



# Brent

## SUMMONS TO ATTEND COUNCIL MEETING

**Monday 18 November 2013 at 7.00 pm**

Conference Hall - Brent Civic Centre, Engineers Way,  
Wembley, HA9 0FJ

To the Mayor and Councillors of the London Borough of Brent and to each and every one of them.

I hereby summon you to attend the MEETING OF THE COUNCIL of this Borough.

CHRISTINE GILBERT  
Chief Executive

Dated: Friday 8 November 2013

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

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**[democracy.brent.gov.uk](http://democracy.brent.gov.uk)**

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

# Agenda

Apologies for absence

Item	Page
<b>1 Minutes of the previous meeting</b>	1 - 10
<b>2 Declarations of personal and prejudicial interests</b>  Members are invited to declare at this stage of the meeting, any relevant financial or other interest in the items on this agenda.	
<b>3 Mayor's announcements (including any petitions received)</b>	
<b>4 Appointments to committees and outside bodies and appointment of chairs/vice chairs (if any)</b>	
<b>5 Report from the Leader or members of the Executive</b>	11 - 12
To receive reports from the Leader or members of the Executive in accordance with Standing Order 42.	
<b>6 Questions from the Opposition and other Non- Executive Members</b>  Questions will be put to the Executive	
<b>7 First reading debate on the budget 2014/15 - 2017/18 budget</b>	13 - 38
A report in accordance with the requirement in Standing Order 24(b) as set out in Part 3 of the Constitution to present the financial position of the Council, financial forecasts for the following year and the possible expenditure priorities of the Executive. There shall then be a debate on the issues raised in that report held in accordance with Standing Order 44 hereinafter called a "First Reading Debate".	
<b>Ward Affected:</b> All Wards <b>Contact Officer:</b> Conrad Hall, Chief Finance Officer Tel: 0120 8937 6529 conrad.hall@brent.gov.uk	
<b>8 Reports from the Chairs of Overview and Scrutiny Committees</b>	39 - 44
To receive reports from the Chairs of the Overview and Scrutiny Committees in accordance with Standing Order 41.	

## 9 Scrap Metal Dealers Act 2013

45 - 54

A report detailing the provision of the Scrap Metal Dealers Act 2013 which includes the power to refuse a licence and to revoke licences if the dealer is considered unsuitable. The Council has powers to exercise the licensing function under the relevant Act. These powers need to be delegated to committee, sub-committee and officer level and fees need to be set.

**Ward Affected:** All Wards

**Contact Officer:** Michael Read,  
Operational Director (Environment and Protection)

Tel: 020 8937 5302

michael.read@brent.gov.uk

## 10 Changes to the Constitution

55 - 202

A report proposing changes to the Constitution to reflect the decisions taken by the General Purposes Committee on 28<sup>th</sup> March 2013 and 7<sup>th</sup> November 2013 to restructure the senior management of the Council and also recommending other miscellaneous changes required in relation to Contract Standing Orders and other matters.

**Ward Affected:** All Wards

**Contact Officer:** Fiona Ledden,  
Director of Legal and Procurement

Tel: 020 8937 1292

fiona.ledden@brent.gov.uk

## 11 Health and Wellbeing Board voting membership

203  
208

-

A report setting out the views of the Health and Wellbeing Board on voting proposals, which it discussed at its meeting on the 3<sup>rd</sup> July 2013 and calling on the Council to make a final decision.

**Ward Affected:** All Wards

**Contact Officer:** Ben Spinks, Assistant  
Chief Executive

Tel: 020 8937 6677

ben.spinks@brent.gov.uk

## 12 Joint Health Overview and Scrutiny Committee

209  
214

-

A report proposing that the JHOSC should continue to meet, with an updated remit to scrutinise the actual implementation of the "Shaping a Healthier Future" programme across North West London.

**Ward Affected:** All Wards

**Contact Officer:** Ben Spinks, Assistant  
Chief Executive

Tel: 020 8937 6677

ben.spinks@brent.gov.uk

**13 Setting of Council Tax Discretionary Discounts for 2014/15** 215 -  
220

A report detailing the classes and discounts currently applicable and seeking approval of the discounts and premiums to be applied to these classes for 2014/15, including changes to the discount for properties requiring major repair works or structural alterations to bring them back into a habitable condition.

**Ward Affected:** All Wards

**Contact Officer:** Andrew Donald,  
Strategic Director, Regeneration and  
Growth

Tel: 020 8937 1049

andrew.donald@brent.gov.uk

**14 2013/14 mid year treasury report** 221 -  
228

A report updating Members on recent treasury activity which has already been submitted to the Executive and Audit Committee.

**Ward Affected:** All Wards

**Contact Officer:** Conrad Hall, Chief  
Finance Officer

Tel: 0120 8937 6529

conrad.hall@brent.gov.uk

**15 Motions**

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

**16 Urgent business**

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



- Please remember to **SWITCH OFF** your mobile phone during the meeting.
- The meeting room is accessible by lift and seats will be provided for members of the public.





## LONDON BOROUGH OF BRENT

**Minutes of the ORDINARY MEETING OF THE COUNCIL  
held on Monday 9 September 2013 at 7.00 pm**

### **PRESENT:**

**The Worshipful the Mayor**  
Councillor Bobby Thomas

**The Deputy Mayor**  
Councillor Kana Naheerathan

### **COUNCILLORS:**

Aden	Adeyeye
Al-Ebadi	Allie
Arnold	Ashraf
Mrs Bacchus	Beck
Brown	Butt
Cheese	Chohan
S Choudhary	A Choudry
Colwill	Cummins
Daly	Denselow
Gladbaum	Green
Harrison	Hashmi
Hector	Hopkins
Hossain	Hunter
Kabir	Kansagra
Kataria	Leaman
Long	Lorber
Mashari	Matthews
McLennan	Mitchell Murray
J Moher	R Moher
Moloney	Ogunro
Oladapo	BM Patel
HB Patel	HM Patel
RS Patel	Pavey
Ms Shaw	Singh
Sneddon	Van Kalwala

### **Apologies for absence**

Apologies were received from: Councillors Baker, Beswick, Clues, Crane, Hirani, John, CJ Patel, Powney, Ketan Sheth and Krupa Sheth

1. **Minutes of the previous meetings**

RESOLVED:-

that the minutes of the special meeting held on 24 June 2013 and the ordinary meeting held on 24 June 2013 be approved as accurate records of the meetings.

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

Councillor Cheese declared a non-disclosable interest by virtue of being a member of the Kilburn Advisory Board.

Councillor Lorber declared a non-disclosable interest by virtue of being associated with the Friends of Barham Park.

Councillor Hopkins declared a non-disclosable interest by virtue of being associated with the Save Our Six libraries campaign.

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

The Mayor welcomed everyone to the first Full Council meeting in the Civic Centre.

The Mayor reminded everyone that the official opening of the Civic Centre would take place on Sunday 6 October from 12 noon until 7pm and encouraged everyone to support the event.

The Mayor announced that Councillors Ruth and Jim Moher had recently celebrated their 40th wedding anniversary and on behalf of the Council congratulated them both.

The Mayor pointed out that a list of current petitions showing progress on dealing with them had been circulated around the room.

4. **Appointments to committees and outside bodies and appointment of chairs/vice chairs**

RESOLVED:

that the following appointments be made:

<b>Committee</b>	<b>Appointment</b>
General Purposes Committee	Councillor McLennan, in place of Councillor Mashari
Health and Wellbeing Board	Dr Amanda Craig, Dr Sami Ansari and Dr Ajit Shah alternates to Dr Ethie Kong  Dr Cherry Armstrong and Dr Nish Rajpal alternates to Sarah Basham  Jo Ohlson and Sarah Mansuralli

	<p>alternates to Rob Larkman</p> <p>Sarah Mansuralli and Ian Winstanley alternates to Jo Ohlson</p> <p>Councillor J Moher as alternate to Councillor Crane</p> <p>Councillor Mashari as alternate to Councillor Hirani</p> <p>Councillor Butt as alternate to Councillor R Moher</p> <p>Councillor McLennan as alternate to Councillor Pavey</p> <p>Councillor Colwill as alternative to Councillor HB Patel</p>
Planning Committee	<p>Councillor Brown as 1st alternate to Councillor CJ Patel in place of Councillor Hopkins</p>

## 5. **Report from the Leader or members of the Executive**

Councillor Butt welcomed everyone to the first meeting of Full Council in the civic centre and thanked Andy Donald, Director of Regeneration and Major Projects and Aktar Choudhury, formerly lead officer on the Civic Centre project and his team for their work in completing the transition of staff and operations into the Civic Centre.

The Leader reported on the appointments made to senior officer posts as follows:

Eamonn McCarroll appointed Operational Finance Director  
 Cara Devani appointed HR Director  
 Aktar Choudhury appointed Director for Planning and Regeneration  
 Jon Lloyd-Owen appointed Director for Housing and Employment  
 Conrad Hall appointed Chief Finance Officer  
 Ben Spinks appointed Assistant Chief Executive.

The Leader informed members that the process for the Council being accredited a London Living Wage employer was underway which would further the good work already undertaken on this. He stated that he would encourage all employers in the borough to adopt the London Living Wage which was the one thing that would benefit local people by putting more money in their pockets.

The Leader referred to the Big Energy Switch project being undertaken by a collaboration of councils and encouraged all councillors to make local residents aware of the potential for saving money on their fuel bills.

The Leader reported that the Council had made a submission to the Independent Reconfiguration Panel which sought to ensure that NHS services were fit for the needs of local people and he very much hoped the Council's concerns would be addressed.

The Leader reported that grant funding for the Tricycle Theatre had been extended for another two years which, amongst other things, would allow children to continue to benefit from the development work carried out by the theatre and present further employment opportunities.

The Leader referred to new public health contracts that had been put in place to ensure the commissioning of public health services were delivered for the benefit of the borough's residents.

Finally, the Leader reported that the Council was continuing with its school expansion programme to meet the demand for extra school places. The programme was currently dealing with primary school places and would then go on to expand secondary school places and make appropriate SEN (special educational needs) provision. A report to the Executive on 19 August 2013 provided more information on this matter.

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

Councillor Hopkins referred to the ban on lorries above 7.5 tonnes using certain roads in her ward and the need for effective enforcement, especially along Dollis Hill. She stated that this was made difficult because many of the signs were missing and so asked if these would be replaced and the ban enforced. Councillor J Moher replied that he had recently had discussions on this issue along with the effect heavy lorries were having on the Oxgate Farm building and flooding in the area. Work to rectify the situation was in hand and he expressed sympathy with the points made based on personal observation. Efforts would be made to effectively enforce the ban. Councillor Hopkins stated that it was not just Oxgate Farm that was affected but also the wider Dollis Hill area. From monitoring the movement of lorries, it appeared that many used local roads as a rat run. She appreciated the reply from Councillor Moher and looked forward to urgent action being taken.

Councillor HB Patel stated that the local water company had recently dug up the road on East Lane. Whilst understanding the need for these works to be carried out, he stated that they had caused significant traffic disruption along such a busy road and the diversions put in place were poor. Drivers had used Clarendon Gardens and Castleton Avenue as a cut through and heavy vehicles had caused damage to the footways. He asked why the Council had not anticipated the situation and put in effective diversions. Councillor J Moher acknowledged the damage caused along Clarendon Gardens and added that it appeared that larger vehicles were getting through the width restriction. He reminded members that an earlier decision had been taken to restrict all vehicles entering from East Lane but this had caused other problems and so the restriction had been lifted and a width restriction put in its place. He felt there was a need for better enforcement in the area and so had asked officers to look into this matter. Councillor Patel appreciated the reply from Councillor Moher but pointed out that the problem was largely caused by Council vehicles passing through the width restriction with the restriction

having been removed and then not being reinstated and action to stop this was needed immediately.

Councillor Arnold asked what the GCSE results in Brent schools were for the year in respect of 5 A-Cs and 5 A-Cs with English and Maths and how these compared with last year's results and the national average. Councillor Pavey replied that 64% had achieved A-C. He congratulated the young people on achieving such good results and thanked the schools for the work put in to reach this position. He also acknowledged the support of parents, governors and others that contributed to local schools performing so well. Councillor Arnold added her congratulations to everyone involved. She stated that the Government was turning back the clock with child poverty on the increase, teachers being undermined and she expressed concern that the appropriate measures were taken to ensure no-one was excluded.

Councillor Sneddon referred to the role of planning where a concentration of a particular type of business was allowed to occur. He recalled the Council passing a motion in 2011 on restricting the proliferation of betting shops and asked what steps had been taken to progress this. Councillor Butt replied that a study of recent cases where permissions for certain businesses had been challenged showed that most such challenges failed. Work was being carried out with London Councils and the Mayor of London to lobby for sufficient powers to be able deal with this problem. He referred particularly to the proliferation of betting shops and pay day lender outlets. Consideration was being given to what action could be taken in the Wembley area which if successful could be extended around the borough. Councillor Sneddon thanked Councillor Butt for his reply. He also referred to some councils calling for laws to limit particular businesses and that this was a matter of discussion nationally within the Liberal Democrat party. He hoped all parties could work together on this.

Councillor Oladapo asked what actions the Council took in partnership with the police following the tragic killing of Sabrina Moss in Kilburn and how the Mayor of London's decision to close Willesden Green police station as well as the front counter at Harlesden police station would impact on the police's ability to respond to extremely violent crimes such as this in the future. Councillor Choudry replied that one person had been charged in relation to this very serious incident. Following the murder the police had convened a group consisting of a wide range of community representatives who were asked to use their leadership role to reassure people about the situation, especially in light of the Notting Hill carnival taking place. Councillor Choudry was pleased to say that there were no related incidents at the carnival and an incident room remained at Willesden Green Police Station. The rationalisation of police services would see the closure of Willesden Green police station and the front counter at Harlesden police station as stated by Councillor Oladapo. There would be a 24 hour front counter service at Wembley. Contrary to the assertion that this would not have a detrimental impact on police services it was clear that people would be left feeling less safe with police services cut back in this way. Councillor Oladapo added that the murder had been one of the worst incidents to have taken place in the Kilburn area which remained a safe and vibrant place. He acknowledged the good work by the police in arresting a suspect. He reassured the Council that he and other community leaders would continue to work to prevent such an incident being repeated. He added that he understood that the Mayor of London even wanted to close Kilburn police station.

Councillor Hunter referred to the Council seeking London Living Wage accreditation and the criticism of zero hours contracts in the NHS. She asked how this could be reconciled with the Council employing staff on such contracts and if it could be guaranteed that the public realm contract would ensure staff were paid a minimum of at least the London Living Wage (LLW). Councillor Butt replied that he had always been committed to the LLW. Regarding zero hours contracts he referred to the time of the previous Council Administration when there were 700 people on such contracts. This number had now been reduced to below 200. Work was being undertaken to continue to review these contracts to ensure staff received appropriate terms and conditions and were not taken advantage of. Councillor Butt added that he would continue to encourage businesses to pay the LLW as the best way towards employing a happy workforce and contributing to the local economy. Councillor Hunter was pleased to hear that the number of staff on zero hours contracts had reduced but stated that, whilst there was a lot of discussion and agreement around the need to review these contracts, there was also comments made that they were sometimes necessary. She felt that in the public sector there should be zero tolerance of zero hours contracts.

Councillor Mitchell Murray asked what would be the impact in Brent of the Government's proposals to end the duty of local authorities to monitor and report on air quality. Councillor Mashari replied that the level of health inequality in the borough was already shocking. It was clear that air quality had an effect on the quality of life for local residents. Instead of working to improve the health of people the Government was instead proposing to dismantle the current structure that produced accurate data on air quality. This would mean that local authorities would be powerless to refuse planning permissions for developments that might have a detrimental effect on the health of local residents because the necessary evidence would not be available. She encouraged everyone to submit their objections to the proposal before the consultation period ended. Councillor Mitchell Murray thanked Councillor Mashari for her reply.

Councillor Lorber referred to a previous call-in of the Executive's decision to abolish parking scratch cards and the Executive's response that it amounted to a fuss about nothing. Members were told the situation would improve when additional staff were taken on. However, he stated that all this time later and residents were still unable to get through on the telephone and the IT systems were still not working properly. Councillors and officers continued to receive complaints and so Councillor Lorber asked if the Executive would apologise for forcing through this change. Councillor J Moher replied that all members could quote examples of complaints or praise. He acknowledged there were problems with the new system but additional telephone lines had been installed and additional staff recruited with the result that as of 5 September call waiting time was down to an average of one minute 39 seconds. Improvements to the service were happening and it had been made clear to the contractor that further improvements still had to be made. Councillor Lorber responded saying he felt the scheme was indefensible and referred to a specific case where a pensioner did not have access to a computer and her son had been unable to get through on the telephone. He again asked why scratch cards had been stopped and referred to consultation being carried out by Brent Housing Partnership over options for introducing parking scratch cards.

Councillor Van Kalwala asked if the Executive would agree with him that the people of Brent would have been better off if the MP for Brent Central had discovered her

conscience three years ago. Councillor Butt replied that he agreed with Councillor Van Kalwala. Sarah Teather, MP had voted for successive Government budgets which had reduced funding for Brent Council by £104M. As Schools Minister she oversaw the elimination of the previous Government's crucial Building Schools for the Future programme and she had colluded in the privatisation of the NHS. He stated that Brent residents needed an MP who would stand up for them through thick and thin and who would not be afraid to face the electorate on their record. Councillor Van Kalwala thanked Councillor Butt for his reply. He agreed that Sarah Teather had failed to stand up for the people of Brent. He stated that there was now the opportunity to wipe the slate clean and get in a Labour MP to stand up for Labour values and give people some hope for the future.

Councillor Brown thought that the Executive should be as appalled as local people were over the condition of the streets. He asked if the Council would expand its enforcement action against illegal dumping and invest to save on reducing the amount of rubbish on Brent's streets thereby saving in disposal costs. Councillor Mashari replied that the incidence of dumping in the borough was at a two year low and provided the following information: 2,500 street inspections carried out since April, 120 fly tipping cases dealt with and 81 litter investigations carried out. The amount of waste going to landfill was down and a robust enforcement programme was in place to tackle fly tipping. She suggested Councillor Brown might encourage more of his local residents to recycle because the Alperton ward had one of the lowest levels of recycling in the borough. Councillor Brown stated that local residents were voicing their disgust at the amount of fly tipping and felt his question regarding adopting an invest to save approach had not been answered.

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

Councillor Mitchell Murray referred to the circulated report which set out the work undertaken by the various overview and scrutiny committees. She thanked members and officers for their hard work in producing the outcomes detailed in the report.

RESOLVED:

that the report be noted.

## **8. Treasury Management outturn**

Questions were asked around the recovery of monies the Council had lost during the Icelandic banking crisis. In particular what level of right back there would be as a result of the return of the monies and the timescale for final settlement. Councillor R Moher undertook to provide a written reply to Councillors Lorber and HB Patel on these questions.

RESOLVED:

that the 2012/13 Treasury Management outturn report be noted.

## **9. Motions**

### **9.1 West Hendon development**

Councillor Mashari moved a motion opposing the development of land adjacent to the Welsh Harp in West Hendon, recently agreed by Barnet Council and the Mayor of London. She stated that Welsh Harp was as an asset with SSSI (Site of Specific Scientific Interest), of metropolitan importance with rare birds, butterflies and dragon flies. The area was well loved and much valued as illustrated by the 700 signature petition and also on-line support. Councillor Mashari paid tribute to all who had supported the campaign against the imposition of the 29 storey tower block and who had taken part in protests to Barnet Council and the Mayor of London against what she considered to be vandalism. The specification was overdeveloped and she questioned if the area could cope with the additional numbers of people that would move in. She expressed dismay that the Secretary of State had decided not to call-in the proposed development and asked members to support the motion in the strongest possible terms.

Councillor Ashraf echoed the concerns expressed by Councillor Mashari and Councillor Kansagra pointed out that the development had received widespread opposition and was not in keeping with Barnet's Unitary Development Plan guidelines. He acknowledged the need for new homes but stated that this should not be at the expense of the environment. Councillor Kansagra recommended the use of brown field sites, which may be more costly but would be money well spent.

Members on all sides supported the motion.

**RESOLVED:**

- (i) that the West Hendon Development plans which have recently been approved by Barnet Council and the Mayor of London be opposed;
- (ii) to note that the Welsh Harp Reservoir and Nature Reserve is the only site of special scientific interest (SSSI) in Brent or Barnet and has London wide and national ecological significance;
- (iii) to note that Barratt Homes has failed to address concerns raised by Brent officers, community groups and wildlife organisations who have opposed these plans, which will lead to 6000 new residents moving into tower blocks up to 29 storeys high and the construction of foot bridges leading directly from the site into the SSSI and that the scale and design of this development amounts to an act of environmental vandalism;
- (iv) to note that the scale and design of the proposed development contravenes official guidance in both the Barnet and London plans;
- (v) that the value of the Welsh Harp Nature Reserve and reservoir and the belief that this site must be preserved for future generations be reaffirmed;
- (vi) that this Council therefore condemns in the strongest possible terms the announcement on 9 September 2013 by the Secretary of State for Communities and Local Government that he has chosen to refuse to call in the decision by Barnet Council.

**9.2 Restoring Brent's community libraries**



Councillor Cheese moved the motion circulated in his and Councillors Lorber, Hunter, Cummins and Hopkins's names which sought to get the Executive to set up a cross party group to develop a community library strategy. He stated that it would soon be the second anniversary of the closure of six libraries in the borough and local people had not forgotten. As a result book borrowing had dropped; there was a lack of places for studying and for leisure time. He felt that whilst the previous Lead Member had been clear about the decisions taken the views of the present lead member was not clear and nothing had been done to return any of the libraries to use.

In response Councillor Mashari stated she was clear about the importance of reading and education. She was pleased to announce that there had been 54222 visits recorded to the new Wembley Library in the civic centre. She had met with all the groups involved with libraries and offered support in the form of providing furniture, spare books, training and access to resources. Further developments would take place and she suggested that positive engagement with the Council would be more beneficial than passing the proposed motion. Alternative views put were that the Council's library transformation plan had caused misery with the closure of six libraries and it was suggested that the new Wembley Library did not attract the same number of young or elderly people or families as the local libraries had. It was put that the closure of six libraries had resulted in the loss of premises that provided after school provision and facilities for the elderly.

The motion was put to the vote and declared LOST.

### **9.3 Cutting services**

Councillor Shaw moved the motion circulated in Councillor Kansagra's name which sought to commit the Council to spend money on repairing roads, cleaning streets, collecting rubbish and pruning trees rather than maintaining current levels of reserves. She stated that she wanted to bring back pride in the borough. Councillor Shaw referred to trees not being pruned, resources for pest control being cut and complaints being received about potholes in roads. The Council claimed it had no money but she referred to the savings made by the Council and asked where it had all gone and why cuts to services had been made when there were large reserves to draw on. In response the point was made that the Council did not hold a high level of reserves relative to risk and that spending any reserves was a one off action. It was submitted that the financial situation for the Council would only get worse as the Government continued to require the Council to make savings on top of the £104M it had already lost. This represented a reduction of 30% and that was why the Council had had to make such significant savings. The point was made that some of the welfare benefit changes were having such an impact on the poorest people in the borough that the Council was having to take action to mitigate this. Action was being taken to regenerate areas of the borough in order to provide employment and lift people out of poverty. Another point of view was submitted that, although the Council had been required to make savings, the figure of £104M took no account of the grants the Council received. The savings had been achieved due to a programme introduced by the previous Administration and had made the Council more efficient. The claim was made that front line services had been protected and yet the response was that services could no longer be provided. A view was submitted that in the past the Council had a much

lower level of reserves and it had no detrimental effect on the operation of the Council.

The Mayor ruled that a further contribution to the debate was not relevant to the item and invited the Council to vote on the motion. In response a procedural motion was moved of no confidence in the Mayor's ability to chair the meeting. This was put to the vote and declared LOST.

The motion was put to the vote and declared LOST.

10. **Urgent business**

None.

The meeting closed at 8.42 pm

COUNCILLOR BOBBY THOMAS  
Mayor



## FULL COUNCIL – 18 NOVEMBER 2013

### Report from the Executive

#### 1. Items to be reported by the Executive

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

1. The opening of the LDO and update on appointment of Ben Spinks (Cllr Butt)
2. New Public Realm contract (Cllr Mashari)
3. The future of Copland school (Cllr Pavey)
4. Integrated Care Pioneer bid and conference on adult safeguarding (Cllr Hirani)
5. Action taken on racial discrimination by local letting agents and private rented sector licensing (Cllr McLennan)
6. The live-streaming of Council meetings (Cllr Denselow)
7. Conference on khat (Cllr Choudry)
8. An update on parking (Cllr J Moher)
9. Regeneration tour of the borough by Deputy Mayors of London (Cllr Crane)
10. Visit from the Mayor of Johannesburg (Cllr R Moher)

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


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

- Registered Children's Homes Block Contract
- Supporting People Services - accident prevention
- Supporting People Services - emergency response

Notification that the above reports, considered by the Executive on 19 August 2013 contained appendices which would be considered in private.

Reason why it was impracticable to defer the decisions until they could be included on the forward plan:

In order for the decisions to be taken within timescales.

 <b>Brent</b>	<p><b>Full Council</b> 18 November 2013</p> <p><b>Report of the Chief Finance Officer</b></p>
For Action	Wards affected: ALL
<b>First Reading Debate on the Budget</b>	

## 1.0 Summary

- 1.1. This report meets the requirement in Standing Order 24(b) as set out in Part 3 of the Constitution that there is a report presented:

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

- 1.2. The record of the ‘First Reading Debate’ assists the Leader of the Council and the Chair of the Budget and Finance Overview and Scrutiny Committee in shaping the budget. The role of the Budget and Finance Overview and Scrutiny Committee is to assist the budget process by providing detailed input during the Executive’s development of its budget proposals. This includes scrutiny of the Executive’s budget proposals prior to the Executive’s recommendations on the budget being considered at its meeting on 17 February 2014, as well as further consideration after the Executive’s recommendations have been made.
- 1.3. Final decisions on the budget and the level of Council tax for 2014/15 will be made at Full Council on 3 March 2014.

Meeting  
Date

Version no.  
Date

- 1.4. This report has been written on the basis of the best information available to the Council at this stage. Further details on the Council's funding will follow on from the Autumn Statement and the draft local government finance settlement, both of which are expected in December.
- 1.5 In addition, the ongoing impact of developments in the wider economy and the impact of welfare reform mean that underlying assumptions about pay and price increases, interest rates, service pressures and other items within the Council's medium term financial strategy will need to be kept under close review.

## **2.0 Recommendation**

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

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

- 3.1 The 2013/14 budget was agreed at Full Council on 26 February 2013. Key features of the budget agreed for 2013/14 were:
- A General Fund budget requirement of £284.3m;
  - No Council tax increase for Brent services leading to a Band D level of £1,058.94;
  - An overall Council tax reduction of 0.3%, including the GLA precept, leading to a Council tax for Band D properties of £1,361.94;
  - Reserves of £12m, which was at the lower end of the planned range of £12m to £15m agreed by Council, based on the s151 officer's assessment of financial risks;
  - Financial projections for future years modelled on the basis of no council tax increase and that balances would remain at £12m.
- 3.2 The projections for future years produced a gap to be bridged for the period 2014/15 to 2016/17 as shown overleaf:

**Table One: Estimated Budget Gap at 26 February 2013**

	<b>2014/15 £m</b>	<b>2015/16 £m</b>	<b>2016/17 £m</b>
Net Savings Required	27.8	18.8	17.2
Savings Identified	(7.4)	(1.6)	0.0
Budget Gap:			
Annual	20.4	17.2	17.2
Cumulative	20.4	37.6	54.8

3.3 This budget gap was subsequently updated in a report to the October 2013 Executive to reflect:

- Changes to government funding forecasts following the Spending Round in June and subsequent technical consultation in late July 2013
- Revised forecasts for the retained share of business rates, council tax yield and the collection fund surplus
- The announcement that the council tax freeze grant arrangements will continue for 2014/15 and 2015/16
- Update on anticipated pressures, particularly on capital finance and social care
- Changes to other savings assumptions in the budget.

3.4 The overall impact of these changes was an improvement in the outlook for 2014/15 but a significant deterioration for 2015/16, as set out in table two, below. Many London boroughs reported similar changes to their financial planning assumptions following the June and July announcements.

**Table Two: Revised Budget Gap**

	<b>2014/15 £m</b>	<b>2015/16 £m</b>	<b>2016/17 £m</b>
February 2013	20.4	17.2	17.2
Net Movement	(7.3)	16.4	2.0
October 2013	13.1	33.6	19.2

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- 3.5 A more detailed analysis of the overall position incorporating the above changes is set out in appendix one. The schedule of central items is set out at appendix two.

#### 4.0 General Fund revenue budget issues

##### 2014/15 Budget Proposals

- 4.1 The administration has undertaken a review of all service budgets to identify areas to bridge the 2014/15 budget gap. The summary by department is set out below with the schedule of savings set out in appendix three.

**Table Three: Summary of 2014/15 Draft Savings**

Heading	Existing MTFS £'000	New Proposals £'000	Total £'000
Adult Social Care	2,790	988	3,778
Children & Families	627	1,790	2,417
Environment & Neighbourhoods	1,494	1,335	2,829
Regeneration & Growth	24	1,860	1,884
Central	2,458	4,488	6,946
	<b>7,393</b>	<b>10,461</b>	<b>17,854</b>

- 4.2 In addition to the new savings proposals a review of spending pressures has been undertaken, in particular to reflect the latest position on temporary accommodation and social care client numbers. This has led to a further improvement of £2.6m in 2014/15 meaning that the budget position for that year is balanced, pending any further developments, including the impact of local government finance settlement

##### Medium Term Financial Challenge

- 4.3 As set out in table two, the Council faces an estimated funding gap of £33.6m in 2015/16 and £19.2m in 2016/17. Most commentators agree that, whatever interpretation is placed on recently improved economic indicators, the downward pressure on public expenditure is likely to continue for some years beyond the Council's current financial planning horizon.

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4.4 This means that the Council's budget strategy will need to include:

- A focus on medium to long-term planning;
- A consideration of radical transformation of the Council and of the way it works with its partners and the communities it serves, incorporating an increasing emphasis on preventing and managing the demand for services;
- An emphasis on doing more to support independence and resilience;
- Developing new cross-council One Council Programme projects which will form the basis for budget savings in future years;
- A recognition of the financial costs, risks and opportunities for the Council of the impact of new and proposed legislative changes, such as welfare reform and greater integration of social care and health services, and an assessment of the impact of these on the communities that the council serves;
- An ongoing and sharper focus on reviewing existing service and central budgets.

4.5 Budget options will be developed in the context of the priorities and values set-out in the Borough and Corporate Plans. These set out the Council and partners' vision for the borough: "creating opportunities, improving lives".

The vision is underpinned by six priority themes. These are:

- Building a strong community
- Promoting jobs, growth and fair pay
- Making Brent safer, cleaner and greener
- Improving health and well-being
- Improving lives for children and families
- Developing better ways of working

Partners in Brent have agreed a set of values which inform all our work:

- **Fairness** Our actions will reduce inequality and promote fairness and justice, in particular for the most vulnerable people in our community. We will work co-operatively to respond to the different needs of local communities and individuals ensuring cohesion and resilience in Brent.
- **Respect** We will respect local people, engage them in decision-making and support their independence.
- **Excellence** We will strive to ensure the best possible services are provided for local people and re-designed with local people at a fair and affordable cost.

- 4.6 These values and priorities form the framework which will guide the difficult decisions the Council will need to make as it identifies budget options for the future. These will be refreshed in collaboration with local people after the elections in May 2014.
- 4.7 In identifying budget options, the Council will work with its partners and residents to minimise the impact on the vulnerable and on front-line services and is committed to a widespread programme of consultation, including through an on-line tool that enables residents to express preferences about budget priorities.
- 4.8 To date this consultation has shown that residents consider it important that the council protects services to the vulnerable, such as safeguarding, and that they also place a high value on the ongoing physical regeneration of the borough. Universal services, such as waste collection, were regarded as a medium priority, with an acceptance amongst those surveyed to date that reductions in these areas might be necessary. Much lower priority was placed on internal support services, and also on services such as Public Health and promoting healthy lifestyles, arts and sports development.

## **5.0 Schools' Budget**

- 5.1 The Schools' Budget is funded directly from a Dedicated Schools' Grant (DSG) which is ring-fenced and does not appear as part of the Council's overall budget requirement. Schools are also allowed to build reasonable levels of reserves which are also ring-fenced.
- 5.2 The government announced in the last Spending Review that schools' spending was a priority area and, although overall Department for Education (DfE) funding fell by almost 11%, allocations of DSG per pupil to local authorities were unchanged on a cash basis.
- 5.3 The council is required to consult the Schools' Forum, which consists of representatives of the different schools sectors and includes head-teachers and governors, on the setting of the Schools' Budget. The Schools' Forum and its sub groups have been considering changes to the funding formula which have been the subject of consultation with schools more widely. These deliberations have been concluded and will result in a set of recommendations to the Council's Executive in December 2013.
- 5.4 A key policy issue that will be addressed as part of this is the funding ratio between the primary and secondary school sectors, where the DfE has been encouraging local authorities to move closer to national averages. A report to the Executive is scheduled for December to consider this matter further. As part of the forward financial planning process officers will also seek to assess the potential implications of a move to a national funding formula, which to date have not been quantified.

- 5.5 Final decisions on the allocation of the Schools' Budget will be taken as part of the overall budget process, following the completion of which all maintained schools will have their final budgets confirmed.

## **6.0 Housing Revenue Account**

- 6.1 The Housing Revenue Account (HRA) covers the activities of the Council as landlord for approximately 9,000 freehold dwellings and 200 leasehold dwellings. The HRA is separate from the General Fund and is ring-fenced – i.e. HRA expenditure is met from HRA resources which primarily consist of rent income and not from Council tax or other General Fund resources.
- 6.2 From April 2012 the former HRA subsidy system ended and the HRA is now self-financing. A new HRA asset management strategy, which takes account of the arrangements under self-financing, was considered by the Executive in November 2013.
- 6.3 The annual rent increase for Council dwellings takes account of the government's guidelines on convergence between rents charged by Councils and Registered Social Landlords (mainly housing associations). Although the Government has indicated that it expects councils to follow these guidelines there is not currently an absolute obligation to do so. However, the Government has assumed under the new HRA self financing system that local authorities will follow national rent policy when setting rents.
- 6.4 In February 2014 the Executive will decide on the rent increase to be applied in 2014/15. The HRA budget will be agreed by Full Council on 3 March 2014 as part of its consideration of the overall Council budget report.

## **7.0 Capital Programme**

- 7.1 The capital programme is a four year rolling programme which is up-dated each year to reflect the priorities set out in the Borough Plan and the asset management priorities. The current capital programme was agreed as part of the overall 2013/14 budget process in February 2013 and has been up-dated to reflect subsequent changes, including accounting for slippage of previous years' spending into 2013/14.
- 7.2 The key challenges for the development of the capital programme are:
- a. To revisit the estimated sources of funding, taking into account the continuing impact of the wider economic activity on other contributions such as levels of developer contributions arising from major development projects.
  - b. To optimise the way that the Council levers in additional funding and maximises the opportunities to enhance the wider value obtained from use of its own assets.

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- c. The ongoing need in particular to provide additional school places across the borough and also to address other demands for capital finance.
  - d. To consider how best to facilitate the delivery of housing policy priorities through the flexibilities available through the new HRA financing regime, and to ensure that opportunities to link these to wider regeneration and other priorities are pursued.
  - e. In the light of the above to ensure that the up-dated capital programme delivers the Council's key priorities within the resources available.
- 7.3 The capital programme has historically, and is currently based on the assumption that a level of new unsupported borrowing will be entered into each year.
- 7.4 This strategy increases unsupported borrowing costs each year at a time when revenue resources are falling leading to interest costs taking up an increasing share of total revenue resources. Members could decide to reduce that unsupported borrowing as a way of helping bridge the budget gap in future years. Achieving this would mean either reductions in the capital programme or the identification of additional funding sources other than borrowing that are not already accounted for in the capital programme.
- 7.5 Borrowing levels currently included in the capital programme are set out in detail in appendix four, and summarised in table four, below.

**Table four: Summary of planned future borrowing**

	<b>2014/15 £000</b>	<b>2015/16 £000</b>	<b>2016/17 £000</b>
Unsupported Borrowing	6,973	6,973	6,973
Unsupported Borrowing – Self Funded	990	200	200
Total new borrowing (per annum)	7,963	7,173	7,173

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

## **8.0 Timetable**

8.1 The timetable for finalising the 2014/15 budget is attached as appendix five. The key events and dates are:

- the Chancellor's Autumn Statement on 4 December 2013;
- the release of the Mayor's consultation on the GLA budget mid-December 2013;
- the provisional local government finance settlement, which is expected by 20 December;
- the administration's revised draft proposals issued early February 2014;
- Executive decides budget recommendations to Full Council at its meeting of 17 February 2014;
- GLA budget agreed by 17 February 2014;
- Full Council decides budget on 3 March 2014.

8.2 The Budget and Finance Overview and Scrutiny Committee will be scrutinising the budget at various stages of this process: prior to the administration's draft proposals being issued; after the proposals have been issued, with their discussions feeding into Executive consideration of the budget proposals on 17 February; and following the decisions of the Executive, feeding into the Council budget debate. Last year the Overview and Scrutiny Committee invited a range of members to its meeting preceding the Executive's consideration of the budget proposals and the intention will be to follow the same approach this year.

## **9.0 Financial Implications**

9.1 The recommendations of this report do not have specific financial consequences at this stage, as the formal decisions on the budget will be taken at later stages, as set out in section eight of this report. However, the report is entirely concerned with financial implications which have far reaching consequences for the Council's services in future years.

