- (a) notes and welcomes the UK-wide campaign to end 'legal loan sharking' and the work being done in Brent to tackle the problem locally;
- (b) believes that the lack of access to affordable credit is socially and economically damaging. Unaffordable credit is causing a myriad of unwanted effects such as poorer diets, colder homes, rent, council tax and utility arrears, depression (which impacts on job seeking behaviour and poor health);
- (c) further notes that unaffordable credit is extracting wealth from the most deprived communities;
- (d) believes it is the responsibility of all levels of government to try to ensure affordable credit for all, and therefore pledges to use best practice to promote financial literacy and affordable lending. This will help to ensure that wealth stays in the local economy;
- (e) pledges to promote credit unions in Brent, community based organisations offering access to affordable credit and promoting saving;
- (f) calls on the government to introduce caps on the total lending rates that can be charged for providing credit;
- (g) calls on the government to give local authorities the power to veto licences for high street credit agencies where they could have negative economic or social impacts on communities.

#### 10.4 **Olympics and paralympics**

The motion circulated in the names of Councillors Lorber, Brown, Hunter, Hashmi, Cheese, Shaw, Cummins and Beck was put to the vote and declared CARRIED.

RESOLVED:

- (i) that tribute be paid to all those involved in the successful delivery of the Olympic and Paralympic Games, including council staff and many Brent residents;
- (ii) that Council congratulates and celebrates the hard work and successes of the British team, in particular those who were brought up or live in the vicinity of Brent, including time-trial gold-medallist Bradley Wiggins;
- (iii) that, in particular, thanks goes to the many volunteers, from Brent and beyond, who worked as Gamesmakers or London Ambassadors or in other capacities during the Games, their goodwill, enthusiasm, skill, cheerfulness and dedication ensured that the Olympic and Paralympic Games were enjoyed by spectators and athletes alike and made an enormous contribution to the success of the Games;
- (iv) that the importance of volunteering in Brent throughout the year be acknowledged, and the dedication of thousands of unsung heroes who work hard for no financial reward to support others and improve the community in which they live;
- (v) that those who are prepared to devote their time and effort to the local community in this way be supported and encouraged.

#### 10.5 **Luke's Lions FC**

The motion circulated in the names of Councillors Ashraf, Beck and Hopkins was put to the vote and declared CARRIED.

RESOLVED:-

- (i) that the shocking murder of Luke Fitzpatrick in Dollis Hill in May be recalled with sadness;
- (ii) that the members of Luke's Lions FC – a football club of which Luke Fitzpatrick was a founder member and which his teammates have renamed in his memory – be congratulated on their efforts to create a positive legacy out of this tragic event, and in particular on their plans to expand the club to incorporate under-16 boys and girls teams;
- (iii) that the Council applauds the club's intention to engage with young people who might otherwise slip into anti-social behaviour and crime and provide them with clear objectives and physical activity.

#### 10.6 **School sports coordination service**

The motion circulated in the name of Councillor Crane was put to the vote and declared CARRIED.

RESOLVED:

that Council:

- (a) warmly congratulates team GB medal winners and competitors for their inspirational efforts that helped make such a successful Olympic games in London;
- (b) wishes to place on record our thanks and appreciation for all the volunteers, games makers and ambassadors from Brent and across London who made the Olympic Games so enjoyable for the visiting public;
- (c) supports Lord Moynihan in his call for the Olympic Legacy to support sport in schools and asks the borough's MPs to campaign to reverse the Government cuts in SSCO (School Sports coordination service).

#### 10.7 **Office for National Statistics census 2012**

The motion circulated in the name of Councillor J Moher was presented by Councillor Choudry and was put to the vote and declared CARRIED.

RESOLVED:

that Council:

- (a) notes that on 16 July 2012 data for Census 2011, which is crucial for local authorities for calculating their financial settlements from government, was published by the Office for National Statistics (ONS), that it showed a scale of inaccuracy that affected all councils adversely, but London and Brent particularly severely, that the divergence between what the ONS said London's population was and what it actually was appears to be around 500,000 and in the case of Brent, the release showed that the total population was now 311,200 rather than the 257,000 on which settlements have been based, yet in the period since 2010 alone, government grant to Brent Council has been cut by about £68m, a figure that is expected to rise to £110m by 2014;
- (b) notes with deep concern that the ONS statistical error has called into question the reliability on which government decisions affecting our most vulnerable sections of the community are based;
- (c) calls for an immediate review of the methodological basis of the ONS census compilation to ensure that these errors do not recur;
- (d) calls on the Government to compensate those councils adversely affected by the under enumeration for the years since 2010.

#### 11. **Urgent business**

None.

The meeting closed at 8.55 pm

COUNCILLOR MICHAEL ADEYEYE  
Mayor



## FULL COUNCIL – 19 NOVEMBER 2012

### Report from the Executive

#### Items to be reported by the Executive

The Leader has given notice that the Executive will report to Council on the following items:

1. Leader's Report – Councillor Butt
2. Budget Process – Councillor R Moher
3. Council Tax Benefit – Councillor R Moher
4. Public Health – Councillor Hirani
5. Carers Hub – Councillor Hirani
6. Supporting People Framework – Councillor Hirani
7. Children and Families Plan – Councillor Arnold
8. Roundwood Youth Centre Launch – Councillor Arnold
9. Adoption in Brent – Councillor Arnold
10. Tribute to Sir Rhodes Boyson – Councillor J Moher

#### 2. **Decisions taken by the Executive under the Council's urgency provisions**

Under the provisions of rule 38 of the Access to Information Rules in the Constitution, the Executive is required to report to the next Full Council for information on any decisions taken by them which did not appear in the Forward Plan giving 28 days notice or where due notice was not given that a report, or part thereof, is to be considered in private.

*Authority to enter into a Partnership Arrangement under Section 75 National Health Services Act 2006 in respect of Brent's Integrated Community Equipment Service*

The above item is due to be considered by the Executive on 12 November 2012 when it will be asked to give approval to:

- (i) re-enter into a partnership arrangement to 31 March 2013 for provision of Brent's Integrated Community Equipment Service with the Brent PCT under Section 75 National Health Services Act 2006;
- (ii) the setting up of a pooled budget with Brent PCT under the partnership agreement and to the transfer of the Council's pro rata.

Reason why it was impractical to defer the decision until it could be included on the Forward Plan:

It is necessary for the contract to be awarded and approvals given in accordance with timescales.

3. *2012/13 Mid-Year Treasury Report*

The above item is due to be considered by the Executive on 12 November 2012 when it will be asked to note the report.

Reason why it was impractical to defer the decision until it could be included on the Forward Plan:

It is necessary for the Executive to receive the report before it is put before this meeting of Full Council.

4. *Authority to award a contract for a Carer Services Hub model*

An appendix to this report which is not for publication as it relates to the following category of exempt information as specified in Schedule 12A to the Local Government Act 1972 "information relating to the financial or business affairs of any particular person (including the authority holding that information).

5. *Authority to award a framework agreement for Supporting People Services*

An appendix to this report which is not for publication as it relates to the following category of exempt information as specified in Schedule 12A to the Local Government Act 1972 "information relating to the financial or business affairs of any particular person (including the authority holding that information).

6. *Authority to award framework agreement for provision of carer related short break, home based support and respite services for adult social services and children and adults – addendum*

The above item was considered by the Executive on 15 October 2012 when it agreed:

- (i) to the appointment to the seven Lots of the Framework Agreement for four (4) years, for the provision of carer related short break, home based support and respite services for Adult Social Services and Children and Families of those providers stated in paragraph 4.1, Table 1 which now replaces Table 2 at 3.15 in the report dated 19 September 2012,



(ii) to note that officers anticipate putting back the date that the Framework Agreement goes live by approximately four (4) weeks from 22 October to 19 November 2012 to allow sufficient time for award letters to be dispatched and for observation of the 10 day 'standstill' period which will apply to the award of this contract.

NB – there is an appendix to this report which is not for publication as it relates to the following category of exempt information as specified in Schedule 12A to the Local Government Act 1972 “information relating to the financial or business affairs of any particular person (including the authority holding that information).

Reason why it was impractical to defer the decision until it could be included on the Forward Plan:

It is necessary for the contract to be awarded and approvals given in accordance with timescales.

7. *Authority to invite tenders for the leaseholder property insurance services contracts*

The above item was considered by the Executive on 15 October 2012 when it agreed to:

- (i) approve the pre-tender considerations and the criteria to be used to evaluate tenders for the Council's Leaseholder Property Insurance Services as set out in paragraph 3.10 of the report,
- (ii) approve the invite of expressions of interests, agree shortlists, invite tenders in respect of the Council's Leaseholder Property Insurance Services contract and evaluate them in accordance with the approved evaluation criteria referred to in (i) above.

Reason why it was impractical to defer the decision until it could be included on the Forward Plan:

It was necessary for the contracts to be awarded and approvals given in accordance with timescales.


8. *South Kilburn redevelopment*

An appendix to this report which is not for publication as it relates to the following category of exempt information as specified in Schedule 12A to the Local Government Act 1972 “information relating to the financial or business affairs of any particular person (including the authority holding that information).

9. *National Non Domestic Rate relief*

An appendix to this report which is not for publication as it relates to the following category of exempt information as specified in Schedule 12A to the Local Government Act 1972 “information relating to the financial or business affairs of any particular person (including the authority holding that information).

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	<p style="text-align: center;"><b>Full Council</b> <b>19 November 2012</b></p> <p style="text-align: center;"><b>Report from the Executive</b></p>
<p style="text-align: right;">Wards Affected: ALL</p>	
<p><b>The First reading of the 2013-2014 Budget Priorities for the Administration</b></p>	

## **1.0 Summary**

- 1.1 This report sets out the Administration's priorities for the financial year 2013/14 and should be read in conjunction with the Council's Borough Plan 'Brent Our Future 2010-14' and the concurrent report of the Deputy Director of Finance. The former will be revised for April 2013.

## **2.0 Recommendation**

- 2.1 The Council is recommended to consider the broad budgetary priorities set out in this report alongside the Deputy Director of Finance's paper and debate them as set out in Standing Orders 25A and 44.

## **3.0 The Context**

- 3.1 When last year's report was put before Council we said that it was written at a very bleak juncture in the economic cycle. The report described both the increased stress on residents and the simultaneous downgrading of the Council's ability to defend residents as a result of unprecedented cuts in grant.
- 3.2 Since we wrote this last year the situation has considerably worsened. The double dip recession, the increasing prevalence of worklessness, inflation and real income decline has impacted hugely on our residents. When this is coupled with the benefit changes the government is now introducing, those on the lowest incomes are put under even more pressure. In the meantime the Council's financial prospects and its ability to address these issues are further put under pressure by the fact that government action will not, as originally forecast eliminate the

budget deficit in one Parliament but rather extend a further round of drastic cuts in Public Expenditure up to 2020.

- 3.3 The Council therefore has a twin challenge. First to reorder its priorities to further provide individuals and communities with support in the face of these problems and secondly to make more cuts in expenditure whilst avoiding what the Local Government Association term the 'Graph of Doom'. This Graph of Doom concept is a projection that if both cuts to public expenditure and demand for services remain on the same trend then by 2020 Local Government will end up only delivering waste and high end social care services.
- 3.4 To achieve these two goals we are therefore proposing a package of proposals to address some of the immediate issues facing people. At the same time we are beginning a fundamental review of all the Council's services. We must divert people from high end provision by supporting as many people as possible to live independent, fulfilling lives. It is only by fundamentally recasting what we do that we can serve the needs of local people.

#### **4.0 The Priorities**

- 4.1 The first priority must remain protecting the integrity of the Budget and making the savings. The One Council Programme is and will remain the primary vehicle for delivering both savings and service transformation. The One Council Programme is still on course to deliver £80m by the end of the spending review period and in the light of further pressures Members need to consider further areas for projects to be developed. However, as fundamental change is the only way to achieve genuine savings, longer 'lead in times' will be necessary to reflect the growing complexity of cross council, and complexity of cross-partnership, change and early indications from Members of avenues to follow will be vital.
- 4.2 The key priority is to switch priority and attention towards those activities that will give our community resilience in these difficult times. We have set for ourselves three key and critical policy outcomes for the next three years.
1. To promote fairness,
  2. To strengthen our community and
  3. To support growth in the local economy.

These will be built into our review of the Council's Borough Plan, 'Brent Our Future' 2010-14, which will be published in April 2013.

- 4.3 Last year we announced that we would bring forward a package of measures designed to address the issues of employment and employability in the Borough. We are pleased to say that we have

made great progress in the last year and a tailored employment support service (known as Navigators) has been launched. We are also well on the way to recalibrating the activity of BACES so that its priorities are more closely linked to employment and the jobs market. We are now actively in discussion with our voluntary and community sector employment providers to further enhance our offer and reach.

- 4.4 We are still making progress on our goal of greater integration in commissioning health and social care with our NHS colleagues and will be taking forward with them a more seamless and focussed approach as the Clinical Commissioning Group develops following its 'authorisation' success. We have agreed and are implementing a new Model of Public Health services into the borough which will embed more comprehensively Public health activity into what the Council and its partners do rather than having it as a disconnected service outside of the mainstream.
- 4.5 As part of our drive to greater preventative services we have initiated a suite of projects entitled 'Working with Families'. This is designed to apply holistic support to families through targeted key workers, keep children out of care, align and develop our 'early help' offer so that families get support before their situation becomes critical, realign our support services such as Youth Offending and Youth Service to allow more targeted support and establish a new 'front door' with our Partners; the Police, Probation, and the NHS, so that there is a genuinely joint approach to providing support, sharing knowledge and avoiding duplication.

## **5.0 New Initiatives**


- 5.1 Since May this year we have undertaken a thorough analysis and review of what further interventions we can make to support our residents and will continue to do this through our review of the Borough Plan. We set out a brief resume of new key activities we will be undertaking over the next twelve months. These will be the subject of reports to the Executive as we roll forward:-
- a) We will become a Living Wage Borough. We believe that it is a fundamental moral principle that people should be paid enough to more than simply exist. We will with other Public and private sector organisations become accredited with the Living Wage Foundation. In doing this we commit to extending the living wage principles which we already adhere to with our own staff to all those contracts outside of Social Care, and also to a dialogue with the Living Wage Foundation and other Councils to find an affordable way to extend our living wage offer to all contracts. Fair pay is essential to address our three key tenets of fairness, supporting community and the local economy.

- b) We believe that the price tariffs charged by the energy industry are nothing short of a national scandal and put hard working local people under even greater pressure. We will bring forward plans to create an energy cooperative which can bulk purchase energy and supply to residents at the lowest possible prices.
- c) The amount of private sector housing and the numbers of our residents in this accommodation has risen exponentially over the last few years. Given the stress under which people find themselves we must take steps to ensure that the quality of accommodation is maintained and that the management of these properties is properly undertaken. We will be bringing forward proposals to address these issues in the next few months.
- d) We will bring forward a suite of initiatives which constitute a 'new deal' for our relationship with local businesses. Local enterprises represent the future prosperity of our Borough and we need to develop an enhanced partnership with them. We have a package of measures which will be coming forward to the Executive.
- e) We will enhance our work with the new CVS to strengthen the Voluntary Sector and with them bring forward a package of measures to strengthen and enhance the sector and through better bidding, bring more money for the Sector into Brent.
- f) With our partners in the advice agencies we are developing a set of measures to enhance financial resilience, coping with personal debt and bear down on loan sharks.

## **6.0 Conclusion**

- 6.1 As an Administration, we are proud of our achievements, grounded in the reality of our financial situation but determined to bring progressive support to our residents. We were elected to serve in bad times as well as good, and through innovation and hard work we can still make a positive difference to the lives of our residents.

**Councillor Muhammed Butt**  
**Leader of the Council**

	<p><b>Full Council</b> 19 November 2012</p> <p><b>Report from the Deputy Director of Finance</b></p>
<p>Wards Affected: ALL</p>	
<p><b>First Reading Debate on the Budget and Medium Term Financial Plan</b></p>	

## 1.0 Summary

- 1.1 This report, together with the separate report on this agenda on the priorities of the administration, meets the requirement in the Constitution (Standing Order 24(b)) that:

*‘The Executive shall present a report from the Director of Finance and Corporate Services to Full Council setting out the financial position of the Council, financial forecasts for the following year and the possible expenditure priorities of the Executive. There shall then be a debate on the issues raised in that report held in accordance with Standing Order 44 hereinafter called a “First Reading Debate”.’*

- 1.2 The record of the ‘First Reading Debate’ assists the Leader of the Council and the Chair of the Budget and Finance Overview and Scrutiny Committee in shaping the budget. The role of the Budget and Finance Overview and Scrutiny Committee is to assist the budget process by providing detailed input during the Executive’s development of its budget proposals. This includes scrutiny of the Executive’s budget proposals prior to the Executive’s recommendations on the budget being agreed at its meeting on 11 February 2013, as well as further consideration after the Executive’s recommendations have been made. Final decisions on the budget and the level of Council tax for 2013/14 will be made at Full Council on 25 February 2013.
- 1.3 This report has been written on the basis of the best information available to the Council at this stage. At the time of writing this report there is considerable uncertainty regarding external funding, pending the Autumn Statement and the draft local government finance settlement which are both expected in December.

1.4 In addition, the ongoing impact of the recession and concerns about the prospects for future economic recovery mean that underlying assumptions about pay and price increases, interest rates, service pressures and other items within the Council's medium term financial strategy will need to be kept under close review.

## 2.0 Recommendations

2.1 Full Council is recommended to consider the issues set out in this report when it holds its 'First Reading Debate' for the purposes of Standing Order 25(a).

## 3.0 Background to the budget and medium term financial plan

3.1 The 2012/13 budget was agreed at Full Council on 27 February 2012. Key features of the budget agreed for 2012/13 were:

- A General Fund budget requirement of £260.4m;
- No Council tax increase for Brent services leading to a Band D level of £1,058.94;
- An overall Council tax reduction of 0.2%, including the GLA precept, leading to a Council tax for Band D properties of £1,365.66;
- Reserves of £12m by 2013/14, which was at the lower end of the range of £12m to £15m recommended by the Director of Finance and Corporate Services based on an assessment of financial risks;
- Financial projections for future years based on the assumptions that balances would remain at £12m and that council tax would increase by 3.5% in 2013/14 and 2.5% thereafter.

3.2 The projections for future years produced a gap to be bridged for the period 2013/14 to 2015/16 as follows:

**Table 1: Estimated Budget Gap at 27 February 2012**

	2013/14 £m	2014/15 £m	2015/16 £m
Net Savings Required	9.3	11.6	5.3
Savings Identified	11.3	6.2	1.5
Budget Gap/(Surplus):			
Annual	(2.0)	5.4	3.8
Cumulative	(2.0)	(3.4)	(7.2)

3.3 This budget gap was subsequently updated in a report to the July 2012 Executive to reflect:



- Changes to the way in which council tax support was to be treated and the impact of this on council tax income projections
- Provision for additional budget pressures over and above those included in the budget report
- Update on savings from the One Council Programme together with revision to costs of the Programme in future years
- Changes to other savings assumptions in the budget.

3.4 A summary of the overall position incorporating the above changes is set out in Appendix 1. The schedule of central items is set out in Appendix 2. In broad terms, the overall impact of these changes on the budget was neutral.

	2013/14 £m	2014/15 £m	2015/16 £m
February 2012	(2.0)	3.4	7.2
Net Movement	1.8	(0.9)	0.3
July 2012	(0.2)	2.5	7.5

#### 4.0 General Fund revenue budget issues

4.1 The council's medium term financial strategy, including delivery of savings through the One Council Programme, is based on projections of resources made at the time of 2010 Comprehensive Spending Review, which set out government funding for local government through to 2014/15, and assumptions made about council tax increases.

4.2 Recent developments mean that there is now significant uncertainty about government funding in 2013/14 and beyond. These include:

- Slower than projected economic growth which has had a significant impact on government borrowing;
- Changes to the funding system of local government, including both changes to business rate assumptions and council tax support;
- Proposed removal of funding from local government to pay for the introduction of education for two year olds and to fund the cost of functions previously carried out by local authorities for schools that will now transfer to academies;
- The impact of population figures in the 2011 Census, including the extent to which the government will increase grant to fund the increase in Brent's population to the actual figure of 312,000;
- The extent to which the government will compensate councils for the financial impact of welfare reform on costs to councils of temporary accommodation for homeless people.

4.3 In addition, the Secretary of State for Communities and Local Government recently announced that a council tax increase above 2% for 2013/14 would

trigger the requirement to hold a local referendum. He has also announced a further Council Tax Freeze Grant. In return for not increasing council tax in 2013/14 this would provide funding equivalent to a 1% council tax increase for each of the next two years. The Council will need to decide whether to accept the time-limited grant (and continue the erosion of its tax base) or reject it.

- 4.4 The uncertainty caused by these announcements has been reinforced by a delay in the Autumn Statement to 5 December 2012. Announcements of the funding changes that result from the items listed in paragraph 4.2 above will be made during December, with the provisional local government finance settlement itself not likely to be announced until the week before Christmas.
- 4.5 This uncertainty means that it will not be possible to take some key decisions on the budget until after the government announcements. In the meantime, the Council has continued to deliver key elements of the existing budget strategy and prepare for the changes to funding, including:
- Progressing cross-council One Council Programme projects, such as the Move to the Civic Centre, Future Customer Services, and Realignment of Corporate and Business Support which will form the basis for budget savings in future years;
  - Progressing partnership and service based projects, such as Integrating Health and Social Care, Working with Families, Supporting People, Parking Enforcement, Highways Operations, Managing Waste, preparation for letting the Managing the Public Realm contract, School Improvement and Special Education Needs;
  - Validating the level of savings included in future budget projections from One Council projects;
  - Putting in place measures to help manage the impact of welfare reform on council services and finances;
  - Consulting on a new Council tax Support Scheme;
  - Reviewing existing service and central budgets.
- 4.6 The Council will need to review its medium term financial strategy following the announcement of the Autumn Statement, the Local Government Finance Settlement and related changes. The worsening state of public finances, compared to previous projections, together with demographic and other pressures on spending, means that there will continue to be the need to make significant budget reductions through to the end of the current decade. It is important that decisions taken on the budget in any one year take into account the longer term implications and the ability of the council to continue to meet the needs of Brent residents over the longer term.

