

RESPONSIBILITY FOR FUNCTIONS

proper officer' will be a reference to the person so specified in the Table but if none is specified, the Chief Executive or a person nominated by him or her for the purpose will be identified. Any other function not otherwise specified in the Tables or elsewhere in this Constitution is the responsibility of the Cabinet, unless specifically precluded by law from so being, in which case it shall be the responsibility of the General Purposes Committee (unless specifically reserved to Full Council in which case it shall be exercised by Full Council).

- 1.12 All functions shall be exercised in accordance with this Constitution including, for the avoidance of doubt, the Standing Orders and Financial Regulations and this Part 4 and Part 5.
- 1.13 In exercising any function or making any decision, the decision making body or person shall take into account all relevant considerations and ignore all irrelevant considerations and shall comply with the Access to Information Rules.
- 1.14 A number of joint committees have been established with other London Boroughs under the umbrella of the London Councils. The London Councils' Committee and the Transport and Environment Committee exercise executive and non-executive functions. The terms of reference and make up of these committees and the sub-committee are described in Part 5.

2. Powers Delegated to Officers

- 2.1 Those officers named in the Tables or elsewhere in the Constitution have delegated to them the powers specified therein but subject to the limitations specified therein. For the avoidance of doubt, this includes an officer appointed to a named post on an acting interim or temporary basis.
- 2.2 References in this Part 4 to a 'director' or 'relevant director' are references to one or more of the officers specified in paragraph 2.4 below.
- 2.3 The Chief Executive may exercise any functions delegated to other officers and may delegate decisions or functions to one or more officers in any of the Council's departments unless expressly prohibited by law from doing so.
 - 2.3.1 The Chief Executive shall also have the authority to carry out all executive functions in the interim in the event of there being no Leader, or Deputy Leader appointed and insufficient members of the Cabinet appointed to achieve a quorum.
 - 2.3.2 Exceptionally, notwithstanding anything in this Constitution, the Chief Executive shall be authorised to exercise either executive or non-executive functions where the matter is urgent unless this is prohibited by law.
 - 2.3.3 If the Chief Executive acts in the circumstances set out in paragraphs 2.3.1 and 2.3.2 above, the Chief Executive shall notify, as appropriate, the Leader or Deputy Leader of the Council, the Lead Member with portfolio responsibility for the matter to which the decision relates and the Leader of the Principal Opposition Group of any such action.
- 2.4 The Chief Executive, ~~Chief Operating Officer~~ and Strategic Directors listed below shall have responsibility for the following general and related areas:-

(a) **Chief Executive:**

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Head of Paid Service. Managerial leadership of the Council including responsibility for overall corporate management and operational responsibility for all staff. Providing and securing of advice to the Council, and councillors, on strategy and policy. –Acting in an executive capacity by making decisions or ensuring a system is in place for other officers to make decisions, as authorised by the Council. Delivering probity, value for money and continuous improvement. Management of corporate planning, policy, performance, scrutiny, Executive and Member Services (including electoral and Mayoral services), returning officer for the election of councillors, electoral registration officer, committee, member and Mayoral services, Responsibility for strategic commissioning, communications, information governance (including data protection and freedom of information), procurement, partnerships, and performance improvement, complaints and chief executive office support.

(b) **Strategic Director of Resources/Chief Operating Officer:**

Management of policy, performance, scrutiny, partnership, community engagement, communications, complaints, human resources, equalities, business support, legal services, procurement, electoral, committee, member and Mayoral services, Freedom of Information, finance, audit and investigation, IT, digital services (excluding information governance), public health, highways, transport strategy, Brent Transportation Services, transportation, refuse and street cleansing, parking, parks and open spaces, cemeteries, accident prevention, emergency planning and business continuity, waste management and recycling, street lighting, environment, CCTV monitoring, sport and leisure, leisure centres, arts, libraries, museums, and archives, community safety, nationality service, Registrar of Births, Deaths and Marriages, customer services, revenue and benefits, commercial services, property and facilities management.

