

## SUMMARY

### 1. The Council's Constitution

Brent Council has agreed a new Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that decision making is efficient, transparent and accountable to local people. Some of the procedures are required by law, while others are a matter for the Council. The Constitution is divided into 8 Parts. These contain the Articles of the Constitution, the Standing Orders and other rules, codes, protocols and the Members Allowances Scheme. In particular, Parts 3 and 4 set out the rules governing the conduct of the Council's business and which part of the Council is responsible for various functions.

### 2. The Articles

Article 1 of the Constitution commits the Council to providing clear leadership to the community and supporting the active involvement of citizens in the process of local democracy. It also commits the Council to help councillors represent their constituents more effectively, enable decisions to be taken transparently, efficiently and effectively; and to provide a means of improving the delivery of services to the community. Articles 2 – 15 explain the relationship between citizens and the Council; and the rules governing the Council's business. The full list of Articles is:

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

### 3. The Full Council

The Council is comprised of 63 councillors who are elected every four years. Councillors are democratically accountable to the residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them. Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee is responsible for ensuring training is provided to members and advising councillors on, and overseeing their compliance with, the Code of Conduct. Councillors meet together at meetings of Full Council where they decide the Council's overall policies and set the budget each year. The Council also has an important role in appointing the Leader of the Council and holding to

- 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 sub-committees or 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;
- attend meetings of the Executive or its committees when Key Decisions are being made, or discussed with officers present, except where exempt or confidential information is being discussed;
- see reports and background papers, and any record of decisions made by the Council and the Executive;
- complain to the Council about its service provision;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Standards Committee if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

## 12. Rules of Procedure

The Council has adopted rules of procedure called Standing Orders which give effect to the general principles set out in the Articles and govern the conduct of Council business. These are set out in Part 3 of this Constitution. The Standing Orders cover the rules of debate and procedure for the conduct of meetings of Full Council and its various committees. There are also provisions relating to the Leader, the Executive, the Overview and Scrutiny Committees and their sub-committees, the Standards Committee and its sub-committees and the Audit Committee. There are separate Standing Orders relating to Staff and Contracts.

The Council has also adopted Financial Regulations which govern financial management and control within the Council. These are contained in Part 6 of this Constitution.

## 13. Responsibility for Functions

The functions of the Council are generally divided between Full Council and its committees and the Leader and the Executive and its committees. This is either as a matter of law or where there is a choice, as set out in this Constitution. Officers may also carry out certain functions of the Council under powers delegated to them by Full Council or the Leader, or the Executive. Part 4 of this Constitution sets out in detail the division of functions between the Leader, the Executive and the Council and the scheme of delegation to officers and committees and sub-committees.

## 14. Access to Council Meetings and Documents

## DEFINITIONS OF TERMS USED IN THE CONSTITUTION

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: Finance and Corporate Resources; Business Transformation, Communications and Diversity; Policy and Regeneration; Legal and Democratic Services.
- **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 elected to the Executive by Full Council 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 15.14 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.

made by the Borough Solicitor shall come into effect on the date specified by him or her but (other than in the case of minor variations) such variations shall be referred to Full Council for approval within a reasonable period and shall continue to have effect only if Full Council so agree.

- (b)(c) Amendments to the Constitution made necessary by the Leader changing executive arrangements or the arrangements for the discharge of executive functions shall be made by the Borough Solicitor upon the Leader having followed the notification and reporting processes set out in Article 7.

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#### 1.11 Suspension of Standing Orders

The Standing Orders may only be suspended or waived by Full Council and only where permitted by law to be so suspended or waived. Such suspensions shall apply only to that meeting or item of business as the case may be.

#### Change from a Leader and Cabinet form of Executive to another form of Executive or alternative arrangements:

- 1.12 The Council must take reasonable steps to consult with local electors and other interested persons in the Borough when drawing up proposals to change from a Leader and Cabinet form of Executive to any other form of Executive or to alternative arrangements. A referendum will be held if there is a proposal to move to an elected Mayor form of executive arrangements.

#### Publication

- 1.13 The Democratic Services Manager will:

- (a) give a printed copy of this Part 7 of the Constitution to each councillor of the authority as soon as reasonably possible after delivery to him or her of that councillor's declaration of acceptance of office and inform each Councillor about how to inspect, or obtain, a copy of the Constitution;
- (b) ensure that copies of this Constitution are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee; and
- (c) ensure that the summary of this Constitution is made widely available within the area and is updated as necessary.

#### Responsibility for Functions

- 1.14 Part 4 sets out the allocation of functions between the Council and the Executive and their respective committees and sub-committees. It also describes the delegations of powers to officers and other bodies.

## Article 2 – Members of The Council

### Composition and Eligibility

- 2.1 **Composition:** The Council comprises 63 members, otherwise called councillors. Three councillors are elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission for England and approved by the Secretary of State.
- 2.2 **Eligibility:** Only registered voters of the Borough or those living or working in the Borough will be eligible to hold the office of councillor. There are other restrictions on who can hold office as a councillor including having attained the age of 18 at the date of nomination, citizenship and absence of any other disqualification.

### Election and Term of Office of Councillors

- 2.3 The regular election of councillors will be held on the first Thursday in May every four years beginning in 2002. The term of office of councillors will start on the fourth day after being elected and will finish at the end of the third day after the date of the next regular election. The Leader remains in office until the day of the Annual Meeting after the next ordinary election.

### Roles and Functions of all Councillors

- 2.4 All councillors will:
- collectively be the ultimate policy-makers;
  - represent their communities and bring their views into the Council's decision-making process;
  - be involved in decision-making;
  - be available to represent the Council on other bodies;
  - maintain the highest standards of conduct and ethics;
  - contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
  - effectively represent the interests of their ward and of individual constituents; and
  - respond to constituents' enquiries and representations, fairly and impartially.

### Rights and Duties

- 2.5 (a) Councillors have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (b) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to any other person unless lawfully required to do so.
- (c) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules.

## Article 4 – Full Council

### Introduction

Full Council will agree the Policy Framework and the Budget. Full Council is also required to determine certain other matters which, by law or this Constitution may only be determined by Full Council.

### The Budget

- 4.1 The Council's budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base, the council tax, a plan or strategy for the control of the Council's borrowing, investments, and/or capital expenditure and any virement limits.

