



Audit and Standards Advisory Committee

Tuesday 11 December 2018 at 6.00 pm

Boardrooms 7&8 - Brent Civic Centre, Engineers Way,
Wembley HA9 0FJ

Membership:

Members

David Ewart (Chair)

Councillors:

A Choudry (Vice-Chair)
Donnelly-Jackson
Kansagra
Naheerathan
Nerva

Substitute Members

Councillors:

Kabir, Lo, Long and Stephens

Councillors:

Colwill and Maurice

Independent Members

Margaret Bruce
Robert Cawley
Sheila Darr
Karen McArthur

Independent Advisor

Vacancy

For further information contact: Nikolay Manov, Governance Officer
Tel: 020 8937 1348; Email: nikolay.manov@brent.gov.uk

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www.brent.gov.uk/committees

The press and public are welcome to attend this meeting.

Notes for Members - Declarations of Interest:

If a Member is aware they have a Disclosable Pecuniary Interest* in an item of business, they must declare its existence and nature at the start of the meeting or when it becomes apparent and must leave the room without participating in discussion of the item.

If a Member is aware they have a Personal Interest** in an item of business, they must declare its existence and nature at the start of the meeting or when it becomes apparent.

If the Personal Interest is also significant enough to affect your judgement of a public interest and either it affects a financial position or relates to a regulatory matter then after disclosing the interest to the meeting the Member must leave the room without participating in discussion of the item, except that they may first make representations, answer questions or give evidence relating to the matter, provided that the public are allowed to attend the meeting for those purposes.

***Disclosable Pecuniary Interests:**

- (a) **Employment, etc.** - Any employment, office, trade, profession or vocation carried on for profit gain.
- (b) **Sponsorship** - Any payment or other financial benefit in respect of expenses in carrying out duties as a member, or of election; including from a trade union.
- (c) **Contracts** - Any current contract for goods, services or works, between the Councillors or their partner (or a body in which one has a beneficial interest) and the council.
- (d) **Land** - Any beneficial interest in land which is within the council's area.
- (e) **Licences** - Any licence to occupy land in the council's area for a month or longer.
- (f) **Corporate tenancies** - Any tenancy between the council and a body in which the Councillor or their partner have a beneficial interest.
- (g) **Securities** - Any beneficial interest in securities of a body which has a place of business or land in the council's area, if the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body or of any one class of its issued share capital.

****Personal Interests:**

The business relates to or affects:

- (a) Anybody of which you are a member or in a position of general control or management, and:
 - To which you are appointed by the council;
 - which exercises functions of a public nature;
 - which is directed is to charitable purposes;
 - whose principal purposes include the influence of public opinion or policy (including a political party or trade union).
- (b) The interests of a person from whom you have received gifts or hospitality of at least £50 as a member in the municipal year;

or

A decision in relation to that business might reasonably be regarded as affecting the well-being or financial position of:

- You yourself;
- a member of your family or your friend or any person with whom you have a close association or any person or body who is the subject of a registrable personal interest.

Agenda

Introductions, if appropriate.

Item	Page
1 Apologies for absence and clarification of alternate members	
2 Declarations of Interest Members are invited to declare at this stage of the meeting, the nature and existence of any relevant disclosable pecuniary or personal interests in the items on this agenda and to specify the item(s) to which they relate.	
3 Deputations (if any) To hear any deputations received from members of the public in accordance with Standing Order 67.	
4 Minutes of the previous meeting To approve the minutes of the previous meeting as a correct record.	1 - 10
5 Matters arising (if any) To consider any matters arising from the minutes of the previous meeting.	

Standards Items

6 Quarterly Update on Gifts and Hospitality	11 - 16
The report updates the Audit and Standards Advisory Committee on gifts and hospitality registered by Members and a recent case involving the Freedom of Information Act and Independent Persons.	

Ward Affected:
All Wards

Contact Officer: Debra Norman
Director of Legal and HR
Email: debra.norman@brent.gov.uk
Tel: 020 8937 1578

Audit Items

7 Planning Code of Practice Review update 17 - 52

The report updates the Committee on the outcome of the Independent Review, and the consequential recommended changes, in relation to the Planning Code of Practice. This review is required under the Constitution.

Ward Affected:
All Wards

Contact Officer: Debra Norman
Director of Legal and HR
Email: debra.norman@brent.gov.uk
Tel: 020 8937 1578

8 External Audit Progress Report 53 - 64

The paper provides the Audit and Standards Advisory Committee with a report on progress in delivering Grant Thornton's responsibilities as the Council's external auditors. It also includes a summary of emerging national issues and developments that may be relevant to Brent as a local authority.

9 Internal Audit External Quality Assessment 65 - 70

The report provides an update to the Audit and Standards Advisory Committee on the findings of an external quality assessment that has been carried out of the Brent Internal Audit Service.

Ward Affected:
All Wards

Contact Officer: Michael Bradley
Head of Audit and Investigations
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Tel: 020 8937 6526

10 Forward Plan and Agenda for the Next Meeting 71 - 72

To note the Committee's Forward Plan and agree a draft agenda for the next meeting, which would be reviewed and finalised by the Chief Finance Officer, the Head of Audit and Investigations and the Chair of the Committee.

Ward Affected:
All Wards

Contact Officer: Conrad Hall
Chief Finance Officer
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Tel: 020 8937 6528

11 Any other urgent business

Notice of items to be raised under this heading must be given in writing to the Head of Executive and Member Services or his representative before the meeting in accordance with Standing Order 60.

Date of the next meeting: Tuesday 5 February 2019



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.

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MINUTES OF THE AUDIT AND STANDARDS ADVISORY COMMITTEE Wednesday 17 October 2018 at 6.00 pm

PRESENT: Mr Ewart (Chair), Councillors A Choudry (Vice-Chair), Colwill and Nerva, and Independent Member Sheila Darr

Also Present: Councillor S Choudhary

Absent: Independent Member Margaret Bruce

Everyone introduced themselves as this was the first meeting attended by Paul Dossett (Partner, Grant Thornton - External Audit) and Sophia Brown (Senior Manager, Grant Thornton - External Audit).

1. **Apologies for absence and clarification of alternate members**

Apologies for absence were received from Councillors Kansagra (with Councillor Colwill substituting), Lo and Mashari, and Independent Members Robert Cawley and Karen McArthur.

The Chair informed Members that he had received apologies for absence from Carolyn Downs (the Council's Chief Executive).

2. **Declarations of Interest**

There were no declarations of interest.

3. **Deputations (if any)**

There were no deputations.

4. **Minutes of the previous meeting**

It was **RESOLVED** that the minutes of the previous meeting of the Audit and Standards Advisory Committee, held on 26 July 2018, be approved as an accurate record.

It was **RESOLVED** that the minutes of the meeting of the Audit and Standards Committee, held on 26 July 2018, be approved as an accurate record.

5. **Matters arising (if any)**

External Audit Report on grants and returns 2016/2017

(Item 9 from the minutes of the meeting of the Audit Advisory Committee on 20 March 2018)

It was noted that a written update on the implementation of the action plan created by the Housing Benefit Team to address the findings of the External Audit Report on grants and returns 2016/17 had been circulated to all Members.

Report on i4B Holdings Ltd and First Wave Housing Ltd

(Item 8 of the minutes of the minutes of the previous meeting)

The Chair informed Members that Eugene Sullivan (Former Independent Advisor the Committee) had sent his comments related to aligning the risks for i4B Holdings Ltd and the Council to Carolyn Downs (the Council's Chief Executive) and Conrad Hall (the Council's Chief Finance Officer) who would provide a response.

Independent Advisor to the Committee

The Chair informed Members that Mr Sullivan had resigned due to ill health. The Committee placed on record their appreciation of the support he had provided to the Committee throughout the years he had served as an Independent Member and an Independent Advisor.

Members discussed the value Independent Members added to the wide range of topics discussed by the Committee and were in unanimous agreement that the vacancy that had been created following Mr Sullivan's resignation must be filled. It was noted that there were four Independent Members who had joined the Committee following its merger with the former Standards Committee and who supported Elected Members by providing a different perspective and robust challenge to the matters considered by the Committee. Therefore, a preference for a person with commercial operational background who had a solid finance understanding was expressed. Furthermore, Members pointed out that it would be preferable for the Independent Adviser to live within commutable distance from the Council so informal discussions with Members and senior officers could take place as and when necessary.

Paul Dossett (Partner, Grant Thornton – External Audit) acknowledged that Independent Members added value to audit committees and noted that a financial management code for Chief Finance Officers which was drafted by the Chartered Institute of Public Finance and Accountancy (CIPFA) contained a section on the effectiveness of audit committees and emphasised the importance of self-assessment.

Althea Loderick (the Council's Strategic Director of Resources) added that the specification of the role could be shared with professional head hunter companies which specialised in recruiting non-executive members with specific qualifications as this would provide a good opportunity to source the right type of candidates.

Mr Hall noted the contents of the discussion and said that he would make the necessary arrangements to start the recruitment process, the structure of which would be agreed in consultation with the Chair and the Vice-Chair of the Committee.

RESOLVED that:

- (i) An Independent Advisor to the Committee would be recruited;
- (ii) The Chief Finance Officer, in consultation with the Chair and the Vice-Chair of the Committee, would design the recruitment process and would make the necessary arrangements to initiate it.

2017/18 Treasury Management Outturn Report

(Item 10 of the minutes of the minutes of the previous meeting)

The Chair noted that a Mid-Year Treasury Report had been included under Agenda item 7 of the present meeting.

Counter Fraud Annual Report 2017/18

(Item 12 of the minutes of the minutes of the previous meeting)

The Committee heard that the average value of each recovered property had been adjusted to reflect the actual value in the Borough.

Risk Management Framework Review

(Item 14 of the minutes of the minutes of the previous meeting)

The Chair informed Members that senior managers had been supportive of the the Risk Management Strategy. It had been discussed at Departmental Team Meetings (DMTs) and it would be presented to the Council Management Team (CMT) in December 2018, following which a report would be provided to the Committee at the meeting on 5 February 2019.

Councillor Aden was in attendance at the meeting between 6:03 pm and 6:10 pm.

Councillors S Choudhary and Colwill joined the meeting at 6:03pm and 6:08 pm respectively.

6. Annual Audit Letter 2017/2018

The Chair informed the Committee that Andy Sayers (Partner, KPMG – the Council's former external auditor) had written to him and read out the contents of the Mr Sayer's email. He reminded Members that it was requirement for the Committee to consider the Annual Audit Letter 2017/2018 which contained a summary of the ISA260 report discussed at the meeting on 26 July 2018. The Committee heard the accounts for the last three years had not been fully signed because of an objection related to the Lender Option Borrower Option (LOBO) loans (page 23 of the Agenda pack). The Chair noted that at the previous committee meeting Mr Sayers had said that he expected work on the objection to have reached the final stage by October 2018. However, where provisional views had been issued by other Local Authorities, queries had been raised in relation to the consideration of certain case law. Therefore, KPMG would be taking legal

advice as to whether the points that had been made had merit and should be reflected in KPMG's work on the objection.

Paul Dossett (Partner, Grant Thornton – External Audit) commented that there had been other local authorities with inverse floating LOBOs whose audits had not been certified closed.

The Committee noted that delivery of budgets and contract monitoring had been identified as areas of audit focus in relation to Value for Money.

RESOLVED that the contents of the Annual Audit Letter 2017/2018, be noted.

7. 2018/2019 Mid-Year Treasury Report

Sawan Shah (Finance Analyst at Brent Council) introduced the report which provided an update on Treasury Management Activity in the first half of the 2018/19 financial year. Mr Shah spoke of the economic background in the United Kingdom (UK) and said that the economy had been recovering in the second quarter of the financial year following very low growth in the first quarter and had been growing at roughly the same pace as the economy of the European Union (EU), with growth in the United States of America (USA) had been stronger. Although the latest figures showed that inflation had dropped to 2.4% and wages had grown by around 3%, the impact of the UK leaving the EU continued to cause uncertainty.

The Committee heard that there was no new borrowing required over the course of the current financial year and the Council's long-term debt had been reduced slightly. Furthermore, Brent continued to qualify for borrowing at 'certainty rate' until 31 October 2018 and an application for the period November 2018 to October 2019 had been made (paragraph 3.9 on page 29 of the Agenda pack).

Mr Shah advised Members that the Council's Capital Programme continued to be funded by internal borrowing and that a report on cash flow borrowing had been considered by Cabinet. A significant amount of capital expenditure had been allocated to one of the Council's wholly owned investment companies – i4B Holdings Limited – and the New Accommodation for Independent Living (NAIL) scheme.

An Elected Member who was in attendance at the meeting enquired whether it could be possible to repay the Council's debt earlier than scheduled. Mr Shah explained that repaying the current long-term borrowing portfolio and then borrowing money at the current interest rates (which were lower) was possible. However, Daniel Omisore (Head of Finance at Brent Council) highlighted that the main disincentive to repay the Council's debt at the moment was the fact that the Local Authority would have to pay significant premiums which would not be financially viable. He referred Members to paragraph 3.13 of the report (page 30 of the Agenda pack) which contained an example of the cost the Council would have to cover had it decided to repay just one of its loans early. Brent would owe a 26% premium on the value of the loan before the cost of re-financing. The aims of this were to compensate the lender and to act as a penalty.