(c) **Strategic Director Community Wellbeing/Adults:**

Statutory Director of Adult Social Services, public health, community services, direct services and client affairs, adult physical disability, learning disability, mental health services, services to older people, safeguarding adults, emergency duty team, asylum in so far as it is not a housing matter, reablement, safeguarding responsibilities, adult social care complaints, commissioning and quality, support planning and review, and any other function listed in Schedule 1 of the Local Authority Social Services Act 1970 not delegated to the Strategic Director -Children and Young People, public health, housing (including housing needs, homelessness, housing strategy, housing management, right to buy management, housing partnerships, private housing services and disabled facilities grants) leisure and cultural services (including arts, libraries, museums and archives).

(d) **Strategic Director Children and Young People:**

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

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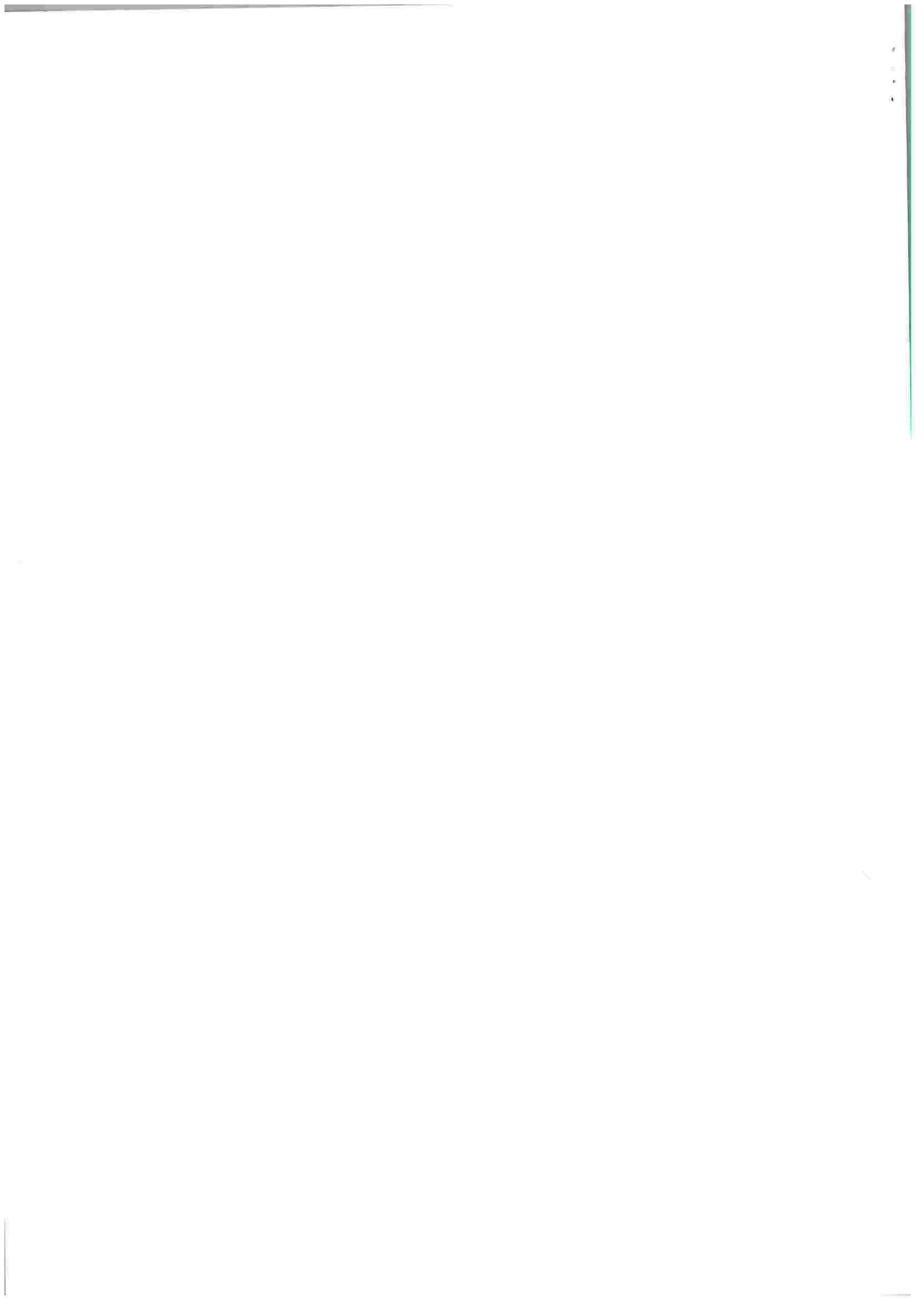
limited to early years education and school places, education and training provision for young people.