### Functions of the Full Council

- 4.2 There are certain functions that by law, or where there is a choice, by this Constitution, can only be exercised by the Full Council. A full list of these functions is contained in Table 6, of Part 4 of this Constitution. The functions which can only be exercised by Full Council include:
- (a) agreeing a resolution to operate executive arrangements;
  - (b) approving or adopting the Policy Framework and the Budget;
  - (c) agreeing any application to the Secretary of State in respect of any Housing Land Transfer;
  - (d) appointing and dismissing the Leader and ~~other members of the Executive;~~
  - (e) agreeing and/or amending the terms of reference for committees of the Council and making appointments to them; and
  - (f) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills.

### Housing Land Transfers

- 4.3 Housing Land Transfer means a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or a disposal of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

### Council Meetings

- 4.4 There are three types of Council meeting:
- (a) the annual meeting;
  - (b) ordinary meetings; and
  - (c) extraordinary meetings

More information about these meetings and the way they are conducted is set out in the Standing Orders.

## Article 7 – The Executive

### Role

- 7.1 The Executive is responsible for implementing the Council's policies. It is precluded from carrying out certain functions but is responsible for most day to day decisions not taken by officers.

### Form and composition

- 7.2 The Executive will consist of the Leader, with such other number of councillors (being not less than 2 or more than 9) as the Leader may appoint. The Leader has agreed to appoint nine members to the Executive. The members of the Executive are appointed by Full Council and consist of the Leader together with nine councillors, who may not be the Mayor or Deputy Mayor.

### The Leader

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

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

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

### Other Executive Members

- 7.8 The Leader agrees to appoint nine members to the Executive.
- 7.9 The Mayor and Deputy Mayor cannot be appointed to the Executive.

7.10 An Executive member shall hold office until

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

### **Portfolios of Executive Members**

7.11 Portfolio responsibilities of the Executive members are determined by the Leader. These portfolios provide the members of the Executive with responsibility for setting the direction and being accountable for the operation of the services or functions comprised within their respective portfolios . The Leader agrees to provide details of the portfolios allocated to the Executive members to the Democratic Services Manager.

### **The Deputy Leader**

7.12 The Leader shall appoint one of the members of the Executive to be Deputy Leader

7.13 The Deputy Leader shall hold office until the end of the term of office of the Leader unless

- (a) he/she resigns as Deputy Leader, or
- (b) he/she is suspended from being from being a councillor under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension) or they are disqualified from being a councillor; or
- (c) the Leader removes the Deputy Leader from office
- (d) he/she ceases to be a member of the authority,
- (e) until the Annual Meeting following his/her appointment as Deputy Leader

7.14 Where a vacancy occurs in the office of Deputy Leader the Leader must appoint another person in his/her place.

7.15 If for any reason the Leader is unable to act or the office of Leader is vacant as in paragraph 7.6, the Deputy Leader must act in his place.

### **Appointments by the Leader**

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

### **Other Vacancies in the Executive**

7.17 If the Leader is unable to act, or the office is vacant, and also the Deputy Leader is unable to act, or the office is vacant, all responsibilities of the Executive shall be carried out by the Executive collectively, subject to the the power vested in the Chief Executive at Part 4 paragraph 2.3 to carry out all functions in cases of extreme urgency.



- 7.18 If at any time an Executive 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 .

### **Term of Office**

- 7.3 ~~The members of the Executive, including the Leader, will hold office until:~~
- ~~(a) they resign from the office; or~~
  - ~~(b) they are suspended from being a councillor under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension) or they are disqualified from being a councillor; or~~
  - ~~(c) they are no longer a councillor; or~~
  - ~~(d) they are removed from office, either individually or collectively, by resolution of the Council; or~~
  - ~~(e) the Annual Meeting (or the Meeting of Full Council which follows the Annual Meeting at which the Executive is re-appointed), when they will stand down but be able to stand for re-election; or~~
  - ~~(f) in the case of Executive members other than the Leader, they are suspended from office by the Leader (prior to Full Council considering permanently removing that Councillor from the Executive and appointing a replacement) who must give written notice of any suspension to the Borough Solicitor. The suspension will take effect immediately and removal or reinstatement will take effect immediately following the decision of Full Council.~~

### **Proceedings of the Executive**

- 7.214 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**

- 7.522 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.

#### **Decisions by Individual Executive Members**

~~7.6 Under the Council's current executive arrangements,~~

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, individual Executive members will not make decisions alone, 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 Executive Leader~~ has established a Highways Committee to which the ~~Leader~~ 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.

## Article 12 – Joint Arrangements

### Arrangements to promote well being

- 12.1 The Council, in order to promote the economic, social or environmental well being of its area, may:
- (a) enter into arrangements or agreements with any person or body;
  - (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
  - (c) exercise on behalf of that person or body any functions of that person or body.

### Joint arrangements

- 12.2 (a) The Council and/or the Executive—Leader may establish joint arrangements with one or more local authorities and/or their Executives to carry out any of their functions. The Leader has agreed to delegate his/her executive functions in this regard to the Executive.
- (b) Any such joint arrangements may involve the appointment of joint committees with the other local authorities and/or their Executives.
- (c) Except as set out in (d) below, where all the functions of a joint committee are executive functions, the Executive may only appoint Executive members to that joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Executive may only appoint members to a joint committee from outside the Executive if the joint committee will be exercising executive functions for only part of the area of the authority, and that area is smaller than two-fifths of the total area of the authority or the population of that area is less than two-fifths of the total population of the authority. In such cases, the Executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area.
- (b) The political balance requirements do not apply to such appointments.

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### Current Joint Committees

- 12.3 The Council is a member of the following joint committees:
- London Councils Committee
  - London Councils Transport and Environment Committee
  - London Councils Grants Committee
  - Joint Overview and Scrutiny Committee
- 12.4 The terms of reference for these Joint Committees and the details of the memberships are set out in Part 5 of this Constitution.

**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 and Executive Functions**

(a) ~~The Executive shall be appointed by Full Council at the Annual Meeting or the first meeting of Full Council after the Annual Meeting and subsequently as and when a vacancy arises and shall comprise the Leader of the Executive and nine other members\* who may not be the Mayor or Deputy Mayor.~~

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(b) ~~The Leader shall determine which portfolios will be held by the members of the Executive and may change those portfolios at any time.~~

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

**13. Vote of No Confidence**

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(b) 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.