## **5.0 Schools Budget**

- 5.1 The Schools Budget is funded directly from a Dedicated Schools Grant (DSG) which is ring-fenced and does not appear as part of the Council's overall budget requirement. Schools are also allowed to build reasonable levels of reserves which are also ring-fenced.
- 5.2 The government announced in the last Spending Review that schools spending was a priority area and, although overall Department for Education (DfE) funding fell by almost 11%, allocations of DSG to local authorities were unchanged on a per pupil basis.
- 5.3 The council is required to consult the Schools Forum, which consists of representatives of the different schools sectors and includes head-teachers and governors, on the setting of the Schools Budget. The Schools Forum will be considering this at its meetings in December through to February. There is a requirement that the year on year increase in the central element of the Schools Budget (which includes Special Education Needs) cannot be greater in percentage terms than the increase in funding delegated to schools, unless agreed by the Forum. A key issue that is being addressed is the current forecast cumulative deficit on the Schools Budget. A full recovery plan has been approved by the Schools Forum and is in place to deliver savings in this area of expenditure and use part of the overall DSG to eliminate this deficit.
- 5.4 Final decisions on the allocation of the Schools Budget will be taken by the Executive in February 2013.

## **6.0 Housing Revenue Account**

- 6.1 The Housing Revenue Account (HRA) covers the activities of the Council as landlord for approximately 9,000 freehold dwellings and 200 leasehold dwellings. The HRA is separate from the General Fund and is ring-fenced – i.e. HRA expenditure is met from HRA resources, which primarily consist of government subsidy (HRA Subsidy) and rents and not from Council tax or other General Fund resources
- 6.2 From April 2012 the HRA subsidy system ended and the HRA is now self-financing. In return the Council received a one-off settlement of £198 million in lieu of the annual subsidy previously received.
- 6.3 The rent increase for Council dwellings takes account of the government's guidelines on convergence between rents charged by Councils and Registered Social Landlords (mainly housing associations). In 2012-13, this resulted in an average rent increase of 7.1%.
- 6.4 The HRA forecast outturn for 2012-13 is in line with the original budget.

6.5 In February 2013 the Executive will decide on the rent increase to be applied in 2013/14. The HRA budget will be agreed by Full Council in on 25 February 2013 as part of its consideration of the overall Council budget report.

## **7.0 Capital Programme**

7.1 The capital programme is a four year rolling programme which is up-dated each year. The current 2012/13 to 2015/16 capital programme was agreed as part of the overall 2012/13 budget process in February 2012 and has been up-dated to reflect changes subsequently reported to the Executive. This includes accounting for slippage of previous years' spending into 2012/13.

7.2 The capital programme for 2012/13 to 2015/16 reflects the priorities of the Borough Plan, asset management plans and any amendments required arising from the new departmental structures. The capital programme will also be extended to include the 2016-17 financial year.

7.3 The key challenges for the development of the capital programme are:

- a. To revisit the estimated sources of funding, taking into account the continuing impact of the economic downturn on other contributions such as reduced levels of developer contributions arising from a slowing of major development projects.
- b. The ongoing need to provide additional school places across the borough and address other school capital needs
- c. In the light of the above to ensure that the up-dated capital programme delivers the Council's key priorities within the resources available.

7.4 The capital programme is currently based on the assumption that borrowing that falls on the General Fund will be at the level set out in the Council's medium term financial strategy.

7.5 Such a strategy does increase borrowing costs each year at a time when revenue resources are falling leading to interest costs taking up an increasing share of total revenue resources. Members could decide to reduce that borrowing as a way of helping bridge the budget gap in 2013/14 and beyond through the reduction of borrowing costs as referred to in paragraph. Achieving this would mean either reductions in the capital programme or the identification of alternative funding sources other than borrowing from those already identified.

7.6 Borrowing levels currently included in the capital programme (set out in Appendix 3) are as follows:

	<b>2012/13 £000</b>	<b>2013/14 £000</b>	<b>2014/15 £000</b>	<b>2015/16 £000</b>
Unsupported Borrowing	2,280	6,730	6,972	6,972
Unsupported Borrowing – Self Funded	80,453	1,718	200	200
Total Borrowing	82,733	8,448	7,172	7,172

7.7 The elements of borrowing for which the costs are borne centrally and for which measures could be taken to reduce the revenue budget gap are the supported and unsupported borrowing. The borrowing costs from the Self Funded elements of unsupported borrowing are met from service revenue budgets respectively and reflect committed schemes for which there is budgetary provision.

In order to consider the potential to reduce the levels of borrowing incurred to fund the capital programme it will be necessary to first define the level of grant that will be made available via the local government settlement, the extent of other funding sources and contributions available and those schemes where there is a continuing commitment to fund or a statutory requirement to make provision. Members will then be able to consider the level of any funding gap arising, the total level of borrowing affordable to the General Fund revenue budget and the prioritisation of schemes within the existing 4 year capital programme and how that should roll into 2016-17.

## **8.0 Timetable**

8.1 The timetable for finalising the 2013/14 budget is attached as Appendix 4. The key dates are:

- the Chancellor's Autumn Statement on 5 December 2012;
- release of the Mayor's consultation on the GLA budget on 17 December 2012;
- provisional local government finance settlement which is expected by 20 December;
- administration's draft proposals issued early February 2013;
- Executive decides budget recommendations to Full Council at meeting on 11 February 2013;
- GLA budget agreed on 13 February 2013;
- Full Council decides budget on 25 February 2013.

8.2 The Budget and Finance Overview and Scrutiny Committee will be scrutinising the budget at various stages of this process: prior to the administration's draft proposals being issued; after the proposals have been

issued, with their discussions feeding into Executive consideration of the budget proposals on 11 February; and following the decisions of the Executive, feeding into the Council budget debate. Last year the Overview and Scrutiny Committee invited a range of members to its meeting preceding the Executive's consideration of the budget proposals and the intention will be to follow the same approach this year.

## **9.0 Financial Implications**

- 9.1 The report is entirely concerned with financial implications which have far reaching consequences for the Council's services in future years.

## **10.0 Legal Implications**

- 10.1 The Council's Standing Orders contain detailed rules on the development of the Council's budget. Some elements of these rules are required by the Local Authorities (Standing Orders) (England) Regulations 2001 but a number are locally determined.
- 10.2 In the case of the Council's annual budget, including the capital programme, the Executive is required under the Constitution to present a report to Full Council setting out the financial position of the Council, financial forecasts for the following year and their expenditure priorities. This report, together with the separate report on this agenda on the priorities of the administration, sets out the required information. There will be a debate on the issues raised herein and in the separate report, which will be conducted in accordance with Standing Order 44.
- 10.3 Following the First Reading Debate, a record of the debate will be sent to the Leader and to Chair of the Budget and Finance Overview and Scrutiny Committee. The Budget and Finance Overview and Scrutiny Committee will meet and produce a report setting out its view of the budget priorities and any other issues it considers relevant. This report will be submitted to each Executive Member and each Group Leader in order to inform budget proposal discussions. Prior to being agreed by the Executive, the Executive's budget proposals will be sent to members of the Budget and Finance Overview and Scrutiny Committee which will consider the proposals and submit a note of its deliberations and comments on the proposals to the Executive. The Executive will take into account the issues raised at the First Reading Debate and the note of the deliberations and comments from the Budget and Finance Overview and Scrutiny Committee in making its budget recommendations to Full Council.
- 10.4 The final proposals will be submitted by the Leader to a special meeting of Full Council for consideration and determination no later than 10<sup>th</sup> March in accordance with Standing Order 34. There is a statutory dispute procedure set out in Standing Order 25 to deal with circumstances where there is a disagreement between the Council and Executive on the budget proposals

but this only applies where the budget setting meeting takes place before the 8<sup>th</sup> of February.

## **11.0 Diversity Implications**

- 11.1 Prioritisation and decision making as part of the budget process are tied into the Council's corporate strategy, individual strategies and service development plans. The priorities within these reflect the Council's commitment to tackling discrimination and disadvantage as part of its Comprehensive Equality Plan (CEP). In addition, services are required to carry out Impact Need and Requirements Assessments where it is considered that individual growth and savings proposals could have an equality impact. The impact of budget decisions is monitored through the Council's performance monitoring systems. Members need to bear in mind the diversity implications of any proposals they put forward as part of the First Reading Debate.

## **12.0 Background Papers**

Budget Report – Full Council 27 February 2012  
Budget Strategy 2013/14–2016/17 – Executive 16 July 2012

## **13.0 Contact Officers**

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**MICK BOWDEN**  
**Deputy Director of Finance**

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	2013/14 £'000	2014/15 £'000	2015/16 £'000
<b><u>Service Area Budgets (SABs)</u></b>			
Children & Families	51,402	51,402	51,402
Environment and Neighbourhood Services	34,073	34,073	34,073
Adult Social Services	89,552	89,552	89,552
Regeneration & Major Projects	33,277	33,277	33,277
Finance & Corporate Services / Central Services			
- Central Services	10,294	10,294	10,294
- Finance & Corporate Services	22,256	22,256	22,256
	<b>240,854</b>	<b>240,854</b>	<b>240,854</b>
<b><u>Savings</u></b>			
Service Savings	(3,190)	(9,204)	(9,204)
One Council Savings	(2,577)	(4,052)	(5,052)
Civic Centre	(2,000)	(3,000)	(3,500)
	<b>(7,767)</b>	<b>(16,256)</b>	<b>(17,756)</b>
<b><u>Cost Pressures for Service Areas</u></b>			
Cost Pressures	3,147	4,044	4,694
Council Tax Support	0	500	1,000
Inflation Provision	4,574	7,073	10,772
	<b>7,721</b>	<b>11,617</b>	<b>16,466</b>
<b><u>Other Budgets</u></b>			
Central Items	40,043	38,938	40,958
One Council Enabling Fund	2,500	1,500	1,500
	<b>42,543</b>	<b>40,438</b>	<b>42,458</b>
<b><u>Grants &amp; Balances</u></b>			
Government Grants Unallocated	(24,638)	(24,638)	(24,638)
Council Tax Freeze Grant	0	0	0
Contribution to/(from) Balances	920	0	0
	<b>(23,718)</b>	<b>(24,638)</b>	<b>(24,638)</b>
<b>Total Budget Requirement</b>	<b>259,633</b>	<b>252,015</b>	<b>257,384</b>
<b>Funding</b>			
<b>Formula Grant</b>	<b>152,086</b>	<b>138,958</b>	<b>136,383</b>
The Formula Grant has been calculated based upon best estimates within the Spending Review			
<b>Less (Deficit) /Surplus on the Collection Fund</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Council Tax Income</b>	<b>108,709</b>	<b>112,212</b>	<b>115,821</b>
<b>Council Tax Support</b>	<b>(900)</b>	<b>(1,600)</b>	<b>(2,300)</b>
<b>Total</b>	<b>259,895</b>	<b>249,570</b>	<b>249,904</b>
<b>Forecasted Budget Surplus /(Gap)</b>	<b>262</b>	<b>(2,445)</b>	<b>(7,480)</b>

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## ANALYSIS OF CENTRAL ITEMS 2012/13 -2015/16

	2012/13 £'000	2013/14 £'000	2014/15 £'000	2015/16 £'000
Coroners Courts	235	235	235	235
LGA	44	45	46	47
London Councils	172	172	172	172
LGIU Subscription	26	26	26	26
West London Alliance	30	30	30	30
Copyright Licensing	20	20	20	20
External Audit	474	474	474	474
Corporate Insurance	360	380	400	420
Capital Financing Charges	25,343	25,383	26,884	28,448
Levies	2,579	2,803	3,043	3,293
Premature Retirement Compensation	5,416	5,551	5,690	5,832
Remuneration Strategy	229	229	229	229
South Kilburn Development	900	900	900	900
Insurance Fund	1,800	1,800	1,800	1,800
Freedom Pass Scheme Growth	0	1,360	2,247	3,183
Affordable Housing PFI	1,288	1,317	1,348	1,380
Council Elections	100	100	100	100
Carbon Tax	304	378	454	529
New Homes Bonus	(2,794)	(4,594)	(6,294)	(7,294)
Redundancy and Restructuring Costs	4,354	3,354	1,054	1,054
Other Items	80	80	80	80
<b>TOTAL</b>	<b>40,960</b>	<b>40,043</b>	<b>38,938</b>	<b>40,958</b>

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## CAPITAL PROGRAMME 2013/14 AND FUTURE YEARS

### General Fund

Programme Details	2013/14	2014/15	2015/16
	Capital Programme £000	Capital Programme £000	Capital Programme £000
<b>RESOURCES: GENERAL FUND</b>			
<b>Capital Grants and other contributions</b>			
Government Grant - SCE (C)	(19,235)	(20,307)	(10,411)
Devolved Formula Capital	(570)	(570)	(570)
Other External Grant	(20,306)	(12,281)	(6,330)
Capital Receipts in Year - Right to Buy Properties	(400)	(400)	(400)
Corporate Property Disposals	(970)	(728)	(728)
Other Receipts	(5,945)	(7,687)	(21,192)
Additional Contributions	(6,942)	0	0
S106 Funding	(15,781)	(8,523)	(7,940)
<b>Borrowing</b>			
Unsupported Borrowing	(6,730)	(6,972)	(6,972)
Unsupported Borrowing (Self Funded)	(1,718)	(200)	(200)
<b>Invest to Save Schemes</b>			
External Grant Funding	(50)	(50)	(50)
<b>Total Resources</b>	<b>(78,647)</b>	<b>(57,718)</b>	<b>(54,793)</b>
<b>EXPENDITURE: GENERAL FUND</b>			
<b>Regeneration and Major Projects</b>			
<u>Business Transformation</u>			
Civic Centre	1,518	0	0
<u>Children and Families</u>			
School Schemes	33,781	26,828	10,981
<u>Corporate</u>			
Property Schemes	610	610	610
PRU Schemes	12,827	7,627	21,132
S106 Works	15,781	8,523	7,940
<b>Total Regeneration and Major Projects</b>	<b>64,517</b>	<b>43,588</b>	<b>40,663</b>
<b>Children and Families</b>			
Devolved Formula Capital	0	0	0
<b>Total Children &amp; Families</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Environment Neighbourhoods</b>			
TfL Grant Funded Schemes	4,000	4,000	4,000
Leisure & Sports Schemes	535	535	535
Highways Schemes	3,550	3,550	3,550
Parks & Cemeteries Schemes	165	165	165
<b>Total Environment &amp; Neighbourhoods</b>	<b>8,250</b>	<b>8,250</b>	<b>8,250</b>
<b>Adults Social Services</b>			
Ringfenced Grant Notifications for Adult Care	650	650	650
<b>Total Adults Social Services</b>	<b>650</b>	<b>650</b>	<b>650</b>
<b>Housing</b>			
PSRSG and DFG council	4,780	4,780	4,780
<b>Total Housing</b>	<b>4,780</b>	<b>4,780</b>	<b>4,780</b>
<b>Corporate</b>			
ICT Schemes	400	400	400
Central Items	50	50	50
<b>Total Corporate</b>	<b>450</b>	<b>450</b>	<b>450</b>
<b>Total Service Expenditure</b>	<b>78,647</b>	<b>57,718</b>	<b>54,793</b>
<b>Surplus carried forward</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Deficit to be funded</b>	<b>0</b>	<b>0</b>	<b>0</b>


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**SERVICE AND BUDGET PLANNING TIMETABLE FOR 2013/14**

<b>Date</b>	<b>Action</b>
19 November	Full Council. First reading of Policy Framework and Budget
5 December	Schools Forum meets to agree funding formula and budget issues Autumn Statement
10 December	Report to Executive on Performance and Finance Review 2012/13 – 2 <sup>nd</sup> Quarter Collection Fund Surplus approved Council Tax Support Scheme approved by Council along with revised discounts and exemptions
December/ January	Budget and Finance Overview & Scrutiny Committee collects evidence
Mid December	Confirmation of the following year's funding from central government
17 December	Release of the Mayor's consultation draft GLA budget
Up to January	Consultation with residents, businesses, voluntary sector, partner agencies and trade unions on budget proposals.
22 January	General Purposes Committee agrees Council Tax and Business Rate bases.
15 January	Budget and Finance Overview & Scrutiny Committee collects evidence and discusses 1 <sup>st</sup> interim report
30 January	Greater London Assembly considers draft consolidated GLA budget
5 February	Budget and Finance Overview & Scrutiny Committee receives budget proposals prior to the Executive. Discusses second interim report.
6 February	Schools Forum meets to agree the recommended Schools Budget
11 February	Executive considers and announces administration's final budget proposals, agrees fees and charges for the following year and agrees savings/budget reductions for the HRA budget report as well as the overall average rent increase.
13 February	GLA budget agreed
Late February	Budget and Finance Overview & Scrutiny Committee receives the outcome of Executive's budget report and agrees a final report
25 February	Full Council agrees budget

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	<p style="text-align: center;"><b>Full Council</b> 19 November 2012</p> <p style="text-align: center;"><b>Report from the Director of Strategy Partnership and Improvement</b></p>
For Action	Wards Affected: All
<p style="text-align: center;"><b>Report from the Chairs of Overview and Scrutiny</b></p>	

## 1.0 Summary

- 1.1 This report provides a summary of the work of the overview and scrutiny committees in accordance with Standing Order 14 and covers the period since the last Full Council meeting in September 2012.

## 2.0 Detail

### One Council Overview and Scrutiny Committee

- 2.1 The committee last met on 16 October 2012 and members considered reports on the following:
- 2.2 The Complaints Annual Report was presented to the committee and members were advised that the implementation of the revised 2 stage complaints procedure has been successful with nine out of ten complaints being successfully resolved at the first stage. Members' questions focussed on how complaints were used for service improvement, compensations payments, and the implementation of a new corporate database. Members were particularly concerned about the response time for children and families and adult social care complaints but were informed that an action plan had been developed in conjunction with the service to build capacity and improve performance.
- 2.3 The committee received a presentation highlighting the vision for the Working with Families Initiative and an update on the project so far. Members raised questions regarding the budget for the project, how families were selected to participate in the project, how this initiative

would differ from previous work and how the council could ensure that partners were fully engaged.

- 2.4 Members of the committee also discussed the Performance and Finance Report for Quarter 1. Queries were raised regarding a number of indicators linking them to progress against relevant One Council projects, particularly in relation to Special Educational Needs. The committee also requested that new indicators relating to adoption in the borough were considered. The committee will be receiving a full update on the One Council Programme at its next meeting.

#### Children and Young People Overview and Scrutiny Committee

- 2.5 The committee last met on 11 October 2012 and members considered reports on the following:
- 2.6 The chair of Brent Youth Parliament (BYP) informed members that the 2 year term of office for the current BYP members was drawing to a close and elections would be held on 17 November 2012. Work that was currently being undertaken to strengthen the link between BYP and schools had resulted in a greater number of nominations for those elections. The committee was reminded that the opening of the Roundwood Youth Centre would be on 1 November. Representatives of the NHS and Safeguarding Team attended a recent BYP meeting to consult with young people about mental health and medical issues, when bullying was singled out as an area of particular concern. The issue of gangs has been highlighted by the UK Youth Parliament as an area of concern and this will be debated at a meeting in the House of Commons on 27 November 2012.
- 2.7 The committee discussed a report that set out progress against the Safeguarding and Looked After Children Inspection Action Plan. Members raised concerns about the level of funding for children's centres particularly following the loss of Sure Start funding. Further discussion by members focussed around training for social workers, the council's responsibility parameters for Looked after Children (LAC) and the representation of LAC on bodies such as the BYP to ensure they are being heard.
- 2.8 The committee received a report on the Child Poverty Strategy 2011 – 2021. The Child Poverty Act 2010 required all local authorities to produce a strategy following a child poverty needs assessment. Members heard that this was a high level strategy that set out key objectives and priorities of the council and partner agencies and was linked to other strategies. Members raised concerns about how the strategy would be implemented and monitored and how the council and partners could ensure joined up and co-ordinated approach to decisions that affect the lives of children. The committee will closely follow the implementation of the strategy.

#### Budget and Finance Overview and Scrutiny Committee

- 2.9 The Budget and Finance Overview & Scrutiny Committee has met twice since the last report to Full Council.

- 2.10 On 11 September the committee received a presentation from the Director of Regeneration and Major Projects which set out the budget pressures and issues facing the department and the main areas of capital spend. Members spent some time focusing on the impact of welfare reform particularly in relation to homeless applications and acceptances, the numbers in temporary accommodation and preventative actions that the council can take. How the council could access unspent Section 106 was a key area of discussion with members seeking assurance that ward level data would be made available. The two areas of capital spend that dominated the committee's questions were the schools programme and the Civic Centre. Members were pleased to learn that a full governance process for each capital project was now in place. The Committee also received an update on the budget which centred on the Local Government Resource Review.
- 2.11 On 9 October the committee received a presentation which highlighted the Environment and Neighbourhood department's current budget position, budget pressures and issues. Areas of concern for members were the cost of waste going to landfill, income levels particularly from the sign shop, One Council savings targets and the structural issues that were being addressed within the department's budget. The committee also received an update on the council's current budget position included information on the actions being put in place to address in year budget pressures. Members focussed on the underlying budget pressures, the delay in the announcement of the local government settlement, the economic climate and the impact of the proposal from the government to freeze council tax for a further year.

#### Partnership and Place Overview and Scrutiny Committee

- 2.12 The Partnership and Place Overview and Scrutiny Committee met on 17 October 2012 and received a presentation on Brent's multi-agency data hub which included the latest data from the census. Members' questions focussed on the implications for the council in terms of raising demand for housing, employment and income levels in the borough, future projections for school places and the impact of predictions for health and adult social care.
- 2.13 The Chief Executive of CVS Brent attended the meeting to present a progress report on the objective of the organisation and the developing infrastructure support for the voluntary sector in Brent. Members spent some time discussing progress to improve the capacity of local civic society, partnership work with local and regional statutory and non statutory partners, and the ability to attract funding from external funders.
- 2.14 The committee received a presentation on the voluntary sector in Brent. This included a breakdown of the number, size and focus on organisations in Brent as well as funding and governance arrangements. Members were concerned about the low level of external funding that was being attracted into the borough in

comparison to other local authorities. The committee felt that councillors could play a key role in signposting organisations in their area to CVS Brent for support in governance and capacity building.

