



# Brent Constitution

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# SUMMARY

## 1. The Council's Constitution

The Constitution was first adopted by Full Council on 22 May 2002 and is reviewed and updated from time to time by Full Council. The purpose of the Constitution is to:

- support the active involvement of citizens in the process of local authority decision-making;
- help councillors represent their constituents more effectively;
- enable decisions to be taken efficiently and effectively;
- create a powerful and effective means of holding decision-makers to public account;
- ensure that no one will review or scrutinise a decision in which they were directly involved;
- ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- provide a means of improving the delivery of services to the community.

Where this Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that decision making is efficient, transparent and accountable to local people. Some of the procedures are required by law, while others are a matter for the Council. The Constitution is divided into 6 Parts. These contain the Council's Standing Orders and other rules, codes, protocols and the Members' Allowance Scheme. In particular, Parts 2 and 3 set out the rules governing the conduct of the Council's business and which part of the Council is responsible for various functions.

## 2. The Full Council

The Council is comprised of 57 members, otherwise called councillors, who are elected every four years. Councillors are elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission for England and approved by the Secretary of State. Only registered voters of the Borough or those living or working in the Borough will be eligible to hold the office of councillor. There are other restrictions on who can hold office as a councillor including having attained the age of 18 at the date of nomination, citizenship and absence of any other disqualification. The term of office of councillors will start on the fourth day after being elected and will finish at the end of the third day after the date of the next regular election.

All councillors will:

- collectively be the ultimate policy-makers;
- represent their communities and bring their views into the Council's decision-making process;
- be involved in decision-making;
- be available to represent the Council on other bodies;
- maintain the highest standards of conduct and ethics;

- contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- effectively represent the interests of their ward and of individual constituents; and
- respond to constituents' enquiries and representations, fairly and impartially.

Councillors are democratically accountable to the residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Audit and Standards Advisory Committee and the Audit and Standards Committee are responsible for ensuring training is provided to members and advising councillors on, and overseeing their compliance with, the Code of Conduct.

The Monitoring Officer maintains a Register of Interests of councillors and co-opted members of the Authority pursuant to section 29 of the Localism Act 2011 which is available at the Council offices and published on the Council website.

All Councillors and co-opted members are required to complete a standard form listing their interests. The Register is updated by the Monitoring Officer, or such other officer nominated by him or her, upon notification by councillors and co-opted members of any changes.

The Register of Interests is available for inspection by the public at the offices of the Council at all reasonable hours and the electronic version of the Register is available on the Council's website.

Councillors meet together at meetings of Full Council where they decide the Council's overall policies and set the budget each year. The Council also has an important role in appointing the Leader of the Council and holding to account the Cabinet and others exercising executive functions. Meetings of the Council are normally open to the public.

### **3. The Leader, Cabinet and the exercise of executive functions**

The Council is operating a Leader and Cabinet form of executive arrangements. The Leader of the Council is a member of the Council who is elected to the post by the other members at a meeting of the Full Council. The Leader chooses between 2 and 9 other councillors to form the Cabinet. The Cabinet is responsible for putting policies, which Full Council has approved, into effect. The Cabinet is the part of the Council which is responsible for most of the Council's day-to-day decision making not delegated to officers. A list of the Cabinet members, their portfolios and their addresses are given in this Part 1.

The following parts of this Constitution constitute the executive arrangements of Brent Council:

- (a) Such part of the Standing Orders in Part 2 as relate to the Scrutiny Committees;
- (b) Such part of the Standing Orders in Part 2 as relate to the Cabinet;

- (c) Such part of the Standing Orders as relate to Joint Arrangements and the Access to Information Rules as set out in Part 2;
- (e) Part 3 (Responsibility for Functions)

#### **4. Role and function of the Mayor**

The Mayor is elected by other members of the Council at the Annual Meeting and the Deputy Mayor is chosen by the duly elected Mayor to act as his or her deputy. The Council is not required to hold such a meeting in the municipal year 2020-21. The Deputy Mayor will, generally, act in the absence of the Mayor.

The responsibilities of the Mayor include:

- to uphold and promote the purposes of the Constitution, and to interpret the application of the Constitution to Council meetings when necessary;
- to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not in the Cabinet are able to hold the Cabinet to account;
- to promote public involvement in the Council's activities;
- to attend such civic and ceremonial functions as the Council as he or she determines is appropriate; and
- to present the Community Champion Awards.

#### **5. Principles of decision making**

All decisions of the Council will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) explaining the reasons for a decision and the options considered.

The council, a committee, sub-committee or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations of any person will follow a proper procedure which accords with the requirements of natural justice and the European convention on human rights.



## 6. Scrutiny

Effective, independent and rigorous examination of the proposals and decisions made by the Cabinet are a significant feature of the Council's arrangements and provide a key role for non-executive members. Overview and scrutiny is the mechanism for holding Cabinet publicly to account. The Council has established two Scrutiny Committees, the Community and Wellbeing Scrutiny Committee and the Resources and Public Realm Scrutiny Committee, to support the work of the Cabinet and the Council as a whole.

The Scrutiny Committees shall comprise 11 members of the Council who shall not be members of the Cabinet. The Community and Wellbeing Scrutiny Committee shall also comprise of 4 voting education co-opted members and 2 non-voting education co-opted members appointed in accordance with Standing Order 50. Members, chairs and vice chairs of the Scrutiny Committees will be appointed by Full Council.

The Scrutiny Committees hold the Cabinet and others to account by scrutinising their decisions, examining performance and asking questions of decision-makers and service providers. Unless the decision is urgent, if the rules set out in Standing Order 14 have been followed, all Key Decisions and a decision which has been made by the Cabinet or by Cabinet Committees can be called in for scrutiny and will be considered by the relevant Scrutiny Committee.

They may recommend that the decision maker reconsider the decision but cannot block a decision indefinitely or impose their own views.

The Scrutiny Committees are also involved in strategic and cross-cutting issues by supporting the Cabinet in the development and review of policy, overseeing health matters, and reviewing the performance of other partners and the Local Strategic Partnership work programme.

The Scrutiny Committees will establish an annual work plan which identifies areas suitable for review and scrutiny and will establish commissions and or panels to undertake specific time limited work. The Scrutiny Committees will meet at regular intervals throughout the municipal year and will meet as and when required in relation to any Call in. An annual report on the activities of the Scrutiny Committees will be produced and published.

## 7. Other Committees

In addition to the committees specifically mentioned above, the Council has established a number of committees and sub-committees to deal with, staffing, planning, licensing, health, standards, safeguarding and pension related functions.

Some Council Committees include members who are not councillors. These are the Community and Wellbeing Scrutiny Committee, the Pension Fund Sub-Committee, the Audit and Standards Advisory Committee, the Health and Wellbeing Board, and the Dismissal Advisory Panel.

- The Audit and Standards Advisory Committee includes up to 4 voting co-opted (Independent) members.

- The membership of the Community and Wellbeing Scrutiny Committee includes four voting and two non-voting education co-opted members. More information regarding the role of the education co-opted members is contained in the Standing Orders and in Part 4 of this Constitution.
- The membership of the Pension Fund Sub-Committee currently includes two non-voting co-optees: a College of North West London representative and a Council employee representative.
- The Dismissal Advisory Panel comprises three Independent Persons appointed to deal with Member Code of Conduct complaints under the Localism Act 2011.
- The Health and Wellbeing Board includes members who are not Councillors who are able to vote.

The Cabinet has appointed a committee: the Barham Park Trust Committee.

## **8. Membership of committees and sub-committees**

The membership and terms of reference of the Council committees and sub-committees and any joint committees are set out in Part 4 of this Constitution. The membership and terms of reference of the Cabinet Committee(s) are set out in Part 3 of this Constitution. The structure of the Council and Cabinet Committees are shown in the Decision Making Structure Chart included in this Part 1.

## **9. Consultative Forums**

In order to give local citizens a greater say in Council affairs the Council has established a number of consultative forums.

Five Brent Connects Forums have been created. These cover Kingsbury & Kenton, Wembley, Harlesden, Willesden and Kilburn. An Area Housing Board Forum 'Talkback' has been established for freehold and leaseholders.

Five Service User Forums have been created. These are Disability and Mental Health, Private Sector Housing, Pensioners, Voluntary Sector Liaison and Equality Forum. The Council has also established a Youth Parliament.

These bodies provide a forum for residents and businesses to discuss and raise concerns about issues in their locality or which are important to the particular group for which the forum or board is designed. They also respond to consultation initiatives by the Council. The consultative forums involve relevant councillors and their meetings are generally held in public. Issues arising from the forums are fed back into the Council's decision making process.

## **10. The Council's Staff**

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely.

## 11. Citizens' Rights and Responsibilities

The Council welcomes participation by its citizens in its work. Citizens have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau and Community Law Centre can advise on individuals' legal rights. Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 2 of this Constitution:

- vote at local elections if they are registered on the electoral roll for the Borough;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its committees except where, for example, confidential or exempt information would be disclosed;
- petition to request a referendum on an elected Mayor;
- contribute to reviews conducted by the Scrutiny Committees and/or their task groups;
- find out, from the Forward Plan, what Key Decisions are to be decided by the Cabinet, Cabinet Committees or officers, as well as other decisions to be taken at a meeting of the Cabinet or Cabinet Committees and when;
- attend meetings of the Cabinet or Cabinet Committees, except where exempt or confidential information is being discussed;
- see reports and background papers, and any record of decisions made by the Council and the Cabinet;
- complain to the Council about its service provision;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Monitoring Officer if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

Citizens have the following responsibilities:

Citizens must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers. In the event of such conduct, citizens may be removed from Council premises and/or any meeting of the Authority they are attending.

## 12. Rules of Procedure

The Council has adopted rules of procedure called Standing Orders which govern the conduct of Council business. These are set out in Part 2 of this Constitution. The Standing Orders cover the rules of debate and procedure for the conduct of meetings of Full Council and its various committees.

There are also provisions relating to the Leader, the Cabinet/Cabinet Committees, the Scrutiny Committees, the Audit and Standards Advisory Committee and the Audit and Standards Committee. There are separate Standing Orders relating to Staff and Contracts.

The Council has also adopted Financial Regulations which govern financial management and control within the Council. These also contained in Part 2 of this Constitution.

### **13. Responsibility for Functions**

The functions of the Council are generally divided between Full Council and its committees and the Leader and the Cabinet and Cabinet Committees. This is either as a matter of law or where there is a choice, as set out in this Constitution. Officers may also carry out certain functions of the Council under powers delegated to them by Full Council or the Leader or the Cabinet or the Cabinet Committee. Part 3 of this Constitution sets out in detail the division of functions between the Leader, the Cabinet and the Council and the scheme of delegation to officers and committees and sub-committees.

### **14. Access to Council Meetings and Documents**

The Council has adopted a set of rules called the Access to Information Rules which set out the Council's procedures for ensuring transparent decision making and a protocol which gives some further information and/or guidance about the type of information that will be given to members of the Council. These include the following rules relating to public access to Council meetings and documents:

- (a) Citizens can attend meetings of the Council or its committees except where exempt or confidential information is being discussed.
- (b) Citizens have the right to attend meetings of the Cabinet or the Cabinet Committees, except where exempt or confidential information is being discussed.
- (c) Citizens have the right to see reports and background papers, and any record of decisions made by the Council and the Cabinet/Cabinet Committees, subject to the rules relating to exempt and confidential information.
- (d) Citizens also have the right to see certain recordable decisions made by officers, again subject to the rules relating to exempt and confidential information.

## DEFINITIONS

The words and phrases defined in this definition section shall have the meaning set out below unless it is clear from another part or section of this Constitution that a different or alternative meaning is intended for the purposes of that part or section.

- The **Access to Information Rules** set out the Council's rules relating to access to meetings and documentation relating to meetings; and exempt and confidential information. These can be found in Part 2 of this Constitution.
- The **Annual Meeting** is the meeting of Full Council each year at which the Mayor is elected.
- The **Authority** means the London Borough of Brent.
- **Best Value** means the requirement under the Local Government Act 1999 that the Council make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- The **Brent Members' Code of Conduct** means the document which has been adopted by the London Borough of Brent setting out what is expected of members and co-opted members of the Authority in terms of their conduct and behaviour, as set out in Part 5 of this Constitution.
- The **Cabinet** is the main decision making body of the Council in particular it is responsible for implementing the Council's Policy Framework and Budget. The Cabinet is made up of the Leader and between two and nine other councillors chosen by the Leader. The Cabinet will carry out all of the Authority's functions which are delegated to it by the Leader and that are not the responsibility of any other part of the Authority, whether by law or under the Constitution. The Cabinet comprises the members appointed by the Leader under the Constitution and the Leader.
- **Cabinet Committee(s)** are committees set up by the Cabinet or by the Leader and to which the Cabinet or the Leader has allocated executive functions. Members of Cabinet Committees will be members of the Cabinet. The Barham Park Trust Committee was appointed by the Cabinet.
- **Chair** means the person who presides over a meeting. At meetings of Full Council the Mayor chairs the meeting. Chairs of Council committees are appointed by Full Council and Chairs of sub-committees are appointed by the relevant parent committee. The Leader will usually chair meetings of the Cabinet.
- The **Chief Executive** is the Head of Paid Service as defined in section 4 of the Local Government and Housing Act 1989 and below.
- **Chief Officers** are defined in Part 3, Paragraph 8.2.
- A **Code of Conduct or Code of Practice** is a document forming part of the Council's Constitution which guides and regulates the behaviour of various groups and individuals.

- A **Committee** is a group of members (including co-opted members) chosen or elected to perform a specific function or purpose. The Authority has various types of committees which are defined separately. There are both committees and sub-committees of the Council and there is a Barham Park Trust Committee of the Cabinet. The terms of reference of the committees and sub-committees are set out in Parts 3 and 4 of this Constitution. There are also a number of joint committees.
- **Confidential Information** is defined in section 100A(3) of the Local Government Act 1972 as:
  - (a) Information furnished to the Council by a Government department upon terms (however expressed) which forbid the disclosure of the information to the public; and
  - (b) Information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court.
- The **Constitution** is a document adopted by Brent Council which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people.
- A **Co-opted Member** means a person who is a member of any committee or sub-committee of the Council but is not a councillor or officer of the Council. Co-opted members generally do not have voting rights on committees, although statute permits certain co-opted members to vote, notably parent governor representatives and church representatives. There are 4 education co-opted members with voting rights on the Community and Wellbeing Scrutiny Committee. There are a further 2 education co-opted members on that committee without voting rights. The voting education co-opted members may only vote on education matters. The Health and Wellbeing Board also includes co-opted members who have voting rights. There are 2 non-voting co-opted members on the Pension Fund Sub-Committee, up to 5 voting co-opted members on the Audit and Standards Advisory Committee. There are also up to 4 co-opted non-voting members on the Corporate Parenting Committee. In addition, all 3 members of the Dismissal Advisory Panel are independent persons appointed under section 28(7) of the Localism Act 2011 and in accordance with the requirements of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- **Corporate Strategy** means the document adopted by the Council setting out the Council's vision, values and key commitments for the next four years.
- The **Council's Budget** includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base, the council tax, a plan or strategy for the control of the Council's borrowing, investments, and/or capital expenditure and any virement limits.
- **Council Functions** are those functions of the Authority which cannot be exercised by the Leader/Cabinet. These functions may be carried out by the Full Council, a Council Committee, Council Sub-Committee, Joint Committee of the Council, officers or any other person authorised by the Full Council to carry out Council functions.
- **Day** means a clear working day unless it is clear from another part or section of this Constitution that a different or alternative meaning is intended for the purposes

of that part or section. For example, all references to giving 28 days notice for all Forward Plan matters are to 28 clear calendar days.

- **Delegated Powers** are powers to make decisions which are delegated by a decision making body to another decision making body or decision maker, such as an officer.
- The Council has a number of **Departments** within each of its Directorates which are headed up by Directors.
- **Deputy Mayor** means a councillor, not being a member of the Cabinet, appointed by the Mayor to act as his or her deputy. In the absence of the Mayor, the Deputy Mayor will perform the functions of Mayor except that the Deputy Mayor will only chair a Full Council meeting, in the absence of the Mayor, if chosen to do so by the members of Full Council at that meeting.
- The Council has a number of **Directorates**. These are Community Health, and Wellbeing, Children and Young People, Law & Governance, Finance and Resources, Partnerships, Housing & Resident Services, and Neighbourhoods and Regeneration.
- The Corporate **Director of Finance and Resources** is the officer appointed in accordance with section 151 of the Local Government Act 1972 who has responsibility for the administration of the financial affairs of the authority.
- The **Director of Public Health** (DPH) is the officer appointed by the Council pursuant to National Health Service Act 2006 S73A. The DPH has the responsibilities and duties prescribed by statute, most particularly to write the annual report on health of the local population, to improve public health, to carry out public protection and improvement functions delegated to the DPH by the Secretary of State, to plan and respond to emergencies that present a risk to public health.
- **Executive Functions** are any functions of the Authority which are not the responsibility of any other part of the Authority, whether by law or, where the law provides a choice, under the Constitution, and therefore have to be carried out by or on behalf of the Cabinet (including the Leader and individual Cabinet members). The division of functions between the Cabinet and the Council are set out in Part 3 of this Constitution.

Generally, the division of functions between the Cabinet and the Council is:

- (a) determination of the Authority's budget, policies and strategies as set out in the Budget and Policy Framework are the responsibility of Full Council;
- (b) functions which will involve either determining an application from a person for a licence, approval, consent, permission or registration or direct regulation of a person together with any related enforcement actions (including prosecution) are the responsibility of the Council. Functions involving staffing issues and other specific matters as set out in Part 3 of the Constitution are also the responsibility of the Council. These functions will be carried out by officers or one of the Council's committees. They cannot be carried out by the Cabinet; and

- (c) all other functions are to be the responsibility of the Cabinet/Cabinet Committees. This includes making decisions on education, social services, most (but not all) highways and parking matters and housing functions. The Cabinet will award contracts, dispose of assets and will develop the policies to be approved by the Council.
- **Exempt Information** means information falling within the 7 categories set out in Schedule 12A of the Local Government Act 1972 and subject to the relevant qualifications set out in that schedule. These rules are explained further in the Access to Information Rules, which form part of this Constitution.
  - An **Extraordinary Meeting** is a meeting of Full Council called by the Mayor. However, if the Mayor refuses to call an Extraordinary Meeting or does not do so within seven days after a request by five Councillors any five councillors may call an Extraordinary Meeting of Full Council.
  - The **Financial Regulations** are contained in Part 2 of this Constitution and set out the rules and procedure, which govern financial management and control within the Council.
  - The **Forward Plan** is a document prepared by the Head of Executive and Member Services which, unless it is impracticable, will give not less than 28 days notice of all the matters likely to be the subject of Key Decisions (irrespective of the decision maker) and other decisions to be taken by the Cabinet (including the Leader and Individual Cabinet members) or by Cabinet Committees. More information about the Forward Plan and the rules relating to it are included in the Access to Information Rules.
  - A meeting of **Full Council** is a meeting to which all 63 councillors of the Authority are invited to attend.
  - The **Head of Paid Service** is the officer appointed by the Authority in accordance with section 4 of the Local Government and Housing Act 1989 who has overall corporate management and operational responsibility within the Council. In the London Borough of Brent the Head of Paid Service is the officer appointed to the position of Chief Executive.
  - **Housing Land Transfer** means a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or a disposal of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.
  - A **Joint Committee** is a committee comprising of members of two or more local authorities created under section 102(1) of the Local Government Act 1972 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.
  - The term **Key Decision** is defined in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. A decision will be a Key Decision if it relates to an executive function and is likely:



- (a) to result in the local authority incurring expenditure or the making of savings of £500k or more; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

A decision maker or decision making body may only make a Key Decision in accordance with the requirements of the Access to Information Rules set out in Part 2 of this Constitution.

Further guidance on Key Decisions is included in the Access to Information Rules which forms part of this Constitution.

- The **Leader** is a councillor, not being the Mayor or Deputy Mayor, elected by the Council to the position of Leader of the Council and Cabinet.
- The **Licensing Code of Practice** means the document which has been adopted by the London Borough of Brent to regulate the performance of its licensing function. The main objectives of the Code are to guide Members and officers of the Council in dealing with licensing related matters and to inform potential licensees and the public generally of the standards adopted by the Council in the exercise of its licensing powers.
- **Mayor** means a councillor, not being a member of the Cabinet, elected by the Council at the Annual Meeting to the position of chair of the Council. The Mayor, if present at a meeting of the Council, will preside and have a second or casting vote in the event of equality of votes on any question coming before a meeting of the full Council.

The Mayor of Brent Council is a symbol of the Authority and as such, the Mayor will normally carry out the ceremonial duties of the Council.

In addition to his or her roles and duties as a councillor, the Mayor will have the additional responsibilities set out in Standing Order 6.