This led to a wider discussion on Brent's Borrowing Strategy which had been approved by Cabinet in September 2018. Conrad Hall (the Council's Chief Finance

Officer) pointed out that interest rates since 2010 had been under 1%. Historically this was abnormal. Although some commentators are of the view that it is the new normal. The view that the Council had taken was that interest rates in short and medium term were more likely to rise than not. Therefore, the report presented at the previous meeting of the Committee and considered by Cabinet recommended a forward borrowing option to be included as part of a wider borrowing strategy. The benefit of such an arrangement was that it allowed the Council to agree a fixed rate in advance that was broadly comparable with Public Works Loan Board (PWLb) rates. As interest payments did not commence until the loan started, the Council would be able to hedge against interest rate exposure. In response to a question that related to the policies of other local authorities, Mr Hall said that councils' approach to borrowing would depend on their individual circumstances related to their capital programmes and debt strategies. Moreover, even if it might be possible to obtain benchmarking information from Arlingclose (the Council's Treasury Management advisers), it would not be feasible to compare the figures without taking into account the financial position of each local authority.

Paul Dossett (Partner, Grant Thornton – External Audit) informed Members that a statement had been issued by the Ministry of Housing, Communities and Local Government setting out that capital expenditure on property by local government had increased significantly in the last couple of years. There had been diversification in the number of different types of funding available to support capital programmes which, on their turn, generated returns and contributed to councils meeting their social objectives. Mr Dossett added that the type of borrowing used by local authorities was linked to their strategies and their future goals.

A Member of the Committee referred to Appendix 1 to the report (page 33 of the Agenda pack) and asked officers to provide more information on the capital financing requirement (CFR) and the reason why the Council's level of Usable Reserves were forecasted to decline from £204 million to £60 million by 31 March 2021. Mr Omisore explained that the CFR measured the Council's underlying need to borrow and that the decline had been forecasted because reserves had been used to fund the capital programme explained. Members heard that the Local Authority had an ambitious programme which included funding i4B Holdings Ltd and investment in housing stock which would require it to borrow money in the next couple of years.

Mr Hall highlighted that Council had been accumulating funds as result of collecting Community Infrastructure Levy (CIL) which had not been spent. In his view, the CFR showed Brent's intention to grow its capital programme in attempt to deal with the substantial financial pressures it faced.

The Chair referred to paragraph 3.24 of the report (page 32 of the Agenda pack) and said that it was important to note that officers had complied with the Prudential Indicators for 2018/2019 which had been set in February 2018 as part of the Council's Treasury Measurement Statement. He also commented on the Internal Investments: Average Rate vs Credit Risk diagram included in Appendix 3 to the report (page 40 of the Agenda pack), pointing out that Brent's position was balanced in relation to return on internal investments and credit risk score.

RESOLVED that the contents of the 2018/2019 Mid-Year Treasury Report, be noted.

8. External Audit Progress Report

Sophia Brown (Senior Manager, Grant Thornton - External Audit) introduced the report which provided the Committee with an update on progress in delivering Grant Thornton's responsibilities as the Council's external auditors. Ms Brown noted that the paper also included a summary of emerging national issues and developments that might be relevant to Brent. She said that Grant Thornton had finished planning their work for the 2018/2019 financial year audit and directed the Committee's attention to the audit timeline included in the report (page 48 of the Agenda pack). Paul Dossett (Partner, Grant Thornton – External Audit) and Ms Brown had met with Conrad Hall (the Council's Chief Finance Officer) and his team and representatives of Grant Thornton would visit the Council in the beginning of November 2018 with the aim to understand key processes.

The Committee discussed the Brent Council – Reserves: Key Performance Indicators table included in the Council's Reserves and Balances section of the report (page 50 of the Agenda pack). Ms Brown highlighted that this part of the paper related to the discussion on the 2018/2019 Mid-Year Treasury Report (for details, please see minute item 7) and she said that the table reflected the Value for Money discussions Grant Thornton staff had with other London boroughs and, therefore, provided a good comparison on a number of indicators. In response to a Member's question, Ms Brown confirmed that the data included in the table had been calculated on crude basis and further analysis would be taken as part of Grant Thornton's work on Value for Money.

A Member who was in attendance at the meeting enquired why the Council did not spend its reserves. Mr Hall explained that the data provided represented point-in-time information. He reminded Members that although there had been delays associated with the capital programme, work had been taken place to consider ways of accelerating it and to ensure that expenditure could catch up with delivery. In his view, the Council had taken the right decision to save funds generated from the Community Infrastructure Levy (CIL) and spent it on transformation capital investment rather than on multiple small projects. Furthermore, Mr Hall emphasised that the fact that the Council was holding up to money was not concerning as the Council's reserves would normalise in a few years' time and, in fact, the Local Authority might need to borrow money to fund the capital programme.

Mr Dossett commented that having a planned programme that generated revenue was taking the Council closer to self-sufficiency which was in line with the Government's vision for local authorities. He added that following the crisis at Northamptonshire County Council, the Chartered Institute of Public Finance and Accountancy (CIPFA) had been challenged to outline the actions it had taken in response to the situation. In Mr Dossett's view, there had to be a balance between back-looking and forward-looking information and forecasting. A working group had been set up and a financial management code, which would come into force in 2020 and could be used for benchmarking, had been drafted to prescribe a set of behaviours to promote financial stability.

Referring to the size of Brent's reserves, Mr Hall pointed out that £12.3 million (compared to an average for London Boroughs of £19.6 million) was sufficient for an authority with Brent's size and risks. He stressed that for the last five years the

Council had not overspent on the overall budget which was favourable, taking into account the fact that there were authorities in London that had overspent by several million pounds. However, as small changes in demand or unit costs could put significant pressure on the budget, it was feasible to maintain the current level of reserves.

Members noted that as the financial climate became more challenging, the Council would have to make significant cuts and may even need to use some of its reserves. Mr Hall explained that if there was an overspent in the current year, it would account for nearly 10% of the existing reserves (1.5 million out of 12.3 million) and would cause a significant concern. However, there would be a bigger concern if the budget for the next financial year was not balanced as this would mean that there would be a consistent gap in the Council's finances.¹

Mr Hall said that he had given the same advice in relation to using the Council's reserves to the Leader and the Chief Executive and that he was prepared to revise it in case the risk of a consistent gap materialised.

RESOLVED that:

- (i) The contents of the External Audit Progress Report, be noted;
- (ii) The contents of the discussion on the level of the Council's reserves be noted and be reflected in the Update Report from the Vice-Chair of the Audit and Standards Advisory Committee to Full Council on 26 November 2018; and
- (iii) The level of the Council's reserves be monitored.

9. **Internal Audit Progress Report for the period April - August 2018**

Michael Bradley (the Council's Head of Audit and Investigations) introduced the report which provided an update on progress against the Internal Audit Plan for the period 1 April 2018 to 31 August 2018.

The Committee focused their attention on the completed audits from the 2018/2019 Audit Plan (Appendix 1, pages 65 and 66 of the Agenda pack) and acknowledged that the number of audits which had achieved 'reasonable' assurance had increased from previous years. However, Members raised a concern that related to the number of management actions that had been partly implemented or not implemented (Appendix 2, pages 67 and 68 of the Agenda pack). Mr Bradley explained that implementation rates had not been good in the past, hence follow up reviews were conducted. He assured the Committee that the Audit Team would revisit the status of the actions that had been highlighted.

A specific question on the findings of the Insurance audit was raised and Mr Bradley responded that there had been one high risk finding which related to the lack of contract with the supplier. He pointed out that the issue had been rectified and added that management responses, along with implementation dates, would be provided for all completed audits listed in Appendix 1 to the report.

¹ Based on the draft budget which had been consulted on, the Council needs to achieve savings amounting to £20 million as per the [report discussed at the Cabinet meeting on 15 October 2018](#).

RESOLVED that the contents of the Internal Audit Progress Report for the period April – August 2018, be noted.

10. **Counter Fraud Quarterly Progress Report 2018/19**

Michael Bradley (the Council's Head of Audit and Investigations) introduced the report which provided an update on counter fraud work for the period between 1 April 2018 and 30 September 2018. The paper covered all aspects of the work of the Counter Fraud and the Investigations teams, including internal fraud; tenancy and social housing fraud; external fraud; and proactive fraud activity. Mr Bradley said that

the average value of each recovered property had been adjusted to £93,000 to reflect the actual value in the Borough as per the Committee's recommendation.² Members also heard that the Counter Fraud Team had led on a successful proactive exercise in June 2018 which had resulted in 11 Parking Charge Notices been issued and one vehicle towed for fraudulently displaying a cancelled Blue Badge.

The Committee raised questions that related to fraud awareness, actions that had been taken to prevent fraud and tenancy and social housing fraud. Mr Bradley said that as part of a campaign to raise awareness of fraud, the Team had delivered a presentation to all school business managers which had been focused on type of fraud that could happen in schools. Furthermore, the Council's policies had been refreshed, the website had been updated and assurance on controls and process had been provided to minimise the risk of fraud. Work on tenancy and social housing fraud continued, but referrals had not reached the levels experienced two years ago which was a positive indicator. The Counter Fraud Team worked closely with Housing and registered providers and poster campaign had been taking place across the Borough.

A Member enquired how an employee and their partner were able to commit fraud amounting to £280,000 and why the management action taken had been classified as prompt. The Chair informed Members that the Committee would not be able to discuss this matter further at this time due to ongoing criminal investigation. However, he noted that the case was due to be heard at a Magistrates' Court on Tuesday 23 October 2018. Conrad Hall (the Council's Chief Finance Officer) explained that the management action had been prompt from the time the fraud had been discovered and said that further details on this matter could be provided to Members following the conclusion of the court case.

The Committee placed on record their gratitude to the Counter Fraud and Investigation teams for the work they had completed.

RESOLVED that the contents of the Counter Fraud Annual Report 2017/18, be noted.

² Resolution (iv) of Item 12 of the minutes of the Audit and Standards Advisory Committee meeting on 26 July 2018)

11. **Forward Plan and Agenda for the Next Meeting**

The Chair directed Members' Attention to the Committee's Forward Plan (page 77 of the Agenda pack). It was noted that:

- An update on the performance and management of i4B Holdings Ltd and First Wave Housing Ltd would be provided at the meeting on 5 February 2019;
- The 'Risk Management Annual review and Risk Management Strategy' item would be considered at the meeting on 5 February 2019; and
- The 'Strategic Risk Register' item would be considered at the meeting on 5 February 2019.

RESOLVED that the contents of the Audit Advisory Committee Forward Plan, be noted, subject to the comments outlined above.

12. **Any other urgent business**

None.

The meeting closed at 7.22 pm

DAVID EWART
Chair

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 Brent	Audit and Standards Advisory Committee 11 December 2018
	Report from the Director of Legal and HR Services
Quarterly Update on Standards (Gifts & Hospitality)	

Wards Affected:	All
Key or Non-Key Decision:	Not applicable
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	One: • Gifts and Hospitality Report (July-December 2018)
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Debra Norman Director of Legal and HR Email: debra.norman@brent.gov.uk Tel: 020 8937 1578 Biancia Robinson Senior Constitutional and Governance Lawyer Email: biancia.robinson@brent.gov.uk Tel: 020 8937 1544

1.0 Purpose of the Report

- 1.1 The purpose of this report is to update the Audit and Standards Advisory Committee on gifts and hospitality registered by Members and a recent case involving the Freedom of Information Act and Independent Persons.

2.0 Recommendation

- 2.1 That the Committee note the contents of the report.

3.0 Detail

Gifts and Hospitality

- 3.1 Members are required to register gifts and hospitality received in an official capacity worth an estimated value of at least £50. This includes a series of gifts and hospitality from the same person that add up to an estimated value of at least £50 in a municipal year.
- 3.2 Gifts and hospitality received by Members are published on the Council's website and open to inspection at Brent Civic Centre. A list of gifts and hospitality registered by Members from July 2018 to 3 December 2018 (the publication of this report) is attached at Appendix 1.
- 3.3 Hospitality accepted by the Mayor in his civic role are recorded separately and published on the Council's website.

Cyril Bennis v Information Commissioner & Stratford-on-Avon District Council (EA/2107/0220)

- 3.4 Bennis (the appellant) made an unsuccessful complaint of misconduct against a Councillor in relation to their handling of a planning matter.
- 3.5 The appellant then submitted a Freedom of Information Act 2000 (FOIA) request to the Council for disclosure of all correspondence relating to his complaint, including the advice it had received from one of its Independent Persons (IPs).
- 3.6 The Council provided all relevant information but withheld disclosure of the IP's advice relying on s.36 (36(2)(b)(i) - inhibition of free and frank advice and 36(2)(c) prejudice to the effective conduct of public affairs) and s40 (2) (personal data) of the FOIA 2000.
- 3.7 The appellant complained to the Information Commissioner's Office. The Information Commissioner part upheld the Council's refusal, finding that the circumstances of this case caused the balance of public interest to lie in maintaining the s. 36 exemptions.
"...with regard to s. 36(2)(b)(i), it is reasonable to consider that IPs would be constrained by the knowledge that their views in respect of allegations could be made public, which in turn would be likely to prejudice the free and frank provision of advice. With regard to s. 36 (2) (c), this may refer to an adverse effect on a public authority's ability to offer an effective public service or to meet its wider objectives or purpose. In the Council's view, it is reasonable to consider that the disclosure of the IP's views may lead to a number of outcomes, including IPs being less willing to engage frankly with the process, and including possible prejudice in the event of a further complaint being made to the LGO."
- 3.8 The appellant complained to the First Tier Tribunal (FTT). The FTT held, allowing the Council's appeal, that the Decision Notice was wrong in its assessment of the public interest test as it related to both of the exemptions relied on by the Council under s. 36 FOIA.
- 3.9 The FTT said:

“the Decision Notice thus attributed considerable weight to the argument that the IPs would be inhibited in giving robust advice if they knew that their views were to be made public, and that this would in turn prejudice the effective conduct of public affairs. However....., the Decision Notice failed when assessing the public interest balance to take into account the fact that the IP’s views would in any event have become public if a hearing had been directed.”