### Health Partnerships Overview and Scrutiny Committee

- 2.15 The Health Partnerships Overview and Scrutiny Committee met on 9 October 2012 and considered a report on the closure of Accident and Emergency (A&E) services at Central Middlesex Hospital overnight. The service has been closed between 7pm and 8am for around a year, and despite efforts by North West London Hospitals Trust to recruit more doctors to staff the A&E, they are not able to employ the doctors needed to run Northwick Park and Central Middlesex A&Es overnight. The committee felt there was little option but to endorse the Trust's position that the A&E remains closed overnight for a further year, with a review in six months time.
- 2.16 This item related to the Committee's response to the Shaping a Healthier Future consultation on service reconfiguration in North West London. The NHS is proposing to close the A&E at Central Middlesex Hospital for good. The committee felt that a strong clinical case for change has been made by NHS North West London and that health services needed to be reconfigured to secure better outcomes for patients. That said members felt it was important that effort is focussed on the successful implementation of the borough's Out of Hospital Care Strategy before the reconfiguration of acute services is completed. Changes to the acute sector are dependent on improvements in primary care. It is also important that the services to be provided from Central Middlesex Hospital in the future are confirmed as soon as possible. Work should begin with local communities to spell out what the future is for the site so they can be reassured their health and wellbeing won't be adversely affected by the changes. The decisions on Shaping a Healthier Future will be made in February 2013.
- 2.17 The committee also considered a report on the council's plans for public health. Although members supported the proposal to integrate public health services within existing council teams across the authority, they did not endorse the recommendation that the council shares a Director of Public Health with Hounslow Council. The Executive will be considering a final report on this in November 2012, and will have sight of the scrutiny committee's recommendations on this matter.

### **3.0 Financial Implications**

3.1 None

### **4.0 Legal Implications**

4.1 None

### **5.0 Diversity Implications**

5.1 None

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


6.1 None

### **Contact Officers**

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	<p style="text-align: center;"><b>Full Council</b> 19 November 2012</p> <p style="text-align: center;"><b>Report from Director of Legal and Procurement</b></p>
For Action	Wards affected All
<b>Changes to Constitution</b>	

## 1.0 Summary

- 1.1 There are changes to the Constitution brought about the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and other miscellaneous amendments relating to director functions, Executive Committee structures and contract standing orders.

## 2.0 Recommendations

- 2.1 Members are advised to:

- 2.1.1 Agree the changes to the Constitution shown in Appendix 1 relating to meetings and access to information
- 2.1.2 Agree the changes shown in Appendix 2 relating to the re-distribution of Director's functions
- 2.1.3 Agree the changes to the Constitution regarding the Barham Park Trust Committee shown as Appendix 3
- 2.1.4 Agree the changes to the Contracts Standing Orders shown at Appendix 4

## 3.0 Details

*The Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012*

- 3.1 These Regulations came into effect on 10 September 2012 and the previous Regulations governing such matters are repealed. The Regulations were introduced at short notice and interpretation of some of the provisions is likely to be the subject of further guidance by the Department for Communities and Local Government. There may therefore be further amendments to the Constitution in due course. The Regulations concern the conduct of the

Executive meetings, Executive decisions taken by officers and public and members' access to reports and other documents relevant to executive decision making. There are a large number of similarities between the previous and new regulations. The main differences are described below. The changes (including those that are minor or incidental) are set out in **Appendix 1** and shown as track changes.

- 3.2 There is a presumption under the new Regulations that Executive meetings will be held in public. There are however some exceptions, namely where confidential or exempt information would be disclosed to the public. Where this is anticipated, the reports containing such information are marked 'not for publication' and the reasons, by reference to descriptions set out in Schedule 12A of the Local Government Act 1972, are set out on the report or part of the report to which they apply. The Regulations require that not less than 28 days notice be given where the Council proposes that the item or part of it be held in private. This provides an opportunity for representations to be made, and the Council must, at least 5 days before the meeting, publish a further notice setting out its reasons, the details of any representations made, and the Council's response to this. The law regarding non disclosure of exempt material is not new. However, the notice period is a change from previous arrangements. The notice of exempt or confidential items will be included on the Forward Plan.
- 3.3 The legal definition of 'Key Decision' remains the same. In Brent the definition is drafted more broadly to include any decision taken by the Executive. Previously the Council was required to include all Key Decisions on a Forward Plan which had to be published fortnightly and the Council was required to include various details regarding consultation etc. This is no longer the case. Under the new regulations the Council is required to publish details of a Key Decision to be taken by the Executive or an officer at least 28 days before the decision is taken. In Brent the document setting out the Key Decisions will still be referred to as the 'Forward Plan'. As previously, where the timescales cannot be complied with, special arrangements are in place namely notice to the Chair of One Council Overview and Scrutiny Committee, or in case of special urgency, agreement of the Chair of One Council Overview and Scrutiny Committee. As previously, public notice is required, and a new obligation is placed on the Council to provide reasons for urgency.
- 3.4 There are, as previously, specific requirements regarding the recording of decisions made at Executive meetings. There are now provisions regarding Executive Decisions taken by officers. The Regulations require that officers provide details of Executive decisions that they have taken. Accordingly, in addition to recording and publishing officer Key Decisions a record will also be published of any decision delegated to an officer by the Executive.
- 3.5 A copy of the background papers listed on Executive reports must be published on the website. This does not include documents which are already published, nor exempt or confidential material.
- 3.6 Where the Council has previously been required to make various papers available at the Council offices, the Council is now also required to provide a large number of documents, notices etc. on its website.



### *Allocations of Functions to Directors*

- 3.7 The Constitution currently still records the post of Director of Housing and Community Care. This post no longer exists and the functions are divided between the Director of Major Projects and Regeneration and the Director of Adult Social Services. The arrangements have been in place for some time but the Constitution has not been amended. Members are advised to agree the changes set out in **Appendix 2**.

### *Barham Park Trust*

- 3.8 The Executive is to consider the governance arrangements for Barham Park Trust at its meeting on 12 November 2012. In the event that the Executive decides to create a committee to deal with Trust issues, there will be constitutional changes required to reflect the new arrangements. In the event that the Executive decides to create a committee with the terms of reference recommended, members are asked to agree the changes set out in **Appendix 3**.

### *Contract Standing Orders*

- 3.9 Members are asked to agree to amend the Constitution to incorporate the changes to Contract Standing Orders as shown at **Appendix 4**. The Changes relate to minor changes to standing orders with regard to e-tendering and e-auctions and also changes relating to the establishment and operation of an Online Market Place as an alternative method of procurement.
- 3.10 Changes are proposed to Standing Order 101 and to the Definitions in Standing Order 82 regarding e-tendering and e-auctions. The changes are limited and are required to reflect minor changes to the way in which e-tendering and e-auctions are to be conducted. The changes also update Standing Order 101 to reflect revised job titles as a result of departmental restructures.
- 3.11 Additionally changes are proposed to Standing Orders to allow procurement through an Online Market Place of pre-approved suppliers as an exception to the full tendering requirements of Contract Standing Orders.
- 3.12 The proposal detailed in Standing Order 97(e) and (f) is to establish an Online Market Place that will allow council officers to access a range of online catalogues. The proposed catalogues have been established either through procurements to which Brent Council has been a party or else by third party organisations procuring a framework that Brent Council is entitled to call-off. Before any catalogue is added to the Online Market Place, it is proposed that the Director of Legal and Procurement confirm that participation in the Framework Agreement is legally permissible, which will involve confirmation that the catalogue has been procured in accordance with EU Procurement Regulations. Once the Director of Legal and Procurement confirms that participation in the Framework Agreement and inclusion on the Online Market Place is legally permissible, officers would be entitled to place orders, without further recourse to the Director of Legal and Procurement, provided the call off is approved by the relevant Chief Officer, to include confirmation that there is sufficient budgetary provision as detailed in Standing Order 86(d)(iii).

3.13 Typical catalogues available via the proposed Online Market Place tend to cover high volume low value items such as stationery, protective equipment, educational supplies and cleaning/catering materials. By using the proposed Online Market Place council officers would be able to access all catalogues in a single repository. This would save time and enable officers to take advantage of pre-agreed pricing that has already been subject to competition.

#### **4.0 Financial Implications**

None

#### **5.0 Legal Implications**

5.1 The legal implications are set out in the report.

#### **6.0 Diversity Implications**

6.1 None

#### **Background Papers:**

Brent Council Constitution  
Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

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# Appendix 1

## Meetings and access to information



account the Executive. Meetings of the Council are normally open to the public.

#### **4. The Executive**

The Leader of the Council is a member of the Council who is elected to the post by the other members at a meeting of the Full Council. The Leader chooses between 2 and 9 other councillors to form the Executive. The current number of councillors appointed by the Leader is nine. The Executive is responsible for putting policies, which Full Council has approved, into effect. The Executive is the part of the Council which is responsible for most of the Council's day-to-day decision making not delegated to officers. A list of the Executive members, their portfolios and their addresses are given in this Part 1.

#### **5. Key Decisions**

When Key Decisions are to be discussed or taken, these are published in the ~~Executive's~~ Forward Plan, in so far as they can be anticipated. If the Executive is meeting to take Key Decisions or discuss them with Council officers present, it will generally meet in public, except where confidential or exempt information would be disclosed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

#### **6. Overview and Scrutiny**

The Council has appointed 6 Overview and Scrutiny Committees to support the work of the Executive and the Council as a whole. The Overview and Scrutiny committees hold the Executive to account by scrutinising its decisions, examining performance and asking questions of decision-makers and service providers. A decision which has been made by the Executive but not yet implemented can be called in for Scrutiny and will be considered by the Call-in Overview and Scrutiny Committee subject to the reasons for the call-in being within the framework laid out in the call-in protocol included in Part 7 of this Constitution. They may recommend that the Executive reconsider the decision but cannot block a decision indefinitely or impose their own views on the Executive. The Overview and Scrutiny committees are also involved in strategic and cross-cutting issues by supporting the Executive in the development and review of policy, overseeing health matters, and reviewing the performance of other partners and the Local Strategic Partnership work programme.

#### **7. Other Committees**

In addition to the committees specifically mentioned above, the Council has established a number of committees and sub-committees to deal with audit, staffing, planning, licensing and pension related functions. The Leader has also appointed a Highways Committee to deal with executive functions relating to highways and parking.

#### **8. Membership of committees and sub-committees**

The membership and terms of reference of the Council committees and sub-committees and any joint committees are set out in Part 5 of this Constitution. The membership and terms of reference of the Executive Committee(s) are

set out in Part 4 of this Constitution. The structure of the Council and Executive Committees are shown in the Decision Making Structure Chart included in this Part 1.

## **9. Consultative Forums**

In order to give local citizens a greater say in Council affairs the Council has established a number of consultative forums.

Five Area Consultative Forums have been created. These cover Kingsbury & Kenton, Wembley, Harlesden, Willesden and Kilburn & Kensal. Four Area Housing Boards have been created. These cover (1) North Wembley and South Wembley, (2) South Kilburn, (3) North Kilburn, and (4) Harlesden, Brentfield and St Raphaels. Five Service User Forums have been created. These are Disability and Mental Health, Private Sector Housing, Pensioners, Voluntary Sector Liaison and Black Minority and Ethnic Forum. The Council has also established a Youth Parliament.

These bodies provide a forum for residents and businesses to discuss and raise concerns about issues in their locality or which are important to the particular group for which the forum or board is designed. They also respond to consultation initiatives by the Council. The consultative forums involve relevant councillors and their meetings are generally held in public. Issues arising from the forums are fed back into the Council's decision making process.

## **10. The Council's Staff**

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely.

## **11. Citizens' Rights**

The Council welcomes participation by its citizens in its work. Citizens have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau and Community Law Centre can advise on individuals' legal rights. Citizens have the right to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its committees except where, for example, confidential or exempt information would be disclosed;
- petition to request a referendum on an elected Mayor;
- contribute to reviews conducted by the Overview and Scrutiny Committees and/or their task groups;
- find out, from the ~~Executive's~~ Forward Plan, what Key Decisions are to be discussed by the Executive or decided by the Executive, its committees or officers, and when;

Generally, the division of functions between the Executive and the Council is:

- (a) Determination of the Authority's budget, policies and strategies as set out in the Budget and Policy Framework are the responsibility of Full Council;
  - (b) Functions which will involve either determining an application from a person for a licence, approval, consent, permission or registration or direct regulation of a person together with any related enforcement actions (including prosecution) are the responsibility of the Council. Functions involving staffing issues and other specific matters as set out in Part 4 of the Constitution are also the responsibility of the Council. These functions will be carried out by officers or one of the Council's committees. They cannot be carried out by the Executive; and
  - (c) All other functions are to be the responsibility of the Executive. This includes making decisions on education, social services, most (but not all) highways and parking matters and housing functions. The Executive will award contracts, dispose of assets and will develop the policies to be approved by the Council.
- **Exempt Information** means information falling within the 7 categories set out in Schedule 12A of the Local Government Act 1972 and subject to the relevant qualifications set out in that schedule and, in the case of the Standards Committee and its sub-committees, the further categories of information set out in the Standards Committee (England) Regulations 2008. These rules are explained further in the Access to Information Rules, which form part of this Constitution.
  - An **Extraordinary Meeting** is a meeting of Full Council called by the Mayor. However, if the Mayor refuses to call an Extraordinary Meeting or does not do so within seven days after a request by five Councillors any five councillors may call an Extraordinary Meeting of Full Council.
  - The **Financial Regulations** are contained in Part 6 of this Constitution and set out the rules and procedure, which govern financial management and control within the Council.
  - The **Forward Plan** is a document prepared by the Democratic Services Manager ~~on behalf of the Leader~~ which contains details of all the matters likely to be the subject of Key Decisions to be taken by either the Executive or its Highways Committee or other committees or officers and may also include other important decisions to be taken by the Council, its committees or officers ~~over the next four months~~.
  - A meeting of **Full Council** is a meeting to which all 63 councillors of the Authority are invited to attend.
  - The **Head of Paid Service** is the officer appointed by the Authority in accordance with section 4 of the Local Government and Housing Act 1989 who has overall corporate management and operational responsibility within the Council. In the London Borough of Brent the Head of Paid Service is the officer appointed to the position of Chief Executive.

- An **Independent Member** is a member of the Standards Committee and/or its sub-committee who is not a councillor or officer of the Council or any other body having a Standards Committee.
- A **Joint Committee** is a committee comprising members of two or more local authorities created under section 102(1) of the Local Government Act 1972.
- The term **Key Decision** is defined in the Local Authorities (Executive Arrangements) (~~Meetings and~~ Access to Information) (England) Regulations 20012. In Brent the Council will treat as a Key Decision all decisions taken at a meeting of the Executive or a committee of the Executive whether or not the decision would be classed as a Key Decision according to the statutory definition. Further, an officer decision will be a Key Decision if it relates to an Executive function and is likely:
  - (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
  - (b) to be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the local authority (notwithstanding that the statutory definition specifies an area comprising two or more wards).

Thus, the Brent definition of a Key Decision is more generous than the statutory definition. Further guidance on Key Decisions is included in the Access to Information Rules which form part of this Constitution.

- The **Leader** is a councillor, not being the Mayor or Deputy Mayor, elected by the Council to the position of Leader of the Executive.
  - The **Licensing Code of Practice** means the document which has been adopted by the London Borough of Brent to regulate the performance of its licensing function. The main objectives of the Code 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 powers.
  - **Mayor** means a councillor, not being a member of the Executive, elected by the Council at the Annual Meeting to the position of chair of the Council. The Mayor, if present at a meeting of the Council, will preside and have a second or casting vote in the event of equality of votes on any question coming before a meeting of the full Council.
- The Mayor of Brent Council is a symbol of the Authority and as such, the Mayor will normally carry out the ceremonial duties of the Council.
- In addition to his or her roles and duties as a councillor, the Mayor will have the additional responsibilities set out in Article 5 of this Constitution.

- **Member** means a councillor generally or in relation to a committee or sub-committee a member of that committee or sub-committee.
- The **Members' Allowance Scheme** is contained in Part 8 of this Constitution and sets out the scheme under which councillors are entitled to receive



## Article 14 – Decision Making

### Responsibility for decision making

14.1 The Council will issue and keep up to date a record of which part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 4 of this Constitution.

### Principles of decision making

14.2 All decisions of the Council will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) explaining the reasons for a decision and the options considered.

### Key decisions

14.3 A Key Decision is defined in statute as an Executive decision which is likely:

- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

14.4 The Council is of the view that a Key Decision includes a decision (whether taken by the Executive, its committees or officers) which is likely to be significant in terms of its effect on a community or communities living or working in an area comprising one or more wards or electoral divisions in the Borough. The Council will also treat as if they were Key Decisions any other decision taken or to be taken at a meeting of the Executive or a committee of the Executive.

14.5 A decision maker or decision making body may only make a Key Decision in accordance with the requirements of the Access to Information Rules set out in Part 6 of this Constitution.

### The Forward Plan

14.6 A Forward Plan shall be prepared by the Democratic Services Manager ~~on behalf of the Leader to cover a period of four months giving not less than 28 days notice of any decision to be taken by the Executive and this will be updated and republished ~~on a 28 days before each meeting of the Executive, monthly basis.~~~~

The Forward Plan will contain matters which the **Democratic Services Manager** ~~Leader~~ has reason to believe will be the subject of a Key Decision to be taken by the Executive, a committee of the Executive, officers or under joint arrangements in the course of the discharge of an executive function.

14.7 More information about the Forward Plan and the rules relating to it are included in the Access to Information Rules.

#### **Decision making by Council bodies acting as tribunals**

14.8 The Council, a committee, sub-committee or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations of any person will follow a proper procedure which accords with the requirements of natural justice and the European Convention on Human Rights.

## THE EXECUTIVE ARRANGEMENTS

### 11. Form of Executive Arrangements

The Council will operate a Leader and Cabinet model of Executive arrangements.

### 12. Appointment of the Executive

- (a) The Executive shall be appointed in accordance with Article 7 of the Constitution

### 13. Vote of No Confidence

- (a) The Leader shall cease to hold office following a vote of no confidence in him/her. A motion in respect of the vote of no confidence shall be debated by Full Council if, at least 10 clear working days before the meeting at which the motion is to be considered, it has been signed in accordance with Standing Orders 5 and 6 by at least 40% of the members of the Council and the motion proposes an alternative Leader. If such a motion is passed the new Leader shall hold office for the remainder of the previous Leader's term of office.

### 14. Executive Functions

- (a) All functions of the Authority which are not the responsibility of any other part of the Authority, whether by law or, where the law provides a choice, under the Constitution are the responsibility of the Executive.
- (b) The Leader may exercise those functions, or may delegate those functions to the Executive, a Committee of the Executive, an individual member of the Executive, or officers. Where the Leader has arranged for the discharge of executive functions by the Executive, the Executive may arrange for the discharge of those functions by a committee of the Executive, or an officer.
- (c) The Leader has agreed to delegate all executive functions to the Executive except those which he/she has delegated to the Highways Committee or others as set out in Part 4 of the Constitution.

### 15. The Forward Plan

- (a) The Democratic Services Manager shall ~~on behalf of the Leader, and~~ in accordance with the Access to Information Rules, publish a Forward Plan of the matters in respect of which Key Decisions will be made by the Executive (including officers ~~exercising executive functions~~making Key Decisions) and any other matter which the ~~Democratic Services Manager~~ Leader considers should be included in the Forward Plan.
- (b) Except as provided for in Standing Order 16 all decisions to be taken by the Executive must be included in the Forward Plan in accordance with the Access to Information Rules.

### 16. Urgent Decisions not on the Forward Plan

- (a) If the Executive ~~(including officers making Key Decisions)~~ is proposing to take a decision which is not included in the Forward Plan then the decision may only be taken if:-
- (i) the decision is required to be taken by such a date that it is impracticable to defer the decision until it has been included in the ~~next~~ Forward Plan ~~and~~

~~that Forward Plan has come into effect in accordance with the Access to Information Rules and timescales;~~

- (ii) the Democratic Services Manager has informed the Chair of the One Council Overview and Scrutiny Committee in writing of the matter in respect of which the decision is to be taken;
  - (iii) the proper officer has made copies of the notice given to the Chair of the One Council Overview and Scrutiny Committee and made these available to the public at the offices of the Council and on the Council's website. Notice will also be given setting out the reasons why compliance with the ordinary requirements of the Forward Plan is impracticable; and
  - (iv) at least 5 clear days have elapsed since the notice was given to the Chair of the One Council Overview and Scrutiny Committee or, where that is not reasonably possible, the Chair of the One Council Overview and Scrutiny Committee has agreed that the taking of the decision is urgent and cannot be reasonably deferred. If the Chair is unable to act, then the agreement of the Mayor or in his /her absence the Deputy Mayor will suffice. A notice setting out the reasons for deciding the meeting is urgent and cannot reasonably be deferred shall be made available at the Council's offices and on its website
- (b) The Leader shall report to the next meeting of Full Council any Key Decisions taken under this Standing Order.

#### 17. Meetings and Decisions of the Executive

- (a) The Executive will meet to take decisions on such matters which relate to Executive functions as the Executive has been delegated by the Leader unless there is no business to consider and that meeting will be open to the press and public except to the extent that the press and public are excluded during the consideration of any confidential or exempt information, as set out in the Access to Information Rules.
  - (b) Members of the Council who are not members of the Executive and members of the public may only attend and speak at private meetings of the Executive if invited to do so by the Leader or if the Executive at the relevant meeting so decides and only then for the period so permitted.
  - (c) The Quorum for meetings of the Executive and its committee(s) shall be 3.
  - (d) The rules for debate at the meetings of the Executive shall be determined by the Executive.
  - (e)\* *Any decision taken by the Executive shall be taken following the consideration of a written report and after having taken into account all legal, financial and other relevant implications, the responses to any consultation and the comments received from the Overview and Scrutiny Committees and any previous meeting of Full Council where the matter the subject of the decision was considered.*
- (f)\* *Any decision of the Executive shall be taken in accordance with all current legislation, these Standing Orders and the other applicable rules contained in the Constitution.*

(h) Minutes of each Executive meeting shall be put before the next ordinary meeting of the Executive for approval as a correct record and as soon as they are so approved the Leader shall sign them.