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**13. Executive Functions**

(e) ~~An Executive member may resign from the Executive at any time.~~

(d) ~~The Leader may suspend any member of the Executive but such suspension may not last longer than six weeks except with the approval of the Full Council or until the next meeting of Full Council if longer than six weeks.~~

(e) ~~Subject to (c) and (d) above and to Standing Order 20 (Vote of No Confidence) members of the Executive shall remain members of the Executive until a new Executive is appointed under paragraph (a) above unless they are re-appointed to the Executive at that meeting.~~

(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.

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(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.

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(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.

(a) ~~The Executive shall carry out the functions specified in these Standing Orders and in Part 4 of the Constitution and subject to the limitations and exceptions specified therein.~~

~~(b) The Leader may delegate powers to the Executive members but should not do so until appropriate rules (as determined by the Borough Solicitor) have been established for the exercise of those powers by individual members.~~

~~(f) The Leader may delegate powers to committees of the Executive and officers and has delegated powers to the Highways Committee of the Executive and to officers, as described in Part 4 of the Constitution.~~

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### 13. 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) and any other matter which the Leader considers should be included in the Forward Plan.

(b) Except as provided for in Standing Order 14 all decisions to be taken by the Executive must be included in the Forward Plan in accordance with the Access to Information Rules.

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

(a) If the Executive 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;

(ii) the Democratic Services Manager has informed the Chair of the 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 Overview and Scrutiny available to the public at the offices of the Council; and

(iv) at least 5 clear days have elapsed since the notice was given to the Chair of the Overview and Scrutiny Committee or, where that is not reasonably possible, the Chair of the 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.

(b) The Leader shall report to the next meeting of Full Council any Key Decisions taken under this Standing Order.

### 15. 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 sub-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.*
  - (g) Minutes of the meeting shall be taken by an officer, such minutes to reflect the requirements contained in the Access to Information Rules for a record of Key Decisions (and certain other decisions) to be maintained.
  - (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 sent to every member of the Council within 48 hours of the meeting at which the decisions were made.
- 16. 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 ~~any~~ its committee(s) 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

- (b) Any request to refer such a decision to Full Council, in accordance with paragraph (a) above, shall be made in writing, together with the reasons for the referral, to the Democratic Services Manager within 5 days of the date on which the Forward Plan Select Committee (or in the case of an education matter the Children and Families Overview and Scrutiny Committee) met in accordance with Standing Order 18(a) or the date on which the decision maker reconsidered their decision in accordance with Standing Order 18(e) if later. The Democratic Services Manager shall forthwith copy the request and the reasons to the Leader.
- (c) The Leader shall include in his or her report to Full Council any comments of the Executive on the referral and the reasons given therefore.
- (d) Full Council may make such recommendations to the Executive as it sees fit and the Executive shall, if the recommendations relate to a function which is properly exercisable by the Executive, take into account but shall not be obliged to accept those recommendations.

#### 20. **Vote of No Confidence in the Executive**

~~The Leader and/or any or all of the Executive Members may be removed from the Executive following a vote of no confidence in them. A motion in respect of the vote of no confidence shall be debated by Full Council if at least 10 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 non Executive members of the Council and proposes an alternative Leader and/or Executive Member(s).~~

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[Paragraph numbers 21 – 22 not used]

**33. Community Champion Awards**

The outgoing Mayor shall, at the Annual Meeting of Full Council and prior to any business being transacted, present the Community Champion awards and may invite persons on to the floor of the chamber to collect such awards. During the presentation of the awards only the Mayor and persons invited by the Mayor to do so may speak and for no longer than the period permitted by the Mayor.

**34\*. Council Tax Setting**

- (a) *A Meeting of Full Council shall be held each year on a day not later than 10th March or such later date as may be allowed by statute to set the level of Council Tax for the following Council Tax year and to deal with associated budgetary matters.*
- (a) The Leader shall present a report to the meeting setting out the Executive's proposals for the budget
- (b) Following presentation of the report by the Leader, the Chair of the Budget Panel shall be allowed up to 10 minutes to present the findings of the panel following which there shall be a general debate and a vote taken.

**35. The Constitution and Appointments**

*\*Unless the following business has already been transacted at the Annual Meeting a Meeting of Full Council shall be held each year as soon as reasonably practicable after the Annual Meeting to consider the following:-*

**(a) Agree the Constitution:**

To agree any changes to the Constitution.

**(b) Political Balance:**

To review and determine under Section 15 of the Local Government and Housing Act 1989 or any re-enactment or modification thereof the allocation of seats on Council committees and other relevant bodies.

**(c) ~~The Executive:~~**

~~————— To appoint the Leader of the Executive and another nine members to be members of the Executive.~~

**(ed) Appointments to committees and other bodies:**

To appoint to the membership of Council committees and joint committees and other relevant bodies, forums and panels; to appoint the Chairs and Vice Chairs of the Council Committees, forums and panels (other than the Budget Panel which is a sub-committee of the Overview & Scrutiny Committee) and to agree the alternates for members.

**(ed) Meetings of Full Council:**

Where possible to agree the days, hour and venue for meetings of Full Council in the forthcoming municipal year.

**(fe) Other meetings:**



## RESPONSIBILITY FOR FUNCTIONS

### 1. General

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

- Full Council
- The Leader (although for the time being the Leader will not exercise executive functions alone)
- The Executive
- Individual members of the Executive (although for the time being individual members will not be exercising functions)
- Committees and sub committees of the Council or the Executive
- Joint committees
- Officers
- Other persons so authorised where the law permits

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

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1.3 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 give effect to section 13 of the Local Government Act 2000 by specifying which functions are not to be the responsibility of the Executive, which functions may (but need not) be the responsibility of the Executive ('Local Choice Functions') and which functions are to some extent the responsibility of the Executive. All other functions not so specified are to be the responsibility of the Executive. These Regulations have been amended from time to time and those amendments are reflected in this Constitution.

1.4 This Part of the Constitution and the Tables set out below describe whether the various functions of the Authority are 'Council functions' or 'Executive functions' and whether, in either case, those functions have been delegated by the Council in the case of Council functions, or the Leader in the case of executive functions, to a committee, sub-committee, joint committee, officer or other person or body

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1.7 Table 1 sets out the functions, listed in Schedule 1 to the Regulations (as amended), which cannot be the responsibility of the Executive and specifies which part of the Authority will be responsible for them. It also specifies to whom, if anyone, those functions have been delegated. For instance, in the case of development control, all functions are delegated to the Director of Environment and Culture and/or the Head of Planning except those which are specified as being the responsibility of the Planning Committee.