- References to **Meet** and **Meeting** are limited to a meeting of persons all of whom, or any of whom are present in the same place.
- **Member** means a councillor generally or in relation to a committee or sub-committee a member of that committee or sub-committee.
- The **Members' Allowance Scheme** is contained in Part 6 of this Constitution and sets out the scheme under which councillors are entitled to receive allowances in respect of carrying out their duties as councillors and for fulfilling any special responsibilities allocated to them.
- The **Monitoring Officer** is the officer appointed by the Authority in accordance with section 5 of the Local Government and Housing Act 1989 to report to it on any proposal, decision or omission by the Authority or its committees or sub-committees or officers or joint committees which has given, or may give rise, to a contravention of law or statutory code of practice or to such maladministration or injustice as is mentioned in Part III of the Local Government Act 1974. The Monitoring Officer also has a similar duty to report to the Cabinet if the proposal, decision or omission relates to the carrying out of a function by or on behalf of the

Cabinet. The Monitoring Officer is the 'qualified person' for the purposes of determining whether disclosure of particular information under the Freedom of Information Act 2000 would be likely to prejudice the effective conduct of public affairs. In the London Borough of Brent the Monitoring Officer is the officer employed as the Corporate Director of Governance.

- Officers designated as **Directors** are those officers who are directors of the various Departments which make up the Directorates and who report directly to a Corporate Director.
- An **Ordinary Meeting** is a meeting of Full Council which is not an Annual Meeting or an Extraordinary Meeting. These terms are separately defined. Ordinary meetings are for the transaction of the general business of the Council.
- A **Partnership Arrangement** is an arrangement between Brent Council and one or more other bodies or persons to achieve objectives of the Council and at least one of the other parties which involves one or more of the following:
  - sharing of risk in relation to the subject matter of the arrangement
  - joint planning and decision-making such as joint commissioning
  - joint delivery of services
  - sharing of resources

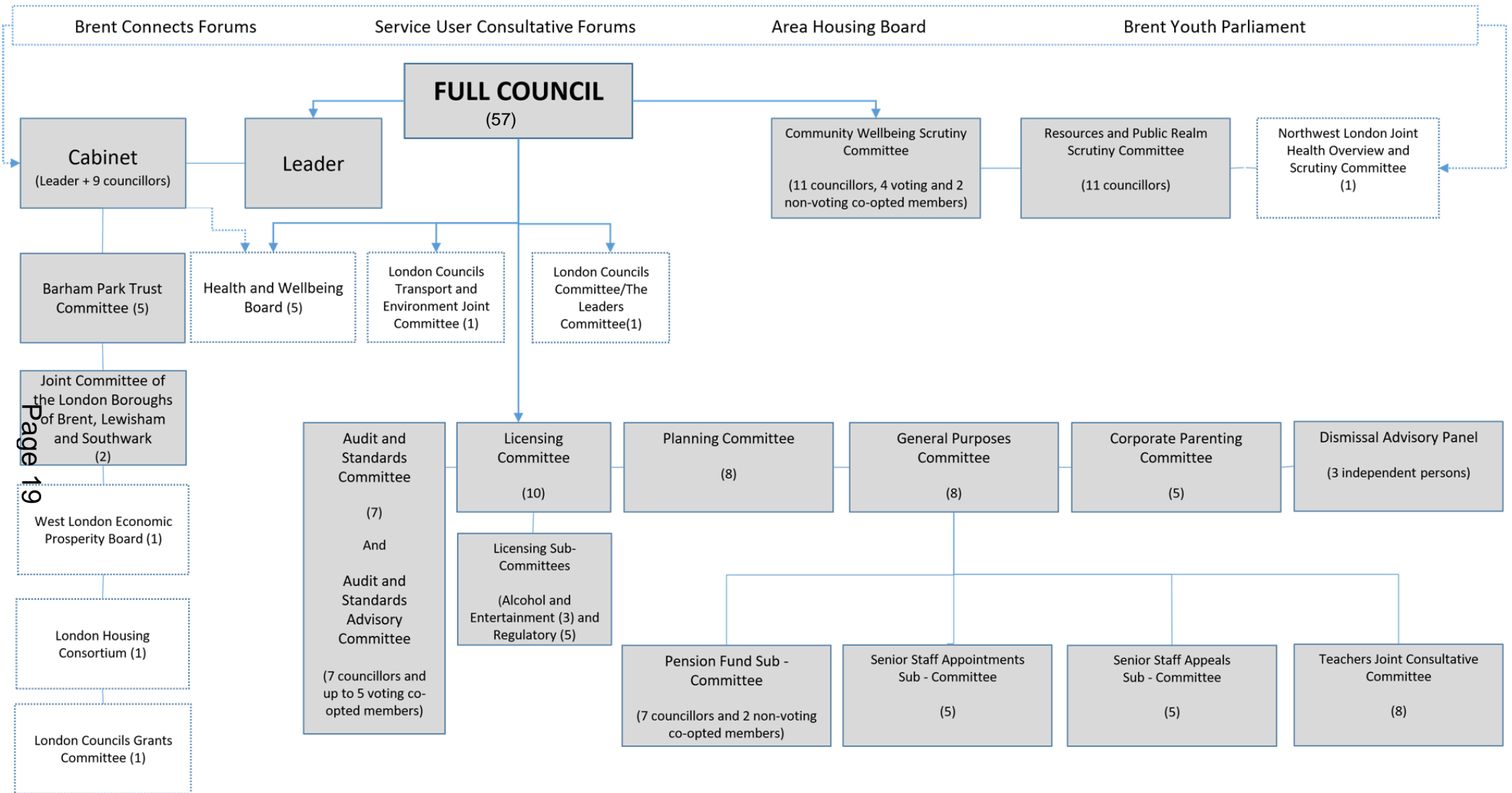
but which is not a contract for the provision by one party to another of a supply, service or works in exchange for a fee or other consideration.

- The **Planning Code of Practice** means the document, which has been adopted by the London Borough of Brent to regulate the performance of its planning function. The major objectives of the Code are to guide members and officers of the Council in dealing with planning related matters and to inform potential developers and the public generally of the standards adopted by the Council in the exercise of its planning powers.
- The **Policy Framework** means the plans, policies and strategies set out in Table 3 of Part 3 of this Constitution.
- **Portfolio** refers to the key responsibilities or roles allocated to a Cabinet Member by the Leader.
- **Proper Officer** has a statutory definition in section 270(3) of the Local Government Act 1972 and means, in relation to any purpose, the officer appointed for that purpose by the Authority or for that area, as the case may be. A non-exclusive list of the Proper Officers can be found in Table 5 of Part 3 of this Constitution.
- A **Protocol** is a document forming part of the Constitution which sets out a guide to the way certain individuals and groups interact with each other. They are not rules but they do give guidance on how things should operate.
- **Recordable Decisions** are those decisions made by officers which are not otherwise published and are not operational or administrative and which fall within the following criteria:
  - a) decisions which in the opinion of the Chief Executive or the relevant Corporate Director are of such significance that a published record of the decision is

- required to ensure transparency and accountability in relation to decision making within the Council;
- b) decisions which are an exception to an approved council policy and or raise significant new issues of policy;
  - c) decisions to exercise powers of Compulsory Purchase;
  - d) decisions that would have a significant impact on communities in a single ward;
  - e) decisions to carry out major road works;
  - f) determination of licencing applications, building control decisions and notices, and
  - g) determinations of planning applications and listed building consents;
  - h) a decision specifically delegated to an Officer at a Cabinet meeting.
- **Scrutiny Committees:** The Council has appointed two Scrutiny Committees, namely, the Community and Wellbeing Scrutiny Committee and the Resources and Public Realm Scrutiny Committee. References to 'the relevant Scrutiny Committee' or such similar references are to either one or both of these committees depending on the terms of reference of the committee and which committee is responsible for exercising the function in question. The Scrutiny Committees are responsible for discharging the Council's scrutiny functions. The membership of the Scrutiny Committees reflect the political balance of the Council. The Scrutiny Committees have responsibility for strategic and cross-cutting issues by supporting the Cabinet in the development and review of policy and for examining the implementation of policy including:
    - (a) overseeing the progress of policy implementation and scrutinising decisions made; and
    - (b) Calling in Key Decisions (irrespective of the decision maker) and decisions made by the Cabinet or by Cabinet Committees.
  - The **Section 151 Officer** is the officer appointed in accordance with section 151 of the Local Government Act 1972 and who has responsibility for the administration of the financial affairs of the authority. The Council has appointed the Corporate Director of Finance and Resources as its Section 151 Officer.
  - **Standing Orders** are rules which the Council has adopted to regulate its business and proceedings. There are also separate Standing Orders relating to the appointment and dismissal of staff and the process leading up to and the making of contracts. These are set out in Part 2 of this Constitution.
  - **Corporate Directors** are directors of Directorates within the Council. There are Corporate Directors of Partnerships, Housing & Resident Services, Law & Governance, Community Health & Wellbeing, Children and Young People, Finance & Resources and Neighbourhoods & Regeneration.
  - A **Sub-Committee** is a group of members (including where appropriate co-opted members) appointed by a committee to take responsibility for one or more aspects of its functions or function.

- **Task Groups** are groups created to undertake time-limited and task focused reviews and to report back to the body that created them.

# Brent Council Decision Making Structure Chart



# List of Cabinet Members and Portfolios

## Address for Cabinet Members

The address for all correspondence to the Cabinet members is Brent Civic Centre, Engineers Way, Wembley, Middlesex, HA9 0FJ.

Post Title	Name	Portfolio	Ward
Leader	Cllr Butt	Leader of the Council	Tokington
Deputy Leader	Cllr Patel	Deputy Leader & Finance and Resources	Alperton
Lead Member	Cllr Jake Rubin	Employment, Innovation and Climate Action	Roundwood
Lead Member	Cllr Nerva	Community Health and Wellbeing	Queens Park
Lead Member	Cllr Tatler	Regeneration, Planning and Growth	Fryent
Lead Member	Cllr Farah	Public Safety and Partnerships	Welsh Harp
Lead Member	Cllr Krupa Sheth	Environment and Enforcement	Wembley Central
Lead Member	Cllr Grahl	Children, Young People & Schools	Cricklewood & Mapesbury
Lead Member	Cllr Promise Knight	Housing	Stonebridge
Lead Member	Cllr Donnelly-Jackson	Resident Support and Culture	Roundwood

## List of the Cabinet Members of the Barham Park Trust Committee

Cllr M Butt (Chair)  
Cllr Patel  
Cllr Donnelly-Jackson  
Cllr Krupa Sheth  
Cllr Harbi Farah

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# **PART 2**

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# BRENT COUNCIL STANDING ORDERS

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

## THE CONSTITUTION

### 1\*. *Constitution to be Widely Available*

*A copy of the Constitution is available to every member of the Council on the Council's website and a copy shall be made available by the Deputy Director of Democratic Services upon request. The Deputy Director of Democratic Services will:*

- (a) ensure that copies of this Constitution are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee; and
- (c) ensure that the summary of this Constitution is made widely available within the area and is updated as necessary.

### 2. **Monitoring and Review of the Constitution**

The Monitoring Officer and the Audit and Standards Advisory Committee will monitor and review the operation of the Constitution to ensure that its aims and principles are given full effect and will make recommendations for changes as they consider appropriate. In undertaking this task the Monitoring Officer may:

- (a) observe meetings of different parts of the councillor and officer structures;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised with him or her by councillors, officers, the public and other relevant stakeholders; and
- (d) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

### 3. **Suspension of Standing Orders**

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

### 4. **Variation and Revocation of Standing Orders**

These Standing Orders may only be varied or revoked at a meeting of Full Council or in accordance with Standing Order 5. Any variation or revocation shall come into effect at the close of the meeting of Full Council at which the variation was approved unless otherwise specifically agreed at the meeting.

**5. Other Changes to the Constitution**

- (a) The Constitution may be varied by the Corporate Director of Law and Governance if in his or her reasonable opinion a variation is a minor variation (which includes legal, factual, administrative and other technical changes) or is required to be made to remove any other inconsistency or ambiguity or is required to be made so as to comply with any statutory provision. Any such variation made by the Corporate Director of Law and Governance shall come into effect on the date specified by him or her.
- (b) Amendments to the Constitution made necessary by the Leader changing executive arrangements or the arrangements for the discharge of executive functions shall be made by the Corporate Director of Law and Governance upon the Leader having followed the notification and reporting processes set out in Part 3 Paragraph 7.6.
- (c) Should the council give consideration to changing from a Leader and Cabinet form of Executive to another form of Executive, the Council must take reasonable steps to consult with local electors and other interested persons in the Borough when drawing up proposals to change from a Leader and Cabinet form of Executive to any other form of Executive or to alternative arrangements. A referendum will be held if there is a proposal to move to an elected Mayor form of executive arrangements.

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

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

**7. Notice to be given**

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

**8. Form of Notice**

- (a) Subject to paragraph (b) below, any notice or request or motion required to be signed by members shall be submitted to the Deputy Director of Democratic Services and shall be signed by the required number of such members at the offices of the Deputy Director of Democratic Services or received from the member's individual email address(es) and not from that member's group office. The Deputy Director of Democratic Services shall have delegated authority to take such action as is necessary to respond to any such notice, request or motion signed by the requisite number of members.
- (b) Any request under Standing Order 14 shall be made in accordance with that Standing Order.

**9. Interpretation**

- (a) References to the Mayor shall include the Deputy Mayor when acting in his or her absence (or in relation to Chairing a meeting of Full Council any other member selected at a meeting of Full Council to chair it if not the Deputy Mayor).
- (b) References to the Leader shall include the Deputy Leader when acting in his or her absence and shall include any other member of the Cabinet who in the absence of the Leader and the Deputy Leader is nominated by the Leader to act or if no such nomination is made the person nominated by the Deputy Leader to so act.
- (c) References to days shall unless otherwise specified be to clear working days. For example, all references to giving 28 days notice for all Forward Plan matters are to 28 calendar days. Clear working days means excluding the day on which the notice is given and the day of the meeting or other event or action to which it relates.
- (d) Other words and phrases shall unless the contrary intention is clear have the meaning given in the definitions section of the Constitution.
- (e) Except as provided in Standing Order 6, the Corporate Director of Law and Governance shall advise on the construction, interpretation or application of any part of the Constitution.

**10. Access to Information**

The Access to Information Rules which apply to meetings and documents are set out in the separate Access to Information Rules forming part of the Constitution.

**11. *Motions relating to confidential or exempt information***

*If any matter arises at a meeting of Full Council or the Cabinet (or a committee or sub-committee thereof) and in respect of which any confidential or exempt information may be disclosed or discussed then in the case of confidential information that matter shall not be the subject of further discussion; and in the case of exempt information that matter shall not be the subject of further discussion until Full Council or the Cabinet or the committee or sub-committee as the case may be has decided whether or not the power of exclusion of the public as set out in the Access to Information Rules shall be exercised.*

**12. *Motions Involving Expenditure***

*No decision of the Council which involves the expenditure of money for which there is no budgetary provision shall be implemented in any way until such budgetary provision has been made.*

**13. Meetings and Decisions of the Cabinet and Cabinet Committees**

- (a) The Cabinet or Cabinet Committees will meet to take decisions on such matters which relate to executive functions as the Cabinet has been delegated by the Leader or the Cabinet Committees have been delegated by the Leader or the Cabinet (as appropriate) unless there is no business to consider and that meeting will be open to the press and public except to the extent that the press and public are excluded during the consideration of any confidential or exempt information, as set out in the Access to Information Rules.

- (b) Members of the Council who are not members of the Cabinet or Cabinet Committees (as appropriate) and members of the public may only speak at public meetings, or attend and speak at private meetings, of the Cabinet or Cabinet Committees (as appropriate) if invited to do so by the Leader or if the Cabinet/Cabinet Committee at the relevant meeting so decides and only then for the period so permitted.
- (c) The Quorum for meetings of the Cabinet and Cabinet Committees shall be 3.
- (d) The rules for debate at the meetings of the Cabinet shall be determined by the Cabinet/Cabinet Committees.
- (e)\* *Any decision taken by the Cabinet or by Cabinet Committees shall be taken following the consideration of a written report and after having taken into account all legal, financial and other relevant implications, the responses to any consultation and the comments received from the relevant Scrutiny Committee and any previous meeting of Full Council where the matter the subject of the decision was considered.*
- (f)\* *Any decision of the Cabinet or Cabinet Committees shall be taken in accordance with all current legislation, these Standing Orders and the other applicable rules contained in the Constitution.*
- (g) Minutes of the meeting shall be taken by an officer, such minutes to reflect the requirements contained in the Access to Information Rules for a record of Key Decisions (and certain other decisions) to be maintained.
- (h) Minutes of each Cabinet and Cabinet Committee meeting shall be put before the next ordinary meeting of the Cabinet or Cabinet Committee (as appropriate) for approval as a correct record and as soon as they are so approved the Leader shall sign them.
- (i) The decisions of the Cabinet/Cabinet Committees shall be published in a List of Cabinet Decisions and the list shall, be published within 48 hours of the meeting at which the decisions were made.

## OVERVIEW AND SCRUTINY

### 14 Call in of Cabinet, Cabinet Committees and Officer Decisions

- (a) If
  - (i) the relevant Scrutiny Committee decides; or
  - (ii) five non-cabinet members of the Council representing more than one political group (for the avoidance of doubt excluding voting and non-voting co-opted and independent members) submit a valid request.

that any Key Decision (irrespective of the decision maker) and other decisions made by the Cabinet or by Cabinet Committees be called in for scrutiny then the relevant Scrutiny Committee shall consider that decision at its next meeting which, unless otherwise determined by the Leader, shall in the case of a decision made by the Cabinet or by Cabinet Committees take place within 15 days of the date on which the call-in is accepted as valid under paragraph (b) below. This period will be extended by the Deputy Director of Democratic Services as appropriate to take account of any public or religious holidays identified in the Municipal Calendar.

- (b) Any such decision by the relevant scrutiny committee shall be made within 5 days of the date on which the relevant decision was made or in the case of a decision made by officers within 5 days of the date on which the record of the decision is made publicly available in accordance with the Access to Information Rules. A request shall be valid if it:
- (i) is received by the Deputy Director of Democratic Services by 6 pm on the 5<sup>th</sup> day;
  - (ii) is in writing and submitted by letter signed by the member or from the member's individual email address and not from that member's group office.
  - (iii) includes the reason(s) for the request being made. For the avoidance of doubt, there is no requirement that the same reason be given in respect of each request when calculating whether the threshold specified in paragraph (a) above has been reached.
  - (iv) is made on the Call-in form available from [Member Call in form - Member Details - Self \(achieveservice.com\)](#) or includes all the information required by the form.
  - (v) includes the member's suggested alternative proposals, action, or resolution of the matter; and
  - (vi) meets the requirements of section 3.2 of the call in protocol included in Part 5 of this Constitution.
- (c) A non-cabinet member who has notified a request to the Deputy Director of Democratic Services under 14(a)(ii) may withdraw their request within 72 hours of by 6 pm on the 5<sup>th</sup> day in which case the Deputy Director of Democratic Services will recalculate whether the threshold in paragraph (a)(ii) is met and if it is not the call-in shall not proceed.
- (d) No decision covered by this Standing Order shall be implemented before the expiry of the 5 day period provided for in paragraph (b) above has expired and no decision which has been called in in accordance with this Standing Order may be implemented until the relevant Scrutiny Committee has met to consider the decision in accordance with paragraph (a) and, if applicable, the decision has been reconsidered unless the decision is urgent and the process in paragraph (e) below has been complied with.
- (e) Where a decision covered by this Standing Order is urgent the following shall apply:
- (i) a decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or public interest and it would not be practicable for a quorate meeting of the relevant Scrutiny Committee to be convened and for any necessary reconsideration by the decision maker to take place in compliance with the Access to Information rules if the matter were called in.
  - (ii) the Chief Executive shall determine whether the matter is urgent on the basis of the definition in (i) above and that any decision on that matter cannot be called-in.
  - (iii) the Chief Executive shall obtain the consent of the Chair of the relevant Scrutiny Committee (or in their absence the vice-chair) to the matter being treated as urgent and call-in not applying.
  - (iv) the published notice of the decision shall include the reasons why the decision may not be called-in prior to implementation.
  - (v) if the process in (ii) and (iii) has been completed prior to the publication of the report seeking the decision concerned, the report shall clearly state that the matter has been agreed as urgent and that call-in will not apply and, where

- applicable, this will be recorded in the minutes of the meeting that considers the matter.
- (vi) where (ii) – (iii) take place after the decision has been taken, the fact that a matter had been determined as urgent and that call-in did not apply, shall be notified to all members of the relevant scrutiny committee.
- (f) The Cabinet or Cabinet Committee shall report to the next ordinary meeting of Full Council details of any such urgent decisions and the reasons why the decision needed to be implemented as a matter of urgency.
- (g) In considering the call in the relevant Scrutiny Committee shall have regard to the call in protocol and determine whether it accepts any response which may have been given to it by the relevant decision maker and if it does not accept their response it can, in respect of that decision, agree recommendations to be given to the decision maker.
- (h) If the relevant Scrutiny Committee recommends to the decision maker that it should reconsider the decision or matter then
- (i) in the case of a decision made by the Cabinet/the Cabinet Committee, the Cabinet/Cabinet Committee (as appropriate) shall meet and shall take into account the views expressed or recommendations made to it and may then proceed to implement or change the decision as it sees fit, whether or not the matter is referred to Full Council for further consideration under Standing Order 15; or
- (ii) in the case of a Key Decision made by an officer, the officer who made the Key Decision shall take into account the views expressed or recommendations made to him or her and may then proceed to implement or change the decision as he or she sees fit, whether or not the decision is referred to Full Council for further consideration under Standing Order 15.