(i) The decisions of the Executive shall be published in a List of Executive Decisions and the list shall, ~~in accordance with the Access to Information Rules~~, be ~~published sent to every member of the Council~~ within 48 hours of the meeting at which the decisions were made.

**18. Decisions Contrary to the Policy Framework and the Budget:**

(a) *Except in accordance with paragraph (c) no person or body shall make any decision which is, according to advice received from the Monitoring Officer or the Chief Finance Officer, contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Council's approved Budget.*

(b) *According to statute, any function in respect of which the Leader, the Executive, or a committee of the Executive has purported to make a decision or is minded to make a decision which according to advice received from the Monitoring Officer or the Chief Finance Officer is or would be contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Council's approved Budget ceases to be an Executive function for the purposes of that decision and so shall be referred to Full Council for consideration in accordance with Standing Order 27, except as provided in paragraph (c).*

(c) A decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by Full Council may only be made other than by Full Council if the decision is required to be made as a matter of urgency and if:-

- (i) it is not practical to convene a quorate meeting of Full Council; and
- (ii) the Chair of the One Council Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

(d) The reasons why it is not practical to convene a quorate meeting of Full Council and the agreement of the Chair of the One Council Overview and Scrutiny Committee shall be noted on the record of the decision. In the absence of the Chair of the One Council Overview and Scrutiny Committee the consent of the Mayor, and in the absence of both the Deputy Mayor, will be sufficient.

(e) Following any decision taken pursuant to paragraph (c), the decision taker will provide a full report to the next ordinary meeting of Full Council explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

**19. Virement, transfers and in-year changes to policy**

(a) Full Council will, subject to paragraph (b) below, specify (in approving the Policy Framework and the Budget or otherwise) the extent to which virements and transfers may be made within the budget and to which in-year changes to the policies agreed as part of the Policy Framework may be made. Any other changes to the Policy Framework and the Budget are reserved to Full Council.

RESPONSIBILITY FOR FUNCTIONS

and Directions) Regulations	petitions.	
Local Authorities (Executive Arrangements) ( <u>Meetings and Access to Information</u> ) (England) Regulations <del>2009</del> <u>12</u>	All references to the proper officer.	Democratic Services Manager unless otherwise specified in the Regulations or the Constitution.
Local Authorities (Conduct of Referendums) (England) Regulations 2001	All references to the proper officer.	Chief Executive
Public Health (Control of Diseases) Act 1984 and the Public Health (Infectious Diseases) Regulations 1988	All references to the proper officer	Director of Environment and Neighbourhood Services
Section 36 FOIA 2000	Qualified person for decision on exempt information not to be disclosed	Director of Legal and Procurement
Regulation 4 LASSNHSCR 2009	All references to the responsible person	Director of Housing and Community Care
Local Democracy, Economic Development and Construction Act 2009 S31	To provide and support to overview and scrutiny committees	Director of Strategy, Partnerships and Improvement
Generally *	Any other proper officer function not otherwise designated.	Chief Executive

- (l) where appropriate, the Chair and/or Democratic Services Manager as the case may be will give preference to media representatives who obtain agreement to their proposed activity before the meeting takes place.

~~10. The following shall be accepted as accredited representatives of news media for the purpose of reporting the proceedings to which they are admitted:-~~

- ~~(a) staff reporters;~~  
~~(b) reporters commissioned to cover particular stories; and~~  
~~(c) freelance journalists on the books of a newspaper and working on a lineage basis.~~

#### Notice of Meetings - The Weekly List

~~140.~~ Notice of meetings shall be given at least five clear working days in advance. On Friday in each week a list shall be published at the Town Hall and on the Council's website giving notice of the meetings to be held in the week commencing on the second Monday following publication of the notice. This list should be known as "The Weekly List". If the Friday falls on a public holiday then the Weekly List shall be published the working day before the Friday.

#### Access to Agendas and Reports prior to Meeting

~~121.~~ Except in the case of urgency (see below) or in relation to a sub-committee of the Standards Committee the agenda for, and any reports or minutes to be submitted to, meetings shall be sent to members of the Executive or the relevant committee or sub-committee at least five clear working days in advance of the meeting in question.

~~132.~~ Once agendas have been sent out as above, an item may only be added if it is urgent in the opinion of the Chair.

~~143.~~ The papers which do not relate to any exempt or confidential matters ("the open papers") shall also be available for public inspection at the Town Hall and on the Council's website from the date copies are sent or given to members together with the list of relevant background information (see below) and shall be despatched to any members who are not members of the committee or sub-committee upon request.

~~14.~~ Where a report to the Executive or a committee of the Executive contains exempt or confidential matters such that it is likely that information will not be discussed at the meeting in public or be available to the public, the Council will give 28 days notice (at its offices and on its website) of its intention not to provide such information and the reasons for this and these details will be included in the Forward Plan. Further notice will be given 5 days before the meeting with details of any representations made, and the Council's response. Where, because of the date by which the meeting must be held, the notice cannot be given, agreement must be given by the Chair of Overview and Scrutiny and reasons for the urgency must be given and published on the Council's website.

**Access to minutes and papers after a decision has been taken**

15. The Council will make available for inspection during normal office hours **and on the Council's website**, copies of the following for six years after a decision has been taken:
- (a) the minutes of any meeting and, in the case of any Key Decision, or decision to be treated under these Rules as if it were a Key Decision, the record of the decision required to be prepared pursuant to these Rules (but excluding any minute or record which discloses any exempt or confidential information);
  - (b) a summary of any proceedings not open to the public where the minutes or record open to inspection would not provide a reasonably fair and coherent record;
  - (c) the agenda for the meeting; and
  - (d) reports relating to items when the meeting was open to the public.

**Background Papers**

16. All reports shall include a list of those documents (called background papers) relating to the subject matter of the report which in the opinion of the proper officer who shall be the relevant Service Area or Corporate Director within whose Service Area or Corporate Unit the report was written or relates:
- (a) discloses any facts or matters on which the report or an important part of the report is based; and
  - (b) have been relied on to a material extent in preparing the report but do not include published works or those which disclose exempt or confidential information or the advice of a political adviser appointed under section 9 of the Local Government and Housing Act 1989.

17. The relevant Service Area or Corporate Director will make available for public inspection during normal office hours **and on the Council's website** for four years after the date of the meeting a copy of each of the documents on the list of background papers.

**Supply of Copies**

18. The Council will supply copies of:
- (a) any agenda and reports which are open to public inspection;
  - (b) any further statements or particulars which are not exempt or confidential and which are necessary to indicate the nature of the items in the agenda; and
  - (c) **any minutes and records of decisions**
- (eg) if the Democratic Services Manager thinks fit, any other documents supplied to councillors in connection with an item



to any person upon payment of the Council's standard charge for copying and postage and any other costs incurred.

### **Rights of Access for Members of the Council**

19. Any member of the Council will be entitled to inspect any document in the possession or under the control of the Council which relates to any business to be transacted at a meeting of the Council, a committee or a sub-committee, except any part of a document that contains exempt information.
20. Any member of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive which relates to any business to be transacted at a public meeting except any part of a document that contains exempt information or advice of a political adviser appointed under section 9 of the Local Government and Housing Act 1989.
21. Any member of the Council will be entitled to inspect at the conclusion of a meeting of the Executive or, in the case of ~~a~~**Key-an Executive** Decision made by an Officer, immediately after that decision has been made, any document which is in the possession, or under the control, of the Executive and which contains material relating to any business previously transacted at a private meeting or (in the event that they are permitted to take decisions) any decision taken by an individual member of the Executive or any ~~Key~~**Executive** Decision made by an officer except any part of a document that contains exempt information or advice of a political adviser appointed under section 9 of the Local Government and Housing Act 1989...

22. Notwithstanding anything in paragraphs 19 to 21 a member is entitled to inspect any information that is exempt information if it falls within;

- (a) Category 3\* "information relating to the financial or business affairs of any particular person (including the authority holding that information)" unless it contains information that relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or
- (b) Category 6\* "information which reveals that the authority proposes -
  - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (ii) to make an order or direction under any enactment" a member is entitled to have access to that information.

\*Category refers to one of the categories of exempt information set out in paragraph 52.

23. These rights of a member are additional to any other right he/she may have.

### **Additional rights for members of Overview and Scrutiny Committee**

24. Any member of the Overview and Scrutiny Committees shall be entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to any business already transacted at a meeting or (in the event that they are permitted to take decisions) any decision taken by an individual member of the Executive or any Key Decision that has been made by officers except:-

~~(a) any document that is in draft form;~~

(ba) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or to any review contained in any programme of work of the relevant Committee of which they are member; or

(eb) the advice of a political adviser appointed pursuant to Section 9 of the Local Government and Housing Act 1989.

#### Human Rights Act

25. Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

#### Key Decisions

26. The Council will treat all decisions taken at a meeting of the Executive or a committee of the Executive as Key Decisions whether or not the decision would be classed as a Key Decision according to the statutory definition.

27. A decision taken by an officer exercising an executive function under delegated powers will be a Key Decision if the decision is likely to:

- (a) result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- (b) be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the local authority (notwithstanding that the statutory definition specifies an area comprising two or more wards)

Thus the Brent definition of a Key Decision is broader than the statutory definition.

28. In determining whether a decision falls into one of the above categories officers must consider each decision in light of its particular facts having regard to the statutory definition of Key Decisions and to:

- any relevant statutory guidance in force at the time;
- the amount of money concerned;
- the type of function; and
- the overall circumstances of the case.

29. Special attention should be paid to decisions which are likely to result in a service area or corporate unit incurring expenditure which is, or the making of savings which are, 20% or more of its budget for the function in question. In determining what is a 'budget' or a 'function' for these purposes the person or body taking the decision should have regard to any guidance from the Monitoring Officer or Director of Finance and Corporate Services.

**Consequences of a decision being classed as a Key Decision or treated as if it were a Key Decision.**

30. Subject to the rules on urgency (set out in the Standing Orders), a Key Decision or a decision to be treated under these Rules as if it were a Key Decision may not be taken (by the Executive or officers) in respect of any matter unless the matter in question has been publicised in the Forward Plan and unless the reports to be considered by the decision maker have been available for public inspection for at least 5 clear days prior to the date on which the decision is made and copied to the Chair of the One Council Overview and Scrutiny Committee. ~~The Leader will be responsible for ensuring that the appropriate officer has publicised such matters in accordance with these rules.~~

31. If the Executive or its committee(s) meet(s) to take a Key Decision then it must meet in public (unless the matter relates to exempt or confidential information). For the time being, the Executive will, except when the matter relates to exempt or confidential information, always meet in public for their regular scheduled decision taking meetings whether or not the decisions being taken at that meeting would otherwise fall within the definition of a Key Decision.

32. If the Executive or its committee(s) meet with an officer present (other than a political assistant appointed under section 9 of the Local Government and Housing Act 1989) to discuss a matter relating to a decision included in the current Forward Plan within 28 days of the date according to the Forward Plan by which the matter is to be decided, or to discuss a matter in respect of which notice has been served under Rule 38 then the meeting shall be held in public. This requirement does not apply to meetings whose principal purpose is for officers to brief members e.g. the Leader's Briefing.

33. As soon as reasonably practicable after a Key Decision or a decision to be treated under these Rules as if it were a Key Decision has been taken, including for the avoidance of doubt any decision classed as a Key Decision taken by officers, a record of that decision must be prepared in accordance with these Rules and made available for public inspection. This will be included in the minutes of the meeting.

### The Forward Plan

34. A Forward Plan shall be prepared by the Democratic Services Manager ~~on behalf of the Leader~~ to cover a period of ~~four months~~ not less than 28 days before any decision on it is to be made. ~~The first such Forward Plan will commence on the first working day of any month.~~

35. The Forward Plan will contain details of the matters which the Democratic Services Manager Leader has reason to believe will be the subject of a decision to be taken by the Executive or a committee of the Executive and any Key Decisions to be taken by officers, or under joint arrangements in the course of the discharge of an executive function during the period covered by the Plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

(a) that a key decision is to be made on behalf of the relevant local authority;

(b) the matter in respect of which the decision is to be made;

- ~~(c) where the decision maker is an individual, that individual's name, and title if any and, where the decision maker is a decision-making body, its name and a list of its members;~~
  - ~~(d) the date on which, or the period within which, the decision is to be made;~~
  - ~~(e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;~~
  - ~~(f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;~~
  - ~~(g) that other documents relevant to those matters may be submitted to the decision maker; and~~
  - ~~(h) the procedure for requesting details of those documents (if any) as they become available.~~
  - ~~(a) the matter in respect of which a decision is to be made;~~
  - ~~(b) the name of the decision maker or decision making body and details of membership;~~
  - ~~(c) the date on which, or the period within which, the decision will be taken;~~
  - ~~(d) the identity of the principal groups whom the decision maker or decision making body proposes to consult before taking the decision;~~
  - ~~(e) the means by which any such consultation is proposed to be undertaken;~~
  - ~~(f) the steps any person might take who wishes to make representations to the decision maker or decision making body about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and~~
  - ~~(g) a list of the documents to be submitted to the decision maker or decision making body for consideration in relation to the matter.~~
36. The Forward Plan must be published at least two weeks before the start of the period covered. A Key decision must be included on the Forward Plan not less than 28 days before the decision is to be made.
37. Number not in use]. The Democratic Services Manager will publish once a year a notice in at least one newspaper circulating in the area, stating:
- ~~(a) that Key Decisions are to be taken on behalf of the Council;~~
  - ~~(b) that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on (at least) a monthly basis;~~
  - ~~(c) that the Plan will contain details of the Key Decisions to be made for the four month period following its publication;~~

- ~~(d) that each Plan will be available for inspection at reasonable hours free of charge at the Council's offices;~~
- ~~(e) that each Plan will contain a list of the documents submitted to the decision-takers for consideration in relation to the Key Decisions on the plan;~~
- ~~(f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;~~
- ~~(g) that other documents relevant to those matters may be submitted to the decision makers or decision-making body;~~
- ~~(h) the procedure for requesting details of documents (if any) as they become available; and~~
- ~~(i) the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.~~

38. Exempt information need not be included in ~~the~~ Forward Plan and confidential information cannot be included. In accordance with paragraph 14 above, the reasons for excluding such information shall be given on the Forward Plan.

### Urgency

39. The reports which relate to an item of urgent business which is added to an agenda in accordance with these Rules after the agenda has been sent out and/or the reports which relate to an item of business which is included on an agenda but in respect of which it was not possible for the report to be sent out with the agenda in accordance with these Rules shall be sent or given to members of the Executive or the committee or sub-committee concerned as soon as reasonably practicable and shall thereafter be made available for other members of the Council and for public inspection together with the list of background information.

40. The reason(s) for urgency shall be specified in the minutes of the meeting concerned together with the reason why it was not possible for the report to be available when the agenda was published (where relevant).

### Non-compliance

41. The Leader shall report to Full Council any decisions which were Key Decisions (or decisions to be treated under these Rules as if they were Key Decisions) in respect of which the rules applicable to such decisions were not complied with.

42. If the overview and scrutiny committees or any of their sub-committees consider that a Key Decision or a decision which should have been treated (under Rules 30 or 31) as if it were a Key Decision, has been taken but the Rules applicable to such decisions were not complied with (and nor did any of the exceptions apply) then the committee or sub-committee may require the Executive to submit a report to the Council within such reasonable time as the committee or sub-committee may specify. The power to require a report rests with the committee and sub-committees but is also delegated to the Democratic Services Manager, who shall require such a report on behalf of the committee or sub-committee when so requested by 40% of the Members of the committee or sub-committee. Alternatively the requirement may be raised by resolution passed at a meeting of an Overview and Scrutiny Committee or a sub-committee thereof.

43. If requested to do so in accordance with the above rule the Executive will prepare a report for submission to the next available meeting of the Full Council. However, if the next meeting of the Full Council is within 9 days of receipt of the written notice or the resolution of the committee or sub-committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body taking the decision, if the Leader is of the opinion that it was not a Key Decision [or a decision to be treated under these Rules as if it were a Key Decision] the reasons for that opinion or, if the Leader considers that the decision was a Key Decision but that the rules for taking the decision were complied with, the reasons for that opinion.

#### **Record of Executive Decisions and Key Decisions**

44. In addition to the List of Executive Decisions prepared by the Democratic Services Manager under Standing Orders, the Democratic Services Manager will, as soon as reasonably practicable after a public meeting of the Executive, produce a record of every decision taken at that meeting which shall include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting any conflict of interest declared by any member and any dispensation granted. ~~by the Standards Committee in respect of any declared interest.~~

45. As soon as reasonably practicable after ~~a Key-an Executive~~ Decision has been taken by an officer a record of that decision shall be prepared by the relevant officer setting out the information listed above and shall be forthwith submitted to the Democratic Services Manager. An Executive Decision by an officer is a decision which is a Key Decision, or a decision which is delegated to an officer by the Executive.

46. A copy of the record(s) so prepared and the reports considered (unless confidential or exempt) and the background documents shall be made available for public inspection ~~forthwith~~ at the Council offices and on the website.

#### **Joint Committees**

47. These Rules apply to the Council's Joint Committees as follows:

- (a) If all the members of a joint committee are members of the Executive in each of the participating authorities, then its access to information regime is the same as that applied to the Executive.
- (b) If the joint committee contains members who are not on the Executive of any participating authorities then the access to information rules in Part VA of the Local Government Act 1972, as applicable to meetings of the Full Council and its committees will apply.

#### **Exempt and Confidential information**

48. Nothing in the above shall be taken to authorise the publication of any report which in the discretion of the Democratic Services Manager is marked not for publication in accordance with the Local Government Act 1972 i.e. it contains confidential or exempt information.
49. Reports containing confidential information shall remain not for publication but in respect of reports containing exempt information the meeting to which the report

is submitted may decide to take the report while the press and public are present in which case copies shall be made available to press and public at that time and the report and list of background information shall be available for public inspection from the next working day following the meeting.

50. The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

51. The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

52. Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by law or Court Order.

53. Exempt information means information falling within any one of the following ~~107~~ categories but the information is **only considered exempt, if and so long**, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

**Categories of exempt information**

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information). However Information falling within this paragraph is not exempt information if it is required to be registered under—
  - (a) the Companies Act 1985;
  - (b) the Friendly Societies Act 1974;
  - (c) the Friendly Societies Act 1992;
  - (d) the Industrial and Provident Societies Acts 1965 to 1978;
  - (e) the Building Societies Act 1986; or
  - (f) the Charities Act ~~1993~~2011.

4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

6. Information which reveals that the authority proposes -  
 (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or  
 (b) to make an order or direction under any enactment

7. Information relating to any action taken or to be taken in connection with the

prevention, investigation or prosecution of crime.

- | 54. Information falling within any of categories 1-17~~0~~ is not exempt if it relates to proposed development for which the Council can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.



# Appendix 2

## Directors' functions



- The **Children and Young People Overview and Scrutiny Committee** is a committee established pursuant to section 21 of the Local Government Act 2000 and consists of 8 Councillors, not being members of the Executive, elected by the Full Council, 4 voting education co-opted members and 2 non-voting education co-opted members. The Councillor membership of the Committee reflects the political balance of the Council. The Committee performs the Overview and Scrutiny role in relation to the matters within its terms of reference.
- A **Code of Conduct or Code of Practice** is a document forming part of the Council's Constitution which guides and regulates the behaviour of various groups and individuals. There are three such codes forming part of the Constitution, namely the Brent Members' Code of Conduct, the Planning Code of Practice and the Licensing Code of Practice.
- A **Committee** is a group of members (including co-opted members) chosen or elected to perform a specific function or purpose. The Authority has various types of committees which are defined separately. There are both committees and sub-committees of the Council and there is a Highways Committee of the Executive. The terms of reference of the committees and sub-committees are set out in Parts 4 and 5 of this Constitution. There are also a number of joint committees.
- **Confidential Information** is defined in section 100A(3) of the Local Government Act 1972 as:
  - (a) Information furnished to the Council by a Government department upon terms (however expressed) which forbid the disclosure of the information to the public; and
  - (b) Information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court;
- The **Constitution** is a document adopted by Brent Council which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. The Constitution is divided into 15 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in Standing Orders and in separate rules and protocols, also forming part of the Constitution.
- A **Co-opted Member** means a person, not being an Independent Member as defined below, who is a member of any committee or sub-committee of the Council but is not a councillor or officer of the Council. Co-opted members generally do not have voting rights on committees, although statute permits certain co-opted members to vote, notably parent governor representatives and church representatives. There are 4 education co-opted members with voting rights on the Children and Families Overview and Scrutiny Committee. There are a further 2 education co-opted members on that committee without voting rights. There are 2 non-voting co-opted members on the Pension Fund Sub-Committee, one non voting co-opted member on the Audit Committee and one non voting co-opted member on the Standards Committee. The voting education co-opted members may only vote on education matters.
- **Corporate Directors** are directors of corporate units within the Council. There are Corporate Directors of:  ~~Housing and Community Care~~ Adult Social Services;

- **Portfolio** refers to the key responsibilities or roles allocated to an Executive Member by the Leader.
  - **Proper Officer** has a statutory definition in section 270(3) of the Local Government Act 1972 and means, in relation to any purpose, the officer appointed for that purpose by the Authority or for that area, as the case may be. A non-exclusive list of the Proper Officers can be found in Table 5 of Part 4 of this Constitution.
  - A **Protocol** is a document forming part of the Constitution which sets out a guide to the way certain individuals and groups interact with each other. They are not rules but they do give guidance on how things should operate.
  - The **Section 151 Officer** is the officer appointed in accordance with section 151 of the Local Government Act 1972 and who has responsibility for the administration of the financial affairs of the authority. This position is also known as the Chief Finance Officer and in Brent the position is held by the Council's Director of Finance and Corporate Services.
  - The Council has four **Service Areas**. These are Children and Families, **Housing and Community Care/Adult Social Services**, Environment and Neighbourhood Services and Regeneration and Major Projects.
  - **Service Area Directors** are those officers who are directors of the Council's service areas.
  - **Service Unit Directors or Managers** are those officers who are directors or managers of the various service units which make up the service areas.
  - The **Standards Committee** consists of five Councillors (only 1 of whom may be a member of the Executive), other than the Leader, elected to the Standards Committee by the Full Council one Independent Member. The Committee considers matters relating to Members' Code of Conduct including allegations of breaches of the Code.
- The full terms of reference for the Brent Standards Committee and are set out in Part 5 of this Constitution.
- **Standing Orders** are rules which the Council has adopted to regulate its business and proceedings. There are also separate Standing Orders relating to the appointment and dismissal of staff and the process leading up to and the making of contracts. These are set out in Part 3 of this Constitution.
  - A **Sub-Committee** is a group of members (including where appropriate co-opted members) appointed by a committee to take responsibility for one or more aspects of its functions or function.
  - **Task Groups** are groups created to undertake time-limited and task focused reviews and to report back to the body that created them.