## **10.0 Legal Implications**

10.1 The Council's Standing Orders contain detailed rules on the development of the Council's budget. Some elements of these rules are required by the Local Authorities (Standing Orders) (England) Regulations 2001 but a number are locally determined.

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- 10.2 In the case of the Council's annual budget, including the capital programme, under Standing Order 24(b) of the Council's Standing Orders as set out in Part 3 of the Council's Constitution, the Executive is required under the Constitution to present a report to Full Council setting out the financial position of the Council, financial forecasts for the following year and their expenditure priorities. This report sets out the required information. There will be a debate on the issues raised herein and in the separate report, which will be conducted in accordance with Standing Order 44. This is known as the "First Reading Debate" and this will take place at the Full Council meeting on 18 November 2013.
- 10.3 Following the First Reading Debate, a record of the debate will be sent to the Leader and to Chair of the Budget and Finance Overview and Scrutiny Committee. The Budget and Finance Overview and Scrutiny Committee will meet and produce a report setting out its view of the budget priorities and any other issues it considers relevant. This report will be submitted to each Executive Member and each Group Leader in order to inform budget proposal discussions. Prior to being agreed by the Executive, the Executive's budget proposals will be sent to members of the Budget and Finance Overview and Scrutiny Committee which will consider the proposals and submit a note of its deliberations and comments on the proposals to the Executive. The Executive will take into account the issues raised at the First Reading Debate and the note of the deliberations and comments from the Budget and Finance Overview and Scrutiny Committee in making its budget recommendations to Full Council.
- 10.4 The final proposals will be submitted by the Leader to a special meeting of Full Council for consideration and determination no later than 10<sup>th</sup> March in accordance with Standing Order 34. There is a statutory dispute procedure set out in Standing Order 25 to deal with circumstances where there is a disagreement between the Council and Executive on the budget proposals but this only applies where the budget setting meeting takes place before the 8<sup>th</sup> of February.

## **11.0 Diversity Implications**

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

## **12.0 Background Papers**

Budget Report – Full Council 26 February 2013  
Budget Strategy – Executive 14 October 2013

## **13.0 Contact Officers**

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# FINANCIAL FORECAST 2014/15 - 2016/17

Appendix 1

	2013/14 Original Budget £m	2014/15 £m	2015/16 £m	2016/17 £m
<b>Service Area Budgets (SABs)</b>				
<b>SAB b/fwd, incl. savings and pressures</b>		264.5	265.2	256.3
Savings to be identified in previous year's budget			(13.1)	(33.6)
Adult Social Services	109.0			
Children & Families	44.2			
Environment & Neighbourhood Services	35.8			
Regeneration & Major Projects	30.5			
Central Services	41.8			
	<b>261.4</b>	<b>264.5</b>	<b>252.1</b>	<b>222.7</b>
<b>Savings</b>				
Service Savings	0.0	(5.2)	(0.1)	0.0
Centrally Held One Council Savings	(0.5)	(2.2)	(1.5)	0.0
	<b>(0.5)</b>	<b>(7.4)</b>	<b>(1.6)</b>	<b>0.0</b>
<b>Cost Pressures for Service Areas</b>				
Cost Pressures	0.2	5.6	2.1	3.7
Inflation Provision	3.5	2.5	3.7	3.7
	<b>3.6</b>	<b>8.1</b>	<b>5.8</b>	<b>7.4</b>
<b>Other Budgets</b>				
<b>Central budgets b/fwd</b>		42.9	42.1	44.1
Central Items	40.4	0.2	2.0	0.9
One Council Enabling Fund	2.5	(1.0)	0.0	0.0
	<b>42.9</b>	<b>42.1</b>	<b>44.1</b>	<b>45.0</b>
<b>Grants &amp; Balances</b>				
<b>Grants &amp; Balances b/fwd</b>		(23.1)	(23.4)	(22.1)
Government Grants Unallocated	(22.9)	(0.5)	1.3	0.5
Contribution to/(from) Earmarked Reserves	(0.3)	0.3	0.0	0.0
	<b>(23.1)</b>	<b>(23.4)</b>	<b>(22.1)</b>	<b>(21.6)</b>
<b>Total Budget Requirement</b>	<b>284.3</b>	<b>283.9</b>	<b>278.3</b>	<b>253.5</b>
<b>Funding</b>				
<b>Funding b/fwd</b>		284.3	270.8	244.7
Revenue Support Grant	116.0	(22.7)	(26.3)	(13.4)
Retained Business Rate	31.9	3.1	1.7	1.7
Business Rate Top up	46.5	1.5	1.3	1.2
Council Tax Freeze Grant	1.1	1.0	0.0	(2.1)
New Homes Bonus	5.3	1.0	(1.3)	1.4
Surplus/(Deficit) on the Collection Fund	1.8	0.6	(2.4)	0.0
Council Tax Income	81.7	1.9	0.8	0.8
<b>Total Funding</b>	<b>284.3</b>	<b>270.8</b>	<b>244.7</b>	<b>234.3</b>
<b>Forecast Budget Gap - In Year</b>		<b>(13.1)</b>	<b>(33.6)</b>	<b>(19.2)</b>
<b>Forecast Budget Gap - Cumulative</b>		<b>(13.1)</b>	<b>(46.7)</b>	<b>(65.9)</b>

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## ANALYSIS OF CENTRAL ITEMS 2013/14 -2016/17

	2013/14	2014/15	2015/16	2016/17
	£'000	£'000	£'000	£'000
Coroners Courts	238	243	248	253
LGA	43	44	45	46
London Councils	169	169	172	175
LGIU Subscription	26	26	26	26
West London Alliance	30	30	30	30
Copyright Licensing	20	20	20	20
External Audit	380	380	380	380
Corporate Insurance	380	400	420	420
Capital Financing Charges	25,107	25,312	26,137	25,901
Levies	3,491	3,623	3,761	3,906
Premature Retirement Compensation	5,224	5,352	5,484	5,619
South Kilburn Development	900	900	900	900
Insurance Fund	1,500	1,500	1,500	1,500
Freedom Pass Scheme Growth	0	1,199	2,000	2,845
PFI Initiatives	76	110	145	181
Council Elections	100	100	100	100
Carbon Tax	67	89	91	93
Redundancy and Restructuring Costs	2,611	1,054	1,054	1,054
Other Items	80	80	80	80
<b>TOTAL</b>	<b>40,442</b>	<b>40,631</b>	<b>42,593</b>	<b>43,529</b>

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Heading	Item	2014/2015 £'000
Integrated Health and Social Care	<p>Work is well underway to integrate mental health and older people services with the Clinical Commissioning Group, and working with other parties as appropriate. This aims to deliver savings by:</p> <ul style="list-style-type: none"> <li>- enabling those who can to live independent lives thus cutting residential costs</li> <li>- reducing staffing overlaps between partners</li> </ul> <p>North West London has been awarded Pioneer status by the Department of Health, which adds confidence to our ability to deliver, but this is still a complex and demanding programme of change and there are high inherent risks which may make it hard to achieve all of the savings in 2014/15.</p>	2,200
Continuing Health Care	Ensuring the people within Brent who are entitled to Continuing Health Care (CHC) funding (non means tested health funding to meet their needs), get CHC.	590
Usual Rates	Continued negotiations with Residential and Nursing care providers to reduce their rates down to the Council's 'usual rates'.	410
Additional extra care/accessible housing	Investing in extra care schemes in order to reduce the number of people who need to live in residential and nursing care	200
Direct Payments	Increasing the number of Direct Payments, so people pay for their Home Care through independent Personal Assistants, therefore cutting out the overhead and profit costs attributed to home care agencies. A market for independent Personal Assistants will need to be developed in the local area.	60
Mental Health	Bringing consistency for all adult social care customers who pay what they can for services by ensuring that mental health customers receive s117 funding that they are eligible for.	72
Community Transport Review	The review of Community transport investment via a grant to remove duplication with other concessionary transport schemes.	100
Licenses/phone lines/On-line assessments	Staffing efficiencies through the introduction of online financial assessments and ensuring consistency across all customers by no longer paying for telephone or TV licenses.	73
Learning and Development	Fundamental review of training, ensuring focus is on departmental priorities for professional practice and contracted provision.	73
	<b>TOTAL ADULT SOCIAL CARE</b>	<b>3,778</b>

		2014/2015
Heading	Item	£'000
Children and Families - General	Reduction on supplies and services expenditure	50
SEN Transport	Savings due to efficiencies in routing and other transport costs	100
School Improvement Services	This saving has already been achieved through the restructuring of the service during 2012/13.	150
Children's Social Care	Through the Working with Families Project, working with families on the edge of care and working with WLA on smarter procurement, reductions in more expensive placements can be made.	327
Children's Centres	Reduction in locality management costs. This requires the deletion of middle management posts.	147
Children's Centres	Reduction in central costs	442
SEN Transport	Further savings on eligibility following the introduction of the new eligibility policy in March 2013.	100
Fostering and Adoption	Savings from advertising, service reorganisation and allowances	108
CAMHS	Reduction in CAMHS support commissioned for LAC so that direct interventions for LAC will be delivered through the CAMHS core contract, in line with other local authorities. This will also require changes to mental health services for children with disabilities.	405
Connexions	Reduction in intensive support posts, commissioned and one-off projects and ending the provision by P3.	191
Commissioning - restructure	Deletion of Access to Resources post and downgrade (currently vacant) manager post. Several functions are being merged with other teams (including Adult Services) to generate efficiencies.	63
SEN	Review of Education Psychology Service, expecting to lead to an income generation strategy.	40
Short Breaks Unit	Income from selling bed nights and daytime usage by The Village School	60
School Improvement Services	Deletion of 1 of 4 school improvement lead posts	70
Safeguarding	Reduction in cost of Family Group Conferencing Service	80
Learning & Development	Amalgamating training functions within Children & Families	84
	<b>TOTAL CHILDREN &amp; FAMILIES</b>	<b>2,417</b>

Heading	Item	2014/2015 £'000
Highways Licensing	As agreed in 2012-13 budget process, to incrementally increase charges for Crane Licenses and review other highways licensing fees (for skips, scaffolding and building materials on the public highway).	20
Sports, Parks and Cemeteries Income	To increase fees and charges for sports, cemeteries and parks as agreed in the 2012/13 budget process	44
Trading Standards - Proceeds of Crime	To fund the Accredited Financial Investigators (AFI) post from any incentivisation money received from Proceeds of Crime investigations, as part of the three year proposal agreed in the 2012/13 budget process.	25
School Crossing Patrol (SCP)	As agreed in the 2012-13 budget process, to continue with the agreed SCP policy where any vacancies in non-priority sites will not be filled and vacancies at any of the priority sites will be filled by transferring staff from a low priority site.	40
Regulatory Services	Collaborative opportunities are being explored with other boroughs to achieve savings. Some changes to the working arrangements within the regulatory services will also contribute to this saving.	50
Public Realm Contract	The Council has commenced a procurement and service delivery exercise covering the following services as part of the Public Realm contract: <ul style="list-style-type: none"> <li>• Waste collection and recycling services including how recycled material is managed</li> <li>• Street cleansing and litter picking across Brent's highways, parks, open spaces</li> <li>• Grounds maintenance across all Brent parks, cemeteries, open spaces and housing estates managed and/or owned by BHP</li> <li>• Burial services</li> <li>• Winter services</li> </ul>	1,315
Highways	Reduction in a number of highways work areas including development control, asset management, public transport liaison, NRSWA and ad hoc works. Savings from reduction in posts are off-set by reduced levels of income.	185
Brent Transport	End the use of in-house driver and passenger attendants	75
Brent Transport	Reducing overheads further including ending participation in the WLA project.	37
Emergency Planning	Close the control room for one shift per day (4.00am to noon) - removing 2 posts	76
Licensing	A reduction in 1 Licensing Inspector post and an increase in income from reviewing systems and current rateable values, visits to unpaid licenses renewal premises	84
Parking	Re-letting of the parking contract	678
Registrars	Realignment of the budget for Registrars income to factor in the increased levels of collections in 2012/13.	100
Registrars	The move to the Civic Centre will increase the income generated from Registrars	100
	<b>TOTAL ENVIRONMENT &amp; NEIGHBOURHOODS</b>	<b>2,829</b>

Heading	Item	2014/2015 £'000
Housing	Travellers site - increase in annual pitch fee	10
Major Projects	From October 2012, there was a reduced need to monitor the Housing PFI contracts as most of the activity was handed back to housing. The proposal is the full year effect of reducing the existing role to a part-time role – working 3 days a week.	14
Housing	Restructure of the business process in Housing Care and Support Services.	21
Housing	Private Housing Service team leader restructure	40
Housing	Capitalisation of work carried out by the Private Sector Housing Team due to the capital nature of the tasks	40
Supporting People	Estimated savings from contracts being retendered in 2013/14	500
Planning & Building Control	Cost recovery from CIL/S106 - covering a specialist post and part support	75
Property	Increase in base rental income target	25
Property	Reduce the Special Projects budget	150
Property	Facilities Management contract efficiencies	71
Property	Reduction of 1 post from the Facilities Management client side	40
Property	Remove civic centre team budget - phased to reflect funding of events team	29
Non-HRA PFI	Reduce 1 post and reduction in service budget	124
New Initiatives	Merge Barham Park and South.Kilburn management responsibility	12
New Initiatives	Reduce special projects budget	200
Housing	Reduction in budgets for audit fee and mortgage admin (miscellaneous)	63
Employment	Remove base budget to reflect funding from reserve	65
Planning & Building Control	Fundamental review of planning & building control service	155
Brent Customer Services	Realignment of the budget for Summons income to factor in the increased levels of collections in 2012/13.	140
Brent Customer Services	Efficiency savings from existing Capita contract	100
Brent Customer Services	Move to electronic purchase orders and remittance advices - reduction in postage	10
	<b>TOTAL REGENERATION &amp; GROWTH</b>	<b>1,884</b>



Heading	Item	2014/2015 £'000
One Council Programme	Council-wide realignment of business support	250
One Council Programme	One Print Project	208
One Council Programme	Restructure of Senior Management and Corporate Services	2,900
Ward Working	Reduction in the budget	210
Legal	Reduction of 10% of costs in the use of barristers by using less experienced barristers	150
Legal	Reduce the use of experts by 10% by robustly challenging the need for experts	20
Community Safety	Incorporate outcome of review	75
Cross-Council	Introduce average vacancy factor of 3% across the council	3,000
Events	To cease delivery of Council led events apart from the two national events (Remembrance Sunday and the Holocaust Memorial Day) and the annual fireworks display	133
	<b>TOTAL CENTRAL</b>	<b>6,946</b>

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<b>General Fund</b>			
	<b>2014/15 £'000</b>	<b>2015/16 £'000</b>	<b>2016/17 £'000</b>
<b>Adult Social Services</b>			
Supported Living to Extra Care	737		
Capital Grant not yet Allocated to Schemes		650	650
<b>Adult Social Services Total</b>	<b>737</b>	<b>650</b>	<b>650</b>
<b>Environment &amp; Neighbourhood Services</b>			
Cemetery and Mortuary Service	20	20	20
Delivering the Sports Strategy	535	535	535
Parks	145	145	145
Pavements, Roads and Streetscene/Street Trees	3,550	3,550	3,550
Transport for London Funded Schemes	4,000	4,000	4,000
<b>Environment &amp; Neighbourhood Services Total</b>	<b>8,250</b>	<b>8,250</b>	<b>8,250</b>
<b>Finance &amp; Corporate Services</b>			
Carbon Reduction Measures	50	50	50
Combined Property and ICT Initiatives	400	400	400
<b>Finance &amp; Corporate Services Total</b>	<b>450</b>	<b>450</b>	<b>450</b>
<b>Regeneration &amp; Major Projects</b>			
Asset Management Plan	110	110	110
Carbon Reduction Measures	200	200	200
Combined Property and ICT Initiatives	100	100	100
Crest Academies	5,951		
Devolved Capital	570	570	570
Expansion of Secondary/Primary School Places	58,220	11,825	8,361
HCA Empty Homes Grant	498		
Private Sector Renewal Support Grant and Disabled Facilities Grant	4,780	4,780	4,780
Project Management	200	200	200
Schools Asset Management Plan	2,550	2,050	2,050
Section 106 & CIL (Estimate)	5,500	5,500	5,500
South Kilburn Regeneration Project	18,803	6,291	10,537
<b>Regeneration &amp; Major Projects Total</b>	<b>97,483</b>	<b>31,626</b>	<b>32,408</b>
<b>General Fund Total</b>	<b>106,919</b>	<b>40,976</b>	<b>41,758</b>

<b>Housing Revenue Account</b>			
	<b>2014/15 £'000</b>	<b>2015/16 £'000</b>	<b>2016/17 £'000</b>
<b>Housing Revenue Account</b>			
Disabled Facilities Works (on council properties)	600	600	600
Major repairs of council properties	9,762	9,762	9,762
<b>Housing Revenue Account Total</b>	<b>10,362</b>	<b>10,362</b>	<b>10,362</b>
<b>Grand Total</b>	<b>10,362</b>	<b>10,362</b>	<b>10,362</b>


	2014/15 £'000	2015/16 £'000	2016/17 £'000
<b>General Fund</b>			
<b>Allocated</b>			
Internal Contributions	(900)	(900)	(900)
Government Grant	(73,416)	(20,125)	(16,661)
Non-Government Grant	(50)	(50)	(50)
External Contributions			
Capital Receipt	(19,091)	(6,578)	(10,824)
Unsupported Borrowing	(6,973)	(6,973)	(6,973)
Self Funded Unsupported Borrowing	(990)	(200)	(200)
<b>Allocated Total</b>	<b>(101,419)</b>	<b>(34,826)</b>	<b>(35,608)</b>
<b>Unallocated</b>			
Government Grant		(650)	(650)
Section 106 & CIL	(5,500)	(5,500)	(5,500)
<b>Unallocated Total</b>	<b>(5,500)</b>	<b>(6,150)</b>	<b>(6,150)</b>
<b>General Fund Total</b>	<b>(106,919)</b>	<b>(40,976)</b>	<b>(41,758)</b>

	2014/15 £'000	2015/16 £'000	2016/17 £'000
<b>Housing Revenue Account</b>			
Major Repairs Reserve	(8,678)	(8,678)	(8,678)
Internal Contributions	(1,684)	(1,684)	(1,684)
<b>Housing Revenue Account Total</b>	<b>(10,362)</b>	<b>(10,362)</b>	<b>(10,362)</b>

**SERVICE AND BUDGET PLANNING TIMETABLE FOR 2014/15**

<b>Date</b>	<b>Action</b>
18 November	Full Council. First reading of Policy Framework and Budget
18 November	Full Council agrees revised Council Tax discounts and exemptions.
4 December	Autumn Statement announced by the Chancellor
9 December	Report to Executive on Performance and Finance Review 2013/14 – 2 <sup>nd</sup> Quarter Collection Fund Surplus approved
December/ January	Budget and Finance Overview & Scrutiny Committee collects evidence
Mid December	Release of the Mayor's consultation on draft GLA budget
By 20 December	Confirmation of the following year's funding from central government
Up to January	Consultation with residents, businesses, voluntary sector, partner agencies and trade unions on budget proposals.
15 January	Schools Forum meets to agree funding formula and budget issues
16 January	Budget and Finance Overview & Scrutiny Committee collects evidence and discusses 1 <sup>st</sup> interim report
21 January	General Purposes Committee agrees Council Tax and Business Rate bases.
1 <sup>st</sup> February	Budget and Finance Overview & Scrutiny Committee receives budget proposals prior to the Executive. Discusses second interim report.
14 February	Greater London Assembly considers final draft GLA budget
By 17 February	Final GLA precept confirmed.
17 February	Executive considers and announces administration's final budget proposals, agrees fees and charges for the following year and agrees savings/budget reductions for the HRA budget report as well as the overall average rent increase.
Late February	Budget and Finance Overview & Scrutiny Committee receives the outcome of Executive's budget report and agrees a final report
3 March	Full Council agrees budget

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 <b>Brent</b>	<p><b>Full Council</b> 18 November 2013</p> <p><b>Report from the Assistant Chief Executive</b></p>
<p>For Action</p>	<p>Wards Affected: ALL</p>
<p><b>Report from the Chairs of Overview &amp; Scrutiny</b></p>	

## 1.0 Summary

- 1.1 This report provides a summary of the work of the council's overview & scrutiny committees in accordance with Standing Order 14. It covers the period since overview and scrutiny last reported to Full Council in September 2013.

## 2.0 Detail

### *One Council Overview & Scrutiny Committee*

- 2.1 In October the committee received the Quarterly Performance and Finance Report for quarter 1. Members were particularly interested in the support provided to schools judged as in need of improvement by Ofsted, actions to improve recycling rates and actions to reduce the incidences of flytipping.
- 2.2 An update on the Parking Review was provided which included information on: the award of the contract, the savings projected and achieved, performance of the new contractor, the withdrawal of scratch cards, and the introduction of virtual visitor parking passes. Member's questions focussed on the capacity of the new system, the customer experience and mechanisms for identifying and dealing with potential abuse of the system.

- 2.3 The committee also received an update on the progress of the One Council Programme. This included changes in the governance arrangements, some detail on new projects being undertaken, and on those that are closing. Members raised concerns about ensuring that the Project Management Office was adequately resourced in order to deliver the savings needed in the next few years and the sustainability of the programme.

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

- 2.4 The Children and Young People's Overview and Scrutiny Committee met in October, and considered an annual report on the council's Corporate Parenting Strategy, and the provision of careers advice for young people.
- 2.5 In addition to the detail of the Corporate Parenting Strategy report itself, this item prompted committee members to discuss the status of the council's Corporate Parenting Board, which is currently under review in order to make it more robust and challenging. The discussion drew attention to the fact that Board was operating with less than full membership, with none of the three political groups taking all of the places allocated to them. The committee expressed the view that all groups should nominate to these places to enhance the work of the Board.
- 2.6 The careers advice item was requested by the Brent Youth Parliament members, who attend each committee and who took a prominent role in this discussion. This included questioning how careers advice was quality-assured, highlighting a perceived lack of awareness of some services amongst young people, and noting the importance of giving appropriate emphasis to vocational options as well as academic pathways like university. BYP members secured a meeting with the 14-19 School Improvement lead to discuss this further.
- 2.7 The committee also discussed its regular item on school places, raising residents' concerns and passing on valuable information to the Director of Children and Families about a proposed new free school.

#### *Partnership & Place Overview & Scrutiny Committee*

- 2.8 The committee last met on 3<sup>rd</sup> October 2013 and members considered reports on the following:
- 2.9 The Community Engagement Manager and Cllr Denselow (Lead member) presented a report on the work of the Ward Working Team in 2012/13. The report reviewed the actions taken over the last year by Ward Working, which included some of the challenges the team has dealt with as well as positive



achievements. The committee asked for more analysis and feedback on completed projects and the impact they had had. The committee has also requested further information regarding the project to help people in the Borough affected by the welfare reforms.

- 2.10 The Assistant Director Policy presented an overview of Brent's approach to the Asset of the Community Value process and Community Right to Challenge both of which were introduced by the Localism Act 2011. The committee also heard a deputation on this subject with a representative addressing the committee on behalf of the Save the Queensbury Pub Campaign and the NW2 residents group. The committee noted the reasons why this bid had failed.
- 2.11 The Assistant Director Policy also presented a report on progress made by Partners for Brent in delivering its work programme. The committee heard that financial considerations would mean that in the future partnership working would be more far-reaching and challenging. Member's questions focussed on how the different partnership committees worked with one another, shared intelligence and avoided duplication.

#### *Health Partnerships Overview & Scrutiny Committee*

- 2.12 The committee considered reports on primary care access and the results of the latest GP patient survey. Members were concerned by the wide difference in survey results across different GPs in Brent. They wanted to know how poor performance was identified, benchmarked with other local authority areas and what actions were being taken to address overarching issues and those affecting individual practices. Members pressed NHS England and the CCG on the support they provided for improving care and ensuring practices were fully compliant with their improvement plans.
- 2.13 The committee raised concerns over the lack of additional enhanced services being provided by many GPs, including services for diabetes, cardiology and psychological therapies and sought further clarification on the services currently offered.
- 2.14 The CCG then outlined its plans for wave 2 commissioning of musculoskeletal, trauma and orthopaedics, rheumatology and gynaecology services in Brent. The committee noted the concerns that have been raised by a number of groups on the CCG's consultation arrangements for commissioning and requested that a comprehensive list of all consultees be provided. They were also worried by the lack of clarity on the future of the Equality Diversity and Engagement (EDEn) Committee. Members of the committee raised concerns that the re-commissioning of services would

produce a lack of continuity of care and that the change of provider for cardiology services to the Royal Free Hospital would impact on existing outpatient services. Members also questioned the decision to re-commission the service and asked the CCG what options had been considered to keep the existing provider; North West London Hospitals.

- 2.15 The committee also received short updates on the pathology service serious incident action plan and on the serious incident at Central Middlesex Hospital Urgent Care Centre.

### *Budget & Finance Overview & Scrutiny Committee*

- 2.16 The Budget & Finance OSC has met twice since the last Chair's report to Council. In September the committee received a presentation from the Strategic Director of Regeneration and Growth on the main budgetary issues facing the department, including the impact of welfare reform, employment issues, Council Tax Support, New Homes Bonus and the capital programme. During a wide ranging discussion Member's questions focussed on the disposal of council properties following the move to the Civic Centre, maximising Council Tax receipts, the use of Section 106 receipts, the Community Infrastructure Levy and support for people affected by welfare reform. The Operational Director of Finance provided the committee with an update on the projected budget gap for 2014/15 and consultations the government had issued that will impact on future funding. Members focussed on actions being taken to identify opportunities for savings in the future.
- 2.17 In October the Operational Director of Finance provided the committee with the latest information in relation to the projected budget gap for 2014/15 and the additional level of savings that the council would need to make. The Strategic Director of Environment and Neighbourhoods provided a presentation which set out the department's budget, focussing on the key risk areas of parking and recycling, and providing an overview of the department's capital programme. Members spent some time discussing ways of reducing landfill costs and the work being undertaken to encourage and educate residents in relation to recycling. The committee also received an update on the financial benefits and costs of the One Council Programme and how it fits with the council's Medium Term Financial Strategy.

## **3.0 Financial Implications**

- 3.1 None

## **4.0 Legal Implications**

- 4.1 None

## **5.0 Diversity Implications**

5.1 None

### **Contact Officers**

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**Full Council**  
18 November 2013

## **Report from the Strategic Director of Environment and Neighbourhoods**

For Action

Wards Affected: ALL

### **Scrap Metal Dealers Act 2013**

#### **1.0 SUMMARY**

- 1.1 The Scrap Metal Dealers Act 2013 came into force on 1<sup>st</sup> October 2013 and has repealed the Scrap Metal Dealers Act 1964 and Part 1 of the Vehicle (Crime) Act 2001 which deals with Motor Salvage Operators.
- 1.2 The Act has strengthened the regulatory regime for scrap metal dealing and vehicle dismantling. Local authorities will continue to act as the principal regulator but the new act gives more powers including the power to refuse a licence and powers to revoke licences if the dealer is considered unsuitable.
- 1.3 The Council has powers to exercise the licensing function under the relevant Act. These powers need to be delegated to committee, sub-committee and officer level and fees need to be set.

#### **2.0 RECOMMENDATIONS**

- 2.1 That Council notes the changes to the legislation and the enactment of the Scrap Metal Dealers Act 2013.
- 2.2 The Council delegates the functions of considering and approving non-contentious applications for scrap metal dealer licences, and of processing minor amendments (variations) to such applications, to the Strategic Director of Environment & Neighbourhoods.
- 2.3 Council delegates the function of considering appeals against officer decisions or contentious applications for scrap metal dealer licences to the General Purposes Licensing Sub-Committee.
- 2.4 The Council agrees the fees proposed in paragraph 3.18 and 3.20.
- 2.5 The Council delegates the function of determining fees in future for Scrap Metal dealers licence applications to the Council's Executive.

- 2.6 The Council approves the necessary amendments to the Council's Constitution to bring these changes into effect.

### **3.0 DETAILS**

- 3.1 The rise in metal commodity prices has driven metal theft crime and has caused disruption to energy supplies, transport and telecommunications. The Home Office has estimated that there were 80,000 to 100,000 reported metal theft offences in 2010/11 alone which cost the economy an estimated £260 million per year.
- 3.2 In 2012 the government undertook initial steps to prohibit cash payments for scrap metal, amended Police powers of entry into unregistered scrap metal sites and increased financial penalties for offences under the Scrap Metal Dealers Act 1964. However, this has not been sufficient to stem the rise in scrap metal related crime.
- 3.3 Information obtained from Metropolitan Police confirms that Brent had 184 reported crimes in 2012 and 79 up to September 2013. There are currently 16 registered scrap metal dealers in Brent (under the 1964 Act). The table below summarises the level of metal theft reported crime and the estimated value of the metal stolen. The true economic cost of this crime to the communities of Brent is very much higher.

<b>Year</b>	<b>Crimes reported</b>	<b>Value of metal</b>
2009	95	£193,342
2010	165	£218,691
2011	187	£578,040
2012	184	£436,679
2013 (part year)	79	£168,647

#### **The new licensing regime**

- 3.4 The Scrap Metal Dealers Act 2013 ("the 2013 Act") received Royal Assent in February 2013. Guidance on determining the suitability of a scrap metal dealer to hold a licence and guidance on licence fee charges have been issued.
- 3.5 The 2013 Act repeals the Scrap Metal Dealers Act 1964 (1964 Act) (and linked legislation) and Part 1 of Vehicles (Crime) Act 2001 (2001 Act), creating a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries.
- 3.6 The new regime will provide greater powers to both the local authority and the Police to tackle the issues surrounding metal theft. It is designed to ensure that those who carry out the collection of scrap metal or operate sites that take in and sort scrap metal will be suitable people and behave in accordance with the law. The regulatory regime also gives local authorities and the Police more powers to refuse and revoke licences as well as greater rights of entry and inspection.

- 3.7 A scrap metal dealer is defined within the 2013 Act as “a person who is for the time being carrying on business as a scrap metal dealer, whether or not authorised by a licence”. There are no further details provided in the 2013 Act or the explanatory notes about who potentially might have to apply for a licence. Generally where the sale of metal is incidental to the main type of work or business undertaken then a licence will not be required.
- 3.8 In the case of most tradesmen such as plumbers and electricians and some skip hire firms the sale of scrap metal is not an integral part of their business and they will not require a licence. However, where there is a reasonable expectation that the material deposited in the skip will contain significant amounts of scrap metal such as skips used where there is demolition activity or one sited at engineering works and plumbers’ yards then the skip hire company will require a scrap metal dealers licence. Brent has contacted approximately 600 potential tradesmen seeking information in order to determine whether they would require to be licensed.
- 3.9 To enable a person or business to operate as a scrap metal dealer they will require a licence issued by the relevant local authority. These licences are:
- **Site Licence** which authorises a person or company to operate as a scrap metal dealer from identified sites. The licences will stipulate a named site manager for each of the sites.
  - **Collectors Licence** allows a person to collect scrap metal from issuing authority’s area. The collector will need to obtain a Collectors Licence from each authority where they collect scrap metal.

A person may hold more than one licence issued by different authorities but cannot hold more than one licence in the same authority area.

### Licensing functions and responsibilities

- 3.10 The majority of licensing regimes that local authorities are responsible for are classified as non-executive functions. The Full Council has powers to conduct the licensing function under the relevant Act. These powers can be delegated down to committee, sub-committee or officer level.
- 3.11 The functions and responsibilities for local authorities are set out in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (2000 Regulations). These regulations specify what decisions are executive and non-executive functions of the Council. Schedule 1 of the 2000 Regulations sets out a list of all the legislation whereby the decision making process is regarded as being non-executive function. This list includes the 1964 Act which prior to 1<sup>st</sup> October 2013 was the primary legislation relating to the regulation of the scrap metal industry.
- 3.12 The Home Office in drafting the 2013 Act failed to include within section 19 (Consequential Amendments) to amend Schedule 1 of the 2000 regulations so as to replace the 1964 Act with the 2013 Act.
- 3.13 Therefore each local authority has to consider what approach it will take in relation to the licensing functions and responsibilities within the 2013 Act and clarify who is responsible for the functions and responsibilities within the 2013 Act.

3.14 The Council therefore needs to consider and delegate the following relevant functions in relating to granting of the licence:

3.14.1 The function of considering and approving non-contentious applications for scrap metal dealer licences. It is recommended that this be delegated to the Strategic Director of Environment & Neighbourhoods;

3.14.2 The function of processing minor amendments (variations) to applications. It is recommended that this be delegated to the Strategic Director of Environment & Neighbourhoods;

3.14.3 The function of considering appeals against officer decisions or contentious applications for scrap metal dealer licences. It is recommended that this be delegated to the General Purposes Licensing Sub-Committee.

## Fee setting

3.15 Schedule 1, paragraph 6 of the 2013 Act enables the local authority to set a fee for applications within the Act. The local authority in setting the fees must have regard to any guidance issued by the Secretary of State. The Home Office has issued guidance to local authorities on how to set scrap metal dealer licence fees which can be found at: <https://www.gov.uk/government/publications/scrap-metal-dealer-act-2013-licence-fee-charges>

3.16 The Home Office guidance states that the costs of a licence should reflect the time spent assessing and administering applications, processing them, having experienced licensing officers review them, storing them, consulting on the suitability of an applicant, reviewing relevant offences, the decision on whether to issue a licence, as well as the cost of issuing licences in a format that can be displayed. Consulting the local authority's enforcement records in order to determine the suitability of the applicant is chargeable within the licence fee costs as are costs associated with contested licence applications.

3.17 Licences under the 2013 Act will be granted for a period of three years. Therefore the costs associated with compliance and managing that licence during the period of the licence must be considered. Fee levels must be justifiable and reasonable and meet the requirements of EU Service and the Provision of Services Regulations 2009.

3.18 Provisional fees have been set by officers on a cost recovery basis taking into account relevant costs that will be incurred over the three year life of the licence as well as taking into account the guidance provided by the Home Office in setting licensing application fees and the fees set by a number of other local authorities. It is recommended that these provisional fees be agreed by Council, which officers submit are in compliance with the guidance provided by the Home Office. The provisional and proposed fees are as follows:

	<b>New</b>	<b>Renewal</b>	<b>Variation</b>	<b>Minor variation</b>
<b>Site Licence</b>	£600	£450	£300	£150
<b>Collectors' Licence</b>	£350	£250	£175	£100



## Recovering costs

- 3.19 Paragraph 6(1) of Schedule 1 states: "An application must be accompanied by a fee set by the authority". The word "application" is not defined in the 2013 Act. The guidance provided by the Home Office states as follows: "LAs [local authorities] should specify fees for each category of application. Specifically we would expect a fee to be specified for the assessment of an application for a licence, the assessment of an application to vary a licence, and the assessment of an application for licence renewal." The cost of dealing with an application for the production of a duplicate licence if it is lost, stolen or damaged and the establishment of a fee to recover the associated costs in producing a duplicate is not ruled out nor excluded in this guidance. The guidance from the Home Office also states as follows: "Local authorities should specify fees which are payable by licence applicants for the assessment and administration activity within the new licensing regime brought about by the 2013 Act. They should do this by identifying what they need to do to assess the type of licence in question and calculating their best estimate of the cost to be incurred by the LA. The authority will then be able to calculate a best estimate of unit cost for each case. In effect, the costs of a licence should reflect the time spent assessing and administering applications, processing them, having experienced licensing officers review them, storing them, consulting on the suitability of an applicant, reviewing relevant offences, the decision on whether to issue a licence, as well as the cost of issuing licences in a format that can be displayed."
- 3.20 If a licensee does contact a local authority from which it holds a 2013 Act Licence informing them that they have lost, damaged or had the licence stolen then the authority will be duty bound to issue a duplicate and the Council will incur administrative costs in issuing a duplicate licence in a format that can be displayed. The 2013 Act requires the licensee to display the licence as it is a criminal offence if a scrap metal dealer fails not to display the licence. Thus, it is submitted that it is reasonable within paragraph 1(6) of Schedule 1 of the 2013 Act and the guidance provided by the Home Office to charge a fee for applications for duplicate licences to recover the administrative costs of issuing duplicate licences in a format that can be displayed. A fee of £50 is recommended for the provision of a duplicate licence.
- 3.21 The licence fee cannot be used to support enforcement activity against unlicensed scrap metal dealers. Any activity taken against unlicensed operators must be funded through existing funds. Such activity against unlicensed operators includes issuing closure notices, with applications for closure orders subsequently made to a Magistrates Court. The cost of applying to the Magistrates Court for a warrant (Section 16(5)(6) and (7) of the 2013 Act) for entry to unlicensed premises, by force if necessary, will incur legal costs to be borne by the local authority and police.
- 3.22 Council therefore is asked to note the fee setting function and delegate the function to determine fees in future for Scrap Metal dealers licence applications to the Council's Executive. The guidance from the Home Office recommends that local authorities should review these fees regularly to check whether they remain appropriate.