- 3.10 The FTT said the failure to consider this point was a material one in weighing the undoubted public interest. Further, it stated that details of unsubstantiated complaints against Councillors should not generally to be disclosed to the world at large under the provisions of the FOIA. The proper approach to such information was to consider the rights of the Councillor concerned as a data subject. Here, the Council could not disclose the Councillor’s personal data (consisting of their name and opinions expressed about them) without breaching the data protection principles and so s.40 (2) FOIA was therefore engaged. However, *“s.40 (2) FOIA could not also be applied to the personal data of the IPs, as their names were already in the public domain, they occupied senior public roles, and their views might be disclosed if there was a public hearing”*.
- 3.11 The outcome of this judgement raises two points:
- a) the ICO’s decision notice was wrong in its assessment of the public interest test in relation to the s36 exemption. Namely, not enough weight was placed on the fact the IPs opinion would have been made public if there was to be a hearing.
 - b) for unsubstantiated complaints against Councillors the Council was correct to rely on s40 (2).

General information

- 3.12 The Committee on Standards in Public Life is undertaking a review of local government ethical standards. Following increased criticism that the sanctions in the current regime are not enough, the review is looking at implementing robust standards arrangements to safeguard local democracy, maintain high standards of conduct, and protect ethical practice in local government. The consultation closed on the 18.05.18 with 317 responses which included Brent’s submission following a discussion with Members. The Committee on Standards in Public Life is aiming to publish its report by the end of 2018.

4.0 Financial Implications

- 4.1 There are no financial implications arising out of this report.

5.0 Legal Implications

- 5.1 There are no legal implications arising out of this report.

6.0 Equality Implications

- 6.1 There are no equality implications arising out of this report.

7.0 Consultation with Ward Members and Stakeholders

- 7.1 Not applicable.

Report sign off:

DEBRA NORMAN

Strategic Director of Legal and HR Services

Gifts and Hospitalitys (July 2018 - December 2018)				
Councillor	Date of gift	Gift received	Value	From
Muhammed Butt	07/09/18	Two tickets for England v Spain on 08/09/18.	Estimated value £170	Received from Anthony Angol - Wembley Public Affairs
	11/09/18	One ticket to Press Night at Kiln Theatre - Holy Sh!t on 10/09/18	Estimated value £15	Received from the Kiln Theatre.
	26/09/18	Business meeting over lunch with Tottenham Hotspur, accompanied by Carolyn Downs (Chief Executive, Brent Council).	Estimated value £17	Received from Tottenham Hotspur Football Club, White Hart Lane, Tottenham, London N17.
	26/09/18	Four tickets for Joshua v Povetkin, World Heavyweight Championships at Wembley Arena (match date 22/09/18).	Estimated total value £200 per ticket (£80 ticket + £120 catering).	Received from Anthony Angol - Wembley Public Affairs Manager, the FA group
	15/10/18	Berkeley Foundation Dinner.	Estimated value £50.	Received from the Berkeley Foundation.
	23/10/18	Four tickets fo the Philadelphia Eagles vs Jacksonville Jaguars on 28/10/18.	£468 per ticket.	Received from the Jacksonville Jaguars.
	26/10/18	Invite to GG2 Leadership Awards 2018 Dinner	Estimated value £40	Received from Asian Media Group
Ernest Ezeajughi	19/06/18	Box (seat) at Wembley stadium for Nigeria v England match on 02/06/18. Attended as Deputy Mayor.	Individual Box seat price unknown (estimated value for Box £3465)	Received from Anthony Angol - Wembley Public Affairs Manager, the FA group
Krupesh Hirani	20/11/18	Asian Trader Awards Evening	Unknown (estimated value £360)	Received from Kalpesh Solanki, Editor Asian Media Group.
Janice Long	26/11/18	Engraved "Thank You" glass bowl, presented in 2015 (upon standing down from the Brent Housing Partnership (BHP) Board).	Unknown (estimated £50-£100)	Received from the Brent Housing Partnership (BHP) Board.
Ketan Sheth	08/10/18	One ticket for the press night performance of Holy Sh!t on 12/9/18 at the Kiln Theatre and the Holy Sh!t book by Alexis Zegerman.	Estimated value £35.99	Received from the Kiln Theatre.
	03/11/18	Invitation to the Evening of Raas Garba on 20/10/18 at the Holiday Inn London - Wembley.	Estimated value £100	Received from Raj Soni
	16/11/18	One ticket for the press night performance of White Teeth on 5/11/18.	Estimated value £32.50	Received from the Kiln Theatre.
Shama Tatler	15/10/18	Berkeley Foundation Dinner	Estimated value £50	Received from the Berkeley Foundation.

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	Audit and Standards Advisory Committee 11 December 2018
	Report from the Director of Legal and HR Services
Planning Code of Practice Review Update	

Wards Affected:	All
Key or Non-Key Decision:	Not applicable
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	Two: <ul style="list-style-type: none"> Independent Expert, Planning Code of Guidance review report Planning Code of Practice
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Debra Norman Director of Legal and HR Email: debra.norman@brent.gov.uk Tel: 020 8937 1578 Alice Lester Head of Planning, Transport and Licensing Email: alice.lester@brent.gov.uk Tel: 020 8937 6441 Biancia Robinson Senior Constitutional and Governance Lawyer Email: biancia.robinson@brent.gov.uk Tel: 020 8937 1544

1.0 Purpose of the Report

- 1.1 The purpose of this report is to update the Committee on the outcome of the Independent Review, and the consequential recommended changes, in relation to the Planning Code of Practice. This review is required under the Constitution.

2.0 Recommendations

- 2.1 That the Audit and Standards Advisory Committee consider and note the contents of the report.

- 2.2 That the Audit and Standards Committee consider the contents of the report and approve the proposed changes to the Planning Code of Practice.
- 2.3 To note that upon approval by the Audit and Standards Committee, the Monitoring Officer will implement the changes in accordance with her delegated powers.

3.0 Detail

Background

- 3.1 On the 22 January 2018, following a comprehensive internal review of the Council's decision making arrangements concerning planning matters, Full Council approved changes to the terms of reference of the Planning Committee, standing orders and the Planning Code of Practice (the code). All of which came into effect on approval.
- 3.2 As reported to Full Council at the time, the code was also being independently reviewed by a planning expert. The review has now been completed and a copy of the report is attached as Appendix One. This report updates the Committee on the independent expert's findings, recommendations and consequential action taken by officers.

Key findings of Independent Review (IR)

- 3.3 The IR supports all the changes made and approved by the Council in January 2018, noting "that the overall structure of Brent's Code and changes were sound".
- 3.4 The reviewer noted that the code covered all essential issues and areas in accordance with best practice and the latest guidance.
- 3.5 He considered the codes of other neighbouring borough's namely Ealing, Harrow, Hammersmith & Fulham, Camden, Kensington & Chelsea and Westminster and advised the code stands up well in comparison.
- 3.6 He noted that the Planning Committee meeting he observed was very well chaired and that the Committee administration was good, with a good guidance sheet circulated at the meeting. The reviewer found officer presentations made the technical reports easier to understand and Members generally exhibited an understanding of material matters. The reviewer noted there was a "little playing to the audience" but overall the meeting was well run and the impact of the code was evident.
- 3.7 When analysing the Planning Committee decisions, to ascertain if the decisions were contrary to officer recommendations, the reviewer noted that in the municipal year 2017-2018 only two recommendations from officers (out of 53 decisions) were overturned by the Planning Committee. This was a very low percentage, below the governments "red flag" of 10% and consequently no cause for concern.

Key Recommendations/Suggestions of Independent Review

- 3.8 The IR identified a few minor, straightforward and mainly clarification changes to the text of the code. Attached as Appendix Two is a marked copy of the code reflecting the reviewer's changes.

The recommendations are as follows:

- a) **use of sub-headings:** the greater use of sub-headings and paragraph numbering to make the code easier to navigate.

Each paragraph has been numbered so it is clear there are 14 sections. As the code is reviewed and updated more detailed sub-heading will be considered.

- b) **Members explaining their reasons for making a comment (para 4.2):** the code is clear that members who comment at Committee, whether in agreement or disagreement with the recommendation, must provide their reasons.

The reviewer suggested that the code should clarify that if a Planning Committee Member opts to act in a representative (as opposed to decision making) capacity then he/she should be subject to the same rules as other Members.

It was raised with the reviewer that when a Planning Committee Member opted to act as a representative (as opposed to a decision maker), they were automatically subject to the same rules in clause 4.2. This was accepted by the reviewer.

The Head of Planning, Transport and Licensing has also confirmed that this principle has been added to the member/officer training material.

- c) **call-in (para 5):** the IR suggested putting "back- in" in to the code a section referring to the Planning Committee call-in criteria, in the interests of ensuring clarity and understanding.

It was raised with the reviewer that the Planning Committee Terms of Reference (ToR), adopted by Full Council in January 2018, included a robust call –in criteria and Part 5 of the Constitution contained a protocol on call-in and accordingly there were clear and robust process in place. This was accepted by the reviewer.

To ensure clarity as to the call-in procedure for Planning Committee, the ToR "Criteria for Councillor referral" sub-heading has been reviewed. The sub-heading will be amended to include "(call –in procedure)".

Further, The Head of Planning, Transport and Licensing and her team will ensure Members are made aware and reminded of the criteria.

- d) **Development proposals by officers (para 6.2):** the revised code included a section on behaviour standards for planning applications from members of the Council. The reviewer recommended a similar section be included for applications from officers. A new section has been inserted at 6.2.

The reviewer also notes that although he was minded to recommend that all

officer, Member and Council applications should always be decided by the Planning Committee, he supports the Council's position on this issue.

It was explained to the reviewer that after careful consideration, the Council decided that there was no overriding justification for automatically referring these applications to the Planning Committee in all cases. Instead, normal rules should be applied with flexibility. So that, the discretion officers have to refer applications to the Planning Committee for determinations was a more proportionate and consistent approach.

For example, this is what was said in our report to Full Council in January:

"Removal of the requirement for planning applications submitted by Planning Committee Members to be decided by the Planning Committee in all cases. Instead normal rules, i.e. the updated and improved terms of reference of the Planning Committee (as proposed) which set out when applications have to or can be considered by the Committee, will apply. The relevant criteria, including the general discretion officers have to refer applications to the Planning Committee, provide proportionate safeguards. However, applications considered under officer delegated powers will be approved by the Head of Planning or the Strategic Director Regeneration and Environment."

It was also highlighted that such an approach would result in minor and insignificant applications going to Planning Committee. This would be costly in time, effort and money and achieve no public interest benefit. The reviewer noted and supported the Council's position.

- e) **Lobbying (para 7.2):** the reviewer suggested additional guidance text be included in to the code about lobbying. This has been incorporated into clause 7.

4.0 Financial Implications

- 4.1 There are no financial implications arising out of this report.

5.0 Legal Implications

- 5.1 There are no legal implications arising out of this report.

6.0 Equality Implications

- 6.1 There are no equality implications arising out of this report.

7.0 Consultation with Ward Members and Stakeholders

- 7.1 Not applicable.

Report sign off:

DEBRA NORMAN

Director of Legal and HR Services

APPENDIX ONE

London Borough of Brent – Planning Code of Practice Review

Final Draft @ 24-5-18

For: Looqman Desai, LB Brent Senior Solicitor

Alice Lester, Head of Planning Transport and Licensing

By: Marc Dorfman MDC

REVIEW CONTENTS

A. INTRODUCTION, KEY ISSUES & DRAFT CONCLUSIONS

- A.1 Structure of the Review
- A.2 Purpose of the Review
- A.3 Structure of Brent Code
- A.4 How does the Brent Code compare to National Guidance?
- A.5 How does Brent's Code compare to its neighbouring Boroughs?
- A.6 Planning Committee in Action
- A.7 Planning Committee "Overturn" Issues
- A.8 Key Review Issues and LBB Response
- A.9 Overall Conclusion

B. PROPOSED CODE SECTIONS & COMPARISON TO LGA GUIDANCE 2013

C. PROPOSE CODE SECTIONS & COMPARISON TO OTHER LONDON COUNCILS

D. KEY REVIEW ISSUES; LBB RESPONSE & FINAL REVIEW CONCLUSIONS

E. PROPOSED NEW CONTENTS LIST

F. REVIEW COMMENTARY ON BRENT PROPOSED CHANGES TO THE CODE

Appendix 1. LB Brent Planning Code of Practice – with proposed Brent changes and Review Draft Comments

Appendix 2. LGA/PAS “Probity in Planning” 2013 – Latest best practise guidance to Local Planning Authorities on Decision Making in Town Planning

Appendix 3. Brent Planning Committee Terms of Reference (ToR)

A. INTRODUCTION, KEY ISSUES & OVERALL CONCLUSIONS

A.1 Structure of the Review

This **Final Draft Review Document** is to be read with a marked - up copy of the proposed LB Brent “Planning Code of Practice” set out in Appendix 1.