1.8 Similarly, Table 2 sets out the Local Choice Functions which may or may not be the responsibility of the Executive and specifies which part of the Authority will be responsible for them. It also specifies to whom, if anyone, those functions have been delegated by the Council in the case of Council functions, or the Leader in the case of Executive functions. For instance, functions under local Acts of Parliament are included here and so may lawfully be exercised either by the Council or Executive. Table 2 specifies whether, in Brent, they will be exercised by the Executive or the Council. Executive or Council functions.

## RESPONSIBILITY FOR FUNCTIONS

- 1.9 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.
- 1.10 Table 4 sets out the functions to be exercised by the Highways Committee which is a committee of the Executive appointed by the Leader.
- 1.11 Part 5 of the Constitution describes the membership and terms of reference for the Council committees and sub-committees. These are:-
- Standards Committee
  - Standards (Initial Assessment) Sub-Committee
  - Standards(Review) Sub-Committee
  - Audit Committee
  - Overview and Scrutiny Committee
  - Children and Families Overview and Scrutiny Committee
  - Forward Plan Select Committee
  - Performance and Finance Select Committee
  - Health Select Committee
  - Budget Panel
  - 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
- 1.12 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'.
- 1.13 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).
- 1.14 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.



RESPONSIBILITY FOR FUNCTIONS

Chief legal officer; monitoring officer; sealing of deeds; issuing, defending, settling legal proceedings; entering contracts, agreements, deeds and other transactions; standards and probity; issuing notices and orders; certification of documents, electoral services, committee services, member services, legal services, qualified person for section 36 Freedom of Information Act 2000 determinations, nationality service, registrar of births, deaths and marriages.

2.5 In addition to those powers specified in the Tables and elsewhere in this Constitution, the officers specified above have delegated to them by the Council or the Leader, or Executive (as the case may be) all and any of the powers of the Council and the Executive as may be necessary or desirable to enable them to effectively manage and operate their service area or unit or to carry out the roles and responsibilities required of them from time to time (not necessarily restricted to those roles and responsibilities specified above). These powers are subject to the exemptions, restrictions and limitations specified in paragraph 3 below or elsewhere in this Constitution. These powers include (but are not limited to) the powers set out in the following table which are also, subject to any exemption, restriction or limitation specified in respect of them in that table:-

Power	Exception, restriction or limitation
1. to exercise all functions that may from time to time fall within the scope of their professional and operational responsibility.	
2. to manage, within the approved cash limits, the budget allocated to the functions for which the officer has responsibility and to make virements or transfers as necessary.	<p>(a) no action may be taken which would result in growth, which cannot be contained in future years budgets or which would affect a budget which is not under the officer's direct control.</p> <p>(b) no virements or transfers may be made other than in accordance with the Scheme of Transfers and Virements agreed by Full Council.</p> <p>(c) no internal trading arrangements shall be established without the approval of the Director of Finance and Corporate Resources.</p>
3(a) to invite expressions of interest, agree shortlists, invite tenders, negotiate, award, enter into and terminate contracts, agreements, deeds or other transactions; to purchase supplies and services; to appoint external consultants; to	<p>Provided that:</p> <p>(a) In the case of a contract, agreement, deed or transaction where the Council would be in receipt of works, services or supplies (other than the supply of</p>

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RESPONSIBILITY FOR FUNCTIONS

4.9 For the avoidance of doubt the rules in this paragraph 4 do not apply to the adoption of highways and footways if there is no legal transfer of title to land.

**5. Decisions by individual Members**

At the present time no members (including the Leader and members of the Executive) have authority to make any individual decisions.

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

6.1 Legislation provides that some Council functions/decisions can only be exercised or made by the Full Council, that is all the members or a specified number or percentage of them meeting together.

6.2 Table 6 sets out a list of functions which may only by law be undertaken by Full Council.

TABLE 2

**FUNCTIONS WHERE THE COUNCIL HAS A CHOICE OF EXERCISING THEM THROUGH EITHER THE EXECUTIVE OR THE COUNCIL AS TO WHETHER THEY ARE COUNCIL OR EXECUTIVE FUNCTIONS AND THE PERSON OR BODY TO WHOM, IF ANY, THE FUNCTION HAS BEEN DELEGATED BY THE COUNCIL OR THE LEADER (INTHE CASE OF EXECUTIVE FUNCTIONS)**

(1) Function	(2) Executive or Council Function	(3) Delegated to
1. Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1.	If the function is a function, which is of a similar type, class or nature to the other functions of the Executive, the function will be exercised by the Executive <del>an executive</del> function. Otherwise the function will be exercised by the Council.	The officer responsible for those types of functions, as set out in Parts 4 or 5 of the Constitution or if none then, in the case of a Council function, the committee or sub-committee responsible for those types of functions.
2. The determination of an appeal against any decision made by or on behalf of the authority.	Council	The relevant Chief Officer within whose Service Area or Corporate Unit the subject matter of the appeal falls or if the matter may not be determined by officers the General Purpose Committee or the Licensing Sub-Committee if the matter falls within its terms of reference.
3. The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools	Executive	Director of Children and Families
4. The making of arrangements pursuant to section 94(1), (1A) and (4) of the 1998 Act (admissions appeals)	Executive	Director of Children and Families
5. The making of arrangements pursuant to section 95(2) of the 1998 Act (children to whom section 87	Executive	Director of Children and Families

TABLE 4

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

**Membership**

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

**Chair and Vice Chair**

To be elected by the committee.

**Quorum**

3 Executive members.

**Terms of Reference**

The Leader has agreed to delegate the following executive functions to the committee will be responsible for the following functions: -

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

RESPONSIBILITY FOR FUNCTIONS

7	Adopting or amending a members allowances scheme.	Section 18 of the Local Government and Housing Act 1989.  Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.
8	Electing and dismissing the Leader <i>and appointing and dismissing other members of the Executive*</i> .	Sections 44A & C-44 of the Local Government Act 2000.
9	Adoption of the Members' Code of Conduct .	Section 51 of the Local Government Act 2000.
10	Approval of the appointment or dismissal of the Chief Executive.	The Local Authorities (Standing Orders) (England) Regulations 2001.
11	Adoption of the Policy Framework and the Budget.	The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.
12	Changing the name of the borough.	Section 74 of the Local Government Act 1972.
13	Appointment of the Mayor.	Schedule 4 to the Local Government Act 1972.
14	Power to confer title of honorary alderman or to admit to be an honorary freeman.	Section 249 of the Local Government Act 1972.
15	The making, altering or revoking of standing orders except as provided for in Article 1 of this Constitution.	Sections 29, 106 and Schedule 12 of the Local Government Act 1972.  Sections 8 and 20 Local Government and Housing Act 1989.
16	Power to make, amend, revoke or re-enact byelaws.	Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978.
17	Power to promote or oppose local or personal Bills.	Section 239 of the Local Government Act 1972.
18	The making of an agreement to establish a joint planning committee or to prepare a joint development plan document or to request the Secretary of State to revoke an order establishing such a joint committee	Sections 28 to 31 of the Planning and Compulsory Purchase Act 2004  The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.