(e) **Strategic Director Regeneration and Growth Environment:**

Regeneration, urban renewal, economic development, building new education facilities, environmental infrastructure services, capital programme management, regulatory services, statutory land use, planning, development and building control, land charges, -street naming and numbering, housing regeneration, affordable housing development, ~~corporate property, facilities and premises management.~~ All permanent and temporary housing, including temporary accommodation for asylum seekers, right to buy management, private sector housing services, liaison and transactions with Housing Associations, homelessness and housing strategy, housing management, employment and skills (including adult and community education), environmental health, licensing, street trading, trading standards, mortuary, health & safety, contaminated land, pollution control, food safety and pest control. -Community sSafety and pPublic pProtection, pPublic rRealm (including carbon project team), transportation, highways, parking, street lighting, waste management and recycling, refuse and street cleansing, parks and open spaces, cemeteries, environment, CCTV monitoring, emergency planning and business continuity.

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 Cabinet (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>



CONTRACT STANDING ORDERS**82. Definitions**

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

Approved List	A list of contractors that meet the Council's minimum financial and technical criteria for specified types of services, supplies or works contracts.
Chief Officer	The Chief Executive and Strategic Directors.
Collaborative Procurement	Any arrangement between the Council and any other body under which the other body undertakes a procurement process with or on behalf of the Council.
Contracts Finder	A web based facility operated by or on behalf of the Cabinet Office for advertising tenders.
Contracts Register	The electronic register of contracts awarded by the Council and overseen by the Corporate Procurement Centre.
Contract Value or Estimated Value	The contract's value or estimated value for the contract term excluding VAT.
E-Auction Facility	A web-based facility approved by the Chief Legal Officer which enables the electronic submission of prices for a Tender.
Electronic Tender Facility	A web-based facility approved by the Chief Legal Officer which enables the electronic despatch and receipt of Tender documents.
Electronic Tender Time Box	The feature within an Electronic Tender Facility which stores received Tenders and prevents viewing of them until after the appointed closing date and time.
European Procurement Legislation	The relevant EU Directives and corresponding UK Regulations as amended or replaced from time to time including the Public Contracts Regulations 2015 and the Public Contracts Regulations 2006.
EU Thresholds	The current EU thresholds under European Procurement

	<p>Legislation for the following types of contracts are:</p> <ul style="list-style-type: none"> • in the case of contracts for public works, <u>£4,4,322,012104,394</u> • in the case of contracts for services or supplies, <u>£172,514164,176</u> • in the case of contracts for Schedule 3 Services, <u>£625,050589,148</u> • in the case of contracts for public works concession contracts, <u>£4,4,322,012104,394</u>
Framework Agreement	An agreement for a specified term under which contracts for the provision of particular services, supplies or works can be entered into ("called off") on agreed terms.
High Value Contract	Any contract that exceeds the values stated for Medium Value Contracts (under which different thresholds apply for services / supplies and construction / works).
Low Value Contract	<p>In the case of contracts for services (including Schedule 3 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 £25,000 and up to the amount which is the current EU Threshold for services and supplies contracts (which is currently <u>£172,514164,1764</u>).</p> <p>In the case of a contract for construction or works: a contract with an estimated value over the life of the contract (including any period of extension(s) anticipated by the contract) of between £25,000 and up to £250,000, provided that the contract is classified as a contract for works and not services by the European Procurement Legislation.</p>
Local Brent Provider	A party that provides services, supplies or works and that is based or has a local office situate in a postcode area falling within the London Borough of Brent.
Medium Value Contract	<p>In the case of contracts for services (including Schedule 3 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 EU Threshold for services or supplies contracts (which is currently <u>£172,514164,176</u>) and £250,000.</p> <p>In the case of a contract for construction or works, a contract with an estimated value of between £250,000 and £500,000, provided that the contract is classified as a contract for works and not services by European Procurement Legislation.</p>

- (b) Any Partnership Arrangement or Collaborative Procurement which includes delegation of powers shall be approved by the Cabinet (or where relevant, Full Council).
- (c) Any Collaborative Procurement shall comply with these Standing Orders and Financial Regulations unless;
 - (i) agreed otherwise in writing by the Chief Finance Officer and the Chief Legal Officer; or
 - (ii) in the case of a High Value Contract, the agreement of the Cabinet is obtained under Standing Order 84(a).