## **Transitional Arrangements**

- 3.23 From 1<sup>st</sup> October 2013 the 1964 Act and Part 1 of the 2001 Act are repealed via the commencement of section 19 of the 2013 Act. To enable those who were registered under the 1964 and 2001 Acts to continue to operate during the switch between the different licensing regimes the 2013 Order creates a deeming provision. This deeming provision was only applicable to registered operators between 1<sup>st</sup> October and 15<sup>th</sup> October 2013. Therefore a scrap metal dealer who was registered under the 1964 and 2001 Acts could submit an application before 15<sup>th</sup> October and would be deemed to have a temporary licence which is valid until a licence decision is issued. A formal licence will be issued by 1<sup>st</sup> December 2013.
- 3.24 If a registered operator failed to make an application on or before the 15<sup>th</sup> October then the deemed licence lapsed on 16<sup>th</sup> October 2013. The registered operator whose deemed licence lapses cannot be treated as a revocation by the local authority and there is no right of appeal relating to the lapse.
- 3.25 Upon lapse of a deemed licence the previous operator is not able to carry on a business as a scrap metal dealer as defined under section 21. The offences under the 2013 Act relating to operating as a scrap metal dealer without a licence commence from 1<sup>st</sup> December. If the operator wishes to continue to operate as a scrap metal dealer then they must apply for a new application to the relevant authority.
- 3.26 If the authority does determine to refuse the licence and the applicant appeals this decision the authority may attach one or both of the conditions specified in section 3(8) of the 2013 Act if it considers that the deemed licence should not continue in force without them. These conditions are: (a) that the dealer must not receive scrap metal except between 9 a.m. and 5 p.m. on any day (b) that all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time it is received.

## **4.0 FINANCIAL IMPLICATIONS**

- 4.1 The aim of the legislation is to reduce metal theft and the consequential financial impact upon property, equipment and infrastructure owners.
- 4.2 The fee setting power of the 2013 Act will allow recovery of the costs of administering, issuing and ensuring compliance with the requirements of the Act having regard to the guidance issued by the Secretary of State.
- 4.3 There was no fee income from the previous licensing regime. It is estimated that between 30 and 40 licenses will be issued, the majority of them collectors' licenses, suggesting total income of around £12-15,000 over a three year period.
- 4.4 The cost of applying to the Magistrate's Court for a warrant of entry to any licensed or unlicensed premises will incur legal costs which will be borne by the local authority or the police. The Authority can apply to the court for recovery of these costs in the event that a prosecution ensues and is successful. There is no guarantee that the Court will grant Court costs or if they do that the convicted individual(s) will ultimately pay Court costs.
- 4.5 Should these costs arise they will be contained within existing budgets.

## **5.0 LEGAL IMPLICATIONS**

- 5.1 The 2013 Act repeals the 1964 and 2001 Acts and came into force on 1<sup>st</sup> October 2013.
- 5.2 The 2013 Act maintains local authorities as the principal regulator of these industries but gives powers through the licensing regime to better regulate these industries.
- 5.3 The 2013 Act creates closure powers for unscrupulous dealers who operate without a licence.
- 5.4 The Act creates a central public register, hosted by the Environment Agency of all individuals and businesses licensed as scrap metal dealers.
- 5.5 The powers which allow the Council to set fees in relation to scrap metal dealer licence applications and in relation to issuing duplicate licences are set out in paragraphs 3.15-3.22.

### **Summary of the provisions of the 2013 Act**

- 5.6 The Act defines a “scrap metal dealer” as a person who is for the time being carrying on business as a scrap metal dealer, whether or not authorised by a licence.
- 5.7 It further states that “scrap metal” includes any old waste or discarded metal or metallic material, and any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life.
- 5.8 Section 1 of the Act requires that a scrap metal dealer obtains a licence in order to carry on business as a scrap metal dealer. It will be an offence to carry on a business as a scrap metal dealer in breach of the requirement to hold a licence. This offence is punishable on summary conviction by a fine not exceeding level 5 on the standard scale.
- 5.9 Section 2 provides for two types of licence, a site licence and a collector’s licence.
- 5.10 A site licence must identify all the sites within the local authority’s area where a licensee carries on business as a scrap metal dealer, and a site manager has to be named for each site. It will empower the dealer to collect scrap within the local authority area.
- 5.11 A collector’s licence allows the licensee to operate as a collector in the area of the issuing authority. It does not allow the collector to operate in any other local authority area, so a separate licence has to be obtained from each council the collector wishes to operate in. This licence does not authorise the licensee to operate a site; to do so they will need a site licence from the relevant authority.
- 5.12 However a scrap metal dealer can only hold one type of licence in any one local authority. Under Section 2 (9) they cannot hold both a site and collectors licence from the same council.
- 5.13 A licence will be issued for a period of three years from the date of issue.
- 5.14 Section 3 requires that the licensing authority has to be satisfied that an applicant is a suitable person to carry on business as a scrap metal dealer. In considering suitability, the local authority may have regard to any relevant information, including whether any relevant enforcement action has been taken against the applicant or whether the applicant has been

convicted of a relevant offence. The Secretary of State has a power to prescribe in regulations the meaning of relevant offence and relevant enforcement action. It is intended that this will be in line with the criteria used by the Environment Agency when issuing environmental permits under the Environmental Protection Act 1990. The authority must also have regard to any guidance on determining suitability which will be issued from time to time by the Secretary of State, and the authority may consult with other organisations to assist in determining suitability.

- 5.15 Section 3 also allows local authorities, when issuing a licence, to include conditions on it if the licensee or site manager has been convicted of a relevant offence. Subsection (8) specifies the two conditions that can be imposed by local authorities on a licence, namely:
- (a) That the dealer must not receive scrap metal except between 9 a.m. and 5 p.m. on any day;
  - (b) That all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time when it is received.
- 5.16 Section 4 provides the licensing authority with the discretion to revoke a licence on particular grounds, including where the local authority is no longer satisfied that the licensee is a suitable person to carry on the business as a scrap metal dealer. The revocation of a licence can only be carried out by a local authority as the licensing authority. This section also allows the licensing authority to vary a licence, imposing the conditions stipulated in 3.26 above, if the licensee or a site manager is convicted of a relevant offence.
- 5.17 Section 6 places a duty on the local authority to supply any such information as requested relating to a scrap metal licence to any other local authority in England and Wales, the Environment Agency, the Natural Resources Body for Wales and to police forces.
- 5.18 Section 7 requires that a register of licences issued under the Act should be maintained by the Environment Agency in England and the Natural Resources Body for Wales in Wales. Local authorities will provide the appropriate information on all licences issued in their geographic areas in order that this register can be updated regularly. The register will be made openly accessible to the public and will include: the name of the authority which issued the licence; the name of the licensee; any trading name; the type of licence; the site(s) covered by the licence and the expiry date of the licence.
- 5.19 Section 10 requires that the licensee display a copy of their licence. For site operators this must be in a prominent place in an area accessible to the public. For mobile collectors, it must be in a manner which enables the licence to be easily read by a person outside the vehicle. A criminal offence is committed by any scrap metal dealer who fails to fulfil these requirements. This offence is punishable on summary conviction with a fine not exceeding level 3 on the standard scale.
- 5.20 Section 11 places a requirement on scrap metal dealers, site managers and employees who have been delegated the responsibility to do so, to verify the identity of the person they are receiving metal from and the person's address. This verification must be done by reference to data, documents or other information obtained from a reliable or independent source, such as the Identity and Passport Service, the Driver and Vehicle Licensing Agency, a bank or utility company etc. The Secretary of State will prescribe in regulations the data or documents which are sufficient, or not sufficient as the case may be, for verifying identity.
- 5.21 It will be an offence not to obtain and verify the seller's identity, punishable by a fine not exceeding level 3 on the standard scale. The offence will apply to the scrap metal dealer,

the site manager and any person, who under arrangements made by either the scrap metal dealer or the site manager, has responsibility for fulfilling this requirement on behalf of the business.

- 5.22 Section 13 sets out the record-keeping requirements in respect of any scrap metal received by a scrap metal dealer in the course of their business. Information that is required to be recorded includes the type of metal being purchased; the time/date of the transaction; personal information on the seller; who is acting on behalf of the dealer and proof of the non-cash transaction. Failure to comply with the requirements of this section is an offence attracting a penalty up to level 5 on the standard scale.
- 5.23 Schedule 2 of the 2013 Act sets out the provisions for the closure of sites at which scrap metal business is being carried on without a licence. Schedule 2 does not come into force until 1 December 2013,

### **Changes to the Council's Constitution**

- 5.24 Changes to the Council's Constitution will be necessary to bring these changes made by the 2013 Act into effect. In Part 4 of the Constitution, paragraph 25 of Part B in Table 1 needs to be amended to make reference to the 2013 Act which has amended the Scrap Metal Dealers Act 1964.
- 5.25 In Part 5 of the Council's Constitution, the terms of reference of the General Purposes Licensing Sub-Committee will need to be extended in order to consider and determine appeals against officer decisions and hear and determine contentious applications for scrap metal dealer licences under the 2013 Act.

### **6.0 DIVERSITY IMPLICATIONS**

- 6.1 No data is available about the people undertaking scrap metal dealing operations in Brent or the prevalence of particular protected characteristics amongst them. Equalities monitoring will be undertaken to allow for an Equalities Analysis to be undertaken at a future date.

### **BACKGROUND PAPERS**

- Scrap Metal Dealers Act 2013
- Local Authorities (Functions and Responsibilities) England Regulations 2000
- Home Office Guidance to the Scrap Metal Dealers Act 2013
- EU Service and the Provision of Services Regulations 2009
- Local Government Act 1972

### **CONTACT OFFICERS**

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SUE HARPER  
STRATEGIC DIRECTOR OF ENVIRONMENT AND NEIGHBOURHOODS

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 <b>Brent</b>	<p style="text-align: center;"><b>Full Council</b> 18 November 2013</p> <p style="text-align: center;"><b>Report from Director of Legal and Procurement</b></p>
<p>For Action <span style="float: right;">Wards Affected: ALL</span></p>	
<p><b>Changes to the Constitution</b></p>	

## 1.0 Summary

- 1.1 This report proposes changes to the Constitution reflect the decisions taken by the General Purposes Committee on 28<sup>th</sup> March 2013 and 7<sup>th</sup> November 2013 to restructure the senior management of the Council and also recommends other miscellaneous changes required in relation to Contract Standing Orders and other matters.

## 2.0 Recommendation

- 2.1 That Members agree the recommended changes to the Constitution shown as track changes in **Appendix 1** to reflect the changes to the management structure and the miscellaneous changes to the constitution.

## 3.0 Detail

- 3.1 At meetings of the General Purposes Committee on 28<sup>th</sup> March 2013 and 7<sup>th</sup> November 2013 members agreed to various changes to the senior management of the Council. This involved a change in the management structure by creating four Strategic Directors in place of the previous eight Directors. The change in the allocation of functions and roles of various senior posts requires changes to the delegations by the Leader and Full Council.
- 3.2 For the avoidance of doubt any previous delegation by Full Council, a Committee of the Council, or the Executive, or its sub committees to an officer shall continue to be valid and shall be carried out by the Strategic Director or other senior officer who now has responsibility for that Council function.
- 3.3 The following are various miscellaneous matters which require updates to the Council's constitution.
- 3.4 *Contract Standing Orders:*

- 3.4.1 The following amendments are proposed to the contracts Standing Orders:
- 3.4.2 Council arrangements for the supply of temporary staff: the Council's supplier of temporary staff changed with effect from 5<sup>th</sup> August. The reference to the former arrangement with Comensura is therefore proposed for deletion, and the new arrangement with Reed substituted.
- 3.4.3 Following the implementation of the Public Services (Social Value) Act 2012, Brent is now under a duty to consider how every procurement for services can be designed so as to deliver measures of social value e.g. promotion of local jobs. It is therefore proposed that this is added to the list of pre-tender matters to be considered by the Executive (for High Value contracts) and Chief Officers (for all other contracts) before authorising the commencement of a tender process. This makes clear that while consideration of such a matter is compulsory for services contracts, it should also be considered for other types of contracts. A consequential amendment is also proposed to make clear that the same list applies for each forum.
- 3.4.4 An amendment to make clear that for supplies contract, it is possible to adopt lowest price as the basis for award, as opposed to the most economically advantageous tender, so bringing supplies contracts into line with works and energy supply contracts. Services contracts will always have to be awarded on the basis of most economically advantageous tender.
- 3.4.5 An amendment to the provision about how late tenders can be accepted, because this no longer reflects the electronic tendering system currently used.
- 3.4.6 An amendment to the provision about supply of services BY the Council, to reflect that this can be done under the General Power of Competence in the Localism Act 2011, as well as under the Local Authorities (Goods and Services) Act 1970.

### 3.5 *Returning Officer*

- 3.5.1 The post of Chief Executive is ordinarily given the role of Returning Officer and Electoral Registration Officer for local, parliamentary and European elections. While arrangements were made last year for the post of Chief Executive, the Director of Legal and Procurement was temporarily allocated this function. It is now appropriate to re-designate this function to the Chief Executive.

### 3.6 *Changes to the Audit Committee and General Purposes Committee*

- 3.6.1 The amendments to the terms of reference of the Audit Committee and General Purposes Committee reflect two particular changes in local government finance:
- (1) The pre-approval of accounts before audit is no longer a statutory requirement. Instead, in line with practice in other sectors, those charged with governance are asked to consider and approve the accounts having been provided with the findings from the external



- auditor's review. The proposed changes clarify the role of the Audit Committee as undertaking that role.
- (2) The introduction of the localisation of business rates means that councils have to calculate an estimate of business rates to be collected as well as council tax. It is proposed that the terms of reference for the General Purposes Committee be amended to explicitly reflect this.

### 3.7 *Property delegations*

- 3.7.1 Changes are proposed in relation to the officer delegation to the Operational Director Property and Projects under Part 4. It is proposed that paragraph 4.8 be added.
- 3.7.2 Paragraph 4.8 (a) is necessary because of the timescale for the Council as landlord to respond in accordance with time limits to statutory claims by a group of leaseholders to acquire the freehold reversion to blocks of flats under the 1993 Act, or statutory claims by individual leaseholders for extensions to leases held in regard to individual flats under the 1993 Act. The lease extensions required to be granted to individual leaseholders under statute may exceed 25 years and where there are claims to acquire freehold reversions of blocks of flats comprising a majority of leaseholds there is the statutory requirement for the Council to take a lease back on 999 years of flats occupied by secure tenants.
- 3.7.3 Paragraph 4.8 (b) is necessary because of the tight timescale for conversion of schools into, or designation of schools as, Academies under Academy legislation to dovetail the conversion or establishment of a new category of school with the start of the school term /year .Education authorities are advised to grant leases of 125 years of school land to academies under guidance issued by the Secretary of State, in default of which Councils are at risk of the Secretary of State issuing a transfer order under academies legislation. Where there is a conversion of community schools into foundation schools under a statutory requirement under education legislation there is a requirement to transfer the freehold of the school site and where applicable a 125 leasehold of any shared land i.e. playing fields.
- 3.7.4 Under the current delegations these matters require a decision by the Executive. Accordingly, in order to respond in a timely and appropriate manner to these matters it is proposed that these matters be delegated to the Operational Director, Property and Projects.

### 3.8 *Media changes*

- 3.8.1 The constitution is presently silent on the use by the public of social media at committee meetings and the use of hand held devices to record meetings. The use of devices for these purposes has grown enormously over recent years and there is a greater expectation on the Council to be open and transparent in its decision making. It is therefore felt that the opportunity should be taken to clarify the Council's position by amending the Access to Information Rules.

### 3.9 *Call in Standing Order 20*

- 3.9.1 Paragraph 20 (b) provides a 5 day time scale within which a call in request can be made. With internet and out of ordinary office hour correspondence it is important that the limit for an application be clear and accordingly it is proposed that the 5 day period expire at 6.00pm on the 5<sup>th</sup> clear day after the Executive Committee has taken its decision or 6.00pm on the 5<sup>th</sup> Clear day after the record of the officer decision is made publically available.

## **4.0 Financial Implications**

- 4.1 There are none arising directly from this report.

## **5.0 Legal Implications**

- 5.1 The Local Government Act 2000 Section 9P requires Councils to have a Constitution, which must including Standing Orders and such other matters as the Council considers appropriate.

## **6.0 Diversity Implications**

- 6.1 This report has been screened by officers and there are not considered to be any diversity implications arising from it.

## **Background Papers**

The Brent Constitution

## **Contact Officer**

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**Fiona Ledden**

**Director of Legal and Procurement**

# PART 1



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#### SUMMARY

- (b) Citizens have the right to 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.
  - (c) Citizens also have the right to see reports and background papers, and any record of decisions made by the Council and the Executive, again subject to the rules relating to exempt and confidential information.
-

## DEFINITIONS

The words and phrases defined in this definition section shall have the meaning set out below 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.

- The **Access to Information Rules** set out the Council's rules relating to access to meetings and documentation relating to meetings; and exempt and confidential information. These can be found in Part 6 of this Constitution.
- The **Annual Meeting** is the meeting of Full Council each year at which the Mayor is elected.
- The **Articles** in the Constitution set out the overall framework of what is to be done and by whom. Standing Orders, Codes of Conduct and the other documents forming part of the Constitution set out how the Articles will be put into effect.
- The **Authority** means the London Borough of Brent.
- **Best Value** means the requirement under the Local Government Act 1999 that the Council make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- The **Brent Members Code of Conduct** means the document which has been adopted by the London Borough of Brent setting out what is expected of members and co-opted members of the Authority in terms of their conduct and behaviour, as set out in Part 7 of this Constitution.
- The **Director of Legal & Procurement** is the chief legal officer within the Authority and heads the Authority's Legal and Democratic Services Unit. In the London Borough of Brent the Director of Legal and Procurement performs the function of Monitoring Officer pursuant to sections 5 and 5A of the Local Government and Housing Act 1989. (See below)
- **Chair** means the person who presides over a meeting. At meetings of Full Council the Mayor chairs the meeting. Chairs of Council committees are appointed by Full Council and Chairs of sub-committees are appointed by the relevant parent committee. The Leader will usually chair meetings of the Executive.
- The **Chief Executive** is the Head of Paid Service as defined in section 4 of the Local Government and Housing Act 1989 and below.
- The **Chief Finance Officer** is the officer appointed in accordance with section 151 of the Local Government Act 1972 who has responsibility for the administration of the financial affairs of the authority. ~~In the London Borough of Brent the Chief Finance Officer is the officer appointed to the position of Director of Finance and Corporate Services.~~
- **Chief Officers** are defined in Article 13.

## DEFINITIONS OF TERMS USED IN THE CONSTITUTION

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

## DEFINITIONS OF TERMS USED IN THE CONSTITUTION

~~Major Projects; Environment and Neighbourhoods, Adults, Children and Young People Governance and Corporate Services, Education, Health and Social Care Services; Finance and Corporate Services; ; Legal and Procurement; Customer and Community Engagement; Strategy, Partnerships and Improvement; Children and Families~~

- **Corporate Strategy** means the document adopted by the Council setting out the Council's vision, values and key commitments for the next four years.
- **Council Functions** are those functions of the Authority which cannot be exercised by the Executive. These functions may be carried out by the Full Council, a Council Committee, Council Sub-Committee, Joint Committee of the Council, officers or any other person authorised by the Full Council to carry out Council functions. ~~Council Functions cannot be carried out by the Executive.~~
- **Day** means a clear working day unless it is clear from another part or section of this Constitution that a different or alternative meaning is intended for the purposes of that part or section.
- **Delegated Powers** are powers to make decisions which are delegated by a decision making body to another decision making body or decision maker, such as an officer.
- **Deputy Mayor** means a councillor, not being a member of the Executive, appointed by the Mayor to act as his or her deputy. In the absence of the Mayor, the Deputy Mayor will perform the functions of Mayor except that the Deputy Mayor will only chair a Full Council meeting, in the absence of the Mayor, if chosen to do so by the members of Full Council at that meeting.
- The **Director of Public Health (DPH)** is the officer appointed by the Council pursuant to National Health Service Act 2006 S73A. The DPH has the responsibilities and duties prescribed by statute, most particularly write the annual report on health of the local population, to improve public health, to carry out public protection and improvement functions delegated to the DPH by the Secretary of State, to plan and respond to emergencies that present a risk to public health
- The **Executive** is the part of the Council which is responsible for implementing the Council's Policy Framework and Budget. The Executive is made up of the Leader and nine other councillors chosen by the Leader. The Executive will carry out all of the Authority's functions which are delegated to it by the Leader and that are not the responsibility of any other part of the Authority, whether by law or under the Constitution.
- **Executive Arrangements** are defined in section 10 of the Local Government Act 2000 as arrangements by a local authority-
  - (a) for and in connection with the creation and operation of an Executive of the authority; and
  - (b) under which certain functions of the authority are the responsibility of the Executive.



## DEFINITIONS OF TERMS USED IN THE CONSTITUTION

- The **Members' Allowance Scheme** is contained in Part 8 of this Constitution and sets out the scheme under which councillors are entitled to receive allowances in respect of carrying out their duties as councillors and for fulfilling any special responsibilities allocated to them.
- The **Monitoring Officer** is the officer appointed by the Authority in accordance with section 5 of the Local Government and Housing Act 1989 to report to it on any proposal, decision or omission by the Authority or its committees or sub-committees or officers which has given, or may give rise, to a contravention of law or statutory code of practice or to such maladministration or injustice as is mentioned in Part III of the Local Government Act 1974. The Monitoring Officer is the 'qualified person' for the purposes of determining whether disclosure of particular information under the Freedom of Information Act 2000 would be likely to prejudice the effective conduct of public affairs. In the London Borough of Brent the Monitoring Officer is the officer employed as the Director of Legal and Procurement.
- Operational Directors or Managers are those officers who are directors or managers of the various service units which make up the service areas.
- An **Ordinary Meeting** is a meeting of Full Council which is not an Annual Meeting or an Extraordinary Meeting. These terms are separately defined. Ordinary meetings are for the transaction of the general business of the Council.
- The **Overview and Scrutiny Committees** are committees established pursuant to section 9F of the Local Government Act 2000. Each consists of 8 Councillors, not being members of the Executive, elected by the Full Council. The membership of the Committees reflects the political balance of the Council. The Committees have responsibility for strategic and cross-cutting issues by supporting the Executive in the development and review of policy and for examining the implementation of policy including:
  - (a) Overseeing the progress of policy implementation and scrutinising decisions made; and
  - (b) Calling in Executive decisions.
- A **Partnership Arrangement** is an arrangement between Brent Council and one or more other bodies or persons to achieve objectives of the Council and at least one of the other parties which involves one or more of the following:
  - sharing of risk in relation to the subject matter of the arrangement
  - joint planning and decision-making such as joint commissioning
  - joint delivery of services
  - sharing of resourcesbut which is not a contract for the provision by one party to another of a supply, service or works in exchange for a fee or other consideration.
- The **Planning Code of Practice** means the document, which has been adopted by the London Borough of Brent to regulate the performance of its planning function. The major objectives of the Code 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.

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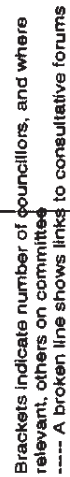
## DEFINITIONS OF TERMS USED IN THE CONSTITUTION

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

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



## Register of Members of the Brent Executive

### Address for Executive Members

The address for all correspondence to the Executive members is Town Hall, Forty Lane, Wembley, Middlesex, HA9 9HD Brent Civic Centre, Engineers Way, Wembley, Middlesex, HA9 0FJ.

Post Title	Name	Portfolio	Ward
Leader	Councillor Muhammed Butt	Corporate Strategy & Policy Co-ordination	Stonebridge
Deputy Leader	Councillor Ruth Moher	Finance and Corporate Resources	Tokington
Executive Member	Councillor Michael Pavey	Children and Families	Kilburn
Executive Member	Councillor Aslam Choudry	Crime Prevention and Public Safety	Harlesden
Executive Member	Councillor George Crane	Regeneration and Major Projects	Fryent
Executive Member	Councillor James Denselow	Customers and Citizens	Willesden Green
Executive Member	Councillor Margaret McLennan	Housing	Harlesden
Executive Member	Councillor Jim Moher	Highways and Transportation	Fryent
Executive Member	Councillor Krupesh Hirani	Adults and Health	Dudden Hill
Executive Member	Councillor Roxanne Mashari	Environment and Neighbourhoods	Kensal Green

### Register of Members of the Highways Committee of the Executive

The members of the Highways Committee of the Executive are as follows:

Councillor Jim Moher (Chair)  
 Councillor Roxanne Mashari (Vice Chair)  
 Councillor Aslam Choudry  
 Councillor James Denselow  
 Councillor Margaret McLennan

# PART 2



### Teachers' Joint Consultative Committee

10.41 (a) The Teachers' JCC shall comprise members of the Council appointed by the Full Council, the 13 Members of the Teacher's Panel and any teacher observers on the Children and Young People Overview and Scrutiny Committee.

(b) The Teachers' Panel of the Teachers' Joint Consultative Committee shall be constituted as follows:

NUT	7
ATL	1
SHA	1
NASUWT	2
NAHT	1
NATFHE	1

and election to the Panel shall be held internally by each organisation by March 31<sup>st</sup> each year. Vacancies occurring during the period of office shall be filled by the organisation which nominated the retiring member. All members of the panel must be employed as teachers in maintained schools or in the adult education service in the Borough of Brent.

(c) The Consultative Committee shall meet at least once in every school term and shall, at its first meeting of each new council year, elect a Chair and Vice Chair. If the Chair appointed is a member of the Council, then the Vice Chair shall be appointed from the teachers' representatives and vice versa.

(d) Terms of Reference: To consult with teachers' organisation representatives in nursery, primary, secondary and special schools and in the adult education service on pay, terms and conditions.

### LINKING THE CONSULTATIVE FORUMS TO THE COUNCIL AND TRACKING RECOMMENDATIONS AND REPRESENTATIONS

10.42 (a) If the Executive, Full Council, the overview and scrutiny committees or a responsible officer wishes to consult a consultative forum in respect of any matter for which they are responsible they shall notify the relevant Lead Manager of their wish for this item to be placed on the agenda of the relevant forum. Any representations or recommendations of the relevant forum in response to the consultation shall be reported to the person or body raising the matter.

(b) If a consultative forum wishes to make representations or recommendations in respect of an item in the Forward Plan which it has not been, and is not planned to be, specifically consulted by the decision maker identified in the plan ("the decision maker"), any representations or recommendations agreed at a meeting of the relevant forum shall be submitted to the decision maker in writing.

(c) If a consultative forum wishes to make representations or recommendations in respect of an item not in the Forward Plan and which it has not been, and is not planned to be, specifically consulted by any part



of the Council, any representations or recommendations agreed at a meeting of the relevant forum shall be submitted to the appropriate overview and scrutiny committee.

- (d) If, at a meeting of a service user consultative forum or an area consultative forum a question or issue is raised which, in the view of the Chair or Lead Manager, should be referred to an officer to be responded to the question or issue shall be so referred.
- (e) The response of the person or body to whom any representation or recommendation from a forum is referred shall be reported back to the forum following its consideration by that person or body.
- (f) A note summarising the discussion and outcome of each meeting shall be provided to the Lead Member for Human Resources & Diversity, Local Democracy and Consultation.
- (g) The Chair or any other person representing a relevant consultative forum may address a meeting of the appropriate overview and scrutiny committee in accordance with Standing Order 60(e).

## Article 11 – Other Bodies and Panels

### Introduction

11.1 There are a number of panels or bodies other than those specifically mentioned elsewhere in these Articles which have links to the Council.

- Adoption and Permanency Panel
- Fostering Panel
- Local Safeguarding Children Board
- Schools Exclusions Appeal Panel
- Schools Admissions Appeal Panel
- Trading Standards Joint Advisory Board
- Schools Forum
- Admissions Forum
- Brent Housing Partnership

### Adoption and Permanency Panel

11.2 (a) The Adoption and Permanency Panel ("the Panel") fulfils the role of the statutory Adoption Panel required by the Adoption Agencies Regulations 2005 (as amended by the Adoption Agency and Independent Review of Determinations (Amendment) Regulations 2011 and the Adoption Agencies (Panel and Consequential Amendments) Regulations 2012.

(b) The purpose of the Panel is to make recommendations to the ~~Assistant Director Children's Services~~ Operational Director Children's Social Care as to:

- (i) Whether or not a relinquished child should be placed for adoption in accordance with Regulation 18 of the 2005 Regulations.



- (ii) whether any advice should be given to the agency in terms of the matters which fall to be considered under Regulation 18(3) (subject to the amendments by 2012 Regulations)
  - (iii) suitability of prospective adopters to adopt in accordance with the terms of Regulation 26 of the Regulations
  - (iv) whether any advice should be given to the adoption agency in respect of the number of children the prospective adopter may be suitable to adopt, their age range, sex, likely needs and background in accordance with Regulation 26(3)
  - (v) whether the child should be placed for adoption with particular prospective adopters in accordance with Regulation 32 of the Regulations
  - (vi) whether any advice should be given to the adoption agency in respect of the provision of support services, the plan for contact and the exercise of parental responsibility in accordance with Regulation 32(4)
  - (vii) any other matter that it is required by law to consider.
- (c) Where recommendations are made in respect of an adoption with a foreign element then the Panel recommendations must take into account any modifications made to the Regulations by The Adoptions with a Foreign Element Regulations 2005(as amended by the adoptions with a foreign element (amendment) regulations 2009 and the 2012 Regulations).
- (d) The Council must maintain a list of persons who are considered by it to be suitable to be members of an adoption panel ("the Central List"), including-
- (i) one or more social workers who have at least three years' relevant post-qualifying experience, and
  - (ii) the medical adviser to the adoption agency (or at least one if more than one medical adviser is appointed).
- (e) ~~The Assistant Director Children's Services~~ Operational Director Children's Social Care will appoint officers and other persons to the Central List and appoint members from that list to the Panel. Full Council or the General Purposes Committee will appoint elected members to be included in the Central List and appoint elected members to the Panel.
- (f) ~~The Assistant Director Children's Services~~ Operational Director Children's Social Care must appoint a Chair who is an independent person and who has the necessary skills and experience to chair an adoption panel and who is not a disqualified person under the Regulations.
- (g) ~~The Assistant Director Children's Services~~ Operational Director Children's Social Care must also appoint a vice-chair to act in the Chair's absence

- (h) A person included on the Central List and or appointed to the Panel may at any time ask to be removed from the Central List or Panel by giving one month's notice in writing to the Council.
- (i) In accordance with the provisions of the Regulations, a list/panel member's tenure may be brought to an end by the Council.
- (j) The Panel may not conduct its business unless its meeting includes the chair or vice-chair, at least one of the social workers, three other members, and where the Chair is not present and the vice chair is not an independent person, at least one other independent panel member.
- (k) The panel also carries out functions under the Fostering Regulations 2011 and will consider the following:
  - (i) whether a prospective long term fosterer is suitable to be a long term fosterer;
  - (ii) whether a prospective long term fosterer is suitable to be a long term foster carer of a particular child;

### Fostering Panel

- 11.3 (a) The functions of the Fostering Panel are to consider issues relating to the fostering of children generally and specifically;
- to consider each application for approval and to recommend to the appropriate officer whether or not a person is suitable to act as a foster parent;
  - where it recommends approval of an application, to recommend the terms on which the approval is to be given;
  - to recommend whether or not a person remains suitable to act as a foster parent and whether or not the terms of his or her approval remain appropriate;
  - to advise on the procedures under which reviews are carried out by the Council and periodically monitor their effectiveness; oversee the conduct of assessments carried out by the fostering service provider; and
  - give advice and make recommendations on such other matters or cases as the fostering service provider may refer to it.
- (b) ~~The Assistant Director Children's Services~~Operational Director Children's Social Care must maintain a list of persons who are considered by it to be suitable to be members of a Fostering Panel ("the central list"), including one or more social workers who have at least three years' relevant post-qualifying experience. Full Council or the General Purposes Committee will appoint elected members to be included in the Central List and appoint elected members to the Panel.
- (c) ~~The Assistant Director Children's Services~~Operational Director Children's Social Care must appoint an Independent Chair and a Vice Chair.

- (d) To be quorate the Fostering Panel must include an Independent Chair or a Vice Chair, a social worker and three other members. Where the Chair is not present and the Vice Chair is not independent of the Council at least one other Panel member must be independent.

### Local Safeguarding Children Board

- 11.4 (a) The Children Act 2004 requires each Local Authority to establish a Local Safeguarding Children Board, to be made up of representatives from the agencies and bodies which have regular contact with children or responsibilities for services to them in the local area.
- (b) The Brent Local Safeguarding Children Board will be the key statutory mechanism for agreeing how the relevant organisations in the London Borough of Brent will co-operate to safeguard and promote the welfare of children in the area, and for ensuring the effectiveness of what the agencies do.
- (c) Objectives of the Board:
- (i) To co-ordinate what is done by each person or body represented on the Board for the purposes of safeguarding and promoting the welfare of children in the London Borough of Brent; and
  - (ii) To ensure the effectiveness of what is done by each such person or body for those purposes.
- (d) Terms of Reference of the Board
- (i) Monitor the effectiveness of organisations' implementation of their duties under section 11 of the Children Act 2004.
  - (ii) Ensure that information is available to children to know who they can contact when they have concerns about their own safety and welfare.
  - (iii) Develop policies and procedures for safeguarding and promoting the welfare of children in the area of the authority.
  - (iv) Develop and implement strategies to safeguard and promote the welfare of groups of children who are potentially more vulnerable than the general population, for example children living away from home, children who have run away from home, or children with disabilities.
  - (v) Ensure that systems are in place to identify and support the safety and welfare of children who are privately fostered.
  - (vi) Develop and implement a training strategy to meet the training needs of staff across all agencies to work effectively together to safeguard and promote the welfare of children who may be at risk of significant harm.

- (vii) Develop standards for the recruitment and supervision of persons who work with children and monitor their implementation and compliance. This will be informed by the findings of the Richard Report.
  - (viii) Ensure that systems are in place for all agencies for the investigation of allegations of breaches of safeguarding practices concerning persons working with children and monitor compliance with the procedures.
  - (ix) Establish means of communication with the communities in the London Borough of Brent to ensure that issues of safeguarding are understood by all communities and to provide the opportunity for those communities' issues to be addressed by the Local Safeguarding Children Board.
- 
- (x) Monitor and evaluate the effectiveness of what is done by the Local Authority and board partners individually and collectively to safeguard and promote the welfare of children and advise them on ways to improve.
  - (xi) Participate in the local planning and commissioning of children's services to ensure that they take safeguarding and promoting the welfare of children into account.
  - (xii) Undertake serious cases reviews as required by chapter 6 of Working Together to Safeguard Children.
  - (xiii) Develop and analyse performance indicators relevant to safeguarding children in Brent.
  - (xiv) Agree the reporting of management information from agencies to provide an overview of safeguarding activity within the area of the Safeguarding Children Board.
  - (xv) Implement child death review groups prior to the statutory deadline of April 2008.

(e) Membership

The Brent Local Safeguarding Children Board will be chaired by an independent chair. The Assistant Director of Operational Director Children's Social Care will become the vice chair. Membership will be drawn from:

- the Chief Officer of Police
- the Probation Board
- the Youth Offending Team
- Strategic Health Authorities and Primary Care Trust
- NHS Trusts and NHS Foundation Trusts
- the Connexions Services
- CAFCASS (Children and Family Courts Advisory and Support Service)
- Domestic Violence Forum

## Article 13 - Officers

### Management structure

#### 13.1 General

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

#### 13.2 Chief Officers

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

Post	Functions and areas of responsibility
Chief Executive (and Head of Paid Service)	Overall corporate management and operational responsibility (including overall management responsibility for all officers); and provision of professional advice to all parties in the decision making process. <u>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, public health</u>
<u>Strategic Director of Children &amp; Young People Families</u>	<u>Statutory Director of Children's Services, school improvement service, outdoor education, pupil referral units, education tuition service, parent partnership service, exclusion teams, education welfare service, behaviour support, SEN assessment service, education psychology, youth and connexions, family support, education, and schools organisation, child protection, adoption, fostering, placements, children with disabilities and all functions of the Local Education Authority not reserved to members including but not limited to early years education and school places, education and training provision for young people, Early years education, school places, education and training provision for young people, childcare, special education needs, inclusive education, support for school improvement, student support, and youth services, child protection, adoption, fostering, placements, adult and community education.</u>
<u>Director of Finance and Corporate Services</u>	<u>Chief Finance Officer functions, administration of the payroll and pensions, management of the</u>



	<p>superannuation fund, financial investments, financial management, finance services, audit and investigations, revenues and benefits, accountable body functions (once accountable body status has been formally conferred). Risk management and insurance. Development of corporate HR policies, advice on HR policies and procedure, assistance with appointments and dismissals, handling appointments and dismissals where requested, consultation and negotiation with Trade Unions, the People's Centre, IT.</p>
<p><u>Strategic Director of Adults Social Services</u></p>	<p>Statutory Director of Adult Social Services, health, adult physical disability, learning disability, mental health services, services to older people, emergency duty team, asylum in so far as it is not a housing matter, public health commissioning, adult social care complaints, and any other function listed in Schedule 1 of the Local Authority Social Services Act 1970 not delegated to the <u>Strategic Director of Children and Young People Families</u>.</p>
<p><u>Strategic Director of Regeneration and Growth Major Projects</u></p>	<p>Regeneration, urban renewal, economic development, building new education facilities, statutory land use, planning, development and building control, <u>land charges</u>, street naming and numbering, <u>strategic transport planning</u>, housing regeneration, affordable housing development, corporate property, facilities and premises management, <u>Civic Centre Programme</u>. All permanent and temporary housing, including temporary accommodation for asylum seekers, right to buy management, private sector housing services (including related environmental health functions), liaison and transactions with Housing Associations and homelessness and housing strategy, <u>housing management, customer services, adult and community education, revenue and benefits</u>.</p>
<p><u>Strategic Director of Environment and Neighbourhoods Services</u></p>	<p>Arts, Libraries, museums, archives, environment, environmental health (other than in relation to private sector housing), highways and emergency operations, <u>transport strategy</u>, <u>Brent transport services</u>, transportation, streetcare, refuse and street cleansing, parks, parking and open spaces, cemeteries and mortuary, , licensing, street trading, trading standards, health and safety, contaminated land, accident prevention and emergency planning, waste management and recycling, street lighting, CCTV monitoring, pollution control, food safety, pest control, <u>land charges</u>, , sport and leisure, leisure centres, <u>London 2012, community safety, nationality service, Registrar of Births, Deaths and Marriages</u></p>
<p><u>Director of</u></p>	<p><u>Policy development, strategic planning, improvement and efficiency programme, performance, partnership</u></p>

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

### Head of Paid Service, Monitoring Officer and Chief Finance Officer and other Statutory Chief Officer posts

13.3 The Council has made the following designations:

Post	Designation
Chief Executive	Head of Paid Service
Director of Legal and Procurement	Monitoring Officer
<del>Director of Finance and Corporate Services</del> Chief Finance Officer	Chief Finance Officer
<del>Strategic Director of Children and Young People Families</del>	Director of Children's Services
<del>Strategic Director of Adults Social Services</del>	Director of Adult Social Services
Director of Public Health	Director of Public Health

### Structure

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

### Functions of the Monitoring Officer

13.5 (a) **Maintaining the Constitution**

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

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

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to Full Council or to the Executive in relation to an executive function, if he or she considers that any proposal, decision or omission has, may or would give rise to unlawfulness or to any maladministration which has been investigated by the Ombudsman. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

**(c) Supporting the Standards Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

**(d) Conducting investigations**

The Monitoring Officer will conduct investigations into matters referred to him or her by the Standards Committee and make reports or recommendations in respect of them to the Standards Committee.