# **PART 9**

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

### **Decisions of the Leader**

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

### Introduction

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

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

### Statement of the Leader

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

Signed  
Dated

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. ~~The management structure of the Council's officers and the responsibilities of the various departments are shown in the Management Structure Chart and A Table of Service Area Functions which are also included in this Part 1.~~

## 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;

made by the Borough Solicitor shall come into effect on the date specified by him or her but (other than in the case of minor variations) such variations shall be referred to Full Council for approval within a reasonable period and shall continue to have effect only if Full Council so agree.

- (b)(c) Amendments to the Constitution made necessary by the Leader changing executive arrangements or the arrangements for the discharge of executive functions shall be made by the Borough Solicitor upon the Leader having followed the notification and reporting processes set out in Article 7.

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#### 1.11 Suspension of Standing Orders

The Standing Orders may only be suspended or waived by Full Council and only where permitted by law to be so suspended or waived. Such suspensions shall apply only to that meeting or item of business as the case may be.

#### Change from a Leader and Cabinet form of Executive to another form of Executive or alternative arrangements:

- 1.12 The Council must take reasonable steps to consult with local electors and other interested persons in the Borough when drawing up proposals to change from a Leader and Cabinet form of Executive to any other form of Executive or to alternative arrangements. A referendum will be held if there is a proposal to move to an elected Mayor form of executive arrangements.

#### Publication

- 1.13 The Democratic Services Manager will:

- (a) give a printed copy of this Part 7 of the Constitution to each councillor of the authority as soon as reasonably possible after delivery to him or her of that councillor's declaration of acceptance of office and inform each Councillor about how to inspect, or obtain, a copy of the Constitution;
- (b) ensure that copies of this Constitution are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee; and
- (c) ensure that the summary of this Constitution is made widely available within the area and is updated as necessary.

#### Responsibility for Functions

- 1.14 Part 4 sets out the allocation of functions between the Council and the Executive and their respective committees and sub-committees. It also describes the delegations of powers to officers and other bodies.

## Article 9 – The Standards Committee & its Sub-Committees

### Standards Committee

- 9.1 The Council has established a Standards Committee.
- 9.2 The Council has also established two sub-committees of the Standards Committee:
- The Standards (Initial Assessment) Sub-Committee; and
  - The Standards (Review) Sub-Committee.

### Membership

- 9.3 The members of the Standards Committee are:
- three councillors (but not more than 1 member of the Executive), other than the Leader; and
  - a minimum of two independent members as defined in the Standards Committee (England) Regulations 2008 .
- 9.4 The members of the sub-committees must be members of the Standards Committee and each sub-committee shall consist of:
- three councillors (but not more than 1 member of the Executive); and
  - one Independent Member.
- 9.5 Independent Members will be entitled to vote at meetings of the Standards Committee and at meetings of the sub-committees.

### Chairing the Committee & Sub-Committees

- 9.6 An Independent Member will be elected as Chair of the Committee. A member of the Executive may not chair the Committee.
- 9.7 An Independent Member will be appointed to chair each sub-committee.

### Quorum

- 9.8 The quorum for the Committee and the sub-committees is 3 and this must include two members and an Independent Member ~~unless they have withdrawn from the meeting due to a prejudicial interest and at least one elected member.~~

### Role and Function

- 9.9 In summary, the function of the Standards Committee and it's sub-committees is to promote and maintain high standards of conduct by councillors and co-opted members and hear allegations of misconduct against members.

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The Chief Finance Officer will provide financial information to the media, members of the public and the community.

**Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

13.8 The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

**Conduct**

13.9 Officers will comply with the Officers' Code of Conduct ~~once it comes into force or is adopted by the Council~~ and the Protocol on Officer/Member Relations set out in the Constitution.

## BRENT COUNCIL STANDING ORDERS

*All or part of those Standing Orders written in italics and marked with an asterisk cannot be suspended, or waived or may only be suspended or waived in limited ways. The intention is to give members guidance as to when to seek legal advice before moving suspension or waiver. This only applies to meetings of Full Council, as neither committees nor sub-committees or the Executive are permitted to suspend or waive Standing Orders.*

### GENERAL

**1\*. Constitution to be given to members**

*A copy of the Constitution shall be made ~~is~~ available to every member of the Council on the Council's intranet and a copy shall be made available by the Democratic Services Manager upon request delivery of the member's declaration of acceptance of office.*

**2. Suspension of Standing Orders**

*These Standing Orders may only be suspended or waived by Full Council and only where permitted by law to be so suspended or waived.*

**3. Variation and Revocation of Standing Orders**

These Standing Orders may only be varied or revoked at a meeting of Full Council or in accordance with Article 1 of Part 2 of the Constitution.

**4. Mayor's Rulings Under Standing Orders**

- (a) The Mayor shall decide on the construction, interpretation or application of these Standing Orders in relation to the proceedings at a meeting of Full Council.
- (b) The decision of the Mayor under this Standing Order or under any other power contained in these Standing Orders when notified to the Council shall take effect forthwith unless two members of the Council indicate dissent by rising in their places in which case the Mayor's decision shall be treated as a proposal to be effective only if confirmed by the Council on a vote and the Mayor's proposal shall be put to the vote at once without any discussion.

**5. Notice to be given**

Any notice or request required to be given under these Standing Orders is required to be given in writing and be received by the person or body specified by 12 noon on the day in question unless otherwise specified.