- LB BRENT’s own proposed Code changes, (Appendix 1), are highlighted in **RED, BLUE and YELLOW**, (**Brent’s original document sent to Marc Dorfman**).
- “Review Comments” in Appendix 1, are **BLACK BOLD when supportive of the Brent changes**. They sit between paragraphs. Review Comments are not numbered. Each comment, (when there is a comment), refers to the paragraph before it.
- Where there are “Review Comments” which recommend further LB Brent consideration and clarification, they are highlighted in **BROWN BOLD**, both in Appendix 1 and in Section F. REVIEW COMMENTARY below. These issues of clarification have now been dealt with by exchanges between LBB Officers and the Reviewer.
- There were 30 proposed Brent sub section changes overall to the Code, considered and approved by Full Council in January 2018. At the same time LB Brent also put in place new terms of reference for the Planning Committee and linked changes to planning standing orders.
- Out of the 30 changes to the Code, (in a document that had 14 main sections and 57 sub sections in total), the Review initially supported 25

of the 30 proposed changes and asked LB Brent to consider and clarify 5. **Section D** below sets out these 5 issues – these were responded to by LBB and **the Review now notes and supports all of Brent’s 30 proposed changes and responses.**

- The Review proposes that LB Brent introduces summary sub – headings to each of Brent’s proposed paragraphs in the Code to make it easy for the reader to see any part of the Code in context; to go to a particular section and to help in future reviews and comparisons. These sub headings are in **BOLD GREEN**. LB Brent can consider and change these – they are not essential and simply offered for ease of reading.

A.2 Purpose of the Review of the LB Brent Planning Code of Practice, and the Proposed 2018 Changes

- i) Desktop review of the Planning Code of Practice and proposed changes – is it up to date? Does it comply with “best practice”?
- ii) How does Brent’s Code compare with other London Boroughs?
- iii) After attending LB Brent Planning Committee, check if the standards set out in the Code relates to the reality. If necessary carry out stakeholder interviews
- iv) Analysis of Planning Committee decisions where contrary to officer recommendations. Consider any recommendations with Head of Planning
- v) Make any appropriate overall findings and recommendations for improvement.

A.3 Structure of the Brent Code

The overall structure of Brent’s Code and in general its own proposed changes are considered sound.

A.4 How Does the Brent Code Compare with National Guidance and Best Practise?

When compared to the guidance to Local Planning Authorities on the design and content of Planning Codes, (LGA Planning in Probity” 2013), the Brent Code and its proposed changes covers all essential issues and areas and can be seen to have made its Code relevant to local planning issues. Brent’s approach has been to concentrate on “conduct and behaviours” rather than operational rules. This seems sensible if the Code is to sit in the Constitution.

A.5 How does the Brent Code Compare with Neighbouring London Boroughs?

The following London LPAs have been examined via a web site assessment of the Constitution and any special Planning Protocol/Code of Practice:

Ealing, Harrow, Hammersmith & Fulham, Camden, Kensington & Chelsea and Westminster. These are all Brent's nearest neighbour's.

Findings:

Harrow and Camden's Code are comprehensive and detailed and set out both conduct and operational standards and guidance.

Hammersmith & Fulham and Ealing have similar Codes to Brent. They concentrate on conduct issues.

In terms of Kensington and Westminster, it is not obvious that either of these Boroughs have special Planning Codes of Practice, easily available on the web or referred to in their Constitutions. Westminster has a "member's handbook", that covers general decision making behaviour and procedure, (operations).

Brent's own recent proposed Code improvements, and changes to how Planning Committee is now managed, have demonstrated to this Review that the Borough's Code now covers all essential elements as set out in the 2013 LGA/PAS "Probity in Planning" Guidance – the latest and best practice guidance. Although some other Borough's Codes cover both conduct and Committee operational matters, (and are therefore larger), the Brent proposed Code, stands up well in comparison to the sample looked at. Brent's focus on "conduct and behaviours" seems sensible when the Code is to be included in a Constitution. A concentration on "behaviours" provides strong constitutional guidance, whilst allowing procedure and operations to change more easily.

A.6 Planning Committee – the Code in Action

Planning Committee on 14th March 2018 was observed by the Reviewer.

The Cttee room was accessible and there were refreshments for the public. The public was able to see the presentation slides. Cttee questions, answers and the debate were audible. Public copies of the Agenda were available.

Cttee administrators made sure the room was ready for the Cttee at 7pm. This included a good guidance sheet for the public and members that explained:

- The Cttee running order
- Roles and responsibilities of officers and members
- Speaking rights
- Meeting conduct
- The importance of "open minded decisions"

- Material considerations
- Further information and openness to public views and comments

The Meeting was very well chaired and Cttee members respected the Chair's authority. The Chair introduced the Cttee and its purpose and proceedings very well. The Chair brought officers into the debate in appropriate ways and gave way to the Lead Planning Advisor at appropriate moments/stages.

Officer presentations made the technical Agenda reports easier to understand.

Members generally exhibited an understanding of material matters. There was a "little playing to the audience", but this was managed well by the Chair and Lead Officers. This is something that continually needs to be addressed in member/officer training.

Overall the Planning Committee was well run and one could see the impact of the Brent Planning Code.

A.7 Analysis of Planning Committee decisions where contrary to officer recommendations

Over the past municipal year (2017-18) only two recommendations from officers have been overturned by committee (out of 53 decisions). This represents a very low percentage and is of no cause for concern. The sample is too small to justify investigation and any meaningful conclusions.

In terms of the government's measure of quality of decisions, as assessed by the number of major applications overturned on appeal (ie refused by the Council and subsequently allowed by the Inspectorate), the Council's performance is 0% (lower is better); the government's 'red flag' is triggered at 10%. Brent's performance on appeal is well clear of this level.

Based on these two statistics, there is no need to question the robustness of the decision making further.

A8. Key Review Issues

There were 30 proposed Brent sub section changes overall to the Code, considered and approved by Full Council in January 2018. At the same time LB Brent also put in place new terms of reference for the Planning Committee and linked changes to planning standing orders.

Out of the 30 changes to the Code, (in a document that had 14 main sections and 57 sub sections in total), the Review initially supported 25 of the 30 proposed changes and asked LB Brent to consider and clarify 5:

- **Section 4.2** Members explaining the reasons for making a comment at Planning Committee.
- **Section 5 and 5.1** “Call – In” procedures
- **Section 6.1** Development proposals by Councillors
- **Section 6.2** Development proposals by Officers
- **Section 7.1** “Key Lobbying Advice”

Section D below sets out these 5 issues – these were responded to by LBB and the Review now notes and supports all of Brent’s 30 proposed changes and responses.

A.9 Overall Conclusion

Overall the LB Brent Planning Code of Practice for Members and Officers is sensibly structured and covers all important issues set out in national guidance (LGA/PAS “Probity in Planning” 2013). The proposed 2018 LB Brent changes are supported by the Review. Sensibly, Brent’s proposed Code focuses on “behaviours and conduct” which will have longevity, rather than “operational” matters, which will need to be changed from time to time and should be outside of the Constitution.

B. PROPOSED CODE SECTIONS & COMPARISON TO LGA GUIDANCE 2013

The main headings of the “industry standard guide” to Local Planning Authority good practice codes are set out below. This is followed by the headings of the LB Brent proposed Code of Practice 2018. Both have been reviewed, and the Brent proposed Code is judged to cover all essential issues. Whilst the Brent Code is more detailed on member and officer actions and relationships, the LGA guidance covers a wider range of issues that are practical but not essential and which could be in “operation guidance” rather than in a code of conduct, (e.g. committee public speaking rights and committee report content).

LGA Guidance - Headings 2013

1. Purpose of Planning & Decision Making Good Practice
2. Role and Conduct of Councillors and Officers
3. Registration and Disclosure of Interests
4. Predisposition, predetermination or bias
5. Officer and member planning applications
6. Lobby of and by councillors
7. Pre – application and post submission discussions

8. Officer reports
9. Public speaking
10. Planning decisions, and motions contrary to policy and officer recommendation
11. Committee site visits
12. Committee performance and monitoring

Proposed Brent Planning Code of Practice - Headings 2018

1. Purpose of the Code
2. The Principles of Planning Decision Making
3. Bias and Predetermination
4. Accountability and Interests
5. Call – In Powers and Procedures
6. Development Proposals by Councillors, Officers and the Council
7. Approaches to Members of the Planning Committee - Lobbying
8. Discussions Between Members, and Meetings with Developers, including Pre – Application Meetings
9. Planning Committee Site Visits
10. Membership and Jurisdiction of the Planning Committee
11. Meeting of the Planning Committee
12. Member and Officer Relations
13. Training for Planning Committee
14. Review of the Code of Practice

C. PROPOSE CODE SECTIONS & COMPARISON TO OTHER LONDON COUNCILS

The following London LPAs have been examined via a web site assessment of the Constitution and any special Planning Protocol/Code of Practice:

Ealing, Harrow, Hammersmith & Fulham, Camden, Kensington & Chelsea and Westminster. These are all Brent's nearest neighbour's.

Findings:

Harrow and Camden's Code are comprehensive and detailed and set out conduct and operational standards

Hammersmith & Fulham and Ealing have similar Codes to Brent. They concentrate on conduct issues.

In terms of Kensington and Westminster, it is not obvious that either of these Boroughs have special Planning Codes of Practice, easily available on their web sites. Westminster does have a member's handbook – guidance document, (though not easily available on the web site). Both Authorities focus on simple rules relating to delegation and call in – and council – wide

codes based on the 7 standards of public life. This supports a code based “behaviour” rather than operations. This is similar to Brent, though Brent’s code is more considered and relates more to its local context.

Brent’s own recent proposed Code improvements, and changes to how Planning Committee is now managed, have demonstrated to this Review that the Borough’s Code now covers all essential elements as set out in the 2013 LGA/PAS “Probity in Planning” Guidance – the latest and best practice guidance. Although some other Borough’s Codes cover both conduct and Committee operational matters, (and are therefore larger), the Brent proposed Code, stands up well in comparison to the sample looked at.

D. KEY REVIEW ISSUES, LBB RESPONSE & REVIEW CONCLUSIONS

The Review proposed that LB Brent provided further clarification on 5 issues:

- **Section 4.2** Members explaining the reasons for making a comment at Planning Committee
- **Section 5 and 5.1** “Call – In” procedures
- **Section 6.1/2** Development proposals by Councillors & Officers
- **Section 7.1** “Key Lobbying Advice”
- **Code Sub Headings**

D.1 Section 4.2

Members explaining the reasons for making a comment at Planning Committee.

Members who comment at Committee must explain why they are commenting – setting out material planning reasons - and who they have had meetings with/been influenced by, if any.

Members who disagree with the officer recommendation must also explain the planning reasons behind their disagreement.

LB Brent to consider making this rule apply to both general Members and Committee Members, since this is the de facto situation now for Committee Members at Planning Committee. Currently the proposed code makes this rule only for...”a member who is not a Committee Member”.

LBB Response Section 4.2: When Committee Members opt to act in a representative (as opposed to a decision making) role, then they are subject to the same rules as other members.

Review Conclusion Section 4.2: Noted and supported.

D.2 Section 5 and 5.1 “Call – In” procedures

LB Brent is considering taking out altogether section 5 on “call – in”. Brent’s argument is sound – “call – in” procedures are rules, not behaviours. “Call – in” rules are set out in Part 5 of the Constitution – Planning Committee Terms of Reference (ToR), where “call – in” thresholds are set out.

Notwithstanding the above LB Brent should consider putting a “Call – In” section in to the Code to explain “call – in” behaviours and where the rules for Call in are (e.g. Part 5). This would support clarity, since “call – in” can be a contentious member/community issue. “Call – in” must be for legitimate planning reasons only; reasons must be set out in writing and put in the Committee report – and “call – in” members must attend Planning Committee and speak to only material planning issues.

LBB Response Section 5: The new terms of reference of the Planning Committee (Full Council January 2018), include clear and robust call- in criteria. Members will be made aware and reminded of these criteria.

Review Conclusion Section 5: Noted and supported.

D.3 Section 6.1 & 6.3 Development proposals by Councillors and by the Council

As the current proposals for the Code stand, LB Brent only propose setting out behaviour standards for applications from members and the Council.

LB Brent should consider an additional section for “officer applications” – a **“Section 6.2 Development proposals by Officers”**.

In existing Sections 6.1 and 6.3, LB Brent indicates that some applications “might be able to be delegated to officers for decision”, including some member applications. Normally all member, officer and Council applications would go to Committee to support full transparency. Brent should review again and make sure that only very minor applications by the Council can be delegated, with appropriate officer clearance, but perhaps all member and officer applications should go to Committee.

LBB Response Section 6: After careful consideration, LBB feels there is no overriding justification for automatically referring these applications to Committee in all cases. The rules provide a discretionary system to support

both flexibility and proportionate safeguards, including “sign off” by Head of Planning or a Strategic Director if schemes are to be delegated.

Review Conclusion Section 6: Noted and supported.

D.4 Section 7.1 “Key Lobbying Advice”

The Review supports Brent’s proposals.

LB Brent to also consider including further explanatory detail – e.g. ...” lobbying is normal in both politics and in planning decisions. However, lobbying must not result in a member of Planning Committee having a closed mind at the point of decision making, otherwise that member must withdraw from any Committee decision making role”.

LBB Response Section 7: Newly approved guidance makes clear the importance of decision making with an open mind. Members will be made aware and reminded of this context.

Review Conclusion Section 7: Noted and supported.

D.5 Introduce “sub – heading” titles for all paragraphs in the Code

This will provide better clarity, overall context and will support easy updating/changes in the future.

