

	<p style="text-align: center;">Executive 8th October 2007</p> <p style="text-align: center;">Report from the Director of Policy and Regeneration and Director of Finance and Corporate Resources</p>
<p style="text-align: right;">Wards Affected: Kilburn</p>	
<p style="text-align: center;">South Kilburn NDC – Review of Governance Arrangements</p>	

Forward Plan Ref: PRU-07/08-9

1. Summary

- 1.1. The purpose of this report is to present members with the outcome of a review of the Governance arrangements at the South Kilburn NDC and to set out the new arrangements for the partnership relationship between the NDC and the Council.

2. Recommendations

- 2.1. Members note the outcome of the governance review and agree the recommendations and proposed actions contained within the Action Plan at appendix 1.

3. Introduction

- 3.1. The Council's Audit and Investigation Team (A&I) has recently completed a review of the governance arrangements at the South Kilburn New Deal for Communities (NDC). The conclusions and recommendations arising from this review are included within this report. Together with the action plan agreed between the Council and the NDC, these form a sound basis upon which the NDC can move forward. The governance issues have been fully discussed with the interim Chief Executive of the NDC who has presented the draft action plan to the NDC board for discussion on September 10th. The final action plan will be agreed by the NDC board at the November 5th board meeting.
- 3.2. The Internal Audit review involved interviews with key officers, documentation

reviews and in-depth analysis of particular issues. The review commenced in December 2006 but had to be suspended while officers from the Audit and Investigations Unit investigated serious concerns that had been raised regarding the conduct of the then acting Chief Executive. The review was completed in June 2007 and has been the subject of full consultation with the Borough Solicitor, Director of Policy and Regeneration and Director of Finance and Corporate Resources.

- 3.3. The NDC has been the subject of a number of concerns over the past two years. These included investigations into the Chief Executive and his Deputy and the subsequent acting Chief Executive. In addition, the Audit and Investigation Team had previously conducted a major investigation into a project funded by the NDC at Kilburn Park School. Furthermore, the Director of Policy and Regeneration had identified the NDC as a key risk in the Council's Risk Register and on his assurance statements for 2004/05 and 2005/06. He requested a governance review in the early part of 2006. These concerns prompted A&I to commence a general governance review of the NDC.

4. NDC Background

- 4.1. New Deal for Communities (NDC) was introduced by government in 1998 as successor to the myriad of area-based regeneration initiatives that had gone before. Arising from the work of the Social Inclusion Unit it was essentially seen as a 'community-led' approach to dealing with the issues which led to disadvantage in geographical areas of acute deprivation. The idea was to inject a significant amount of money over a ten year period to deal specifically with the causes of worklessness, low educational attainment, poor health and high crime. Given the large amounts of money involved (£50m upwards) the number of NDC areas was limited to 39 with no plans for extension.
- 4.2. Those local authorities who ranked highest on the Index of Deprivation were invited by the government to bid for NDC funding. After a period of consultation, Brent put forward a bid to have South Kilburn (the old Carlton Ward) included. Once the 'right to bid' was accepted an intensive period of work, consultation and research was undertaken, involving a series of detailed evening and weekend meetings with a very wide group of residents. This produced a high quality and ambitious bid, which was owned by residents and which, if delivered, would act as a significant catalyst for fundamental change in the area. The Council then led another six months intensive work to develop the necessary governance arrangements. This work was undertaken in circumstances where local residents were suspicious and often hostile to the Council and other public agencies, and required a significant amount of building trust with local people.
- 4.3. When it was originally conceived New Deal was supposed to deal with worklessness, low educational achievement, poor health and crime. Housing was left out of the equation. Government policy changed when it became strikingly apparent that the areas which were eligible to become NDCs were also areas of acute housing stress. Nevertheless the thinking behind the original structure was that previous regeneration programmes had ended up dealing only with physical fabric.
- 4.4. South Kilburn residents were clear that housing conditions were number one priority

followed by the other issues. This coincided with governments 'bringing-in' of housing into the NDC agenda. In recognition of this in the bid we asked for an additional £20m which unfortunately was turned down we believe on the grounds of equity.

- 4.5. Whilst the Council was the leader in getting the NDC established, providing the intellectual muscle in putting the bid together and working with the community, the NDC was and still is a national programme overseen by the Neighbourhood Renewal Unit at DCLG, through the Government Office for London acting as their agents. The money is passed 'through' the Council in the form of ring-fenced grant. The governance arrangements have been prescribed by government. The project must be overseen by a joint partnership board of residents, the statutory and private sectors. Local residents must be in the majority on the Board. The resident representation on the board is by popular vote from residents within the New Deal area. This is undertaken on 3 yearly cycles and the elections have been conducted on the last two occasions by the Electoral Reform Society. The Council currently is represented on the Board at political and officer level – currently through a ward member and the Director of Policy & Regeneration.
- 4.6. The disposition of the Council's representation originated when the Board was originally established residents were clearly concerned (in line with Government requirements) that they had a majority position on the Board. They also however wanted to ensure that key partners were 'at the table'. They then needed to balance this up with not having a Board that was so huge it ended up as unworkable. They therefore established places for key agencies/individuals e.g. Police, PCT and Education who represented the key themes. In the case of the Council residents recognised that the Council was pre-eminent amongst Partners with democratic legitimacy, major service provision as well as being landowner and landlord. The compromise was therefore to offer the Council two places which, at the time, were taken up by a local ward councillor and an officer from the Policy and Regeneration Unit. The latter was an issue of continuity as PRU had led the bidding process.