**6. Form of Notice**

- (a) Subject to paragraph (b) below, any notice or request or motion required to be signed by members shall be submitted to the Democratic Services Manager and shall be signed by the required number of such members at the offices of the Democratic Services Manager. The Democratic Services Manager shall have

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RESPONSIBILITY FOR FUNCTIONS

<p><b>H. Functions relating to pensions etc.</b></p>		<p><b>All of the functions listed in this section will be exercised by the Director of Finance and Corporate Resources except those functions which fall within the terms of reference of the General Purposes Committee or the Pension Fund Sub-Committee and the determination of "stage 2" applications under Regulation 102 of the Local Government Pension Scheme Regulations 1997 on behalf of the Council as Administering Authority and as employer in the case of discretionary matters covered by the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2000 and earlier equivalent Regulations. These functions shall be exercised by the Assistant Director, Human Resources. <u>In the absence of the Assistant Director Human Resources, or in the event a conflict arises, these functions shall be exercised by the Director of Finance and Corporate Resources</u></b></p>
<p><b>1. Functions relating to local government pensions, etc.</b></p>	<p>Regulations under section 7, 12 or 24 of the Superannuation Act 1972.</p>	
<p><b>2. Functions under the Fireman's Pension Scheme relating to pensions, etc. as respects persons employed by fire and rescue authorities pursuant to section 1 of the Fire and Rescue Services Act 2004.</b></p>	<p>Section 34 and 36 of the Fire and Rescue Services Act 2004.</p>	<p>N/A</p>



## STANDARDS COMMITTEE

### Membership

- The committee is comprised of 5 members.
- 3 members are elected councillors (one from each of the three largest political groups) and 2 are Independent Members, as defined in Section 53 of the Local Government Act 2000 and the Standards Committee (England) Regulations 2008.
- The Leader shall not be a member of the committee.
- No more than 1 member of the Executive may be a member of the committee.

### Terms of reference

The committee is responsible for the following functions:-

1. To promote and maintain high standards of conduct by members including any co-opted members.
2. To assist members and co-opted members to observe the Brent Members' Code of Conduct, the Planning Code of Practice, the Licensing Code of Practice and any other code of conduct or practice which is adopted ("the Codes").
3. To monitor the operation, effectiveness of and compliance with the Codes and to recommend adoption or revisions of the Codes to the Council.
4. To advise members and co-opted members on matters relating to the Codes and on any other matters related to their conduct and treatment of their personal interests.
5. To provide or arrange training for members and co-opted members on matters relating to the Codes.
6. To receive reports from the Monitoring Officer.
7. In accordance with the ~~Relevant Authorities (Standards Committee) (Dispensation) Regulations 2002~~ Standards Committee (Further Provisions) (England) Regulations 2009, to grant dispensations to councillors and co-opted members, in respect of participation in any business which they would otherwise be prohibited from participating in by virtue of any provision in the Brent Members Code of Conduct.
8. To consider applications for political exemption made under section 3 of the Local Government and Housing Act 1989.
9. To appoint sub-committees for the purpose of discharging any of the committee's functions, whether or to not to the exclusion of the committee and to set the terms of reference for any sub-committees.

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

10. To receive allegations that a member (including a co-opted member or Independent Member) failed, or may have failed, to comply with the Council's Code of Conduct and then to decide whether:
  - a) To refer the complaint to the Monitoring Officer for investigation or for some other action
  - b) To refer the complaint to the Standards Board for England; or
  - c) To take no further action.
11. To receive applications for a review of a decision by the Standards Committee that no further action should be taken in respect of an allegation that a member (including a co-opted member or Independent Member) failed, or may have failed, to comply with the Council's Code of Conduct and to decide whether:
  - a) To refer the complaint to the Monitoring Officer for investigation or for some other action
  - b) To refer the complaint to the Standards Board for England; or
  - c) To take no further action.
12. To hold hearings into allegations of misconduct against Councillors once they have been investigated and to decide whether in the circumstances
  - a) There was a breach of the Code of Conduct and if so what the appropriate sanction that should be applied is
  - b) There was no breach of the Code of Conduct but that in the circumstances no further action should be taken; or
  - c) That there was no breach of the Code of Conduct.
13. To receive any reports from a case tribunal or interim case tribunal.
14. To carry out all other statutory functions, either through the committee or its sub committees, relating to complaints about members conduct set out in the Local Government Act 2000.

# PLANNING CODE OF PRACTICE

## Purpose of this Code

The Planning Code of Practice has been adopted by Brent Council to regulate the performance of its planning function. Its major objectives are to guide Members and officers of the Council in dealing with planning related matters and to inform potential developers and the public generally of the standards adopted by the Council in the exercise of its planning powers. The Planning Code of Practice is, in addition to the Brent Members Code of Conduct, adopted by the Council under the provisions of the Local Government Act 2000. The purpose of the Code is to provide more detailed guidance on the standards to be applied specifically in relation to planning matters. The Code seeks to ensure that officers and members consider and decide planning matters in an open and transparent manner. The provisions of this code are designed to ensure that planning decisions are taken on proper planning grounds, are applied in a consistent and open manner and that Members of the Planning Committee making such decisions are, and are perceived as being, accountable for those decisions. The Code is also designed to assist members of the Council in dealing with and recording approaches from developers and objectors and is intended to ensure that the integrity of the decision-making process is preserved.

## General

1. Members of the Planning Committee shall determine applications in accordance with the Unitary Development Plan unless material considerations indicate otherwise. The Brent Members Code of Conduct and the law relating to Brent Council members' personal and prejudicial interests must be complied with throughout the decision making process. Decisions should not be influenced by personal or prejudicial interests of Councillors or because of undue pressure exerted by applicants, agents or third parties. This Code sets out further rules applicable to the planning process in Brent.

## Review of Code of Practice

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

## Accountability and Interests

3. Except as provided for in paragraph 87 of this Code members of the Council should not take part in any discussion of, or vote on, any item if they or their relative, friend or associate is the applicant, agent or objector for that matter.
4. Members of the Council who have business or other interests which may bring them into contact with the Council's planning system on a regular basis should not be considered for membership of the Planning Committee.
4. ~~If an approach is made to a member of the Planning Committee from an applicant or agent or other interested party in relation to a particular planning application or any matter which may give rise to a planning application, the member of the Planning Committee shall:~~

- ~~(i) inform the person making such an approach that such matters should be addressed to officers or to members who are not members of the Planning Committee;~~
- ~~(ii) disclose the fact and nature of such an approach at any meeting of the Planning Committee where the planning application or matter in question is considered; and~~
- ~~(iii) record the approach in the register maintained by the Monitoring Officer under paragraph 14 below.~~

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

~~5. Members of the Council who have business or other interests which may bring them into contact with the Council's planning system on a regular basis should not be considered for membership of the Planning Committee.~~