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

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

86. Contracts not subject to full tendering requirements

- (a) Certain contracts as set out in this Standing Order listed below, are not subject to the full tendering requirements of these Contract Standing Orders but are subject to any other relevant parts thereof.
- (b) No formal procurement procedures apply to Very Low Value Contracts apart from a requirement to secure best value. For Very Low Value Contracts, the best way to demonstrate best value is by seeking three quotes or using an Approved List (where one exists) or the Online Market Place, however this is not mandatory and it is open to a duly authorised officer to approve another procurement route. As with all Council procurement, there is a mandatory requirement to keep an auditable record to demonstrate compliance and value for money.
- (c) Save where required by European Procurement Legislation, no formal tendering procedures apply to Low Value Contracts except that at least three written quotes must be sought and the quotes sought and/or obtained shall be recorded or alternatively the contract is procured through the Online Market Place. Where quotes are sought, advice must be sought from the Council's procurement officers about how to select the three organisations to be invited to quote and how to structure the quotation process. Unless the Council's procurement officers advise that it is not necessary or appropriate, all quotes shall be sought using the Electronic Tender Facility and at least one of the quotes shall be sought from a Local Brent Provider. In the case of Low Value Works Contracts valued at above the relevant EU Threshold for supplies or services contracts (currently ~~£172,514~~£164,176), approval of the Chief Legal Officer is required to use a quotation process; if approval is not given then a tender process under Standing Order 96 below is required for such contract. Low Value Contracts do however require formal approval for award according to Standing Order 88(a) from a duly authorised officer within the relevant Council department.
- (d) Contracts which are procured using an Approved List or the Online Market Place in accordance with the rules prescribed pursuant to Standing Order 97, are not subject to full tendering requirements.

- (e) Subject to the proviso below, no formal tendering procedures apply where contracts are called off under:
- (i) a Framework Agreement established pursuant to these Standing Orders; or
 - (ii) a Framework Agreement established by another contracting authority, where call off under the Framework Agreement is approved by the relevant Chief Officer to include confirmation that there is budgetary provision for the proposed call-off contract PROVIDED that the Chief Legal Officer has advised that participation in the Framework Agreement is legally permissible. Advice from the Chief Legal Officer must be obtained each and every time a call off under another contracting authority's Framework Agreement is recommended by the relevant Chief Officer.
 - (iii) the Online Market Place (as detailed in Standing Order 97), where the call off is approved by the relevant Chief Officer to include confirmation that there is budgetary provision for the proposed call-off contract.

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

- (f) Subject to complying with any relevant parts of the European Procurement Legislation, Tenders need not be invited nor quotes sought:
- (i) where for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the services, supplies or works may only be provided by a particular provider or where there is only one provider who would be able to provide the services, supplies or works required PROVIDED that advice is sought from the Chief Legal Officer and in the case of High Value Contracts, approval is sought from the Cabinet (or, if appropriate, the General Purposes Committee); or
 - (ii) in cases of extreme urgency where there is an immediate danger to life or limb or property and only to the extent necessary to procure services, supplies or works necessary to deal with the immediate urgent situation PROVIDED that advice is sought from the Chief Legal Officer; or
 - (iii) for contracts providing individual personal services such as individual care arrangements or individual special educational needs provision and for the avoidance of doubt this exemption does not apply to any framework agreements or call off contracts that will facilitate the award of individual contracts providing such personal services.

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

- (a) The Local Authorities (Goods and Services) Act 1970 ("the 1970 Act") provides that local authorities may enter into contracts to provide goods and services to public bodies defined as such by the 1970 Act. Section 96 of the Local Government Act 2003 provides that local authorities may do for a commercial purpose anything which they are authorised to do for the purpose of carrying on any of their ordinary functions provided this power is exercised through a company within the meaning of Part 5 of the Local Government Act 1989. The general power of competence in the Localism Act 2011 may also authorise the provision of goods, works and services by the Council.

- (p) Prior to the appointment of any person to any post within section 2(8) of the Local Government and Housing Act 1989 which is not otherwise covered by paragraph (b) above the procedure set out in paragraphs (j) to (m) shall be followed save that any references in those paragraphs to the Senior Staff Appointments Sub-Committee shall be to the relevant appointing officer.