**(e) Advising whether Executive decisions are within the Policy Framework and the Budget**

The Monitoring Officer will advise whether decisions of the Executive are in accordance with the Policy Framework and the Budget.

**(f) Providing advice**

The Monitoring Officer will provide advice to all councillors on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues.

**(g) Section 36 determinations**

The Monitoring Officer will act as the 'qualified person' referred to in section 36 of the Freedom of Information Act 2000 for determinations under that section of the Act.

**Restrictions on posts**

- 13.6 The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

**Functions of the Chief Finance Officer**

- 13.7 (a) **Ensuring lawfulness and financial prudence of decision-making**



After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to Full Council, or to the Executive in relation to an executive function, and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

(b) **Administration of financial affairs**

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

(c) **Contributing to corporate management**

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) **Providing advice**

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.

(e) **Give financial information**

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.

**Functions of the Director of Public Health**

- 13.9 (a) Principal adviser to officers and members on all public health matters.  
 (b) to write the annual report on the health of the local population  
 (c) to take steps to improve public health  
 (d) to plan for and respond to emergencies which present a risk to public health  
 (e) to carry out such public health functions or health protection functions as the Secretary of State may delegate or specify in regulations  
 (f) to co-operate with the police, probation service and prison service in accordance with the local authority's duties under Section 325 of the Criminal Justice Act 2003  
 (g) to be responsible for the Council's public health response under the Licensing Act 2003  
 (h) to authorise Patient Group Directions on behalf of the Local Authority

**Conduct**

13.10 Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in the Constitution.

# PART 3



- (c) The Executive may make in-year changes to the policies and strategies agreed as part of the Policy Framework if such change or changes are within the limits set by Full Council pursuant to paragraph (a) above. No other changes may be made unless it, or they, cannot reasonably wait until the next meeting of Full Council and if it is not reasonably practicable to call a meeting of Full Council for that purpose and unless:-
- (i) such change is necessary to ensure compliance with the law or a ministerial direction; or
  - (ii) the Council would suffer or would be likely to suffer significant financial detriment if the policy was not changed in the manner proposed; or
  - (iii) the Council would benefit or would be likely to benefit from significant financial gain if the policy was changed in the manner proposed

~~and such changes shall be reported by the Executive to the next ordinary meeting of Full Council.~~

## 20. Call in of Executive decisions

- (a) If:-
- (i) an Overview and Scrutiny Committee decides; or
  - (ii) five non-executive members of the Council (for the avoidance of doubt excluding voting and non-voting co-opted and independent members) request

that any Key Decision made by the Executive or committee of the Executive or officers be called in for scrutiny then the Call-in Overview and Scrutiny Committee shall consider that decision at its next meeting which unless otherwise determined by the Leader shall in the case of a decision made by the Executive or its committee(s) take place within 15 days of the date on which the relevant decision was made or in the case of an officer decision take place within 15 days of the date on which the record of the decision is made publicly available in accordance with the Access to Information Rules. This period will be extended by the Democratic Services Manager as appropriate to take account of any public or religious holidays identified in the Municipal Calendar.

- (b) Any such decisions or requests to call in a decision shall be made within 5 days of the date on which the relevant decision was made or in the case of a decision made by officers within 5 days of the date on which the record of the decision is made publicly available in accordance with the Access to Information Rules. The request for Call In must be received by 6 pm on the 5<sup>th</sup> day. Any request to call-in shall be made in accordance with Standing Orders 5 and 6 and the process set out in the call-in protocol included in Part 7 of this Constitution.
- (c) Any decision which has been called in pursuant to paragraph (a) above which has not been implemented prior to the date on which the decision maker receives notification of the call in from the Democratic Services Manager shall not be implemented until the Call-in Overview and Scrutiny Committee has met to consider the decision in accordance with paragraph (a) unless the decision, in the reasonable opinion of the Chair of the relevant Overview and Scrutiny Committee, needs to be implemented as a matter of urgency and should not be delayed. The Executive shall report to the next ordinary meeting of Full Council details of any

such urgent decisions and the reasons why the decision needed to be implemented as a matter of urgency.

- (d) In considering the call-in the Call-in Overview and Scrutiny Committee shall have regard to the call-in protocol and determine whether it accepts any response which may have been given to it by the relevant decision maker and if it does not accept their response it can, in respect of that decision, agree recommendations to be given to the decision maker.
- (e) If the Call-in Overview and Scrutiny Committee recommends to the decision maker that it should reconsider the decision or matter then
  - (i) in the case of a decision made by the Executive the Executive shall meet and shall take into account the views expressed or recommendations made to it and may then proceed to implement or change the decision as it sees fit, ~~whether or not the matter is referred to Full Council for further consideration under Standing Order 21;~~ or
  - (ii) in the case of a key decision made by an officer, the officer who made the key decision shall take into account the views expressed or recommendations made to him or her and may then proceed to implement or change the decision as he or she sees fit, whether or not the decision is referred to Full Council for further consideration under Standing Order 21.

## **21. Referral of Called in Decisions to Full Council**

- (a) If, following consideration by the Call-in Overview and Scrutiny Committee of a called in decision, at least 10 members of the Council (not including the independent or co-opted members) so request the decision the subject of the call in shall be referred to a meeting of Full Council for further consideration.
- (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 and may include details of any suggested alternative proposal, action, or resolution (standard forms are available from member's group offices), to the Democratic Services Manager within 5 days of the date on which the Call-in 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.

**[Paragraph number 22 not used]**

## THE POLICY FRAMEWORK AND THE BUDGET

### 23. The Framework for Executive decisions

Full Council will, be responsible for the adoption of the Council's Policy Framework and the Budget. Once a budget or a policy is in place, it will be the responsibility of the Executive to implement it in so far as it relates to Executive functions.

### 24. Developing proposals for the budget and capital programme

- (a) In the case of the Council's annual budget and the capital programme the Budget and Finance Overview and Scrutiny Committee shall, prior to the First Reading Debate, meet (on more than one occasion if necessary) to consider the financial position statement prepared by the ~~Director of Finance and Corporate Services~~ Chief Finance Officer, and to receive evidence from Service Area Directors regarding what they consider to be the critical issues for their respective departments.
- (b) The Executive shall present a report from the ~~Director of Finance and Corporate Services~~ Chief Finance Officer to Full Council setting out the financial position of the Council, financial forecasts for the following year and the possible expenditure priorities of the executive. There shall then be a debate on the issues raised in that report held in accordance with Standing Order 44 hereinafter called a "First Reading Debate".
- (c) Following the First Reading Debate a record of the debate shall be made available on the Council's website
- (d) The Budget and Finance Overview and Scrutiny Committee shall then meet again (on more than one occasion if necessary) to consider the Report to Full Council and the issues raised during the First Reading Debate. The Committee may receive evidence from Executive Members and others and shall then produce a report setting out its view of the budget priorities and any other issues it considers relevant. This report shall be submitted to each Executive Member and each Group Leader in order to inform budget proposal discussions.
- (e) Prior to being agreed by the Executive the Executive's budget proposals shall be sent to members of the Budget and Finance Overview and Scrutiny Committee which will then meet (on more than one occasion if considered desirable) to consider the proposals, and, if it wishes, to receive evidence from Executive Members and others. The committee shall submit a note of its deliberations and comments on the proposals to the Executive.
- (f) Prior to agreeing its budget proposals the Executive shall take into account the issues raised at the First Reading Debate and the note of the deliberations and comments from the Budget and Finance Overview and Scrutiny Committee submitted to the Executive under paragraph (e).
- (g) A meeting of Full Council shall be convened in accordance with Standing Orders for the purpose of agreeing the Council's budget and setting the Council Tax.
- (h) Where, before 8th February in any financial year (but not otherwise), the Executive submits to Full Council for its consideration in relation to the following financial year:



- (i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 36 or 43 to 47 of the Local Government Finance Act 1992;
- (ii) estimates of other amounts to be used for the purposes of such a calculation; or
- (iii) estimates of such a calculation

(other than those required in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992) and following consideration of those estimates or amounts Full Council has any objections to them it must then comply with the following paragraphs of this Standing Order.

- (i) Before Full Council makes any calculation (whether originally or by way of substitute) in accordance with any of the sections referred to above, it must inform the Leader of any objections which it has to the Executive's estimates or amounts and must give the Leader instructions requiring the Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with Full Council's requirements.
- (j) Where Full Council gives instructions in accordance with the above subparagraph, it must specify a period of at least five days beginning on the day after the date on which the Leader receives the instructions on behalf of the Executive within which the Leader may:-
  - (i) submit a revision of the estimates or amounts as amended by the Executive ("revised estimates or amounts"), which have been reconsidered in accordance with Full Council's requirements, with the Executive's reasons for any amendments made to the estimates or amounts, to Full Council for Full Council's consideration; or
  - (ii) inform Full Council of any disagreement that the Executive has with any of Full Council's objections and the Executive's reasons for any such disagreement.
- (k) When the period specified by Full Council, referred to in the previous paragraph above has expired Full Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to above, take into account:-
  - (i) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
  - (ii) the Executive's reasons for those amendments
  - (iii) any disagreement that the Executive has with any of Full Council's objections; and
  - (iv) the Executive's reasons for that disagreement

which the Leader submitted to Full Council, or informed Full Council of, within the period specified.
- (l) In the event that there is a dispute between the Executive and Full Council on all or any part of the Capital Programme which cannot be resolved at the relevant



## MEETINGS OF FULL COUNCIL

## 27. Types of Meeting

- (a) Full Council shall hold an **Annual Meeting** each year, to be held on such day in the month of March, April or May as the Council may determine.
- (b) The Council may in every year hold, in addition to the Annual Meeting, such other meetings on such days as it may determine which shall be called **Ordinary Meetings**.
- (c)\* *A meeting called by the Mayor (or, in the absence of the Mayor, by the Deputy Mayor) or otherwise called under the provisions of paragraph 3 of Part I of Schedule 12 of the Local Government Act 1972 is referred to as an "Extraordinary Meeting".*
- (d) If required by law or otherwise a **Special Meeting** may be held for the principal purpose of transacting a specific item or specific items of business.

## 28. Time of Meeting

All Ordinary Meetings of Full Council shall be held at 7.00 pm at Brent Civic Centre~~Brent Town Hall~~, or otherwise as determined by Full Council or, in the case of an Extraordinary Meeting, as determined by the Mayor, or if called other than by the Mayor, as determined by the Democratic Services Manager. The Annual Council Meeting shall be held at ~~Brent Town Hall~~Brent Civic Centre, or as otherwise determined by Full Council, at a time to be decided by the Democratic Services Manager.

## 29. Intervals

At any meeting of Full Council there may be an interval if the Mayor so directs and, if he or she does so direct, for such period as specified by him or her.

## 30\*. Chair of Meeting

*Any powers or duties of the Mayor in relation to the conduct of a meeting of Full Council may be exercised by the Deputy Mayor if present and chosen by the meeting to chair that meeting, or if the Deputy Mayor is not present or is not chosen by the meeting, by another councillor chosen by the meeting to chair the meeting.*

## 31. Quorum of Meetings of Full Council

- (a)\* *A quorum for a meeting of Full Council shall be one quarter of the whole number of members of the Council.*
- (b)\* *If at the time appointed for the meeting and during the succeeding twenty minutes, a quorum of members shall not be present, no business shall be transacted.*
- (c) During any meeting of Full Council, the Mayor may require the division bell to be rung and if, one minute after the bell has been rung, the Mayor counts the number of members present and declares the meeting inquorate, the meeting shall stand adjourned.

- (d) The consideration of any business not transacted shall be adjourned to a time fixed by the Mayor at the time the meeting is adjourned or if the Mayor does not fix a time, to the next ordinary meeting of Full Council.

### 32. The Annual Meeting

At the Annual Meeting of Full Council, the order of business shall be as follows:-

(a)\* **Community Champion Awards:**

*Prior to any business being transacted at the meeting the Mayor will present the Community Champion Awards.*

(b)\* **Mayor:**

*To elect the Mayor for the following year.*

(c) **Deputy Mayor:**

If so signified to receive the Mayor's intimation in writing of the appointment by the Mayor of a Councillor of the Borough to be Deputy Mayor.

(d) **Vote of thanks to the outgoing Mayor**

The incoming Mayor will invite a vote of thanks to the outgoing Mayor

(e) **Election results and acceptance of office:**

To receive the report of the Chief Executive upon the result of the elections of Councillors to the several wards of the borough held on the day fixed for the purpose by the Secretary of State pursuant to the provisions of the Local Government Act 1972 and the acceptance of office of Councillors elected.

(f) **Declarations:**

Declarations by members of any personal and prejudicial interests in any matter to be considered at the meeting.

(g) **Minutes:**

To read and approve as a correct record the minutes of the last meeting or meetings of Full Council provided that if a copy has been circulated to each member of the Council not later than the date of issue of the summons to attend the meeting the minutes shall be taken as read.

(h) **Agree the Constitution:**

To agree any changes to the Constitution.

(i) **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.

- (e) The Chair may call a member to order for irrelevance, repetition, imputation of dishonourable conduct or improper remark, unseemly language, offensive gestures or any breach of order and may direct a member if speaking to discontinue their speech.
  - (f) If a member of the public interrupts the proceedings at any meeting the Chair shall warn them that if they continue to interrupt the proceedings of the meeting he or she may be removed from the ~~Council chamber or meeting room~~, as the case may be. If they continue the interruption the Chair shall order their removal from the ~~Council chamber or meeting room~~. In case of general disturbance in any part of the ~~chamber or meeting room~~ open to the public the Chair shall order that part to be cleared.
  - (g) Members of the press and public may be excluded from Council meetings either in accordance with the Access to Information Rules in part 6 of the Constitution or Standing Order 50(f).
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**51. Smoking and Mobile Phones at Meetings**

- (a) No person shall smoke at any meeting of the Council or the Executive or a committee or sub-committee thereof.
- (b) Any mobile phone taken into a meeting is to be switched off for the duration of the meeting.

**COMMITTEES AND SUB-COMMITTEES OF THE COUNCIL****52. Standing Orders to apply to Council Committees and Sub-Committees**

- (a) The Standing Orders shall, where appropriate, apply with suitable modifications to meetings of committees and sub-committees of the Council except to the extent specified herein or to the extent that they are not necessary or relevant or would conflict with any other requirement in the Constitution in relation to that meeting including any code of conduct or code of practice.
- (b) In the event that there is any disagreement as to whether or not any part of these Standing Orders should or should not apply to a meeting of a committee or sub-committee whether with or without suitable modification the question shall be determined by the Chair on the advice from the Director of Legal and Procurement or the Democratic Services Manager or their representatives.

**53. ~~Appointments to and chairs of Council Committees and Sub-Committees~~**

- (a) Full Council may appoint such Council committees as it is required or permitted to appoint, such committees to be set out in Part 5 of the Constitution, together with their terms of reference and the number of members to be appointed.
- (b) Full Council shall appoint a Chair for each of the Council Committees and if it so wishes a Vice Chair.
- (c) The Chair of the One Council Overview and Scrutiny Committee, and the Budget and Finance Overview and Scrutiny Committee shall be members from the opposition.
- (d) The Chair of the Call-in Overview and Scrutiny Committee shall be the same as the Chair of the One Council Overview and Scrutiny Committee.
- (e) The vice chairs of the overview and scrutiny committees shall be from a different political group as the chair.
- (f) Full Council may at any time dissolve a committee or remove any of its members or change the size of its membership.
- (g) Other than in the case of the Alcohol & Entertainment Licensing sub-committees, Full Council shall determine the extent to which any functions may be exercised by any sub-committee and the terms of reference will be set out in Part 5 of the Constitution. In the case of the Alcohol and Entertainment Licensing sub-committees the Alcohol & Entertainment Licensing Committee will determine the extent to which any functions may be exercised by them and will agree their terms of reference
- (h) Appointment of the Council's sub-committees and agreeing the number of members to be appointed shall be by the parent committee and the Chair and (if considered necessary) Vice Chair of the sub-committees shall be appointed by the parent committee.
- (i) No councillor may be appointed to any committee or sub-committee so as to hold office later than the next Annual Meeting or the meeting of Full Council which meets after the next Annual meeting to agree appointments to committees.
- (j) Co-opted members may be appointed to committees and sub-committees in accordance with Standing Order 54 and the rules for membership for committees and sub-committees contained in Part 5 of the Constitution.

- (a) Minutes of each committee or sub-committee meeting shall be put before the next suitable meeting of that committee or sub-committee for approval as a correct record. No discussion shall take place upon the minutes except as to their accuracy and as soon as they are approved as a correct record the Chair shall sign them.
- (b) Minutes of each sub-committee meeting shall be submitted to the next suitable meeting of the relevant parent committee for information.
- (c) Under "Matters Arising from the Minutes" members may seek information on the current position but no motion to vary or rescind the minutes nor any other motion may be permitted.
- (d) Minutes taken at hearings of the Alcohol & Entertainment Licensing Committee and Sub Committees must be kept for 6 years from the date of the Sub Committees determination or, where an appeal is brought against the determination of the authority, the disposal of the appeal if later.

**67A. Rights of Certain Committees and Sub-Committees to require attendance of members and officers**

- (a) If the Audit Committee so agrees then any member of the Executive or any officer of the Authority (not normally below the level of director or service unit manager) shall, upon receiving reasonable notice so to do, (which will not normally be less than 2 weeks notice) attend a meeting of the committee to answer appropriate questions from the members of that committee on any matter falling within its remit.
- (b) The Audit Committee may decide to request the attendance of any other person, not covered by paragraph (a) above, at a meeting of the committee.
- (c) If the overview and scrutiny committee agrees or if at least 40% of the members of the relevant committee so request by giving notice to the Democratic Services Manager then any member of the Executive or any officer of the Authority (not normally below the level of director or service unit manager) shall, upon receiving reasonable notice so to do, (which will not normally be less than 2 weeks notice) attend a meeting of the relevant committee to answer appropriate questions from the members of that committee on any matter falling within its remit including any matter called in under Standing Order 18. In the case of the Budget and Finance Overview and Scrutiny Committee the Chair of the committee may give the requisite notice, without the need for the prior agreement of any other committee member.
- (d) The overview and scrutiny committee may decide to request the attendance of any other person, not covered by paragraph (c) above, at a meeting of the committee.



## PETITIONS AND DEPUTATIONS

### 68. Petitions

- (a) Any person who wishes to submit a petition under these rules on their own behalf or on behalf of an organisation shall deliver it either in paper form to the office of the Democratic Services Manager during office hours or electronically on the Council's website. This must be at least **8 days** before the relevant decision (if the petition concerns a specific decision) is due to be taken.
- (b) No petition shall go forward unless it concerns matters affecting the borough and is signed by at least 5 people who either live, work or study in the borough.
- (c) The Democratic Services Manager will establish how many valid signatures the petition has.
- (d) ~~Petitions with between 5 and 50 valid signatures:~~
  - (i) Any such petition shall be referred to the relevant Service Area or Corporate Director who will be responsible for ensuring that the petition is responded to and taken into account in the decision making process as appropriate;
  - (ii) In the case of any such petitions which relate to a matter which is or could be the responsibility of the Planning Committee the signatures may count as an objection to a development in which case the petition will be considered by the Planning Committee when it considers the matter in question. The Strategic Director of Regeneration and Major Projects~~Growth~~ shall decide whether the signatures count as an objection.
- (e) Petitions with **50** or more valid signatures:
  - (i) Any such petition shall be notified to the Chairs of the overview and scrutiny committees and to the relevant Service Area or Corporate Director;
  - (ii) Petitions concerning specific decisions planned to be made shall be referred to the decision maker. If the decision maker is a Council committee or sub-committee or the Executive rather than an individual then one person representing the petitioners will be entitled to address the planned meeting of the Council committee or sub-committee or the Executive (as the case may be) for up to 5 minutes concerning the petition. Petitions relating to specific decisions to be made by Full Council shall be considered by the next scheduled meeting of the General Purposes Committee or if the next meeting of the General Purposes Committee is scheduled to take place after the relevant meeting of the Full Council then it shall be considered by the Executive. The General Purposes Committee or the Executive as the case may be may, if it sees fit, make recommendations concerning that petition to Full Council.
  - (iii) Petitions not concerning specific decisions planned to be made shall be referred to the Executive or to the Council committee or sub-committee (if any) within whose terms of reference the subject matter of the petition falls as determined by the Director of Legal and Procurement or Democratic Services Manager. If it concerns a decision that may be taken at a meeting on some future date then it shall be considered at that future meeting. In all other cases it shall be considered at the next convenient meeting.

## STANDING ORDERS

- (c) Other contracts shall be executed under seal if the relevant Chief Officer or the Director of Legal and Procurement considers that to do so would be in the Council's best interest.
- (d) Contracts below £150,000 shall be in writing (which includes the Council's official order form) and signed in accordance with the Financial Regulations or any relevant financial procedures issued by the ~~Director of Finance and Corporate Services~~ Chief Finance Officer. However this will not apply to contracts for insurance where the contract is brought into effect by the issue of a schedule of insurance and policy documents to the Council by the insurer.

**STANDING ORDERS RELATING TO STAFF****74. Declaration by Candidates**

- (a) ~~The Assistant Director, People and Management~~Operational Director Human Resources will draw up a statement requiring any candidate for appointment as an officer to disclose any relationship to a councillor or employee of the Council.
- (b) No candidate related to a councillor or a Chief Officer or the partner of such a person should be appointed without the authority of the Chief Executive.

**75. Seeking Support for Appointment**

- (a) Any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council shall be disqualified and wording to this effect shall be included in any recruitment information.
- (b) No councillor will seek support for any person for any appointment with the Council nor give a written reference or testimonial for any person for any appointment with the Council.

**76. Appointment and Dismissal of Staff not Covered by Standing Order 77 or Standing Order 81A (Director of Public Health)**

- (a) Appointment and dismissal of, and taking disciplinary action against, a person appointed to or holding a paid office or employment under the Council (as defined by the Local Authorities (Standing Orders) (England) Regulations 2001) must be discharged, on behalf of the Council, by the Chief Executive or his or her nominee and may not be discharged by councillors. This is subject to paragraph (c) below and except in the case of the posts mentioned in Standing Order 77b) and 81A or in the case of a person appointed in pursuance of section 9 of the Local Government and Housing Act 1989 (assistants for political groups).
- (b) The persons who have been nominated by the Chief Executive pursuant to paragraph (a) above are those listed in Paragraph 2.4 of Part 4 of the Constitution and persons authorised by them to act on their behalf.
- (c) Members will not be involved in the dismissal of any officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, or in accordance with Standing Orders 79 or 80 or where the dismissal is required to be made by members by virtue of any legislative provision or any term or condition of any contract of employment.
- (d) In the case of the appointment or dismissal of the ~~Assistant Director, People and Development~~Operational Director Human Resources the acts required under these Standing Orders Relating to Staff to be done by the ~~Assistant Director, People and Development~~Operational Director Human Resources shall instead be done by the Chief Executive or a person nominated by him or her for that purpose.

**77. Appointments to Senior Management Posts**

- (a) ~~The Assistant Director, People and Development~~Operational Director Human Resources shall be consulted on all appointments to posts covered by this Standing Order. 'Appointments' in this Standing Order 77 refers to permanent appointments. Fixed terms and interim appointments to Senior Management posts are addressed in Standing Order 77A below.



- (b) This Standing Order shall apply to the posts of:-
- (i) the Chief Executive;
  - (ii) any director (or other senior officer) reporting directly or being directly accountable to the Chief Executive;
  - (iii) statutory Chief Officers being:
    - the Strategic Director of Children and Families/Young People (acting as the Director of Children's Services appointed under section 18 of the Children Act 2004);
    - the Strategic Director of Adults Social Services (acting as the Director of Adult Social Services appointed under section 6 (A1) of the Local Authority Social Services Act 1970 as amended by the Children Act 2004);
    - the Chief Finance Officer appointed under section 151 of the Local Government Act 1972;
  - (iv) any officer who, as respects all or most of the duties of his or her post, is required to report directly or is directly accountable to the Full Council itself or any committee or sub-committee of the Authority;
  - (v) the Monitoring Officer;
  - (vi) any ~~assistant director or deputy director~~ Operational Director reporting directly to a ~~Service Area Strategic Director~~ or the Chief Executive ~~Corporate Director~~;
  - (vii) the following other officers:
    - the Head of Revenues and Benefits.
- (c) The posts mentioned in paragraph (b) above may only be created, amended (other than a minor variation) or deleted by the Executive following consideration of a report from the Chief Executive or other officer nominated by him or her setting out the proposed job description and person specification for that post and/or the reasons for the creation, amendment or deletion of the post and any legal or financial or other implications arising there from.
- (d) The terms and conditions of any of the posts mentioned in paragraph (b) above and the grading structure to be applied to them may only be determined by the General Purposes Committee.
- (e) The posts mentioned in paragraph (b) above may only be appointed to by the Senior Staff Appointments Sub-Committee (*which sub-committee shall include at least one member of the Executive\**),
- (f) Unless it is intended that the appointment shall be made exclusively from among existing officers (e.g. where one or more officer is entitled to a ring fenced interview under the Council's Human Resources procedures) paragraphs (g) – (i) below shall apply to the appointment to any of the posts mentioned in paragraph (b) above.

- (g) The Chief Executive or another Chief Officer authorised by him or her shall arrange for the post to be advertised in such a way as is likely to bring it to the attention of persons who meet the person specification criteria to apply, and shall arrange for a copy of the job description and person specification to be sent to any person on request. Where no person able to meet the person specification criteria has applied, the post shall be re-advertised as before.
- (h) The Chief Executive or another officer nominated by him or her may draw up a shortlist of applicants from those applicants that applied for a post and submit it to the Chair of the Senior Staff Appointments Sub-Committee together with copies of all applications received. If the Chair does not concur with the shortlist prepared by the officer, a meeting of the Senior Staff Appointments Sub-Committee shall be held to determine the shortlist. If the Chair does concur then the shortlist prepared by the officer shall stand.
- (i) The Senior Staff Appointments Sub-Committee shall invite for interview all ~~qualified applicants or a short list of qualified applicants drawn up in accordance~~ with paragraph (h) above where applicable and the interviews shall be conducted in accordance with the Council's recruitment policies and procedures in place from time to time.
- (j) Following any interviews of candidates for a post specified in (b) above no offer of appointment shall be made until the following paragraphs have been complied with.
- (k) The Chair of the Senior Staff Appointments Sub-Committee shall notify to the Assistant Director, People and Management (or such other appropriate officer) the name of the person to whom it wishes to make an offer together with any other particulars the sub-committee considers are relevant to the appointment.
- (l) The Assistant Director, People and Management (or such other appropriate officer) shall forthwith notify to every member of the Executive:
  - (i) the name of the person to whom the sub-committee wishes to make the offer;
  - (ii) any other particulars relevant to the appointment which the sub-committee has notified to him or her; and
  - (iii) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Executive to the Assistant Director, People and Management (or such other appropriate officer) and the Chair of the sub-committee.
- (m) The Leader shall within the period specified in the said notice notify the Assistant Director, People and Management (or such other appropriate officer) and the Chair of the Senior Staff Appointments Sub-Committee of any objection which the Leader or any other member of the Executive has to the proposed appointment.
- (n) If no such objection is received by the Assistant Director, People and Management (or such other appropriate officer) or the Chair of the Senior Staff Appointments Sub-Committee the Assistant Director, People and Management may proceed to offer the appointment to the successful candidate. If an objection is made the Senior Staff Appointments Sub-Committee shall reconvene with, as far as is reasonably possible, the same members to consider the objection and to consider whether to confirm the appointment. If the sub-committee is satisfied that the objection is not material or is not well founded then the Assistant Director,

out in the National Health Service Act 2006 Section 73A (as amended by the Health and Social Care Act 2012). The Council must have regard to the statutory guidance issued concerning the recruitment and appointment processes

- (b) The Local Authority must act jointly with the Secretary of State in the appointment of a Director of Public Health
- (c) Before terminating the appointment of the Director of Public Health the Local Authority must consult the Secretary of State

**CONTRACT STANDING ORDERS****82. Definitions**

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

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

	Value Contracts (under which different thresholds apply for services / supplies and construction / works).
<b>Low Value Contract</b>	<p>In the case of contracts for services or supplies: a contract with an estimated value over the life of the contract (including any period of extension(s) anticipated by the contract) of between £20,001 and up to the amount which is the current threshold for services and supplies contracts under the European Procurement Rules (which is currently £173,934).</p> <p>In the case of a contract for construction or works: a contract with an estimated value over the life of the contract (including any period of extension(s) anticipated by the contract) of between £20,001 up to £250,000, provided that the contract is classified as a contract for works and not services by the European Procurement Rules.</p>
<b>Medium Value Contract</b>	<p>In the case of contracts for services or supplies: a contract with an estimated value over the life of the contract (including any period of extension(s) anticipated by the contract) of between the amount which is the relevant threshold for services or supplies contracts under the European Procurement Legislation (which is currently £173,934) and £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 the European Procurement Rules.</p>
<b>Member</b>	An elected member of Brent Council.
<b>Monitoring Officer</b>	The Director of Legal and Procurement.
<b>Official Order</b>	An order for services, supplies or works to the Council issued by an authorised officer using the Council's official order form.
<b>OJEU</b>	The Official Journal of the European Union.
<b>Online Market Place</b>	A web-based facility approved by the Director of Legal and Procurement which enables the procurement of specified types of services, supplies or works contracts.

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

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

The following contracts are exempt from Contract Standing Orders:-

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

### **84. General Requirements**

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

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

- (c) Chief Officers shall ensure in undertaking any contract procurement that:-
  - (i) fair, transparent and auditable processes are followed at all stages;
  - (ii) tender exercises are conducted appropriate to the nature of the contract being procured;



all tenderers are treated equally and fairly;

- (iv) these Contract Standing Orders are complied with; and
- (v) the Contract Database is kept updated at all times as set out in Standing Order 110.
- (d) Contract tendering procedures are contained in the Council's Contract Procurement and Management Guidelines which shall be updated and amended from time to time to comply with these Contract Standing Orders. Advice on any of the requirements of these Contract Standing Orders shall be sought from the Director of Legal and Procurement or ~~Director of Finance and Corporate Services~~ Chief Finance Officer as appropriate.
- (e) For the avoidance of doubt these Contract Standing Orders apply to:-
  - (i) the appointment of consultants; and
  - (ii) the establishment of Framework Agreements.
- (f) Subject to paragraph (a) and (b) above, Standing Order 97 (mandatory Approved List and Online Market Place), all medium and high value contracts shall be entered into and procured in accordance with the formal tendering procedures set out in these Standing Orders.

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

- (a) No Partnership Arrangements may be entered into unless they are approved by the ~~Director of Finance and Corporate Services~~ Chief Finance Officer and a formal agreement covering the arrangements is signed by the parties.
- (b) Any Partnership Arrangement or Collaborative Procurement which includes delegation of powers shall be approved by the Executive (or where relevant Full Council).
- (c) Any Collaborative Procurement shall comply with these Standing Orders and Financial Regulations unless;
  - (i) agreed otherwise in writing by the ~~Director of Finance and Corporate Services~~ Chief Finance Officer and the Director of Legal and Procurement; or
  - (ii) in the case of a High Value Contract the agreement of the Executive is obtained under Standing Order 84(a).

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

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

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

- (a) Certain contracts as set out in this Standing Order listed below, are not subject to the full tendering requirements of these Contract Standing Orders but are subject to any other relevant parts thereof.
- (aa) No formal procurement procedures apply to Very Low Value Contracts apart from a requirement to secure best value. For Very Low Value Contracts, the best way to demonstrate best value is by 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.
- (b) No formal tendering procedures apply to Low Value Contracts (as defined in Standing Order 82 above with different thresholds applying for works contracts as opposed to supplies and services contracts) except that at least three written quotes must be sought and the quotes sought and/or obtained shall be recorded ~~or alternatively the contract is procured through the Online Market Place. Where~~ quotes are sought, advice must be sought from the Council's procurement officers about how to select the three organisations to be invited to quote and how to structure the quotation process. In the case of Low Value Works Contracts valued at above the relevant threshold for supplies or services contracts under the European Procurement Rules (currently £173,934) approval of the Director of Legal and Procurement is required to use a quotation process; if approval is not given then such a contract requires the following of a tender process under Standing Order 96 below. Low Value Contracts do however require formal approval for award according to Standing Order 88(a) from a duly authorised officer within the relevant Council department.
- (c) Contracts which are procured using an Approved List or the Online Market Place in accordance with the rules prescribed pursuant to Standing Order 97, are not subject to full tendering requirements.
- (d) Subject to the proviso below no formal tendering procedures apply where contracts are called off under:
  - (i) a Framework Agreement established pursuant to these Standing Orders; or
  - (ii) a Framework Agreement established by another contracting authority , where call off under the Framework Agreement is approved by the relevant Chief Officer to include confirmation that there is budgetary provision for the proposed call-off contract PROVIDED that the Director of Legal and Procurement has advised that participation in the Framework Agreement is legally permissible. Advice from the Director of Legal and Procurement must be obtained each and every time a call off under another contracting authority's Framework Agreement is recommended by the relevant Chief Officer.
  - (iii) the Online Market Place (as detailed in Standing Order 97), where the call off is approved by the relevant Chief Officer to include confirmation that there is budgetary provision for the proposed call-off contract.

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



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

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

- (a) The Local Authorities (Goods and Services) Act 1970 ("the 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.
- (b) Before entering into arrangements under ~~either any~~ of these provisions, officers must comply with the relevant requirements of Financial Regulation in Part 6 of the Constitution.
- (c) Authority to enter into arrangements under ~~either any~~ of these provisions must be agreed by the Executive (or if appropriate the General Purposes Committee) where:
  - (i) the contract value would exceed £150,000 per annum; or
  - (ii) the gross cost to the Council of providing the relevant goods, services or works under the contract is estimated to exceed £150,000 per annum calculating the full costs over the term of the contract (including any period of extension(s) anticipated by the contract);
  - (iii) where a company is to be set up for the purposes of the arrangements.
- (d) In all cases advice shall be sought from the Director of Legal and Procurement and the ~~Director of Finance and Corporate Services~~ Chief Finance Officer prior to entering into any such arrangement and/or prior to seeking approval by the Executive.

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

- (a) Chief Officers have delegated to them power to invite expressions of interest, agree shortlists, invite Tenders, negotiate, award, and terminate contracts in accordance with paragraph 2.5, of Part 4 of this Constitution. No individual Member may enter into a contract on the Council's behalf.
- (b) Where approval to invite expressions of interest is required from the Executive (or if appropriate the General Purposes Committee or Pension Fund Sub-Committee) the Executive, the General Purposes Committee, or the Pension Fund Sub-Committee as the case may be shall receive and consider a report setting out the pre-tender considerations specified in Standing Order 89 and shall give such approval or approvals as it considers necessary.
- (c) Where approval to award, or terminate a contract is required to be obtained or is in any event sought from the Executive (or the General Purposes Committee or Pension Fund Sub-Committee), the Executive, the General Purposes Committee or the Pension Fund Sub-Committee as the case may be shall receive and consider a report setting out all relevant information necessary to enable it to give such approval or approvals as it considers necessary.
- (d) Chief Officers are responsible for ensuring that the relevant category manager in the Corporate Procurement Centre is notified of all proposed procurements exceeding £20,000 in value. The role of the category manager under this Standing Order 88 is to advise on appropriate procurement routes, ensuring that the service department takes legal advice as necessary.

**89. Pre-Tender Considerations**

In procuring any contract Chief Officers (or the Executive for High Value contracts) shall, where appropriate, consider the following matters prior to inviting Tenders:

- (i) the nature of the services, supplies or works contract to be tendered;
- (ii) the estimated value;
- (iii) the contract term and any period of extension(s) anticipated by the contract;
- (iv) the tender procedure to be adopted including whether any part the procedure will be conducted by electronic means and whether there will be an e-auction;
- (v) the procurement timetable;
- (vi) the evaluation criteria and process;
- (vii) any business risks associated with entering the contract;
- (vii) the Council's Best Value duties;
- ~~(vii)~~(viii) The Council's duty under the Public Services (Social Value) Act 2012 (duty applies only to Medium and High Value Contracts for services contracts but should be considered for all contracts);
- (ix) any staffing implications including TUPE and pensions; and
- (x) the relevant financial, legal and other considerations.

