

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 2000~~12~~12. 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</u> <u>and</u> Access to Information) (England) Regulations 20 <u>00</u> <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

~~10.~~ 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
- (ed) 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 athe 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 1-170 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 <u>Housing and Community Care</u> <u>Adult Social Services</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. Statutory Director of Adult Social Services, health, adult physical disability, Brent Learning Disability Partnership,

	<p>Brent m<u>Mental H</u>health services, services to older people, emergency duty team, asylum in so far as it is not a housing matter, , public health<u>promotion</u>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.</p> <p>Statutory Director of Adult Social Services, adult social services, welfare services, community care, day centres, asylum in so far as it is not a housing matter, mental and other health matters, , home helps, meals on wheels, grants to community and voluntary services 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.</p>
Director of Regeneration and Major Projects	<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>
Director of Environment and Neighbourhood Services	<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>
Director of Strategy, Partnerships and Improvement	<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 Housing and Community Care <u>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~~ 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 Council's Committee and the Transport and Environment Committee exercise executive and non-executive functions. The terms of reference and make up of these committees and the sub-committee are described in Part 5.

2. Powers Delegated to Officers

2.1 Those officers named in the Tables or elsewhere in the Constitution have delegated to them the powers specified therein but subject to the limitations specified therein.

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 20 <u>09</u> <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 <u>Housing and Community Care</u> <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
<u>Table 4B</u>	<u>The membership and terms of reference of the Barham Park Trust Committee of the Executive</u>
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

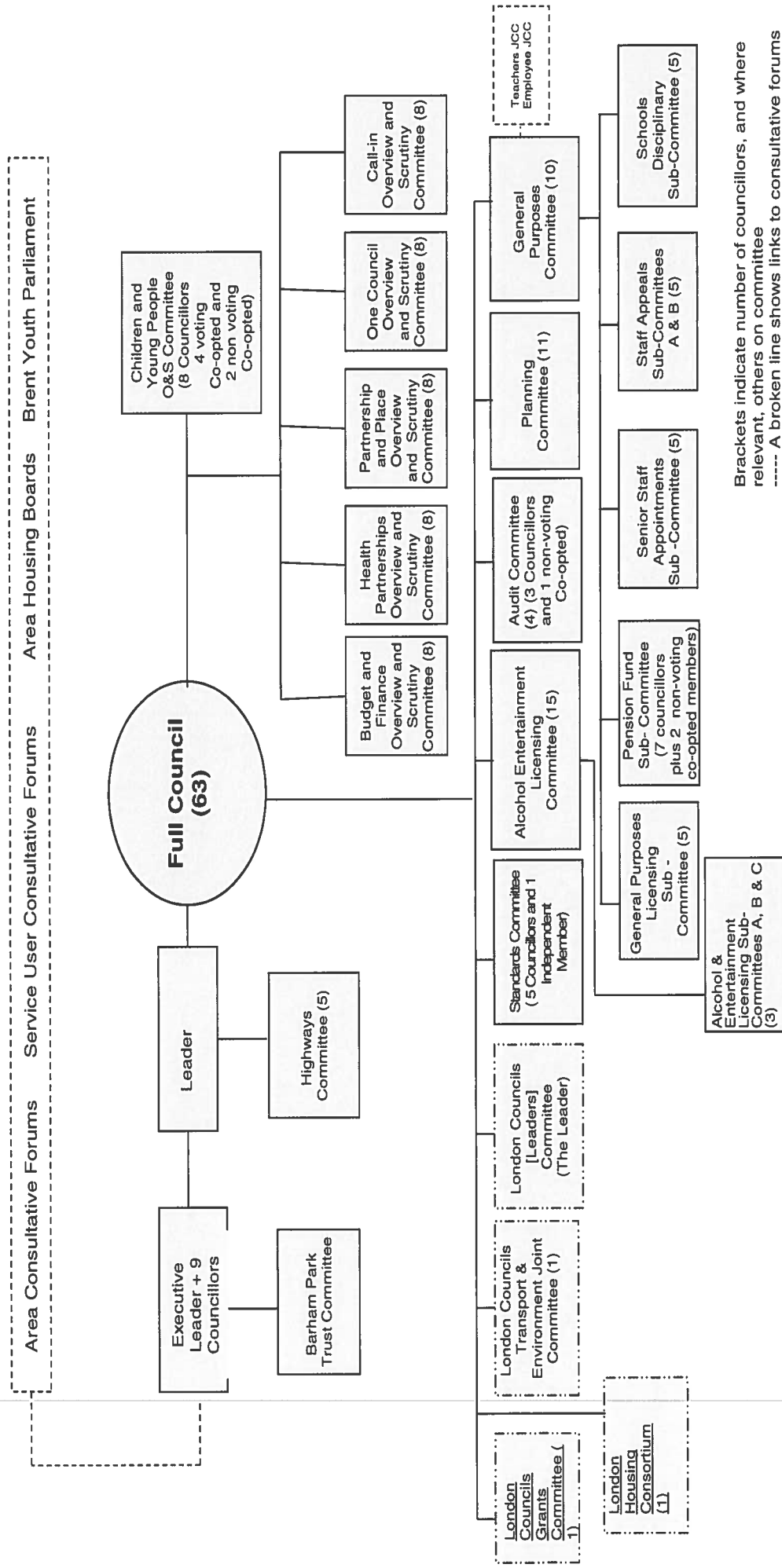
Major Projects; Environment and Neighbourhood Services; Finance and Corporate Services; ; Legal and Procurement; Customer and Community Engagement; Strategy, Partnerships and Improvement; Children and Families

- **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



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):

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

High Value Contract	Any contract that exceeds the values stated for Medium Value Contracts (under which different thresholds apply for services / supplies and construction / works).
Low Value Contract	<p>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).</p> <p>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.</p>
Medium Value Contract	<p>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.</p> <p>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.</p>
Member	An elected member of Brent Council.
Monitoring Officer	The Director of Legal and Procurement.
Official Order	An order for services, supplies or works to the Council issued by an authorised officer using the Council's official order form.
OJEU	The Official Journal of the European Union.
Online Market Place	<u>A web-based facility approved by the Director of Legal</u>

	<u>and Procurement which enables the procurement of specified types of services, supplies or works contracts.</u>
Tender	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.
Tender Acceptance	An acceptance in writing of a Tender.
Very Low Value Contract	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, a 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 corporate 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.

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- (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.

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- (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;

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- (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.

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- (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 Strategy and Risk Management Unit 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.