77A Interim and fixed term appointments to Senior Management posts

- (i) Decisions to appoint to Senior Management Posts as defined in Standing Order 77(b) (ii) – (v) which are not permanent appointments but are interim appointments or fixed term contracts for less than one year be made by the Chief Executive
- (ii) Upon appointment to a post as defined in Standing Order 77(b) (ii) – (v) on an interim or fixed term basis the Chief Executive shall inform the General Purposes Committee setting out the process for selection and the timescales for a permanent appointment.
- (iii) The General Purposes Committee shall be informed of any recommendation for an extension of the interim arrangements beyond a year to a post defined in Standing Order 77(b) (ii) – (v)
- (iv) Any interim appointment to the post of Director of Public Health shall be in accordance with (i) – (iii) above
- (v) Decisions to appoint to Senior Management posts as defined in Standing Order 77 (b) (vi) – (vii) which are interim appointments or fixed term contracts be made by the Chief Executive
- (vi) The appointment of an Interim Chief Executive shall be considered by a sub-committee of General Purposes Committee which shall include the Leader, Deputy Leader and a Leader of an opposition party as decided by the Leader.

78. **Disciplinary action against the Head of Paid Service, the Monitoring Officer or the [Section 151/Chief Finance Officer](#)**

- (a) ~~Except as described in paragraph (b) below, no~~ 'disciplinary action' (as defined in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001) may be taken in respect of the Chief Executive, Monitoring Officer or [Section 151/Chief Finance Officer](#) other than in accordance with Standing Order 79.
- (b) The Chief Executive, Monitoring Officer and [Section 151/Chief Finance Officer](#) may be suspended by the General Purposes Committee for the purpose of investigating the alleged misconduct occasioning the action. That suspension will be on full pay and, if it lasts longer than two months from the date it took effect, it will be reviewed by the General Purposes Committee.

79. **Dismissal from Senior Management Posts**

- (a) Any proposal to dismiss a person from any of the posts mentioned in Standing Order 77(b) shall be notified to the Director Human Resources together with any other particulars that the person or body proposing the dismissal considers are relevant to the dismissal and no notice of dismissal shall be given unless the following paragraphs have been complied with.
- (b) The Director Human Resources shall forthwith notify –every member of the Cabinet:
 - (i) the name of the person whom it is intended to dismiss;

- (ii) any other particulars relevant to the dismissal which have been notified to the Director Human Resources-; and
 - (iii) the period within which any objection to the dismissal is to be made by the Leader of the Cabinet on behalf of the Cabinet to the –Director Human Resources-.
- (c) The Leader shall within the period specified in the notice notify the Director Human Resources of any objection which the Leader or any other member of the Cabinet has to the proposed dismissal.
- (d) If no such objection is received by the Director Human Resources—and Administration, the Director Human Resources may proceed to give notice of the dismissal to the employee. If an objection is made the person or body proposing the dismissal shall consider whether to proceed with the dismissal. If satisfied that the objection is not material or is not well founded then the Director Human Resources may proceed to give notice of the dismissal to the employee.
- (e) In the case of the dismissal of the Chief Executive, Monitoring Officer or the Chief Finance Officer, the proposed dismissal must be approved at a meeting of Full Council before notice of dismissal is given.
- (f) In the case of the dismissal of the Chief Executive, Monitoring Officer or the Section 151/Chief Finance Officer, a proposal to dismiss as a result of 'disciplinary action' (as defined in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001) must be approved at a meeting of Full Council before notice of dismissal is given. In addition, Bbefore the taking of a vote at any such meeting, Full Council must take into account, in particular:
- (i) any advice, views or recommendations of the Dismissal Advisory Panel;
 - (ii) the conclusions of any investigation into the proposed dismissal; and
 - (iii) any representations from the officer concerned.

80. Staff Appeals Against Dismissal

Appeals by members of staff at Operational Director level and below against dismissal for misconduct shall be heard by a more senior officer unless the Director of Human Resources considers it appropriate for the appeal to be heard by the Staff Appeals Sub-Committees.

Appeals by members of staff at Strategic Director level, or who report to the Chief Executive directly, against dismissal for misconduct shall be heard by the Staff Appeals Sub-Committees.

81. Political Assistants

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

The provisions include:

- (i) No appointment shall be made to any post allocated to a political group until