LBB Response Section 7: As the Code is reviewed and updated, the suggestion of more detailed sub headings can be considered.

Review Conclusion Section 7: Noted and supported

E. PROPOSED NEW BRENT CONTENTS LIST

Please note the Brent proposed structure remains along with all the proposed paragraphs. The Review is simply proposing that each paragraph is given a “describing sub – heading”, under each of the 14 main sections.

- 1 Purpose of the Code

- 1.1 Member and Officer Code of Conduct Background
- 1.2 Code Values: Impartial, Transparent, Accountable, Integrity, Objective and Proper Planning Matters
- 1.3 Risks of Failing to Abide by the Code
- 1.4 Monitoring Officer and Service Officers are available to help

2 The Principles of Planning Decision Making

- 2.1 Public Interest, Plan led and Based on Material Planning Considerations
- 2.2 Planning – a Formal Administrative Process
- 2.3 Natural Justice
- 2.4 Human Rights

3 Bias and Predetermination

- 3.1 Bias and Appearance of Bias
- 3.2 Predetermination and Predisposition – keep an “open mind”
- 3.3 “Indicating a View” as long as long as it is not a “Final View”, which must only be reached at Planning Committee after hearing all sides and Evidence
- 3.4 A decision maker should not have a “closed mind”

4 Accountability and Interests

- 4.1 A Planning Committee Member must have no other personal or business interests in town planning
- 4.2 Declaring the reason behind making a comment at Planning Committee
- 4.3 Personal Interest
- 4.4 Prejudicial Interest
- 4.5 Disclosable Pecuniary Interest (DPI)
- 4.6 Registering a Disclosable Pecuniary Interest (DPI) on a Planning Matter
- 4.7 Implications of Failing to Comply with DPI rules
- 4.8 “Call – in” to Planning Committee and Member Interests
- 4.9 Member Interest Guidance - Associations and Prejudicial Interests
- 4.10 Member Interest Guidance - Member Register of Contacts and the Monitoring Officer
- 4.11 Officer Interest Guidance – Inappropriate Involvement
- 4.12 Officer Interest Guidance – Other Paid Work
- 4.13 Officer Interest Guidance – RTPi Code

5 Call – In Powers and Procedures

- 5.1 Member “Call – In” rights and powers

6 Development Proposals by Councillors, Officers and the Council

- 6.1 Development proposals submitted by Councillors
- 6.2 Development proposals submitted by Officers
- 6.3 Development proposals submitted by the Council

7 Approaches to Members of the Planning Committee - Lobbying

- 7.1 Key Lobbying Guidance
- 7.2 Advice to Members when Lobbying is inappropriate
- 7.3 Appropriate Lobbying
- 7.4 No Inappropriate Lobbying of Officers

8 Discussions between members and meetings with developers/representatives

- 8.1 Member Guidance on Discussing Planning Matters
- 8.2 Cabinet Member Guidance on Discussing Planning Matters
- 8.3 Member Guidance on Pre - Application Discussions

9 Planning Committee Site Visits

- 9.1 Main Purpose of a Member Site Visit
- 9.2 Who decides if the Planning Committee should go on a Site Visit?
- 9.3 Member Guidance for Committee Site Visits

10 Membership and Jurisdiction of the Planning Committee

- 10.1 Maintain a Ward Member for each ward who is not on Planning Committee to provide the public with a lobbying/engagement contact
- 10.2 Committee Briefings
- 10.3 Access to Information Guidance

11 Meetings of the Planning Committee

- 11.1 Planning Committee Guidance on Assessing Information for Decisions
- 11.2 Planning Committee should only consider authorised information for Decisions which have been assessed by Officer's and the Chair
- 11.3 Decisions Contrary to the Officers' Recommendation
- 11.4 Discussion and Questions and Answers at Committee should always be carried out with respect for all participants
- 11.5 Planning Committee members should not engage with any third parties at Committee
- 11.6 Discussion and Questions and Answers at Committee should only refer to material planning matters
- 11.7 Planning Committee Voting Guidance
- 11.8 Planning Officer Case Presentation Guidance

12 Member and Officer Relations

- 12.1 Member Complaints Procedure
- 12.2 Officer Support Procedure
- 12.3 Pressure on Officers to influence case recommendations is not acceptable

13 Training for Planning Committee

- 13.1 Member Planning Committee Training is Mandatory
- 13.2 New Planning Committee Members
- 13.3 Special Member Planning Committee Training

14 Review of this Code of Practice

- 14.1 Timetable and Purpose

F. REVIEW COMMENTARY ON BRENT PROPOSE CHANGES TO THE CODE

Not all sections of the Proposed Code are commented on by the Review – only those sections that the LB Brent propose to change – and proposed sections on which the Review seeks clarification.

The COMMENTARY format identifies the main and sub – heading name and number. Then there is a summary of Brent changes, (“Key Changes Proposed by Brent”) and a “Review Comment”

Please also see Appendix 1 which contains the LB Brent Code including its Review Comments and proposed paragraph sub headings.

LB Brent is proposing 30 changes to Code paragraphs. This Review supports all these except 5, on which further consideration and clarification is requested.

These are:

Section 4.2 Members explaining the reasons for making a comment at Planning Committee, including when proposing a contrary motion/decision to the officer recommendation. Comment and reasons to be material planning matters.

Section 5 and 5.1 “Call – In” procedures

Section 6.1 Development proposals by Councillors

Section 6.2 Development proposals by Officers

Section 7.1 “Key Lobbying Advice”

1. Purpose of this Code

1.1 Member and Officer Code of Conduct Background

- Key Changes Proposed by Brent:
 - Members “must” follow the code
 - Officers should also follow the code as well as HR policies and terms of employment
 - The code contains further detailed guidance for members
- Review Comments:
 - Changes are supported

2. The Principles of Planning Decision Making

2.1 Public Interest, Plan Led and Based on Material Planning Considerations

- Key Changes Proposed by Brent
 - Clarity on Plan Led and policy framework
 - Members of Planning Committee should not be directed by party politics
- Review Comments:
 - Changes are supported

2.2 Planning is a Formal Administrative Process

- Key Changes Proposed by Brent
 - Planning is a “formal administrative process”, not quasi - judicial
- Review Comments:
 - Changes are supported

3. Bias and Predetermination

3.1 Bias and Appearance of Bias

- Key Changes Proposed by Brent:
 - Planning Committee members to be and appear to be “fair minded”
 - Must not come to planning decisions with a “closed mind”.
- Review Comments:
 - Changes are supported

3.2 Predetermination and Predisposition – keep an “open mind”

- Key Changes Proposed by Brent:
 - Clarity on what predetermination and predisposition means.
- Review Comments:
 - Changes are supported

4. Accountability and Interests

4.1 Planning Committee Member must have no other personal or business interests in town planning

- Key Changes Proposed by Brent:
 - Clarity on what predetermination and predisposition means.
 - Removing a controversial rule that “members who do not support Council planning policies should not be on Planning Committee”
- Review Comments:
 - Changes are supported

4.2 Declaring the reason behind making a comment at Planning Committee

- Key Changes Proposed by Brent:
 - **Members who comment at Committee must explain why they are commenting – setting out material planning reasons - and who they have had meetings with/been influenced by, if any.**
 - **Members/Committee Members who disagree with the officer recommendation must also explain the planning reasons behind their disagreement.**
- Review Comments:
 - **Changes are supported.**
 - **In addition, LB Brent to consider making this rule apply to both general Members and Committee Members, since this is the de facto situation now for Committee Members at Planning Committee. Currently the proposed code makes this rule only for...”a member who is not a Committee Member”.**

4.3 Personal Interest

- Key Changes Proposed by Brent:
 - Clarity on speaking and vote rights
- Review Comments:
 - Changes are supported

4.8 “Call – In” to Planning Committee and Member Interests

- Key Changes Proposed by Brent:
 - If a member has a prejudicial or disclosable pecuniary interest, the member may not “call – in” the applications to Committee or request a site visit.
- Review Comments:
 - Changes are supported

4.11 Officer Interest Guidance – Inappropriate Involvement

- Key Changes Proposed by Brent:
 - Public Register on declarations of interest “will” be available for inspection.
- Review Comments:
 - Changes are supported

4.13 Officer Interest Guidance – RTPI Code

- Key Changes Proposed by Brent:
 - Officers must abide by RTPI advice on ethics and professional standards
- Review Comments:
 - Changes are supported

5. Call – In Powers and Procedures

5.1 Member “Call – In” procedures

- Key Changes Proposed by Brent:

- Call – in powers **are proposed to be removed from the Code.** Rightly Brent sees these as “rules and not behaviours”. They are set out in Part 5 of the Constitution Planning Committee ToR.
- **Review Comments:**
 - LB Brent to consider including a section on “Call – In” even if it is being withdrawn from the Code.
 - LB Brent should consider putting a “Call – In” section in to the Code to explain “call – in” behaviours and where the rules for Call in are (e.g. Part 5). This would support clarity, since “call – in” can be a contentious member/community issue. “Call – in” must be for legitimate planning reasons only; reasons must be set out in writing and put in the Committee report – and “call – in” members must attend Planning Committee and speak to only material planning issues.

6. Development Proposals Submitted by Councillors, Officers and the Council

6.1 Development proposals submitted by Councillors

- **Key Changes Proposed by Brent:**
 - LB Brent Code makes provision for “some Cllr applications to be delegated to officers for decision”.
- **Review Comments:**
 - **Review with LB Brent officers.** In LPAs it is normal for all planning applications by councillors, officers and the Council to go to a public Planning Committee for decision for the reason of proper transparency. Brent to review and consider supporting some minor Council applications being able to be delegated – but all officer and member applications going to Committee.

6.2 Development proposals submitted by Officers

- **Key Changes Proposed by Brent:**
 - No section of “applications by officers”
- **Review Comments:**
 - LB Brent to consider including a section on application by officers

7. Approaches to Members of the Planning Committee - Lobbying

7.1 Key Lobbying Guidance

- **Key Changes Proposed by Brent:**
 - Make clear what “inappropriate lobbying” is and its impact on decision making rights.
- **Review Comments:**
 - **Support proposed Brent changes.**
 - **LB Brent to consider further explaining in the Code, that “lobbying is normal in both politics and in planning decisions. However, lobbying must not result in a member of Planning Committee having a closed mind at the point of decision making, otherwise that member must withdraw from any role Committee decision making role”.**

8. Discussions between members and meetings with developers/representatives

8.1 Member Guidance on Discussing Planning Matters

- **Key Changes Proposed by Brent:**
 - Discussion on planning matters in political groups is of course allowed – but Planning Committee Members must approach decision making duties with an open mind and must not be influenced by party politics
- **Review Comments:**
 - Changes are supported

8.2 Cabinet Member Guidance on Discussing Planning Matters

- **Key Changes Proposed by Brent:**
 - Cabinet Members may engage in a wide range of meetings. In doing this they must respect the general and planning codes of conduct and not seek to improperly influence planning decisions
- **Review Comments:**
 - Changes are supported

8.3 Member Guidance on Pre – Application Discussions

- Key Changes Proposed by Brent:
 - Member attendance at pre – app meetings must be accompanied by an officer and a meeting not taken
- Review Comments:
 - Changes are supported

9. Planning Committee Site Visits

9.1 Main Purpose of Member Site Visits

- Key Changes Proposed by Brent:
 - Clarity of the design and impact of the proposed development, when submitted material is unclear.
- Review Comments:
 - Changes are supported

9.2 Who Decides if the Planning Committee should go on a Site Visit?

- Key Changes Proposed by Brent:
 - Head of Planning and the Committee Chair.
- Review Comments:
 - Changes are supported

9.3 Member Guidance when on a Committee Site Visit

- Key Changes Proposed by Brent:
 - More detailed guidance to avoid bias and the appearance of bias.
- Review Comments:
 - Changes are supported

10. Membership and Jurisdiction of the Planning Committee

- Key Changes Proposed by Brent:
 - None
- Review Comments:

- None

11. Meetings of the Planning Committee

11.1 Planning Committee Guidance on Assessing Information for Decisions

- Key Changes Proposed by Brent:
 - Members to have sufficient information to make a decision
- Review Comments:
 - Changes are supported

11.2 Planning Committee should only consider authorised information for Decisions, which have been assessed by Officers and the Chair

- Key Changes Proposed by Brent:
 - Information presented at Committee must have been assessed by Officers first
- Review Comments:
 - Changes are supported

11.3 Decisions Contrary to the Officers' Recommendation

- Key Changes Proposed by Brent:
 - Before a “contrary” decision is made Officer and Legal advice must be listened to.
 - Members who disagree with the officer recommendation must also explain their planning reasons for disagreeing.
- Review Comments:
 - Changes are supported

11.4 Discussion and Questions and Answers at Committee should always be carried out with respect for all participants

- Key Changes Proposed by Brent:
 - No abuse – only Respect
- Review Comments:
 - Changes are supported

11.6 Discussion and Questions and Answers at Committee should only refer to material planning matters

- Key Changes Proposed by Brent:
 - Planning matters relevant to the planning application only.
- Review Comments:
 - Changes are supported

11.7 Planning Committee Voting Guidance

- Key Changes Proposed by Brent:
 - Committee members must be present for the whole debate to be able to vote on an item
- Review Comments:
 - Changes are supported

12. Member and Officer Relations

- Key Changes Proposed by Brent:
 - None
- Review Comments:
 - None

13. Training for Planning Committee

13.1 Member Planning Committee Training is Mandatory

- Key Changes Proposed by Brent:
 - Training is critical and will be updated from time to time
- Review Comments:
 - Changes are supported