5. General Governance Arrangements

- 5.1. The London Borough of Brent, as the Accountable Body, agrees to comply with terms and conditions set out in the Funding Agreement letter signed by the Government Office for London and the council's Chief Executive. This letter compels the Council to observe the requirements set out in NDC guidance and ensure that the Partnership (NDC) does so.
- 5.2. The Government Office for London (GOL) originally set out the roles and responsibilities of NDC partnerships and Accountable Bodies (AB). It refers to three models: The first in which the AB is exercising a relatively high level of control, a second where the AB is satisfied with the systems and procedures in the partnership and a third where the NDC has been incorporated as a limited company and acts as it's own AB. In August 2003, GOL made it clear that the Audit commission only permitted the first model.
- 5.3. In September 2002 the NDC board approved the formation of South Kilburn New Deal for Communities Ltd. Although the meeting did also agree that Brent remain it's

AB, a company called SKNDC Ltd was incorporated on 27 September 2002. From this time it appears SKNDC geared its systems and procedures in readiness for operation in the form of the third model mentioned.

- 5.4. The most recent GOL Guidance (Nov '06) only refers to the first two models for relationships between the AB and NDC (i.e. it discounts the separate entity model as an option). Again this guidance states that the Audit Commission has only allowed for the first model, the high level of control.
- 5.5. GOL requires that "the AB should apply its own existing rules on regularity and propriety". It then states that the AB should ensure, through management checks, that such rules are properly followed. With regard to appraisal, approval & monitoring of projects it states that the AB must satisfy itself that adequate procedures are in place and check that these are properly followed.
- 5.6. GOL's view, with regard to the AB role is, "the responsibility for ensuring the NDC is acting properly ... belongs to the Accountable Body".

6. Findings of the Review

- 6.1. The Audit and Investigation review concluded that there were a number of major weaknesses identified in the governance arrangements and the overall opinion is one of limited assurance. This means that there were either inadequate controls identified and / or a number of controls which, although adequate, had been circumvented.
- 6.2. The review concluded that the way in which the NDC has conducted its business in regard to openness, accountability and transparency has not been to the standard which would be expected by an organisation operating within the public sector. The key issues from the review are discussed below and particular concerns were identified in regard to:-
 - Declarations of interest
 - Board honoraria
 - Project tenders & monitoring
- 6.3. The lack of clarity with regard to the status of the NDC (i.e. the model adopted) has undoubtedly led to confusion as to how the NDC conducts itself, the regulations under which it operates and the roles & responsibilities of the NDC and the Council as the Accountable Body.
- 6.4. In 2002 the Council appointed a Chief Executive to manage the NDC. This post was at Chief Officer grade. It is clear from the contractual arrangements that this post is a direct employee of the Council. The NDC Chief Executive then appointed a deputy Chief Executive, although the NDC did not in fact employ any staff itself. The role of these two senior officers, and particularly the Deputy Chief Executive, included a responsibility for governance. There are clear failures on the part of these two officers in that regard.

- 6.5. Notwithstanding the roles of those senior officers, the Council also had a responsibility, as Accountable Body, to ensure the governance arrangements were sound and were being complied with. The Council has not ensured that the NDC board has been operating in a completely open and transparent manner. The Council needs to play a more active role to ensure the aims and objectives, for which it has received substantial Government funding, are achieved. It is not sufficient to simply have a member of the Council's Corporate Management Team on the Board.
- 6.6. The NDC did have a governance handbook which contained various policies and procedures. Although quite sound in content, they were clearly written with a view to the NDC being a separate legal entity and operating as a limited company. There is no inclusion of the Council's Regulatory Framework, i.e. Financial Regulations and Contract Standing Orders. It also fails to mention some of the key GOL requirements concerning procurement. Further, there have been failures in following the regulations which are included in the handbook and in ensuring that decision making has been fully documented.