**90. Estimated contract value**

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

**91. Small Lots**

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

**92. Procurement by consultants**

Where consultants are appointed to undertake tendering on the Council's behalf they shall be instructed to comply with Contract Standing Orders and to refer to the Contract Procurement and Management Guidelines as appropriate. No consultant shall make a decision as to whom to award a contract nor enter into contracts on the Council's behalf. Appropriate arrangements shall be implemented to monitor any procurement managed by consultants.

**93. Appointment to the Evaluation Panel**

For High Value Contracts the Director of Legal and Procurement and the ~~Director of Finance and Corporate Services~~ Chief Finance Officer shall, if he/she considers it appropriate, be part of or appoint a representative to the evaluation panel or shall advise the panel as he/she sees fit.

**94. Prior Information Notice**

Chief Officers should ensure that a Prior Information Notice is published in OJEU as soon as possible after the commencement of each financial year detailing the intended total procurement for the year for services, supplies and works contracts to be tendered which are subject to European Procurement Legislation.

**95. Inviting Tenders for Contracts Subject to Full EU Rules**

Where a services (Part A services), supplies or works contract is above the EU threshold then Tenders shall be invited in accordance with European Procurement Legislation using the open, restricted, negotiated or competitive dialogue procedure by placing a notice in OJEU no later than any other advertisement placed in any other publication.

**96. Contracts for Part B Services and Contracts not Subject to EU Rules**

(a) Where a contract is for a Part B service or is below the EU threshold then Tenders shall be invited in accordance with:-

- (i) any requirements in the European Procurement Legislation relating to Part B Services if appropriate;
- (ii) these Contract Standing Orders; and
- (iii) the requirements of either (b) or (c) below.

**(b) Single Stage Tender**

Tenders shall be invited by way of public notice published in at least one local newspaper and at least one relevant trade journal stating the nature of the contract being tendered and stating the last date when Tenders will be accepted which shall not normally be less than 21 days after the date that the notice was first published. The estimated value of the contract may also be included.

**(c) Two-Stage Tender**

- (i) Expressions of interest shall be invited by public notice in at least one local newspaper and at least one relevant trade journal stating the nature of the contract being tendered stating the last date when expressions of interest will be accepted which shall not normally be less than 21 days after the date that the notice was first published.
- (ii) Persons or bodies wishing to express an interest shall be sent a pre-qualification questionnaire to be completed and returned to the Council by the date specified in the notice.
- (iii) The response to the pre-qualification questionnaire shall be used to evaluate whether the person or body meets the Council's minimum technical capacity and financial standing requirements and has relevant experience, ~~and whether they should be included in a shortlist.~~
- (iv) Tenders shall be invited from those persons or bodies who have been included in the shortlist.

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

- (a) The Council has agreed the use of a corporate Approved List. The Director of Legal and Procurement in consultation with the ~~Director of Finance and Corporate Services~~ Chief Finance Officer may prescribe the rules on how the Corporate Approved List shall be compiled, used, monitored and reviewed and may amend such rules periodically.
- (b) The use of the corporate Approved List shall be mandatory for all Low Value Contracts for services and supplies and for all Low and Medium Value contracts for works where a relevant corporate Approved List category exists, unless an exemption is granted pursuant to the rules prescribed under (a) above.
- (c) The Council has agreed the use of a Small Works and Services Approved List. The Director of Legal and Procurement in consultation with the ~~Director of Finance and Corporate Services~~ Chief Finance Officer may prescribe the rules on how the Small Works and Services Approved List shall be compiled, used, monitored and reviewed and may amend such rules periodically.
- (d) The use of the Small Works and Services Approved List shall be mandatory for all Low Value Contracts for services supplies and works where a relevant Small Works and Services Approved List category exists, unless an exemption is granted pursuant to the rules prescribed under (c) above.
- (e) The Council has agreed the use of an Online Market Place. The Director of Legal and Procurement in consultation with the ~~Director of Finance and Corporate Services~~ Chief Finance Officer may prescribe the internal rules on how the Online Market Place shall be used, monitored and reviewed and may amend such rules periodically.
- (f) The Online Market Place shall consist of:
  - (i) a contract or Framework Agreement established pursuant to these Standing Orders; or



- (c) Tenders held in an Electronic Tender Time Box must all be opened at the same time by an authorised officer in the Corporate Procurement Unit after the appointed closing date and time for the Electronic Tender Time Box has passed and the Tender details recorded.
- (d) Where any original Tender documentation is to be submitted in hard copy instead of electronically as part of the tender process using an Electronic Tender Facility, such documentation shall be addressed to the Head of the Corporate Procurement Unit and the Tender documentation shall remain in the custody of the Head of the Corporate Procurement Unit until the time appointed for its opening. At the time appointed for the opening of Tenders held in the Electronic Tender Time Box, the hard copy Tender documentation shall be opened and the details recorded by an authorised representative of the Head of the Corporate Procurement Unit and at least one other officer.
- (e) ~~In appropriate cases the submission of prices or values of quantifiable elements for a Tender may be conducted by e-auction using an E-Auction Facility. An E-Auction Facility may be used in conjunction with an Electronic Tender Facility.~~
- (f) Tenders conducted by e-auction must comply with any specific European Procurement Legislation where applicable and unless used in conjunction with an Electronic Tender Facility, must follow the usual process for the invitation, submission and evaluation of Tenders (including Standing Order 100) except that the submission of prices and/or values may occur via an online auction.
- (g) Except with the prior written approval of the ~~Director of Finance and Corporate Services~~ Chief Finance Officer, electronic tendering may only be undertaken using the Council's Electronic Tender Facility or E-Auction Facility operated by the Corporate Procurement Unit.
- (h) Where tendering has been conducted by electronic means, Chief Officers shall ensure that signed hard copies of the form of tender, and where appropriate, the parent company guarantee undertakings and performance bond undertakings are obtained from the successful tenderer prior to award of contract.

## 102. Late Tenders

- (a) ~~(i)~~ Late Tenders shall not be considered except in special circumstances and only then if no other Tenders have been opened and only with the prior written approval of the Chief Executive or the Monitoring Officer on receipt of a written request specifying the special circumstances and why acceptance of a late Tender is justified. A record of any such written approval shall be kept with the record of Tenders received.
- (b) ~~Where a late Tender is received in paper form, or partly in paper form, it any late tender which is not accepted under Standing Order 102(a) above Except in these cases, any envelope containing a late Tender will be opened for the sole purpose of identifying the applicant and will be returned to them immediately save where the late tender is accepted in accordance with Standing Order 102(a) above~~
- (a) ~~(c)~~ If Tenders are received electronically via an Electronic Tender Facility or by an E-Auction Facility, then if the Facility will still accept the submission of tenders after the appointed closing date and time for the submission of Tenders it will automatically flag late Tenders as "late". Late Tenders flagged as such may

~~only be can then be accepted in accordance with under Standing Order 102(a) above. However once other tenders have been opened on the Facility then no late Tenders can be accepted.~~

- ~~(ii) If Tenders are to be received electronically via an Electronic Tender Facility or by an E-Auction Facility, late Tenders will not be accepted after the appointed closing date and time for the submission of Tenders via the Electronic Tender Time Box or the submission of Tender prices via the E-Auction Facility. If original hard copy Tender documentation (per Standing Order 101(d)) is submitted late, the Tender shall be regarded as a late Tender and Standing Order 102(i) will apply.~~

### **103. Record of Tenders and Contracts**

- (a) The relevant Service Area Director shall maintain a record of all Tenders invited and received by them, of all contracts entered into and Framework Agreements concluded on behalf of the Council and shall record the reasons for awarding the contract to or concluding a Framework Agreement with a tenderer and the reasons for non-acceptance of a Tender or the rejection of a contractor who has not been included in a Tender short list or Approved List.
- (b) For contract award procedures conducted by electronic means, appropriate information shall be kept to document the progress of the procedure.

### **104. Tender Evaluation**

- (a) Tenders subject to European Procurement Legislation shall be evaluated in accordance with the relevant regulations and the instructions to tender. All other Tenders shall be evaluated in accordance with the criteria and procedures set out in the invitation to tender. In both cases Tenders shall be evaluated in accordance with these Standing Orders save where there is a conflict with any European Procurement Legislation in which case that legislation shall prevail.
- (b) Tenders for all contracts (except for works, supplies or energy supply contracts where lowest price was pre-determined to be the appropriate ~~criteria~~ basis) shall be evaluated and awarded on the basis of the most economically advantageous offer to the Council.

### **105. Departure from Tender Documents**

- (a) Subject to paragraph (b) below where the Council has included non-negotiable terms and conditions with its instructions to tenderers then Tenders may only be accepted on those terms unless any revisions are notified to all tenderers prior to the tender return date.
- (b) Where contract terms and conditions are non-negotiable then no variations to them may be made after Tenders are received without the prior written approval of the Director of Legal and Procurement.
- (c) Post-tender negotiations are only permissible where the instructions to tender specified the areas to be subject to negotiation and in the case of contracts which are subject to European Procurement Legislation only where the contract was advertised pursuant to the EU negotiated procedure. In all other cases only clarification points or ambiguities may be raised with tenderers.

### **106. Bonds and Guarantees**

Chief Officers shall ensure that sufficient security for the due performance of High Value Contracts is taken and for other contracts where such security is considered be in the best interests of the Council.

#### **107. Notification of Tender Decision, Standstill Period, Debriefing and Acceptance**

- (a) Subject to the specific exceptions in the European Procurement Legislation, where the Contract is subject to the full application of the European Procurement Legislation (being a Part A Services contract, public works contract, public supplies contract or Framework Agreement above the relevant EU threshold) a mandatory standstill period of at least 10 calendar days must be observed between notifying all tenderers in writing of the award decision and the actual award of contract. The standstill period shall commence on the day after the written award notification is sent to all tenderers and the written notification must comply with the requirements of the European Procurement Legislation. ~~If an unsuccessful tenderer requests further information, such information must be provided in accordance with the European Procurement Legislation.~~
- (b) If a legal challenge to the procurement process or award decision is brought during a mandatory standstill period the contract must not be awarded and tender acceptance must not be communicated to the successful tenderer without the prior written approval of the Director of Legal and Procurement.
- (c) Tender acceptance must not be communicated to the successful tenderer until after the expiry of any mandatory standstill period. Where Standing Order 107(a) does not apply, tender acceptance shall be communicated to the successful tenderer as soon as possible and where possible within 5 working days of the decision being made. Tender acceptance must be in writing and as a minimum must detail the date of the decision and the decision-maker.

#### **108. Contract Award Notice**

Chief Officers shall ensure that a contract award notice is published in OJEU within 48 days of the award of any contract where required by European Procurement Legislation.

#### **109. Letters of Intent**

Letters of intent shall only be used as follows:

- (a) where the Council's form of tender has not included a statement that until such time as a formal contract is executed the Council's written acceptance of a Tender shall bind the parties into a contractual relationship; or
- (b) exceptionally where a contractor is required to provide services, supplies or works prior to written acceptance by the Council and only then with the prior written approval of the Monitoring Officer.

#### **110. Contracts Register**

- (a) A register of all contracts placed by the Council to the value of £20,000 or more over the term of the contract shall be maintained by the Contract Database Officer within the Corporate Procurement Centre. Such register shall for each contract specify the name of the relevant Council's Service Unit, the contractor, the services, supplies or works to be provided, the contract value and contract term and where relevant any provisions for extension. Details of all such contracts awarded must be reported to the

Contract Database Officer within two weeks of award and in the required format.

- (b) Chief Officers shall also ensure that for all contracts on the database, all contract extensions and variations, early terminations, assignments and novations are notified to the Contract Database Officer and to the relevant category manager in the Corporate Procurement Centre.

#### **111. Contract Terms and Conditions**

Chief Officers shall ensure that contracts are drafted as appropriate to the nature of the services, supplies or works to be provided and contain provisions to protect the Council's overall interest. Advice shall be sought from the Director of Legal and Procurement as appropriate.

#### **112. Extension and Variation of Contract**

- (a) Contracts subject to European Procurement Legislation may be extended in compliance with relevant legislative provisions. Contracts may be extended in accordance with the provisions for extension contained in the contract if the parties agree and if the relevant Chief Officer is satisfied that the extension will achieve best value and is reasonable in all the circumstances. Any such extension that will last for more than one year shall be notified to the Director of Legal and Procurement and the ~~Director of Finance and Corporate Services~~ Chief Finance Officer. All extensions (of any duration) shall be notified to the Contracts Register Officer.
- (b) Retendering of contracts shall be timetabled to ensure handovers can be effected at the end of the contract term. Where any retendering is delayed or is unsuccessful then temporary arrangements may be agreed by the relevant Chief Officer.
- (c) Any temporary contractual arrangements necessary to cover periods between a contract expiring and a new contract commencing shall be kept to a minimum term possible and retendering shall be commenced or re-commenced as soon as is reasonably possible.
- (d) Chief Officers have delegated to them power to extend, vary or renegotiate contracts in accordance with paragraph 2.5 of Part 4 of this Constitution. Where approval to extend, vary or renegotiate a contract is required to be obtained or is in any event sought from the Executive (or the General Purposes Committee or Pension Fund Sub-Committee) the Executive, the General Purposes Committee or the Pension Fund Sub-Committee as the case may be shall receive and consider a report setting out all relevant information necessary to give such approval or approvals as it considers necessary.

#### **113. Early Termination of Contract**

High Value Contracts may only be terminated by the Executive, the General Purposes Committee or the Pension Fund Sub-Committee as appropriate. Medium Value Contracts may only be terminated:

- (a) by agreement between the Council and the Contractor; or
- (b) in accordance with the termination conditions of the contract



# PART 4



# **PART 4**

## **RESPONSIBILITY FOR FUNCTIONS**

**General  
Powers Delegated to Officers**

**Exemptions Restrictions and Limitations on Powers  
Delegated to Officers**

**Acquiring, managing and disposing of land and  
buildings**

**Decisions by individual members**

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

**Table 1 Functions which cannot be exercised  
by the Executive**

**Table 2 Functions where the Council has a  
choice of exercising them through  
either the Executive or the Council and  
the person or body to whom, if any,  
the function has been delegated**

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

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

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

**Table 5 Proper and Statutory Officer  
Provisions**

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

## 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.
- 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~~4-7~~
- 1.5 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 Strategic Director of Regeneration and Major Projects Growth and/or the Head of Area Planning~~Assistant Director of Planning and Development~~ except those which are specified as being the responsibility of the Planning Committee.
- 1.6 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 Executive or Council functions.



## RESPONSIBILITY FOR FUNCTIONS

- 1.7 Table 3 sets out the functions which are not to be the sole responsibility of the Executive. So far as those functions are to be executive functions, the Leader has agreed to arrange for these functions to be carried out by the Executive..The Table describes the plans, policies and strategies, which form the Authority's Policy Framework and specifies what role the Executive will play in relation to those plans, policies and strategies. Essentially, the Executive will develop and consult on the plans, policies and strategies listed and will then refer them to Full Council for consideration and approval. If approved, the Executive will then be responsible for implementing them.
- 1.8 Table 4A sets out the functions to be exercised by the Highways Committee which is a committee of the Executive appointed by the Leader. Table 4B sets out the functions to be exercised by the Barham Park Trust Committee which is a sub-committee of the Executive.
- 1.9 Part 5 of the Constitution describes the membership and terms of reference for the Council committees and sub-committees. These are:-
- Standards Committee
  - 
  - Audit Committee
  - One Council Overview and Scrutiny Committee
  - Partnerships and Place Overview and Scrutiny Committee
  - Health Partnerships Overview and Scrutiny Committee
  - Budget and Finance Overview and Scrutiny Committee
  - Children & Young People Overview and Scrutiny Committee
  - Call-in Overview and Scrutiny Committee
  - General Purposes Committee
  - Pension Fund Sub-Committee
  - Senior Staff Appointments Sub-Committee
  - Staff Appeals Sub-Committees A and B
  - Schools Disciplinary Sub-Committee
  - Planning Committee
  - General Purposes Licensing Sub-Committee
  - Alcohol and Entertainment Licensing Committee
  - Alcohol and Entertainment Licensing Sub-Committees A, B and C
- 1.10 In addition to the powers described in the Tables as being specifically delegated to officers, any other Council and Executive functions are delegated to officers in accordance with paragraph 2, 'Powers Delegated to Officers'.
- 1.11 Table 5 sets out the 'proper officers' designated for the purposes of certain statutory provisions. Any reference in any Act or any part of this Constitution to 'the proper officer' will be a reference to the person so specified in the Table but if none is specified the Chief Executive or a person nominated by him or her for the purpose. Any other function not otherwise specified in the Tables or elsewhere in this Constitution is the responsibility of the Executive, unless specifically precluded by law from so being, in which case it shall be the responsibility of the General Purposes Committee (unless specifically reserved to Full Council in which case it shall be exercised by Full Council).
- 1.12 All functions shall be exercised in accordance with this Constitution including, for the avoidance of doubt, the Standing Orders and Financial Regulations and this Part 4 and Part 5.

## RESPONSIBILITY FOR FUNCTIONS

- 1.13 In exercising any function or making any decision the decision making body or person shall take into account all relevant considerations and ignore all irrelevant considerations and shall comply with the Access to Information Rules.
- 1.14 A number of joint committees have been established with other London Boroughs under the umbrella of the London Councils. The London Council's Committee and the Transport and Environment Committee exercise executive and non-executive functions. The terms of reference and make up of these committees and the sub-committee are described in Part 5.

### 2. Powers Delegated to Officers

- 2.1 Those officers named in the Tables or elsewhere in the Constitution have delegated to them the powers specified therein but subject to the limitations specified therein. 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 directorates unless expressly prohibited by law from doing so. The Chief Executive shall also have authority to carry out all executive functions in the interim in the event of there being no Leader, or Deputy Leader appointed and insufficient members of the executive appointed to achieve a quorum. .
- 2.4 The Chief Executive, ~~directors and Strategic Directors~~ other officers listed below shall have responsibility for the following general and related areas:-

#### (a) Chief Executive:

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

#### (b) ~~Strategic Director of Children and Young People: Families:-~~

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

#### (c) ~~Strategic Director of Adults Social Services:-~~

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## RESPONSIBILITY FOR FUNCTIONS

~~Media relations, internal and external communications, consultation with residents and other service users including Area Consultative Forums, ward working and festivals, design and corporate identity, filming in the Borough, translation and interpretation, member training and development, development of corporate diversity policies and advice on diversity policies and procedures. One Stop Shop, call centre, nationality service, Registrar of Births, Deaths and Marriages, and Mayor's Office~~

**(i) ~~Director of Legal and Procurement:-~~**

~~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, corporate and strategic procurement~~

- 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 <del>Director of Finance and Corporate Services</del> <u>Chief Finance Officer</u>.</p>



## RESPONSIBILITY FOR FUNCTIONS

<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 make minor or consequential changes to any of the documents mentioned above which were previously agreed by the Executive or the Council or their committees or sub-committees.</p>	<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 energy through the Local Authority Energy Buying Group administered by Kent County Council ("Laser")) if the value of the contract, agreement, deed, transaction, supply, service, work</p>
	<p>or consultancy would or would be likely or is estimated at the commencement of any procurement process to exceed £250k in respect of services or supplies or £500k in respect of works, such value to be aggregated over the life of the contract (including any possible extension) then:-</p> <p>(i) no expressions of interest shall be invited without the prior approval of the Executive (or in the appropriate cases the General Purposes Committee);</p> <p>(ii) no contract, agreement, deed or transaction shall be awarded, entered into or terminated without the prior approval of the Executive (or in appropriate cases the General Purposes Committee); and</p> <p>(iii) shortlists may only be drawn up and tenders may only be evaluated in accordance with the basis of the evaluation criteria approved by the Executive (or in appropriate cases the General Purposes Committee) in accordance with Standing Orders 88(b) and 89(vi).</p> <p>(b) In the case of an agreement where the Council is a service provider to another organisation, the contract value or cost to the</p>

# RESPONSIBILITY FOR FUNCTIONS

	<p>Council in providing the service is less than £150,000 per year; otherwise Executive approval must be sought in accordance with Standing Order 87(c).</p> <p>(c) In the case of a contract or agreement that does not fall within (a) or (b) above, such as a funding or settlement agreement, the total value passing from the Council to another organisation does not exceed £250,000.</p>
	<p>(d) the award of contract or approval of the agreement would not place the Council in breach of European procurement legislation.</p> <p>(e) there is sufficient budgetary provision</p> <p>(f) admission agreements in respect of the pension fund may only be agreed by the <del>Director of Finance and Corporate Services</del> <u>Chief Finance Officer</u> and in accordance with criteria adopted by the General Purposes Committee or the Pension Fund Sub-Committee.</p> <p>(g) contracts in respect of the supply of energy through LASER may only be awarded by the <del>Director of Finance and Corporate Services</del> <u>Chief Finance Officer</u></p>
3(b) to extend, vary, renegotiate, novate or assign contracts, agreements, deeds or other transactions.	<p>(a) provided that the extension, variation, renegotiation, novation or assignment would not be in breach of the European Procurement Legislation.</p> <p>(b) provided that the extension, variation, renegotiation, novation or assignment does not substantially alter the terms and conditions of the contract.</p> <p>(c) provided that there is sufficient existing budgetary provision.</p> <p>(d) if the extension goes beyond the period of extension provided for</p>

## RESPONSIBILITY FOR FUNCTIONS

	<p>in the contract (if any) or is otherwise not in accordance with the extension provisions in the contract:</p> <p>(i) in the case of any contract, agreement, deed or other transaction with a life of not more than one year (including any possible extension provided for in the contract) the extension shall not exceed a period of six months; or</p>
	<p>(ii) in the case of any contract, agreement, deed or other transaction with a life of more than one year (including any possible extension provided for in the contract) the extension shall not exceed a period of one year.</p> <p>(e) provided that in the case of any variation (other than an extension):</p> <p>(i) the total value of the variation is less than £250k; and</p> <p>(ii) if the total value of the variation is more than £50k it is not more than 20% of the original contract value (calculated over the life of the contract including any extensions or possible extensions and adjusted in accordance with any price review mechanism provided for in the contract).</p> <p>(f) provided that in the case of any novation or assignment that the relevant Director is satisfied that the contractor to which the contract, agreement, deed or other transaction is to be novated or assigned meets the Council's requirements for financial standing, health and safety standards and technical expertise.</p>

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4. to acquire and manage land and buildings and to grant easements, licences or leases for land and buildings required or used for the purposes of their service area or corporate unit.	(a) subject to the rules set out in paragraph 4 below.
5. to establish or re-organise the staffing structure of their service area or corporate unit and to appoint, discipline and dismiss staff.	<p>(a) subject to the Standing Orders relating to staff.</p> <p>(b) the <del>Director of Finance and Corporate Services</del> <u>Chief Finance Officer</u> shall be notified of any potential redundancy situation as soon as it becomes apparent and:</p> <ul style="list-style-type: none"> <li>(i) no award of compensatory added years on the grounds of redundancy; and</li> <li>(j) no severance payment on the grounds of redundancy that exceeds the amount normally payable under the Council's severance scheme</li> </ul> <p>shall be made or agreed to be made without the prior written approval of the <del>Director of Finance and Corporate Services</del> <u>Chief Finance Officer</u>.</p> <p>(c) the <del>Director of Finance and Corporate Services</del> <u>Chief Finance Officer</u> shall be notified of all proposals that a person be retired early on grounds of ill health as soon as the possibility of such retirement becomes apparent.</p> <p>(d) no severance payment and no award of compensatory added years on the grounds of termination of employment in the interests of the efficient exercise of the Council's functions shall be made or agreed to be made except with the prior written approval of the <del>Director of Finance and Corporate Services</del> <u>Chief Finance Officer</u>.</p>
6. on the approval of the Director of Legal and Procurement to institute,	

## RESPONSIBILITY FOR FUNCTIONS

defend or settle any actual or contemplated legal or formal proceedings on behalf of the Council and to appear by counsel or in person or to authorise an officer to so appear in any proceedings and to verify a document by signing a Statement of Truth under the Civil Procedure Rules on behalf of the Council.	
7. to obtain any necessary consent, authority, registration, licence, <del>certificate, deed, notice, order or</del> other similar document that the Council may require.	
8. to register, issue, grant, or refuse permissions, consents, approvals, licences (not being occupational licences), notices, certificates, orders or similar documents which the Council is authorised or required to register, issue, grant, give, make or refuse by or under any enactment and to impose any conditions limitations or exceptions as they may consider appropriate.	(a) except where this is the responsibility of a committee or sub-committee. This exception does not apply to the making of minor or consequential changes to any permission, consent, approval, licence, notice, certificate, order or similar document which were previously authorised by the Executive or the Council or their committees or sub-committees or any conditions, limitations or exceptions imposed or to be imposed.
9. to exercise discretion in writing off or remitting in whole or in part debts due to the Council.	<p>(a) all reasonable steps to recover the debt(s) have been taken.</p> <p>(b) no sums exceeding £1,000 shall be written off without the written approval of the <del>Director of Finance and Corporate Services</del> <u>Chief Finance Officer</u>.</p> <p>(c) all such debts written off shall be notified to the <del>Director of Finance and Corporate Services</del> <u>Chief Finance Officer</u>.</p> <p>(d) the <del>Director of Finance and Corporate Services</del> <u>Chief Finance Officer</u> has not required the matter to be referred to him or her for consideration.</p>
10. to make grants or give other financial or other assistance to organisations.	(a) Provided that if the grant or other financial assistance involves the grant of funds from Council's own

## RESPONSIBILITY FOR FUNCTIONS

	<p>resources</p> <p>(i) the relevant Director is satisfied that no adverse capital finance or other negative implications would arise, unless written consent of the <del>Director of Finance and Corporate Services</del> <u>Chief Finance Officer</u> is obtained.</p> <p>(ii) no grant shall be made by officers if it amounts to more than £5k per annum except in the case of the Edward Harvist Trust where a grant not exceeding £7k per annum may be made.</p> <p>(iii) no grant shall be withdrawn or reduced by officers if the receiving body has received a grant from the Council for each of the last five years for the same purpose unless such withdrawal is due to the fact that the body no longer meets the relevant grant criteria or conditions of grant.</p> <p>(iv) the grant criteria has been approved by the Executive other appropriate body or person with appropriate authority.</p> <p>(v) no grant shall be made by officers from the council 'Main Programme Grant' or the 'Development Fund' except with the prior approval of the Executive.</p> <p>(b) Provided that where the grant or other financial assistance involves the distribution of funds received from a third party the grant or other financial assistance complies with the conditions under which the funds have been received by the Council.</p>
11. to create and/or register legal charges in respect of debts owed to the Council.	
12. to act as a receiver.	
13. to authorise or nominate other officers to act on their behalf in	(a) this may not be exercised other than by the officers listed in

## RESPONSIBILITY FOR FUNCTIONS

exercising any of their functions.	<p>paragraph 2.4 above.</p> <p>(b) authorisations and nominations are subject to any limitations or provisos that the officers listed in paragraph 2.4 above may consider appropriate.</p> <p>(c) the names of the persons authorised or nominated shall be specified in a list maintained by the relevant officer listed in paragraph 2.4 above for that purpose and notified to the Director of Legal and Procurement.</p>
14. to appoint a person to be the statutory 'proper officer' for any functions falling within their designated area of responsibility and which are required to be undertaken by a proper officer. The designations specified in the Tables shall be deemed to have been amended accordingly.	(a) the name of the person appointed to a 'proper officer' position shall be specified in a list maintained by the appointing officer for that purpose and notified to the Director of Legal and Procurement.
15. to take up posts on outside bodies or companies and appoint other staff to outside bodies or companies.	<p>(a) only where it is related to their area of work.</p> <p>(b) the prior advice of the Director of Legal and Procurement should be obtained.</p>
16. to act as an authorised signatory for the Council.	
17. to hear or determine appeals on matters which are within their area of responsibility or any other area if requested to do so by the Chief Executive.	(a) provided they were not the person who made the decision, the subject of the appeal.
18. to carry out works for, or to provide services or supplies to, or to exercise functions on behalf of other local authorities or bodies.	<p>(a) where permitted by law.</p> <p>(b) subject to compliance with Contract Standing Orders and Financial Regulations.</p>
19. to determine whether any application received in relation to any matter is valid according to the rules or procedures governing such applications including for the avoidance of doubt, any application for planning permission or similar and to	



## RESPONSIBILITY FOR FUNCTIONS

determine whether any other document report assessment (including an Environmental Impact Assessment) or other information is required to be provided or carried out prior to validation or determination of that application.	
20. to determine any other minor issue, or make any minor modification or variation relating to a matter previously determined by the Executive or the Council or their committees or sub-committees e.g. minor amendments to conditions on planning permissions which Planning Committee have resolved to grant or minor amendments to terms and conditions of employment previously agreed by the General Purposes Committee.	
21. to respond to consultation papers from other bodies or local authorities.	

- 2.6 The following officers have delegated to them the following ~~additional~~ powers in relation to all of the Council's services and areas of responsibility:-

**(a) Chief Finance Officer ~~Director of Finance and Corporate Services~~**

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To undertake the S151 statutory role. To be responsible for providing financial advice to Members and officers in their respective roles in order to further effective decision making by the Council, and to be the professional lead for the finance function of the Authority. To operate and advise on an effective system of internal control for the Authority, including the provision of an effective internal audit service and an overall framework for insurance and risk management. To be responsible for advising on the investment strategy for the Council's treasury and pensions assets and to manage these accordingly. Power to incur or prevent any expenditure and to authorise borrowing within any limits approved by Full Council, write off debts, issue instructions on any matter relating to budget preparation, budget monitoring or budget control, power to set and monitor accounting standards (including the use of accounting software), power to specify the format of returns, to require any officer to furnish him or her with any information and to answer any question relevant to the financial management of the authority

**(b) The Director of Legal and Procurement:**

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To undertake the statutory role of and exercise the powers of the Monitoring Officer, including standards and probity. Power to institute, defend or settle



## RESPONSIBILITY FOR FUNCTIONS

any actual or contemplated legal or formal proceedings on behalf of the Council and to appear by counsel or in person or to authorise an officer to so appear in any proceedings and to verify a document by signing a Statement of Truth under the Civil Procedure Rules on behalf of the Council; power to sign contracts, deeds, orders, notices and all other documents, ~~exercise the powers of the Monitoring Officer and the qualified person for Section 36~~ Freedom of Information Act 2000 determinations.

### (c) **Director of Public Health**

To undertake the statutory role of Director of Public Health. Principal adviser to officers and members on all public health matters. To write the annual report on the health of the local population, take steps to improve public health, plan for and respond to emergencies which present a risk to public health, to carry out such public health functions or health protection functions as the Secretary of State may delegate or specify in regulations, to co-operate with the police, probation service and prison service in accordance with the local authority's duties under Section 325 of the Criminal Justice Act 2003, to be responsible for the Council's public health response under the Licensing Act 2003, to authorise Patient Group Directions on behalf of the Local Authority.

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- 2.7 The ~~Operational Director Property and Projects Assistant Director of Property and Assets~~ who is responsible for management of the Council's municipal buildings portfolio and its property disposal programme; estates management and valuation; maintaining the Council's property (terrier) records; producing, updating and enforcing Corporate Property Standards; co-ordinating property management function across the Council; advice on property; delivering the annual Asset Management Plan has the delegated powers as described below in paragraph 4 below.

### 3. **Exemptions, Restrictions and Limitations on Powers Delegated to Officers**

- 3.1 Chief Officers exercising delegated authority shall take all reasonable steps (including the taking of financial, legal and other similar advice) to ensure that no function is exercised or decision taken if, in their reasonable opinion:-

#### (a) **Policy:**

The exercise of that function or the making of that decision would or would be likely to conflict with or result in a change or departure from any decision or policy agreed by the Council or the Executive, other than the determination of planning applications where the departure from the development plan is determined in accordance with section 54A of the Town and Country Planning Act 1990.

#### (b) **Constitution:**

The exercise of that function or the making of that decision would or would be likely to conflict with the Constitution or any part of it.

#### (c) **Advice:**

The exercise of that function or the making of that decision would or would be likely to conflict with advice from the Chief Executive or the ~~Director of Finance and Corporate Services~~ Chief Finance Officer or District Auditor.

## RESPONSIBILITY FOR FUNCTIONS

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(d) **Ultra Vires:**

The exercise of that function or the making of that decision would or would be likely to result in unlawful or ultra vires activity or actions as advised by the Director of Legal and Procurement.

(e) **Overspends:**

The exercise of that function or the making of that decision would or would be likely to result in spending of either a revenue or capital nature exceeding the approved revenue or capital budgets in either the current or any future year.

(f) **Decisions to be referred to the Executive or Council:**

It is a function which may under this Constitution be exercised by the Executive and the Executive or the Leader have requested that the matter be referred to them for decision; it is a Council function and the Full Council has agreed that the matter be referred to it or a committee or sub-committee for decision; or the relevant Director determines that the matter should be referred to the relevant part of the Executive or the Council for consideration.

(g) **Accountable body status and Partnership Arrangements:**

The exercise of that function or the making of that decision would confer accountable body status on the Authority or would result in a Partnership Arrangement with another body unless the prior written approval of the Director of Finance and Corporate Services/Chief Finance Officer has been obtained or approval has been obtained from the Executive.

(h) **Company or partnership:**

The exercise of that function would result in the setting up of a company or entering into a partnership arrangement with any other body.

(i) **Credit arrangement:**

The exercise of the function would or might involve borrowing or a hire arrangement or deferred payment scheme or lead to the creation of a credit arrangement unless the prior written approval of the Director of Finance and Corporate Services/Chief Finance Officer has been obtained.

(j) **Personal interests:**

The officer concerned has a personal or private interest in the matter.

(k) **Transfer or redundancy:**

The exercise of that function or the making of that decision would or would be likely to result in transfers of staff to or from the Council of more than 20 people or redundancies of more than 20 people.

(l) **Significant or unusual risk:**

The exercise of that function or the making of that decision would or would be likely to expose the Council to a significant or unusual level of risk,

## RESPONSIBILITY FOR FUNCTIONS

financial or otherwise, as determined by the Chief Executive, the ~~Director of Finance and Corporate Services~~ Chief Finance Officer, the District Auditor or the Director of Legal and Procurement.

**(m) Closure of a facility or reduction in services:**

The exercise of that function or the making of that decision would result or would be likely to result in the permanent closure of a facility used by the public or a permanent and significant reduction in the level of services or facilities provided to the public other than where such closure or reduction in service is considered necessary by the relevant director for reasons of health and safety.

**(n) Call In:**

The matter is called in for scrutiny in accordance with Standing Orders prior to being implemented.

**(o) Charges and Fees:**

The decision relates to the setting, levying or increase of any fees or charges to any member of the public in respect of a Council service (other than room lettings and copying charges).

**(p) Some other reason:**

The Chief Executive considers that the matter should not for some reason be considered by officers.

- 3.2 In cases where an officer is prevented from exercising any function delegated to him or her by virtue of any of the above or where he or she or the Chief Executive decides that they cannot or should not exercise the function then that function shall be exercised by the person or body who would otherwise have responsibility for that function, or the General Purposes Committee if none other is specified (unless it is a matter which is reserved to Full Council).

#### 4. Acquiring, managing and disposing of land and buildings

- 4.1 Only the Operational Director Property and Projects ~~Assistant Director of Property and Assets~~ may acquire or dispose of an interest in land or buildings. The restrictions placed upon such acquisitions or disposals are set out in paragraphs 4.2 and 4.3 below.

- 4.2 The Operational Director Property and Projects ~~Assistant Director of Property and Assets~~ may dispose of or acquire freehold land or buildings up to a value, in his or her view, of £250k. The Operational Director Property and Projects ~~Assistant Director of Property and Assets~~ may acquire or dispose of leases, licences, and easements in respect of land or buildings except where

- (i) the annual rental value (excluding other outgoings) exceeds 50k
- (ii) if acquired or disposed of at a premium the value would, in his or her view, exceed 250k in value or
- (iii) where the leasehold term exceeds 25 years

- 4.3 Where any disposal or acquisition of an interest land or buildings is, in the view of the Operational Director Property and Projects ~~Assistant Director of Property and~~

## RESPONSIBILITY FOR FUNCTIONS

Assets, of a value over 150k and below 250k, or where any leasehold interest has an annual value over 25k or below 50k he or she shall consult with the Lead Member.

4.4 The Chief Finance Officer should be advised of any disposal or acquisition undertaken by this delegated authority within three months of any transaction.

4.5 All Members of the Executive will receive a report at least yearly on all these delegated authority transactions.

4.6. The ~~Operational Director Property and Projects Assistant Director of Property and Assets~~ may not sell or grant any lease or easement, licence or otherwise dispose of any land or buildings unless the consideration received, as confirmed by the ~~Operational Director Property and Projects Assistant Director of Property and Assets~~ is the best that can reasonably be obtained, whether or not the grant, sale or disposal is covered by a general or specific consent from the relevant Secretary of State.

4.7 Nothing in this paragraph 4 shall prevent the ~~Director of Regeneration and Major Projects Strategic Director Regeneration and Growth~~ from granting, in accordance with the Council's policies and procedures, any secure tenancy of housing accommodation nor from selling the leasehold or freehold interest in any residential property pursuant to the right to buy scheme or the voluntary sales scheme as promoted by the Secretary of State from time to time.