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

- (a) If, following consideration by the relevant Scrutiny Committee of a called in decision, at least 10 members of the Council (not including the independent or co-opted members) so request the decision the subject of the call in shall be referred to a meeting of Full Council for further consideration.
- (b) Any request to refer such a decision to Full Council, in accordance with paragraph (a) above, shall be made in writing, together with the reasons for the referral and may include details of any suggested alternative proposal, action, or resolution (standard forms are available from members' group offices), to the Deputy Director of Democratic Services within 5 days of the date on which the relevant Scrutiny Committee met in accordance with Standing Order 14(a) or the date on which the decision maker reconsidered their decision in accordance with Standing Order 14(h) if later. The Deputy Director of Democratic Services shall forthwith copy the request and the reasons to the Leader.
- (c) The Leader shall include in his or her report to Full Council any comments of the Cabinet or Cabinet Committee (as appropriate) on the referral and the reasons given therefore.
- (d) Full Council may make such recommendations to the Cabinet or Cabinet Committee (as appropriate) as it sees fit and the Cabinet or Cabinet Committee shall, if the recommendations relate to a function which is properly exercisable by it, take into account but shall not be obliged to accept those recommendations.



**16. Members' Rights to Request Scrutiny**

Any member of the Scrutiny Committees may, by giving written notice to the Deputy Director of Democratic Services, request that any matter which is relevant to the functions of the Scrutiny Committee they are a member of is included in the agenda for, and is discussed at, a meeting of the relevant Scrutiny Committee, such notice to be given at least 21 days prior to the date of the meeting at which the member wishes to raise the said matter.\*

**17. Councillor Call for Action**

- (a) Any member of the council may, by giving written notice to the Deputy Director of Democratic Services, request that any matter (which is not an excluded matter under the Local Government Act 2000) which relates to the functions of the relevant Scrutiny Committee be included in the agenda for, and be discussed at, a meeting of the relevant Scrutiny Committee.
- (b) Any member of the council may, by giving written notice to the Deputy Director of Democratic Services, request that a local crime and disorder matter (as defined by the Police and Justice Act 2006) be included in the agenda for, and be discussed at, a meeting of the Resources and Public Realm Scrutiny Committee.
- (c) Prior to referring a local government or local crime and disorder matter to the relevant Scrutiny Committee a member should refer to the Council's Councillor Call for Action protocol which provides further information about the Call for Action process.

**THE POLICY FRAMEWORK AND THE BUDGET****18. The Framework for Cabinet and Cabinet Committee decisions**

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

**19. Developing proposals for the budget and capital programme**

- (a) In the case of the Council's annual budget and the capital programme, the Cabinet shall receive a report from the Corporate Director, Finance and Resources setting out the financial position of the Council, financial forecasts for the following year and the possible expenditure priorities of the executive.
- (b) The Resources and Public Realm Scrutiny Committee shall meet (on more than one occasion if necessary) to consider the Report to Cabinet and the issues raised. The Committee may receive evidence from Cabinet Members and others and shall then produce a report setting out its view of the budget priorities and any other issues it considers relevant. This report shall be submitted to each Cabinet Member and each Group Leader in order to inform budget proposal discussions.
- (c) Prior to being agreed by the Cabinet, the Cabinet's budget proposals shall be sent to members of the Resources and Public Realm Scrutiny Committee which will then meet to consider the proposals, and, if it wishes, to receive evidence from Cabinet

Members and others. The Committee shall submit a note of its deliberations and comments on the proposals to the Cabinet.

- (d) Prior to agreeing its budget proposals the Cabinet shall take into account the issues raised and the note of the deliberations and comments from the Resources and Public Realm Scrutiny Committee submitted to the Cabinet under paragraph (c).
- (e) A meeting of Full Council shall be convened in accordance with Standing Orders for the purpose of agreeing the Council's budget and setting the Council Tax.
- (f) Where, before 8th February in any financial year (but not otherwise), the Cabinet submits to Full Council for its consideration in relation to the following financial year:
  - (i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 36 or 43 to 47 of the Local Government Finance Act 1992;
  - (ii) estimates of other amounts to be used for the purposes of such a calculation; or
  - (iii) estimates of such a calculation

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

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

- (ii) the Cabinet's reasons for those amendments;
- (iii) any disagreement that the Cabinet has with any of Full Council's objections; and
- (iv) the Cabinet's reasons for that disagreement

which the Leader submitted to Full Council, or informed Full Council of, within the period specified.

- (k) In the event that there is a dispute between the Cabinet and Full Council on all or any part of the Capital Programme which cannot be resolved at the relevant meeting, Full Council shall instruct the Cabinet to reconsider their proposal in accordance with paragraphs (i) and (j) of Standing Order 20 below.

## **20. Developing plans, policies and strategies forming the Policy Framework**

- (a) In the case of a plan, policy or strategy forming part of the Policy Framework, the Cabinet may present a report to the Full Council setting out the various issues in respect of that plan, policy or strategy.
- (b) Full Council may refer the report and any issues raised at the meeting to the relevant Scrutiny Committee as appropriate. The committee may canvass the views of local stakeholders, in particular relevant Consultative Forums if it considers it appropriate but having particular regard not to duplicate any consultation carried out by the Cabinet.
- (c) Following the referral of the report to it under paragraph (b) above, the relevant Scrutiny Committee shall report to the Cabinet on the outcome of any consultation and its deliberations within 8 weeks of the date of the Full Council meeting unless Full Council considers that there are special circumstances that make this timescale inappropriate in which case Full Council will specify the period within which the response must be reported.
- (d) In the case of a plan, policy or strategy forming part of the Policy Framework which is not to be subject to a debate a report setting out the various issues in respect of the plan, policy or strategy shall be submitted to the relevant Scrutiny Committee. The committee may canvass the views of local stakeholders in particular, relevant Consultative Forums if it considers it appropriate, but having particular regard not to duplicate any consultation carried out by the Cabinet.
- (e) Following the submission of the plan, policy or strategy to it under paragraph (d) above, the committee shall provide comments to the Cabinet on the outcome of any consultation and its deliberations within 8 weeks of the date of receipt of the report unless the Leader considers that there are special circumstances that make this timescale inappropriate in which case the Deputy Director of Democratic Services will, on behalf of the Leader, specify the period within which the response must be reported to it.
- (f) The report will be referred to the relevant Scrutiny Committee under paragraphs (b) and (d) above by sending a copy to the Deputy Director of Democratic Services who will forward them to the Chair of the committee.
- (g) Having considered any comments received from the relevant Scrutiny Committee and the matters noted at any debate, the Cabinet may then agree its proposed plan, policy or strategy which shall then be reported by the Leader to Full Council for consideration and determination together with details of how the Cabinet has taken

into account any recommendations received from the committee.

- (h) Full Council will consider the proposals of the Cabinet and may adopt them or may decide that it has objections to them or may decide that it would be minded to adopt them subject to certain amendments. Where Full Council objects to or wants to amend the proposals, then before it amends or adopts them or approves them for the purpose of submission to the Secretary of State or Minister of the Crown for his or her approval, it must inform the Leader of any objections which it has to the draft plan, policy or strategy and must, unless the Leader agrees those amendments at that meeting, give instructions requiring the Cabinet to reconsider the proposals in the light of those objections.
- (i) Where Full Council gives instructions in accordance with the preceding paragraph, it must specify a period of at least 5 days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may submit to Full Council for reconsideration either a revised draft of the plan, policy or strategy together with the Cabinet's reasons for any amendments or details of those aspects of Full Council's objections that the Cabinet disagrees with and the reasons for any such disagreement.
- (j) When the period specified in the preceding paragraph has expired Full Council must, when amending or adopting the plan, policy or strategy or approving it for the purpose of submission to the Secretary of State or Minister of the Crown for his or her approval take into account any amendments, included in any revised draft plan, policy or strategy submitted by the Cabinet within the required period as set out above, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of Full Council's objections and the Cabinet's reasons for that disagreement.
- (k) Any member wishing to put forward an alternative proposal in respect of a plan, policy or strategy forming part of the Policy Framework shall submit the proposal in writing to the Deputy Director of Democratic Services at least 10 days before the meeting at which the debate is to take place or in the case of a plan, policy or strategy which is not the subject of a debate at least 15 days prior to the end of the consultation period specified by the Cabinet. The Deputy Director of Democratic Services shall number such written alternative proposals in the order in which they are received and shall arrange for them to be circulated to all members of the Council as soon as possible after having received them and prior to the meeting at which any debate is to take place or the next meeting of the relevant Scrutiny Committee at which the plan, policy or strategy will be considered.
- (l) Full Council will, subject to paragraph (m) below, specify (in approving the Policy Framework and the Budget or otherwise) the extent to which virements and transfers may be made within the budget and to which in-year changes to the policies agreed as part of the Policy Framework may be made. Any other changes to the Policy Framework and the Budget are reserved to Full Council.
- (m) No expenditure shall be incurred in excess of the amounts allocated in the approved budget to each budget head other than in accordance with arrangements specified by Full Council under (l) above.
- (n) The Cabinet may make in-year changes to the policies and strategies agreed as part of the Policy Framework if such change or changes are within the limits set by Full Council pursuant to paragraph (l) above. No other changes may be made unless it, or they, cannot reasonably wait until the next meeting of Full Council and if it is not reasonably practicable to call a meeting of Full Council for that purpose and unless:-

- (i) such change is necessary to ensure compliance with the law or a ministerial direction; or
- (ii) the Council would suffer or would be likely to suffer significant financial detriment if the policy was not changed in the manner proposed; or
- (iii) the Council would benefit or would be likely to benefit from significant financial gain if the policy was changed in the manner proposed.

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

## **21. Cabinet and Cabinet Committee Decisions Outside the Policy Framework and the Budget**

- (a) *Except in accordance with paragraph (c) no person or body shall make any decision which is, according to advice received from the Monitoring Officer or the Corporate Director of Finance and Resources, contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Council's approved Budget.*
- (b) *According to statute, any function in respect of which the Leader, the Cabinet, or a Cabinet Committee has purported to make a decision or is minded to make a decision which according to advice received from the Monitoring Officer or the Corporate Director, Finance and Resources is or would be contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Council's approved Budget ceases to be an executive function for the purposes of that decision and so shall be referred to Full Council for consideration, except as provided in paragraph (c).*
- (c) A decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by Full Council may only be made other than by Full Council if the decision is required to be made as a matter of urgency and if:-
  - (i) it is not practical to convene a quorate meeting of Full Council; and
  - (ii) the Chair of the relevant Scrutiny Committee agrees that the decision is a matter of urgency.
- (d) The reasons why it is not practical to convene a quorate meeting of Full Council and the agreement of the Chair of the relevant Scrutiny Committee shall be noted on the record of the decision. In the absence of the Chair of the relevant Scrutiny Committee the consent of the Mayor, and in the absence of both the Deputy Mayor, will be sufficient.
- (e) Following any decision taken pursuant to paragraph (c), the decision taker will provide a full report to the next ordinary meeting of Full Council explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.
- (f) Full Council may in respect of any decision which the Cabinet has purported to take or is minded to take which is referred to Full Council for consideration under this Standing Order:-
  - (a) itself take a decision on the matter and/or

- (b) amend the relevant plan, policy or strategy so as to encompass the decision or proposed decision in which case the matter could be remitted to the Cabinet for a decision if the decision was not in fact taken by Full Council under paragraph (a) above or
- (c) instruct the Cabinet to reconsider the matter and reach a decision which is in accordance with the existing Policy Framework and the Budget or with any other recommendations Full Council is minded to make (e.g. a special exception).

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**MEETINGS OF FULL COUNCIL****22. Types of Meeting**

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

**23. Time of Meeting**

All Ordinary Meetings of Full Council and any Annual Meeting shall be held at 6.00 pm at Brent Civic Centre, or otherwise as determined by Full Council or, in the case of an Extraordinary Meeting, as determined by the Mayor, or if called other than by the Mayor, as determined by the Deputy Director of Democratic Services. The Annual Council Meeting shall be held at Brent Civic Centre or as otherwise determined by Full Council. An annual calendar of meetings shall be adopted by Full Council for each municipal year. The Deputy Director of Democratic Services may make any alterations deemed necessary to the Municipal Calendar during the course of the Municipal Year having consulted the Leader of the Council; the Leaders of the Opposition Groups; and the Chair of the affected meeting.

**24. Intervals**

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

**25. \*Chair of Meeting**

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

**26. Quorum of Meetings of Full Council**

- (a)\* *A quorum for a meeting of Full Council shall be one quarter of the whole number of members of the Council.*
- (b)\* *If at the time appointed for the meeting and during the succeeding twenty minutes, a quorum of members shall not be present no business shall be transacted.*
- (c) If following the expiry of twenty minutes the Mayor counts the number of members present and declares the meeting inquorate, the meeting shall stand adjourned.
- (d) The consideration of any business not transacted shall be adjourned to a time fixed by the Mayor at the time the meeting is adjourned or if the Mayor does not fix a time, to the next ordinary meeting of Full Council.

**27. The Annual Meeting**

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

**(a)\* Mayor:**

*To elect the Mayor for the following year.*

**(b) Deputy Mayor:**

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

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

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

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

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

**(e) Declarations:**

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

**(f) Minutes:**

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

**(g) Agree the Constitution:**

To agree any changes to the Constitution.

**(h) Political Balance:**

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

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

To appoint to the membership of Council committees and joint committees and other relevant bodies, forums and panels; to appoint the Chairs and Vice Chairs of the Council Committees, forums and panels and to agree the substitutes for members.



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

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

**(k) Other meetings:**

To settle, as far as is considered advisable, the calendar of meetings for the remainder of the municipal year.

**(l)\* Business required to be dealt with:**

*To deal with any other business expressly required by statute to be dealt with.*

**(m) Other Business**

To consider any other business including any urgent business.

Business falling under (a), (b), (c) and (d) shall not be displaced, but subject thereto the foregoing order of business may be varied by the Mayor at his or her discretion.

**28. Council Tax Setting**

(a) *\*A Meeting of Full Council shall be held each year on a day not later than 10th March or such later date as may be allowed by statute to set the level of Council Tax for the following Council Tax year and to deal with associated budgetary matters.*

(b) At an ordinary meeting where council tax setting is to be decided items h to p in Standing Order 30 shall be replaced by the following:

(c) The Leader shall present a report to the meeting setting out the Cabinet's proposals for the budget.

(d) The Chair of the Resources and Public Realm Scrutiny Committee shall be allowed up to 10 minutes to present the findings of the committee. A procedural motion shall address the right to speak of the Group Leaders and the Lead Member for Resources including time limits. There will then be general debate. Provision shall also be made in the procedural motion for the Leader of the Council to have the right to make closing remarks with a time limit specified. Following which a vote will be taken.

(e) At an Ordinary Meeting where Council Tax Setting is decided there shall be no motions (item (r) under the Ordinary Council Meeting items of business).

(f) Any amendment proposed to be moved to the recommendations in the report under (c) above must be set out in writing to the Deputy Director of Democratic Services by 5.00pm on the previous working day.

**29. Extraordinary meetings**

(a) An Extraordinary Meeting of Full Council may be called at any time by the Mayor, or in the absence of the Mayor, by the Deputy Mayor. References in the following paragraphs of this Standing Order to the Mayor shall include the Deputy Mayor acting in his or her absence.

- (b) If the Mayor refuses to call an Extraordinary Meeting of Full Council after a requisition for that purpose, signed by five members of the Council, has been presented to him or her, or if, without so refusing, the Mayor does not call an extraordinary meeting within seven days after the requisition has been presented to him or her, then, any five members of the Council, on that refusal or on the expiration of those seven days, as the case may be, may forthwith call an Extraordinary Meeting of Full Council.
- (c) A requisition under paragraph (b) above for an Extraordinary Meeting of Full Council may be presented to the Mayor either personally or by leaving it with the, Deputy Director of Democratic Services or a member of his or her staff, who shall be empowered to receive the requisition on the Mayor's behalf. Any such requisition shall be accompanied by notice of the motion or motions to be debated at the Extraordinary Meeting. The requisition shall be marked with the date and time of receipt by the Mayor or the officer receiving it on the Mayor's behalf.
- (d) The Council has adopted a Protocol governing requisitions under paragraph (b) above which is contained in Part 5 of the Constitution.

### 30. Ordinary Meetings

Unless otherwise provided in these Standing Orders the order of business at ordinary meetings of Full Council except those concerning the Council tax setting shall be:-

(a)\* **Absence of Mayor:**

*To choose a person to preside if the Mayor or Deputy Mayor is absent.*

(b)\* **Business required to be dealt with first:**

*If necessary, to deal with any business required by statute to be done before any other business.*

(c) **Minutes:**

To approve as a correct record and sign the minutes of the last meeting or meetings of Full Council.

(d) **Declarations:**

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

(e) **Mayor's announcements (including petitions received)**

(f) **Business from previous meetings:**

If necessary, to dispose of any business remaining from the last meeting of Full Council.

(g) **Appointments to Committees and Outside Bodies and Appointments of Chairs/Vice Chairs**

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If necessary, to agree appointments to committees and outside bodies and to agree the appointment or replacement of Chairs and/or Vice Chairs of committees.

(h) Deputations

To enable deputations by Members of the public in accordance with Standing Order 32.

(i) Questions from members of the public

To enable questions from members of the public to be put to members of the Cabinet in accordance with Standing Order 33.

(j) Petitions

To enable members to reference petitions received and for there to be a debate on a petition which attracts more than 200 signatures in accordance with the Council's petition rules and Standing Order 66.

(k) Motions

To debate Motions selected by the groups in accordance with Standing Order 41

(l) Annual report on the borough under Standing Order 38 (if applicable)

To receive an annual report on the borough from the Leader in accordance with Standing Order 38.

(m) Reports from the Leader or members of the Cabinet

To receive reports from the Leader or Cabinet in accordance with Standing Order 31.

(n) Questions from the Opposition and other Non Cabinet Members

To enable questions to be put to the Cabinet in accordance with Standing Order 35.

(o) Reports from the Chair of the Scrutiny Committees

To receive reports from the Chairs of the Scrutiny Committees in accordance with Standing Order 36.

(p) Report from the Vice-Chair of the Audit and Standards Advisory Committee

To receive a report from the Vice-Chair of the Audit and Standards Advisory Committee in accordance with Standing Order 37.

(q) Non Cabinet members' debate

To enable non Cabinet members to debate an issue of relevance to Brent in accordance with Standing Order 34.

(r) Other Business required to be dealt with:

Including, by way of example but not limitation, election results, review of political balance, changes to the Constitution, recommendations from committees, and any other business required to be dealt with.

- (s) \*Urgent business:

If the Mayor so agrees, to consider any urgent business.

Business falling under (a) to (f) shall not be displaced, but subject thereto the foregoing order of business may be varied by the Mayor at his/her discretion.

Where the Council is to set the Council Tax items (h) to (p) will be replaced by the other items set out in Standing Order 28.

### **31. Report from Leader or Members of the Cabinet**

- (a) The Cabinet shall be allowed to submit a written report in advance of the meeting setting out key or significant issues arising from any matter which is the responsibility of the Cabinet. At the meeting up to 3 minutes will be set aside for the Leader or other member(s) of the Cabinet to present those issues. The report shall include (if relevant) all or any of the following matters:-

- (i) **Policy proposals referred to Full Council for approval:**

A proposed plan, policy or strategy forming part of the Policy Framework or the Budget which is being presented by the Cabinet to Full Council for approval, the views (if any) of the relevant Scrutiny Committee and the way in which those views were taken into account by the Cabinet;

- (ii) **Approval to depart from Policy Framework or Budget:**

Any decisions which the Cabinet has purported to take or is minded to take which, in the reasonable opinion of the Chief Executive, Monitoring Officer or the Corporate Director, Finance and Resources are, or would be, contrary to the Policy Framework or contrary to or not wholly in accordance with the budget approved by Full Council and in respect of which decision is sought from Full Council in accordance with Standing Order 21.