7. Declarations of Interest

- 7.1. The NDC handbook covers Conflicts of Interest and a form for Declarations of interest is included. Although board members are required to declare interests at the start of a meeting, there is no requirement for them to withdraw from that part of the meeting. It has been noted that, on occasion, although a member has declared an interest in an Agenda item, that person has remained in the meeting and their contribution on that item included in the minutes.
- 7.2. The GOL guidance clearly anticipates that Board Members may run projects. Provided those members take no part in the decision to award projects or influence those awards and provided the NDC seeks consent from GOL to award such contracts, then the Government appear to endorse the practice. The Audit and Investigation Review considered that it was inappropriate for the Chair or Vice Chair to run projects. This was based on the view that those positions were the most influential and could potentially shape the delivery plan or project themes to fit particular project deliverers or may inhibit criticism of projects which they were involved with. The Council's Borough Solicitor was consulted on this issue and her view is that it is not appropriate to distinguish between the Chair, Vice Chair and other Board Members, and given that the GOL guidance clearly anticipates Board Members may run projects, then they cannot be precluded from holding any position just because they run a project. The Borough Solicitor is preparing guidance for Board Members on how they may deal with such conflicts and will include a requirement to demonstrate that they are able to fulfil their roles on the Board without being conflicted. Honoraria
- 7.3. Honoraria amounts are paid to resident board members. Honoraria of £8,000 per annum to the Chair, £6,000 to the Vice Chair and £5,000 p.a. is paid to net of tax. The amount is paid in two instalments. There are currently no eligibility criteria, (other than residence) as regards qualifying for the honoraria payment.
- 7.4. The payment is made net of tax and national insurance and, therefore, each member receives the full amount of the allowance. This net payment was approved by an

NDC board in July 2004. As a result, the NDC have to pay the additional tax and national insurance liability to HMRC. This is an unusual practice, although it was specifically discussed and approved at a Board Meeting. It would be normal for the amount to be paid gross and the individual would receive the appropriate amount dependent upon their own tax position.

- 7.5. A survey of eleven other NDC organisations, conducted on behalf of SKNDC, found that only one other paid Honoraria. Of those that do pay honoraria it is believed that the amount paid by SKNDC is substantially more than others and could be the highest in the country.

8. Projects

- 8.1. The controls set out in the handbook for programme management are generally satisfactory. However, there are concerns that the procedure as set out is not always adhered to. A significant number of projects have been selected from single tenders. There are occasions where it may be appropriate to select from a single tender. However, the reasons for this have not been clearly set out or demonstrated.
- 8.2. The procedure for Project Monitoring is for the most part satisfactory with one significant exception. An expected control is that the NDC verify for itself the outputs claimed by project deliverers. Currently, there is no independent validation with deliverers being required to complete and sign monitoring forms and these are relied on as the measure.

9. Personnel

- 9.1. There is a major weakness within the personnel procedures in that all employment contracts, with the exception of the Chief Executive, purport to be with the NDC. However, the NDC has no legal identity and all employees should be technically employed by the Council

10. New Governance Arrangements.

10.1. Prior to the Audit and Investigations review, the previous Acting Chief Executive had commissioned his own review of governance. A report was prepared by JH Consulting and a number of action points arose from this report. A new action plan has now been drafted following the conclusion of the recent A&I review. This has been agreed by the Interim Chief Executive at the NDC and has been passed through the Board. A full copy of the action plan, together with relevant actions from the JH Review is attached at appendix 1.

10.2. The key changes to governance are set out below:

- Increased input from the Accountable Body as set out in section 14 below
- Changes to the method of selection of the Council's Board representative
- Improved project approval by a sub committee of the Board with no involvement of the full Board
- Two new governance handbooks, one for Board Members and one for staff to include the Council's Financial and procurement regulations
- Clear advice to be issued by the Accountable Body on handling conflicts of interest, particularly where Board Members have financial interests in projects.
- The removal of Honoraria from 2008
- Improved meeting documentation

11. Investigations

11.1 Members will be aware that there has been much press coverage over recent months concerning specific contracts, projects and other matters. The Council also received a list of specific concerns from an external source. In accordance with normal practice these concerns were investigated by the Council's Audit and Investigation Team. This team is independent of the NDC and has a high degree of independence within the Council. All of the specific concerns have been investigated and the Audit and Investigation Team concluded that, whilst no evidence of fraud or corruption was identified, there were many examples of poor practice and lack of transparency. Many of the concerns raised were symptomatic of the poor governance arrangements which have been operating at the NDC. The items within the Action Plan contained in this report and the other changes being proposed to the relationship between the Council are designed to address all of the weaknesses identified.

12. The Changing Role of the Council since the beginning of the NDC

12.1. At its inception the New Deal process has been seen by central government as being radically different from previous regeneration programmes. The previous Urban Programme, City Challenge and Single Regeneration Budget had local government

at its core, leading on both bids and delivery with Central Government money being given to Local Authorities in the form of ring fenced grant.

- 12.2. New Deal was to be seen as community led and bottom up. The role for local government as set out by government was one of facilitation and providing in the initial stages financial security through the Accountable body function. However the orthodoxy in the Neighbourhood Renewal Unit at the time was that NDCs would transform into semi-autonomous community led operations who would have wide powers over ownership governance and service delivery, would have a direct relationship with Central Government and would be in their view more representative of the community than local government could be. When the Council first put together the bids and run the dialogue with residents it was clear that the NRU viewed the Council as part of the problem rather than the solution and indeed appointed a Community Development professional to contact the residents directly and to oversee any work undertaken to ensure that local people, not the Council was in the driving seat.
- 12.3. The government at the time was promoting strongly the notion of Companies Limited by guarantee, the idea that NDCs could become their own accountable body and that they would secure themselves an independent existence by the ownership of assets. The high water mark of this approach came when there were papers coming out of ODPM suggesting that NDCs should be running key services such as schools within their areas.
- 12.4. Given the problems of governance and outcomes and which has affected all NDCs the tide on autonomy has receded and there is now an attitude in central government that as the NDC programme is coming to the end of its life the responsibility will revert back to local government to manage exit strategies
- 12.5. We are therefore now in a position which not only is it desirable but necessary for the Council continues to establish a much closer relationship to this programme over its final years as we in the end are responsible for any legacy.