~~65. Members of the Council who are consistently unable to support the Council's planning policies should not be considered by their political group for membership of the Planning Committee.~~

~~76. If the Chair decides to allow a non-member of the Committee to speak, the non-member shall state the reason for wishing to speak. Such a member shall disclose the fact that he/she has been in contact with the applicant, agent or interested party if this be the case.~~

~~87. If a member of the Council has a personal interest in any planning application or other matter before the Planning Committee, then the member shall, if present, declare a personal interest at that meeting unless the interest arises because the member is a member of or is in a position of general control or management in a body to which they were appointed or nominated to by the Council or that exercises functions of a public nature. In which case the member only needs to disclose the personal interest if they address the Planning Committee meeting on that item.~~

~~98. If a member has a personal interest in a matter and if that interest is also a prejudicial interest the member shall withdraw from the room where the meeting is being held and not take part in the discussion save that they may make representations, answer questions or give evidence in respect of the application or matter in question in so far as the public have the right to do so. A member must then withdraw from the room for the rest of that item and play no further part in it.~~

~~109. If a member of the Council has a prejudicial interest in a planning application or other matter before the Committee, he/she shall not exercise his or her discretion to require the application or other matter to be referred from officers to the Planning Committee for consideration and nor shall he/she exercise his/her right to request a site visit.~~

~~140. For the avoidance of doubt, where a member of the Council is a Freemason or a member of a similar secret society and is aware that the applicant, agent or other interested party in relation to a particular planning application is also a Freemason or a member of the same secret society, the member shall treat this as a prejudicial interest for the purposes of paragraph 98 above.~~

~~12. Where under the provisions of the Constitution two members of the Council ask for an application or other matter to be decided by Committee rather than by officers, their request shall state:~~

- ~~(i) the reason(s) why they feel the application or other matter should not be dealt with under delegated powers; and~~
- ~~(ii) whether or not they have been approached by any person concerning the application or other matter and if so, by whom.~~

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

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

13. ~~Save as provided by paragraph 10 above, if any member of the Council wishes to request a site visit prior to a meeting of the Planning Committee at which the application in respect of the request is to be considered, they shall provide the following details at least one week before the date of the meeting at which the application is to be considered and a record shall be kept of those details:~~

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

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

11. The Monitoring Officer shall maintain a register of contact made by applicants, agents or interested parties with individual members of the Council on each and every planning application, in which members of the Planning Committee must record approaches referred to in paragraph 17 and other members of the Council may record such approaches if they so wish.

152. If any officer of the Council who is involved in making recommendations or decisions on planning applications has had any involvement with an applicant, agent or interested party, whether or not in connection with the particular application being determined, which could possibly lead an observer with knowledge of all the relevant facts to suppose that there might be any possibility that the involvement could affect the officer's judgement in any way, then that officer shall declare a prejudicial interest in the public register held by the Director of Environment and Culture and take no part in the decision making process. The declaration of such interest shall also be recorded in the minutes of the meeting. This public register to be available for inspection at Planning Committee meetings.

163. No officer of the Council shall engage in any paid work for any town planning matter for which Brent is the Local Planning Authority other than on behalf of the Council.

174. In relation to all matters not addressed above, all such officers shall comply with the Royal Town Planning Institute Practice Advice Note No.5 relating to Consultancy by Current and Former Employees or any guidance replacing this.

### Call-in

11

Call-in powers

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

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

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

Development proposals submitted by Councillors who sit on the Planning Committee

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

Approaches to members of the Planning Committee

17. If an approach is made to a member of the Planning Committee from an applicant or agent or objector or other interested party in relation to a particular planning application or any matter which may give rise to a planning application, the member of the Planning Committee shall:
- (i) inform the person making such an approach that such matters should be addressed to officers or to members who are not members of the Planning Committee.
  - (ii) disclose the fact and nature of such an approach at any meeting of the Planning Committee where the planning application or matter in question is considered; and
  - (iii) record the approach in the register maintained by the Monitoring Officer under paragraph 11.

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

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

Site Visits

19. Save as provided by paragraph 9 above, if two members of the Council request a site visit prior to a meeting of the Planning Committee at which the application in

respect of the request is to be considered, they shall provide the following details at least two weeks before the date of the meeting at which the application is to be considered and a record shall be kept of those details:

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

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

20. The purpose of a site visit is to gain information relating to the land or buildings which are the subject of the planning application or other matter to be considered by the Planning Committee. A site visit may also assist members of the Planning Committee in matters relating to the context of the application or other matter in relation to the characteristics of the surrounding area. Members attending the site visit should avoid expressing opinions on site visits to any person present.
21. Members of Planning Committee shall not enter any premises which are the subject of a planning application or other matter or known by them to be likely to become such in order to meet the agent, applicant or other interested party, save in the course of a formal accompanied site visit. In exceptional circumstances such as where a member of the Planning Committee is unable to attend the official site visit that has been arranged, a site visit by an individual member may be carried out provided that the member is accompanied by a planning officer.
22. On site visits applicants or other interested parties shall only be permitted to point out to those members of the Planning Committee attending the site visit the features to look at either on the site or in the vicinity, which are relevant to the application or other matter. No discussion will take place on the merits of the application or other matter.
23. Whilst on site visits, members of Planning Committee shall keep together as a group and shall not engage individually in discussion with applicants or objectors.

#### **Site Visits by Members of the Planning Committee with Officers**

- ~~18. The purpose of a site visit is to gain information relating to the land or buildings which are the subject of the planning application or other matter to be considered by the Planning Committee. A site visit may also assist members of the Planning Committee in matters relating to the context of the application or other matter in relation to the characteristics of the surrounding area. Members attending the site visit should avoid expressing opinions on site visits to any person present.~~
- ~~19. Members of Planning Committee shall not enter any premises which are the subject of a planning application or other matter or known by them to be likely to become such in order to meet the agent, applicant or other interested party, save in the course of a formal accompanied site visit. In exceptional circumstances such as where a member of the Planning Committee is unable to attend the official site visit that has been arranged, a site visit by an individual member may be carried out provided that the member is accompanied by a planning officer.~~

- ~~20. On site visits applicants or other interested parties shall only be permitted to point out to those members of the Planning Committee attending the site visit the features to look at either on the site or in the vicinity, which are relevant to the application or other matter. No discussion will take place on the merits of the application or other matter.~~
- ~~21. Whilst on site visits, members of Planning Committee shall keep together as a group and shall not engage individually in discussion with applicants or objectors.~~

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

224. When the membership of the Planning Committee is determined, care shall be taken to ensure that for each Ward there is always at least one Councillor who is not a member of Planning Committee. This is so that there will always be a Councillor who is not a member of the Planning Committee with whom residents will be able to discuss planning matters.
235. Any briefings which may be held prior to the Planning Committee meetings shall be open to all members (and alternates) of the Planning Committee. These briefings can help to speed up decision making by giving officers notice of additional information members of the Planning Committee may require at the meeting.
246. All members of Planning Committee, and in particular the Chair, shall be informed from time to time about the relevant provisions concerning access to information contained in the Local Government Act 1972 and in the event of any dispute between members of the Planning Committee and officers as to the application of the 1985 Act, the advice of the Borough Solicitor or his or her representative shall be obtained forthwith.