- (iii) **Urgent decisions outside the Policy Framework and the Budget:**

Any decisions which the Cabinet has taken and which were contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the budget but which were taken in accordance with the urgency provisions in Standing Order 21 (to include the reasons for urgency);

- (iv) **Urgent decisions not included in the Forward Plan:**

Any key decisions which were not included in the Forward Plan but were taken by the Cabinet, a Cabinet Committee, a Cabinet Member or an officer under the urgency provisions in Access to Information Rule 38 and the reasons for such urgency;

- (v) **Urgent decisions called in:**

Any decisions which were called in for scrutiny and which were implemented under the urgency provisions in Standing Order 14 prior to consideration of the decision by the relevant Scrutiny Committee and the reasons for urgency;

(vi) **Non-compliance with Access to Information Rules:**

Any decisions which the Cabinet have taken in respect of which the Cabinet should have but did not comply with those parts of the Access to Information Rules relating to such decisions and any decisions which the relevant Scrutiny Committee has required the Cabinet to report to Full Council under the Access to Information Rules because it considers that the Cabinet did not comply with the Access to Information Rules relating to the decision;

(vii) **The response of the Cabinet to comments received:**

The response of the Cabinet to any other comments or recommendations received from, or being presented by, the relevant Scrutiny Committee or Full Council;

(viii) **Any recommendations to Full Council.**

(ix) Any other matters the Cabinet or a Cabinet members is required to report to Council at the meeting.

## 32. Deputations

- (a) Deputations may be made by members of the public. Each deputation shall last not more than 5 minutes and there shall be a maximum of 3 deputations at any one council meeting on different subject matters. There shall be no more than one deputation made by the same person or organisation in a 6 month period and no repetition of the subject.
- (b) Any deputation must directly concern a matter affecting the borough and relate to a Council function. Deputations shall not relate to legal proceedings or be a matter which is or has been the subject of a complaint under the Council's complaints processes. Nor should a deputation be frivolous, vexatious, or defamatory. A deputation may be rejected if it names, or clearly identifies, a member of staff or any other individual. The Chief Executive with advice from the Corporate Director of Law and Governance shall have discretion to decide whether the deputation is for any other reason inappropriate and cannot proceed.
- (c) Any person wishing to make a deputation shall give written notice to the Corporate Director of Law and Governance of the title and summary of the content of the deputation not less than 5 days before the date of the meeting.
- (d) If more than three deputations are received a ballot will take place three days before the Council meeting to select the deputations to be presented before the Council.

**33. Questions from members of the public**

- (a) Subject to para (b) members of the public or those employed by or owning a business based in Brent may ask a member of the Cabinet questions on any matter in relation to which the Council has powers or duties affecting the borough.
- (b) Questions shall be submitted fifteen clear working days in advance to the Head of Member and Executive Services and written copies of questions will be provided at meetings.
- (c) The time set aside for questions shall be 15 minutes.
- (d) At the Ordinary meeting following the Annual Meeting and at alternate Ordinary meetings for the rest of the municipal year, an additional 15 minutes shall be set aside for questions from members of the Youth Parliament.
- (e) No member of the public may submit more than one question at a council meeting.
- (f) The Chief Executive or his/her nominee shall have the power to edit or amend written questions to make them concise but without affecting the substance, following consultation with the questioner.
- (g) The Mayor may rule that questions which are on the same or closely related subjects are taken together.
- (h) An answer may take the form of a written answer provided by close of business the previous working day and which will be available at the meeting.
- (i) Questions shall be asked in the order determined by the Mayor.
- (j) A person asking a question under para (a) may ask one oral supplementary question, without notice, of the member who supplied the written answer. The supplementary question must arise directly out of the original question or the reply.
- (k) Replies to supplementary questions shall not exceed 2 minutes.
- (l) Questions not answered at a meeting may, at the request of the questioner, be withdrawn and resubmitted to the next or future meeting of the Council, provided that answer has not already been supplied.
- (m) The Chief Executive, with the benefit of advice from the Corporate Director of Law and Governance, may reject a question if it:
  - (i) Is not about a matter for which the Council has a responsibility or which affects the area;
  - (ii) Is defamatory, frivolous or offensive;
  - (iii) Is substantially the same as a question asked within the last six months;
  - (iv) Requests the disclosure of information which is confidential or exempt; or
  - (v) Names, or clearly identifies, a member of staff or any other individual.

**34. Non Cabinet Members' Debate**

- (a) Non Cabinet members will be permitted to propose a motion for debate. The motion will be confirmed by the Chief Executive.

- (b) The debate will be for up to 25 minutes.
- (c) The Lead Member shall be permitted to speak for up to two minutes.
- (d) Non Cabinet members are permitted to speak for up to two minutes.
- (e) The Lead Member will report to the next meeting of Full Council on any action which follows on from the previous non Cabinet members' debate.

### **35. Questions from the Opposition and Non Cabinet Members**

- (a) Non Cabinet members (except the Mayor and Deputy Mayor) will be permitted to put a maximum of 5 written questions to the Cabinet on any matter which is the responsibility of the Cabinet. Each non-Cabinet member may only put one written question to the Cabinet in any one question time session. The 5 written questions are to be divided as follows: 1 from each of the opposition group, and 3 from the administration group.

Such questions must be provided in writing to the Deputy Director of Democratic Services not less than 10 clear working days before the date of the meeting and the answers published with the meeting summons.

- (b) The party groups shall decide which of their members shall put the questions to the Cabinet.
- (c) Each non Cabinet member shall have up to 1 minute within which to put their supplementary question.
- (d) A member of the Cabinet shall have up to 2 minutes to respond to the supplementary question.
- (e) 30 minutes shall be set aside for this item.
- (f) Following (a) to (d) above, for the remainder of the time available, other non Cabinet members may put one question orally each to the relevant Cabinet member. If the Cabinet member is unable to provide a response at the meeting, a written response shall be provided within a period of 10 working days.
- (g) The Chief Executive, with the benefit of advice from the Corporate Director of Law and Governance, may reject a question if it:
  - (i) is not about a matter for which the Council has a responsibility or which affects the area;
  - (ii) is defamatory, frivolous or offensive;
  - (iii) is substantially the same as a question asked within the last six months;
  - (iv) requests the disclosure of information which is confidential or exempt; or
  - (v) names, or clearly identifies, a member of staff or any other individual.

### **36. Reports from the Chairs of the Scrutiny Committees**

- (a) The Chairs of Scrutiny Committees may submit written reports in advance of the meeting on any matter in respect of which the committee has been consulted or which it has been reviewing or considering and shall be permitted to speak for up to 3 minutes to highlight significant issues to Council. Thereafter, for the remainder of the 12 minutes set aside for this item, non Cabinet members can ask questions of the Chairs.

- (b) In the absence of the Chair, the Vice Chair of the Committee may speak or, in the absence of the Vice Chair, another member of the Committee selected for that purpose by the Chair or, if no person has been selected by the Chair, a person selected for that purpose by the Mayor or other person presiding at the meeting of Full Council.
- (c) The Chair or other person nominated to speak shall where appropriate include in his or her report:-
  - (i) details of the decisions or proposals of the Cabinet, which have been called in for scrutiny and are being referred to Full Council in accordance with Standing Order 14;
  - (ii) details of decisions or proposals of the Cabinet, other than those permitted to be made by the Cabinet under Access to Information Rule 38 (urgency) or 20(n) (in year changes to policy), which the relevant Scrutiny Committee considers are or, if made, would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Council's budget and the recommendations to Full Council thereon;
  - (iii) details of the decisions of the Cabinet which the relevant Scrutiny Committee considers were made by the Cabinet other than in accordance with those parts of the Access to Information Rules applicable to such decisions.

### **37. Report from the Audit and Standards Advisory Committee**

- (a) The Vice-Chair of the Audit and Standards Advisory Committee may present reports on any matter reported to the Committee or in respect of which the Committee has reviewed or considered and shall be permitted to speak for up to 3 minutes thereon.
- (b) In the absence of the Vice-Chair, the report may be presented by another member of the Committee selected for that purpose by the Vice-Chair or, if no person has been selected by the Vice-Chair, a person selected for that purpose by the Mayor or other person presiding at the meeting of Full Council.

### **38. Annual Report on the Borough**

The Leader will present an annual report on the work of the Council to an Ordinary Meeting of Full Council. The time allowed for the Leader to speak on this item will be 5 minutes. The total time allowed for other members to debate the Leader's report will be 20 minutes. Each Group Leader will be allowed to speak for up to 2 minutes and then any other member will be allowed to speak for up to 2 minutes until the allotted time is used up.

### **39. Debate on key issues affecting the Borough**

- (a) With agreement of all Group Leaders a speaker shall be invited to attend and speak on an issue pertinent to the London Borough of Brent. The speech shall not exceed 10 minutes.
- (b) The Lead Member will be permitted to speak for 5 minutes on the topic addressed by the speaker within which time they will propose a motion for debate which has been delivered to the Deputy Director of Democratic Services by close of business the previous day and circulated in advance.



- (c) The debate by members will not exceed 45 minutes. Questions or comments by members shall not exceed 2 minutes.

#### **40. Vote of No Confidence**

The Leader shall cease to hold office following a vote of no confidence in him/her. A motion in respect of the vote of no confidence shall be debated by Full Council if, at least 10 clear working days before the meeting at which the motion is to be considered, it has been signed in accordance with Standing Orders 5 and 6 by at least 40% of the members of the Council and the motion proposes an alternative Leader. If such a motion is passed the new Leader shall hold office for the remainder of the previous Leader's term of office.

#### **41. Motions**

- (a) Members may put motions to council. No motion may exceed 500 words in length.
- (b) A maximum of 4 motions will be put to Council at any one meeting (two by the administration group and one by each of the opposition group) which will be debated.
- (c) Each group must give notice in writing of their motion to the Deputy Director of Democratic Services not less than 5 days before the date of the meeting. This shall include a copy of the Motion they are intending to move at the meeting. A copy of the motion shall be circulated to all members at least 2 days before the date of the meeting.
- (d) Any amendments to the motions can be accepted provided they are set out in writing to the Deputy Director of Democratic Services by 5.00pm on the previous working day.
- (e) The debate shall commence with the proposer being invited to speak for up to 2 minutes during which time they shall move the Motion notified to the Deputy Director of Democratic Services.
- (f) The proposer of an amendment will then be invited to speak for up to 2 minutes during which time they shall move the Amendment notified to the Deputy Director of Democratic Services.
- (g) Further speakers shall then be called by the Mayor, each limited to 2 minutes.
- (h) The mover of the motion shall then have a right of reply for up to 1 minute. If one or more amendments have been moved, the mover of each amendment shall also have a right of reply for up to 1 minute in the order in which the amendments were moved.
- (i) The matter shall be put to the vote at the end of the debate. Where one or more amendments have been moved the voting process in Standing Order 43(a) and (b) shall apply.
- (j) Up to 10 minutes shall be set aside for each motion. Any time not utilised in respect of a motion shall be carried forward to be available in the debate on the following motion.

- (k) Up to 40 minutes shall be set aside for this item.
- (l) The Chief Executive, with the benefit of advice from the Corporate Director of Law and Governance, may reject a Motion if it:
  - (i) is not about a matter for which the Council has a responsibility or which affects the area;
  - (ii) is defamatory, frivolous or offensive;
  - (iii) is substantially the same as a Motion asked within the last six months;
  - (iv) requests the disclosure of information which is confidential or exempt; or
  - (vi) names, or clearly identifies, a member of staff or any other individual.

## 42. Rules Of Debate For Meetings of Full Council

- (a)\* *Any motion or amendment to a motion may be moved without notice (except as provided in Standing Order 28 and Standing Order 41) but must relate to an item of business specified in the summons for the meeting.*
- (b) Each amendment shall relate to the subject matter of the motion and shall not have the effect of negating the motion.
- (c) Motions or amendments to motions shall not be open to debate until formally moved.
- (d) Procedural motions shall be put to the vote without discussion, provided that the Mayor may, in his or her absolute discretion, allow or require the proposer to give (for such brief period as the Mayor may allow) reasons for proposing the motion.
- (e) A member shall stand when speaking (if able to do so) and shall address the Mayor. If two or more members rise to speak the Mayor shall call on one to speak.
- (f) Speeches shall be directed to the matter under discussion or to a personal explanation or to a point of order.
- (g) No speech shall exceed three minutes except where otherwise provided in these Standing Orders or by the consent of Full Council and except for a Chair or the Leader replying to a debate whose speech shall not exceed five minutes. Any motion or amendment to a motion shall be put within the time allowed for the speeches.
- (h) With the exception of a Cabinet Member responding to a question put to the Cabinet by a non-Cabinet member, or a Chair of a committee or sub-committee replying to a debate on a report referred from the committee or sub-committee or where otherwise provided in these Standing Orders, a member shall not speak more than once on any item of business except on rising to a point of order or in personal explanation.
- (i) A member may rise to raise a point of order or make a personal explanation. A point of order shall be confined to an assertion that a breach of these Standing Orders or of the law has occurred, A personal explanation shall be confined to some material part of a former speech by the member at the same meeting, which may have been misunderstood. A member so rising shall be entitled to be heard forthwith.

- (j) Subject to the provisions of Standing Order 6(b) the ruling of the Mayor on a point of order or on the admissibility of a personal explanation shall not be open to discussion.
- (k) Whenever the Mayor rises during a debate, all those present then speaking or standing shall resume their seat and Full Council shall be silent.
- (l) A motion or amendment to a motion which has not been moved may be withdrawn by the proposer of the motion or amendment, a motion or amendment to a motion which has been moved may be withdrawn or altered by the proposer of the motion or amendment with the consent of Full Council, which shall be signified without discussion by a show of hands and/or by a roll call. Where a motion is withdrawn there shall thereafter be no further debate on the item.
- (m) At the commencement of a debate, any member may move that only a specified number of members from each of the political groups shall be permitted to speak before a vote is taken or at the commencement of any meeting of Full Council or during the course thereof any member may move that only a specified number of members of each political group shall be permitted to speak on each motion or amendment thereto.
- (n) The mover of the motion shall then have a right of reply. If one or more amendments have been moved, the mover of each shall also have a right of reply in the order in which the amendments were moved.
- (o) A member may move without comment at the conclusion of another member's speech: *"That the question be now put"*, *"That the debate be adjourned (to some stated time)"* or *"That the Council do now adjourn (to some stated time)"* on which the Mayor shall proceed as follows:-
  - (i) on a motion that the question be now put, the Mayor shall first put that motion to the vote without further discussion; if it is passed the motion(s) and/or amendment(s) relating to the subject of the debate will then also be put to the vote;
  - (ii) on a motion to adjourn the debate or the meeting, the Mayor shall put that motion to the vote without further discussion; if it is passed the debate or meeting shall stand adjourned to the time stated; if the debate is adjourned the Council will proceed to the next item of business; if the meeting is adjourned no further business will be transacted until the adjourned meetingAND no second motion that the question be now put or that the debate or meeting be adjourned shall be made during the consideration of the same business unless it shall be proposed by the Mayor.
- (p) The Mayor may at any time invite an officer to respond to any issue raised or question asked.

### **43. Voting**

- (a) Prior to voting on a Motion there shall be put to the vote any amendments to that Motion that have been moved.
- (b) Amendments to Motions shall be taken in the order in which they were moved and shall be voted upon in succession unless, subject to the advice of the Corporate Director of Law and Governance or the Chief Executive, it is agreed by the meeting that the amendments shall be taken en bloc.

- (c) The mode of voting at meetings of Full Council shall be by show of hands and/or a roll call and, on the requisition of the leader of a political group, or of any member of the Council supported by 14 other members of the Council raising their hands, made before the vote is called, the voting on any question shall be recorded in the minutes of the meeting so as to show whether each member present gave their vote for or against that question or abstained from voting.
- (d) If a vote is to be recorded, the Chief Executive (or an officer acting on behalf of the Chief Executive) will acknowledge the request, confirm to the meeting that the vote is to be recorded and will read aloud the name of each Member present and record who cast a vote for the decision or against the decision or who abstained from voting. No discussion shall take place while the vote is being taken and recorded.
- (e) Immediately after any vote is taken at a budget decision meeting of an authority on the budget or council tax there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.
- (f) Where immediately after a vote is taken any member so requires, there shall be recorded in the minutes whether that person voted for the question or against the question or abstained.
- (g) For the purpose of voting and for recording votes at meetings of Full Council, members shall be present and seated in their places.
- (i)\* *In the case of an equality of votes the person presiding at the meeting shall have a second or casting vote.*
- (j)\* *Once a vote has been taken on any matter, the matter shall not be reconsidered by the meeting other than to clarify any points or if the matter is a procedural matter only.*

#### **44. The Council Guillotine Procedure**

- (a) Every ordinary meeting of Full Council shall terminate after 3 hours or no later than 10:00pm (whichever is earlier) provided that Full Council may decide to adjourn the meeting to a specified date on a motion to this effect being proposed and put to the vote without discussion.
- (b) If the meeting is not adjourned, then any outstanding items of business shall be dealt with as follows:
  - (i) in the case of reports from committees and sub-committees and reports of Chief Officers the Mayor shall invite motions to be proposed in respect of them. Any such motion(s) shall be moved without supporting comment and voted upon without debate. If no such motion is proposed, or if three successive motions are voted upon and defeated, the matter shall be adjourned to the next Ordinary Meeting of Full Council.
  - (ii) any other business shall be adjourned to the next ordinary meeting of Full Council.

**45. Minutes**

- (a)\* *Minutes of any meeting of Full Council shall be put forward for approval as a correct record and for signing to the next ordinary meeting of Full Council or to the Annual Meeting whichever shall first occur.*
- (b) The Mayor shall put the question that the minutes of the meeting of the Council held on the ..... day of ..... be approved as a correct record.
- (c) No discussion shall take place upon the minutes except upon their accuracy and any question of their accuracy shall be raised by motion. If no such question is raised or if it is raised then as soon as it has been disposed of, the Mayor shall sign the minutes.
- (d) There shall be recorded in the minutes of any meeting of Full Council any declarations of interests made by members in accordance with the Brent Members Code of Conduct both in the minute concerning the declaration of interests item itself and in the minute concerning the item of business to which the declaration relates.

**46. Disorderly Conduct**

- (a) If at any meeting of any part of the Council any member is, in the opinion of the person chairing the meeting, guilty of misconduct by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly, or offensively, or by wilfully obstructing the business of the Council, then the Chair or any other member may move "That [Councillor X] not be heard further", and the motion shall be put and determined without discussion.
- (b) If the member named is guilty of further misconduct after a motion under the foregoing sub-paragraph has been carried the Chair shall:-
  - (i) move "That [Councillor X] shall now leave the meeting" and the motion shall be put and determined without discussion. If the Chair's motion is carried and the member(s) concerned fail(s) to leave the meeting, the Chair shall take such action, as he/she deems appropriate in the circumstances to bring the member(s) concerned to order; or
  - (ii) adjourn the meeting for such period, as the Chair shall consider expedient.
- (c) In the event of general disturbance which, in the opinion of the Chair of a meeting, renders the due and orderly despatch of business impossible, the Chair may adjourn the meeting for such period as the Chair shall consider expedient.
- (d) Members shall not at any time make any improper remark nor use unseemly language nor make offensive gestures nor make personal attacks on any person.
- (e) The Chair may call a member to order for irrelevance, repetition, imputation of dishonourable conduct or improper remark, unseemly language, offensive gestures or any breach of order and may direct a member if speaking to discontinue their speech.
- (f) If a member of the public interrupts the proceedings at any meeting the Chair shall warn them that if they continue to interrupt the proceedings of the meeting he or she may be removed from the meeting room, as the case may be. If they continue the interruption the Chair shall order their removal from the meeting room. In case of general disturbance in any part of a meeting room open to the public the Chair shall order that part to be cleared.

- (g) Members of the press and public may be excluded from Council meetings either in accordance with the Access to Information Rules in Part 2 of the Constitution or Standing Order 46(f).

#### **47. Smoking and Mobile Phones at Meetings**

- (a) No person shall smoke at any meeting of the Council or the Cabinet or a committee or sub-committee thereof which is held in a physical location.
- (b) Any mobile phone taken into a meeting is to be switched to silent for the duration of the meeting.

### **COMMITTEES AND SUB-COMMITTEES OF THE COUNCIL**

#### **48. Standing Orders to apply to Council Committees and Sub-Committees**

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

#### **49. Appointments to and chairs of Council Committees and Sub-Committees**

- (i) Full Council may appoint such Council committees as it is required or permitted to appoint, such committees to be set out in Part 5 of the Constitution, together with their terms of reference and the number of members to be appointed.
- (ii) Full Council shall appoint a Chair for each of the Council Committees and if it so wishes a Vice Chair.
- (iii) Full Council may at any time dissolve a committee or remove any of its members or change the size of its membership.
- (iv) Other than in the case of the Licensing sub-committees, Full Council shall determine the extent to which any functions may be exercised by any sub-committee and the terms of reference will be set out in Part 5 of the Constitution. In the case of the Alcohol and Entertainment Licensing sub-committees the Licensing Committee will determine the extent to which any functions may be exercised by them and will agree their terms of reference.
- (v) Appointment of the Council's sub-committees and agreeing the number of members to be appointed shall be by the parent committee and the Chair and (if considered necessary) Vice Chair of the sub-committees shall be appointed by the parent committee.
- (vi) No councillor may be appointed to any committee or sub-committee so as to hold office later than the next Annual Meeting or the meeting of Full Council which meets after the next Annual meeting to agree appointments to committees.