13. Proposed Relationship Between the Council and the NDC

- 13.1. The relationship between the Council and the NDC falls into three distinct categories:
 - Board Membership
 - Managerial Responsibility
 - Accountable Body function

Board membership

- 13.2. The work of the NDC is overseen by the Board. The structure for the Board was originally established as part of the approved funding proposal, and was the result of a long period of discussion and negotiation within the community. The Council has two seats at the Board – one for a councillor (currently Councillor Mary Arnold) and one for an officer (currently the Director of Policy & Regeneration).
- 13.3. Any changes to this arrangement would need to be approved by the Board. The

existing arrangement for the Council to have representation at political and officer level is sensible, and on the whole has worked well. It is therefore proposed that this arrangement remains, but that the process for nominating the political representative is reviewed and clarified.

Managerial Responsibility

13.4. The governance review points towards the need for the Council to establish closer managerial arrangements with the NDC. This is in line with current government thinking, which has shifted from the early days of NDC where the government strongly pushed for NDC's to be semi-autonomous organisations. A number of managerial changes have been made in recent months in order to strengthen the relationship between the Council and the NDC:

- Managerial responsibility has been transferred to the Assistant Director of Regeneration (Andy Donald), to ensure strong links are established between the NDC and the remainder of the Borough's regeneration agenda.
- The interim Chief Executive of the NDC now has a place on the Council's regeneration management team, chaired by the Assistant Director of Regeneration.
- Regular bi-weekly one-to-ones now take place between the interim NDC Chief Executive and the Assistant Director of Regeneration.
- There is an ongoing review of HR files, procedures and practice within the NDC, to ensure full compliance. In addition there is an ongoing review of the staffing structure.
- Senior Council officers will be directly involved in the recruitment of all senior management posts within the NDC.
- A small working group of senior council officers and the interim NDC chief executive to pull together comprehensive governance documentation which will fully address the findings of this governance review.

Accountable Body Function

13.5. This is a formal relationship between the NDC and the Council, required on the basis that the Council is responsible and accountable to the government for the right and proper expenditure of all NDC grant funding. The relationship between the Council as Accountable Body and the NDC is governed by a service level agreement, signed on 1st February 2007.

13.6. Over and above this a number of additional actions have been identified in order to ensure the Council's fulfils its Accountable Body function robustly:

- NDC accounts will from the point forwards be integrated within the Council's overall Audit Framework.

- There will be a comprehensive and ongoing programme of project audits, to ensure all NDC activity and projects are exercising due process, to ensure all expenditure is eligible under the terms of the grant agreement, and to ensure full probity in relation to expenditure and performance.
- All senior NDC staff will be offered training and support on governance issue, to ensure that they are properly able to advise Board members as necessary.

14. The Longer Term

- 14.1. This report has already set out the much closer and clearer relationship the Council is establishing with the NDC.
- 14.2. This will be an important and developing relationship if the promise of the Regeneration programme is to be fulfilled. The second paper on this agenda set out the ‘top-line’ Regeneration challenges. Whilst the NDC as a programme comes to an end in three years time, the physical regeneration programme will continue over a fifteen year period.
- 14.3. The key tasks now are to ensure that the remainder of the NDC programme maximises its impact and that the further ‘holistic’ regeneration of the area is assured. There is now a need for the Council and the NDC to secure a forward strategy for the wider regeneration of the area. Over the next few months the Council and NDC will be entering into a dialogue to establish what will need to be done in the future and what vehicles for resident impact are necessary to achieve this. A further report on future arrangements will be brought to Members for agreement in the spring before notifying CLG of the forward strategy as is required with the next delivery plan.
- 14.4 Given the complexity of the issues and the need for the NDC both to deliver its programme and achieve a durable and realistic approach to its legacy, there is a need to build into the leadership of the NDC a different set of skills not currently available. We are firmly of the view and strongly recommend that if the current resident Chair were to step down South Kilburn should follow the trend of other NDCs in their final years and appoint a professional independent Chair, with experience of working in community led regeneration and delivering complex projects. Such an appointment would help strengthen the programme and would increase the confidence of the community, partners, the Council and central Government in its deliverability. Officers have already sounded out GOL on this suggestion and they are supportive of the approach.

15. Legal Implications

- 15.1. The South Kilburn NDC Board was set up to oversee the implementation of the delivery plan agreed with GOL for the NDC funding allocated to the South Kilburn Area. The Board has no special legal identity and is what is known as an “unincorporated association”. This means it is able to set its own rules of operation although, in this case, in order to continue to have a role in relation to the NDC funding it needs to be compliant with government guidance.