14. Review of the Code of Practice

14.1 Timetable and Purpose

- Key Changes Proposed by Brent:
 - Clarity on timetable and purpose
- Review Comments:
 - Changes are supported

APPENDIX 2

PLANNING CODE OF PRACTICE

1. Purpose of this Code

- 1.1. The Planning Code of Practice has been adopted by Brent Council to regulate the performance of its planning function. Its major objectives are to guide members and officers of the Council in dealing with planning related matters and to inform potential developers and the public generally of the standards adopted by the Council in the exercise of its planning powers. The Planning Code of Practice is, in addition to the Brent Members' Code of Conduct, adopted by the Council under the provisions of the Localism Act 2011. Members must follow the requirements of the Brent Members' Code and apply this Code in light of the Members' Code. The standards of behaviour expected of officers is set out in a separate Code of Conduct and Conflict of Interest policy which all officers are required to follow. In addition, employees have to follow all other relevant HR policies of the Council as well as the terms and conditions of their contract of employment. The purpose of this Code is to provide more detailed guidance on the standards to be applied by members specifically in relation to planning matters.
- 1.2. The Code seeks to ensure that officers and members consider and decide planning matters in a fair impartial and transparent manner. The provisions of this code are designed to ensure that planning decisions are taken on proper planning grounds, are applied in a consistent and open manner and that members of the Planning Committee making such decisions are, and are perceived as being, accountable for those decisions. The Code is also designed to assist members of the Council in dealing with and recording approaches from developers and objectors and is intended to ensure that the integrity of the decision-making process is preserved.
- 1.3. If a member does not abide by this Code the member may put the Council at risk of proceedings on the legality or maladministration of the related decision; and the member may be at risk of either being named in a report to the Audit and Standards Committee or Council; or if the failure to abide by the Code is also likely to be a breach of the Members' Code of Conduct, of a complaint being made to the Monitoring Officer.
- 1.4. If you have any doubts about the interpretation of this code, you should consult appropriate officers on the point.

2. The Principles of Planning and Decision Making

- 2.1. Members of the Planning Committee shall determine applications in accordance with the relevant planning national, strategic, local and neighbourhood policy framework, unless material considerations indicate. The Brent Members' Code of Conduct and the law relating to Brent Council members' disclosable pecuniary interests and personal interests must be complied with throughout the decision making process. Decisions should not be influenced by the interests of Councillors or because of pressure exerted by applicants, agents or third parties. Members of the Planning Committee must take decisions in the public interest and take account only of material planning considerations. They should not allow themselves to be influenced by members of the public and applicants, agents or third parties who might approach them and they should not be directed by party politics.

- 2.2. The council's planning process is a formal administrative process and members of the Planning Committee have a duty to follow the rules of natural justice and in accordance with the council's duty to act in a way that is compatible with Convention rights under the Human Rights Act 1998.
- 2.3. The rules of natural justice include: the duty to act fairly; the duty to give all those who will be affected by a decision the opportunity of a hearing before a decision is made; and the principle that no person should be a judge in his or her own cause. That principle means that members must be and be seen to be impartial and without bias, and that members should not take part in any decision that affects their own interests.
- 2.4. The Human Rights that are particularly relevant to Planning decisions are Article 6, the right to a fair hearing; Article 1 of the First Protocol, the right to peaceful enjoyment of a person's property and possessions; and Article 8, the right to respect for a person's private and family life, home and possessions.

3. Bias and Predetermination

- 3.1. Members should not take a decision on a matter when they are actually biased (i.e. have a direct or financial interest in the application) in favour or against the application, or when it might appear to a fair minded and informed observer that there was real possibility of bias, or where a member has predetermined the matter by closing their mind to the merits of the planning matter before they come to take a decision on it.
- 3.2. The courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a "closed mind" and likely to leave the committee's decision susceptible to challenge by Judicial Review or complaint to the Ombudsman. The latter reflects the legal position that a councillor is entitled to have an opinion on a planning matter before it comes to committee provided that he/she remains open to listening to all the arguments presented at the meeting and the possibility of changing his/her mind as a result.
- 3.3. Section 25 of the Localism Act 2011 provides that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter.
- 3.4. Although the Localism Act recognises the reality of the role of members in matters of local interest and debate, it does not amount to the abolition of the concept of predetermination. A member taking part in a decision on a planning matter must be open to any new arguments about the matter up until the moment of a decision. A member should not comment or make any commitment in advance as to how they intend to vote which might indicate that they have closed their mind. Any planning decision made by a member who can be shown to have approached the decision with a closed mind will still expose the council to the risk of legal challenge.

4. Accountability and Interests

- 4.1. Members of the Council who have business or other interests which may bring them into contact with the Council's planning system on a regular basis should not be

considered for membership of the Planning Committee. Those interests might include acting as an agent or consultant with respect to planning applications in the borough.

- 4.2. If a member who is not a member of the Committee makes representations to the Committee, either in person or in writing, the member shall state the reason for wishing to do so. Such a member shall disclose whether or not he/she has been in contact with the applicant, agent, objector(s) or any other interested party concerning the planning matter.
- 4.3. 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, disclose the existence and nature of the interest before the matter is discussed or as soon as it becomes apparent. If, in accordance with paragraph 24 of the Members' Code of Conduct, the interest is a 'sensitive interest', the member must disclose to the meeting that he/she has an interest that is sensitive but need not disclose the nature of the interest or any other sensitive information. The member may then, subject to paragraph 4.4, speak and, if applicable, vote on that particular item.
- 4.4. However, if the personal interest is such that a member of the public knowing the facts would reasonably regard it as so significant that it is likely to prejudice the member's judgement of the public interest, then the member must not take part in the discussion or vote on the matter, save that if a member of the public has the right to attend the meeting, make representations, answer questions, or give evidence, then the member will have the same right. Once the member has exercised that right then the member must withdraw from the room for the rest of that item and play no further part in the discussion or vote.
- 4.5. If a member of the Council is aware he/she has a **disclosable pecuniary interest** in any planning application or other matter before the Planning Committee, then the member shall, if present, disclose the existence and nature of the interest before the matter is discussed or as soon as it becomes apparent. If, in accordance with paragraph 24 of the Members' Code of Conduct, the interest is a 'sensitive interest', the member must disclose to the meeting that he/she has an interest that is sensitive but need not disclose the nature of the interest or any other sensitive information. If a member has a disclosable pecuniary interest in a planning matter the member must withdraw from the room where the meeting is being held and not take part in the discussion or vote on the matter. If a member has a disclosable pecuniary interest these prohibitions apply to any form of participation, including speaking as a member of the public. In other words, it does not matter in what capacity the member attends the meeting.
- 4.6. If a member has a disclosable pecuniary interest in any planning application or other matter before the Planning Committee, and the interest is not entered in the council's register, and is not the subject of a pending notification, he/she must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the meeting.
- 4.7. A failure to comply, without reasonable excuse, with the rules relating to disclosable pecuniary interests can be an offence.
- 4.8. If a member of the Council has a disclosable pecuniary interest or a personal interest (which is so significant that it is likely to prejudice the member's judgement of the public

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.

- 4.9. 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 personal interest which is so significant that it is likely to prejudice the member's judgement of the public interest.
- 4.10. The Monitoring Officer shall maintain a register of contacts 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 26 and other members of the Council may record such approaches if they so wish.
- 4.11. 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 Strategic Director Regeneration and Environment 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 will be available for inspection at Planning Committee meetings.
- 4.12. 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.
- 4.13. In relation to all matters not addressed above, all such officers shall comply with the Royal Town Planning Institute Practice Advice on Ethics and Professional Standards, or any guidance replacing this.
5. A detailed protocol for call-in, which enables a decision to be reviewed before it is implemented, is set out in the "Protocol on Call-in" (Part 5 of the Constitution); and the Planning Committee terms of reference (Part 3 of the Constitution).
6. Development proposals submitted by Councillors, Officers and the Council
 - 6.1. If a Councillor submits an application for planning permission they must inform the Council's Monitoring Officer of such a planning application. If the application can be dealt with under officer delegated powers, the decision must be approved by either the Head of Planning or the Strategic Director Regeneration and Environment. Councillors must not use or attempt to use their position as a Member improperly to confer on or secure for themselves or any other person, an advantage or disadvantage. When Councillors seek to exercise rights that others would have in their situation, they must do so in the same way that a member of public would i.e. at arm's length and using the same official processes. This also applies to Councillors assisting an interested party.
 - 6.2. If an Officer submits an application for planning permission, and the application can be dealt with by delegated powers, the decision must be approved by either the Head of Planning or the Strategic Director Regeneration and Environment. Officers must not

use or attempt to use their position as a Council Officer to improperly confer on or secure for themselves or any other person, an advantage or disadvantage. When Officers seek to exercise rights that others would have in their situation, they must do so in the same way that a member of public would i.e. at arm's length and using the same official processes

Development proposals where the Council is the applicant or landowner

- 6.3. Where the council itself is the landowner or planning applicant then a Planning member should consider whether he or she has had such a significant personal involvement in advocating for, preparing or submitting the planning proposal that the member would be likely to be perceived as no longer able to act impartially or to determine the proposal purely on its planning merits. A member would not be required to withdraw simply because they were, for example, a member of both the Cabinet, or a proposing committee, as well as the planning committee. However a member with a relevant portfolio or individual responsibility for implementing a particular policy should carefully consider whether that role makes it inappropriate for them to participate in a particular planning decision.

7. Approaches to members of the Planning Committee (Lobbying)

- 7.1. Lobbying is normal in both politics and in planning decisions. A member of the Planning Committee who has been lobbied and wishes to support or oppose a proposal or a Ward Councillor who wishes to campaign for or against a proposal, will not be able to decide the application.
- 7.2. 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 18.
- 7.3. 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).

- 7.4. 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.

8. Discussions between members and meetings with developers or their representatives

- 8.1. Provided Members comply with the practical requirements of this code and the requirements of the Members' Code of Conduct, there is no legal rule against Members, whether of the same group or not, discussing strategic planning issues, general policy issues or even future decisions.
- 8.2. Similarly, joint working, both formal and informal, and dialogue between Members of the Planning Committee and Members of the Cabinet is recognised as a legitimate reality of local government life. Members of the Planning Committee need to ensure that when making planning decisions, they make up their own mind and on the planning merits.
- 8.3. Relevant Members of the Cabinet are entitled to meet with developers or their representatives and other relevant stakeholders as part of their role to promote Brent and the regeneration, development and other commercial opportunities available in the borough. In doing so, Members of the Cabinet must always act in the best interests of the council and ultimately in the public interest, and in accordance with the high standards of conduct expected of Members, to ensure that the integrity of the planning process is not undermined and the council is not brought into disrepute.
- 8.4. Reasonable care and judgement should be exercised in relation to such meetings, taking into account the purpose of the meeting, the nature of the issues to be discussed and the timing. In appropriate circumstances, exercising proper judgement may include ensuring a record is kept of the meeting. Cabinet Members should make sure it is understood that their participation in marketing events or commercial discussions is separate from the administrative and regulatory roles of Members of the Planning Committee.
- 8.5. Although Members of the Cabinet are entitled to express support or opposition to development proposed in the borough, they cannot use their position as a Member improperly to confer on or secure for any person, an advantage or disadvantage.
- 8.6. As pre-application discussions or discussions about undecided applications require particular care, the following additional rules apply. An officer must make the arrangements for such meetings, attend and write notes. The meeting arrangements must include agreeing an agenda in advance.

9. Planning Committee Site Visits

- 9.1. The purpose of a site visit is to enable Planning Committee Councillors to view the site and to better understand the impact of the development. Councillors can however ask the Planning Officer present questions or raise points of clarification.
- 9.2. The Chair of the Committee and the Head of Planning shall agree which sites should be visited in advance of the Committee meeting. A site visit should not be necessary for all proposals, only where a proposal appears to be particularly contentious, is of major importance to the area, or the particular circumstances of the site mean that photos, images and plans do not sufficiently portray the site's context.

- 9.3. 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. The Councillor should avoid making themselves known to the applicant or to neighbours. Accordingly, he/she should not go onto private land, such as the application site or a neighbouring property. The reason for this is that contact between a Planning Committee Councillor and the applicant or a local resident could be misinterpreted as lobbying and may create a suspicion of bias. If such contact is made this should be declared in Committee, but this should not prevent that Councillor from taking part in the consideration of that application.
- 9.4. Whilst on site visits, members of Planning Committee shall keep together as a group and shall not engage individually in discussion with applicants or any members of the public who happen to be there. Members attending the site visit should avoid expressing opinions about the application either to another Planning member, or to any person present.
- 9.5. Failure to attend a formal site visit shall not bar a Planning Committee Councillor from voting on an item at the Committee meeting that considers it, provided the Planning Committee Councillor is satisfied that he/she is sufficiently familiar with the site.

10. Membership and Jurisdiction of the Planning Committee

- 10.1. 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.
- 10.2. 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.
- 10.3. 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 HR Services or his or her representative shall be obtained forthwith.

11. Meetings of the Planning Committee

- 11.1. As decision makers members of the Planning Committee must not only ask themselves the right questions but must take reasonable steps to acquaint themselves with the relevant information to enable themselves to answer them correctly. If, for example, material amendments are made to an application, and members feel they have not had sufficient time to understand the new information or that the information before them is insufficient, consideration should be given to deferring the decision or, if necessary, refusing the application.