- (vii) Co-opted members may be appointed to committees and sub-committees in accordance with Standing Order 50 and the rules for membership for committees and sub-committees contained in Part 4 of the Constitution.

## **50. Independent and Co-opted Members**

- (a) The Council shall appoint up to five co-opted voting Members to its Audit and Standards Advisory Committee. The Council shall also appoint up to 4 non-voting co-opted members on its Corporate Parenting Committee.
- (b) The co-opted Members shall hold office for up to two years or until the date of the Annual Meeting nearest to the expiry of that two year period (or until the date of the meeting of Full Council that takes place after that Annual meeting to agree appointments to committees) whichever occurs later. Such appointments shall be subject to confirmation by Full Council at each Annual Meeting that follows the appointment (or at the meeting of Full Council that takes place after the Annual Meeting to agree appointments to committees as the case may be).
- (c) The membership of the Community and Wellbeing Scrutiny Committee and any other Council committee or sub-committee whose terms of reference include consideration of matters relating wholly or partly to any education functions which are the responsibility of the Cabinet shall include as Voting Co-opted Members, 2 parent governor representatives, 1 representative nominated by the Diocesan Board of Education for any Church of England Diocese which falls within the Council's area and 1 representative nominated by the bishop of any Roman Catholic Diocese which falls within the Council's area and such representatives shall be appointed by the appropriate appointing body.
- (d) The term of office of the parent governor Voting Co-optees appointed under paragraph (c) of this Standing Order shall be 3 years (or less if otherwise so determined by Full Council).
- (e) The membership of the Community and Wellbeing Scrutiny Committee and any other Council Committee or sub-committee whose terms of reference include consideration of matters relating wholly or partly to any education functions which are the responsibility of the Cabinet may include 2 Non-Voting Co-opted Members who represent the governing bodies of schools which are faith schools not covered in paragraph (c) above and such representatives shall be appointed by the appropriate appointing body.
- (f) A Co-opted Member appointed under this Standing Order shall be entitled to receive all papers and take part in the entire discussion that takes place at a meeting of the relevant committee or sub-committee and Voting Co-opted Members shall be entitled to vote on any question which falls to be decided at the meeting and which relates to any education functions which are the responsibility of the Cabinet as determined by the Corporate Director of Law and Governance or his or her representative.
- (g) No Voting Co-opted Member appointed by Full Council shall be entitled to act as a Co-opted Member until they have delivered to the Monitoring Officer a signed undertaking agreeing to be bound by the Brent Members' Code of Conduct and shall register any interest which by that Code they are required to so register in the Register of Member Interests.

- (h) No Non-voting Co-opted Member shall be entitled to act as a Non Voting Co-opted Member until they have delivered to the Monitoring Officer a signed undertaking in a form notified to them by the Corporate Director of Law and Governance.

## **51. Appointment of and Changes to Substitute Members**

- (a) The Council may appoint a pool of substitute members from which a member may be selected to speak and vote in the absence of a member of the committee provided that the substitute member is not already a member of the committee. Each pool shall number up to the number of members comprising membership of the committee and be divided according to the political balance on the committee, save that where a group has only one member on the committee up to two members may be appointed to the pool. A member of a committee (or the appropriate Group Whip) shall notify the Deputy Director of Democratic Services at least two hours before a meeting that a substitute member will be attending in their place.
- (b) A parent committee may appoint a pool of substitute members to its sub-committees in the same manner as is described in (a). However, the Licensing Committee may appoint all remaining Committee members to its Sub-Committees as substitutes so that any member from this pool may be selected. Whereas, the Senior Staff Appointments Sub-Committee may appoint two additional Labour group members as substitutes.
- (c) No member is able to act as a substitute for more than one primary member of the committee at any one time.
- (d) Any member acting as a substitute shall notify the meeting as soon as he or she arrives, and once the meeting has received such notification, that member shall be duly appointed for the remainder of the meeting (which, for the avoidance of doubt, includes a meeting adjourned to continue on a subsequent day) to the exclusion of the member for whom he or she is substituting.

## **52. Additional Meetings of Committees or Sub-Committees**

The Chair of a committee or sub-committee, or in the absence of the Chair, the Vice Chair may, if necessary, call a meeting of that committee or sub-committee at any time. A meeting of a committee or sub-committee may also be called upon the requisition of a third of the whole number of the committee or sub-committee (including any voting co-opted members), delivered in writing to the Deputy Director of Democratic Services provided that the number of members so calling the meeting shall not be less than 3.

## **53. Adjournment and Cancellation of Meetings of Committees and Sub-Committees**

- (a) The Chair of a committee meeting may specify a time at which the committee shall adjourn for fifteen minutes or two times at which the committee shall adjourn for ten minutes save that in the case of the Alcohol and Entertainment Licensing Sub-Committee and the General Purposes Committee (when considering a licensing hearing or appeal), the person chairing the meeting may adjourn a hearing for any period, or to a new date that they deem necessary.
- (b) The Chair, or in the absence of the Chair, the Vice Chair may authorise the cancellation of a meeting of a committee or sub-committee on the grounds of lack of business. He/she may postpone and rearrange the date and/or time of a meeting of a committee or sub-committee after consultation with the Deputy Director of Democratic Services.



**54. Chairing Meetings of Committees and Sub-Committees**

- (a) The Chair shall preside at meetings of committees and sub-committees. If the Chair is not present for a meeting then the Vice Chair shall chair it but if the Chair arrives then he or she shall take over chairing the meeting at a convenient moment. If neither the Chair nor Vice Chair are present at a meeting then the Chair for that meeting shall be elected by the persons present but if the Chair or in his or her absence the Vice Chair arrives then he or she shall take over chairing the meeting at a convenient moment.
- (b) For the purpose of this Standing Order and Standing Order 55 the word “present” mean physically present in the room in which the meeting is to take place.
- (c) The Chairs of the Scrutiny Committees shall seek to ensure that the Standing Orders and any other rules or protocols forming part of the Constitution are adhered to.

**55. Quorum of Committees and Sub-Committees**

No business shall be transacted at a meeting of a committee or sub-committee unless at least one quarter of the whole number of its voting members, or three of its voting members, whichever is greater, are present (“the quorum”) save that in respect of the Licensing Sub-Committees the quorum shall be three.

**56. Speaking Rights of Members of the Public**

- (a) This Standing Order shall not apply to meetings of the Planning Committee or the Licensing Sub-Committees.
- (b) Except as set out in this Standing Order or Standing Orders 66 (Petitions) and 67 (Deputations), no member of the public shall be permitted to speak at a meeting of a committee or sub-committee of the Council unless invited by the Chair of the meeting to do so who shall specify the period allocated to the member of the public to speak which shall usually be up to 2 minutes except in special circumstances in which case up to 3 minutes shall be permitted.
- (c) Except in the case of a person representing a deputation under Standing Order 67, any member of the public who wishes to address a meeting of a committee or sub-committee concerning an item of business on the agenda for the meeting in question shall give notice to the Deputy Director of Democratic Services or his or her representative prior to the commencement of the meeting of their wish to address the committee. Normally such notice shall be given at least 24 hours before the commencement of the meeting and the Deputy Director of Democratic Services shall keep a record of the order of receipt of such notices. Where a person indicating s/he wishes to address the committee has not given such a notice, the Chair shall decide whether s/he shall be permitted to speak.
- (d) Where more than one person wishes to speak on the same item of business under paragraph (b), the Chair shall have the discretion to limit the number of speakers and in so doing will take into account the order in which notices of a wish to speak were received by the Deputy Director of Democratic Services.
- (e) Where a report from or concerning a relevant Consultative Forum is before the Scrutiny Committees and the Chair or any other representative of the Forum is present at the meeting and that person has given notice to the Deputy Director of Democratic Services prior to the commencement of the meeting of their wish to

address the meeting on that item of business that person shall be entitled to address the committee for not more than 3 minutes (unless a longer period is permitted by the Chair) on that item of business. Normally such notice shall be given at least 24 hours before the commencement of the meeting and the Deputy Director of Democratic Services shall keep a record of the order of receipt of such notices. Where the Chair or any other representative of the Forum has not given such a notice but wishes to address the committee, the Chair shall decide whether s/he shall be permitted to speak which shall be for not more than 3 minutes unless a longer period is permitted by the Chair.

## **57 Speaking rights at Planning Committee**

- (a) At meetings of the Planning Committee when reports are being considered on applications for planning permission, any member of the public other than the applicant or his agent or representative who wishes to object to or support the grant of permission or support or oppose the imposition of conditions may do so for a maximum of 3 minutes. Where more than one person wishes to speak on the same application, the Chair shall have the discretion to limit the number of speakers to no more than 2 people and in so doing will seek to give priority to occupiers nearest to the application site or representing a group of people or to one objector and one supporter if there are both. The Chair may also invite two or more objectors or two or more supporters to share the allotted time of 3 minutes. The Chair shall also have discretion to allow a representative of a public organisation (such as the police) to speak for up to 3 minutes. In addition (and after hearing any members of the public and/or representatives of public organisations who wish to speak) the applicant (or one person on the applicant's behalf) may speak to the Committee for a maximum of 3 minutes. In respect of both members of the public and applicants, the Chair and members of the Committee may ask them questions after they have spoken if this is practical.
- (b) Persons wishing to speak to the Committee shall give notice to the Deputy Director of Democratic Services or his or her representative prior to the commencement of the meeting. Normally such notice shall be given 24 hours before the commencement of the meeting. Persons wishing to speak to the Committee shall be given the opportunity to submit a transcript of their intended submission in advance. At the meeting, the Chair shall call out the address of the application when it is reached and only if the applicant (or representative) and/or members of the public are present and then signify a desire to speak shall such persons be called to speak.
- (c) In the event that all persons present at the meeting who have indicated that they wish to speak on any matter under consideration indicate that they agree with the officers recommendations and if the members then indicate that they are minded to agree the officers recommendation in full without further debate the Chair may dispense with calling members of the public to speak on that matter.

## **58 Members' rights to attend and speak at Committees**

- (a) Subject to (c) below, members of the Council shall be entitled to attend meetings of Council committees and sub-committees of which they are not members other than the Senior Staff Appointments Sub-Committee and the Staff Appeals Sub-Committees.
- (b) Subject to sub-paragraphs (c) and (d), Members attending meetings of committees or sub-committees of which they are not members shall not be entitled to speak except with the permission of the Chair and in no case shall they be entitled to vote.

- (c) At meetings of the Alcohol and Entertainment Licensing Sub-Committees, only members who have made relevant representations or are representing a party, will have the right to speak. They will not have the right to vote at such meetings.
- (d) At meetings of the Planning Committee when reports are being considered on applications for planning permission, ward councillors shall be entitled to speak for a maximum of 5 minutes provided that written notice has been given to the Deputy Director of Democratic Services 24 hours before the commencement of the meeting.
- (e) Members may be excluded from a meeting of a committee or sub-committee of which they are not a member if the meeting has excluded the press and public during consideration of any confidential or any exempt information listed in categories 1, 2, 4, 5 and 7 of the Table set out in the Access to Information Rules or category 3 of that Table where it relates to any terms proposed by or to the authority in the course of negotiations for a contract.

### **59. Requirement to Attend Entire Meeting**

- (a) No member shall be entitled to take part in or vote at a meeting of the Senior Staff Appointments Sub-Committee or the Senior Staff Appeals Sub-Committee unless the member is present for the entire meeting.
- (b) No member shall be entitled to vote on any item being considered by the Planning Committee, the General Purposes Committee (when hearing an appeal) and the Licensing Sub-Committees unless the member is present for the entire discussion of that item.
- (c) No member of the Audit and Standards Committee shall be entitled to take part in or vote on any item relating to the conduct of individual members of the Council unless the member is present for the entire discussion of that item.

### **60. Any Other Urgent Business as an Agenda Item**

At all meetings of Council committees and sub-committees that are not extraordinary meetings, there shall be an item on the agenda entitled 'Any Other Urgent Business'. Any member of the committee or sub-committee as the case may be who wishes a matter to be raised under this Agenda heading shall give written notice to the Deputy Director of Democratic Services or his or her representative prior to the commencement of the meeting concerned specifying the nature of the business they would like to raise under this Standing Order. The committee or sub-committee shall only consider such business in respect of which notice has been given in accordance with this Standing Order and which the Chair has certified as urgent under S100B of the Local Government Act 1972.

### **61. Voting in Committees and Sub-Committees and recording dissent**

- (a) In the case of Planning Committee, if members are minded to grant or refuse planning permission contrary to the recommendation of officers, members cannot proceed to a final vote unless the following conditions have been met:
  - (i) each member proposing or supporting the decision has articulated and explained the planning reasons why;
  - (ii) the reasons address the issues on which the member disagrees with the recommendation of officers;

- (iii) officers have been given an opportunity to explain the implications of the contrary decision;
  - (iv) if officers advise that there is uncertainty or concern about the validity of the reasons given, members have considered deferring the decision to another meeting to have the reasons tested and assessed by officers in a follow-up report; and
  - (v) if members are not minded to defer the decision, the Planning Committee has formally resolved not to defer the decision.
- (b) In the case of an equality of votes the person presiding at the meeting shall have a second or casting vote.
  - (c) Voting at a meeting of a committee or sub-committee shall be by show of hands and/or a roll call.
  - (d) On the requisition of one member of the committee or sub-committee made before any vote is taken by show of hands and/or roll call and supported by not less than half of the members of the committee or sub-committee then present, voting shall be recorded so as to indicate whether each member present has voted for the motion, against it or abstained.
  - (e) Where immediately after a vote is taken any member of the committee or sub-committee so requires, an officer shall read aloud the name of each member present and record at the meeting and in the minutes who cast a vote for the decision or against the decision or who abstained from voting. No discussion shall take place while the vote is being recorded.

## **62. Time and duration of meetings of Committees and Sub-Committees**

- (a) Subject to paragraph (b) below, the time specified on the summons for commencement of a committee or sub-committee meeting shall not be later than 9.30pm unless the Chair is satisfied on reasonable grounds that:-
  - (i) each item of business to be transacted at that committee or sub-committee meeting should be dealt with as a matter of exceptional urgency; and
  - (ii) the meeting cannot be called to commence at an earlier hour without undue inconvenience.
- (b) The summons for a committee or sub committee meeting may specify that the meeting will commence at the time specified on the summons or upon the rising of another meeting of the Council, committee or sub-committee, if later.
- (c) Subject to paragraphs (d) and (e) below, transaction of business at every committee or sub-committee meeting shall end after 3 hours or no later than 10.00pm (whichever is earlier) provided that if after 3 hours or at 10.00pm (whichever is earlier) there is business not yet dealt with which the committee or sub-committee considers would be more conveniently dealt with on that day rather than on a subsequent day, the meeting may continue until not later than a further 30 minutes in accordance with the following procedure (which shall be known as “the guillotine procedure”):-
  - (i) the meeting shall identify those items of business to be transacted;

- (ii) unless the meeting decides otherwise, the items of business so identified will be taken in the order determined by the last procedural resolution establishing the order of business, or, in the absence of such a procedural resolution, in the order set out in the agenda accompanying the summons for the meeting;
  - (iii) members will be permitted to ask questions of officers but will not be allowed to make speeches unless the meeting decides otherwise.
- (d) The Planning Committee, the Licensing Sub-Committees, the General Purposes Committee (when hearing an appeal) and the Standards Committee may by majority vote taken no later than after 3 hours or 10.00pm (whichever is earlier), decide to:-
- (i) fix such time as they may choose for the transaction of business to end provided that no business shall be transacted later than midnight; and/or
  - (ii) dis-apply the guillotine procedure entirely or fix such later time as they may choose for that procedure to commence.
- (e) Paragraph (c) above shall not apply to:-
- (i) meetings of the Senior Staff Appointment Sub-Committee or the Staff Appeals Sub-Committee; and
  - (ii) any meeting of a committee called to determine the size and political balance or membership of one or more of its sub-committees or to remove or appoint the Chair or Vice Chair of such a sub-committee.
- (f) Any items not dealt with at the time a meeting closes shall be considered at the next meeting of the same committee or sub-committee or at such earlier meeting of that committee or sub-committee as the Chair shall determine.
- (g) Where a meeting is adjourned to a subsequent day to transact remaining business, the committee or sub-committee shall, notwithstanding that adjournment, have power to deal with the business in question at any earlier meeting on the summons or agenda for which the relevant business is specified.

### **63. Minutes of Committees and of Sub-Committees**

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

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

- (a) If the Audit and Standards Advisory or the Audit and Standards Committee so agrees then any member of the Cabinet or any officer of the Authority (not normally below the level of director or service manager) shall, upon receiving reasonable notice so to do, (which will not normally be less than 2 weeks notice) attend a meeting of the committee to answer appropriate questions from the members of that committee on any matter falling within its remit.
- (b) The Audit and Standards Advisory or the Audit and Standards Committee may decide to request the attendance of any other person, not covered by paragraph (a) above, at a meeting of the committee.
- (c) If the relevant Scrutiny Committee agrees or if at least 40% of the members of the committee so request by giving notice to the Deputy Director of Democratic Services then any member of the Cabinet or any officer of the Authority (not normally below the level of director or service manager) shall, upon receiving reasonable notice so to do, (which will not normally be less than 2 weeks notice) attend a meeting of the relevant committee to answer appropriate questions from the members of that committee on any matter falling within its remit including any matter called in under Standing Order 14.
- (d) The relevant Scrutiny Committee may decide to request the attendance of any other person, not covered by paragraph (c) above, at a meeting of the committee.

**65. The exclusion of members with a disclosable pecuniary interest**

Members must leave the meeting, during the consideration of any item of business in which they have a disclosable pecuniary interest, unless a member is permitted to remain as a result of a dispensation.