- 15.2. At one time there was a plan that the activities of the Board (and much of the work carried out by the officer delivery team currently employed by the Council) would be transferred to a company and a company was set up for that purpose. The transfer was never implemented though. Had it been then instead of the single Board there would have been Members of the company (representing the owners of the company) and a Board of Trustees (the equivalent of Directors employed by the company) and they would both have been subject to the requirements set out in the memorandum and articles of the company.
- 15.3. The current Constitution of the unincorporated NDC Board is effectively its Handbook which was adopted in 2005. The handbook has various provisions about membership but is ambiguous and was clearly written in anticipation of the NDC activities transferring to a company. The Board, as described in the handbook, comprises 19 - 23 members including 7 members from partner public, private and voluntary/community organisations, and 3 co-optees who can be invited onto the Board at its discretion. There is nothing specific about how the Board members are identified for appointment.
- 15.4. The section of the Handbook which covers termination of membership cross refers to the Memorandum and Articles of Association of the company that was set up and this causes some problems of interpretation. This company documentation is clear that organisations which were members of the company would appoint an individual to represent them as company members and could appoint a representative as a Trustee (Director) as well. In each case the individual would lose their position if they ceased to be the chosen representative of the organisation.
- 15.5. The company documents are dated 2002 and the Handbook is dated 2005. The Handbook was clearly prepared in the expectation that there would be a transfer to the Company and that the Memorandum and Articles would in due course govern the NDC activity. In the light of that and the ambiguity of the handbook itself, the most obvious interpretation is that the Board in its unincorporated state was expected to include nominated representatives of the bodies it was expected would in due course be members of the company. There can be little doubt that at the time the handbook was prepared it was anticipated that the Council would be one of the organisations involved in the company and this intention was explicitly stated in the report to the Council's Executive on Monday 28th April 2003 which considered the proposal to transfer the NDC activities to the company. This interpretation is supported by the emphasis in national guidance that the local authority is an essential partner for NDC Partnerships. On that basis the Council should be appointing a representative to the Board of the NDC in the same way as is the case with other outside bodies. This can be done by Full Council or by General Purposes Committee. It would be sensible to discuss this with the NDC as it would not be prudent to seek to unilaterally change the Council nominee to the Board.
- 15.6. The A&I review report recommended that the positions of Chair and Vice Chair should be held by persons who have no connection to organisations which have a business relationship with SKNDC. However, it should be possible to improve the governance arrangements at NDC without imposing such a prohibition which, in practice, would be difficult to define and may preclude a number of people who could otherwise play an important role in the future delivery of the NDC.

- 15.7. If, as suggested, the NDC board proceed to establish a separate panel or sub-committee of the board to deal with project approvals then the NDC should also ensure as far as possible that those board members selected for that panel/sub-committee should not have other personal interests that would be likely to give rise to conflicts of interests. Accordingly, those existing or new members who do have other personal or business interests that would place them in a position of conflict should not be selected for the new panel/ sub-committee. All those members who are appointed to the new panel should receive compulsory training on procurement practice, project monitoring and governance.
- 15.8. Members should be clear that if they have personal interest in any item of business, they have to declare that interest at the start of the relevant meeting or as soon as it becomes apparent to them that they have an interest. Further, if that interest is such that it could be classed as a prejudicial interest then they should also be required to withdraw from the meeting and take no part in that item of business. This is line with the Brent Code of Conduct for Members (which follows the national code) and reflects good decision making procedures.
- 15.9. Members should be required to ask themselves from time to time whether members of the public would reasonably think that the member's personal interests are such that their judgement of the public interest would be likely to be prejudiced. If the answer to that question is yes then the member would be required to consider whether they should remain a member of the board and, if not, to resign. It is important to note that at this stage it would be up to the member to make this decision but they should be required to seek and take into account advice from the Accountable Body. In practice we would expect them to take advice from the Accountable Body's Monitoring Officer which would be the Borough Solicitor.
- 15.10. The NDC should adopt a new/revised Code of Conduct for its members. Advice on this can be provided by the Council's own Monitoring Officer.
- 15.11. Members should be required to sign an undertaking agreeing to abide by the new code of conduct.
- 15.12. The Borough Solicitor has already provided advice to the NDC recommending amendments to the Declaration of Interest form currently in use. These Declarations of Interest should be held by the Chief executive or by the Council's Monitoring Officer on the NDC's behalf. The records should be made publicly accessible via the NDC's website. As Accountable Body the Council should ensure that these changes to the declaration form are made.
- 15.13. The Board should make training compulsory for all members, including existing members, on personal and prejudicial interests and other member conduct and probity issues. This can be provided by the Council if necessary.
- 15.14. The Board should consider setting up a separate standards or governance committee or similar which would adopt the new code of conduct and deal with other governance issues. This committee could deal with requests received from any

person to consider the suitability of a board member to continue in office assessed against the aforementioned criteria i.e. is their judgement of the public interest likely to be affected? There could then be a recommendation to the main NDC board to dismiss that person in accordance with the usual dismissal arrangements.