## Article 13 - Officers

### Management structure

#### 13.1 General

The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

#### 13.2 Chief Officers

The Council will engage persons for the following posts, who will be designated chief officers:

Post	Functions and areas of responsibility
Chief Executive (and Head of Paid Service)	Overall corporate management and operational responsibility (including overall management responsibility for all officers); provision of professional advice to all parties in the decision making process.
Director of Children & Families	Early years education, school places, education and training provision for young people, childcare, special education needs, inclusive education, support for school improvement, student support, and youth services, child protection, adoption, fostering, placements, adult and community education.
Director of Finance and Corporate Services	Chief Finance Officer functions, administration of the payroll and pensions, management of the superannuation fund, financial investments, financial management, finance services, audit and investigations, revenues and benefits, accountable body functions (once accountable body status has been formally conferred). Risk management and insurance. Development of corporate HR policies, advice on HR policies and procedure, assistance with appointments and dismissals, handling appointments and dismissals where requested, consultation and negotiation with Trade Unions, the People's Centre, IT.
Director of Housing and Community Care/ <u>Adult Social Services</u>	<del>All permanent and temporary housing, including temporary accommodation for asylum-seekers, right to buy management, private sector housing services (including related environmental health functions), liaison and transactions with Housing Associations and homelessness and housing strategy;</del> Statutory Director of Adult Social Services, health, adult physical disability, <del>Brent Learning Partnership,</del>

	<p><del>Brent m</del><u>Mental Health services</u>, services to older people, emergency duty team, asylum in so far as it is not a housing matter, <del>public health promotion</del><u>commissioning</u>, <del>voluntary sector support service</del>, <del>adult health and social care complaints</del>, <del>home help</del>, <del>meals on wheels</del>, <del>welfare services</del>, <del>community care</del>, <del>and day centres</del> and any other function listed in <del>section 14 and</del> Schedule 1 of the Local Authority Social Services Act 1970 not delegated to the Director of Children and Families.</p> <p><del>Statutory Director of Adult Social Services</del>, <del>adult social services</del>, <del>welfare services</del>, <del>community care</del>, <del>day centres</del>, <del>asylum in so far as it is not a housing matter</del>, <del>mental and other health matters</del>, <del>home helps</del>, <del>meals on wheels</del>, <del>grants to community and voluntary services</del> <del>and any other function listed in section 14 of Schedule 1 to the Social Services Act 1970 other than those to be exercised by the Director of Children and Families.</del></p>
<p>Director of Regeneration and Major Projects</p>	<p>Regeneration, urban renewal, economic development, building new education facilities, statutory land use, planning, development and building control, street naming and numbering, strategic transport planning, housing regeneration, affordable housing development, corporate property, facilities and premises management, Civic Centre Programme. <u>All permanent and temporary housing, including temporary accommodation for asylum seekers, right to buy management, private sector housing services (including related environmental health functions), liaison and transactions with Housing Associations and homelessness and housing strategy.</u></p>
<p>Director of Environment and Neighbourhood Services</p>	<p>Arts, Libraries, museums, archives, environment, environmental health (other than in relation to private sector housing), highways and emergency operations, Brent transport services, transportation, streetcare, refuse and street cleansing, parks, parking and open spaces, cemeteries and mortuary, , licensing, street trading, trading standards, health and safety, contaminated land, accident prevention and emergency planning, waste management and recycling, street lighting, CCTV monitoring, pollution control, food safety, pest control, land charges, , , sport and leisure, leisure centres, London 2012.</p>
<p>Director of Strategy, Partnerships and Improvement</p>	<p>Policy development, strategic planning, improvement and efficiency programme, performance, partnership working, community safety, overview and scrutiny, complaints, liaison with the Ombudsman.</p>

Director of Customer and Community Engagement	Media relations, internal and external communications, consultation with residents and other service users including Area Consultative forums, ward working and festivals, design and corporate identity, filming in the Borough, translation, interpretation, development of corporate diversity policies and advice on diversity policies and procedure, One Stop Shops, call centre, nationality service, Registrar of Births, Deaths and Marriages, and Mayor's Office.
Director of Legal and Procurement	Legal services, elections, member services, committee services, Standards Committee, Freedom of Information Act Section 36 determinations,, corporate procurement.

### Head of Paid Service, Monitoring Officer and Chief Finance Officer

13.3 The Council has made the following designations:

Post	Designation
Chief Executive	Head of Paid Service
Director of Legal and Procurement	Monitoring Officer
Director of Finance and Corporate Services	Chief Finance Officer
Director of Children and Families	Director of Children's Services
Director of <del>Housing and Community Care</del> <u>Housing and Adult Social Services</u>	Director of Adult Social Services

### Structure

13.4 The Chief Executive determines and publicises a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

### Functions of the Monitoring Officer

13.5 (a) **Maintaining the Constitution**

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for inspection by councillors, officers and the public.

(b) **Ensuring lawfulness and fairness of decision making**

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to Full Council or to the Executive in relation to an executive function, if he or she considers that any proposal, decision or omission has, may or would give rise to unlawfulness or to any

accountable to the Chief Executive;

- (iii) statutory Chief Officers being:
- the Director of Children and Families (acting as the Director of Children's Services appointed under section 18 of the Children Act 2004);
  - the Director of ~~Housing and Community Care~~ **Housing and Adult Social Services** (acting as the Director of Adult Social Services appointed under section 6 (A1) of the Local Authority Social Services Act 1970 as amended by the Children Act 2004);
  - the Chief Finance Officer appointed under section 151 of the Local Government Act 1972;
- (iv) any officer who, as respects all or most of the duties of his or her post, is required to report directly or is directly accountable to the Full Council itself or any committee or sub-committee of the Authority;
- (v) the Monitoring Officer;
- (vi) any assistant director or deputy director reporting directly to a Service Area Director or Corporate Director;
- (vii) the following other officers:
- the Head of Revenues and Benefits.
- (c) The posts mentioned in paragraph (b) above may only be created, amended (other than a minor variation) or deleted by the Executive following consideration of a report from the Chief Executive or other officer nominated by him or her setting out the proposed job description and person specification for that post and/or the reasons for the creation, amendment or deletion of the post and any legal or financial or other implications arising there from.
- (d) The terms and conditions of any of the posts mentioned in paragraph (b) above and the grading structure to be applied to them may only be determined by the General Purposes Committee.
- (e) The posts mentioned in paragraph (b) above may only be appointed to by the Senior Staff Appointments Sub-Committee (*which sub-committee shall include at least one member of the Executive\**), save that decisions to renew fixed term contracts in respect of such posts and decisions to offer contracts with no fixed term on the expiry of such fixed term contracts may be made by the Chief Executive or another Chief Officer authorised by him or her.
- (f) Unless it is intended that the appointment shall be made exclusively from among existing officers (e.g. where one or more officer is entitled to a ring fenced interview under the Council's Human Resources procedures) paragraphs (g) – (i) below shall apply to the appointment to any of the posts mentioned in paragraph (b) above.
- (g) The Chief Executive or another Chief Officer authorised by him or her shall arrange for the post to be advertised in such a way as is likely to bring it to the attention of persons who meet the person specification criteria to apply, and shall arrange for a copy of the job description and person specification to be sent to



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 Councils 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.

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 of the powers delegated to officers save where expressly prevented by law from doing so. The Chief Executive has delegated to him or her authority to exercise any of the Authority's functions (whether they are Council or Executive functions) in cases of extreme urgency provided that he or she is not precluded 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, directors and other officers listed below shall have responsibility for the following general and related areas:-

### (a) Chief Executive:

Head of Paid Service, overall corporate management and operational responsibility including overall management responsibility for officers, provision of professional advice to all parties in the decision making process.

### (b) Director of Children and Families:

Statutory Director of Children's Services, school improvement service, outdoor education, pupil referral units, education tuition service, parent partnership service, exclusion teams, education welfare service, behaviour support, SEN assessment service, education psychology, youth and connexions, family support, education, and schools organisation, child protection, adoption, fostering, placements, children with disabilities and all functions of the Local Education Authority not reserved to members including but not limited to early years education and school places, education and training provision for young people, adult and community education

### (c) Director of Adult Social Services Housing and Community Care:

~~All permanent and temporary housing, including temporary accommodation for asylum seekers, right to buy management, private sector housing services (including related environmental health functions), liaison and transactions with Housing Associations, homelessness and housing strategy.~~

Statutory Director of Adult Social Services, health, adult physical disability, ~~Brent Learning Disability Partnership~~, ~~Brent Mental Health Services~~, services to older people, emergency duty team, asylum in so far as it is not a housing matter, ~~public health promotion commissioning~~, ~~voluntary sector support service~~, ~~adult health and social care complaints~~, ~~home-help~~, ~~meals on-wheels~~, ~~welfare services~~, ~~community care~~, ~~and day centres~~ and any other function listed in ~~section 14 and~~ Schedule 1 of the Local Authority Social Services Act 1970 not delegated to the Director of Children and Families.

(d) **Director of Strategy, Partnerships and Improvement:**

Policy development, strategic planning improvement and efficiency programme, partnership working, community safety, overview and scrutiny, complaints, liaison with the ombudsman

(e) **Director of Environment and Neighbourhood Services:**

Environment, environmental health (other than in relation to private sector housing), highways, Brent Transportation Services, transportation, streetcare, refuse and street cleansing, parks, parking and open spaces, cemeteries and mortuary, , licensing, street trading, trading standards, health & safety, contaminated land, accident prevention and emergency planning, waste management and recycling, street lighting, CCTV monitoring, pollution control, food safety, pest control, land charges, , sport and leisure, leisure centres, arts, libraries, museums, and archives, London 2012.

(f) **Director of Finance and Corporate Services:**

Chief Finance Officer, section 151 officer, administration of the payroll and pensions, management of the superannuation fund, financial investments, financial management, finance services, insurance and risk management, audit and investigations, , revenues and benefits, accountable body functions (once accountable body status has been formally conferred),IT, HR including the development of corporate HR policies, advice on HR policies and procedure, assistance with appointments and dismissals, handling appointments and dismissals where requested, the peoples centre, consultation and negotiation with Trade Unions, People's Centre

(g) **Director of Regeneration and Major Project:**

Regeneration, urban renewal, economic development, building new education facilities, statutory land use, planning, development and building control, strategic transport planning, street naming and numbering, housing regeneration, affordable housing development, corporate property, facilities and premises management, Civic Centre Programme. All permanent and temporary housing, including temporary accommodation for asylum seekers, right to buy management, private sector housing services (including related environmental health functions), liaison and transactions with Housing Associations, homelessness and housing strategy

(h) **Director of Customer and Community Engagement:**

Media relations, internal and external communications, consultation with residents and other service users including Area Consultative Forums, ward working and festivals, design and corporate identity, filming in the Borough, translation and interpretation, member training and

- 4.1 Directors may acquire and manage land and buildings and may grant easements, licences or leases of land and buildings provided that the land and buildings concerned are being used and will continue to be used for the purposes of their service area and provided that:-
- (a) the value of the interest in the land or building, as confirmed by the Assistant Director of Property and Assets or a person nominated by him or her, does not exceed £20k in rental value per annum or, if acquired or granted at a premium does not exceed £50k in value; and
  - (b) the interest is an easement, a licence or a lease and is for a term which does not exceed seven years less 2 days, and
  - (c) The Assistant Director of Property and Assets is consulted and gives prior approval to the terms of any transaction, and
  - (d) The terms of any interest granted are forwarded to the Assistant Director of Property and Assets, or a person nominated by him or her, to note on the Council's asset register.
- 4.2 No freehold land or buildings shall be disposed of by a director.
- 4.3 The Assistant Director of Property and Assets may acquire any interest in land or buildings for, or in connection with, any of the Council's functions and may dispose of or grant easements, licences or leases in respect of any land or buildings, except where the value of the interest in the land or building, in his or her view, exceeds £100k in rental value per annum or, if acquired, disposed of or granted at a premium, exceeds £300k in value.
- 4.4 Neither the directors or the Assistant Director of Property and Assets may sell or grant any lease or easement, licence or otherwise dispose of any land or buildings unless the consideration received, as confirmed by the Assistant Director of Property and Assets, 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.
- 4.5 Nothing in this paragraph 4 shall prevent the Director of ~~Housing and Community Care-Regeneration and Major Projects~~ 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.
- 4.6 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.
- 4.7 No person shall create or grant a service tenancy or service occupancy without the prior written approval of the Chief Executive.
- 4.8 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 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).

RESPONSIBILITY FOR FUNCTIONS

and Directions) Regulations	petitions.	
Local Authorities (Executive Arrangements) ( <u>Meeting and Access to Information</u> ) (England) Regulations <del>2009</del> <u>12</u>	All references to the proper officer.	Democratic Services Manager unless otherwise specified in the Regulations or the Constitution.
Local Authorities (Conduct of Referendums) (England) Regulations 2001	All references to the proper officer.	Chief Executive
Public Health (Control of Diseases) Act 1984 and the Public Health (Infectious Diseases) Regulations 1988	All references to the proper officer	Director of Environment and Neighbourhood Services
Section 36 FOIA 2000	Qualified person for decision on exempt information not to be disclosed	Director of Legal and Procurement
Regulation 4 LASSNHSCR 2009	All references to the responsible person	Director of <del>Housing and Community-Care</del> <u>Adult Social Services</u>
Local Democracy, Economic Development and Construction Act 2009 S31	To provide and support to overview and scrutiny committees	Director of Strategy, Partnerships and Improvement
Generally *	Any other proper officer function not otherwise designated.	Chief Executive

requirements directly or by virement, OR additional revenue resources have been identified to meet the match funding requirements;

- (b) Spending commitments in future years are not made beyond the resources available to fund them.

#### **VIREMENTS – HOUSING REVENUE ACCOUNT**

- 30. The Director of **Regeneration and Major Projects**, **Housing and Community Care** may make any virements necessary for the efficient running of the Housing Revenue Account within the Account, including the use of revenue resources for capital purposes, provided that:
  - (a) Spending commitments in future years are not made beyond the resources available to fund them; and
  - (b) The changes are reported to the Director of Finance and Corporate Services.

#### **REPORTING ARRANGEMENTS**

- 31. Subject to paragraph 32, all Transfers, Virements and New Spending are to be reported to Full Council whether or not they require Full Council's approval. Normally this will be done by means of the regular expenditure monitoring reports made by the Director of Finance and Corporate Services. The reports will classify changes by whether Officer, Executive or Full Council approval was required.
- 32. Virements within one line of the Service Area Budget Summary Appendix of the Report, Transfers falling within Part A of the Schedule of Earmarked Reserves and Provisions and Virements within the HRA will not normally be reported to Full Council but will be reported if the Director of Finance and Corporate Services or the monitoring officers consider that a report should be submitted.
- 33. Any failure to report to or notify the Director of Finance and Corporate Services on any matter as required under this scheme will not invalidate the decision by virtue of that failure to report or notify alone.



# Appendix 3

## Barham Park Trust Committee





the person or body to whom, if any, the function has been delegated

Table 3 Functions not to be the sole responsibility of the Executive

Table 4A The membership and terms of reference of the Highways Committee of the Executive

Table 4B The membership and terms of reference of the Barham Park Trust Committee of the Executive

Table 5 Proper and Statutory Officer Provisions.

account the Executive. Meetings of the Council are normally open to the public.

#### **4. The Executive**

The Leader of the Council is a member of the Council who is elected to the post by the other members at a meeting of the Full Council. The Leader chooses between 2 and 9 other councillors to form the Executive. The current number of councillors appointed by the Leader is nine. The Executive is responsible for putting policies, which Full Council has approved, into effect. The Executive is the part of the Council which is responsible for most of the Council's day-to-day decision making not delegated to officers. A list of the Executive members, their portfolios and their addresses are given in this Part 1.

#### **5. Key Decisions**

When Key Decisions are to be discussed or taken, these are published in the Executive's Forward Plan, in so far as they can be anticipated. If the Executive is meeting to take Key Decisions or discuss them with Council officers present, it will generally meet in public, except where confidential or exempt information would be disclosed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

#### **6. Overview and Scrutiny**

The Council has appointed 6 Overview and Scrutiny Committees to support the work of the Executive and the Council as a whole. The Overview and Scrutiny committees hold the Executive to account by scrutinising its decisions, examining performance and asking questions of decision-makers and service providers. A decision which has been made by the Executive but not yet implemented can be called in for Scrutiny and will be considered by the Call-in Overview and Scrutiny Committee subject to the reasons for the call-in being within the framework laid out in the call-in protocol included in Part 7 of this Constitution. They may recommend that the Executive reconsider the decision but cannot block a decision indefinitely or impose their own views on the Executive. The Overview and Scrutiny committees are also involved in strategic and cross-cutting issues by supporting the Executive in the development and review of policy, overseeing health matters, and reviewing the performance of other partners and the Local Strategic Partnership work programme.

#### **7. Other Committees**

In addition to the committees specifically mentioned above, the Council has established a number of committees and sub-committees to deal with audit, staffing, planning, licensing and pension related functions. The Leader has also appointed a Highways Committee to deal with executive functions relating to highways and parking. The Executive has appointed a sub-committee: the Barham Park Trust Committee.

#### **8. Membership of committees and sub-committees**

The membership and terms of reference of the Council committees and sub-committees and any joint committees are set out in Part 5 of this Constitution.

- The **Children and Young People Overview and Scrutiny Committee** is a committee established pursuant to section 21 of the Local Government Act 2000 and consists of 8 Councillors, not being members of the Executive, elected by the Full Council, 4 voting education co-opted members and 2 non-voting education co-opted members. The Councillor membership of the Committee reflects the political balance of the Council. The Committee performs the Overview and Scrutiny role in relation to the matters within its terms of reference.
- A **Code of Conduct or Code of Practice** is a document forming part of the Council's Constitution which guides and regulates the behaviour of various groups and individuals. There are three such codes forming part of the Constitution, namely the Brent Members' Code of Conduct, the Planning Code of Practice and the Licensing Code of Practice.
- A **Committee** is a group of members (including co-opted members) chosen or elected to perform a specific function or purpose. The Authority has various types of committees which are defined separately. There are both committees and sub-committees of the Council and there is a Highways Committee **and Barham Park Trust Committee** of the Executive. The terms of reference of the committees and sub-committees are set out in Parts 4 and 5 of this Constitution. There are also a number of joint committees.
- **Confidential Information** is defined in section 100A(3) of the Local Government Act 1972 as:
  - (a) Information furnished to the Council by a Government department upon terms (however expressed) which forbid the disclosure of the information to the public; and
  - (b) Information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court;
- The **Constitution** is a document adopted by Brent Council which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. The Constitution is divided into 15 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in Standing Orders and in separate rules and protocols, also forming part of the Constitution.
- A **Co-opted Member** means a person, not being an Independent Member as defined below, who is a member of any committee or sub-committee of the Council but is not a councillor or officer of the Council. Co-opted members generally do not have voting rights on committees, although statute permits certain co-opted members to vote, notably parent governor representatives and church representatives. There are 4 education co-opted members with voting rights on the Children and Families Overview and Scrutiny Committee. There are a further 2 education co-opted members on that committee without voting rights. There are 2 non-voting co-opted members on the Pension Fund Sub-Committee, one non voting co-opted member on the Audit Committee and one non voting co-opted member on the Standards Committee. The voting education co-opted members may only vote on education matters.
- **Corporate Directors** are directors of corporate units within the Council. There are Corporate Directors of: Housing and Community Care; Regeneration and

Major Projects; Environment and Neighbourhood Services; Finance and Corporate Services; ; Legal and Procurement; Customer and Community Engagement; Strategy, Partnerships and Improvement; Children and Families