4.8 Nothing in this paragraph 4 shall prevent the Operational Director Property and Projects acquiring or disposing of freehold land or acquiring granting or disposing of leasehold land for any term of years or licences and easements in respect of land and buildings where:

(a) there is an statutory entitlement to a freehold or leasehold interest arising from a claim made in respect of residential land under the statutory enfranchisement provisions of the Leasehold Reform, Housing and Urban Development Act 1993 or Leasehold Reform Act 1967 as amended or re-enacted or

(b) there is an statutory entitlement to a freehold or leasehold interest in accordance with the Academies Act 2010 as amended or re-enacted or other education legislation regulation order direction under education legislation or where the acquisition grant or disposal of a freehold or long leasehold term or easement is advised in accordance with a circular or guidance issued by the Secretary of State from time to time in respect of school land inclusive of the designation provision or conversion of a school into an academy or the provision of land for any school

4.89 In acquiring, selling or disposing of any land or buildings or granting any lease, licence or easement in respect thereof regard shall be had to any relevant Corporate Standards on property acquisitions, management and disposals.

4.910 No person shall create or grant a service tenancy or service occupancy without the prior written approval of the Chief Executive.

4.101 In any cases where officers do not have or may not exercise delegated powers in respect of land or buildings the matter shall be determined by the Executive (unless precluded by law or the Constitution from exercising that power in which case the matter will be determined by the General Purposes Committee where possible or the Full Council if not possible).

4.142 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.

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## RESPONSIBILITY FOR FUNCTIONS

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### 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.

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# RESPONSIBILITY FOR FUNCTIONS

TABLE 1

## FUNCTIONS WHICH CANNOT BE EXERCISED BY THE EXECUTIVE

(1)	(2)	(3)
Function	Provision of Act or Statutory Instrument	Decision maker
<b>A. Functions relating to town and country planning and development control</b>		All of the functions listed under this section A will be exercised by the <u>Strategic Director of Regeneration and Major Projects Growth</u> and/or the <u>Head of Area Planning Assistant Director of Planning and Development</u> or by a person nominated or authorised by the <u>Strategic Director of Regeneration and Growth</u> <del>Major Projects</del> , except those functions which are the responsibility of the Planning Committee or which are required to be determined by Full Council
1. Power to determine application for planning permission.	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990.	
2. Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990.	
3. Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990.	
4. Power to decline to determine application for planning permission.	Section 70A of the Town and Country Planning Act 1990.	

# RESPONSIBILITY FOR FUNCTIONS

<b>21. Power to determine applications for conservation area consent.</b>	Section 16(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as applied by section 74(3) of that Act.	
<b>22. Duties relating to applications for listed building consent and conservation area consent.</b>	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and regulations 3 to 6 and 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (SI 1990/1519) and paragraphs 8, 15 and 22 of Department of the Environment, Transport and the Regions Circular 01/01.	
<b>23. Power to serve a building preservation notice, and related powers.</b>	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.	
<b>24. Power to issue enforcement notice in relation to demolition of listed building in conservation area.</b>	Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990.	
<b>25. Powers to acquire a listed building in need of repair and to serve a repairs notice.</b>	Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990.	
<b>26. Power to apply for an injunction in relation to a listed building.</b>	Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990.	
<b>27. Power to execute urgent works.</b>	Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990.	

# RESPONSIBILITY FOR FUNCTIONS

28. Any other planning related functions which are or become a function which cannot be exercised by the Executive.		
<b>B. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)</b>		Except where specified all of the functions listed under this section B will be exercised by the Strategic Director of Environment and Neighbourhoods Services or a person nominated or authorised by him or her, except those functions which are the responsibility of the Alcohol and Entertainment Licensing Committee, the Alcohol and Entertainment Licensing Sub-Committees or the General Purposes Licensing Sub-Committee or are required to be determined by the Full Council
1. Power to issue licences authorising the use of land as a caravan site ("site licences").	Section 3(3) of the Caravan Sites and Control of Development Act 1960.	
2. Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936.	



# RESPONSIBILITY FOR FUNCTIONS

<b>17. Power to license premises for acupuncture, tattooing, ear piercing and electrolysis.</b>	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.	
<b>18. Power to license pleasure boats and pleasure vessels.</b>	Section 94 of the Public Health Acts Amendment Act 1907.	
<b>19. Power to register door staff.</b>	Paragraphs 1(2) and 9 of Schedule 12 to the London Government Act 1963 and Part V of the London Local Authorities Act 1995.	
<b>20. Power to license market and street trading.</b>	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982, Part III of the London Local Authorities Act 1990 and section 6 of the London Local Authorities Act 1994).	
<b>21. Power to license night cafes and take-away food shops.</b>	Section 2 of the Late Night Refreshment Houses Act 1969, Part II of the London Local Authorities Act 1990 and section 5 of the London Local Authorities Act 1994.	
<b>22. Duty to keep list of persons entitled to sell non-medicinal poisons.</b>	Sections 3(1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972.	
<b>23. Power to license dealers in game and the killing and selling of game.</b>	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831; sections 2 to 16 of the Game Licensing Act 1860, section 4 of the Customs and Inland Revenue Act 1883, sections 12(3) and 27 of the Local Government Act 1874, and section 213 of the Local Government Act 1972.	

# RESPONSIBILITY FOR FUNCTIONS

<b>24.</b> Power to register and license premises for the preparation of food.	Section 19 of the Food Safety Act 1990.	
<b>25.</b> Power to license scrap yards.	<del>Section 1 of the Scrap Metal Dealers Act 2013</del> 1964.	
<b>26.</b> Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	The Safety of Sports Grounds Act 1975.	
<b>27.</b> Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Part III of the Fire Safety and Safety of Places of Sport Act 1987.	
<b>28.</b> Power to issue fire certificates.	Section 5 of the Fire Precautions Act 1971.	
<b>29.</b> Power to license premises for the breeding of dogs.	Section 1 of the Breeding of Dogs Act 1973 and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999.	
<b>30.</b> Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	Section 1 of the Pet Animals Act 1951; section 1 of the Animal Boarding Establishments Act 1963; the Riding Establishments Acts 1964 and 1970; section 1 of the Breeding of Dogs Act 1973, and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.	
<b>31.</b> Power to register animal trainers and exhibitors.	Section 1 of the Performing Animals (Regulation) Act 1925.	
<b>32.</b> Power to license zoos.	Section 1 of the Zoo Licensing Act 1981.	

# RESPONSIBILITY FOR FUNCTIONS

<b>33. Power to license dangerous wild animals.</b>	Section 1 of the Dangerous Wild Animals Act 1976.	
<b>34. Power to license knackers' yards.</b>	Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999 (S.I. 1999/646).	
<b>35. Power to license the employment of children.</b>	Part II of the Children and Young Persons Act 1933, bylaws made under that Part, and Part II of the Children and Young Persons Act 1963.	<del>Director of Children and Families</del> <u>Strategic Director Children and Young People</u>
<b>36. Power to approve premises for the solemnisation of marriages.</b>	Section 46A of the Marriage Act 1949 and the Marriages (Approved Premises) Regulations 1995 (S. I. 1995/510).	<del>Director of Customer and Community Engagement</del> <u>Strategic Director Environment and Neighbourhoods</u>
<b>37. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to –</b>  (a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c. 67) or  (b) an order under section 147 of the Inclosure Act 1845 (c. 8 & 9 Vict. c. 118).	Regulation 6 of the Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843).	
<b>38. Power to register variation of rights of common.</b>	Regulation 29 of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471).	

## RESPONSIBILITY FOR FUNCTIONS

<b>39.</b> Power to license persons to collect for charitable and other causes.	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939.	
<b>40.</b> Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993.	
<b>41.</b> Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991.	
<b>42.</b> Power to license agencies for the supply of nurses.	Section 2 of the Nurses Agencies Act 1957.	
<b>43.</b> Power to issue licences for the movement of pigs.	Article 12 of the Pigs (Records, Identification and Movement) Order 1995 (S.I. 1995/11).	
<b>44.</b> Power to license the sale of pigs.	Article 13 of the Pigs (Records, Identification and Movement) Order 1995.	
<b>45.</b> Power to license collecting centres for the movement of pigs.	Article 14 of the Pigs (Records, Identification and Movement) Order 1995.	
<b>46.</b> Power to issue a licence to move cattle from a market.	Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998/871).	
<b>46A.</b> Power to grant permission for provision, etc of services, amenities, recreation and refreshment facilities on highway, and related powers.	Section 115E, 115F and 115K of the Highways Act 1980	
<b>47.</b> Power to permit deposit of builder's skip on highway.	Section 139 of the Highways Act 1980.	

# RESPONSIBILITY FOR FUNCTIONS

66. Power to register auction and wholesale markets.	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.	
67. Duty to keep register of food business premises.	Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/2828).	
68. Power to register food business premises.	Regulation 9 of the Food Premises (Registration) Regulations 1991.	
69. Power to issue near beer licences.	Section 16 to 19 and 21 of the London Local Authorities Act 1995 and to the extent that it does not have effect by virtue of regulation 2(3), section 25 of that Act.	
70. Power to register premises or stalls for the sale of goods by way of competitive bidding.	Section 28 of the Greater London Council (General Powers) Act 1984.	
71. Power to register motor salvage operators	Part 1 of the Vehicles (Crime) Act 2001	
72. Functions relating to the registration of common land or village greens	Part 1 of the Commons Act 2006 and the Commons Registration (England) Regulations 2008.	
73. Any other licensing related functions which are or becomes a function which cannot be exercised by the Executive.		
<b>C. Functions relating to health and safety at work</b>		<b>All of the functions listed under this section C will be exercised by the Strategic Director of Environment and Neighbourhoods Services or by a person nominated or authorised by him or her</b>

## RESPONSIBILITY FOR FUNCTIONS

1. Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.	Part I of the Health and Safety at Work etc. Act 1974.	
2. Any other health & safety related functions which by statutory instrument or order are or become functions which cannot be exercised by the Executive.		
<b>D. Functions relating to elections</b>		
1. Duty to appoint an electoral registration officer.	Section 8(2) of the Representation of the People Act 1983.	Full Council
2. Power to assign officers in relation to requisitions of the registration officer.	Section 52(4) of the Representation of the People Act 1983.	Chief Executive
3. Functions in relation to parishes and parish councils.	Part II of the Local Government and Rating Act 1997 and subordinate legislation under that Part.	N/A
4. Power to dissolve small parish councils.	Section 10 of the Local Government Act 1972.	N/A
5. Power to make orders for grouping parishes, dissolving groups and separating parishes from groups.	Section 11 of the Local Government Act 1972.	N/A
6. Duty to appoint returning officer for local government elections.	Section 35 of the Representation of the People Act 1983.	Full Council

# RESPONSIBILITY FOR FUNCTIONS

5. Any other similar function in this category which by statutory instrument or order are or become functions which cannot be exercised by the Executive.		
<b>EB. Functions relating to community governance</b>		
1. Duties relating to community governance reviews.	Section 79 of the Local Government and Public Involvement in Health Act 2007.	Chief Executive
2. Functions relating to community governance petitions.	Sections 80, 83 to 85 of the Local Government and Public Involvement in Health Act 2007.	Chief Executive
3. Functions relating to terms of reference of review.	Sections 81(4) to (6) of the Local Government and Public Involvement in Health Act 2007.	Full Council
4. Power to undertake a community governance review.	Section 82 of the Local Government and Public Involvement in Health Act 2007.	Full Council
5. Functions relating to making of recommendations.	Sections 87 to 92 of the Local Government and Public Involvement in Health Act 2007	Full Council
6. Duties when undertaking review.	Section 93 to 95 of the Local Government and Public Involvement in Health Act 2007.	Chief Executive in relation to section 93
7. Duty to publicise outcome of review.	Section 96 of the Local Government and Public Involvement in Health Act 2007.	Chief Executive
8. Duty to send two copies of order to Secretary of State and Electoral Commission.	Section 98(1) of the Local Government and Public Involvement in Health Act 2007.	Chief Executive



# RESPONSIBILITY FOR FUNCTIONS

9. Making an order giving effect to the recommendations made in a governance review	Section 86 of the Local Government and Public Involvement in Health Act 2007.	Full Council
10. Any other similar function which by statutory instrument or order are or become functions which cannot be exercised by the Executive.		Full Council
<b>F. Power to make, amend, revoke, re-enact or enforce bylaws</b>	<b>Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978</b>	<b>Full Council (other than enforcement which will be exercised by the Strategic Director of Environment and Neighbourhoods Services or by a person nominated or authorised by him or her).</b>
<b>FA. Functions relating to smoke-free premises, etc</b>		
1. Duty to enforce Chapter 1 and regulations made under it.	Section 10(3) of the Health Act 2006.	
2. Power to authorise officers.	Section 10(5) of, and paragraph 1 of Schedule 2, the Health Act 2006.	
3. Functions relating to fixed penalty notices	Paragraphs 13, 15 and 16 of Schedule 1 to the Health Act 2006. Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007 (SI 2006/760).	
4. Power to transfer enforcement functions to another enforcement authority.	Smoke-free (Premises and Enforcement) Regulations 2006 (SI 2006/3368)	
<b>G. Power to promote or oppose local or personal Bills</b>	<b>Section 239 of the Local Government Act 1972</b>	<b>Full Council</b>



# RESPONSIBILITY FOR FUNCTIONS

<p>H. Functions relating to pensions etc.</p>		<p>All of the functions listed in this section will be exercised by the <u>Director of Finance and Corporate Services</u> <u>Chief Finance Officer</u> 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 <u>Operational Director Human Resources</u> <u>Assistant Director, People and Development</u>. In the absence of the <u>Assistant Director People and Development</u> <u>Operational Director Human Resources</u>, or in the event a conflict arises, these functions shall be exercised by the <u>Chief Finance Officer</u> <u>Director of Finance and Corporate Services</u></p>
<p>1. Functions relating to local government pensions, etc.</p>	<p>Regulations under section 7, 12 or 24 of the Superannuation Act 1972.</p>	



## RESPONSIBILITY FOR FUNCTIONS

<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>	Section 34 and 36 of the Fire and Rescue Services Act 2004.	N/A
<b>3. Any other pension related functions which by statutory instrument or order are or become functions which cannot be exercised by the Executive.</b>		
<b>1. Miscellaneous functions</b>		
<b>Part 1: Functions relating to public rights of way</b>		<b>All of the functions listed under Part 1 of this section will be exercised by the <del>Director of Environment and Neighbourhood Services Strategic Director Environment and Neighbourhoods</del> or by a person nominated or authorised by him or her unless within the terms of reference of a Council committee or sub-committee or unless otherwise specified</b>
<b>1. Power to create footpath, bridleway or restricted byway by agreement.</b>	Section 25 of the Highways Act 1980.	General Purposes Committee
<b>2. Power to create footpaths, bridleways and restricted byways.</b>	Section 26 of the Highways Act 1980.	General Purposes Committee
<b>3. Duty to keep register of information with respect to maps, statements and declarations.</b>	Section 31A of the Highways Act 1980.	
<b>4. Power to stop up footpaths, bridleways and restricted byways.</b>	Section 118 of the Highways Act 1980.	General Purposes Committee

## RESPONSIBILITY FOR FUNCTIONS

<b>30.</b> Power to extinguish public right of way over land acquired for clearance.	Section 294 of the Housing Act 1981.	General Purposes Committee
<b>30A.</b> Power to authorise stopping up or diversion of highway	Section 247 of the Town and Country Planning Act 1990(c. 8)	General Purposes Committee
<b>31.</b> Power to authorise stopping-up or diversion of footpath, bridleway or restricted byway.	Section 257 of the Town and Country Planning Act 1990.	General Purposes Committee (in relation to stopping up only)
<b>32.</b> Power to extinguish public rights of way over land held for planning purposes.	Section 258 of the Town and Country Planning Act 1990.	General Purposes Committee
<b>33.</b> Power to enter into agreements with respect to means of access.	Section 35 of the Countryside and Rights of Way Act 2000.	
<b>34.</b> Power to provide access in absence of agreement.	Section 37 of the Countryside and Rights of Way Act 2000.	
<b>Part II: Other miscellaneous functions</b>		
<b>35.</b> Functions relating to sea fisheries.	Sections 1, 2, 10 and 19 of the Sea Fisheries Regulation Act 1966.	N/A
<b>36.</b> Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972.	Full Council

# RESPONSIBILITY FOR FUNCTIONS

<b>37. Power to appoint staff and to determine the terms and conditions on which they hold office (including procedures for their dismissal).</b>	Section 112 of the Local Government Act 1972.	The relevant Service Area or Corporate Director may appoint staff on such terms and conditions as they may determine but which are in line with any overall terms and conditions agreed by the General Purposes Committee save that, in the case of posts covered by the Standing Orders Relating to Staff, the terms and conditions shall be determined by the General Purposes Committee and the appointment made by the Senior Staff Appointments Sub-Committee.
<b>38. Power to make standing orders as to contracts.</b>	Section 135 of the Local Government Act 1972.	Full Council
<b>39. Duty to make arrangements for proper administration of financial affairs etc.</b>	Section 151 of the Local Government Act 1972.	<del>Chief Finance Officer</del> Director of Finance and Corporate Services
<b>40. Power to appoint an officer for a particular purpose (appointment of "proper officer").</b>	Section 270(3) of the Local Government Act 1972.	The Chief Executive or the relevant Chief Officer in whose area of responsibility the matter relates.
<b>41. Power to make limestone pavement order.</b>	Section 34(2) of the Wildlife and Countryside Act 1981.	N/A
<b>42. Power to make closing order with respect to take-away food shops.</b>	Section 4 of the Local Government (Miscellaneous Provisions) Act 1982.	<del>Director of Environment and Neighbourhood Services</del> Strategic Director Environment and Neighbourhoods
<b>43. Duty to designate officer as the head of the authority's paid service, and to provide staff, etc.</b>	Section 4(1) of the Local Government and Housing Act 1989.	Full Council
<b>44. Duty to designate officer as the monitoring officer, and to provide staff, etc.</b>	Section 5(1) of the Local Government and Housing Act 1989.	Full Council

# RESPONSIBILITY FOR FUNCTIONS

<b>44A.</b> Duty to provide staff, etc to person nominated by the Monitoring Officer.	Section 82A(4) and (5) of the Local Government Act 2000	Full Council
<b>44B.</b> Powers relating to overview and scrutiny committees (voting rights of co-opted members).	Paragraphs 12 and 14 of Schedule 1 to the Local Government Act 2000	Full Council
<b>45.</b> Duty to approve authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts (as the case may be).	The Accounts and Audit Regulations 2003 (S.I. 2003/533).	General Purposes Committee
<b>46.</b> Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997 (S.I. 1997/1160).	<u>Strategic Director of Regeneration and Growth</u> <u>Major Projects</u>
<b>47.</b> Powers relating to the preservation of trees.	Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999 (S.I. 1999/1892).	<u>Strategic Director of Regeneration and Growth</u> <u>Major Projects</u>
<b>47A.</b> Powers relating to complaints about high hedges.	Part 8 of the Anti-Social Behaviour Act 2003.	<u>Strategic Director of Regeneration and Growth</u> <u>Major Projects</u>
<b>48.</b> Power to make payments or provide other benefits in cases of maladministration etc.	Section 92 of the Local Government Act 2000.	The relevant director within whose area of responsibility the maladministration arose.
<b>49.</b> Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption	Section 13(2) of the Criminal Justice and Police Act 2001	<u>Director of Environment and Neighbourhood Services</u> <u>Strategic Director Environment and Neighbourhoods</u>
<b>50.</b> Power to make or revoke an order designating a locality as an alcohol disorder zone	Section 16 of the Violent Crime reduction Act 2006	Full Council
<b>51.</b> Power to apply for an enforcement order against unlawful works on common land.	Section 41 of the Commons Act 2006	Director of Legal and Procurement

## RESPONSIBILITY FOR FUNCTIONS

<b>52.</b> Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference.	Section 45(2)(a) of the Commons Act 2006	<del>Director of Environment and Neighbourhood Services</del> <u>Strategic Director Environment and Neighbourhoods</u>
<b>53.</b> Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens.	Section 45(2)(b) of the Commons Act 2006	Director of Legal and Procurement
<b>J. Other functions which are not to be the responsibility of the Executive</b>		
<b>1.</b> Members allowances.		Full Council
<b>2.</b> Establishing committees under section 101 of the Local Government Act 1972.		Full Council
<b>3.</b> Except where specified any function which by virtue of any enactment passed or made before 19 <sup>th</sup> October 2000 may be discharged only by an Authority.		Full Council unless otherwise specified elsewhere in the Constitution.



## RESPONSIBILITY FOR FUNCTIONS

**TABLE 2**

**FUNCTIONS WHERE THE COUNCIL HAS A CHOICE 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 (IN THE 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 an executive 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	<del>Director of Children and Families</del> <u>Strategic Director Children and Young People</u>
4. The making of arrangements pursuant to section 94(1), (1A) and (4) of the 1998 Act (admissions appeals)	Executive	<del>Director of Children and Families</del> <u>Strategic Director Children and Young People</u>
5. The making of arrangements pursuant to section 95(2) of the 1998 Act (children to whom section 87	Executive	<del>Director of Children and Families</del> <u>Strategic Director Children and Young People</u>

## RESPONSIBILITY FOR FUNCTIONS

applies: appeals by governing bodies)		
7. Any function relating to contaminated land.	Executive	Director of Environment and Neighbourhood Services <u>Strategic Director Environment and Neighbourhoods</u>
8. The discharge of any function relating to the control of pollution or the management of air quality.	Executive	Director of Environment and Neighbourhood Services <u>Strategic Director Environment and Neighbourhoods</u>
9. The service of abatement notice in respect of a statutory nuisance.	Executive	Director of Environment and Neighbourhood Services <u>Strategic Director Environment and Neighbourhoods</u>
10. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Full Council	Director of Environment and Neighbourhood Services <u>Strategic Director Environment and Neighbourhoods</u>
11. The inspection of the authority's area to detect any statutory nuisance.	Executive	Director of Environment and Neighbourhood Services <u>Strategic Director Environment and Neighbourhoods</u>
12. The investigation of any complaint as to the existence of a statutory nuisance.	Executive	Director of Environment and Neighbourhood Services <u>Strategic Director Environment and Neighbourhoods</u>
13. The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	The Council if the information is required for the purposes of a Council function and the Executive if for the purposes of an Executive function.	The relevant director who has responsibility for the function in question.
14. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	The Council if the particulars are required for the purposes of a Council function and the Executive if for the purposes of an Executive function.	The relevant director who has responsibility for the function in question.

# RESPONSIBILITY FOR FUNCTIONS

15. The making of agreements for the execution of highways works.	Executive, unless the need for the highways agreement has arisen from a planning decision in which case the responsibility shall be with the Council.	<del>Director of Environment and Neighbourhood Services Strategic</del> <u>Director Environment and Neighbourhoods</u> or Planning Committee if it falls within the committee's terms of reference.
16. The appointment of any individual –	The Council	In the case of a member of staff, the relevant director in
(a) to any office other than an office in which he or she is employed by the authority;  (b) to any body other than –  (i) the authority;  (ii) a joint committee of two or more authorities; or  (c) to any committee or sub-committee of such a body and the revocation of any such appointment.		whose department or service area the member of staff is employed. In the case of the Councillor appointments they shall be made by Full Council as soon as possible after the Annual Meeting of the Council and then again by the Full Council or the General Purposes Committee if a vacancy arises during that municipal year.
17. The making of arrangements with other local authorities for the placing of staff at the disposal of those other authorities.	If the arrangement is in connection with a function of the Executive then the Executive shall make the arrangement. If the arrangement is in connection with a function which is the responsibility of the Council then the Council shall make the arrangement.	In either case the relevant director within whose area of responsibility the function lies.
18. Functions under sections 106, 110, 111 and 113 of the 2007 Act relating to Local Area Agreements	Executive	

# RESPONSIBILITY FOR FUNCTIONS

**TABLE 3**

## **FUNCTIONS NOT TO BE THE SOLE RESPONSIBILITY OF THE EXECUTIVE**

1. The Executive is responsible for formulating or preparing the plans listed in the Table below and then submitting them to the Full Council for consideration and adoption or approval. Note that the plans and strategies in this table constitute the Policy Framework.

Plans and Strategies	Reference	Mandatory (M) or Discretionary (D) Plan
Annual Library plan	Section 1(2) of the Public Libraries and Museums Act 1964	M
Best Value Performance Plan	Section 1 of the Local Government Act 1999	M
Children and Young People's Plan	Children and Young People's Plan (England) (Regulations) 2005	M
Sustainable Community Strategy	Section 4 of the Local Government Act 2000	M
Crime and Disorder Reduction Strategy	Section 5 and 6 of the Crime and Disorder Act 1998	M
Development Plan Documents	Section 15 of the Planning and Compulsory Purchase Act 2004	M
Youth Justice Plan	Section 40 of the Crime and Disorder Act 1998	M
Local Transport Plan (but only if the Council becomes a Passenger Transport Authority)	Section 108(3) of the Transport Act 2000	M
A plan or strategy for the control of the authority's borrowing investments or capital expenditure or for determining the authority's minimum revenue provisions		M
Statement of Licensing Policy	Section 5 of the Licensing Act 2003	M
Licensing Authority Policy Statement	Section 349 of the Gambling Act 2005	M
The strategy and plan which comprise the housing investment		D

**TABLE 4A**

**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 appointed by the Leader.

**Quorum**

3 Executive members.

**Terms of Reference**

The Leader has agreed to delegate the following executive functions to the committee: -

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 Neighbourhood Services~~ Strategic Director Environment and Neighbourhoods considers should be referred to the Committee for a decision.

**TABLE 4B**

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

**Membership**

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

**Chair and Vice Chair**

To be appointed by the Barham Park Trust Committee

**Quorum**

3 Executive members

**Terms of Reference**

The Executive has agreed to delegate the following executive functions to the sub committee:-

- (1) the trustee functions in relation to Barham Park Trust including decisions to dispose of land, vary or cease the charitable purpose, or change the trustee, except those functions it has delegated to officers
- (2) an annual review of how the trust is carrying out its charitable purposes and a review of the Trust's finances
- (3) any other matter which the Assistant Director Neighbourhood Services Operational Director Neighbourhoods considers ought to be referred to the committee for a decision

The Committee shall meet not less than once per year.

## RESPONSIBILITY FOR FUNCTIONS

**TABLE 5**

### PROPER AND STATUTORY OFFICER PROVISIONS

The following definitions are used in this Table:-

LGA 1972	=	Local Government Act 1972
LG(MP)A 1976	=	Local Government (Miscellaneous Provisions) Act 1976
RPA 1983	=	Representation of the People Act 1983
LGFA 1988	=	Local Government Finance Act 1988
LGHA 1989	=	Local Government and Housing Act 1989
LGA 2000	=	Local Government Act 2000
FOIA 2000	=	Freedom of Information Act 2000
LASSNHSCR 2009	=	Local Authority Social Services and National Health Service Complaints (England) Regulations 2009

\*Chief Officers also have power delegated to them in the table found at paragraph 2.5 of this Part 4 to designate proper officers falling within their area of responsibility.

The following officers and their deputies or person nominated by them for the purpose shall be the proper officer for the purpose specified:-

<b>(1) statutory provision</b>	<b>(2) Function</b>	<b>(3) Proper Officer</b>
Section 83 LGA 1972	Witness and receipt of declarations of acceptance of office of Mayor, Deputy Mayor and Councillors.	Democratic Services Manager
Section 84 LGA 1972	Receipt of notice of resignation of office of Mayor, Deputy Mayor and Councillors.	Democratic Services Manager
Section 88 LGA 1972	Convening of meeting for the election of Mayor in the event of a casual vacancy.	Democratic Services Manager
Section 89 LGA 1972	Receipt of notice of casual vacancies in the council membership.	Democratic Services Manager
Section 100 LGA 1972	All references to proper officer in connection with the access to information	Democratic Services Manager



# RESPONSIBILITY FOR FUNCTIONS

	provisions of the Local Government Act.	
Section 115 LGA 1972	Receipt of monies from accountable officers.	<del>Director of Finance and Corporate Services</del> <u>Chief Finance Officer</u>
Section 146 LGA 1972	Certificates as to securities on alteration to local authority area or name.	Director of Legal and Procurement
Section 151 LGA 1972	Officer with responsibility for the council's financial affairs.	<del>Director of Finance and Corporate Services</del> <u>Chief Finance Officer</u>
Section 225 LGA 1972	Deposit of any documents pursuant to any enactment, instrument or parliamentary standing orders.	Democratic Services Manager
Section 229 LGA 1972	Certification of any photographic copy of a document in the custody of the council or of any document destroyed while in which custody, or any part of any such document.	Director of Legal and Procurement
Section 233 LGA 1972	Receive documents required to be served on the Council.	The Chief Executive or the Director of Legal and Procurement
Section 234(1) LGA 1972	Signature or authentication of any notice or other document which the local authority is authorised or required to give or make or issue.	All officers specified in paragraph 2.4 of this Part 4.
Section 238 LGA 1972	Certification of printed copies of by-laws.	Director of Legal and Procurement
Section 41 LG(MP)A 1976	Certification of Minutes, Resolutions, Orders and Reports of the council.	Democratic Services Manager
Section 35 RPA 1983	The Returning Officer at an election of Councillors of the borough.	<del>Director of Legal and Procurement</del> <u>Chief Executive</u>
Section 8 RPA 1983	The Electoral Registration Officer of any constituency (or part thereof) in the	<del>Director of Legal and Procurement</del> <u>Chief Executive</u>

# RESPONSIBILITY FOR FUNCTIONS

	borough.	
Section 72 Weights and Measures Act 1985	Functions of Chief Inspector of Weights and Measures.	Head of Trading Standards
Section 114 LGFA 1988	Report to Council concerning unlawful expenditure.	<del>Director of Finance and Corporate Services</del> <u>Chief Finance Officer</u>
Section 2 LGHA 1989	Deposit of list of "politically restricted posts" under LGHA 1989.	<del>Assistant Director, People and Development.</del> <u>Operational Director Human Resources</u>
Section 4 LGHA 1989	Head of paid service.	Chief Executive
Section 5 LGHA 1989	Monitoring officer.	Director of Legal and Procurement
Regulation 23 Non-Domestic (Collection and Enforcement) (Local Lists) Regulations 1989	Certification of the Local Non-Domestic List.	<del>Director of Finance and Corporate Services</del> <u>Chief Finance Officer</u>
Accounts and Audit Regulations 2003	The responsible financial officer.	<del>Director of Finance and Corporate Services</del> <u>Chief Finance Officer</u>
Births deaths and marriages	Any reference to the proper officer in any enactment relating to registration of births, death or marriages.	<del>Director of Customer &amp; Community Engagement</del> <u>Strategic Director Environment and Neighbourhoods</u>
LGA 1972, Schedule 12, Part 1, Paragraph 4(2)(b)	Signature of summonses to Council meetings and receipt of notices of addresses to which summonses to meetings to be sent.	Chief Executive
Local Government (Committees and Political groups) Regulations 1990	Receipt of notification from members.	Democratic Services Manager
LGA 2000, section 81	Establishment and maintenance of the register of interests of members including voting co-opted members.	Director of Legal and Procurement acting as Monitoring Officer
Local Authorities (Standing Orders) Regulations 2000	Notices under regulations 5 and 6 regarding proposed appointments of staff.	<del>Assistant Director, People &amp; Development.</del> <u>Operational Director Human Resources</u>

# RESPONSIBILITY FOR FUNCTIONS

Local Authorities (Referendums) (Petitions and Directions) Regulations	Functions relating to verification and publicity of petitions.	Chief Executive
Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012	All references to the proper officer.	Democratic Services Manager unless otherwise specified in the Regulations or the Constitution.
Local Authorities (Conduct of Referendums) (England) Regulations 2001	All references to the proper officer.	Chief Executive
Public Health (Control of Diseases) Act 1984 and the Public Health (Infectious Diseases) Regulations 1988	All references to the proper officer	<del>Director of Environment and Neighbourhood Services</del> <u>Strategic Director Environment and Neighbourhoods</u>
Section 36 FOIA 2000	Qualified person for decision on exempt information not to be disclosed	Director of Legal and Procurement
Regulation 4 LASSNHSCR 2009	All references to the responsible person	<del>Director of Adult Social Services</del> <u>Strategic Director Adults</u>
Local Democracy, Economic Development and Construction Act 2009 S31	To provide and support to overview and scrutiny committees	<del>Director of Strategy, Partnerships and Improvement</del> <u>Assistant Chief Executive</u>
National Health Service Act 2006 S73A	Director of Public Health	Director of Public Health
Generally *	Any other proper officer function not otherwise designated.	Chief Executive

# PART 5



## AUDIT COMMITTEE

### Membership

- The committee is comprised of 3 non-executive councillors and 1 non voting co-opted member.

### Terms of Reference

#### *Audit Activity*

1. To consider the Head of Internal Audit's annual report and opinion, and a summary of internal audit activity (actual and proposed), and the strategic and annual audit plans, and consider the level of assurance these can give over the council's corporate governance arrangements.
2. To consider summaries of specific internal audit reports as appropriate.
3. To consider the annual review of the effectiveness of internal audit.
4. To consider, as required, reports from internal audit on agreed audit recommendations not implemented within a reasonable timescale.
5. To consider the external auditor's annual letter, relevant reports, and their report to those charged with governance.
65. To consider specific reports as agreed with the external auditor.
76. To comment on the scope and depth of external audit work and to ensure it gives value for money.

#### *Regulatory Framework*

87. To maintain an overview of the Council's constitution in respect of Contract Standing Orders and financial regulations.
98. To review any issue referred to it by the chief executive or a director, or any council body.
109. To monitor the effective development and operation of risk management and corporate governance in the Council.
110. To monitor council policies to facilitate confidential reporting by employees of suspected fraud, corruption or any other wrongdoing, the Council's anti-fraud and anti-corruption policies, and the council's complaints process.
121. To oversee the production of the Council's Statement on Corporate Governance and Internal Control and to recommend its adoption.
132. To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.
143. To consider the Council's compliance with its own and other published standards and controls.

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TERMS OF REFERENCE OF COUNCIL COMMITTEES AND SUB-COMMITTEES

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154. To monitor the handling of any reports from the Local Government Ombudsman.

*Accounts*

165. ~~To review the annual statement of accounts. Specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.~~
176. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
- 
17. To review and approve the statement of accounts and consider whether there are any issues from the financial statements or from the audit that need to be brought to the attention of the Council.



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

### **CALL IN OVERVIEW AND SCRUTINY COMMITTEE**

#### **Membership**

- The Committee is comprised of 8 councillors.
- None of the members shall be members of the Executive.

The Chair of the One Council Overview and Scrutiny Committee shall be the Chair of the Call in Overview and Scrutiny Committee

#### **Terms of Reference**

1. To meet as and when required to consider any matter 'called in' in accordance with Standing Orders and to make recommendations thereon.

#### **Limitations**

- (a) Where officers or members are called before the committee, additional technical support may be provided from other officers where appropriate

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

### GENERAL PURPOSES COMMITTEE

#### Membership

- The committee is comprised of 10 councillors.

#### Terms of Reference

1. Subject to paragraph 10 below, to carry out those functions specified in this Constitution as being the responsibility of the General Purposes Committee, except to the extent that those functions have been delegated to officers or sub-committees of the General Purposes Committee, including but not limited to: -
  - (a) closing and creating footpaths, public rights of way and bridleways;
  - (b) public path and railway extinguishments orders; and
  - (c) agreeing changes to appointments to outside bodies.
2. To appoint its sub-committees as set out in the Constitution.
3. To set the Council Tax Base.
4. ~~To agree the calculation of estimated income from National Non-Domestic Rates~~
5. ~~To approve the Authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts, as the case may be.~~
- 6.4. To determine the terms and conditions on which staff appointed by the Senior Staff Appointments Sub-Committee shall hold office, including procedures for their dismissal, and to determine the grading structure to be applied to posts appointed by the Senior Staff Appointments Sub-Committee.
- 7.5. To determine other matters involving the Council as an employer (excluding those matters relating to health and safety at work where the Council is acting in its capacity as an employer) including the overall framework of terms and conditions of service for employee.
- 8.6. To consider matters relating to union membership, negotiations and agreements and to develop relations with all staff unions.
- 9.7. To determine matters referred to it by the ~~Director of Finance and Corporate Services~~ Chief Finance Officer or the Pension Fund Sub-Committee concerning the Council's functions under the Local Government Pension Scheme.
- 10.8. To carry out any non-executive functions which are not the responsibility of any other person or Council committee or sub-committee, except where prevented by law from doing so or by any other provision in this Constitution.
- 11.9. To carry out any other functions which are non-executive functions and which have been delegated to its sub-committees or officers but which the relevant sub-committee or officer is for whatever reason unable or unwilling to so exercise.

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TERMS OF REFERENCE OF COUNCIL COMMITTEES AND SUB-COMMITTEES

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- | 42.10. To carry out the Council's regulatory functions under the health and safety legislation.

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

### **PENSION FUND SUB-COMMITTEE**

#### **Membership**

- The sub-committee is comprised of 7 councillors and 2 non-voting co-opted members from the College of North West London and Brent Care at Home.

#### **Terms of Reference**

1. To determine the overall investment strategy and strategic asset allocation for the Brent Pension Fund, on the basis of advice from the ~~Director of Finance and Corporate Services~~ Chief Finance Officer, the Independent Auditor and the investment managers.
2. To appoint the investment managers for the Brent Pension Fund.
3. To keep under review the investment managers performance and processes.
4. To oversee the management and administration of the Brent Pension Fund.
5. To determine matters referred to it by the ~~Director of Finance and Corporate Services~~ Chief Finance Officer or the General Purposes Committee concerning the Council's functions under the Local Government Pension Scheme.

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TERMS OF REFERENCE OF COUNCIL COMMITTEES AND SUB-COMMITTEES

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**SCHOOLS DISCIPLINARY SUB-COMMITTEE**

**Membership**

The sub-committee is comprised of 5 members.

**Terms of Reference**

To consider and take appropriate action upon the recommendations of Governing Bodies of Institutes without delegated management in respect of Head Teachers, Deputy Head Teachers and teachers in accordance with the teachers' disciplinary procedure.