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

- ~~257. No material revision to any planning application which might lead to a change in the recommendation of officers shall be considered at Planning Committee unless it has been submitted such reasonable period in advance of the relevant Planning Committee meeting as is agreed by the Head of Planning and has been the subject of a full appraisal by officers and consultation where necessary and that a the minutes shall record the fact that revisions have been made to the application and the reasons for these shall be recorded in the supplementary information. be kept of the number of instances that this provision is used.~~
268. If the Planning Committee wishes to grant planning permission contrary to officers' recommendations the application shall be deferred to the next meeting of the Committee for further consideration. Following a resolution of "minded to grant contrary to the officers' recommendation", the Chair shall put to the meeting for approval a statement of why the officers recommendation for refusal should be overturned, which, when approved, shall then be formally recorded in the minutes. When a planning application has been deferred, following a resolution of "minded to grant contrary to the officers' recommendation", then at the subsequent meeting the responsible officer shall have the opportunity to respond both in a further written report and orally to the reasons formulated by the Committee for granting permission. If the Planning Committee is still of the same view, then it shall again consider its reasons for granting permission, and a summary of the planning reasons for that decision shall be given, which reasons shall then be formally recorded in the minutes of the meeting.
279. When the Planning Committee vote to refuse an application contrary to the recommendation of officers, the Chair shall put to the meeting for approval a



statement of the planning reasons for refusal of the application, which if approved shall be entered into the minutes of that meeting. Where the reason for refusal proposed by the Chair is not approved by the meeting, or where in the Chair's view it is not then possible to formulate planning reasons for refusal, the application shall be deferred for further consideration at the next meeting of the Committee. At the next meeting of the Committee the application shall be accompanied by a further written report from officers, in which the officers shall advise on possible planning reasons for refusal and the evidence that would be available to substantiate those reasons. If the Committee is still of the same view then it shall again consider its reasons for refusing permission which shall be recorded in the minutes of the meeting.

- | 2830. Members of the Planning Committee shall refrain from personal abuse and party political considerations shall play no part in their deliberations. Members of the Planning Committee shall be respectful to the Chair and to each other and to officers and members of the public including applicants, their agents and objectors and shall not bully any person. Members of the Planning Committee should not make up their mind before hearing and considering all relevant information at the meeting and should not declare in advance of the meeting, how they intend to vote on a particular application or other matter.
- | 2931. Members of the Planning Committee should not speak to members of the public (including applicants and agents) during a meeting of the Planning Committee or immediately prior to or after the meeting concerned, other than where permitted by this Code or Standing Orders.
- | 302. When questioning members of the public or the applicant who have spoken at a meeting of the Committee, members of the Planning Committee shall ensure that their questions relate only to planning matters relevant to the particular application.
- | 343. The minutes of the Planning Committee shall record the names of those voting in favour, against or abstaining:
  - (i) on any resolution of "Minded to grant or minded to refuse contrary to Officers Recommendation";
  - (ii) on any approval or refusal of an application referred to a subsequent meeting following such a resolution.
- | 324. A member of the Planning Committee shall not vote in relation to any planning matter unless he or she has been present in the meeting of the Planning Committee throughout the consideration of that particular matter as required by Standing Orders . Any dispute as to whether the member of the Planning Committee in question should be permitted to vote shall be decided by the Chair having taken appropriate advice from legal or other officers present.
- | 335. Unless all members of the Planning Committee indicate that they intend to vote in accordance with the officers' recommendation on a particular item, the responsible officer shall be allowed time, at the beginning of the consideration of each application, to summarise his or her advice. If after discussion it appears that any member of the Planning Committee is minded to vote contrary to the officers' recommendation, the officer shall be allowed a further opportunity to respond to new points which have been raised, and to address the implications of a contrary decision.

**Member and Officer Relations**

- | 346. Any criticism by members of Planning Committee of officers in relation to the handling of any planning matter shall be made in writing to the Director of Environment and Culture and not to the officer concerned. No such criticism shall be raised in public.
  
- | 357. If any officer feels or suspects that pressure is being exerted upon him or her by any member of the Council in relation to any particular planning matter, he or she shall forthwith notify the matter in writing to the Director of Environment and Culture.
  
- | 368. Members of Planning Committee shall not attempt in any way to influence the terms of the officers' report or recommendation upon any planning matter.

<b>Low Value Contract</b>	A contract with an estimated value over the life of the contract (including any period of extension(s) anticipated by the contract) of up to the amount which is the current threshold for services and supplies contracts under the European Procurement Rules (which is currently <u>£139,893,156,442</u> )
<b>Medium Value Contract</b>	In the case of contracts for services or supplies, a contract with an estimated value over the life of the contract (including any period of extension(s) anticipated by the contract) of between the amount which is the relevant threshold for services or supplies contracts under the European Procurement Legislation (which is currently <u>£139,893,156,442</u> ) and £500,000. In the case of a contract for works a contract with an estimated value of between the amount which is the relevant threshold for services or supplies contracts under the European Procurement Rules (which is currently <u>£139,893,156,442</u> ) and £1,000,000.
<b>Member</b>	An elected member of Brent Council.
<b>Monitoring Officer</b>	The Borough Solicitor.
<b>Official Order</b>	An order for services, supplies or works to the Council issued by an authorised officer using the Council's official order form.
<b>OJEU</b>	The Official Journal of the European Union.
<b>Tender</b>	An offer or bid or tender from a party to provide services, supplies or works to the Council including any offer, bid or tender which is subject to negotiation.
<b>Tender Acceptance</b>	An acceptance in writing of a Tender.

### 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;
- (b) employment contracts;
- (c) contracts relating to an interest in land.