- 11.2. At meetings, members of the Planning Committee may be given the opportunity to consider material (e.g. written statements, photos, drawings etc.) circulated by one of the interested parties or the public. As this material may not be relevant or accurate or may otherwise call into question whether an application or matter has been dealt with fairly and properly, members should only consider material which officers have provided or which the Chair or the Committee has authorised.
- 11.3. Members are entitled to make a decision which is different from the officer recommendation for good reasons. Sometimes this will relate to conditions or terms of a s106 obligation. Sometimes it will change the outcome, from an approval to a refusal or vice versa. If a member is proposing or supporting a decision contrary to the officer recommendation he/she must understand, articulate and explain the planning reasons why. These reasons must address the issues on which the member disagrees with the officer recommendation and be given prior to the vote and recorded in detail by officers. Also prior to the vote, officers must be given an opportunity to explain the implications of the contrary decision, including an assessment of a likely appeal outcome, and chances of a successful award of costs against the council. Where there is uncertainty or concern about the validity of reasons, members must consider deferring to another meeting to have the reasons tested and assessed by officers in a follow-up report. All of these requirements are the individual responsibility of each member departing from an officer recommendation.
- 11.4. 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.
- 11.5. Members of the Planning Committee should not speak to members of the public (including applicants, agents and journalists) 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.
- 11.6. 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, and the question should not be party political.
- 11.7. 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.
- 11.8. 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.

12. Member and Officer Relations

- 12.1. 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 Strategic Director Regeneration

and Environment and not to the officer concerned. No such criticism shall be raised in public.

12.2. 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 Strategic Director Regeneration and Environment.

12.3. Members of Planning Committee shall not attempt in any way to influence the terms of the officers' report or recommendation upon any planning matter.

13. Training for Planning Committee

13.1. Members of the Planning Committee (and substitute members) must participate in a programme of training on the planning system and related matters as decided by the council from time to time. The programme will consist of compulsory and discretionary elements. If a Member of the Planning committee fails to participate in compulsory elements of the training this may result in that member being asked to stand down as a member of Planning Committee.

13.2. Members should be aware that training is particularly important for members who are new to the Planning Committee and for members who have not attended training in the recent past.

13.3. Where a member has a genuine difficulty in attending any particular training session officers will try when practicable to accommodate a request for an individual or repeat session.

14. Review of Code of Practice

14.1. The Director of Legal and HR Services will commission a report independent of the planning service in early 2018, and once every four years thereafter on the operation of this Code of Practice. The report should address the extent of compliance with this Code by officers and members, contain an analysis of decisions being made against officers' recommendations and set out any appropriate recommendations for improvement.

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Audit Progress Report and Sector Update

Brent Council

Year ending 31 March 2019

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31 December 2018



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Introduction



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This paper provides the Audit and Standards Advisory Committee with a report on progress in delivering our responsibilities as your external auditors.

The paper also includes a summary of emerging national issues and developments that may be relevant to you as a local authority.

Members of the Audit and Standards Advisory Committee can find further useful material on our website, where we have a section dedicated to our work in the public sector. Here you can download copies of our publications. Click on the Grant Thornton logo to be directed to the website www.grant-thornton.co.uk.

If you would like further information on any items in this briefing, or would like to register with Grant Thornton to receive regular email updates on issues that are of interest to you, please contact either Paul or Sophia.

Progress at December 2018

2018/19 Audit

We have begun our planning processes for the 2018/19 financial year audit.

Our planning and risk assessment work commenced 5 November. We have carried out procedures to enhance our understanding of the Council and the environment it operates in. We have also undertaken risk assessment procedures to inform the design of our responses to identified risks.

Our planning and risk assessment procedures included:

- Review of minutes and papers from key meetings;
- Making enquires of appropriate Council personnel such as CFO, budget holders, Heads of Finance, Head of Legal, TCWG;
- Understanding and documenting business processes, current year developments and any changes impacting the Council;
- Performing walkthroughs of significant processes to determine that the internal controls documented are operating effectively;
- Carrying out analytical procedures through review of budgets and forecasts, pension fund performance monitoring reports, and reviewing movements in housing stock, etc;
- Making contact with third parties, such as the valuer and actuary;
- Liaison meetings with Internal Audit;
- Engaging with our IT audit team to conduct an IT general controls review of the Council's core systems;
- Engaging with component auditors for i4B and FWH to discuss our requirements and how we will work together; and
- Discussions and document review regarding the Council's arrangements to maintain financial sustainability in respect of our Value for Money risk assessment.

We will share our Audit Plan with you at the next Audit and Standards Advisory Committee meeting in February.

Other areas

Certification of claims and returns

We are required to certify the Council's annual Housing Benefit Subsidy claim in accordance with procedures agreed with the Department for Work and Pensions. This certification work for the 2018/19 claim will be concluded by November 2019.

We will also deliver the audits of the Teachers' Pensions and Pooling of Housing Capital Receipts returns in line with national deadlines.

The results of the certification work are reported to you in our certification letter.

Meetings

We met with your Chief Finance Officer in December as part of our quarterly liaison meetings and continue to be in discussions with finance staff regarding emerging developments and to ensure the audit process is smooth and effective.

Events

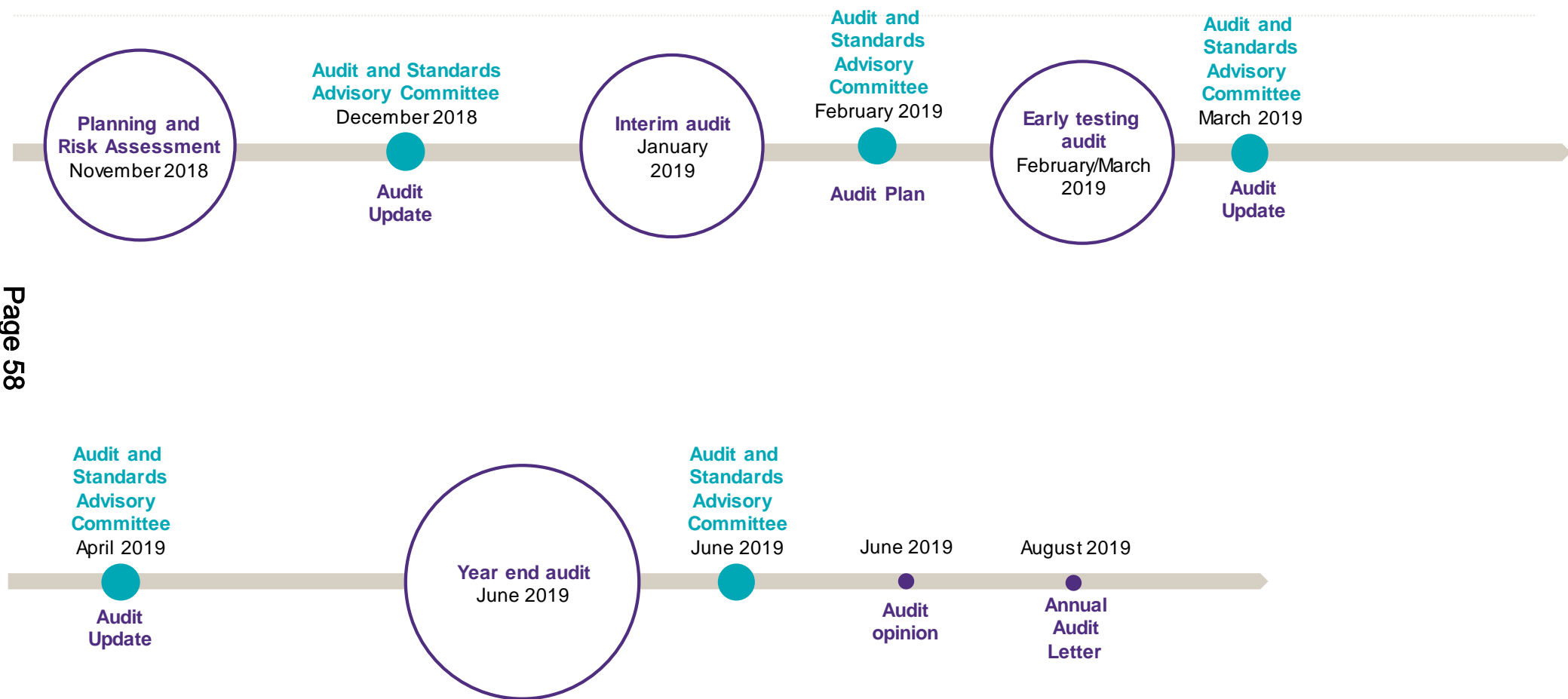
We provide a range of workshops, along with network events for members and publications to support the Council. Our next event is the 2018/19 Chief Accountants workshop with dates in January and February.

Further details of the publications that may be of interest to the Council are set out in our Sector Update section of this report.

Audit Deliverables

2018/19 Deliverables	Planned Date	Status
Fee Letter Confirming audit fee for 2018/19.	April 2018	Complete
Accounts Audit Plan We are required to issue a detailed accounts audit plan to the Audit and Standards Advisory Committee setting out our proposed approach in order to give an opinion on the Council's 2018/19 financial statements.	February 2019	In progress
Interim Audit Findings We will report to you the findings from our interim audit and our initial value for money risk assessment within our Progress Report.	March 2019	Not yet due
Audit Findings Report The Audit Findings Report will be reported to the June Audit and Standards Advisory Committee.	June 2019	Not yet due
Auditors Report This is the opinion on your financial statement, annual governance statement and value for money conclusion.	July 2019	Not yet due
Annual Audit Letter This letter communicates the key issues arising from our work.	August 2019	Not yet due
Annual Certification Letter This letter reports any matters arising from our certification work carried out under the PSAA contract.	December 2019	Not yet due

Planned 2018/19 Audit Timeline



Sector Update

Local government finances are at a tipping point. Councils are tackling a continuing drive to achieve greater efficiency in the delivery of public services, whilst facing the challenges to address rising demand, ongoing budget pressures and social inequality.

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Our sector update provides you with an up to date summary of emerging national issues and developments to support you. We cover areas which may have an impact on your organisation, the wider NHS and the public sector as a whole. Links are provided to the detailed report/briefing to allow you to delve further and find out more.

Our public sector team at Grant Thornton also undertake research on service and technical issues. We will bring you the latest research publications in this update. We also include areas of potential interest to start conversations within the organisation and with audit and standards advisory committee members, as well as any accounting and regulatory updates.

- [Grant Thornton Publications](#)
- [Insights from local government sector specialists](#)
- [Reports of interest](#)
- [Accounting and regulatory updates](#)

More information can be found on our dedicated public sector and local government sections on the Grant Thornton website

In good company: Latest trends in local authority trading companies

Our recent report looks at trends in LATC's (Local Government Authority Trading Companies). These deliver a wide range of services across the country and range from wholly owned companies to joint ventures, all within the public and private sector.

Outsourcing versus local authority trading companies

The rise of trading companies is, in part, due to the decline in popularity of outsourcing. The majority of outsourced contracts operate successfully, and continue to deliver significant savings. But recent high profile failures, problems with inflexible contracts and poor contract management mean that outsourcing has fallen out of favour. The days of large scale outsourcing of council services has gone.

Advantages of local authority trading companies

- Authorities can keep direct control over their providers
- Opportunities for any profits to be returned to the council
- Provides suitable opportunity to change the local authority terms and conditions, particularly with regard to pensions, can also bring significant reductions in the cost base of the service
- Having a separate company allows the authority to move away from the constraints of the councils decision making processes, becoming more agile and responsive to changes in demand or funding
- Wider powers to trade through the Localism act provide the company with the opportunity to win contracts elsewhere

Choosing the right company model

The most common company models adopted by councils are:

Wholly
owned

Joint
Ventures

Social
Enterprise

Wholly owned companies are common because they allow local authorities to retain the risk and reward. And governance is less complicated. Direct labour organisations such as Cormac and Oxford Direct Services have both transferred out in this way.

JVs have become increasingly popular as a means of leveraging growth. Pioneered by Norse, Corserve and Vertas organisations are developing the model. Alternatively, if there is a social motive rather than a profit one, the social enterprise model is the best option, as it can enable access to grant funding to drive growth.

Getting it right through effective governance

While there are pitfalls in establishing these companies, those that have got it right are: seizing the advantages of a more commercial mind-set, generating revenue, driving efficiencies and improving the quality of services. By developing effective governance they can be more flexible and grow business without micromanagement from the council.

LATC's need to adapt for the future

- LATC's must adapt to developments in the external environment
 - These include possible changes to the public procurement rules after Brexit and new local authority structures. Also responding to an increasingly crowded and competitive market where there could be more mergers and insolvencies.
- Authorities need to be open to different ways of doing things, driving further developments of new trading companies. Relieving pressures on councils to find the most efficient ways of doing more with less in today's austere climate.

Overall, joint ventures can be a viable alternative delivery model for local authorities. Our research indicates that the numbers of joint ventures will continue to rise, and in particular we expect to see others follow examples of successful public-public partnerships.



[Download the report here](#)

A Caring Society – bringing together innovative thinking, people and practice

The Adult Social Care sector is at a crossroads. We have yet to find a sustainable system of care that is truly fit for purpose and for people. Our Caring Society programme takes a step back and creates a space to think, explore new ideas and draw on the most powerful and fresh influences we can find, as well as accelerate the innovative social care work already taking place.

We are bringing together a community of influencers, academics, investors, private care providers, charities and social housing providers and individuals who are committed to shaping the future of adult social care.