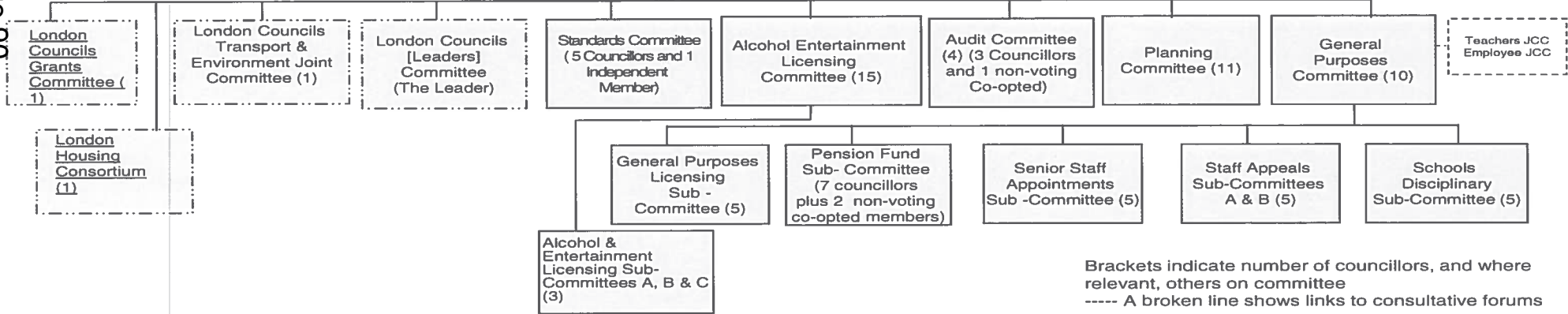
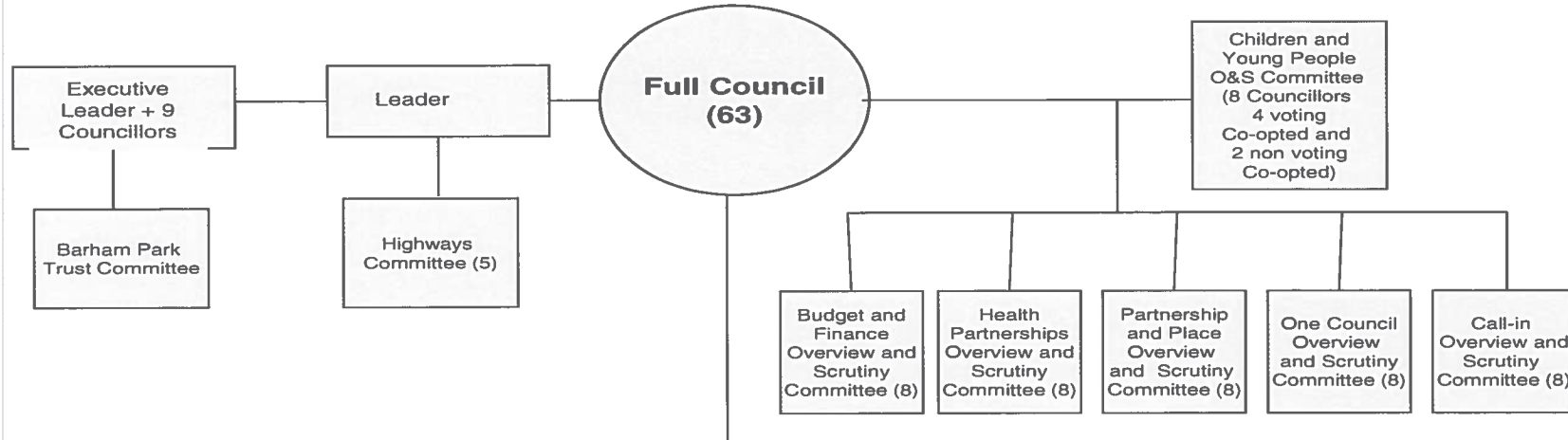
- **Corporate Strategy** means the document adopted by the Council setting out the Council's vision, values and key commitments for the next four years.
- **Council Functions** are those functions of the Authority which cannot be exercised by the Executive. These functions may be carried out by the Full Council, a Council Committee, Council Sub-Committee, Joint Committee of the Council, officers or any other person authorised by the Full Council to carry out Council functions. Council Functions cannot be carried out by the Executive.
- **Day** means a clear working day unless it is clear from another part or section of this Constitution that a different or alternative meaning is intended for the purposes of that part or section.
- **Delegated Powers** are powers to make decisions which are delegated by a decision making body to another decision making body or decision maker, such as an officer.
- **Deputy Mayor** means a councillor, not being a member of the Executive, appointed by the Mayor to act as his or her deputy. In the absence of the Mayor, the Deputy Mayor will perform the functions of Mayor except that the Deputy Mayor will only chair a Full Council meeting, in the absence of the Mayor, if chosen to do so by the members of Full Council at that meeting.
- The **Executive** is the part of the Council which is responsible for implementing the Council's Policy Framework and Budget. The Executive is made up of the Leader and nine other councillors chosen by the Leader. The Executive will carry out all of the Authority's functions which are delegated to it by the Leader and that are not the responsibility of any other part of the Authority, whether by law or under the Constitution.
- **Executive Arrangements** are defined in section 10 of the Local Government Act 2000 as arrangements by a local authority-
  - (a) for and in connection with the creation and operation of an Executive of the authority; and
  - (b) under which certain functions of the authority are the responsibility of the Executive.
- **Executive Committees** are committees set up by the Executive or by the Leader and to which the Executive or the Leader has allocated Executive functions under section 14 of the Local Government Act 2000. Members of Executive Committees will be members of the Executive. The Highways Committee is an Executive Committee established by the Leader. The Barham Park Trust Committee is a sub-committee of the Executive.
- **Executive Functions** are any functions of the Authority which are not the responsibility of any other part of the Authority, whether by law or, where the law provides a choice, under the Constitution. The division of functions between the Executive and the Council are set out in Part 4 of this Constitution.

Generally, the division of functions between the Executive and the Council is:

- (a) Determination of the Authority's budget, policies and strategies as set out in the Budget and Policy Framework are the responsibility of Full Council;
  - (b) Functions which will involve either determining an application from a person for a licence, approval, consent, permission or registration or direct regulation of a person together with any related enforcement actions (including prosecution) are the responsibility of the Council. Functions involving staffing issues and other specific matters as set out in Part 4 of the Constitution are also the responsibility of the Council. These functions will be carried out by officers or one of the Council's committees. They cannot be carried out by the Executive; and
  - (c) All other functions are to be the responsibility of the Executive. This includes making decisions on education, social services, most (but not all) highways and parking matters and housing functions. The Executive will award contracts, dispose of assets and will develop the policies to be approved by the Council.
- **Exempt Information** means information falling within the 7 categories set out in Schedule 12A of the Local Government Act 1972 and subject to the relevant qualifications set out in that schedule and, in the case of the Standards Committee and its sub-committees, the further categories of information set out in the Standards Committee (England) Regulations 2008. These rules are explained further in the Access to Information Rules, which form part of this Constitution.
  - An **Extraordinary Meeting** is a meeting of Full Council called by the Mayor. However, if the Mayor refuses to call an Extraordinary Meeting or does not do so within seven days after a request by five Councillors any five councillors may call an Extraordinary Meeting of Full Council.
  - The **Financial Regulations** are contained in Part 6 of this Constitution and set out the rules and procedure, which govern financial management and control within the Council.
  - The **Forward Plan** is a document prepared by the Democratic Services Manager on behalf of the Leader which contains details of all the matters likely to be the subject of Key Decisions to be taken by either the Executive or its Highways Committee or Barham Park Trust Committee or other committees or officers and may also include other important decisions to be taken by the Council, its committees or officers over the next four months.
  - A meeting of **Full Council** is a meeting to which all 63 councillors of the Authority are invited to attend.
  - The **Head of Paid Service** is the officer appointed by the Authority in accordance with section 4 of the Local Government and Housing Act 1989 who has overall corporate management and operational responsibility within the Council. In the London Borough of Brent the Head of Paid Service is the officer appointed to the position of Chief Executive.

# LONDON BOROUGH OF BRENT DECISION MAKING STRUCTURE CHART

Area Consultative Forums    Service User Consultative Forums    Area Housing Boards    Brent Youth Parliament



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

## Article 3 – Citizens and The Council

### Citizens' Rights

3.1 Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 6 of this Constitution:

#### (a) Voting and Petitions:

Citizens on the electoral roll for the Borough have the right to vote in elections and to sign a petition including a petition requesting a referendum for an elected mayor.

#### (b) Information:

Citizens have the right to:

- (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed;
  - (ii) attend meetings of the Executive and its committees when Key Decisions are being considered except where confidential or exempt information is likely to be disclosed;
  - (iii) find out from the Forward Plan what Key Decisions will be taken by the Executive, its Highways Committee, [the Barham Park Trust Committee](#) and officers and when;
  - (iv) see reports and background papers (except confidential or exempt information), and any records of decisions made by the Council and the Executive, their committees or officers; and
  - (v) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation:** Citizens may be invited to contribute to reviews conducted by the Overview and Scrutiny Committees.
- (d) **Complaints:** Citizens have the right to complain to:
- (i) the Council itself, under its complaints scheme;
  - (ii) the Local Government Ombudsman, after using the Council's own complaints scheme; and
  - (iii) the Standards Committee, about a breach by any members or voting co-opted members of the Brent Members' Code of Conduct.

- 7.18 If at any time an Executive member other than the Leader or Deputy Leader ceases to be a member of the Executive, the responsibilities of that member shall be carried out by the Executive 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 appointed to achieve a quorum, all 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 in his/her absence, or if the post is vacant.

### **Proceedings of the Executive**

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

### **Responsibility for the discharge of Executive functions**

- 7.22 Executive functions may be exercised by the Leader, or the Leader may delegate those functions to the Executive as a whole, a committee of the Executive, an individual Executive member, or officers. The Executive may arrange for Executive functions delegated to it to be carried out by a committee of the Executive, or an officer.
- 7.23 The Leader has agreed to delegate all executive functions to the Executive except those which he/she has delegated to the Highways 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, 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 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 Democratic Services Manager and that such notified changes shall only be effective from the date they are reported to the next meeting of Full Council.

### **Executive Committees**

- 7.27 The Leader has established a Highways Committee to which he/she has delegated certain executive functions. As the Highways Committee is exercising executive functions it is bound by the same procedural rules as the Executive as set out in Parts 3, 4 and 6 of this Constitution.



7.28 The Executive has established a sub-committee; the Barham Park Trust Committee, to decide matters relating to the Trust

# 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 Executive**

**Table 2 Functions where the Council has a choice of exercising them through either the 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 Executive**

**Table 4A The Membership and Terms of Reference of the Highways Committee of the Executive**

**Table 4B The Membership and Terms of Reference of the Barham Park Trust Committee of the Executive**

**Table 5 Proper and Statutory Officer Provisions**

**Table 6 List of functions that may only be exercised by ~~Full~~ Council**

1.7 Table 3 sets out the functions which are not to be the 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.. The Table describes the plans, policies and strategies, which form the Authority's Policy Framework and specifies what role the Executive will play in relation to those plans, policies and strategies. Essentially, the Executive 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 will then be responsible for implementing them.

1.8 Table 4A sets out the functions to be exercised by the Highways Committee which is a committee of the Executive 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.

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 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

1.10 In addition to the powers described in the Tables as being specifically delegated to officers, any other Council and 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. Any other function not otherwise specified in the Tables or elsewhere in this Constitution is the responsibility of the Executive, 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.

**TABLE 4B**

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

**Membership**

The sub-committee is comprised of 5 members of the Executive appointed by the Executive

**Chair and Vice Chair**

To be appointed by the Barham Park Trust Committee

**Quorum**

3 Executive members

**Terms of Reference**

The 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 Assistant Director Neighbourhood Services considers ought to be referred to the committee for a decision

The Committee shall meet not less than once per year.

meeting during which such a report is discussed. There is no discretion in respect of this category of information.

- 2.6 The decision as to whether a report due to be considered by the Executive or its Highways Committee or **the Barham Park Trust Committee**, the Council or one of its committees contains exempt information as set out in the legislation and whether or not it should be generally circulated is made by the "proper officer". The proper officer in Brent is the Democratic Services Manager. The proper officer will be exercising a discretion in deciding whether to circulate exempt papers other than to members of the relevant body and that discretion must be exercised reasonably. The Democratic Services Manager will take advice from the Director of Legal and Procurement.

- 2.7 There is no statutory right for councillors to attend meetings of bodies of which they are not a member while confidential or exempt reports are being considered.

- 2.8 It is a matter for the body which is meeting (i.e. the Executive or its Highways Committee or **Barham Park Trust Committee** or a Council committee) whether other councillors are allowed, as a matter of discretion, to remain at an otherwise open meeting while exempt matters are discussed. The Executive or the committee will be exercising discretion in deciding whether to allow any councillors who are not members of the body to remain and that discretion must be exercised reasonably.

- 2.9 Members have further rights of access beyond those specifically given in statute in certain circumstances. These additional rights are described as "common law rights". A member is entitled to see documents which are reasonably necessary to enable him or her to carry out his or her duties **as a Councillor**. This is generally described as the "need to know" principle.

- 2.10 There is no simple definition of this. Various court cases have given indications of how the common law right should be interpreted. There is no right to a "roving commission" to satisfy curiosity and the right will not arise if there is some form of ulterior or indirect motive (such as to assist someone in litigation against the council) which underlies the wish for access. Ulterior or indirect motive would cover any case where the "real" reason the Councillor wants access is not to do with carrying out his or her role **as a Councillor** (e.g. where the reason is to do with the members position as a party member, as a resident or as a member of any association.) Extra care will need to be taken in considering the application of this right in cases where there is litigation underway or contemplated connected to the information sought. However, the fact that the information is potentially embarrassing for the Executive or Council as a whole is not in itself a reason to deny access to information to which a Councillor is otherwise entitled. A member of a committee will normally be entitled to access to papers concerning matters for which the committee is responsible.

- 2.11 Reports which members are not entitled to see as of right may be made available to them and this Protocol explains the circumstances when this may happen.

### 3. **APPLYING A PRINCIPLE OF OPENNESS IN THE WRITING OF REPORTS**

- 3.1 Reports to Committees and the Executive should only be marked exempt when this cannot reasonably be avoided in order to protect the interests of the Council and/or third parties in accordance with the statutory rules on exempt reports. Report writers should bear in mind the qualifications in respect of the categories of exempt information as marked in the Table at paragraph 53 of Part 6 of this Constitution and should also bear in mind that information which has been



# Appendix 4

## Contracts Standing Orders





## CONTRACT STANDING ORDERS

### 82. Definitions

The following definitions shall apply throughout these Contract Standing Orders (in alphabetical order):

<b>Approved List</b>	A list of contractors that meet the Council's minimum financial and technical criteria for specified types of services, supplies or works contracts.
<b>Chief Officer</b>	The officers defined as such in Standing Order 7(c) being the Chief Executive, Service Area Directors and Corporate Directors.
<b>Collaborative Procurement</b>	Any arrangement between the Council and any other body under which the other body undertakes a procurement process with or on behalf of the Council.
<b>Contract Register Officer</b>	The officer appointed to maintain the contract register.
<b>Contract Value or Estimated Value</b>	The contract's value or estimated value for the contract term excluding VAT.
<b>E-Auction Facility</b>	A web-based facility <u>approved by the Director of Legal and Procurement</u> which enables the electronic submission of prices for a Tender.
<b>Electronic Tender Facility</b>	-A web-based facility <u>approved by the Director of Legal and Procurement</u> which enables the electronic despatch and receipt of Tender documents.
<b>Electronic Tender Time Box</b>	The feature within an Electronic Tender Facility which stores received Tenders and prevents viewing of them until after the appointed closing date and time.
<b>European Procurement Legislation</b>	The relevant EU Directives and corresponding UK Regulations including the Public Contracts Regulations 2006 as amended or replaced from time to time.
<b>Framework Agreement</b>	An agreement for a specified term under which contracts for the provision of particular services, supplies or works can be entered into ("called off") on agreed terms.

<b>High Value Contract</b>	Any contract that exceeds the values stated for Medium Value Contracts (under which different thresholds apply for services / supplies and construction / works).
<b>Low Value Contract</b>	In the case of contracts for services or supplies: a contract with an estimated value over the life of the contract (including any period of extension(s) anticipated by the contract) of between £20,001 and up to the amount which is the current threshold for services and supplies contracts under the European Procurement Rules (which is currently £173,934).  In the case of a contract for construction or works: a contract with an estimated value over the life of the contract (including any period of extension(s) anticipated by the contract) of between £20,001 up to £500,000, provided that the contract is classified as a contract for works and not services by the European Procurement Rules.
<b>Medium Value Contract</b>	In the case of contracts for services or supplies: a contract with an estimated value over the life of the contract (including any period of extension(s) anticipated by the contract) of between the amount which is the relevant threshold for services or supplies contracts under the European Procurement Legislation (which is currently £173,934) and £500,000.  In the case of a contract for construction or works, a contract with an estimated value of between £500,000 and £1,000,000, provided that the contract is classified as a contract for works and not services by the European Procurement Rules.
<b>Member</b>	An elected member of Brent Council.
<b>Monitoring Officer</b>	The Director of Legal and Procurement.
<b>Official Order</b>	An order for services, supplies or works to the Council issued by an authorised officer using the Council's official order form.
<b>OJEU</b>	The Official Journal of the European Union.
<b>Online Market Place</b>	<a href="#">A web-based facility approved by the Director of Legal</a>

	<u>and Procurement which enables the procurement of specified types of services, supplies or works contracts.</u>
<b>Tender</b>	An offer or bid or tender from a party to provide services, supplies or works to the Council including any offer, bid or tender which is subject to negotiation.
<b>Tender Acceptance</b>	An acceptance in writing of a Tender.
<b>Very Low Value Contract</b>	A contract or commitment with a value from £0 to £20,000.

**83. Contracts exempt from Contract Standing Orders**

The following contracts are exempt from Contract Standing Orders:-

- (a) individual agency contracts for the provision of temporary staff (although it is mandatory to place such contracts through the Council's corporate agency staff arrangements, currently Comensura);
- (b) employment contracts;
- (c) contracts relating to an interest in land.

**84. General Requirements**

- (a) Every contract entered into by the Council shall be entered into pursuant to or in connection with the Council's functions AND shall be procured in accordance with all relevant domestic and European legislation and unless for good operational and/or financial reasons the Executive (or, if appropriate, the General purposes Committee) agrees otherwise with these Contract Standing Orders and the Council's Financial Regulations.
- (b) In addition to the powers of the Executive in paragraph 84(a) to grant an exemption from the requirement to procure in accordance with these Contract Standing Orders, the Director of Finance and Corporate Services is also able to grant such exemptions:
  - (i) on grounds of extreme urgency
  - (ii) where the exemption sought is in relation to the requirement to obtain 3 written quotes under Standing Order 86(b).

The Director of Finance and Corporate Services shall only exercise his / her authority under this paragraph (i) following legal advice that there is no breach of domestic or EU law or the Council's own procedures in the exercise of the authority (ii) where there are good operational and / or financial reasons for doing so.

(c) Chief Officers shall ensure in undertaking any contract procurement that:-

- (i) fair, transparent and auditable processes are followed at all stages;
- (ii) tender exercises are conducted appropriate to the nature of the contract being procured;

all tenderers are treated equally and fairly;

(iv) these Contract Standing Orders are complied with; and

(v) the Contract Database is kept updated at all times as set out in Standing Order 110.

(d) Contract tendering procedures are contained in the Council's Contract Procurement and Management Guidelines which shall be updated and amended from time to time to comply with these Contract Standing Orders. Advice on any of the requirements of these Contract Standing Orders shall be sought from the Director of Legal and Procurement or Director of Finance and Corporate Services as appropriate.

(e) For the avoidance of doubt these Contract Standing Orders apply to:-

(i) the appointment of consultants; and

(ii) the establishment of Framework Agreements.

(f) Subject to paragraph (a) and (b) above, ~~and~~ Standing Order 97 (~~M~~Mandatory Approved List ~~and~~ ~~Online Market Place~~), all medium and high value contracts shall be entered into and procured in accordance with the formal tendering procedures set out in these Standing Orders.

#### **85. Partnership Arrangements and Collaborative Procurement**

(a) No Partnership Arrangements may be entered into unless they are approved by the Director of Finance and Corporate Services and a formal agreement covering the arrangements is signed by the parties.

(b) Any Partnership Arrangement or Collaborative Procurement which includes delegation of powers shall be approved by the Executive (or where relevant Full Council).

(c) Any Collaborative Procurement shall comply with these Standing Orders and Financial Regulations unless;

(i) agreed otherwise in writing by the Director of Finance and Corporate Services and the Director of Legal and Procurement; or

(ii) in the case of a High Value Contract the agreement of the Executive is obtained under Standing Order 84(a).

For the purposes of this Standing Order the contract value shall be calculated on the estimated value of the Council's part of the contract only.

(d) Any agreement between the Council and one or more other body which includes any payment by the Council in respect of the costs of carrying out a Collaborative Procurement shall comply with these Standing Orders unless agreed otherwise in writing by the Director of Finance and Corporate Services and the Director of Legal and Procurement.

#### **86. Contracts not subject to full tendering requirements**

(a) Certain contracts as set out in this Standing Order listed below, are not subject to the full tendering requirements of these Contract Standing Orders but are subject to any other relevant parts thereof.

(aa) No formal procurement procedures apply to Very Low Value Contracts apart from a requirement to secure best value. For Very Low Value Contracts, the best way to demonstrate best value is by ~~the~~-seeking ~~of~~-three quotes or using an Approved List (where one exists) or the Online Market Place, however this is not mandatory and it is open to a duly authorised officer to approve another procurement route. As with all Council procurement there is a mandatory requirement to keep an auditable record to demonstrate compliance and value for money.

(b) No formal tendering procedures apply to Low Value Contracts (as defined in Standing Order 82 above with different thresholds applying for works contracts as opposed to supplies and services contracts) except that at least three written quotes must be sought and the quotes sought and/or obtained shall be recorded or alternatively the contract is procured through the Online Market Place. Where quotes are sought. Advice must be sought from the Council's procurement officers about how to select the three organisations to be invited to quote and how to structure the quotation process. In the case of Low Value Works Contracts valued at above the relevant threshold for supplies or services contracts under the European Procurement Rules (currently £173,934) approval of the Director of Legal and Procurement is required to use a quotation process; if approval is not given then such a contract requires the following of a tender process under Standing Order 96 below. Low Value Contracts do however require formal approval for award according to Standing Order 88(a) from a duly authorised officer within the relevant Council department.

(c) Contracts which are procured using ~~the separate an~~ Approved List or the Online Market Place in accordance with the rules prescribed pursuant to Standing Order 97, are not subject to full tendering requirements.

(d) Subject to the proviso below no formal tendering procedures apply where contracts are called off under:

- (i) a Framework Agreement established pursuant to these Standing Orders; or
- (ii) a Framework Agreement established by another contracting authority, where call off under the Framework Agreement is approved by the relevant Chief Officer to include confirmation that there is budgetary provision for the proposed call-off contract PROVIDED that the Director of Legal and Procurement has advised that participation in the Framework Agreement is legally permissible. Advice from the Director of Legal and Procurement must be obtained each and every time a call off under another contracting authority's Framework Agreement is recommended by the relevant Chief Officer.
- (iii) the Online Market Place (as detailed in Standing Order 97), where the call off is approved by the relevant Chief Officer to include confirmation that there is budgetary provision for the proposed call-off contract.

SAVE THAT any high value contract may only be awarded on the approval of the Executive as required by paragraph 2.5 of Part 4 of the Constitution.