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

### **GENERAL PURPOSES LICENSING SUB-COMMITTEE**

#### **Membership**

The sub-committee is comprised of 5 councillors.

#### **Terms of Reference**

1. To hear and determine applications under licensing legislation (other than the Licensing Act 2003 or the Gambling Act 2005) which are considered significantly contentious by the ~~Director of Environment and Neighbourhood Services~~ Strategic Director Environment and Neighbourhoods or in respect of which an applicant is entitled to be heard by a committee or sub-committee of members.
- 4-2. To hear and determine appeals against officer decisions regarding licence applications under the Scrap Metal Dealers Act 2013.

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

### PLANNING COMMITTEE

#### Membership

- The committee is comprised of 11 councillors.

#### Terms of Reference

1. To determine applications for planning permission, consent or approval (including listed building and conservation area consent) in respect of the following types of development:-
  - (i) construction of 20 or more dwellings;
  - (ii) outline residential development with a site larger than 0.1 hectare (approximately ¼ acre);
  - (iii) construction of non-residential building exceeding 500 sq. metres in floorspace outside a designated employment area; and
  - (iv) outline non-residential development with a site larger than 0.1 hectare (approximately ¼ acre), outside a designated primary employment area.
2. To determine applications for planning permission, consent or approval (including listed building and conservation area consent) which the Planning Committee has specifically indicated it wishes to consider itself.
3. To determine any application for planning permission, consent or approval (including listed building and conservation area consent) which at least three members of the Council have requested, in accordance with the Planning Code of Practice, be considered by the Planning Committee
4. To determine any other application for planning permission, consent or approval (including listed building and conservation area consent) in respect of which written objections have been received from 3 or more households or businesses except where those objections relate to:-
  - (i) Alterations to residential buildings including extensions, outbuildings (including garages), walls, vehicular accesses and hardstandings, and porches
  - (ii) satellite television dishes or aerials
  - (iii) other domestic aerials
  - (iv) certificates of lawful use or development (except applications which relate to the lawfulness of the use of a dwelling house by more than one family unit)

AND except where the officers are in any event minded to refuse the permission, consent or approval.
5. To determine any application for planning permission, consent or approval (including listed building and conservation area consent) which would, in the reasonable opinion of the ~~Director of Regeneration and Major Projects~~ Strategic



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

- Director Regeneration and Growth or the Assistant Director of Planning and Development~~Head of Area Planning~~, significantly conflict with Council policies.
6. To determine any application for, or revocation of, planning permission or consent or approval (including listed building and conservation area consent) in case where the approval or revocation would, in the reasonable opinion of the Director of Regeneration and Major Projects~~Strategic Director Regeneration and Growth~~ or the Assistant Director of Planning and Development~~Head of Area Planning~~, give rise to the payment of compensation.
  7. To authorise the service of an enforcement or stop notice in respect of breaches of planning, listed building, advertisement and hazardous substances control where such action would involve the payment of compensation.
  8. To agree to enter into agreements pursuant to section 106 of the Town and Country Planning Act 1990, section 38 of the Highways Act 1980 or any other agreements required in connection with any permission, consent or approval granted by the committee and to authorise officers to make such agreements subject to such restrictions as it considers appropriate.
  9. To determine any matter relating to planning or hazardous substances which are delegated to officers, other than Executive functions, but which the Director of Regeneration and Major Projects~~Strategic Director Regeneration and Growth~~ or Assistant Director of Planning and Development~~Head of Area Planning~~ considers appropriate for the committee to consider.
  10. To authorise the making of Tree Preservation Orders in cases where the relevant officer has declined to make an order.
  11. In relation to other planning and/or development control matters:
    - (a) where requested by officers or the Executive to do so, to provide comments back to them on any applications for development in neighbouring boroughs and any changes to planning policy in other boroughs.
    - (b) to consider and recommend to the Executive or officers amendments to adopted or draft development plan documents, supplementary planning documents, planning briefs or other similar documents.
    - (c) to comment on development proposals following presentations by applicants and their agents of more significant proposals at a pre-application stage

### Limitations

- (a) None of the above will apply to any application for permission or consent which the Council is required to refuse in accordance with a direction to do so from the Mayor of London or any Minister of the Crown issued pursuant to any legislative provision in which case the refusal shall be issued by the Director of Regeneration and Major Projects~~Strategic Director Regeneration and Growth~~ or the Assistant Director of Planning and Development~~Head of Area Planning~~ but reported to the Planning Committee for information.

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

### **Alcohol and Entertainment Licensing Sub-Committee 'A' / 'B' / 'C'**

#### **Membership**

- Each sub-committee shall be comprised of 3 members.
- All members and alternate members must be members of the Alcohol and Entertainment Licensing Committee.

#### **Terms of Reference**

##### **Licensing Act 2003**

1. To determine applications for personal licences where the police have served an objection notice.
2. To determine applications for premises licences, club premises certificates and provisional statements where a relevant representation is made.
3. To determine applications to vary premises licences and club premises certificates where a relevant representation is made.
4. To determine applications to vary a designated premises supervisor where a police objection is received.
5. To determine applications for transfer of a premises licences where a police objection is received.
6. To determine applications to review premises licences and club premises certificates.
7. To determine applications for interim authorities where a police objection is received.
8. To determine a police objection to a temporary event notice.

##### **Gambling Act 2005**

9. To determine applications for premises licences and provisional statements where representations have been made
10. To determine applications for variation of premises licences where representations have been made.
11. To determine applications for transfer of premises licences where representations from the Gambling Commission are received.

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TERMS OF REFERENCE OF COUNCIL COMMITTEES AND SUB-COMMITTEES

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12. To review premises licences under section 201.

**General**

13. To determine any application or variation which is capable of being determined by officers but which the ~~Director of Environment and Neighbourhood Services~~Strategic Director Environment and Neighbourhoods considers appropriate for the Sub-Committee to consider.

# PART 6



# **PART 6**

## **OTHER RULES AND REGULATIONS**

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**Access to Information Rules**

**Financial Regulations**

**Scheme of Transfers and Virements**

## ACCESS TO INFORMATION RULES

### Scope

1. These rules apply to all meetings of the Council and its committees and sub-committees and public meetings of the Executive and its committees except where specified (together these meetings are herein referred to as "meetings"). Public meetings of the Executive are those meetings which are required to be held in public i.e. where a Key Decision will be made or discussed in the circumstances specified in Rule 28 below and those which the Executive determine should be held in public.
2. Nothing in these rules shall be treated as limiting or diminishing any rights conferred on the public, members of the Council or co-opted or independent members by any of the Standing Orders or other rules in the Constitution or the law.

### Rights of Press and Public to attend Meetings

3. The press and public shall, subject to the exceptions contained in these rules, be entitled to attend all meetings subject to the capacity of the room in which the meeting is held. Unless there is another meeting being held in the room in which the meeting is to be held, the press and public will be admitted to the room 30 minutes before the meeting is due to start.
4. Separate seating will be provided for the press and public and admission will be on the basis of "first come, first served" with no seating being reserved. ~~Where a meeting is being held in the Council chamber the public (who are not invited guests) are only entitled to admission to the public gallery.~~
5. Except in respect of disturbances and unruly behaviour, the press and public may only be excluded from a meeting in respect of business relating to confidential or exempt information as defined in the relevant legislation and set out below, and any resolution excluding press and public shall specify the nature of the confidential and/or exempt information relating to the business to be transacted which justifies the exclusion.
- ~~6. At meetings of Full Council only guests of members (in addition to members or officers of the authority) shall be admitted to the floor of the Council chamber and only then on the understanding that their presence must be restricted to the accommodation provided.~~
6. Tweeting, blogging etc. and filming from hand held devices will normally be permitted at meetings without advance notice, however it is important that meetings are allowed to discharge their business without distraction or disruption both to the Councillors and officers at the table and any public present. This means that 'roving' filming close to or around the meeting table and filming using flash lighting will not normally be allowed. The Chair shall have discretion over deciding whether any such activity poses a threat to the efficient conduct of the meeting. Further rules governing the media are set out below.
7. No animal shall be allowed into any meeting, except a guide dog accompanying a blind or deaf person.

### Media



8. Photography and sound recording shall generally be permitted except where the public and media have been excluded and provided notice is given to the Democratic Services Manager by noon on the day of the meeting concerned. Any television production company shall be permitted to film any proceedings of any meeting except where the public and the media have been excluded. Any filming shall only take place from the positions authorised by the Democratic Services Manager for that purpose.
9. The Chair shall have discretion to regulate the behaviour of all media representatives present at a meeting in the interests of the efficient conduct of the meeting. In exercising this discretion the Chair shall have regard to the following principles:
  - (a) the Chair's discretion shall not be used for the purpose of seeking to limit or restrict the right of the press to fairly report the business of the Council conducted in public and shall be used only for the purpose of enabling the efficient conduct of the meeting.
  - (b) the main priority shall be to enable the business of the meeting to be conducted by the members.
  - (c) the second priority shall be to enable the public and media representatives present at the meeting to see and hear the business being conducted.
  - (d) the third priority shall be to facilitate photography, sound recording and filming of the proceedings, bearing in mind always that these facilities are provided at the discretion of the Council and are in addition to the basic legal entitlement of the media to report the proceedings of the Council.
  - (e) generally media representatives will not be permitted to wander round within the meeting room.
  - (f) the use of any equipment which interferes with the efficient operation of hearing aids or facilities to improve hearing for the hearing impaired shall not be permitted.
  - (g) any sound recording equipment must not operate in such a way as to be audible and generally wandering microphones will not be permitted other than for brief periods not exceeding a few minutes.
  - (h) any photography must take place from positions approved by the Democratic Services Manager so that the view of members, officers, public and media representatives in attendance is not obstructed. Any use of flash lighting will generally be permitted for periods not exceeding a few minutes with much longer intervals between. Generally, close up photography in the sense of the photographer being close to the subject will not be permitted, with or without flash lighting; where this is desired it should be arranged before or after the meeting.
  - (i) if filming causes any noise it will be limited as for sound recording. Use of additional lighting in connection with filming will be restricted as for flash photography to minimise inconvenience to those others in attendance at the meeting.

- (j) in the event of any television production company filming a meeting and then providing an unbalanced or unfairly edited account of it (applying the same criteria as are used in the televised reporting of Parliament) then the company concerned shall be denied any further filming facilities at meetings.
- (k) any disruptive behaviour by any media representative will be dealt with in the normal manner under these rules.
- (l) where appropriate, the Chair and/or Democratic Services Manager as the case may be will give preference to media representatives who obtain agreement to their proposed activity before the meeting takes place.

### Notice of Meetings - The Weekly List

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

### Access to Agendas and Reports prior to Meeting

- 11. Except in the case of urgency (see below) or in relation to a sub-committee of the Standards Committee the agenda for, and any reports or minutes to be submitted to, meetings shall be sent to members of the Executive or the relevant committee or sub-committee at least five clear working days in advance of the meeting in question.
- 12. Once agendas have been sent out as above, an item may only be added if it is urgent in the opinion of the Chair.
- 13. The papers which do not relate to any exempt or confidential matters ("the open papers") shall also be available for public inspection at the Town Hall Civic Centre and on the Council's website from the date copies are sent or given to members together with the list of relevant background information (see below) and shall be despatched to any members who are not members of the committee or sub-committee upon request.
- 14. Where a report to the Executive or a committee of the Executive contains exempt or confidential matters such that it is likely that information will not be discussed at the meeting in public or be available to the public, the Council will give 28 days notice (at its offices and on its website) of its intention not to provide such information and the reasons for this and these details will be included in the Forward Plan. Further notice will be given 5 days before the meeting with details of any representations made, and the Council's response. Where, because of the date by which the meeting must be held, the notice cannot be given, agreement must be given by the Chair of One Council Overview and Scrutiny Committee and reasons for the urgency must be given and published on the Council's website.

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

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

### Background Papers

16. All reports shall include a list of those documents (called background papers) relating to the subject matter of the report which in the opinion of the proper officer who shall be the relevant Service Area or Corporate Director within whose Service Area or Corporate Unit the report was written or relates:
- (a) discloses any facts or matters on which the report or an important part of the report is based; and
  - (b) have been relied on to a material extent in preparing the report but do not include published works or those which disclose exempt or confidential information or the advice of a political adviser appointed under section 9 of the Local Government and Housing Act 1989.
17. The relevant Service Area or Corporate Director will make available for public inspection during normal office hours and on the Council's website for four years after the date of the meeting a copy of each of the documents on the list of background papers.

### Supply of Copies

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

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

### Rights of Access for Members of the Council

19. Any member of the Council will be entitled to inspect any document in the possession or under the control of the Council which relates to any business to be transacted at a meeting of the Council, a committee or a sub-committee, except any part of a document that contains exempt information.
20. Any member of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive which relates to any business to be transacted at a public meeting except any part of a document that contains exempt information or advice of a political adviser appointed under section 9 of the Local Government and Housing Act 1989.
21. Any member of the Council will be entitled to inspect at the conclusion of a meeting of the Executive or, in the case of an Executive Decision made by an Officer, immediately after that decision has been made, any document which is in the possession, or under the control, of the Executive and which contains material relating to any business previously transacted at a private meeting or (in the event that they are permitted to take decisions) any decision taken by an individual member of the Executive or any Executive Decision made by an officer except any part of a document that contains exempt information or advice of a political adviser appointed under section 9 of the Local Government and Housing Act 1989...
22. Notwithstanding anything in paragraphs 19 to 21 a member is entitled to inspect any information that is exempt information if it falls within;
  - (a) Category 3\* "information relating to the financial or business affairs of any particular person (including the authority holding that information)" unless it contains information that relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or
  - (b) Category 6\* "Information which reveals that the authority proposes -
    - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
    - (ii) to make an order or direction under any enactment" a member is entitled to have access to that information.

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

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

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

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

reviewing or scrutinising or to any review contained in any programme of work of the relevant Committee of which they are member; or

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

### Human Rights Act

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

### Key Decisions

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

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

27. Number Not in use

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

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

29. Special attention should be paid to decisions which are likely to result in a service area or corporate unit incurring expenditure which is, or the making of savings which are, 30% or more of its budget for the function in question. In determining what is a 'budget' or a 'function' for these purposes the person or body taking the decision should have regard to any guidance from the Monitoring Officer or ~~Director of Finance and Corporate Services~~ Chief Finance Officer.

### Consequences of a decision being classed as a Key Decision.

30. Subject to the rules on urgency (set out in the Standing Orders), a Key Decision may not be taken (by the Executive or officers) in respect of any matter unless the matter in question has been publicised in the Forward Plan and unless the reports to be considered by the decision maker have been available for public inspection for at least 5 clear days prior to the date on which the decision is made and copied to the Chair of the One Council Overview and Scrutiny Committee.



31. If the Executive or its committee(s) meet(s) to take a Key Decision then it must meet in public (unless the matter relates to exempt or confidential information). For the time being, the Executive will, except when the matter relates to exempt or confidential information, always meet in public for their regular scheduled decision taking meetings whether or not the decisions being taken at that meeting would otherwise fall within the definition of a Key Decision.
32. If the Executive or its committee(s) meet with an officer present (other than a political assistant appointed under section 9 of the Local Government and Housing Act 1989) to discuss a matter relating to a decision included in the current Forward Plan within 28 days of the date according to the Forward Plan by which the matter is to be decided, or to discuss a matter in respect of which notice has been served under Rule 38 then the meeting shall be held in public. This requirement does not apply to meetings whose principal purpose is for officers to brief members e.g. the Leader's Briefing.
33. As soon as reasonably practicable after a Key Decision has been taken a record of that decision must be prepared in accordance with these Rules and made available for public inspection. This will be included in the minutes of the meeting.

### **The Forward Plan**

34. A Forward Plan shall be prepared by the Democratic Services Manager to cover a period of not less than 28 days before any decision on it is to be made.
35. The Forward Plan will contain details of the matters which the Democratic Services Manager has reason to believe will be the subject of a decision to be taken by the Executive or a committee of the Executive and any Key Decisions to be taken by officers, or under joint arrangements in the course of the discharge of an executive function during the period covered by the Plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:
- (a) that a key decision is to be made on behalf of the relevant local authority;
  - (b) the matter in respect of which the decision is to be made;
  - (c) where the decision maker is an individual, that individual's name, and title if any and, where the decision maker is a decision-making body, its name and a list of its members;
  - (d) the date on which, or the period within which, the decision is to be made;
  - (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
  - (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
  - (g) that other documents relevant to those matters may be submitted to the decision maker; and
  - (h) the procedure for requesting details of those documents (if any) as they become available.

10.11.2 The Chief Financial Officer shall effect all borrowings and investments ( or make arrangements to do so), report periodically to the Council, be responsible for the safe custody of securities held by or on behalf of the Council, and approve all Trust Funds.

10.11.3 The Chief Finance Officer shall be responsible for maintaining adequate cashflow forecast and for ensuring that the Council has adequate liquidity at all times.

#### **10.12 Financial Implications within Reports**

10.12.1 All officers involved in the origination of reports must consult with the CFO before preparing reports to committee. They must ensure that reports they present to Full Council, the Executive, Highway Committee or any other committee of the council should contain a section covering the Financial Implications prepared in accordance with the Required Financial Practice requirements.

10.12.2 The Chief Finance Officer may, where considered necessary, issue a concurrent report on matters requiring the Members' attention or where the financial implications of a report are considered invalid he/she may:

- require the report to be withdrawn;
- supply alternative financial implications under his own name to be circulated to Members; or
- indicate to Members the reasons why he believes the financial implications are incomplete and/or incorrect and the consequences of proceeding on that basis (i.e. that the expenditure would be unauthorised).

### **11. RETENTION OF DOCUMENTS**

11.1 All officers are responsible for ensuring compliance with Required Financial Practice and the requirements of the Freedom of Information Act 2000 in determining their local retention policies. They should consult the Brent Retention and Disposals Policy and the council's Information Asset Register to determine retention records. If any records are missing they must notify the Information and Strategy Team.



## Scheme of Transfers and Virements under Standing Order 17(a)

### Definitions

Unless specified to the contrary within the specific paragraphs, each of the following words within this Scheme of Transfers and Virements has the precise meaning assigned to it in this scheme.

**Accounts** – For the purposes of this scheme, the Council shall be considered to be operating three “accounts” – the General Fund, the Housing Revenue Account, and the Capital Programme.

**Budget** – The Council’s budget agreed by Full Council for a financial year is set at a Council meeting at the same time as the Council Tax levels are set for the financial year and is amended from time to time in accordance with this scheme or other relevant powers.

The budget includes planned expenditure and income for the Accounts, as well as transfers into and out of Reserves and Provisions.

The General Fund budget for each financial year contains the policy proposals included in the Service Development Plans, as amended by the Service Area Budget – Savings Appendix of the Report and summarised in the General Fund Budget Summary Appendix of the Report. The matrices in the Service Area Budget Summary Appendix of the Report show budget heads within each service area.

The Housing Revenue Account budget for each financial year is set out in the Housing Revenue Account Appendix of the Report.

The Capital Programme is set out in Capital Programme Forecast Appendix of the Report. This is set in the context of the Prudential limits set out in of the Report.

Full Council may amend the Budget at any time during the financial year, and the amended budget will replace the budget set at the budget setting Council meeting held before the start of the financial year.

**Reserves and Provisions** – The Council sets aside amounts from its Accounts from time to time to meet potential future specific or general liabilities or risks. Collectively the cumulative values of these amounts are called the Council’s Reserves and Provisions.

The values of Reserves and Provisions which are subject to the Transfer provisions of this scheme are those that appeared in the Council’s accounts as at 31<sup>st</sup> March of the previous financial year in respect of that year (for example, the values for 2004/5 were the values for 2003/4 as they appeared in the accounts as at 31<sup>st</sup> March 2004) as amended by appropriations contained in the other elements of the budget.

**Reserves and Provisions Established by the ~~Director of Finance and Corporate Services~~ Chief Finance Officer** - The ~~Director of Finance and Corporate Services~~ Chief Finance Officer may agree that reserves be established by a Service Area at the end of the Financial Year for a specified purpose, where the Service Area has sought permission from the ~~Director of Finance and Corporate Services~~ Chief Finance Officer to apply some of all of that reserve to expenditure for that specified purpose in the next Financial Year and the ~~Director of Finance and Corporate Services~~ Chief Finance Officer is of the opinion that this is a reasonable and prudent use of the resources.

**The Report** - References to the "Report" are references to the "Budget and Council Tax" report as agreed by Full Council at the budget setting meeting held to set the budget before the start of the current financial year.

**Virements** – A virement is an increase in any budget or budgets or part of a budget or budgets that is matched by an equal and opposite decrease in any other budget or budgets or part of budgets within the same Account, such that when the total changes are aggregated the net change across all budgets within that Account is zero.

**Schedule of Earmarked Reserves and Provisions** - the Schedule of Earmarked Reserves and Provisions approved by Full Council at the budget setting meeting held before the start of the financial year.

**Transfers** – For the purposes of this scheme, a Transfer is a movement of funds from any reserve, provision or Account to any other reserve, provision or Account.

**New Spending** – Any increase in gross expenditure or reduction in gross income above the aggregates included in each Account is considered to be "*new spending*" for the purposes of this scheme.

**Earmarked Supported Borrowing** – A permission to borrow issued by a Department of State limited to a specific purpose and coming with a commitment to include the financing charges within the calculation of Revenue Support Grant or Housing Subsidy.

## GENERAL PROVISION

1. Except where explicitly stated to the contrary, no virement, transfer, or new spending is authorised by this scheme if it is in conflict with the Policy Framework or if it conflicts with anything specifically agreed by Full Council as part of the budget setting process other than by a decision of Full Council.

## TRANSFERS

### General

2. Spending on any Account above that allowed for in the Budget, or a shortfall in income below that estimated in the Budget will result in a charge to Reserves unless compensating changes are made. This follows from the Accounting Code of Practice, which has Statutory force. It is acknowledged that such transfers may result in a conflict with the Policy Framework. Statute provides procedures for dealing with such transfers, especially where the resultant transfers exhaust Reserves and Provisions. This scheme does not deal with these transfers, although limits are placed on the Executive's action to minimise the chance that such circumstances arise.
3. In certain circumstances where such overspends on Accounts arise, there is a choice as to which Reserve the charge should be made. There may also be circumstances in which Provisions can be used to prevent Reserves being exhausted. These are matters that are reserved to Full Council.

### Earmarked Reserves and Provisions for Specified Purposes

4. Certain reserves and provisions have been established to aid the smooth running of the Council's finances, and it will be normal to charge costs to those reserves and provisions subject to financial regulations and local procedures and policies. These

are listed in Part A of the Schedule of Earmarked Reserves and Provisions, and officers may make transfers from these reserves and provisions up to the amounts in them for the specified purposes.

5. Part B of the Schedule of Earmarked Reserves and Provisions lists those other reserves and provisions from which transfers may only be made on the authority of the Executive, up to the limits of the amounts in them and for the purposes for which they were established.
6. Transfers from Reserves and Provisions Established by the ~~Director of Finance and Corporate Services~~ Chief Finance Officer may be made by the ~~Director of Finance and Corporate Services~~ Chief Finance Officer up to the amount of £250k. Transfers of any greater amount may only be made on the authority of the Executive.
7. Transfers from Reserves and Provisions not included in the Schedule of Earmarked Reserves and Provisions or transfers from Reserves and Provisions for purposes other than those for which they were established require the approval of Full Council, unless otherwise allowed by this scheme.

### Executive Powers

8. The Executive shall have the power to approve any Transfer that does not result in New Spending across Accounts, on the recommendation of the ~~Director of Finance and Corporate Services~~ Chief Finance Officer, for the purposes of the efficient management of the Council's affairs.
9. For the purposes of maintaining Reserves at a prudent level (as determined by the Executive on advice from the ~~Director of Finance and Corporate Services~~ Chief Finance Officer), the Executive may make any Transfer from any Account to the appropriate Reserve if there is a reported saving in that Account.
10. The Executive may make one or more Transfers up to a total of £500,000 in the financial year from any Reserve to any appropriate Account for the purposes of New Spending provided that:
  - (a) Reserves are maintained at a prudent level after considering the effect of the Transfer and any risks that fall upon Reserves;
  - (b) The Account to which the Transfer is to be made is not immediately prior to making the transfer forecast to overspend; and
  - (c) The New Spending is for an objective contained within the Policy Framework, the Corporate Strategy, a legislative requirement or a contractual obligation.

### VIREMENTS – GENERAL FUND

#### Officers

11. Officers may make any virement within a budget line in a service area (i.e. within any one line in the Service Area Budget Summary Appendix of the Report).
12. Subject to paragraph 13, officers may agree any virement within their area of responsibility which:

- (a) Is designed to keep function and finance together (as determined by the ~~Director of Finance and Corporate Services~~ Chief Finance Officer); or
- (b) Increases the budget of a unit that is overspending by reducing that of a unit that is underspending.

13. Virements in paragraph 12 may only be agreed by officers provided that:

- (a) They do not result in a commitment which would itself lead to an increased overspend in the current financial year or give rise to unfunded expenditure in future years;
- (b) They are consistent with the Service Development Plan;
- (c) They do not conflict with any prior decision made or policy or plan or strategy adopted by the Executive; and

- (d) They are reported to the ~~Director of Finance and Corporate Services~~ Chief Finance Officer.

14. The ~~Director of Finance and Corporate Services~~ Chief Finance Officer may agree any virement between areas of responsibility of different Officers whose effect falls within the criteria set out in paragraph 12 subject to the constraints in paragraph 13(a) to 13(c).

#### Executive

15. Subject to paragraph 16, the Executive may agree any virement either within or between any Service Area which:

- (a) Falls within the purposes of paragraph 12;
- (b) Helps to maintain prudent levels of Reserves; or
- (c) Helps to keep expenditure within the overall budget totals; or
- (d) Finances new initiatives supporting the Policy Framework or the Corporate Strategy but not explicitly included in the Service Development Plan and Budget.

16. The Executive may only agree virements under paragraph 15 if it has received advice from the ~~Director of Finance and Corporate Services~~ Chief Finance Officer that after the virement:

- (a) Reserves remain at prudent levels; and
- (b) No unfunded expenditure commitments arise in future years.

#### New Spending

17. Where additional resources arise during the year and these are limited for a specific use (e.g. because of grant conditions), then officers may commit the New Spending provided that:

- (a) There is no unfunded spending commitment for future years;



- (b) Any match funding for the current year is met from identified underspends; and
- (c) The ~~Director of Finance and Corporate Services~~ Chief Finance Officer certifies that the criteria in paragraph 16 apply.

18. Where additional resources arising from additional income, grant not limited for a specific use, or underspends of budgets are identified, then the Executive may agree New Spending, subject to the criteria in paragraphs 15 and 16.

## VIREMENTS - CAPITAL PROGRAMME

### General

- 19. The Capital Programme consists of individual projects and sums allocated for work of a particular type. Financial Regulations dictate that the latter type of expenditure can generally only be spent after approval by Executive of project schemes within that type.
- 20. Capital projects often span more than one year, and include provisions for contingencies, provisional sums and the like. This generates a degree of flexibility available for managing the overall programme and this scheme takes advantage of that flexibility.
- 21. Many funding streams for Capital projects are limited to particular types of projects. Nothing in this scheme allows virement between projects if the funding stream cannot be vired because of some other condition or limitation restricting or precluding a virement.
- 22. The Capital Programme is funded by a combination of capital receipts, grants and other direct external contributions and borrowing. The total amount of permitted borrowing can be varied during the financial year under the terms of Local Government Act 2003 and relevant regulations. Apart from any contingencies agreed in the Budget, this scheme does not permit any increase in the level of borrowing beyond that agreed in the Budget. Such increases require approval by Full Council in the context of advice from the ~~Director of Finance and Corporate Services~~ Chief Finance Officer and subject to CIPFA's "*The Prudential Code for Capital Finance in Local Authorities*."

### Officers

- 23. Officers should make such virements as are necessary to ensure that the overall capital spend is kept within the sums allocated for that purpose within their area of responsibility provided that:
  - (a) They do not stop or significantly change projects approved by Full Council or the Executive except where as part of project approval the Full Council or Executive has delegated authority to officers to revise or reschedule such projects;
  - (b) They do not commit expenditure beyond resources available in future years; and
  - (c) They report changes to the ~~Director of Finance and Corporate Services~~ Chief Finance Officer.

### Executive

24. The Executive may make such virements within the Capital Programme as are necessary to ensure that overall spending is within the resources available, and it can bring forward, delay or stop projects as necessary to achieve this.
25. The Executive may vire funding from one set of capital projects to another without limit provided that:
  - (a) Reductions are not made to funding of projects below the level that is contractually committed;
  - (b) Spending commitments in future years are not made beyond the resources available to fund them.

### New Spending

26. Where new Capital resources, not limited to specific purposes, are identified during the year, the Executive may commit new expenditure from the reserve list, where such a list exists, in its own priority order providing that:
  - (a) The Capital Programme is not projected to overspend its resources;
  - (b) Spending commitments in future years are not made beyond the resources available to fund them.
27. Where new Capital resources, not limited to specific purposes, are identified during the year, and the reserve list has been fully funded, the Executive may commit new expenditure on other capital schemes provided that:
  - (a) The Capital Programme is not projected to overspend its resources;
  - (b) Spending commitments in future years are not made beyond the resources available to fund them;
  - (c) The new spending meets objectives set out in the Policy Framework or the Corporate Strategy.
28. Where new Capital resources, limited for use for a specific purpose, are identified during the year that do not require matched funding, the Executive may commit new expenditure provided that:
  - (a) Spending commitments in future years are not made beyond the resources available to fund them;
  - (b) The cost of any new borrowing is affordable;
  - (c) The new spending meets objectives set out in the Policy Framework or the Corporate Strategy.
29. Where new Capital resources, limited for use for a specific purpose, are identified during the year that do require matched funding, the Executive may commit new expenditure on that match funding provided that:

- (a) The Reserved List, where such a list exists, has been fully committed and there are sufficient capital resources available to meet the match funding requirements directly or by virement, OR additional revenue resources have been identified to meet the match funding requirements;
- (b) Spending commitments in future years are not made beyond the resources available to fund them.

#### VIREMENTS – HOUSING REVENUE ACCOUNT

- 30. ~~The Director of Regeneration and Major Projects~~Strategic Director Regeneration and Growth may make any virements necessary for the efficient running of the Housing Revenue Account within the Account, including the use of revenue resources for capital purposes, provided that:

- (a) Spending commitments in future years are not made beyond the resources available to fund them; and
- (b) The changes are reported to the ~~Director of Finance and Corporate Services~~Chief Finance Officer.

#### REPORTING ARRANGEMENTS

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



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# PART 7



6. 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.
7. 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.
8. 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.
9. 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.
10. 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 8 above.
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.
12. 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 Regeneration and Major Projects~~ Strategic Director Regeneration and Growth 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.
13. 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.
14. 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 powers

15. Where under the provisions of the Constitution three 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.

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

24. 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.
25. 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.
26. 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 Director of Legal and Procurement or his or her representative shall be obtained forthwith.

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

27. 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 Assistant Director of Planning and Development/Head of Area Planning and has been the subject of a full appraisal by officers and consultation where necessary and that 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.
28. ~~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.~~
29. 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.
30. 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.
31. 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.



32. 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.
33. 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.
34. 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.
35. 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**

36. 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 Regeneration and Major Projects~~ Strategic Director Regeneration and Growth and not to the officer concerned. No such criticism shall be raised in public.
37. 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 Regeneration and Major Projects~~ Strategic Director Regeneration and Growth.
38. Members of Planning Committee shall not attempt in any way to influence the terms of the officers' report or recommendation upon any planning matter.



## LICENSING CODE OF PRACTICE

### Purpose of this Code

The Licensing Code of Practice has been adopted by Brent Council to regulate the performance of its licensing function. Its major objectives are to guide members and officers of the Council in dealing with licensing related matters and to inform potential licensees and the public generally of the standards adopted by the Council in the exercise of its licensing functions. The Alcohol and Entertainment Licensing Sub-Committees exercise functions under the Licensing Act 2003 (the sale by retail of alcohol, the supply of alcohol, the provision of regulated entertainment, and the provision of late night refreshment), and the General Purposes Licensing Sub-Committee exercises the Council's licensing functions under all other legislation. Except where otherwise stated, references in this Code are to both committees and the expression "Licensing Committee" should be interpreted accordingly. The Licensing Code of Practice is in addition to the Brent Members Code of Conduct adopted under the provisions of the Local Government Act 2000. The provisions of this code are designed to ensure that licensing decisions are taken on proper licensing grounds, in a consistent and open manner and that members making such decisions are, and are perceived as being, accountable for those decisions. The Code is also designed to assist members in dealing with and recording approaches from applicants, licensees and objectors and is intended to ensure that the integrity of the decision-making process is preserved. This Code also draws members attention to the different status of the Licensing Committees from normal Council committees by their quasi-judicial nature and the requirement to strictly follow the rules of natural justice.

### The Code

On the Licensing Committees, Members are exercising quasi-judicial functions and as a consequence have a duty to follow the Rules of Natural Justice and accordingly the following provisions apply:

#### **1. General provisions as to conduct**

- 1.1 No one should decide a case where they are not impartial or seen to be impartial.
- 1.2 If a member of the Council has a personal interest in any licensing application or other matter before the Licensing 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 Licensing Committee meeting on that item.
- 1.3 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 if they made representations under the Licensing Act and are therefore entitled to speak at the meeting, the member 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.

## PROTOCOL ON CALL-IN

### 1. Introduction

1.1 The basic premise of call-in is that it is a failsafe mechanism enabling non executive Councillors to make the Executive re-consider a particular decision if it is of major concern or in Members eyes profoundly flawed.

1.2 The statutory guidance on call-in states that there needs to be an appropriate balance between effectively holding the Executive to account, being able to question decisions prior to them being implemented and allowing effective, efficient decision making. It also balances the need to make the process accessible and the need to ensure that call-in procedures are not abused or used to delay or slow down the decision making process.

1.3 As call-in can inevitably result in a delay to the implementation of decisions it should not be used for party political purposes to seek to further discuss a decision that some members do not agree with. Equally, the rights of non executive members to call-in a decision and exercise their right to question the decision, the decision maker and consider alternative options needs to be respected.

1.4 This protocol is designed to provide a locally agreed framework within which call-in can operate, a clear set of criteria against which a call-in request can be judged and a format for the effective conduct of the meeting considering the call in.

### 2. What is a call-in?

2.1 A decision made by the council's Executive can be called in for review before it is implemented. Decisions can be called in by five non-executive members or an Overview and Scrutiny Committee. If an Executive decision is called-in, that decision should not be implemented until it has been considered by scrutiny. Called in decisions are considered by the Call-in Overview & Scrutiny Committee. An urgency procedure is in place for any decision that cannot afford to be delayed.

2.2 The Call-in Overview & Scrutiny Committee will meet within 15 working days of the decision being made. If the Committee agrees with the reasons for the call in, the decision is referred back to the Executive along with the reasons why the Committee thinks it should be reconsidered. The Executive will then decide whether to implement the original decision or review the decision based on the views of the Call-in Overview & Scrutiny Committee. If the Committee does not agree with the reasons for call in then the matter is not referred back to the Executive and the original decision is implemented.

### 3. The call-in process

3.1 A call in request must be submitted within 5 days of the relevant decision being made or in the case of a decision made by officers within 5 days of the date on which the record of the decision is made publicly available in accordance with the Access to Information Rules. When submitting the call in request members must set out the following:

- an explanation as to why they are calling in the decision and if they are calling in all or part of the decision(s).

an outline of the suggested alternative course of action.

3.2 The call-in request form or a similar format should be used to ensure full information is provided.

3.3 When a call-in request is submitted the Democratic Services Manager will refer it to the Director of Legal and Procurement and the ~~Director of Strategy, Partnership and Improvement~~ Assistant Chief Executive (the council's designated scrutiny officer) who will decide whether or not the call-in conforms with this protocol. The call-in request will be assessed against the following criteria:

- Is the call-in process being used as a means of gaining information / understanding or discussing general concerns with Members and officers? If this could be achieved through the general overview and scrutiny process or by talking to the relevant officer or lead member informally the call-in will not be valid,
- Does the call-in duplicate a recent call-in on the same issue? If the call-in duplicates another call-in made within the previous 6 months it will not be valid,
- Have the reasons for calling in the decision already been discussed by an overview & scrutiny committee? If the reasons for calling in the decision have been discussed by an overview and scrutiny committee prior to the decision being made the call-in will not be valid,
- Call-in of a decision of the Executive referring a matter to Full Council for consideration will not be valid,
- Call in of operational management decisions taken by officers will not be valid
- If the call in request is considered to be frivolous, vexatious or clearly outside the call-in provisions it may be deemed invalid. Prior to deciding the validity the Director of Legal and Procurement and the Director of Strategy, Partnership and Improvement may seek clarification from the members concerned.

#### 4. The Conduct of the call-in Meeting

4.1 The Call-in Overview & Scrutiny Committee is an official committee of the council and its meeting are held in public.

4.2 The purpose of a call-in meeting is for non executive members to examine and consider the decision made by the Executive and for members of the committee to make suggestions and recommendations they consider appropriate. The Call-in Overview & Scrutiny Committee provides an opportunity for members to seek clarification of the methodology used in enabling a decision to be made, as well as explore work undertaken by officers culminating in the matter coming before the Executive.

4.3 The relevant Executive Portfolio Holder and chief officer (or his/her representative) will be invited to attend the Call-in Committee meeting to explain the reasons for the decision, respond to the issues raised in the call-in request and answer questions at the meeting.