**PETITIONS AND DEPUTATIONS****66. Petitions**

- (a) Any person who wishes to submit a petition under these rules on their own behalf or on behalf of an organisation shall deliver it either in paper form to the office of the Deputy Director of Democratic Services during office hours (other than during any period during which the Civic Centre is not open to the Public) or use the Council's e-petition facility. This must be at least **8 days** before the relevant decision (if the petition concerns a specific decision) is due to be taken.
- (b) No petition shall go forward unless it concerns matters affecting the borough and is signed by at least 5 people who either live, work or study in the borough.
- (c) The Deputy Director of Democratic Services will establish how many valid signatures the petition has.
- (d) Sub-paragraphs (e) to (l) of this Standing Order apply subject to sub-paragraph (m)
- (e) Petitions with between **5 and 50** valid signatures:

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- (i) any such petition shall be referred to the relevant Corporate Director or Director who will be responsible for ensuring that the petition is responded to and taken into account in the decision making process as appropriate;
- (f) Petitions with **51** or more valid signatures:
- (g) Any such petition shall be notified to the Chair of the relevant Scrutiny Committee and to the relevant Corporate Director or Director;
- (i) Petitions concerning specific decisions planned to be made shall be referred to the decision maker. If the decision maker is a Council committee or sub-committee or the Cabinet or a Cabinet Committee rather than an individual then one person representing the petitioners will be entitled to address the planned meeting of the Council committee or sub-committee or the Cabinet/Cabinet Committee(as the case may be) for up to 5 minutes concerning the petition. Petitions relating to specific decisions to be made by Full Council shall be considered by the next scheduled meeting of the General Purposes Committee or if the next meeting of the General Purposes Committee is scheduled to take place after the relevant meeting of the Full Council then it shall be considered by the Cabinet. The General Purposes Committee or the Cabinet as the case may be may, if it sees fit, make recommendations concerning that petition to Full Council.
- (ii) Petitions not concerning specific decisions planned to be made shall be referred to the Cabinet/Cabinet Committee or to the Council committee or sub-committee (if any) within whose terms of reference the subject matter of the petition falls as determined by the Corporate Director of Law and Governance or Deputy Director of Democratic Services. If it concerns a decision that may be taken at a meeting on some future date then it shall be considered at that future meeting. In all other cases it shall be considered at the next convenient meeting. This paragraph does not apply to specific decisions which have already been made. There is no requirement for specific decisions which have already been made to be re-considered or reviewed. In the case of petitions relating to a Highways matter, the petition shall be referred to the Corporate Director of Resident Services and the relevant Cabinet member. The Corporate Director of Neighbourhoods and Regeneration will be responsible for ensuring that the petition is responded to and taken into account in the decision making process as appropriate.
- (h) At every Ordinary Council Meeting, a list of petitions containing 51 or more valid signatures will be circulated to members of the Council setting out the progress that has been made in dealing with those petitions. The relevant ward member, or in the absence of the ward member, or where the issue is cross cutting, the Chair of the relevant Scrutiny Committee may ask Full Council to note the receipt of a petition without debate. The list will contain the information set out below, provided this has been received by the Deputy Director of Democratic Services twelve or more days prior to the meeting.
- (i) The information to be included in the schedule described in the previous paragraph is as follows:
- (i) the date the petition was received or closed on-line;
- (ii) the name of the person who submitted the petition if a name was given;
- (iii) the subject of the petition;

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- (iv) the terms of the petition;
- (v) the name of the committee or person to whom the petition has been referred for action, the date of that referral, and the action taken by that body or person thus far.
- (j) Where the Cabinet/Cabinet Committee or a Council committee or sub-committee considers a petition it shall note the petition and may:-
- (i) make a decision concerning the matter if it has sufficient information before it to do so. This will normally mean an officer's report;
- (ii) refer it to the relevant Scrutiny Committee for consideration or further research;
- (iii) hold an inquiry or public meeting;
- (iv) call for an officer's report to be brought to a future meeting; or
- (v) refer it to the relevant officer for a formal response.
- (k) Where the relevant Scrutiny Committee considers a petition it shall note the petition and may:-
- (i) call for an officer's report to be brought to a future meeting;
- (ii) make recommendations to the Cabinet or the relevant referring committee concerning it; or
- (iii) refer it to the relevant officer for a formal response.
- (l) If the organiser of a petition feels the Council has not dealt with their petition properly then they may request the relevant Scrutiny Committee to review the steps the Council has taken in response to the petition and that committee may;
- (i) decide there is no case to answer;
- (ii) ask for an investigation into how the petition was dealt with; or
- (iii) make recommendations to the Cabinet.
- (m) Where a petition has more than 200 valid signatures, the organiser of a petition may request that the matter is debated at Full Council. Such notice to be received 5 days before the date of the meeting. Any such debate shall be for up to 21 minutes and the conduct of the debate shall be subject to a procedural motion.
- (n) This Standing Order applies to planning applications and other planning issues and matters as follows:
- (i) Petitions objecting to a planning application which has not been decided yet:
- if the petition:
- has at least 51 signatures,
  - objects to a planning application not decided yet,



- is not an excluded application by virtue of paragraph 1(vi) of the terms of reference of the Planning Committee,
- meets all the criteria for written objections set out in the terms of reference of the Planning Committee, and
- concerns an application officers are either minded to approve under delegated powers or recommend approval of or concerns an application which for some other reason will be considered by the Planning Committee,

the petition will be considered by the Planning Committee before it decides the application;

- (ii) Petitions supporting a planning application which has not been decided yet:

if the petition:

- has at least 51 signatures,
- supports a planning application not decided yet, and
- if in accordance with the terms of reference of the Planning Committee, at least three councillors have requested that the application be considered by the Planning Committee, or officers have referred the application to the Planning Committee or is an application the Planning Committee has indicated it wishes to consider itself,

the petition will be considered by the Planning Committee before it decides the application;

- (iii) Petitions relating to planning applications not covered by the preceding paragraphs:

all other petitions relating to a planning application will be referred to the relevant Corporate Director for a response;

- (iv) Petitions relating to other planning issues or matters:

all other petitions relating to planning issues or matters (i.e. planning petitions not covered by the preceding paragraphs) will be dealt with in accordance with the general provisions of this Standing Order.

- (o) This Standing Order does not apply to the Licensing Sub-Committees. Any petitions received in respect of any alcohol and entertainment license shall be dealt with as set out in the procedure for hearings relating to the Alcohol and Entertainment Licensing Sub-Committee. Similarly, any petition received in respect of any other licensing or registration matter which cannot be determined until a hearing is held, shall be dealt with in accordance with the relevant hearing rules.

## 67. Deputations

- (a) With the exception of the Audit and Standards Committee, the General Purposes Committee (when considering licensing applications or appeals), the Licensing Sub-Committees and the Planning Committee the first 20 minutes of every Council committee or sub-committee meeting (or such shorter time as is required) shall be allocated to receive deputations under this rule which shall be permitted where the following are met:

- (i) the committee or sub-committee has voted by a simple majority to receive such deputation;
  - (ii) the subject of the deputation is one which is on the agenda of the meeting concerned; and
  - (iii) notice of the deputation has been given to the Deputy Director of Democratic Services or his or her representative at least 24 hours before the start of the relevant meeting.
- (b) In respect of each deputation received, one person representing the deputation will be entitled to address the meeting for up to 5 minutes.

## **MISCELLANEOUS**

### **68. Inspection of Lands, Premises etc.**

Unless specifically authorised to do so by the Council or a committee, a member of the Council shall not issue any order in respect of any works which are being carried out by or on behalf of the Council or claim by virtue of their membership of the Council any right to inspect or to enter upon any lands or premises which the Council have the power or duty to inspect or enter.

## SEALING AND SIGNING OF DOCUMENTS

### 69. Custody of Seal

The common seal of the Council shall be kept in a safe place in the custody of the Corporate Director of Law and Governance and shall be secured by two different locks, the keys or combination of which shall be kept by the Corporate Director of Law and Governance provided that the Corporate Director of Law and Governance may entrust the keys or combination temporarily to another officer of the Council.

### 70. Sealing of Documents

- (a) No document shall be sealed with the Common Seal of the Council unless the transaction or decision to which the document gives effect is authorised by a person or body in accordance with the Constitution and is confirmed as being so authorised by the Corporate Director of Law and Governance or a member of his or her staff or a person nominated or authorised by him or her for that purpose.
- (b) The seal shall be attested by the Corporate Director of Law and Governance or a deputy or other person duly authorised by the Corporate Director of Law and Governance for that purpose and an entry of every sealing of a document shall be made and consecutively numbered in a register kept for the purpose and shall be signed by the person who has attested the seal.
- (c) The seal may be physically affixed to the document, or, if the Corporate Director of Law and Governance or a deputy or other person duly authorised by the Corporate Director of Law and Governance for that purpose agrees, an electronic seal may be applied a document

### 71. Contracts, agreements or transactions to be in writing and/or under seal

- (a) All contracts, agreements or transactions
  - (i) in respect of which there is no consideration;
  - (ii) that exceed £500,000 in value over the life of the contract including contracts where the Council is providing goods, services or works to another body); or
  - (iii) which are grants that exceed the sum of £150,000;

must be executed as a deed under seal in accordance with these Standing Orders. However, this will not apply to contracts, agreements or transactions where the Corporate Director of Law and Governance considers it is legally permissible to execute otherwise than as a deed under seal and to do so would be in the Council's best interest. For the avoidance of doubt there is no requirement to execute contracts for insurance where the contract is brought into effect by the issue of a schedule of insurance and policy documents to the Council by the insurer.

- (b) Any other contract, agreement or other transaction which is:
  - (i) £150,000 in value or more (in money or money's worth); or
  - (ii) relates to land or property;

shall be in writing and shall EITHER be executed as a deed under seal in accordance with these Standing Orders OR be signed by two officers who are either Chief Officers or officers duly authorised in accordance with the Constitution by the

Chief Officer under whose authority the contract is entered into. However this will not apply to contracts for insurance where the contract is brought into effect by the issue of a schedule of insurance and policy documents to the Council by the insurer.

- (c) Other contracts shall be executed under seal if the relevant Chief Officer or the Corporate Director of Law and Governance considers that to do so would be in the Council's best interest.
- (d) Contracts below £150,000 shall be in writing (which includes the Council's official order form) and signed in accordance with the Financial Regulations or any relevant financial procedures issued by the Corporate Director of Finance and Resources. However this will not apply to contracts for insurance where the contract is brought into effect by the issue of a schedule of insurance and policy documents to the Council by the insurer.
- (e) All contracts, agreements or transactions required to be executed as a deed under seal or signed in accordance with these Standing Orders may be executed by electronic means and/ or electronic signature where authorised by the Corporate Director of Law and Governance in respect of a particular contract or class of contract.

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**STANDING ORDERS RELATING TO STAFF****72. Declaration by Candidates**

- (a) The Corporate Director of Law and Governance will draw up a statement requiring any candidate for appointment as an officer to disclose any relationship to a councillor or employee of the Council.
- (b) No candidate related to a councillor or a Chief Officer or the partner of such a person should be appointed without the authority of the Chief Executive.

**73. Seeking Support for Appointment**

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

**74. Appointment and Dismissal of Staff not Covered by Standing Order 75 or Standing Order 81 (Director of Public Health)**

- (a) Appointment and dismissal of, and taking disciplinary action against, a person appointed to or holding a paid office or employment under the Council (as defined by the Local Authorities (Standing Orders) (England) Regulations 2001) must be discharged, on behalf of the Council, by the Chief Executive or his or her nominee and may not be discharged by councillors. This is subject to paragraph (c) below and except in the case of the posts mentioned in Standing Order 75(b) and 81 or in the case of a person appointed in pursuance of section 9 of the Local Government and Housing Act 1989 (assistants for political groups).
- (b) The persons who have been nominated by the Chief Executive pursuant to paragraph (a) above are those listed in Paragraph 9.4 of Part 3 of the Constitution and persons authorised by them to act on their behalf.
- (c) Members will not be involved in the dismissal of any officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, or in accordance with Standing Orders 77 or 78 or where the dismissal is required to be made by members by virtue of any legislative provision or any term or condition of any contract of employment.
- (d) In the case of the appointment or dismissal of the Corporate Director of Law and Governance the acts required under these Standing Orders Relating to Staff to be done by the Corporate Director of Law and Governance shall instead be done by the Chief Executive or a person nominated by him or her for that purpose.

**75. Appointments to Senior Management Posts**

- (a) The Corporate Director of Law and Governance shall be consulted on all appointments to posts covered by this Standing Order. 'Appointments' in this Standing Order 75 refers to permanent appointments. Fixed terms and interim appointments to Senior Management posts are addressed in Standing Order 76 below.

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

persons who meet the person specification criteria to apply, and shall arrange for a copy of the job description and person specification to be sent to any person on request. Where no person able to meet the person specification criteria has applied, the post shall be re-advertised as before.

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

appointment must be approved at a meeting of the Full Council before an offer of appointment is made.

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

#### **76. Interim and fixed term appointments to Senior Management posts**

- (i) Decisions to appoint to Senior Management Posts as defined in Standing Order 75(b) (ii) – (v) which are not permanent appointments but are interim appointments or fixed term contracts for less than one year be made by the Chief Executive.
- (ii) The General Purposes Committee shall be informed of any recommendation for an extension of the interim arrangements beyond a year to a post defined in Standing Order 75(b) (ii) – (v).
- (iv) Any interim appointment to the post of Director of Public Health shall be in accordance with (i) – (iii) above.
- (v) The appointment of an Interim Chief Executive shall be considered by a sub-committee of General Purposes Committee which shall include the Leader, Deputy Leader and a Leader of an opposition party as decided by the Leader.

#### **77. Disciplinary action against the Head of Paid Service, the Monitoring Officer or the Section 151/Director of Finance**

- (a) No 'disciplinary action' as defined in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 may be taken in respect of the Chief Executive, Monitoring Officer or Section 151/Director of Finance other than in accordance with Standing Order 77 and HR Procedures: Disciplinary and Dismissal Procedures for the roles of the Chief Executive, Monitoring Officer and Section 151/Director of Finance.
- (b) The Chief Executive, Monitoring Officer and Section 151/Director of Finance may be suspended by the General Purposes Committee for the purpose of investigating the alleged misconduct occasioning the action. That suspension will be on full pay and, if it lasts longer than two months from the date it took effect, it will be reviewed by the General Purposes Committee.

#### **78. Dismissal from Senior Management Posts**

- (a) Any proposal to dismiss a person from any of the posts mentioned in Standing Order 75(b) shall be notified to the Corporate Director of Governance (or the Director of HR and Organisational Development if the notification relates to the Corporate Director of Law and Governance) together with any other particulars that the person or body proposing the dismissal considers are relevant to the dismissal and no notice of dismissal shall be given unless the following paragraphs have been complied with.
- (b) The Corporate Director of Law and Governance (of Director of HR and Organisational Development) shall forthwith notify every member of the Cabinet:



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

## **79. Staff Appeals Against Dismissal**

Appeals by members of staff at Director level and below against dismissal for misconduct shall be heard by a more senior officer unless the Corporate Director of Law and Governance considers it appropriate for any other appeal within the terms of reference of the Senior Staff Appeals Sub-Committee to be heard by that Sub-Committee.

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

## **80. Political Assistants**

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

The provisions include:

- (i) No appointment shall be made to any post allocated to a political group until the Council has allocated a post to each group which qualifies for one.
- (ii) There shall be no more than one political assistant for each group that qualifies.
- (iii) Where a group does not qualify the group is prohibited from being allocated a political assistant.
- (iv) Where only one group has a membership of one tenth or more of the membership of the authority the groups qualifying shall be that group and the group with the next largest membership.
- (v) On application of these rules the Labour Group, and the Brent Conservative Group, are each allocated political assistant posts. Appointment to each of these posts will be made only upon confirmation of the wishes of the relevant group given to the Deputy Director of Democratic Services by the leader of the group, or by a written statement signed by a majority of the members of the group given to Deputy Director of Democratic Services.

#### **81. Appointment and Dismissal of the Director of Public Health**

- (a) The arrangements for the appointment of the Director of Public Health are set out in the National Health Service Act 2006 Section 73A (as amended by the Health and Social Care Act 2012). The Council must have regard to the statutory guidance issued concerning the recruitment and appointment processes.
- (b) The Local Authority must act jointly with the Secretary of State in the appointment of a Director of Public Health.
- (c) Before terminating the appointment of the Director of Public Health the Local Authority must consult the Secretary of State.

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

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

<b>DEFINED TERM</b>	<b>DEFINITION</b>
<b>Approved List</b>	A list of contractors that meet the Council's minimum financial and technical criteria for specified types of supplies or works contracts.
<b>Chief Officer</b>	The Chief Executive and Corporate Directors.
<b>Collaborative Procurement</b>	Any arrangement between the Council and any other body under which the Council or the other body undertakes a procurement process with or on behalf of the other.
<b>Contract Value</b>	The contract value or estimated contract value for the contract term (including extensions) is excluding VAT (save where indicated that the value is inclusive of VAT).
<b>Contracts Finder</b>	A web-based facility operated by or on behalf of the Cabinet Office for advertising tenders.
<b>Contracts Register</b>	The electronic register of contracts awarded by the Council and overseen by the Procurement Service.
<b>Dynamic Purchasing System</b>	A purchasing system operated electronically through which commonly used services, supplies or works may be purchased from providers that may at any time apply to join the system.
<b>E-Auction Facility</b>	A web-based facility approved by the Head of Procurement which enables the electronic submission of prices for a Tender.
<b>Electronic Tender Facility</b>	A web-based facility approved by the Head of Procurement which enables the electronic despatch and receipt of Tender documents.
<b>Evaluation Panel</b>	The officers who are tasked with reviewing tenders in accordance with the criteria for award.
<b>Find a Tender / FTS</b>	The UK e-notification service where notices in relation to procurements of contracts over relevant Thresholds commencing on or after 1 January 2021 are required to be published in place of notices in OJEU.
<b>Framework Agreement</b>	An agreement for a specified term under which contracts for the provision of particular services, supplies or works can be entered into ("called-off") on agreed terms.

DEFINED TERM	DEFINITION
<b>High Value Contract</b>	Any contract with a Contract Value of and over the following values: for services or supplies contracts £2,000,000; and for Works contracts £5,000,000.
<b>Local Brent Provider</b>	A provider of services, supplies or works that is based or has a local office situated within the London Borough of Brent.
<b>Low Value Contract</b>	In the case of contracts for services (including Schedule 3 Services) or supplies: a contract with a Contract Value of between £25,000 and the Threshold for services and supplies contracts (which is currently <u>£214,904</u> (inclusive of VAT)).  In the case of a contract for construction or works: a contract with a Contract Value of between £25,000 and £250,000, provided that the contract is classified as a contract for works by Procurement Legislation.
<b>Medium Value Contract</b>	In the case of contracts for services (including Schedule 3 Services) or supplies: a contract with a Contract Value of between the amount which is the relevant Threshold for services or supplies contracts (which is currently <u>£214,904</u> (inclusive of VAT)) and £2.m.  In the case of a contract for construction or works, a contract with a Contract Value of between £250,000 and £5,000,000, provided that the contract is classified as a contract for works by Procurement Legislation.
<b>Member</b>	An elected member of Brent Council.
<b>Monitoring Officer</b>	The Corporate Director of Law and Governance.
<b>OJEU</b>	The Official Journal of the European Union.
<b>Online Market Place</b>	A web-based facility approved by the Head of Procurement which enables the procurement of specified types of services, supplies or works contracts.
<b>Procurement Legislation</b>	The relevant UK Regulations as amended or replaced from time to time including The Public Contracts Regulations 2015 and The Concession Contracts Regulations 2016.
<b>Provider Selection Regime</b>	The regime for the procurement of health care services in accordance with the Health & Care Act 2022 and associated regulations
<b>Purchase Order</b>	An order for services, supplies or works to the Council issued by an authorised officer using the Council's official order form.

DEFINED TERM	DEFINITION
<b>Schedule 3 Services</b>	Those social and other specific services listed in Schedule 3 of The Public Contracts Regulations 2015.
<b>Tender</b>	An offer or bid or tender from a party to provide services, supplies or works to the Council including any offer, bid or tender which is subject to negotiation.
<b>Tender Acceptance</b>	An acceptance in writing or electronically of a Tender.
<b>Threshold(s)</b>	<p>The current thresholds (inclusive of VAT) under Procurement Legislation for the following types of contracts are:</p> <ul style="list-style-type: none"> <li>• in the case of contracts for Works, <u>£5,372,609</u> (inclusive of VAT);</li> <li>• in the case of contracts for services or supplies, <u>£214,904</u> (inclusive of VAT);;</li> <li>• in the case of contracts for Schedule 3 Services, £663,540 (inclusive of VAT); and</li> <li>• in the case of contracts for public works or services concession contracts, <u>£5,372,609</u> (inclusive of VAT); .</li> </ul>
<b>Very Low Value Contract</b>	A contract or commitment with a value from £0 to £25,000.
<b>Works</b>	The activities listed in Schedule 2 of The Public Contracts Regulations 2015.

### 83. Contracts exempt from Contract Standing Orders

The following contracts are exempt from Contract Standing Orders:

- (a) individual agency contracts for the provision of temporary staff (although it is mandatory to place such contracts through the Council's corporate agency staff arrangements);
- (b) employment contracts; and
- (c) contracts relating to an interest in land or property.

### 84. General Requirements

- (a) Every contract entered into by the Council shall be entered into pursuant to or in connection with the Council's functions AND shall be procured in accordance with Procurement Legislation and unless for good operational and/or financial reasons the Cabinet or individual Cabinet member (or, if appropriate, the General Purposes Committee) agrees otherwise, with these Contract Standing Orders and the Council's Financial Regulations.
- (b) In addition to the powers of the Cabinet, individual Cabinet member and the General Purposes Committee in paragraph 84(a) to grant an exemption from the

requirement to procure in accordance with these Contract Standing Orders, the Corporate Director, Finance and Resources is also able to grant such exemptions:

- (i) on grounds of extreme urgency; or
- (ii) where the exemption sought is in relation to the requirement to obtain three written quotations under Standing Order 86(c).

The Corporate Director, Finance and Resources shall only exercise his / her authority under this paragraph:

- (i) following legal advice that there is no breach of Procurement Legislation or the Council's own procedures in the exercise of the authority; or
- (ii) where there are good operational and / or financial reasons for doing so, after taking advice from the Head of Procurement.

(c) Chief Officers shall ensure, in undertaking any contract procurement, that:

- (i) fair, transparent and auditable processes are followed at all stages;
- (ii) tender exercises are conducted appropriate to the nature of the contract being procured;
- (iii) all tenderers are treated equally and fairly;
- (iv) these Contract Standing Orders are complied with;
- (v) the Contracts Register is kept updated at all times as set out in Standing Order 110; and
- (vi) appropriate steps are taken to prevent, identify and remedy any conflicts of interest.

(d) Contract tendering procedures are contained in the Council's Contract Procurement and Management Guidelines which shall be updated and amended from time to time to comply with these Contract Standing Orders. Advice on any of the requirements of these Contract Standing Orders shall be sought from the Head of Procurement in the first instance and the Monitoring Officer as appropriate.

(e) For the avoidance of doubt these Contract Standing Orders apply to:

- (i) the appointment of consultants; and
- (ii) the establishment of Framework Agreements and Dynamic Purchasing Systems.