- 15.15. The dismissal arrangements should be reviewed and must be adhered to at all times if the NDC is to avoid future judicial reviews. Training on this can be provided by the Council if necessary.
- 15.16. Members should be provided with up to date advice on the acceptance of gifts and hospitality. A register should be established to record offers made and received. This should follow a similar format to the Council's own register. The register should be made publicly accessible via the NDC's web page.
- 15.17. Legal Services can provide advice to the managing department on regularising the employment contracts of the staff employed to work with the NDC as it will be necessary to amend their employment contracts to reflect the true legal position. It should be made clear that the staff are employees of the Council. Training to staff and managers should be provided by the Council to ensure that all staff are aware of the Council's policies and procedures.
- 15.18. If contracts are awarded to an 'interested party' GOL terms and conditions require the NDC to seek their prior consent. Controls need to be put in place to ensure that this happens and consent is obtained as necessary.
- 15.19. Officers charged with preparing agendas, arranging meetings and clerking meetings should be adequately trained. A more detailed review of their current process for minuting meetings etc. could be undertaken.
- 15.20. The NDC should consider adopting something similar to the Council's 'Blue Book' i.e. its contract management guidelines which provides detailed guidance and rules on the procurement and management of contracts.
- 15.21. The Council should develop a detailed asset register for the NDC as there is a lack of clarity of the assets (including real estate) used by the NDC and the basis of occupation for all units. As these are almost certainly the Council's assets it is the Council that should develop this register.

16. Background Papers

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Sth Kilburn NDC Governance [Sept 07]

APPENDIX 1 – ACTION PLAN South Kilburn NDC Governance Review (September 2007)

	RECOMMENDATIONS	PROGRESS TO DATE	TIMETABLE FOR COMPLETION	RESPONSIBILITY
1	Urgent consideration should be given to the recommendations of the JH Review except those superseded by the recommendations made below.	See Appendix 1	See Appendix 1	See Appendix 1
2	The South Kilburn New Deal For Communities Company (SKNDC Ltd) be dissolved, (once the proceedings which have been taken out against the company have been resolved).	The Judicial Review hearing is scheduled for 28 th August and SKNDC will be dissolved as soon as practical following this.	Depends on outcome of review	SKNDC Director of Finance and Performance Management
3	It is recommended that SKNDC has two separate handbooks, one to be followed by Board members and one to be followed by Officers. The Handbooks should be revised and updated to include recommendations made in this report.	None	30 th November 2007 Proposal is to set up a small working group involving NDC and Accountable Body (AB) Officers to assist drafting	SKNDC Director of Finance and Performance Management Accountable Body representative/s
4	The Handbooks incorporate the Council's own Financial and other Regulations, (e.g. Code of Conduct, Recruitment & Selection) and the Service Level Agreement (SLA) is revised to reflect this. The revised handbook/s incorporate GOL requirements, e.g. on VFM and procurement.	Have received relevant information from Brent.	30 th November 2007 Proposal is to set up a small working group involving NDC and Accountable Body Officers to assist drafting. This will include assistance from AB Human Resources	SKNDC Director of Finance and Performance Management Accountable Body representative/s

	RECOMMENDATIONS	PROGRESS TO DATE	TIMETABLE FOR COMPLETION	RESPONSIBILITY
5	New Board members should undergo an induction to familiarise them with SKNDC Policies and Procedures. All Board Members should be given training in regard to the revised Handbook and the expectations placed upon them, particularly in the areas of Governance and Conduct. [CEM 1.2 iii]	Board training will be provided as soon as practicable following completion of the revised handbooks The Council's Borough Solicitor may be able to assist with training regarding Governance / Codes of Conduct. However, there are cost implications which need to be resolved.	December 2007	Interim CE
6	SKNDC Financial administration and Project management should be subject to review by the Brent as the Accountable body (Financial Audit - A&I, Projects audit - P&R).	A&I will include SKNDC in the Audit Plan for 2008/09 and ongoing plans and coverage will be based on a risk assessment.	2008/09	Accountable Body Officers
7	Board Members must ensure that they take no part in discussions concerning projects or strategies in which they may have a personal financial interest. This would include project appraisal and agreement of delivery plans. Members should ensure that they are not conflicted to such an extent that they are unable to fulfil their duties. The Chair or Vice Chair should ensure that all business conducted at meetings complies with SKNDC Governance arrangements.	To be discussed at 10 th September Board meeting Borough Solicitor preparing advice for Board members	January 2008	Interim CE
8	The minutes of Board and Committee meetings should be more concise and not used to record all the debate on an item. For each agenda item the minutes should show, any persons	To be implemented from 10 th September Board meeting	10 th September 2007	Interim CE