At the heart of the community are adult social care directors and this programme aims to provide them with space to think about, and design, a care system that meets the needs of the 21st Century, taking into account ethics, technology, governance and funding.

We are doing this by:

- hosting a 'scoping sprint' to determine the specific themes we should focus on
- running three sprints focused on the themes affecting the future of care provision
- publishing a series of articles drawing on opinion, innovative best practices and research to stimulate fresh thinking.

Our aim is to reach a consensus, that transcends party politics, about what future care should be for the good of society and for the individual. This will be presented to directors of adult social care in Spring 2019, to decide how to take forward the resulting recommendations and policy changes.

Scoping Sprint

This took place in October. Following opening remarks by Hilary Cottam (social entrepreneur and author of Radical Help) and Cllr Georgia Gould (Leader of Camden Council), the subsequent discussion brought many perspectives but there was a strong agreement about the need to do things differently that would create and support a caring society. Grant Thornton will now take forward further discussions around three particular themes:

1. Ethics and philosophy: What is meant by care? Should the state love?
2. Care in a place: Where should the power lie? How are local power relationships different in a local place?
3. Promoting and upscaling effective programmes and innovation

Sprint 1 – What do we really mean by 'care'?

This will take place on 4 December. Julia Unwin, Chair of the Civil Societies Futures Project, former CEO of the Joseph Rowntree Association and author on kindness will provide her insight to spark the debate on what we really mean by 'care'

Find out more and get involved

- To read the sprint write-ups and opinion pieces visit: grantthornton.co.uk/acaringsociety
- Join the conversation at #acaringsociety



Care Homes for the Elderly – Where are we now?

It is a pivotal moment for the UK care homes market. In the next few months the government is to reveal the contents of its much-vaunted plans for the long-term funding of care for older people.

Our latest Grant Thornton report draws together the most recent and relevant research, including our own sizeable market knowledge and expertise, to determine where the sector is now and understand where it is heading in the future. We have spoken to investors, providers and market consultants to show case the diversity and innovation that care homes can offer.

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Flourishing communities are not a 'nice to have' but an essential part of our purpose of shaping a vibrant economy. Growth simply cannot happen sustainably if business is disconnected from society. That is why social care needs a positive growth framing. Far from being a burden, the sector employs more people than the NHS, is a crucible for technological innovation, and is a vital connector in community life. We need to think about social care as an asset and invest and nurture it accordingly.

There are opportunities to further invest to create innovative solutions that deliver improved tailored care packages to meet the needs of our ageing population.

The report considers a number of aspects in the social care agenda

- market structure, sustainability, quality and evolution
- future funding changes and the political agenda
- the investment, capital and financing landscape
- new funds and methods of finance
- future outlook.

The decline in the number of public-sector focused care home beds is a trend that looks set to continue in the medium-term. However, it cannot continue indefinitely as Grant Thornton's research points to a significant rise in demand for elderly care beds over the coming decade and beyond.

A strategic approach will also be needed to recruit and retain the large number of workers needed to care for the ageing population in the future. Efforts have already begun through education programmes such as Skills for Care's 'Care Ambassadors' to promote social care as an attractive profession. But with the number of nurses falling across the NHS as well, the Government will need to address the current crisis.

But the most important conversation that needs to be had is with the public around what kind of care services they would like to have and, crucially, how much they would be prepared to pay for them. Most solutions for sustainable funding for social care point towards increased taxation, which will generate significant political and public debate. With Brexit dominating the political agenda, and the government holding a precarious position in Parliament, shorter-term funding interventions by government over the medium-term look more likely than a root-and-branch reform of the current system. The sector, however, needs to know what choices politicians, and society as a whole, are prepared to make in order to plan for the future.

Copies of our report can be requested on our website



Links

Grant Thornton website links

<https://www.grantthornton.co.uk/>

<http://www.grantthornton.co.uk/industries/publicsector>

National Audit Office link

<https://www.nao.org.uk/report/the-health-and-social-care-interface/>

Ministry of Housing, Communities and Local Government links

<https://www.gov.uk/government/news/social-housing-green-paper-a-new-deal-for-social-housing>

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/728722/BRR_Pilots_19-20_Prospectus.pdf

Institute for Fiscal Studies

<https://www.ifs.org.uk/uploads/publications/comms/R148.pdf>

	Audit and Standards Advisory Committee 11 December 2018
	Report from the Chief Finance Officer
Internal Audit External Quality Assessment	

Wards Affected:	All
Key or Non-Key Decision:	Non-Key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	One: <ul style="list-style-type: none"> Areas for Improvement
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Michael Bradley Head of Audit and Investigations Email: michael.bradley@brent.gov.uk Tel: 0208 937 6526

1.0 Background and Terms of Reference

- 1.1 A professional, independent and objective internal audit service is one of the key elements of good governance in local government.
- 1.2 Standard 1312 of the UK Public Sector Internal Audit Standards (PSIAS) states that an external assessment of internal audit must be conducted at least once every five years by a qualified, independent assessor. The principal objective of the assessment is to assess internal audit's conformance to the PSIAS.
- 1.3 An external quality assessment has been carried out of the Brent Internal Audit Service. The review has been conducted by the newly appointed Internal Audit Manager who undertook the review during October 2018. The pan-London peer review mechanism administered by Croydon Council was unable to provide an independently selected reviewer and so the option of using the Internal Audit Manager, (new recruit and a qualified internal audit manager with over 20 years internal audit experience) was accepted by the Audit and Standards Advisory Committee as a suitable alternative.
- 1.4 The review was conducted using available evidence to support conclusions. Interviews were undertaken with the Head of Internal Audit, the Chair and Vice

Chair of the Audit and Standards Advisory Committee, the Chief Executive, Chief Finance Officer and a number of Strategic Directors.

2.0 Recommendation

2.1 The Audit and Standards Advisory Committee note the content of the report.

3.0 The Public Sector Internal Audit Standards

3.1 The Chartered Institute of Public Finance has adopted a common set of PSIAS for Local Government, effective from 1st April 2013 (updated 1st April 2016). The PSIAS encompass the mandatory elements of the Global Institute of Internal Auditors (IIA Global) International Professional Practices Framework (IPPF), consisting of the following three elements:

- Definition of Internal Auditing;
- Code of Ethics; and
- International Standards for the Professional Practice of Internal Auditing (including interpretations and glossary)

3.2 Additional requirements and interpretations for the UK public sector have been inserted in such a way as to preserve the integrity of the text of the mandatory elements of the IPPF.

3.3 In local government, the PSIAS are mandatory for all principal local authorities and apply to all internal audit service providers, whether in-house, co-sourced/outsourced or shared service.

3.4 The PSIAS aim to promote the professionalism, quality and effectiveness of internal audit. They reaffirm the importance of robust, independent and objective internal audit to provide assurance.

3.5 The Code of Ethics of the Chartered Institute of Internal Auditors has been adopted by the PSIAS and promotes an ethical, professional culture. It does not supersede or replace the membership regulations of internal auditors' own professional bodies and codes of conduct of employing organisations.

4.0 Overall Conclusions

4.1 Based on the work carried out the conclusion of this review is that the Brent Internal Audit Service Generally Conforms with the PSIAS.

4.2 The Chartered Institute of Internal Auditors uses a scale of three ratings, "Generally Conforms", "Partially Conforms" and "Does Not Conform". The definitions for these are:

- Generally Conforms - The relevant structures, policies, and procedures of the internal audit service, as well as the processes by which they are applied, at least comply with the requirements of the section in all material respects.
- Partially Conforms - The internal audit service falls short of achieving some elements of good practice but is aware of the areas for development. These will usually represent significant opportunities for improvement in delivering effective internal audit.

- Does Not Conform - The internal audit service is not aware of, is not making efforts to comply with, or is failing to achieve many/all of the objectives and good practice statements within the section or sub-section. These deficiencies will usually have a significant negative impact on the internal audit service's effectiveness and its potential to add value to the organisation. These will represent significant opportunities for improvement, potentially including actions by senior management or the audit committee.

- 4.3 The outcome of the assessment reflects a professional and successful Internal Audit service. The service commands a good level of respect and credibility across the Council and is seen as a key part in supporting and developing good governance within the Council.
- 4.4 The manner in which the Internal Audit service is planned, executed, managed and reported demonstrates a good level of compliance with the PSIAS. The service has a high degree of independence, in fulfilling the definition of internal auditing.
- 4.5 Key Stakeholders confirmed that their expectations were being met, Internal Audit was focusing its work in the correct areas and the profile and reputation across the Council had risen significantly in the last 12 months.
- 4.6 The restructure of the team and the ongoing recruitment of new staff has brought increased stability and will enable improved performance and further service developments to be implemented going forward.
- 4.7 Some areas for improvement have been identified, details of which are provided in the Appendix to this report but these do not impact on meeting the PSIAS and the overall conclusion of conformance.

5.0 Financial Implications

- 5.1 The report is for noting and so there are no direct financial implications.

6.0 Legal Implications

- 6.1 The report is for noting and so there are no direct legal implications.

7.0 Equality Implications

- 7.1 None.

8.0 Consultation with Ward Members and Stakeholders

- 8.1 Not applicable.

Report sign off:

CONRAD HALL
Chief Finance Officer

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Areas for Improvement

Standard	Assessment	Suggested Improvement	Action Owner and Due Date
1000 Purpose, Authority, and Responsibility	The position and reporting lines of IA within the organisation - both functional and administrative reporting lines – is not clearly stated in Audit Charter.	Include the position and reporting lines of IA within the organisation - both functional and administrative reporting lines - in Audit Charter review in 2019.	Head of Audit and Investigations 31 March 2019
1220 Due Professional Care	There is no Audit Manual – only a single sheet protocol. Recent guidance written on Follow Ups, QA, Consultancy and Audit Programmes. No formal guidance on general IA activity.	Continue to produce papers on particular areas of practice that will eventually form an Audit Manual to cover key areas of audit process.	Internal Audit Manager Ongoing
1300 Quality Assurance and Improvement Programme (QAIP)	QAIP process and detail set out in draft <u>paper</u> on the IA guidance shared folder. The culture of continuous improvement is an ongoing theme being developed with the new team including new KPIs as part of appraisal process.	Head of Audit and Investigations to review QAIP paper as part of ongoing team improvement.	Head of Audit and Investigations 31 January 2019
2010 Planning	The audit plan establishes a link between the proposed audit topics and the priorities and risks of the organisation	Once revised strategic risk register is completed, link audits in 2019/20 plan to specific risks and report accordingly	Internal Audit Manager 31 March 2019
2070 External Service Provider	Co-sourcing IA providers PWC are monitored with regular meetings and audit tracking. <u>Contract</u> KPIs not currently reviewed on a regular basis.	Regularly monitor and report on PWC KPIs.	Internal Audit Manager Ongoing
2120 Risk Management	Internal audit's role with regard to risk management should be set out in the internal audit charter. PWC currently engaged in running workshops in each directorate to assess and redraw risk registers. This in turn is intended to inform a revised corporate risk register and service level registers. Risk Management not included in 18/19 Audit Plan due to above work.	Set out clearly IA's role and responsibility in risk management in Charter. Consider including a review of risk management in 2019/20 Audit Plan. Consider taking forward RM processes through meetings/workshops to ensure it continues to embed and develop.	Head of Audit and Investigations 31 March 2019

2201 Planning Considerations	File structure not always clear to ensure all documentation is clearly recorded.	Review audit file structure and include guidance.	Internal Audit Manager 31 January 2019
2420 Quality of Communications	A review of report format is planned for quarter 4 to ensure any changes ready for beginning of 2019/20 Audit Plan.	Review current audit report format. Any changes to be agreed with senior stakeholders.	Internal Audit Manager 31 March 2019

Topic / Date	17-Oct-18	11-Dec-18	05-Feb-19	20-Mar-19	24-Apr-19
Internal Audit & Investigations					
Internal Audit Annual Report, including Annual Head of Audit Opinion					
Review Internal Audit Charter			X		
Internal Audit and Counter Fraud Progress Reports	X		X		X
Draft Internal Audit and Investigations Annual Plan				X	
Internal Audit Peer Review Report		X			
External Audit					
External Audit progress report	X	X	X	X	X
External Audit plan			X		
External Audit - Certification of grants and returns (as and when)				X	
Statement of Accounts & External Auditor's Report					
External Auditor Annual Audit Letter	X				
Financial Reporting					
Treasury Management Mid-term Report	X				
Treasury Management Strategy & Annual Investment Strategy			X		
Draft Statement of Accounts					
Minimum Revenue Policy (MRP) 2018/19 Report (Including an introduction to the revised MHCLG guidance on Investments & MRP)*					
Treasury Management Outrun Report					
Governance					
To review the performance and management of I4B Holdings Ltd and First Wave Housing Ltd			X		
Review of the use of RIPA Powers				X	
To consider issues that had been raised under the Planning Code of Conduct		X			
Receive and agree the Annual Governance Statement				X	
Risk Management					
Risk Management Annual Review, including Risk Management Strategy			X		
Strategic Risk Register			X		
Emergency Preparedness					
IT Resilience					
Audit Committee Effectiveness					
Review the Committee's Forward Plan	X	X	X	X	X
Quarterly private meetings between the Chair of Audit Advisory Committee and the Head of Audit and Risk Management					
Determine and Deliver Training Requirements for Audit Committee Members as Required				X	
Standards Matters					
Quarterly update on gifts and hospitality		X		X	X
Annual Standards Report				X	

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