(g) Subject to paragraph (a) and (b) above, Standing Order 97 (mandatory Approved List and Online Market Place), all Medium and High Value Contracts shall be entered into and procured in accordance with the formal tendering procedures set out in these Standing Orders.

**85. Partnership Arrangements and Collaborative Procurement**

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

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

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

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

- (a) Certain contracts as set out in this Standing Order listed below are not subject to the full tendering requirements of these Contract Standing Orders but are subject to any other relevant parts thereof.
- (b) No formal procurement procedures apply to **Very Low Value Contracts** apart from a requirement to secure best value. For Very Low Value Contracts, the best way to demonstrate best value is by seeking three quotations or another procurement route. As with all Council procurement, there is a mandatory requirement to keep an auditable record to demonstrate compliance and value for money.
- (c) Under Procurement Legislation, for **Low Value Contracts** at least three written quotations should be sought. Advice must be sought from the Procurement Service about how to select the three organisations to be invited to quote and how to structure the quotation process. Unless the Council's procurement officers advise that it is not necessary or appropriate, all quotations shall be sought using the Electronic Tender Facility and at least one of the quotations shall be sought from a Local Brent Provider, where possible. Low Value Contracts require formal approval for award according to Standing Order 88(a) from a duly authorised officer, where applicable, within the relevant Council Directorate.
- (d) Contracts which are procured using an Approved List or the Online Market Place in accordance with the rules prescribed pursuant to Standing Order 97, are not subject to full tendering requirements.

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

SAVE THAT any High Value Contract may only be awarded on the approval of the Cabinet as required by paragraph 9.5 of Part 3 of the Constitution.

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



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

- (a) The Local Authorities (Goods and Services) Act 1970 (“the 1970 Act”) provides that local authorities may enter into contracts to provide goods and services to public bodies defined as such by the 1970 Act. Section 96 of the Local Government Act 2003 provides that local authorities may do for a commercial purpose anything which they are authorised to do for the purpose of carrying on any of their ordinary functions provided this power is exercised through a company within the meaning of Part 5 of the Local Government Act 1989. The general power of competence in the Localism Act 2011 may also authorise the provision of goods, works and services by the Council.
- (b) Before entering into arrangements under any of these provisions, officers must comply with the relevant requirements of Financial Regulation in Part 2 of the Constitution.
- (c) Authority to enter into arrangements under any of these provisions must be agreed by the Cabinet (or if appropriate the General Purposes Committee) where:
  - (i) the Contract Value would exceed £1m *per annum*; or
  - (ii) the gross cost to the Council of providing the relevant goods, services or works under the contract is estimated to exceed £1m *per annum* calculating the full costs over the term of the contract (including any period of extension(s) anticipated by the contract); or
  - (iv) where a company is to be set up for the purposes of the arrangements.
- (d) In all cases advice shall be sought from the Corporate Director of Law and Governance and the Corporate Director, Finance and Resources prior to entering into any such arrangement and/or prior to seeking approval by the Cabinet.

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

- (a) Chief Officers have delegated to them power to invite expressions of interest, agree shortlists, invite Tenders, negotiate, award and terminate contracts in accordance with paragraph 9.5 of Part 3 of this Constitution. No individual Member may enter into a contract on the Council’s behalf.
- (b) Where approval to invite expressions of interest is required from the Cabinet (or if appropriate the General Purposes Committee or Pension Fund Sub-Committee) the Cabinet, the General Purposes Committee or the Pension Fund Sub-Committee as the case may be, shall receive and consider a report setting out the pre-tender considerations specified in Standing Order 89 and shall give such approval or approvals as it considers necessary.
- (c) Where approval to award or terminate a contract is required to be obtained or is in any event sought from the Cabinet (or the General Purposes Committee or Pension Fund Sub-Committee), the Cabinet, the General Purposes Committee or the Pension Fund Sub-Committee as the case may be, shall receive and consider a report setting out all relevant information necessary to enable it to give such approval or approvals as it considers necessary.
- (d) Chief Officers are responsible for ensuring that the relevant category manager in the Procurement Service is notified of all proposed procurements of or exceeding £25,000 in value. The role of the Category Manager under this Standing Order 88

is to advise on appropriate procurement routes, ensuring that the Department takes legal advice as necessary.

#### **89. Pre-Tender Considerations**

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

- (i) the nature of the services, supplies or works contract to be tendered;
- (ii) the Contract Value;
- (iii) the contract term and any period of extension(s) anticipated by the contract;
- (iv) the tender procedure to be adopted including whether any part of the procedure will be conducted otherwise than by electronic means and whether there will be an e-auction;
- (v) the procurement timetable;
- (vi) the evaluation criteria and process;
- (vii) any business risks associated with entering the contract;
- (viii) the Council's Best Value duties;
- (ix) the Council's duty under the Public Services (Social Value) Act 2012 (the duty applies only to Medium and High Value Contracts for services but should be considered for all contracts with a Contract Value above £100,000);
- (x) any staffing implications including TUPE and pensions;
- (xi) relevant financial, legal and other considerations;
- (xii) Sustainability
- (xiii) Key Performance Indicators / outcomes;
- (xiv) London Living Wage; and
- (xv) Contract Management.

#### **90. Contract Value**

Chief Officers shall ensure that a Contract Value is prepared and recorded prior to the commencement of a tender exercise. Such estimate shall be calculated on the basis of the value of the contract over the life of the contract including any period of extension(s) anticipated by the contract whether or not a one-off service, supply or work. Where a contract has no fixed term, the value of the contract shall be calculated as if the term of that contract were 48 months. Where it is not possible to value the contract, then it will be deemed to be valued at the relevant Thresholds.

**91. Lots**

Chief Officers in consultation with Procurement shall consider whether a contract should be subdivided into lots and if a decision is taken not to sub-divide into lots, shall record the reason for such decision in writing. Contracts must not, however, be sub-divided into lots to avoid competitive tendering or compliance with these Contract Standing Orders. The estimated value of contracts split into lots shall be calculated using the total value of all lots, to determine what threshold applies and the procurement process to be undertaken.

**92. Procurement by consultants**

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

**93. Appointment to the Evaluation Panel**

For High Value Contracts the Corporate Director of Law and Governance and the Corporate Director, Finance and Resources shall, if he/she considers it appropriate, be part of or appoint a representative to the Evaluation Panel or shall advise the Panel as he/she sees fit.

**94. Prior Information Notice (PINs)**

Notwithstanding PINs being issued in Find a Tender prior to a tender process, Procurement will endeavour to advise the market on an annual basis by the issue of a PIN of forthcoming opportunities that may transpire during the forthcoming financial year.

**95. Inviting Tenders for Contracts over Thresholds**

- (a) Where a services, supplies or works contract has Contract Value in excess of the Threshold(s), then Tenders shall be invited in accordance with Procurement Legislation using the Open, Restricted, Competitive Procedure with Negotiation, Competitive Dialogue, Innovative Partnership or Negotiated (applicable to concession contracts only) procedure by placing a notice in Find a Tender in accordance with Procurement Legislation no later than any other advertisement placed in any other publication.
- (b) A notice for such Tender will also be placed on Contracts Finder following the placing of the notice in Find a Tender in accordance with Procurement Legislation.
- (c) Where a contract for Schedule 3 Services has a Contract Value in excess of the Threshold, then Tenders may be invited using procedures outlined in paragraph (a) above or such additional procedures as are consistent with Procurement Legislation.

**96. Inviting Tenders for Contracts below Thresholds**

(a) Where a Contract Value is below the relevant Threshold, then Tenders shall be invited in accordance with:

- (i) all requirements in Procurement Legislation relating to below -Threshold contracts, as appropriate;
- (ii) these Contract Standing Orders; and
- (iii) the requirements of either (b) or (c) below.

(b) **Single Stage Tenders**

- (i) Tenders shall be invited by way of a public notice published on Contracts Finder, the Electronic Tender Facility and by such other additional means as is considered appropriate, stating the nature of the contract being tendered and stating the last date when Tenders will be accepted, which shall not normally be less than 21 days after the date that the Notice was first published. The Contract Value may also be included.
- (ii) Where relevant to the subject matter of the procurement and proportionate, suitability assessment questions may be asked in order to ensure that the person or body meets the Council's requirements or minimum standards of suitability, capability, legal status or financial standing.

(c) **Two-Stage Tenders**

For Medium Value Contracts and High Value Contracts for works or Schedule 3 Services that are below the appropriate Threshold, in addition to a Single Stage Tender process, tenders may also be invited as follows:

- (i) Expressions of interest shall be invited by public notice published on Contracts Finder, the Electronic Tender Facility and by such other additional means as is considered appropriate, stating the nature of the contract being tendered and the last date when expressions of interest will be accepted which shall not normally be less than 21 days after the date that the Notice was first published;
- (ii) Information about the tender shall also be placed on Contracts Finder.
- (iii) Persons or bodies wishing to express an interest shall be directed to a selection questionnaire to be completed and submitted to the Council by the date specified in the Notice;
- (iv) The response to the Selection Questionnaire shall be used to evaluate whether the person or body meets the Council's minimum technical capacity and financial standing requirements, has relevant experience and should be included in a shortlist; and
- (v) Tenders shall be invited from those persons or bodies who have been included in the shortlist.

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

- (a) The Council has agreed the use of a corporate Approved List. The Corporate Director of Law and Governance in consultation with the Head of Procurement may prescribe the rules on how the corporate Approved List shall be compiled, used, monitored and reviewed and may amend such rules periodically.
- (b) The use of the corporate Approved List shall be mandatory for all Low Value Contracts for services and supplies and for all Low and Medium Value contracts for works where a relevant corporate Approved List category exists, unless an exemption is granted pursuant to the rules prescribed under (a) above.
- (c) The Council has agreed the use of a Small Works and Services Approved List. The Head of Procurement in consultation with the Corporate Director of Law and Governance may prescribe the rules on how the Small Works and Services Approved List shall be compiled, used, monitored and reviewed and may amend such rules periodically.
- (d) The use of the Small Works and Services Approved List shall be mandatory for all Low Value Contracts for services supplies and works where a relevant Small Works and Services Approved List category exists, unless an exemption is granted pursuant to the rules prescribed under (c) above.
- (e) The Council has agreed the use of an Online Market Place. The Head of Procurement may prescribe the internal rules as to how the Online Market Place shall be used, monitored and reviewed and may amend such rules periodically.
- (f) The Online Market Place shall consist of:
  - (i) a contract or Framework Agreement established pursuant to these Standing Orders; or
  - (ii) a Dynamic Purchasing System or Framework Agreement established by another contracting authority, PROVIDED that the Monitoring Officer, in consultation with the Head of Procurement, has advised that participation in the Dynamic Purchasing System or Framework Agreement and inclusion on the Online Market Place is legally permissible.

**98. The Invitation to Tender**

- (a) The invitation to tender shall include the following details:
  - (i) a description of the services, supplies or works being procured;
  - (ii) whether the Council is of the view that TUPE will apply;
  - (iii) the tender timetable including the tender return date and time, which must allow a reasonable period for applicants to prepare their Tenders;
  - (iv) a specification and instructions on whether any variants are permissible;
  - (v) the Council's terms and conditions of contract;
  - (vi) the evaluation criteria including either weightings or the order of importance;
  - (vii) pricing schedules, if appropriate, and instructions for completion;

- (viii) whether the tenderer is required to price separately if the tenderer were required to offer appropriate pension provision and/or parent company guarantee and/or a performance bond;
- (ix) form and contents of method statements, if any, to be provided;
- (x) confirmation that Tenders are to be submitted electronically unless this is not possible or inappropriate;
- (xi) the rules and method for submitting Tenders;
- (xii) where Tenders are to be received electronically via the Electronic Tender Facility, a requirement that tenderers submit a signed hard copy of the form of tender, undertakings and any other original documentation upon request;
- (xiii) whether an e-auction will be conducted;
- (xiv) information about Social Value, London Living Wage and Lots (where appropriate); and
- (xiv) any further information which will inform or assist applicants in preparing their Tenders.

#### **99. Form of Tender**

- (a) All Tenders shall be required to be submitted on the Council's form of tender which shall include the following details:
  - (i) a statement that the Council will not be bound to accept any Tender;
  - (ii) a section where the tenderer shall state whether its Tender is priced on the basis of TUPE applying or not;
  - (iii) except where permitted by Procurement Legislation, a statement that formal acceptance of the Tender by the Council will, until such time as a written contract can be executed, bind the parties into a contractual relationship; and
  - (iv) except in the case of an e-auction, the price and whether this would be different if the tenderer were to offer a comparable pension and/or a parent company guarantee and/or a performance bond.
- (b) Tenders must be submitted and opened in accordance with the requirements of Standing Orders 100 and 101.

#### **100. E-Tendering and E-Auctions**

The following rules apply to the use of an Electronic Tender Facility and/or an E-Auction Facility regardless of the value of the contract being procured:

- (a) Invitations to Tender should be submitted and Tenders received by electronic means via an Electronic Tender Facility. Except in the case of e-auctions no other form of electronic tendering shall be permissible. All e-tendering must comply with Procurement Legislation where applicable.

- (b) Tenders received electronically via the Electronic Tender Facility must be held securely until after the closing date and time.
- (c) Tenders securely held must all be opened at the same time by an authorised officer and the Tender details recorded.
- (e) In appropriate cases the submission of prices or values of quantifiable elements for a Tender may be conducted by e-auction using an E-Auction Facility. An E-Auction Facility may be used in conjunction with an Electronic Tender Facility.
- (f) Tenders conducted by e-auction must comply with Procurement Legislation where applicable and unless used in conjunction with an Electronic Tender Facility, must follow the usual process for the invitation, submission and evaluation of Tenders (including this Standing Order 100) except that the submission of prices and/or values may occur via an online auction.
- (g) Except with the prior written approval of the Corporate Director of Finance and Resources, electronic tendering shall only be undertaken using the Council's Electronic Tender Facility or E-Auction Facility operated by the Procurement Service.

#### **101. Receipt and Opening of Tenders**

In the event that tenders are submitted in hard copy, the receipt and opening of Tenders shall be conducted as follows:

- (a) All High Value Contract Tenders shall be addressed to the Council's Democratic Services Manager and the Tender shall remain in the custody of the Democratic Services Manager until the time appointed for its opening;
- (b) High Value Contract Tenders shall be opened and Tender details recorded by an authorised representative of the Democratic Services Manager and at least one other officer;
- (c) Medium Value Contract Tenders shall be addressed to the relevant Chief Officer and the Tender shall remain in the custody of the Chief Officer until the time appointed for its opening; and
- (d) The Deputy Director of Democratic Services shall make appropriate arrangements for the receipt, storage and opening of Tenders by an officer of appropriate seniority which ensures that each tenderer is treated fairly and equally and ensures probity.

#### **102. Late Tenders**

- (a) Late Tenders shall not be considered except in special circumstances and only then if no other Tenders have been opened and only with the prior written approval of the Chief Executive or the Monitoring Officer on receipt of a written request specifying the special circumstances and why acceptance of a late Tender is justified. A record of any such approval shall be kept with the record of Tenders received.
- (b) If Tenders are received electronically via the Electronic Tender Facility or by an E-Auction Facility, then if the Facility will still accept the submission of tenders after the appointed closing date and time for the submission of Tenders it will

automatically flag late Tenders as “late”. Late Tenders flagged as such may only be accepted in accordance with Standing Order 102 (a) above. However, once other Tenders have been opened on the Facility, no late Tenders can be accepted.

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

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

### **104. Tender Evaluation**

- (a) Tenders subject to Procurement Legislation shall be evaluated in accordance with the relevant regulations and the invitation to tender. All other Tenders shall be evaluated in accordance with the criteria and procedures set out in the invitation to tender. In both cases Tenders shall be evaluated in accordance with these Standing Orders save where there is a conflict with Procurement Legislation in which case the legislation shall prevail.
- (b) Tenders for all contracts shall be evaluated and awarded on the basis of the most economically advantageous offer to the Council. The most economically advantageous offer to the Council will be determined using a combination of both quality and price evaluation criteria (except for certain works, supplies or energy supply contracts where price alone may be the sole evaluation criterion).

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

- (a) Subject to paragraph (b) below where the Council has included non-negotiable terms and conditions with its instructions to tenderers then Tenders may only be accepted on those terms unless any revisions are notified to all tenderers prior to the tender return date.
- (b) Where contract terms and conditions are non-negotiable then no variations to them may be made after Tenders are received without the prior written approval of the Monitoring Officer.
- (c) Post-tender negotiations are only permissible where the Invitation to Tender specified the areas to be subject to negotiation and where this is permitted by Procurement Legislation. In all other cases, only clarification points or ambiguities may be raised with tenderers.

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

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



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

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

**108. Contract Award Notices**

Officers shall ensure that a contract award notice is published in OJEU for procurements commenced on or before 31 December 2020 and in Find a Tender for procurements commenced on or after 1 January 2021 within 30 days of the award of any contract where required by Procurement Legislation or, in the case of Dynamic Purchasing Systems, ensure that grouped notices are sent within 30 days of the end of each quarter. Officers shall ensure that relevant information is published on Contracts Finder where required by Procurement Legislation.

**109. Letters of Intent**

Letters of Intent shall only be used as follows:

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

**110. Contracts Register**

- (a) Chief Officers shall ensure that all contracts awarded by the Council to the value of £25,000 or more over the term of the contract shall be entered on the Contracts Register. The Contracts Register shall for each contract specify the name of the relevant Council's Department, the contractor, the services, supplies or works to be provided, the Contract Value and contract term and, where relevant, any provisions for extension. Details of all such contracts awarded must be sent to the

Procurement Service entered on the Contracts Register within two weeks of award and in the required format.

- (b) Chief Officers shall also ensure that for all contracts on the Contracts Register, all contract extensions and variations, early terminations, assignments and novations are entered on the Contracts Register and notified to the relevant category manager in the Procurement Service.

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

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

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

- (a) Contracts subject to Procurement Legislation may be extended in compliance with relevant legislative provisions. Contracts may be extended in accordance with the provisions for extension contained in the contract if the parties agree and if the relevant Chief Officer is satisfied that the extension will achieve best value and is reasonable in all the circumstances. Any such extension that will last for more than one year shall be notified to the Monitoring Officer and the Corporate Director of Finance and Resources. All extensions (of any duration) shall be notified to the Procurement Service.
- (b) Retendering of contracts shall be timetabled to ensure handovers can be effected at the end of the contract term. Where any retendering is delayed or is unsuccessful then temporary arrangements may be agreed by the relevant Chief Officer.
- (c) Any temporary contractual arrangements necessary to cover periods between a contract expiring and a new contract commencing shall be kept to a minimum term possible and retendering shall be commenced or re-commenced as soon as is reasonably possible.
- (d) Chief Officers have delegated to them power to extend, vary or renegotiate contracts in accordance with paragraph 9.5 of Part 3 of this Constitution. Where approval to extend, vary or renegotiate a contract is required to be obtained or is in any event sought from the Cabinet (or the General Purposes Committee or Pension Fund Sub-Committee) the Cabinet, the General Purposes Committee or the Pension Fund Sub-Committee as the case may be shall receive and consider a report setting out all relevant information necessary to give such approval or approvals as it considers necessary.

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

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

High Value and Medium Value Contracts may only be terminated:

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

and provided that in either case the financial and legal implications or other relevant circumstances have been taken into account.

**114 Assignment and Novation of Contract**

- (a) Contracts may be novated or assigned provided that the novation or assignment would not breach Procurement Legislation. Chief Officers have delegated to them the power to novate or assign contracts pursuant paragraph 9.5, of Part 3 of this Constitution provided that the novation or assignment does not substantially alter the terms and conditions of the contract and provided that the relevant Chief Officer is satisfied that the new contractor meets certain standards.
- (b) Where approval to novate or assign a contract is required to be obtained or is in any event sought from the Cabinet (or the General Purposes Committee or Pension Fund Sub-Committee) the Cabinet, the General Purposes Committee or Pension Fund Sub-Committee as the case may be shall receive and consider a report setting out all relevant information necessary to give such approval or approvals as it considers necessary.

## ACCESS TO INFORMATION RULES

### Scope

1. These rules apply to all meetings of the Council and its committees and sub-committees and meetings of the Cabinet and committees established by the Leader or the Cabinet except where specified (together these meetings are herein referred to as "meetings"). They also apply where specified to decisions made by officers, the Leader and Cabinet Members.
2. Nothing in these rules shall be treated as limiting or diminishing any rights conferred on the public, members of the Council or co-opted or independent members by any of the Standing Orders or other rules in the Constitution or the law.