4.4 It is the chair of the Call in Overview & Scrutiny Committee's responsibility to manage the meeting effectively by applying standing orders, maintaining good discipline and fostering a culture of respect. All contributions to the meeting should go through the chair and the chair should ensure that no purely personal disagreements or comments are allowed to continue.

4.5 To ensure that the meeting is effective the chair will:



**Council**  
18 November 2013

## **Report from the Assistant Chief Executive**

For Action

Wards Affected:  
ALL

## **Health and Wellbeing Board Voting Arrangements**

### **1. Summary**

- 1.1 At Full Council on 24<sup>th</sup> June voting proposals were agreed for the Health and Wellbeing Board, subject to consultation with the Board. This report sets out the views of the Health and Wellbeing Board on those proposals, which it discussed at its meeting on the 3<sup>rd</sup> July.
- 1.2 Following the debate at the Health and Wellbeing Board, and further consideration of the original proposals, it is proposed to give every member of the Health and Wellbeing Board voting rights, except council officers. Full details are set out in the report below.

### **2. Recommendations**

- 2.1 Full Council is recommended to:
  - (i) Note the response from the Health and Wellbeing Board on the consultation on voting rights.
  - (ii) Agree that all members of the Health and Wellbeing Board be given voting rights, except council officers.
  - (iii) Agree that the quorum for the Health and Wellbeing Board be four voting members, with at least two councillors and two other voting members present in order for a meeting to take place.

### **3. Details**

#### **Background**

- 3.1 Full Council established the Brent Health and Wellbeing Board at its meeting on 24<sup>th</sup> June 2013. Members will recall that in establishing the Health and

Wellbeing Board, Council proposed voting arrangements for it. The proposed voting arrangements were subject to consultation with the Health and Wellbeing Board, which is required by the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

- 3.2 The Health and Wellbeing Board met for the first time on 3<sup>rd</sup> July and considered a report on governance that included the proposed voting arrangements in order to feedback views to Council.
- 3.3 The background to this issue was set out in the report to Council in June 2013. In order to fit Health and Wellbeing Boards within local authority structures, the Government has used section 102 of the Local Government Act 1972 as their legislative framework which governs the Council's ordinary Committee arrangements. By using this established legislation there are consequences for the operation of the Board, such as voting rights.
- 3.4 Ordinarily section 102 of the Local Government Act 1972 prevents non members of the Council from voting at committees except in relation to a specified set of committees. However, regulation 6 of the Health and Wellbeing Board regulations provides that unless the Council chooses to restrict voting rights to certain members of the Health and Wellbeing Board, all members of the Health and Wellbeing Board will have voting rights.
- 3.5 Although Health and Wellbeing Boards have a unique role and membership requirement, the voting regulation presented a problem to local authorities. It is highly unusual to have officers of the council and external partners voting on a council committee since this goes against the principles of local democracy and decision making by elected representatives.
- 3.6 That said, the Council recognised that Health and Wellbeing Boards are supposed to act as the leaders of health and social care services in their area and that they were intended to be collaborative groups that work to implement a shared agenda for health and social care in each council area. If a collaborative board was to be established, setting up a board where only elected members can vote seemed to go against the original intention.
- 3.7 As a result, the arrangements originally proposed by Full Council reflected the need to give voting rights to CCG partners. The original proposals were:
  - All elected councillors who are members of the Health and Wellbeing Board should have voting rights. There are five councillors who are members of the Board – four administration councillors and one opposition councillor
  - Three named representatives of Brent Clinical Commissioning Group should have voting rights, including at least one GP.
  - No other member of the Health and Wellbeing Board will be permitted to vote on decisions of the Board.

## **Health and Wellbeing Board Views**

- 3.8 In discussing the voting arrangements the Health and Wellbeing Board was unable to reach a consensus, but did agree that all views would be reported to Full Council. Representatives of the Brent Clinical Commissioning Group argued that the CCG should have the same number of voting members as the local authority to reflect the partnership nature of the group. This viewpoint was endorsed by some, but not by all of the elected members of the Board. The Health Watch representative also argued that Health Watch should be voting members of the Board again to reflect the partnership intentions. The full minute from the meeting on the 3<sup>rd</sup> July is included as an appendix to this report, which includes details of the Board's discussion on this matter.
- 3.9 The original voting proposal would have limited voting rights to members of the council and three Brent CCG representatives. Given the strength of feeling from Brent CCG and Health Watch that voting arrangements at the Board should reflect that partnership nature of the group, it is now proposed that voting rights are given to all CCG representatives on the Board and the Health Watch representative, but not to Brent Council officers. Elected councillors will also have voting rights. As a result, the voting members of the Board will be:

### **Voting Members**

Councillor Ruth Moher (chair)  
Councillor Krupesh Hirani, Lead Member for Adults and Health  
Councillor Michael Pavey, Lead Member for Children and Families  
Councillor George Crane, Lead Member for Regeneration and Major Projects  
Councillor H B Patel, Opposition Member  
Dr Ethie Kong (vice chair), Chair, Brent CCG  
Dr Sarah Basham, Brent CCG  
Rob Larkman, Accountable Officer, Brent CCG  
Jo Ohlson, Brent Borough Director, Brent CCG  
Ann O'Neil, Brent Health Watch

### **Non Voting Members**

Christine Gilbert, Chief Executive  
Phil Porter, Interim Director of Adult Social Care  
Sara Williams, Interim Director of Children's Services  
Melanie Smith, Director of Public Health  
Sue Harper, Director of Environment and Neighbourhood Services

- 3.10 The changes to voting proposals will not alter the decision that the council's Executive functions will not be delegated to the Board. It should be noted, for the avoidance of doubt, that the Health and Wellbeing Board will also have no executive powers over the Brent Clinical Commissioning Group.



- 3.10 The Council is committed to creating a strong and meaningful Health and Wellbeing Board that adds value and provides the strategic leadership around the health and wellbeing agenda in Brent. A strong partnership with the CCG and other organisations such as Health Watch is crucial to achieve this, and it will only be achieved if the Board is able to work by consensus and it is highly unlikely that a vote will ever be needed at the Health and Wellbeing Board. However, in line with the requirements under the legislation, the Health and Wellbeing Board has to have voting arrangements in place.

### **Quorum**

- 3.12 The Brent Clinical Commissioning Group raised concerns about the Health and Wellbeing Board quorum at the meeting on 3<sup>rd</sup> July. They did not agree that meetings should be able to proceed with three councillors but only one CCG representative present, and felt there should be an equal balance between council and CCG representation. Council sets a meeting quorum to ensure that committees cannot proceed without sufficient numbers of members being present. To reflect the voting membership of the Board it is proposed that the quorum be four voting members, with at least two councillors and two other voting members present in order for a meeting to take place.

## **4. Legal Implications**

- 4.1 The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 govern the voting arrangements for the Health and Wellbeing Board. The Regulations provide that all members of the Board shall have voting rights unless the Council decides otherwise. The unusual nature of this particular committee and the various competing arguments for different voting arrangements are set out in the body of this report. As explained above there are no executive functions currently delegated to this committee.

## **5. Finance Implications**

- 5.1 None

## **6. Diversity Implications**

- 6.1 None

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**Ben Spinks**  
**Assistant Chief Executive**



## **Appendix 1 – Minute from Health and Wellbeing Board on 3<sup>rd</sup> July 2013**

### ***Health and Wellbeing Board Governance***

*Andrew Davies, Policy and Performance Officer introduced the report detailing the background to the establishment of the board and its functions. He clarified that voting regulations under the Local Government Act 1972 for section 102 Committees had been suspended enabling partnership members to vote. It was further clarified that the purpose of the report was to consult the Board on the proposed governance arrangements which would be fed back to Full Council for final determination.*

*Rob Larkman, CCG Chief Executive was pleased that three CCG members had been given voting rights but highlighted the disproportionality in relation to the number of voting members from the Council, and hoped to see greater balance on a partnership board. Rob Larkman noted the disproportionality in relation to quoracy and the requirement for three councillors and only one CCG representative to be present in order for a meeting to take place.*

*Councillor R Moher hoped that all deliberations would end in a consensus to ensure efficient partnership working for the residents of Brent.*

*Councillor HB Patel highlighted that the Board was a collaboration and felt that Brent Health Watch should also be given a vote to ensure fairness. He continued to state that the Board was an equal partnership and that all attendees should have voting rights except Council Officers.*

*Councillor R Moher noted that there were certain regulations governing committees but reiterated that the proposals before the board were a framework in which to work, but that the Board would have failed in delivering the best services for residents should a vote be needed.*

*Daksha Chauhan-Keys, representing Health Watch, echoed Councillor HB Patel's comments and highlighted that it was at the discretion of the Local Authority to allocate votes and as an equal partner felt that Health Watch should not be excluded, particularly as it was a collaborative board.*

*Rob Larkman noted that voting arrangements were symbolic however felt that by allowing three CCG voting members, Health Watch should also be given a vote to present a clear message that it was a collaborative, partnership board. Councillor R Moher drew the Board's attention to the potential for additional members to be appointed at a later stage.*

*Councillor HB Patel highlighted the statutory membership and that voting rights had been expanded beyond those who were statutory members and if the membership was expanded further then voting rights could be*

*considered. He continued to highlight that by having voting rights for all it showed a collaborative partnership arrangement for the residents.*


*Kathy Robinson, Senior Lawyer, reiterated that the discussion that took place would be presented to Full Council which would take a formal decision on voting arrangements at their meeting in September. She highlighted that the Health and Wellbeing Board was a Committee of the Council; although the statute provided for specific unusual arrangements, it left voting rights at the discretion of the Local Authority. The Senior Lawyer drew the Board's attention to the potential for the Board to make Executive decisions which were ordinarily voted upon by elected members of the Council. The Council's proposal was to achieve a balance of voting rights as far as possible, while preserving the Council's position on voting if required.*

*Councillor HB Patel noted that although the decision on voting rights was for Full Council, the Board was able to make recommendations. Councillor R Moher informed the Board that all views would be fed back to Full Council on 9 September 2013 and details on Council's decision reported to the Board at the following meeting.*

*Jo Olson highlighted that CCG may wish to review the governance arrangements of the Board should Pioneer Status be granted and decisions on budget spending be delegated to the Health and Wellbeing Board. Councillor R Moher felt it was unlikely that the Board would be required to make decisions regarding the Pioneer budget. It was highlighted that the Chief Executive was a non statutory member of the Health and Wellbeing Board.*

*RESOLVED;*

- (i) That the report be noted*
- (ii) That the views of the Board on voting rights be reported back to Full Council to inform the decision making process.*

	<p style="text-align: center;"><b>Full Council</b> 18 November 2013</p> <p style="text-align: center;"><b>Report from the Assistant Chief Executive</b></p>
<p>For Action</p>	<p style="text-align: right;">Wards Affected: ALL</p>
<p><b>North West London Joint Health Overview and Scrutiny Committee</b></p>	

## 1.0 Summary

- 1.1 At the May 2012 annual meeting Council appointed representatives to the newly formed North West London Joint Health Overview and Scrutiny Committee (JHOSC). The committee was created specifically to consider and respond to the NHS North West London consultation on the “Shaping a Healthier Future” proposals for health service changes in North West London.
- 1.2 The original consultation process is complete and the JHOSC has served its original purpose. However, now that the consultation is complete, work has begun on the implementation of the “Shaping a Healthier Future” strategy in North West London. It has therefore been proposed that the JHOSC should continue to meet, with an updated remit to scrutinise the actual implementation of the “Shaping a Healthier Future” programme across North West London. This report outlines details of the plans for the JHOSC and its new remit.

## 2.0 Recommendations

- 2.1 That Council appoints a Joint Health Overview and Scrutiny Committee (JHOSC) along with Ealing, Hammersmith and Fulham, Harrow, Hounslow, Kensington and Chelsea, Richmond and Westminster, in order to monitor the implementation of the “Shaping a Healthier Future” reconfiguration of health services across North West London.
- 2.2 That Council agrees to nominate one voting member to the JHOSC, plus one alternate member who will be able to vote.

- 2.3 That Council agrees to delegate to the JHOSC the scrutiny powers in relation to health services in North West London as set out in the draft Terms of Reference at Appendix 1
- 2.4 That Council agrees that none of the functions or powers of the Council either individually or jointly, under Regulation 23 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 be delegated to the JHOSC.
- 2.5 That Council will review its membership of the JHOSC on an annual basis at its annual meeting at which time it will also agree the Council's nominated member and alternate member of the JHOSC.
- 2.6 That the Council agrees that the Constitution be amended to reflect the appointment of the JHOSC'

### **3.0 Detail**

#### Background

- 3.1 In 2012, NHS North West London undertook a public consultation on Shaping a Healthier Future, its strategy for reconfiguring health services in North West London.
- 3.2 At its annual meeting in May 2012 Council agreed to participate in the North West London Joint Overview and Scrutiny Committee to consider and respond to NHS North West London's proposals as part of this consultation.
- 3.3 The other members of this committee were: Ealing, Hammersmith and Fulham, Harrow, Hounslow, Kensington and Chelsea, Richmond, Westminster, Camden and Wandsworth.
- 3.4 The JHOSC submitted a report to NHS North West London in October 2012. On 3rd September 2013 the JHOSC met to receive feedback from the NHS (now the North West London Collaboration of Clinical Commissioning Groups). This means that the JHOSC has now served its original purpose.

#### Continuing scrutiny

- 3.5 One of the recommendations in the JHOSC's report of October 2012 was that the JHOSC should provide continuing scrutiny of the development of Shaping a Healthier Future proposals. To this end, at a meeting on 3rd September 2013, the committee voted in favour of continuing to meet to scrutinise the Shaping a Healthier Future implementation plans.
- 3.6 Whereas the JHOSC's original purpose was to consider the Shaping a Healthier Future proposals and respond to the consultation, the primary purpose for the new role of the JHOSC, under its updated Terms of Reference, will be to scrutinise the actual implementation of the programme.

- 3.7 The JHOSC will be able to take a wider view of the Shaping a Healthier Future implementation proposals and plans across North West London as a whole, and look at their wider impact in a way that local scrutiny would not necessarily do.
- 3.8 Two participants in the original JHOSC (Camden and Wandsworth) have chosen not to continue as part of the committee from hereon in. These two boroughs are, geographically, on the outskirts of the area affected by Shaping a Healthier Future and felt that the impact on their boroughs was not enough to warrant continued involvement.
- 3.9 The other boroughs from the original JHOSC have all indicated that they intend to remain part of the extended JHOSC. These are: Ealing, Hammersmith and Fulham, Harrow, Hounslow, Kensington and Chelsea, Richmond and Westminster.
- 3.10 The draft new Terms of Reference for the JHOSC are attached at Appendix 1.
- 3.11 Since the remit and scope of the extended JHOSC is beyond that approved for the original JHOSC, Council will need to formally approve continued participation in this committee arrangement.

#### Local scrutiny

- 3.12 While there are clear advantages to monitoring Shaping a Healthier Future on a wider geographical basis, there is also clearly a need to continue monitoring the Shaping a Healthier Future implementation locally. In particular:
- Each CCG in the North West London consortium has its own Out of Hospital Strategy, which underpins the Shaping a Healthier Future plans. The scrutiny of Brent CCG's Out of Hospital Strategy is clearly something that needs to be done at a local level.
  - There continue to be concerns over long term plans for services at Central Middlesex Hospital. Again this is an issue that the Council would want to scrutinise locally.
- 3.13 The council's own Health Partnerships Overview and Scrutiny Committee will continue to scrutinise Shaping a Healthier Future and other health issues locally and membership of the JHOSC should not in any way preclude normal local scrutiny.

#### Duration of the JHOSC

- 3.14 It is anticipated that the JHOSC will continue until April 2018, to mirror the implementation schedule for the Shaping a Healthier Future programme.
- 3.15 Given the duration of the JHOSC, it would be prudent to review the council's membership periodically to assess how effective and relevant the committee is proving to be. The Council will therefore need to review its membership of

the JHOSC on a yearly basis at the annual meeting of the Council. The first review should therefore be at the annual meeting in 2014.

- 3.16 The nominated member and alternate member of the JHOSC, for the coming year, will also be agreed at the annual meeting; to align with other committee membership nominations.

#### **4.0 Financial Implications**

- 4.1 None

#### **5.0 Legal Implications**

- 5.1 The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 provide that two or more local authorities may appoint a joint committee of those authorities and arrange for relevant functions to be exercisable by the joint committee subject to such terms and conditions as the authorities may consider appropriate.

Regulation 23 provides that where two or more Councils are consulted on a substantial development or substantial variation of the health service in their area the Councils must appoint a joint committee for the purpose of that consultation and only that joint committee can provide feedback. Where the proposals and consultation only affects one local authority no such joint committee is required to be established. The Regulations also provide that where the power to refer to the Secretary of State has been delegated by a Council to a joint committee the Council cannot then discharge that function. In the proposed arrangements it is made apparent that none of the functions under Regulation 23, whether they be joint or individual, will be the remit of the JHOSC.

The JHOSC established in May 2012 was specifically for the purpose of those Councils being consulted upon and providing feedback on 'Shaping a Healthier Future' proposals. This is now completed and accordingly if joint working is to continue, new arrangements need to be made.

#### **6.0 Diversity Implications**

- 6.1 None

**Background Papers:** Appendix 1: Draft Terms of Reference

##### **Contact Officers**

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## **North West London Joint Health Overview and Scrutiny Committee**

### **CONSTITUTION**

#### **Membership**

One nominated voting member from each Council participating in the North West London Joint Health Overview and Scrutiny Committee (JHOSC), plus one alternate member who can vote  
The committee will require at least six members in attendance to be quorate.

#### **Chair and Vice Chair**

The JHOSC will elect its own chair and vice chair.

Elections will take place on an annual basis each May, or as soon as practical thereafter, such as to allow for any annual changes to the committee's membership. The current chair will remain as chair until the next election, in June 2014 (after the 2014 Local Government elections) or as soon as practical thereafter.

#### **Duration**

The JHOSC will continue until March 2018, to match the planned implementation timeframe for the Shaping a Healthier Future programme. During this period, the committee will also hold an annual review in May each year, or as soon as practical thereafter, where it will consider and decide whether there is a need for the JHOSC to continue or whether it has fulfilled its remit and should terminate earlier than 2018. This does not preclude individual local authorities from leaving the JHOSC before this date. Should there be any proposals for a JHOSC beyond this date, this would need to be considered by each participating authority in line with its own constitution and policies.

#### **Terms of Reference**

The JHOSC will perform the following functions:

1. To scrutinise the 'Shaping a Healthier Future' reconfiguration of health services in North West London; in particular the implementation plans and actions by the North West London Collaboration of Clinical Commissioning Groups (NWL CCGs), focussing on aspects affecting the whole of North West London.
2. To review and scrutinise decisions made or actions taken by NWL CCGs and/or other NHS service providers, in relation to the 'Shaping a Healthier Future' reconfiguration, where appropriate.



3. To make recommendations to NWL CCGs, NHS England, or any other appropriate outside body in relation to the 'Shaping a Healthier Future' plans for North West London; and to monitor the outcomes of these recommendations where appropriate.
4. To require the provision of information from, and attendance before the committee by, any such person or organisation under a statutory duty to comply with the scrutiny function of health services in North West London.

The stated purpose of the JHOSC is to consider issues arising as a result of the Shaping a Healthier Future reconfiguration of health services, taking a wider view across North West London than might normally be taken by individual Local Authorities. Individual local authority members of the JHOSC will continue their own scrutiny of health services in, or affecting, their individual areas (including those under 'Shaping a Healthier Future'). Participation in the JHOSC will not preclude any scrutiny or right of response by individual boroughs.

In particular, and for the sake of clarity, this joint committee is not appointed for and nor does it have delegated to it any of the functions or powers of the local authorities, either individually or jointly, under Section 23 of the local authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.



**Council**  
18 November 2013

**Report from the Director of  
Regeneration and Major Projects**

For Action

Wards affected:  
ALL

**Council Tax – Approval of Discretionary Discounts**

**1.0 Summary**

- 1.1 As from 1 April 2013 local authorities were given the discretion to set discounts and premiums for certain classes of Council Tax properties. These classes included properties that have been empty for less than 6 months, long term empty properties, second homes and properties that are empty and uninhabitable. At the full council meeting on 10 December 2012 the council agreed the discounts and premiums that would be applicable to these classes for 2013/14.
- 1.2 This report details the classes and discounts currently applicable and seeks the approval of the discounts and premiums to be applied to these classes for 2014/15, including changes to the discount for properties requiring major repair works or structural alterations to bring them back into a habitable condition.

**2.0 Recommendations**

- 2.1 That the discount applicable to former exemption "Class A" properties (Discount Class D) be reduced from 50% to 0% from 1/4/2014;
- 2.2 That the discounts and premiums applicable to the other classes (Discount Class C, second homes and long term empty properties) remain unchanged for 2014/15 as detailed in paragraph 3.2.

### 3.0 Detail

- 3.1 The Local Government Finance Act 2012 gave local authorities the discretion to apply a discount to certain classes of property that were either previously exempt or subject to a statutory discount. This discretion came into effect from 1 April 2013 and the council decided on this at its meeting on 10 December 2012. This was dealt with in conjunction with the decision agreeing the council tax reduction scheme (council tax support), the additional income from the changes to the discounts being used to offset part of the cost of funding the reduction scheme.
- 3.2 Briefly the changes agreed by the council were:
- Class A exemptions (i.e. properties requiring major repair works or structural alterations to bring them back into a habitable condition) used to attract up to a 12 month exemption. This exemption was abolished and instead replaced with a Council Tax discount Class "D". This enabled local authorities the discretion to award a discount within a range of 0% to 100% for the 12 month period. The Council elected to award a 50% discount from 1/4/2013.
  - Class C exemptions (i.e. unoccupied and unfurnished properties) formerly entitled their owners a six month exemption period. This exemption was abolished and instead replaced with a Council Tax discount Class "C". This enabled local authorities the discretion to award a discount within a range of 0% to 100% for the 6 month period. The Council elected to award a 0% discount from 1/4/2013.
  - Second homes discount (empty furnished properties, including both genuine second homes and rented properties vacant between tenancies) used to entitle owners of the property concerned to a discount of 10%. The changes enabled the council to remove the discount entirely which was agreed.
  - Long-term empty properties (empty more than 2 years) were subject to payment of full Council Tax. The changes permitted LA's to apply a premium after the property has been empty for over two years of up to 150% of the Council Tax liability to encourage their owners to bring them back into use. The council agreed to levy this 150% premium.
- 3.3 It was forecast that these changes would raise an additional £1.2M in 2014/15 as well as reducing the number of empty properties within Brent. The amount of Council Tax lost due to exemptions has indeed fallen by £1.2M (after taking into account the GLA share) as a result of reducing the discounts and increasing the premium on long term empty properties. In addition the number of empty properties within these classes has fallen from 2,029 to 1,179, a reduction of 840. However as the charges for empty properties is in effect the same as for occupied properties some of this reduction may be due to owners failing to advise us of the property being empty. These changes have been generally accepted by those affected, there being little adverse reaction.
- 3.4 The one class where there has not been a significant drop in numbers is Class A – those that are empty due to them requiring structural works or major

repairs to make them habitable. As at end of October there were 356 properties receiving this discount whereas at the same time last year there were 400. As the council is faced with further cuts in its budget over the coming years it seems appropriate to review the level of discount granted to this class.

- 3.5 If the discount on this class was reduced from 50% to 0% this would produce forecast savings of £235,000 based on the number of properties currently receiving this discount. In addition there would not be the need to visit these properties in order to both determine their entitlement and to check their on going status, this resulting in some administrative savings. It can be argued that there is no reason why these should benefit from a discount any more than an empty property in a reasonable state of repair. In addition with property prices rising faster in London than anywhere else in the country the owners of these properties are benefitting from this windfall. The removal of the discount may encourage owners to carry out the works more speedily or even consider selling the property, both will result in the empty property being brought back into use quicker,
- 3.7 An Equality Impact Assessment was carried out a year ago when the changes to these discounts were originally agreed. Limited information is available on the Council Tax database and therefore it is not possible to analyse the potential impacts by ethnicity, race, faith, gender and sexuality. The findings have been reviewed but the conclusions from the original assessment remain:
- The changes affect non-resident owners. There is no evidence to suggest any particular group will be disadvantaged by the changes.
  - The highest density of affected properties are in the least diverse wards within the Borough (e.g. Brondesbury Park and Mapesbury) with the fewest tending to be in those areas that are most diverse, (e.g. Stonebridge and Harlesden),
  - One of the significant effects of the changes is to encourage the use of empty properties and thus increase the housing supply,
  - The changes can only have a positive affect on the residents of Brent as it will help to negate the impacts of the reductions in funding to Council services

#### **4.0 Financial Implications**

- 4.1 Any additional income from these changes is shared between the council (77.5%) and the GLA (22.5%). By reducing the discount applicable to Class A (Discount Class D) from 50% to 0% this would raise additional charges of £300,000 based on the current number of properties in this class. Brent's share of this would therefore be £235,000. This additional income would be used to help meet the savings required to balance the Council's overall budget for 2014/15

#### **5.0 Legal Implications**

- 5.1 Sections 11 and 12 of the Local Government Finance Act 2012 gives billing

authorities the discretion to vary the discounts applicable to specific classes of empty property, second homes and long term empty properties with effect from 1/4/2013 as follows:

- Class A exemptions (i.e. properties requiring major repair works or structural alterations to bring them back into a habitable condition). These were exempt from Council Tax for up to 12 months. This was abolished from 1 April 2013 and replaced with a Council tax discount Class "D". The change in statute permits Local Authorities to award a discount within a range of 0% to 100% for the 12 month period. For the 2013/14 financial year, the Council chose to award a 50% discount for this Class D. This report seeks Full Council's approval to award a 0% discount for 2014/15 for this Class D.
- Class C exemptions (i.e. unoccupied and unfurnished properties) which previously entitled their owners up to a six month exemption from Council Tax. This was abolished from 1 April 2013 and replaced with a Council tax discount Class "C". The change in statute permits Local Authorities to award a discount or discounts within the range of 0% to 100% for specified periods of time within the 6 month period. From 1 April 2013, the Council has chosen to award a 0% discount.
- Second homes (class "B") discount (empty furnished properties, including both second homes and rented properties vacant between tenancies). A discount of between 10% and 50% was permitted by statute until 31 March 2013, the Council awarded a 10% discount up until 31 March 2013. However the change in statute now permits a discount of between 0% and 50% for these homes from 1<sup>st</sup> April 2013 and from that date, the Council has chosen to award 0% discount.
- Long-term empty properties currently require their owners to make full payment of Council Tax. The statute permits Local Authorities to apply a multiplier or premium after the property has been empty for over two years of up to 150% of the Council Tax liability to encourage their owners to bring them back into use. However it should be noted that this provision allows the Government to make regulations exempting certain properties from this premium providing certain criteria are met.

5.2 The above-mentioned changes to the Council's Council Tax discounts and exemptions can only be made by Full Council. It is important that these are agreed now so that they can be incorporated into the tax base report to be presented to General Purposes Committee in January 2014.

## **6.0 Diversity Implications**

6.1 An equality impact assessment was carried out in 2012 when these changes were originally considered. The changes have generally been accepted by all groups and have resulted in there being fewer empty properties. It is envisaged that the impacts of the proposed change to the discount applicable to Class "D" (uninhabitable empty properties) will not be any different to the findings of a year ago:-

- The changes affect non-resident owners. There is no evidence to suggest any particular group will be disadvantaged by the change.
- The properties are fairly evenly spread throughout the borough

- The changes will encourage owners to bring their properties into a decent state of repair and making them available for use

## **Background Papers**

Report to Council 10 December 2012 – Local Council Tax Support Scheme and Changes to Council Tax Discounts and Exemptions

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 <p><b>Brent</b></p>	<p style="text-align: center;"><b>Council</b> 18 November 2013</p> <p style="text-align: center;"><b>Report from the Chief Finance Officer</b></p>
<p style="text-align: right;">Wards Affected: ALL</p>	
<p><b>2013/14 Mid-Year Treasury Report</b></p>	

## 1. SUMMARY

- 1.1 This report updates Members on recent treasury activity.

## 2. RECOMMENDATION

- 2.1 Full Council is asked to note the 2013/14 mid-year Treasury report as also submitted to the Executive and Audit Committee.

## 3. DETAIL

### BACKGROUND

- 3.1 The Executive's Treasury Management Strategy is underpinned by the adoption of the Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management 2011, which includes the requirement for determining a treasury strategy on the likely financing and investment activity for the forthcoming financial year.
- 3.2 The Code also recommends that Members are informed of Treasury Management activities at least twice a year. This report therefore ensures this authority is embracing Best Practice in accordance with CIPFA's recommendations.
- 3.3 Treasury Management is defined as: "The management of the local authority's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks."
- 3.4 In addition to reporting on risk management, the Code requires the Authority to report on any financial instruments entered into to manage treasury risks.

### ECONOMIC BACKGROUND

- 3.5 Growth rates have risen in most major economies in the last six months. The US and Germany continue to grow slowly and the Eurozone as a whole has started to experience slow growth. The UK is now growing comparatively quickly (0.7% growth in the second quarter of 2013) although sustained growth is still to

be delivered. Some developing economies are experiencing reduced growth compared to recent years. However, inflation in the UK is still largely under control with annual growth in the Consumer Price Index currently at 2.7%.

- 3.6 Gilt yields fluctuated in a narrow range for the first half of the year with a slight upward trend but suggestions that the Federal Reserve was on the verge of starting to unwind Quantitative Easing caused interest rates to rise by up to 1% over the summer. The movement in rates at which local authorities can borrow from the Public Works Loans Board (PWLB) is set out in the table below:

Period	March 2013	September 2013
1 year	0.9%	1.1%
5 year	1.6%	2.3%
10 year	2.6%	3.5%

The Federal Reserve's stance seemed to be more influential than the Bank of England's new regime of forward guidance in the short term, as the major moves over the summer reflected developments in the US rather than the UK. Eurozone markets were calm, but the feeling amongst many commentators was that this owed much to the natural summer pause and the (then) approaching election in Germany, and that there are still fundamental problems to be solved in many European economies.

- 3.7 The interest rate the Council receives on money market funds has changed little for 1-12 month maturities during the first half of the year at 0.4%.

#### DEBT MANAGEMENT

- 3.8 The Authority continues to qualify for borrowing at the 'Certainty Rate' (0.20% below the PWLB standard rate). This is reviewed on an annual basis and has been confirmed as applying until 31 October 2014.
- 3.9 Alternative sources of long term funding to long-dated PWLB borrowing are available, but the Council will continue to adopt a cautious and considered approach to funding from the capital markets as the affordability, simplicity and ease of dealing with the PWLB represents a strong advantage. No long term loans have been raised so far this year as is shown in the table below:

	Balance on 01/04/2013 £m	Debt Repaid £m	New Borrowing £m	Balance on 30/09/2013 £m
Short Term Borrowing	0.0	67.0	97.4	30.4
Long Term Borrowing	432.3	2.1	0.0	430.2
TOTAL BORROWING	432.3	69.1	97.4	460.6
Average Rate %	4.69			4.41

- 3.10 Affordability and the "cost of carry" remained important influences on the Council's borrowing strategy alongside the consideration that, for any borrowing undertaken ahead of need, the proceeds would have to be invested in the money markets at rates of interest significantly lower than the cost of borrowing.
- 3.11 For the Council the use of internal resources in lieu of borrowing has continued to be the most cost effective means of funding capital expenditure. This has lowered overall treasury risk by reducing both external debt and temporary investments. However this position will not be sustainable over the medium term and the Council will need to give careful consideration to its future capital programme and how this is financed in due course. Borrowing options and the

timing of such borrowing will continue to be assessed in conjunction with the Council's treasury advisor, Arlingclose.

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

### **INVESTMENT ACTIVITY**

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

	Balance on 01/04/2013 £m	Investments Made £m	Investments Repaid £m	Balance on 30/09/2013 £m
Short Term Investments	64.7	342.7	305.7	101.7

- 3.14 Security of capital has been maintained by following the Council's counterparty policy as set out in its Treasury Management Strategy Statement for 2013/14. New investments were made with the following classes of institutions:

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

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

### **BUDGETED INCOME AND OUTTURN**

- 3.16 The Council's financing charges budget for the year is £26.7m, net of investment income of £0.6m and the latest estimate is that the Council will achieve this figure. The average cash balances, representing the Council's reserves and working balances, were £91m during the period.
- 3.17 The UK Bank Rate has been maintained at 0.5% since March 2009 and is not expected to rise until 2016. Short-term money market rates have remained at very low levels.

### **ICELANDIC BANK INVESTMENT UPDATE**

#### **Glitnir**

- 3.18 On 16 March 2012 the Council received £4m of its original £5m deposit. A further £1m remains in a ring-fenced account in Icelandic Krone, pending a decision of the Icelandic Central Bank to enable its return. At present the residual deposit is earning interest although the final sum returned to the Council will be affected by currency movements.

#### **Heritable**

- 3.19 The Council received £1.7m in August 2013, which means that only £0.6m of the original £10m deposit now remains outstanding. It is expected that further distributions will be made although there is no indication as to likely amounts.

## **COMPLIANCE WITH PRUDENTIAL INDICATORS**

- 3.20 Officers confirm that they have complied with its Prudential Indicators for 2013/14, which were set in February 2013 as part of the Council's Treasury Management Strategy Statement (TMSS). Details can be found in Appendix 1.

## **OUTLOOK**

- 3.21 At the time of writing this activity report in October 2013, economic growth remains slow but consistent. Tight credit conditions and weak earnings growth, as well as restrictive fiscal policy, are constraining consumer and corporate spending, but growth in real earnings is expected to resume in 2014. The outlook is for official interest rates to remain low for an extended period. Gilt yields rose in response to improved economic news and the prospect of an end to Quantitative Easing in the United States, but only limited rises are anticipated over the next two years. Markets will continue to be affected by the potential for a US sovereign default, although the recent agreement to suspend the debt ceiling until 7 February 2014 provides further time for agreement on the US budget.

## **SUMMARY**

- 3.22 In compliance with the requirements of the CIPFA Code of Practice this report provides Members with a summary report of the treasury management activity during the first half of 2013/14. As indicated in this report none of the Prudential Indicators have been breached and a prudent approach has been taken in relation to investment activity with priority being given to security and liquidity over yield.

## **4. FINANCIAL IMPLICATIONS**

These are covered in the report.

## **5 DIVERSITY IMPLICATIONS**

None.

## **6 STAFFING IMPLICATIONS**

None.

## **7 LEGAL IMPLICATIONS**

None.

## **8 BACKGROUND**

Annual Treasury Strategy – Report to Full Council as part of the Budget Report – February 2013.

Persons wishing to discuss the above should contact the Anthony Dodridge Treasury and Pension Investments Section, Finance, on 020 8937 1472/74 at Brent Civic Centre.

CONRAD HALL  
Chief Finance Officer

## Appendix 1

### Capital Financing Requirement

Estimates of the Council's cumulative maximum external borrowing requirement for 2013/14 to 2015/16 are shown in the table below (excluding Private Finance Initiative schemes):

	31/03/2013 Actual £m	31/03/2014 Estimate £m	31/03/2015 Estimate £m	31/03/2016 Estimate £m
CFR	559	559	559	552

### Usable Reserves

Estimates of the Council's level of Usable Reserves for 2013/14 to 2015/16 are as follows:

	31/03/2013 Actual £m	31/03/2014 Estimate £m	31/03/2015 Estimate £m	31/03/2016 Estimate £m
Usable Reserves	58	35	24	21

### Prudential Indicator Compliance

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

The Local Government Act 2003 requires the Council to set an Authorised Borrowing Limit. This is a statutory limit which should not be breached. The Council's Authorised Borrowing Limit was set at £800m for 2013/14. The Operational Boundary is based on the same estimates as the Authorised Limit but reflects the most likely, prudent but not worst case scenario without the additional headroom included within the Authorised Limit. The Operational Boundary for 2013/14 was set at £700m. The Chief Finance Officer confirms that there were no breaches to the Authorised Limit or the Operational Boundary so far this year; borrowing at its peak was £466m.

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

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

	Limits for 2013/14	Maximum during 2013/14
Upper Limit for Fixed Rate Exposure	100%	100%
Upper Limit for Variable Rate Exposure	40%	0%

## Maturity Structure of Fixed Rate Borrowing

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

Maturity Structure of Fixed Rate Borrowing	Upper Limit %	Lower Limit %	Actual Fixed Rate Borrowing as at 30/09/13 £m	% Fixed Rate Borrowing as at 30/09/13	Compliance with Set Limits?
Under 12 months	40	0	34	7	Yes
12 months and within 24 months	20	0	4	1	Yes
24 months and within 5 years	20	0	13	3	Yes
5 years and within 10 years	60	0	25	5	Yes
10 years and above	100	0	385	84	Yes

## Net Debt and the CFR

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

The Authority had no difficulty meeting this requirement so far in 2013/14, nor are there any difficulties envisaged for future years. This view takes into account current commitments, existing plans and the proposals in the approved budget.

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

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

The limit for 2013/14 was set at £20m.

The Council's practice since the onset of the credit crunch in 2007 has been to keep investment maturities to a maximum of 12 months. At 30 September, the last maturity date in the deposits portfolio was 1 July 2014.

## Credit Risk

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

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

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

The Council can confirm that all investments were made in line with a minimum long term credit rating of A- or equivalent, as set in the 2013/14 TMSS.

#### **HRA Limit on Indebtedness**

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

HRA Limit on Indebtedness	31/03/2013 Actual £m	31/03/2014 Estimate £m	31/03/2015 Estimate £m	31/03/2016 Estimate £m
HRA CFR	137	141	141	141
HRA Debt Cap (as prescribed by CLG)	199	199	199	199
Difference	62	58	58	58



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