(e) Subject to complying with any relevant parts of the European Procurement Legislation, Tenders need not be invited nor quotes sought:

- 
- (i) where for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the services, supplies or works may only be provided by a particular provider or where there is only one provider who would be able to provide the services, supplies or works required PROVIDED that advice is sought from the Director of Legal and Procurement and in the case of High Value Contracts approval is sought from the Executive (or, if appropriate, the General Purposes Committee); or
  - (ii) in cases of extreme urgency where there is an immediate danger to life or limb or property and only to the extent necessary to procure services, supplies or works necessary to deal with the immediate urgent situation PROVIDED that advice is sought from the Director of Legal and Procurement; or
  - (iii) for contracts providing individual personal services such as individual care arrangements or individual special educational needs provision and for the avoidance of doubt this exemption does not apply to any framework agreements or call off contracts that will facilitate the award of individual contracts providing such personal services.

**87. Provision of goods, services and works by the Council**

- (a) The Local Authorities (Goods and Services) Act 1970 ("the Act") provides that local authorities may enter into contracts to provide goods and services to public bodies defined as such by the Act. Section 96 of the Local Government Act 2003 provides that local authorities may do for a commercial purpose anything which they are authorised to do for the purpose of carrying on any of their ordinary functions provided this power is exercised through a company within the meaning of Part 5 of the Local Government Act 1989.
- (b) Before entering into arrangements under either of these provisions, officers must comply with the relevant requirements of Financial Regulation in Part 6 of the Constitution.
- (c) Authority to enter into arrangements under either of these provisions must be agreed by the Executive (or if appropriate the General Purposes Committee) where:
  - (i) the contract value would exceed £150,000 per annum; or
  - (ii) the gross cost to the Council of providing the relevant goods, services or works under the contract is estimated to exceed £150,000 per annum calculating the full costs over the term of the contract (including any period of extension(s) anticipated by the contract);
  - (iii) where a company is to be set up for the purposes of the arrangements.
- (d) In all cases advice shall be sought from the Director of Legal and Procurement and the Director of Finance and Corporate Services prior to entering into any such arrangement and/or prior to seeking approval by the Executive.

**88. Authority to go out to tender and enter into contracts**

- (a) Chief Officers have delegated to them power to invite expressions of interest, agree shortlists, invite Tenders, negotiate, award, and terminate contracts in accordance with paragraph 2.5, of Part 4 of this Constitution. No individual Member may enter into a contract on the Council's behalf.

(b) Where approval to invite expressions of interest is required from the Executive (or if appropriate the General Purposes Committee or Pension Fund Sub-Committee) the Executive, the General Purposes Committee, or the Pension Fund Sub-Committee as the case may be shall receive and consider a report setting out the pre-tender considerations specified in Standing Order 89 and shall give such approval or approvals as it considers necessary.

(c) Where approval to award, or terminate a contract is required to be obtained or is in any event sought from the Executive (or the General Purposes Committee or Pension Fund Sub-Committee), the Executive, the General Purposes Committee or the Pension Fund Sub-Committee as the case may be shall receive and consider a report setting out all relevant information necessary to enable it to give such approval or approvals as it considers necessary.

(d) Chief Officers are responsible for ensuring that the relevant category manager in the Corporate Procurement Centre is notified of all proposed procurements exceeding £20,000 in value. The role of the category manager under this Standing Order 88 is to advise on appropriate procurement routes, ensuring that the service department takes legal advice as necessary.

**89. Pre-Tender Considerations**

In procuring any contract Chief Officers shall, where appropriate, consider the following matters prior to inviting Tenders:

- (i) the nature of the services, supplies or works contract to be tendered;
- (ii) the estimated value;
- (iii) the contract term and any period of extension(s) anticipated by the contract;
- (iv) the tender procedure to be adopted including whether any part the procedure will be conducted by electronic means and whether there will be an e-auction;
- (v) the procurement timetable;
- (vi) the evaluation criteria and process;
- (vii) any business risks associated with entering the contract;
- (viii) the Council's Best Value duties;
- (ix) any staffing implications including TUPE and pensions; and
- (x) the relevant financial, legal and other considerations.

**90. Estimated contract value**

Chief Officers shall ensure that an estimated contract value is prepared and recorded prior to commencement of a tender exercise. Such estimate shall be calculated on the basis of the value of the contract over the life of the contract including any period of extension(s) anticipated by the contract whether or not a one off service, supply or work. Where a contract has no fixed term the value of the contract shall be calculated as if the term of that contract was 48 months.

**91. Small Lots**

The estimated value of contracts split into lots shall be calculated using the total value of all lots. Contracts must not be split into lots to avoid competitive tendering.

**92. Procurement by consultants**

Where consultants are appointed to undertake tendering on the Council's behalf they shall be instructed to comply with Contract Standing Orders and to refer to the Contract Procurement and Management Guidelines as appropriate. No consultant shall make a decision as to whom to award a contract nor enter into 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 Director of Finance and Corporate Services 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 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 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.



- (ii) Persons or bodies wishing to express an interest shall be sent a pre-qualification questionnaire to be completed and returned to the Council by the date specified in the notice.
- (iii) The response to the pre-qualification questionnaire shall be used to evaluate whether the person or body meets the Council's minimum technical capacity and financial standing requirements and has relevant experience, and whether they should be included in a shortlist.
- (iv) Tenders shall be invited from those persons or bodies who have been included in the shortlist.

**97. Approved Lists and Online Market Place**

- (a) The Council has agreed the use of a corporate Approved List. The Director of Legal and Procurement in consultation with the Director of Finance and Corporate Services may prescribe the rules on how the Corporate Approved List shall be compiled, used, monitored and reviewed and may amend such rules periodically.
- (b) The use of the corporate Approved List shall be mandatory for all Low Value Contracts for services and supplies and for all Low and Medium Value contracts for works where a relevant corporate Approved List category exists, unless an exemption is granted pursuant to the rules prescribed under (a) above.
- (c) The Council has agreed the use of a Small Works and Services Approved List. The Director of Legal and Procurement in consultation with the Director of Finance and Corporate Services may prescribe the rules on how the Small Works and Services Approved List shall be compiled, used, monitored and reviewed and may amend such rules periodically.
- (d) The use of the Small Works and Services Approved List shall be mandatory for all Low Value Contracts for services supplies and works where a relevant Small Works and Services Approved List category exists, unless an exemption is granted pursuant to the rules prescribed under (c) above.

(e) The Council has agreed the use of an Online Market Place. The Director of Legal and Procurement in consultation with the Director of Finance and Corporate Services may prescribe the internal rules on how the Online Market Place shall be used, monitored and reviewed and may amend such rules periodically.

(f) The Online Market Place shall consist of:

- (i) a contract or Framework Agreement established pursuant to these Standing Orders; or
- (ii) a Framework Agreement established by another contracting authority, PROVIDED that the Director of Legal and Procurement has advised that participation in the Framework Agreement and inclusion on the Online Market Place is legally permissible.

**98. The Invitation to Tender**

- (a) The invitation to tender shall include the following details:-
  - (i) a description of the services, supplies or works being procured;
  - (ii) whether the Council is of the view that TUPE will apply;

- (iii) the tender timetable including the tender return date and time, which must allow a reasonable period for applicants to prepare their Tenders;
- (iv) a specification and instructions on whether any variants are permissible;
- (v) the Council's terms and conditions of contract;
- (vi) the evaluation criteria including either weightings or the order of importance;
- (vii) pricing schedules, if appropriate, and instructions for completion;
- (viii) whether the tenderer is required to price separately if the tenderer were required to offer a comparable pension and/or parent company guarantee and/or a performance bond;
- (ix) form and contents of method statements, if any, to be provided;
- (x) whether or not Tenders are to be submitted electronically;
- (xi) the rules and method for submitting Tenders;
- (xii) where Tenders are to be received electronically via the Electronic Tender Facility a requirement that tenderers submit a signed hard copy of the form of tender, undertakings and any other original documentation upon request;
- (xiii) whether or not an e-auction will be conducted; and
- (xiv) any further information which will inform or assist applicants in preparing their Tenders.
- (b) Except in the case of electronic tendering the invitation to tender shall state that no Tender will be considered unless contained in a plain sealed envelope and endorsed "Tender" followed by the subject to which it relates. In all cases the invitation to tender shall specify whether and, if so, to what extent the terms of the contract or any part specified will be subject to negotiation between the parties.

**99. Form of Tender**

- (a) All Tenders shall be required to be submitted on the Council's form of tender which shall include the following details:
  - (i) a statement that the Council will not be bound to accept any Tender;
  - (ii) a section where the tenderer shall state whether their Tender is priced on the basis of TUPE applying or not;
  - (iii) except in the case of the negotiated contracts, a statement that formal acceptance of the Tender by the Council will, until such time as a written contract can be executed, bind the parties into a contractual relationship; and
  - (iv) except in the case of an e-auction, the price and whether this would be different if the tenderer were to offer a comparable pension and/or a parent company guarantee and/or a performance bond.

- (b) Except in the case of electronic tendering, no Tender shall be considered unless it is contained in a plain sealed envelope and endorsed "Tender" followed by the subject to which it relates. In the case of electronic tendering, Tenders must be submitted and opened in accordance with the requirements of Standing Order 101.

#### **100. Receipt and Opening of Tenders**

Except in the case of electronic tendering via an Electronic Tendering Facility for which the rules in Standing Order 101 shall apply, the receipt and openings of Tenders shall be conducted as follows:

- (a) All High Value Contract Tenders shall be addressed to the Council's Democratic Services Manager and the Tender shall remain in the custody of the Democratic Services Manager until the time appointed for its opening.
- (b) High Value Contract Tenders shall be opened and Tender details recorded by an authorised representative of the Democratic Services Manager and at least one other officer.
- (c) Medium Value Contract Tenders shall be addressed to the relevant Chief Officer and the Tender shall remain in the custody of the Chief Officer until the time appointed for its opening.
- (d) Chief Officers and the Democratic Services Manager shall make appropriate arrangements for the receipt, storage and opening of Tenders by an officer of appropriate seniority which ensures that each tenderer is treated fairly and equally and ensures probity.

#### **101. E-Tendering and E-Auctions**

The following rules apply to the use of an Electronic Tender Facility and/or an E-Auction Facility regardless of the value of the contract being procured:

- (a) Invitations to tender may be despatched and Tenders received by electronic means via an Electronic Tender Facility. Except in the case of e-auctions no other form of electronic tendering shall be permissible. All e-tendering must comply with European Procurement Legislation where applicable.
- (b) Tenders received electronically via the Electronic Tender Facility must be held in an Electronic Tender Time-Box until after the appointed closing date and time.
- (c) Tenders held in an Electronic Tender Time Box must all be opened at the same time by an authorised officer in the Corporate Procurement Unit~~Strategy and Risk Management~~ after the appointed closing date and time for the Electronic Tender Time Box has passed and the Tender details recorded.

- (d) Where any original Tender documentation is to be submitted in hard copy instead of electronically as part of the tender process using an Electronic Tender Facility, such documentation shall be addressed to the Head of the Corporate Procurement Strategy and Risk Management Unit and the Tender documentation shall remain in the custody of the Head of the Corporate Procurement Strategy and Risk Management Unit until the time


appointed for its opening. At the time appointed for the opening of Tenders held in the Electronic Tender Time Box, the hard copy Tender documentation shall be opened and the details recorded by an authorised representative of the Head of the Corporate Procurement ~~Strategy and Risk Management Unit~~ and at least one other officer.

(e) In appropriate cases the submission of prices or values of quantifiable elements for a Tender may be conducted by e-auction using an E-Auction Facility. An E-Auction Facility may be used in conjunction with an Electronic Tender Facility.

(f) Tenders conducted by e-auction must comply with any specific European Procurement Legislation where applicable and unless used in conjunction with an Electronic Tender Facility, must follow the usual process for the invitation, submission and evaluation of Tenders (including Standing Order 100) except that the submission of prices and/or values may occur via an online auction.

(g) Except with the prior written approval of the Director of Finance and Corporate Services, electronic tendering may only be undertaken using the Council's Electronic Tender Facility or E-Auction Facility operated by the Corporate Procurement ~~Strategy and Risk Management Unit~~.

(h) Where tendering has been conducted by electronic means, Chief Officers shall ensure that signed hard copies of the form of tender, and where appropriate, the parent company guarantee undertakings and performance bond undertakings are obtained from the successful tenderer prior to award of contract.

	<b>Full Council</b> 19 November 2012  <b>Report from the Deputy Director of Finance</b>
For Action	Wards Affected: ALL
<b>The Treasury Management Annual Report 2011/12</b>	

## 1. SUMMARY

The purpose of this report is to summarise borrowing and investment activity and performance compared to prudential indicators during 2011/12. The Executive has recommended this report to Full Council for approval. The report has also been considered by the Audit Committee meeting of 27 September 2012 as part of the scrutiny function required under the 2009 Treasury Management Code of Practice issued by CIPFA.

The Executive, at its meeting on 19 September 2012, resolved to submit the recommendations in the report to Full Council without any further comments.

## 2. RECOMMENDATIONS

That Full Council:

- 2.1 Approves the Treasury Management Annual Report (section 3); and Annual Investment Strategy Report (section 4)
- 2.2 Notes the outturn for prudential indicators (section 5)
- 2.3 Notes the updated position since 2011/12 (paras.3.15 – 3.16).

## 3. TREASURY MANAGEMENT ANNUAL REPORT

3.1 Full Council adopted the 2009 CIPFA Code of Practice on Treasury Management in Local Authorities in September 2010. The Code stipulates that the Chief Financial Officer should set out in advance to Full Council the treasury strategy for the forthcoming financial year, issue a progress report during the year and subsequently report treasury management activities at the year-end. This section of the report details:-

- a) The economic background for 2011/12 (paras 3.3 to 3.4)

- b) The agreed treasury strategy (para 3.5)
  - c) Borrowing activity during 2011/12 (paras 3.6 to 3.8)
  - d) Lending activity during 2011/12 (paras 3.9 to 3.13)
  - e) Overall interest paid and received (para 3.14)
  - f) Developments since the year end (paras 3.15 – 3.16)
- 3.2 Treasury management in this context is defined as ‘the management of the local authority’s cash flows, banking, money market (short term borrowing and lending) and capital market (long term borrowing) transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.’ This means that the pursuit of additional returns must be secondary to protecting the Council’s cash balances and a rigorous assessment of risk.

#### **ECONOMIC BACKGROUND FOR 2011/12**

- 3.3 The world economy grew by 3.6% in 2011. The UK economy grew by 0.7%, USA by 1.7%, the Euro area by 0.7% (though Germany grew by 1.5%) and the Chinese economy slowed to 8.9%. In the UK growth remained slow as banks were unable or unwilling to lend and borrowers were unwilling to increase existing debts. In the USA, quantitative easing (governments buying back debt and increasing the money supply) supported activity and reduced longer term interest rates. In the UK, inflation as measured by the Consumer Price Index remained above 3% as VAT increases and some price rises (such as energy) passed through the system. The Bank Base Rate remained at 0.5% as monetary policy sought to encourage economic growth given an assumption that inflation would fall to reflect low economic activity. Overnight interest rates remained very low, at 0.3% - 0.4%. Fiscal policy has become progressively tighter in 2011/12, a trend which is likely to continue. Markets experienced continued volatility as Euro-zone authorities failed to change the widely held perception that they were unable to bringing the situation under control; it became steadily clearer that Greece would continue to experience difficulty in remaining in the Euro-zone and speculation mounted that other countries would also be forced to review their membership
- 3.4 Table 1 shows interest rates charged during the year by the Public Works Loans Board (PWLB), the government agency that provides long term credit to local authorities. Previously, the PWLB enabled local authorities to borrow at similar rates to the government (gilt yield plus 0.15%). However, in October 2010 it was decided that local authorities would pay rates set at the gilt rate plus 1% in order to encourage local authorities to reassess the viability of capital projects and use their cash balances to finance them where appropriate. It can be seen that rates fell during the year, reflecting the low

demand for credit and desire for security and rates are now similar to those which prevailed under the old charging regime.

**Table 1 – PWLB Interest rates during 2011/12**

	<b>1 April 2011 %</b>	<b>30 June %</b>	<b>30 Sept. %</b>	<b>31 March 2012 %</b>
10 year	4.80	4.42	3.47	3.30
25 year	5.36	5.22	4.53	4.32
50 year	5.28	5.18	4.69	4.36

**STRATEGY AGREED FOR 2011/12**

- 3.5 On the basis of advice and research from the Council’s treasury adviser, Arlingclose, Capital Economics and pension fund managers, it was anticipated that the bank rate would remain unchanged throughout 2011/12. It was agreed as part of the strategy that lending that lending would be kept short (less than one year), that long term loans would be allowed to mature, and that the lending list would be expanded when market conditions allowed. It was also agreed that borrowing would remain flexible, but that the Council would take short term or variable debt if it was likely that rates would stay low. It was also agreed that officers would look for opportunities to restructure debt, recognising that low rates might make this uneconomic.

**BORROWING ACTIVITY DURING 2011/12**

- 3.6 The split of the Council’s treasury portfolio between fixed interest and variable loans and investments, is set out in Table 2.

**Table 2 – Treasury portfolio at 31 March – loans and investments**

	<b>Actual</b>		<b>Interest rate</b>
	<b>31/03/11 £m</b>	<b>31/03/2012 £m</b>	<b>31/03/2012 %</b>
Fixed rate loans – PWLB	491.0	310.0	4.84
Variable rate loans – PWLB	-	-	
Variable rate loans – Market	95.5	95.5	4.31
Short-term loans – Market	69.2	26.3	0.39
<b>GROSS DEBT</b>	<b>655.7</b>	<b>431.8</b>	<b>4.47</b>
Investments	57.5	43.8	0.38
<b>NET DEBT</b>	<b>598.2</b>	<b>388.0</b>	

- 3.7 The average rate of interest payable by the Council on its loans has risen slightly from 4.37% in 2010/11 to 4.47% in 2011/12, mainly because of a reduced proportion of temporary debt in the portfolio. No debt restructuring was undertaken during the year but, at the end of March, the Department for Communities and Local Government repaid £198m of PWLB debt relating to the Housing Revenue Account (HRA). The intention is that this will place the HRA in a position where it can be self-financing in the long term with the interest saved accruing to the HRA. It is intended that the remaining debt will be apportioned between the HRA and the General Fund on a basis which is equitable and allows the HRA to plan its business with some degree of certainty about its costs. In 2011/12, the Council borrowed £20m from the PWLB on Equal Instalment of Principal (EIP) terms at 2.34%, repayable over 10 years.
- 3.8 The duration and average interest rate of loans in the treasury portfolio is set out in Table 3.

**Table 3 – Treasury portfolio at 31 March 2012 – duration/interest rates**

Maturing Within	£m		Share of total debt %	Average Interest Rate 31/03/12 %
	31/03/11	31/03/12		
1 Year	71.2	28.7	6.6	0.58
1 – 5 Years	8.0	9.8	2.3	2.64
6 - 10 years	19.0	18.9	4.4	3.92
11 – 20 years	5.0	0	-	0.00
21 – 30 years	30.0	18.3	4.2	4.75
31 – 40 years	85.0	61.9	14.4	4.60
Over 40 years	342.0	198.7	46.0	5.38
Market (all over 40 years)	95.5	95.5	22.1	4.72
<b>TOTAL</b>	<b><u>655.7</u></b>	<b><u>431.8</u></b>	<b><u>100.0</u></b>	<b><u>4.45</u></b>

**LENDING ACTIVITY DURING 2011/12**

- 3.9 The Council's investments averaged £49m during 2011/12 (£78m during 2010/11) and earned interest of £0.3m. The portfolio of long term deposits (deposited in 2008 for up to three years) finally matured, and new deposits have been for less than one month at rates generally between 0.25% and 0.75%. The amount invested has varied from day to day depending on cash-flow and the Council's borrowing activity.
- 3.10 Investments by the in-house team were made primarily with the intentions of achieving security and liquidity placed with AAA rated Money Market Funds or for periods up to one month. Rates achieved generally ranged between 0.25%



and 0.75%, with an average rate achieved of 0.6% (2010/11, 1.3%). Loans were made to high quality counterparties included on the Treasury Lending List. Appendix 1 lists the deposits outstanding at 31 March 2012.

- 3.11 Brent still has deposits in two Icelandic banks which were placed into receivership following the collapse of Lehman Brothers in 2008. The original deals were:-

Heritable	£10m	5.85%	Lent 15/08/08	Due back 14/11/08
Glitnir	£5m	5.85%	Lent 15/09/08	Due back 12/12/08

- 3.12 The Council continues to work with the Local Government Association and other authorities to recover the loans to Icelandic banks. Local authorities were accepted as preferred creditors of Glitnir in the Icelandic Courts and this resulted in almost the whole sum deposited being repaid. The final recovery remains slightly uncertain as about £1m remains denominated in Icelandic krone and held in a ring-fenced account in Iceland, pending conversion and repayment by the Central Bank of Iceland. The administrators for Heritable have repaid £1.8m in 2011/12, and a further £0.4m to date in 2011/12. The administrators have indicated that creditors should expect to receive between 86%-90% of deposits plus interest to October 2008, in instalments to 2013.
- 3.13 External cash managers were initially appointed in 1998 to manage two portfolios with the aim of achieving an improved return at an acceptable level of risk. Aberdeen Asset Management's £23.7m portfolio was liquidated in July 2011 because the opportunities for additional yield no longer compensated for the costs of maintaining the arrangement.

#### TOTAL INTEREST PAID AND RECEIVED

- 3.14 Total interest paid and received in 2011/12 is shown in Table 4. The reduced interest paid on external debt reflects the restructuring in October 2010 and short term borrowing at lower rates.

**Table 4 – Overall interest paid and received in 2011/12**

	Budget £m	Actual £m
Interest paid on external debt	32.2	28.6
Interest received on deposits	0.1	0.3
Debt management expenses	0.4	0.4

#### DEVELOPMENTS SINCE THE END OF THE YEAR

- 3.15 UK financial markets have been volatile since the end of the financial year, mainly in response to continued worries about credit worthiness and debt owed by Portugal, Ireland, Italy, Greece and Spain. Short term interest rates remain very low and long term rates have fallen in response to lenders seeking safer investments for cash and the growing belief that economic recovery will be very slow and monetary conditions will continue to be

loosened. In consultation with Arlingclose, the Council has borrowed £20m from the PWLB; £10m for ten years at 1.99% and £10m for twenty years at 2.64% towards meeting the long term financing requirement for the new Civic Centre (both on EIP terms).