	RECOMMENDATIONS	PROGRESS TO DATE	TIMETABLE FOR COMPLETION	RESPONSIBILITY
	withdrawing or joining the meeting, that it was considered, the decision/s made (including action points) and the voting on the item.			
9	The payment of Honoraria should be stopped, SKNDC may wish to consider the payment of some form of attendance allowance for board members. Any such payments should be made through the Council's payroll.	To be discussed at 10 th September Board meeting. The Board have already previously agreed to review this issue before the next Board elections in September 2008	Summer 2008	SKNDC Director of Finance and Performance Management
10	SKNDC are provided with access to the Council's Intranet and hence all documents making up the Regulatory framework. Otherwise these documents should be provided in a form that they can be loaded onto SKNDC's own network.	Costings for intranet access are being sought and installation will be obtained as soon as practicable	As soon as practicable.	SKNDC Director of Finance and Performance Management
11	The declaration of interest document should be revised to include details of any potential conflict of interest, e.g. employment by an organisation funded by SKNDC. Declarations are updated as and when necessary and Board members are aware of the need to do so.	Borough Solicitor is reviewing the Declaration of Interests form	End of September	SKNDC Director of Finance and Performance Management
12	Board members with an interest in an agenda item declare this at the start of the meeting, withdraw at the point the item comes up and only return once the item is closed. All these actions must be minuted.	To be implemented from 10 th September Board meeting Borough Solicitor preparing advice for Board members	10 th September 2007	Interim CE

	RECOMMENDATIONS	PROGRESS TO DATE	TIMETABLE FOR COMPLETION	RESPONSIBILITY
13	No payments are made in respect of loss of earnings until sufficient evidence is provided that: Attendance was necessary; resulting in earnings being lost and; the value of those earnings.	Will be implemented with immediate effect	August 2007	SKNDC Director of Finance and Performance Management
14	Board members are made aware of the tax liability which may accrue from all payments, (except out of pocket expenses) received from SKNDC. For staff a P11 D is completed for all qualifying payments to them which is forwarded to the Council's Exchequer Team.	Board members are already aware of this and provide information to enable appropriate tax payments to be deducted [<i>A&I have yet to verify this</i>] We will liaise with payroll regarding PD11 D schedules	September 2007	SKNDC Director of Finance and Performance Management
15	Where requirements for competitive tenders cannot be met, the reasons are fully documented. The method of selecting organisations to submit tenders and then selecting the best tender is fully documented. Any links between an organisation selected and SKNDC, it's board or staff is fully disclosed.	Updating of all files is in progress	End September 2007	SKNDC Director of Finance and Performance Management
16	Project monitoring must include unannounced verification visits to ensure projects are being delivered as agreed and that outputs expected /claimed are actually being achieved	Will be implemented during the second half of the year	October onwards	SKNDC Director of Finance and Performance Management
17	As SKNDC is not going to be a separate entity. Staff will, therefore, be considered as Brent employees and their contract of employment should reflect this.	Discussions being held with Brent HR to achieve this	October 2007	SKNDC Director of Finance and Performance Management

	RECOMMENDATIONS	PROGRESS TO DATE	TIMETABLE FOR COMPLETION	RESPONSIBILITY
18	The Staff appraisal scheme should be implemented and these records along with the member of staff's induction should be kept on their personnel file.	Discussions being held with Brent HR to achieve this	December 2007	SKNDC Director of Finance and Performance Management

	RECOMMENDATIONS	PROGRESS TO DATE	TIMETABLE FOR COMPLETION	RESPONSIBILITY
19	The Asset Register should be completed as soon as possible with the responsibility for security and insurance of these assets clearly set out and understood.	<p>Need to distinguish between an Asset Register, which is that defined in the Funding Agreement “The AB must ensure that the Partnership establishes and maintains a register of all land, buildings equipment, vehicles or other fixed assets in excess of £5,000...”</p> <p>Need to ensure this condition is met and also the AB requires notification in advance of the intention to purchase assets in excess of £5,000.</p> <p>An inventory is a record of all items of value within a specific location for the purposes of controlling those items and having a record for insurance purposes. Also need to ensure the insurance arrangements for any assets are regularised. Discussion to be held with LBB Finance and Corporate Resources Staff as part of small working group looking at handbook documents.</p>		Accountable Body with support from SKNDC Director of Finance and Performance Management

APPENDIX 1

ISSUE	RECOMMENDATIONS	PROGRESS TO DATE	TIMETABLE FOR COMPLETION	RESPONSIBILITY
Board size and composition	<p>1. Consider adopting the Neighbourhood Renewal Unit's recommendations with respect to Board composition. This would mean electing:</p> <ul style="list-style-type: none"> • An independent Chair who is business leader/local employer • 8 community representatives • 8 external partner representatives <p>External partners should reflect the key themes of the NDC's work. These partners should also be able to contribute to building the succession strategy and legacy for the NDC</p>	<p>The Board have already broadly agreed this with the proviso that there should be a resident majority</p>	<p>The Board have already agreed that this should be considered in relation to recruiting/electing a new Board following the expiry of the current Boards term of office in September 2008.</p>	<p>Interim CE</p>