- 3.16 In response to continuing fears about developments in Euro-zone markets, Arlingclose issued advice in May that local authorities should restrict lending to less than 1 month for UK banks and overnight for Santander, before subsequently removing Santander completely. The Council has used slightly tighter criteria than Arlingclose and, in practice, Brent no longer lends to UK banks, and all maturities are currently kept very short. Though a number of Australian and Canadian banks are on the list, and have occasionally been useful, most lending is to AAA rated Money Market Funds (MMFs) and the UK Debt Management Office, an arm of the Bank of England.

#### **4 ANNUAL INVESTMENT STRATEGY REPORT**

- 4.1 Regulations issued under the 2003 Local Government Act require that councils agree an Annual Investment Strategy (AIS) before the beginning of each year, setting out how investments will be prudently managed with close attention to security and liquidity. The AIS for 2011/12 was agreed by Full Council in March 2011. The AIS sets out the security of investments used by the authority analysed between Specified (offering high security and liquidity, with a maturity of no more than one year) and Non-Specified (entailing more risk or complexity, such as gilts, certificates of deposit or commercial paper) investments. The AIS also sets out the maximum duration of deposits.
- 4.2 Treasury activity has fully complied with the AIS in 2011/12. The approach has been to lend for short periods to high quality counterparties, reducing risk. As loans have matured, receipts have been used to minimise borrowing.

#### **5. PRUDENTIAL INDICATORS – 2011/12 OUTTURN**

- 5.1 The introduction of the prudential system of borrowing in the 2003 Local Government Act (LGA) gave opportunities for councils to assess their requirements for capital spending and not have them restricted by nationally set approvals to borrow money (credit approvals) as previously. The prudential system also brought new responsibilities on councils to ensure that:
- a) capital expenditure plans are affordable;
  - b) all external borrowing and other long term liabilities are within prudent and sustainable levels;
  - c) treasury management decisions are taken in accordance with good professional practice.
- 5.2 Under regulations issued under the 2003 LGA councils are required to follow the Prudential Code issued by CIPFA which sets out how councils ensure responsible use of these freedoms. The Code details indicators that councils are required to set before the beginning of each year, to monitor during the year and to report on at the end of each year.

- 5.3 The outturn for prudential indicators measuring affordability is set out in Table 5. General Fund and HRA capital financing charges as a proportion of total budget were lower than the original estimates as a result of the reduced requirement to fund expenditure from unsupported borrowing in 2011/12.

**Table 5 – Prudential indicators measuring affordability**

	<b>2011/12 (estimates)</b>	<b>2011/12 (actual)</b>
Capital financing charges as a proportion of net revenue stream:		
- General Fund	9.3%	7.7%
- HRA	36.4%	35.7%
Impact of unsupported borrowing on:		
- Council tax at Band D	£4.68	£2.42
- Weekly rent	-	-

- 5.4 The outturn for prudential indicators for capital spending is set out in Table 6. Movements within the capital programme, including slippage between years and resources becoming available during the year, are to be reported in the Performance and Finance Quarter 4 Outturn report to the Executive in July 2012. Capital spending is funded from a variety of resources, including government grants, capital receipts, revenue contributions, Section 106 contributions and borrowing. This means that movements in capital spending are not directly reflected in movements in the Capital Financing Requirement (CFR), which principally reflects borrowing requirements.

**Table 6 – Prudential indicators measuring capital spending and CFR**

	<b>2011/12 Estimates £m</b>	<b>2011/12 Actual £m</b>
Planned capital spending:		
- General Fund	133.4	99.7
- HRA	20.1	14.5
- <b>TOTAL</b>	<b>153.5</b>	<b>114.2</b>
Estimated capital financing requirement for:		
- General Fund	371.5	350.5
- HRA	337.7	331.3
- <b>TOTAL</b>	<b>709.2</b>	<b>681.8</b>

- 5.5 The Council also sets prudential indicators for external debt as shown in Table 7. This is to ensure that the Council's overall borrowing is kept within prudent limits. The Authorised Limit for external borrowing is set flexibly above the CFR to allow for opportunities to restructure debt or borrow early when interest rates are favourable. The Operational Boundary sets out the expected maximum borrowing during the year, allowing for cash flow, interest rate opportunities and restructuring.

**Table 7 – Prudential indicators for external debt**

Indicator	Limit	Status
Authorised limit for external debt	£850m	Met
Operational boundary for external debt	£750m	Met
Net borrowing	Below CFR	Met

- 5.6 The prudential indicators for treasury management, which are included in Table 8 below, were all met. These are set to ensure that interest rate exposures are managed to avoid financial difficulties if interest rates rise sharply. Although borrowing at variable rates can be advantageous if rates are falling, a sharp rise can cause budget difficulties, and force the Council to fix rates at an inopportune time. Managing loan durations ensures a variety of maturity dates to avoid a disproportionate amount of re-financing when rates may be high. Finally, the upper limit on investments of more than one year allows flexibility to lend for longer periods if interest rates make this advantageous, particularly by external managers investing in gilts, but also ensures that a minimum level of balances is available for cash flow purposes. Deposits have been short term, and long term loans have been run down during the year.

**Table 8 – Prudential indicators for treasury management**

Indicator	Limit	Outcome
<b>Treasury Management Code</b>		Adopted
<b>Exposure to interest rate changes</b>		
- fixed rate upper limit	100%	98%
- variable rate upper limit	40%	19%
<b>Maturity of fixed interest loans</b>		
Under 12 months		
- upper limit	40%	1%
- lower limit	0%	0%
12 months – 24 months		
- upper limit	20%	1%
- lower limit	0%	0%
24 months – 5 years		
- upper limit	20%	1%
- lower limit	0%	0%
5 years – 10 years		
- upper limit	60%	2%

- lower limit Above 10 years	0%	0%
- upper limit	100%	98%
- lower limit	30%	96%
<b>Upper limit on investments of more than one year</b>	<b>£60m</b>	<b>£22m</b>

## 6. MINIMUM REVENUE PROVISION

- 6.1 The Local Authorities (Capital Finance and Accounting) Regulations 2003 as revised in 2008 require an authority to set an amount of Minimum Revenue Provision which is considered to be 'prudent'. The definition of what counts as 'prudent' is set out in statutory guidance which has been issued by the Secretary of State for Communities and Local Government and which authorities must 'have regard' to.
- 6.2 Under the guidance councils are required to prepare an annual statement of their policy on making Minimum Revenue Provision to Full Council. The purpose of this is to give Members the opportunity to scrutinise the use of the additional freedoms and flexibilities under the new arrangements. This Policy Statement was submitted and approved by the Full Council at its meeting in March 2012 within section 9 of the Budget Setting report.

## 7. FINANCIAL IMPLICATIONS

- 7.1 Financial implications are set out within this report.

## 8. DIVERSITY IMPLICATIONS

- 8.1 The proposals in this report have been subject to screening and officers believe that there are no diversity implications arising from it.

## 9. LEGAL IMPLICATIONS

- 9.1 Guidance has been issued under Section 21 (IA) of the Local Government Act 2003 (the '2003 Act') on how to determine the level of prudent provision. Authorities are required by Section 21 (B) to have regard to this guidance.
- 9.2 Under regulation 28 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (as amended) authorities have significant discretion in determining their Minimum Revenue Provision but, as a safeguard, the guidance issued under the 2003 Act recommends the formulation of a plan or strategy which should be considered by the whole Council. This mirrors the existing requirement to report to Council on the prudential borrowing limit and investment policy. The Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2000 have been amended to reflect that the formulation of such a plan or strategy should not be the sole responsibility of the Executive.

## 10. BACKGROUND INFORMATION

1. Logitech Loans Management System.
2. Arlingclose reports on treasury management.
3. Aberdeen Asset Management quarterly reports.
4. 2011/12 Budget and Council Tax report – March 2011

#### 11. CONTACT OFFICERS

1. Anthony Dodridge, Head of Exchequer and Investments – 020 8937 1472
2. Mark Peart, Head of Financial Management – 020 8937 1568


**MICK BOWDEN**  
Deputy Director of Finance

#### APPENDIX 1

#### Brent treasury lending list

The current investments outstanding as at 31 March 2012 were:

<b>Name</b>	<b>Amount £m</b>	<b>Yield %</b>	<b>Lending Date</b>	<b>Maturity Date</b>
Global Treasury Fund (RBS)	8.0	0.59	Call	
Gartmore Cash Reserve	2.0	0.60	Call	
Northern Trust Global Fund	0.1	0.15	Call	
Heritable bank	3.2	5.85	15/08/08	14/11/08
Glitnir	1.0	5.85	15/09/08	12/12/08
Isle of Wight Council	5.0	0.30	30/03/12	05/04/12
London Borough of Merton	5.0	0.30	30/03/12	02/04/12
Santander UK plc	10.0	0.52	30/03/12	03/04/12
UK Debt Management Fund	9.5	0.25	30/03/12	03/04/12
<b>Total</b>	<b>43.8</b>			

	<p style="text-align: center;"><b>Council</b> 19 November 2012</p> <p style="text-align: center;"><b>Report from the Deputy Director of Finance</b></p>
<p style="text-align: right;">Wards Affected: ALL</p>	
<p style="text-align: center;"><b>2012/13 Mid-Year Treasury Report</b></p>	

## 1. SUMMARY

- 1.1 This report updates members on recent treasury activity.

## 2. RECOMMENDATION

- 2.1 The Council is asked to note the 2012/13 mid-year Treasury report.

## 3. DETAIL

### BACKGROUND

- 3.1 The Council's Treasury Management Strategy has been underpinned by the adoption of the Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management 2009, which includes the requirement for determining a treasury strategy on the likely financing and investment activity for the forthcoming financial year.
- 3.2 The Code also recommends that members are informed of Treasury Management activities at least twice a year. This report therefore ensures this authority is embracing Best Practice in accordance with CIPFA's recommendations.
- 3.3 Treasury Management is defined as: "The management of the local authority's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks."

## ECONOMIC BACKGROUND

- 3.4 Growth rates have fallen across the world in the last six months. The US and Germany continue to grow slowly, but the UK and most European economies have returned to or entered recession. Even the higher performing economies of the Far East and South America are experiencing reduced growth. This global slowdown has kept inflation largely under control, and it is falling quite rapidly in the UK as many of last year's price rises pass through the figures.
- 3.5 Gilt yields fell sharply raising the prospect that very short-dated yields could turn negative. 2-year yields fell to 0.06%, 5-year yields to 0.48% and 10-year yields to 1.45%. Despite the likelihood the Debt Management Office would revise up its gilt issuance for 2012/13, there were several gilt-supportive factors: the Bank of England's continued purchases of gilts under an extended Quantitative Easing (QE) programme; investors preferring the safer haven of UK government bonds to those of European sovereigns; the coalition's commitment to fiscal discipline by sticking to its "plan A" for deficit reduction; large scale purchases by banks to comply with the Financial Services Authority's liquidity buffer requirements; and general risk aversion against a weak economic backdrop. Borrowing rates offered by the Public Works Loans Board (PWLB) to councils fell commensurately.
- 3.6 Money market rates fell over the six month period by between 0.2% and 0.6% for 1-12 month maturities.

## DEBT MANAGEMENT

- 3.7 The PWLB remains an attractive source of borrowing for the Council as it offers flexibility and control. In August HM Treasury announced details of the "Certainty Rate" which will enable "eligible authorities" to access cheaper PWLB funding, with a 20 basis point reduction on the standard PWLB borrowing rate. Initially announced in the March 2012 Budget, HM Treasury have introduced this initiative to incentivise local authorities to provide robust forecasts on borrowing plans. This rate will be introduced in November 2012, and Brent has been accepted to receive it.
- 3.8 Alternative borrowing sources: Alternative sources of long term funding to long-dated PWLB borrowing are available, but the Council will continue to adopt a cautious and considered approach to funding from the capital markets as the simplicity and ease of dealing with the PWLB represents a strong advantage. Two long term loans of £10m each have been raised so far this year as is shown in the table below:

	Balance on 01/04/2012 £m	Debt Repaid £m	New Borrowing £m	Balance on 30/09/2012 £m
Short Term Borrowing	26.3	44.3	18.0	0.0
Long Term Borrowing	405.5	1.2	20.0	424.3
<b>TOTAL BORROWING</b>	<b>431.8</b>	<b>45.5</b>	<b>38.0</b>	<b>424.3</b>
Average Rate %	4.45			4.71



- 3.9 No debt rescheduling has been considered in the last half year as present discount rates make the premia involved unattractive.

### **INVESTMENT ACTIVITY**

- 3.10 The Council gives priority to security and liquidity and aims to achieve a yield commensurate with these principles.

	Balance on 01/04/2012 £m	Investments Made £m	Investments Repaid £m	Balance on 30/09/2012 £m
Short Term Investments	43.8	1,520.7	1,495.1	69.4

- 3.11 Security of capital has been maintained by following the Council's counterparty policy as set out in its Treasury Management Strategy Statement for 2012/13. New investments were made with the following institutions:

Other Local Authorities;  
AA- rated banks;  
AAA rated Money Market Funds;  
The UK Debt Management Office.

- 3.12 Counterparty credit quality was assessed and monitored with reference to Credit Ratings (the Council's minimum long-term counterparty rating of AA- (or equivalent) across rating agencies Fitch, Standard & Poors and Moody's); credit default swaps; GDP of the country in which the institution operates; the country's net debt as a percentage of GDP; sovereign support mechanisms; potential support from a well-resourced parent institution; share price.

### **BUDGETED INCOME AND OUTTURN**

- 3.13 The Council's budgeted investment income for the year has been estimated at £0.1m. The average cash balances, representing the Council's reserves and working balances, were £95m during the period. At present, the Council appears likely to achieve this figure.

- 3.14 The UK Bank Rate has been maintained at 0.5% since March 2009 and is not expected to rise until 2015/2016. Short-term money market rates have remained at very low levels.

### **ICELANDIC BANK INVESTMENT UPDATE**

- 3.15 The following has now been resolved in relation to Icelandic deposits:

#### **Iceland-Domiciled Banks**

- 3.16 On 28 October 2011 the Icelandic Supreme Court ruled that UK local authority claims in the administrations of Glitnir and Landsbanki qualified as priority claims under Icelandic bankruptcy legislation, confirming the earlier decision of the Reykjavik District Court.

3.17 This means that the values of local authorities' claims in the Icelandic administrations qualifying for priority settlement are now final and will, at the very least, be equal to the value of the original deposit plus interest accrued to the maturity date. After the decision of the Icelandic Supreme Court had been delivered, the Winding Up Board of Glitnir made a distribution to priority creditors, which included local authorities. This was accepted by all UK local authorities and implemented on 16 March 2012. The distribution currencies were Icelandic kroner, Euros, US dollars, pounds sterling, and Norwegian krona. The Icelandic kroner are held in an interest bearing account in Iceland pending the lifting of exchange controls. This means that, of the £5m which Brent deposited with Glitnir, £4m has now been recovered.

### Non-Iceland-Domiciled Banks

3.18 It is expected that over £9m of the original £10m deposit will be recovered. Almost £7.5m has been recovered to date, and a further £0.5m-£0.8m is expected by 31 March 2013.

### COMPLIANCE WITH PRUDENTIAL INDICATORS

3.19 The Council can confirm that it has complied with its Prudential Indicators for 2012/13, which were set in February 2012 as part of the Council's Treasury Management Strategy Statement. Details can be found in Appendix 1.

### OUTLOOK

3.20 At the time of writing this activity report in October 2012, economic growth remains elusive. Tight credit conditions and weak earnings growth are constraining consumer and corporate spending. The outlook is for official interest rates to remain low for an extended period, as shown below.

	Dec-12	Mar-13	Jun-13	Sep-13	Dec-13	Mar-14	Jun-14	Sep-14	Dec-14	Mar-15	Jun-15	Sep-15	Dec-15
Official Bank Rate													
Upside risk				0.25	0.25	0.25	0.25	0.50	0.50	0.50	0.50	0.50	0.50
Central case	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50
Downside risk	-0.25	-0.25	-0.25	-0.25	-0.25	-0.25	-0.25	-0.25	-0.25	-0.25	-0.25	-0.25	-0.25

### SUMMARY

3.21 In compliance with the requirements of the CIPFA Code of Practice this report provides members with a summary report of the treasury management activity during the first half of 2012/13. As indicated in this report none of the Prudential Indicators have been breached and a prudent approach has been taken in relation to investment activity with priority being given to security and liquidity over yield.

### 4. FINANCIAL IMPLICATIONS

These are covered in the report.

### 5 DIVERSITY IMPLICATIONS

The proposals in this report have been subject to screening and officers believe that there are no diversity implications arising from it.

**6 STAFFING IMPLICATIONS**

None

**7 LEGAL IMPLICATIONS**

There are no legal implications arising from the report.

**8 BACKGROUND**

Annual Treasury Strategy – Report to Full Council (and the Audit Committee) as part of the Budget Report – February 2012.

Persons wishing to discuss the above should contact the Exchequer and Investment Section, Finance and Corporate Resources, on 020 8937 1472/74 at Brent Town Hall.

MICK BOWDEN  
Deputy Director of Finance

ANTHONY DODRIDGE  
Head of Exchequer and Investment

## Appendix 1

### Capital Financing Requirement

Estimates of the Council's cumulative maximum external borrowing requirement for 2012/13 to 2014/15 are shown in the table below:

	31/03/2012 Actual £m	31/03/2013 Estimate £m	31/03/2014 Estimate £m	31/03/2015 Estimate £m
CFR	537	598	594	591

### Usable Reserves

Estimates of the Council's level of Usable Reserves for 2012/13 to 2014/15 are as follows:

	31/03/2012 Actual £m	31/03/2013 Estimate £m	31/03/2014 Estimate £m	31/03/2015 Estimate £m
Usable Reserves	58	37	30	24

### Prudential Indicator Compliance

#### Authorised Limit and Operational Boundary for External Debt

The Local Government Act 2003 requires the Council to set an Authorised Borrowing Limit. This is a statutory limit which should not be breached. The Council's Authorised Borrowing Limit was set at £823m for 2012/13. The Operational Boundary is based on the same estimates as the Authorised Limit but reflects the most likely, prudent but not worst case scenario without the additional headroom included within the Authorised Limit. The Operational Boundary for 2012/13 was set at £723m. The Deputy Director of Finance confirms that there were no breaches to the Authorised Limit and the Operational Boundary during the year; borrowing at its peak was £432m.

#### Upper Limits for Fixed Interest Rate and Variable Interest Rate Exposure

These indicators allow the Council to manage the extent to which it is exposed to changes in interest rates. The upper limit for variable rate exposure allows for the use of variable rate debt to offset exposure to changes in short-term rates on our portfolio of investments.

	Limits for 2012/13
Upper Limit for Fixed Rate Exposure	100%
Compliance with Limits:	Yes
Upper Limit for Variable Rate Exposure	40%
Compliance with Limits:	Yes

Interest Rate Exposures	Level at 31/03/12	2012/13 Approved	Actual 30/09/12
Fixed			
Upper Limit for Fixed Interest Rate Exposure on Debt	89%	100%	89%
Variable			
Upper Limit for Variable Interest Rate Exposure on Debt	11%	40%	11%

### Maturity Structure of Fixed Rate Borrowing

This indicator is to limit large concentrations of fixed rate debt needing to be replaced at times of uncertainty over interest rates.

Maturity Structure of Fixed Rate Borrowing	Upper Limit %	Lower Limit %	Actual Fixed Rate Borrowing as at 30/09/12 £m	% Fixed Rate Borrowing as at 30/09/12	Compliance with Set Limits?
Under 12 months	40	0	3.9	1	Yes
12 months and within 24 months	20	0	3.9	1	Yes
24 months and within 5 years	20	0	11.8	3	Yes
5 years and within 10 years	60	0	25.3	6	Yes
10 years and above	100	0	379.4	89	Yes

### Gross and Net Debt

The purpose of this treasury indicator is to highlight a situation where the Authority is planning to borrow in advance of need.

Upper Limit on Net Debt compared to Gross Debt	31/3/12 Actual £m	31/3/13 Estimate £m	Limit
Outstanding Borrowing (at nominal value)	405.5	490	823
Less: Investments	43.8	20	0
Net Debt	361.7	470	823

### Net Debt and the CFR

This is a key indicator of prudence. In order to ensure that over the medium term net borrowing will only be for a capital purpose, the Authority should ensure that the net external borrowing does not exceed the total of the CFR in the preceding year plus the estimates of any additional increases to the CFR for the current and next two financial years.

The Authority had no difficulty meeting this requirement so far in 2012/13, nor are there any difficulties envisaged for future years. This view takes into account current commitments, existing plans and the proposals in the approved budget.

## **Total principal sums invested for periods longer than 364 days**

This indicator allows the Council to manage the risk inherent in investments longer than 364 days.

The limit for 2012/13 was set at £20m.

The Council's practice since the onset of the credit crunch in 2007 has been to keep investment maturities to a maximum of 12 months. No investments were made for a period greater than 364 days during this period.

## **Credit Risk**

This indicator has been incorporated to review the Council's approach to credit risk. The Council confirms it considers security, liquidity and yield, in that order, when making investment decisions.

Credit ratings remain an important element of assessing credit risk, but they are not the sole feature in the Authority's assessment of counterparty credit risk. The authority considers the following tools to assess credit risk:

Published credit ratings of the financial institution and its sovereign;  
Sovereign support mechanisms;  
Credit default swaps (where quoted);  
Share prices (where available);  
Economic fundamentals, such as a country's net debt as a percentage of its GDP;  
Corporate developments, news, articles, markets sentiment and momentum.

The Council can confirm that all investments were made in line with a minimum long term credit rating of AA- or equivalent, as set in the 2012/13 TMSS.

## **HRA Limit on Indebtedness**

This purpose of this indicator is for the Council to report on the level of the limit imposed at the time of implementation of self-financing by the Department for Communities and Local Government.

HRA Limit on Indebtedness	31/03/2012 Actual £m	31/03/2013 Estimate £m	31/03/2014 Estimate £m	31/03/2015 Estimate £m
HRA CFR	137	141	141	141
HRA Debt Cap (as prescribed by CLG)	199	199	199	199
Difference	62	60	60	60