ISSUE	RECOMMENDATIONS	PROGRESS TO DATE	TIMETABLE FOR COMPLETION	RESPONSIBILITY
	<p>2. Consider whether or not those whose organisations are contractors of the NDC should also sit as Board Members. If contractors remain as Board Members, consider a system which would require approvals for their organisations to deliver projects and/or services to be referred to the local Strategic Partnership, as an independent arbiter.</p>	<p>Superseded by LBB Governance recommendations</p> <p>(See 7 in main report)</p>		
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Board structure (including sub-committees and meetings)</p>	<p>3. Consider holding Board meetings bi-monthly for the next year (until July 2007) and then quarterly in subsequent years.</p>	<p>Already implemented</p>		
	<p>4. Consider dissolving the following sub-committees:</p> <ul style="list-style-type: none"> • Risk Assessment & Project Approval • Project Monitoring & Evaluation <p>(see recommendations 9 and 10 for proposed new</p>	<p>Already implemented</p>		

ISSUE	RECOMMENDATIONS	PROGRESS TO DATE	TIMETABLE FOR COMPLETION	RESPONSIBILITY
	processes)			
Board Remuneration	<p>5. Review the principle and scale of honorarium payments made to elected members, in the light of practice of other NDCs and similar Boards. Consider the idea that the final Board decision on honorarium payments should be made only by external partner representatives on the Board, as they do not have a conflict of interest in the matter.</p>	<p>Superseded by LBB Governance recommendations</p> <p>(See 9 in main report)</p>		
	<p>6. If honorarium payments are to be continued (regardless of the amount) consider:</p> <ul style="list-style-type: none"> • Implementing the recommendation to stipulate minimum levels of service, that was proposed and agreed at the 2005 Board Residential • Whether it is appropriate to continue the payment of expenses in addition to honoraria payments 	<p>As 5 above</p>		

ISSUE	RECOMMENDATIONS	PROGRESS TO DATE	TIMETABLE FOR COMPLETION	RESPONSIBILITY
	<ul style="list-style-type: none"> Put in place a robust and open audit trail for payments 			
Board responsibilities, roles & functions	7. Consider receiving quarterly formal reports from the Chief Executive to the Board on all aspects of the operation of the NDC. These reports would include recommendations 8, 9 and 10	Terms of Reference for a Theme Performance Group are being discussed which would facilitate this.	November Board meeting 2007	Interim CE
	8. Consider new arrangements for project selection. The process for consideration would be to introduce standardised, brief reports that summarise the salient points and make strong recommendations for approval or rejection.	Project selection will be based on strategic discussions at the Staff Awayday and Board Residential in September 2007. All projects will then be subject to the improved project appraisal and approval process which covers these points.	September-December as part of the preparation of the Delivery Plan	
	9. Consider new arrangements for impact evaluation. The proposal is to introduce theme progress reports (using a similar format as has been used for the recent independent external Theme Review). Using the exception rule' where	See 7 above		

ISSUE	RECOMMENDATIONS	PROGRESS TO DATE	TIMETABLE FOR COMPLETION	RESPONSIBILITY
	individual projects are only highlighted when there is a significant issue or problem that requires a Board decision.			
	10. Consider new arrangements for programme monitoring by using the monitoring processes that form part of the funding agreement with the Accountable Body (Brent Council). These processes monitor progress in the achievement of SKNDC's annual delivery plan. This approach would highlight the link with the Council's implementation of the Local Area Agreement. The Chief Executive would report quarterly to the Board.	See 7 above		
	11. Consider carrying out a full annual appraisal of the performance of the Chief Executive (including any discussion of salary). Consider the idea of setting up a subgroup of the Board to carry out this responsibility, that could	None	To be implemented when a new permanent CE is recruited. There are currently monthly progress meetings in place with the Interim CE and LBB to monitor progress and weekly meetings between the NDC Board Chair and Interim CE.	Accountable Body

ISSUE	RECOMMENDATIONS	PROGRESS TO DATE	TIMETABLE FOR COMPLETION	RESPONSIBILITY
	<p>comprise:</p> <ul style="list-style-type: none"> • Chair • Vice Chair • Community Board member (if the Vice Chair is not a Community representative) • Accountable Body Board member 			
Board Conduct (Inc. grievance and disciplinary)	12. Consider holding training sessions on the interpretation and implementation of conduct regulations in the Handbook	<p>Superseded by LBB Governance recommendations</p> <p>(See 5 in main report)</p>		
	13. Consider including the Mutual Respect rules in any new version of the Handbook, and introduce the practice of verbally reminding attendees of meetings of the Mutual Respect rules at the start of each meeting	Already implemented		

ISSUE	RECOMMENDATIONS	PROGRESS TO DATE	TIMETABLE FOR COMPLETION	RESPONSIBILITY
Equality & Diversity	14. Consider whether Board members would benefit from diversity training and, if it is felt training is needed, what it should include,	The Board have already agreed that this is not necessary	December 2007	Interim CE
	15. Consider whether the gender, age, ethnic background and disability status of the Board is representative and appropriate. If changes are needed, consider what sort of processes the Board may wish to adopt, especially with regard to the selection of community representatives and encouraging representation from all groups in the community.	The Board have already agreed that this is not necessary	Before summer 2008	Interim CE