### Rights of Press and Public to attend Meetings

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

### Media

8. Photography and sound recording shall generally be permitted except where the public and media have been excluded. Any individual or television production company shall be permitted to film any proceedings of any meeting except where the public and the media have been excluded. Any filming in a meeting shall only take place from the positions authorised by the Deputy Director of Democratic Services for that purpose.
9. The Chair shall have discretion to regulate the behaviour of all media representatives present at a meeting in the interests of the efficient conduct of the

meeting. In exercising this discretion the Chair shall have regard to the following principles:

- (a) the Chair's discretion shall not be used for the purpose of seeking to limit or restrict the right of the press to fairly report the business of the Council conducted in public and shall be used only for the purpose of enabling the efficient conduct of the meeting.
- (b) the main priority shall be to enable the business of the meeting to be conducted by the members.
- (c) the second priority shall be to enable the public and media representatives present at the meeting to see and hear the business being conducted.
- (d) the third priority shall be to facilitate photography, sound recording and filming of the proceedings, bearing in mind always that these facilities are provided at the discretion of the Council and are in addition to the basic legal entitlement of the media to report the proceedings of the Council.
- (e) generally media representatives will not be permitted to wander round within the meeting room.
- (f) the use of any equipment which interferes with the efficient operation of hearing aids or facilities to improve hearing for the hearing impaired shall not be permitted.
- (g) any sound recording equipment must not operate in such a way as to be audible and generally wandering microphones will not be permitted in meeting rooms other than for brief periods not exceeding a few minutes.
- (h) any photography in meeting rooms must take place from positions approved by the Deputy Director of Democratic Services so that the view of members, officers, public and media representatives in attendance is not obstructed. Any use of flash lighting will generally be permitted for periods not exceeding a few minutes with much longer intervals between. Generally, close up photography in the sense of the photographer being close to the subject will not be permitted, with or without flash lighting; where this is desired it should be arranged before or after the meeting.
- (i) if filming causes any noise it will be limited as for sound recording. Use of additional lighting in connection with filming will be restricted as for flash photography to minimise inconvenience to those others in attendance at the meeting.
- (j) any disruptive behaviour by any media representative will be dealt with in the normal manner under these rules.
- (k) where appropriate, the Chair and/or Deputy Director of Democratic Services as the case may be will give preference to media representatives who obtain agreement to their proposed activity before the meeting takes place.

#### **Notice of Meetings - The Weekly List**

10. Notice of meetings shall be given at least five clear working days in advance. On Friday in each week a list shall be published at the Civic Centre and on the Council's website giving notice of the meetings to be held in the week commencing

on the second Monday following publication of the notice. This list should be known as "The Weekly List". If the Friday falls on a public holiday then the Weekly List shall be published the working day before the Friday.

### **Access to Agendas and Reports prior to Meeting**

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

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

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

## Background Papers

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

## Supply of Copies

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

to any person via email.

## Rights of Access for Members of the Council

19. Any member of the Council will be entitled to inspect any document in the possession or under the control of the Council which relates to any business to be transacted at a meeting of the Council, a committee or a sub-committee, except any part of a document that contains exempt information.
20. Any member of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or a Cabinet Committee which relates to any business to be transacted at a public meeting except any part of a document that contains exempt information or advice of a political adviser appointed under section 9 of the Local Government and Housing Act 1989.
21. Any member of the Council will be entitled to inspect at the conclusion of a meeting of the Cabinet or a Cabinet Committee or, in the case of an executive decision made by an officer, immediately after that decision has been made, any document which is in the possession, or under the control, of the Cabinet or a Cabinet Committee and which contains material relating to any business previously transacted at a private meeting or (in the event that they are permitted to take decisions) any decision taken by an individual member of the Cabinet or any

executive decision made by an officer except any part of a document that contains exempt information or advice of a political adviser appointed under section 9 of the Local Government and Housing Act 1989.

22. Notwithstanding anything in paragraphs 19 to 21 a member is entitled to inspect any information that is exempt information if it falls within;
- (a) Category 3\* "information relating to the financial or business affairs of any particular person (including the authority holding that information)" unless it contains information that relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or
  - (b) Category 6\* "Information which reveals that the authority proposes -
    - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
    - (ii) to make an order or direction under any enactment" a member is entitled to have access to that information.

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

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

#### **Additional rights for members of Scrutiny Committees**

24. Any member of the Scrutiny Committees shall be entitled to copies of any document which is in the possession or control of the Cabinet or a Cabinet Committee and which contains material relating to any business already transacted at a meeting or (in the event that they are permitted to take decisions) any decision taken by an individual member of the Cabinet or any decision that has been made by officers except:-
- (a) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or to any review contained in any programme of work of the relevant Scrutiny Committee of which they are member; or
  - (b) the advice of a political adviser appointed pursuant to Section 9 of the Local Government and Housing Act 1989.

#### **Human Rights Act**

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

#### **Recordable Decisions**

26. As soon as reasonably practicable after an officer has made a recordable decision as defined in Part 1 of the Constitution, the officer must produce and send to the Proper Officer to be made available at the Civic Centre or on the council's website a record of the decision which must include;
- (i) the date it was made;
  - (ii) the reasons for the decision;



- (iii) details of any alternative options considered and rejected by the officer when making the decision;
- (iv) any conflict of interest declared by any cabinet member who is consulted by the officer which relates to the decision; and
- (v) in respect of any such declared conflict of interest, a note of dispensation granted by the council's Chief Executive.

EXCEPT THAT this paragraph shall not:

- apply in respect of non-executive decisions where legislation other than the Openness of Local Government Bodies regulations 2014 requires the decision and the information in (e) (i) and (ii) to be recorded;
- require the disclosure of exempt or confidential information or advice from a political assistant (if any).

### **Key Decisions**

27. A decision taken by Cabinet or a Cabinet Committee, the Leader or a Cabinet Member or an officer exercising an executive function under delegated powers will be a Key Decision if the decision is likely to:
- (a) result in the Council incurring expenditure or making of savings of £500k or more; or
  - (b) be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.
28. In determining whether a decision falls into one of the above categories officers must consider each decision in light of its particular facts having regard to the statutory definition of Key Decisions and to:
- any relevant statutory guidance in force at the time;
  - the amount of money concerned;
  - the type of function; and
  - the overall circumstances of the case.
29. Special attention should be paid to decisions which are likely to result in a Directorate or Department incurring expenditure which is, or the making of savings which are, 30% or more of its budget for the function in question. In determining what is a 'budget' or a 'function' for these purposes the person or body taking the decision should have regard to any guidance from the Monitoring Officer or Corporate Director of Finance and Resources.

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

30. Subject to the rules on urgency (see paragraph 39), a Key Decision may not be taken (by the Cabinet, a Cabinet Committee, the Leader or a Cabinet Member or officers) in respect of any matter unless the matter in question has been publicised in the Forward Plan and, in the case of decisions by the Cabinet or a Cabinet Committee, unless the reports to be considered by the decision maker have been available for public inspection for at least 5 clear days prior to the date on which the decision is made.

31. As soon as reasonably practicable after a Key Decision has been taken a record of that decision must be prepared in accordance with these Rules and made available for public inspection. This will be included in the minutes of the meeting.

### **The Forward Plan**

32. A Forward Plan shall be prepared by the Deputy Director of Democratic Services to cover a period of not less than 28 days before any decision on it is to be made.
33. The Forward Plan, unless it is impracticable, will contain details of the matters which the Deputy Director of Democratic Services has reason to believe will be the subject of Key Decisions (irrespective of the decision maker) and other decisions to be taken by the Cabinet or by Cabinet Committees in the course of the discharge of an executive function during the period covered by the Plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:
- (a) that a decision is to be made on behalf of the Council and whether the decision is a Key Decision;
  - (b) the matter in respect of which the decision is to be made;
  - (c) where the decision maker is an individual, that individual's name, and title if any and, where the decision maker is a decision-making body, its name and a list of its members;
  - (d) the date on which, or the period within which, the decision is to be made;
  - (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
  - (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
  - (g) that other documents relevant to those matters may be submitted to the decision maker; and
  - (h) the procedure for requesting details of those documents (if any) as they become available.
34. A Key Decision must be included on the Forward Plan not less than 28 days before the decision is to be made.
35. Exempt information need not be included in the Forward Plan and confidential information cannot be included. In accordance with paragraph 14 above, the reasons for excluding such information shall be given on the Forward Plan.

### **Urgency**

36. The reports which relate to an item of urgent business which is added to an agenda in accordance with these rules after the agenda has been sent out and/or the reports which relate to an item of business which is included on an agenda but in respect of which it was not possible for the report to be sent out with the agenda in accordance with these rules shall be sent or given to members of the Cabinet or the committee or sub-committee concerned as soon as reasonably practicable and

shall thereafter be made available for other members of the Council and for public inspection together with the list of background information.

37. The reason(s) for urgency shall be specified in the minutes of the meeting concerned together with the reason why it was not possible for the report to be available when the agenda was published (where relevant).
38. If the Cabinet, Cabinet Committees, the Leader or Cabinet Member, or officers are proposing to take a Key Decision which is not included in the Forward Plan then:
  - (a) The decision may only be taken if:-
    - 1.1. the decision is required to be taken by such a date that it is impracticable, in the opinion of the Chief Executive or a nominated deputy, to defer the decision until it has been included in the Forward Plan in accordance with the Access to Information Rules and timescales;
    - 1.2. the Deputy Director of Democratic Services has informed the Chair of the relevant Scrutiny Committee in writing of the matter in respect of which the decision is to be taken;
    - 1.3. the proper officer has made copies of the notice given to the Chair of the relevant Scrutiny Committee and made these available to the public at the offices of the Council or on the Council's website. Notice will also be given setting out the reasons why compliance with the ordinary requirements of the Forward Plan is impracticable; and
    - 1.4. at least 5 clear days have elapsed since the notice was given to the Chair of the relevant Scrutiny Committee or, where that is not reasonably possible, the Chair of the relevant Scrutiny Committee has agreed that the taking of the decision is urgent and cannot be reasonably deferred. If the Chair is unable to act, then the agreement of the Mayor or in his /her absence the Deputy Mayor will suffice. A notice setting out the reasons for deciding the decision is urgent and cannot reasonably be deferred shall be made available at the Council's offices or on its website.
    - 1.5. Access to Information Rule 14 may also apply.
  - (b) The Leader shall report to the next meeting of Full Council any Key Decisions taken under this Standing Order.
  - (c) If the Cabinet or Cabinet Committees are proposing to take a decision which is not a Key Decision and is not included in the Forward Plan then the decision may only be taken if the Chief Executive agrees that the decision is required to be taken by such a date that it is impracticable to defer the decision until it has been included in the Forward Plan in accordance with the Access to Information Rules and timescales.

**Reports to Full Council concerning Key Decisions**

39. The Leader shall report to Full Council any Key Decisions which were agreed as urgent by the Chair of the relevant Scrutiny Committee i.e. any Key Decisions which were made without giving at least 5 clear days notice.
40. If the relevant Scrutiny Committee considers that an executive decision should have been treated as a Key Decision but was not treated as such the committee may require the Cabinet to submit a report to the Council within such reasonable time as the committee may specify. The power to require a report rests with the committee but is also delegated to the Deputy Director of Democratic Services, who shall require such a report on behalf of the committee when so requested by 40% of the Members of the committee. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Scrutiny Committee.
41. If requested to do so in accordance with the above rule the Cabinet will prepare a report for submission to the next available meeting of the Full Council. However, if the next meeting of the Full Council is within 9 days of receipt of the written notice of the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body taking the decision, if the Leader is of the opinion that it was not a Key Decision the reasons for that opinion or, if the Leader considers that the decision was a Key Decision but that the rules for taking the decision were complied with, the reasons for that opinion.

**Record of Executive Decisions**

42. In addition to the List of Executive Decisions prepared by the Deputy Director of Democratic Services under Standing Orders, the Deputy Director of Democratic Services will, as soon as reasonably practicable after a public meeting of the Cabinet or a Cabinet Committee, produce a record of every decision taken at that meeting which shall include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting, any conflict of interest declared by any member and any dispensation granted.
43. As soon as reasonably practicable after an executive decision has been taken by an officer a record of that decision shall be prepared by the relevant officer setting out the information listed above and shall be forthwith submitted to the Deputy Director of Democratic Services. An executive decision by an officer is a decision which is a Key Decision, or a decision which is delegated to an officer by the Cabinet or by a Cabinet Committee.
44. As soon as reasonably practicable after any decision has been taken by the Leader or a Cabinet Member a record of that decision shall be prepared by a representative of the Deputy Director of Democratic Services setting out the information listed above. Such decisions may only be taken in the presence of a relevant officer able to advise the Leader or Cabinet Member concerning the content of the report and in the presence of a representative of the Deputy Director of Democratic Services.
45. A copy of the record(s) so prepared and the reports considered (unless confidential or exempt) and the background documents shall be made available for public inspection at the Council offices or on the website.

## Joint Committees

46. These Rules apply to the Council's Joint Committees as follows:
- (a) if all the members of a joint committee are members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.
  - (b) if the joint committee contains members who are not on the Cabinet of any participating authorities then the access to information rules in Part VA of the Local Government Act 1972, as applicable to meetings of the Full Council and its committees will apply.

## Exempt and Confidential information

47. Nothing in the above shall be taken to authorise the publication of any report which in the discretion of the Deputy Director of Democratic Services is marked not for publication in accordance with the Local Government Act 1972 i.e. it contains confidential or exempt information.
48. Reports containing confidential information shall remain not for publication but in respect of reports containing exempt information the meeting to which the report is submitted may decide to take the report while the press and public are present in which case copies shall be made available to press and public at that time and the report and list of background information shall be available for public inspection from the next working day following the meeting.
49. The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.
50. The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.
51. Confidential information means information given to the Council by a Government Directorate on terms which forbid its public disclosure or information which cannot be publicly disclosed by law or Court Order.
52. Exempt information means information falling within any one of the following 7 categories but the information is **only considered exempt, if and so long**, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### Categories of exempt information

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information). However Information falling within this paragraph is not exempt information if it is required to be registered under—
  - (a) the Companies Act 1985;
  - (b) the Friendly Societies Act 1974;
  - (c) the Friendly Societies Act 1992;
  - (d) the Industrial and Provident Societies Acts 1965 to 1978;
  - (e) the Building Societies Act 1986; or
  - (f) the Charities Act 2011.

4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes -
  - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

53. Information falling within any of categories 1-7 is not exempt if it relates to proposed development for which the Council can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

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# FINANCIAL REGULATIONS

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# FINANCIAL REGULATIONS

## INTRODUCTION

### 1.1 What This Section Covers

1.1.1 These Regulations form part of the Council's Constitution, which makes up the Council's regulatory framework alongside Standing Orders. They are mandatory and as such must be followed by all officers of the Council whether directly employed, contracted or employed through an agency in their conduct of financial and related matters. They cover the following areas of financial management and control:

- principles of financial management
- revenue budgets
- the capital programme
- financial systems and accounting
- procurement, contracts & leasing
- orders & payments
- expenditure items
- income and debt
- external arrangements
- risk management and control of resources
- retention of documents

### 1.2 To Whom the Regulations Apply

1.2.1 For the purposes of this document, the Corporate Director, Finance and Resources is the Director appointed by the Council in accordance with Section 151 of the Local Government Act 1972. The Council formally adopts the CIPFA Statement on the Role of the Chief Financial Officer in Local Government as setting out the requirements for the Corporate Director of Finance and Resources. (Further details of roles and responsibilities are set out in Part 3 of the Constitution).

1.2.2 These Regulations apply to all officers and members across the council responsible for or engaged in undertaking financial activity. Failure to comply may constitute misconduct and lead to formal disciplinary action.

1.2.3 The following describes the overall framework and the main roles and responsibilities in respect of these Regulations. This is not exhaustive and there will be overlaps. The Corporate Director, Finance and Resources is responsible for reviewing these Regulations and the reporting of any significant breaches to the Cabinet or Full Council:

- The Chief Executive is responsible for ensuring the long term financial sustainability of the council's finances by ensuring that officers propose realistic and achievable budgets and financial plans, and ensuring that officers take prompt action to address significant financial risks, such as ensuring that action is taken to mitigate losses due to undelivered savings.
- The Leader and Cabinet members have a key role to play by ensuring that council policy and decisions ensure the financial sustainability of the council over the long term.
- The Corporate Director, Finance and Resources puts in place financial standards and practices across the Council to deliver a framework for financial

control, provide accurate, timely and consistent monitoring information, and sound advice on financial decisions to be made by officers and members.

- Member of the Councils Management Team and Directors and officers are fully accountable for budgets under their control. They must ensure that the service promotes, enacts and monitors adherence to the financial control framework, that effective budgetary control systems are in place and that spending is within their aggregate cash limit, indicating where necessary, conflicts between current service policy and plans and resource allocation. Each Member of the Corporate Management Team or Director must ensure that the formal records of officers authorised to act upon their behalf in respect of managing budgets, income collection, requisitioning, placing and approving orders, approving variations and write offs, are kept up to date with both old authorisations removed, and new ones added. Where appropriate the record should show limits of their authority. Further detail of the role of Departments in self-service is detailed in section 1.4.
- Finance maintains the council's financial and procurement system, collates and reports financial information, monitors the implementation of the financial control framework, advises & supports Department officers in fulfilling their financial responsibilities, and gives assurance to management and members that adequate controls exist to produce sound financial administration. Further detail of the role of Finance in self-service is detailed in section 1.4.
- Audit and Investigations provide the Council's internal audit function and anti-fraud services. They are authorised representatives of the Corporate Director of Finance and Resources.
- to report on the Council's internal controls to the leadership team and the audit and standards committees. They also provide Managers with advice and guidance on the system of internal control. They are responsible for investigations into financial irregularities across all Council services.

1.2.4 These Regulations are supplemented by, and should be read in conjunction with:

- Scheme of Transfers & Virements. This must be complied with as part of the Council's Constitution. Any variation from this scheme requires the approval of Full Council
- Required Financial Practice Notes. This represents mandatory financial practice within the Council and must be followed by all officers. They set out in detail the key financial controls and supporting processes.
- Specific guidance, procedure and process notes on good financial practice that are issued periodically by the Corporate Director of Finance and Resources.

### 1.3 Principles of Financial Management

1.3.1 Council staff and members are required to apply the following principles of financial management to their work

- **Organisational leadership** – the council's leadership should demonstrate a clear strategic direction based on a vision in which sound financial management is embedded into organisational culture.
- **Accountability** – the council will drive its Annual Budget process based on its medium-term financial planning. Across the council, managers and their teams are responsible for ensuring effective risk management, internal control, maintenance of quality supporting data and use of whole life, whole council costing to support the budget and planning process.

- To enable **transparency** in its Financial management, council staff must ensure that accurate, meaningful and intelligible data is recorded, and reported frequently.
- Council staff and members must **proactively** report and take action to address significant financial issues and risks, such as overspends or poor contract management.
- Adherence to professional **standards**, as set out in these Financial Regulations and the Required Financial Practice Notes, must be promoted by the Leadership Team and evidenced. All officers and elected members must follow the council's agreed procedures, and seek to develop their understanding of good financial practice.
- Officers must utilise effective sources of **assurance** as a tool to deliver good financial management. This includes management oversight and controls, political scrutiny and the results of external audit, internal audit and inspection.
- Officers and members should prioritise the long-term **sustainability** and **value for money** of local services as the heart of all financial management processes and be able to evidence this by prudent use of public resources.

1.3.2 Further details on specific measures required based on these principles are detailed in the sections below.

#### 1.4 Responsibilities for Finance Self-Service

1.4.1 The council operates a self-service model of recording financial transactions. Self-service is an important part of financial control as the financial standards the council is required to follow require that income and expenditure are recorded when goods and services are delivered, not when they are paid for. The following sets out the role of finance and Department managers in self-service.

1.4.2 Finance are required to:

- a) provide relevant training for managers;
- b) publish 'how to' and similar guides for standard financial and related administrative processes, such as managers' roles in paying invoices;
- c) ensure that training, including 'drop-in' sessions if these are popular, is available for managers and staff on processing financial transactions;
- d) provide reasonable tools to enable managers to fulfil their financial responsibilities (such as generally available salary forecasting models);
- e) provide a clear framework within which budget monitoring will take place, including timetables and dates;
- f) assist managers and colleagues (especially in strategic commissioning) to carry out key analytical tasks (for example unit or activity based costing exercises to support business process re-engineering);
- g) provide support on monitoring complex budgets, (the budgets that require additional support are to be agreed by Corporate Director of Finance and Resources, these should principally be budgets that are high risk, or require additional analytical support as per 1.4.2.g above);
- h) advise Directors if their managers have not provided monitoring returns by agreed dates;
- i) run automated background checks against budgets and spend to identify apparent exceptions, which services will be expected to address;
- j) consolidate returns to produce council-wide financial information;
- k) advise on major decisions and complex financial issues;
- l) help to draft the narrative content of consolidated financial returns, but ordinarily managers with transactions, results or forecasts to report will be expected to provide at least initial drafts; and
- m) help resolve specific transactions that are 'stuck' in the system and require sophisticated troubleshooting to resolve, (but responsibility for ensuring that

transactions are properly processed ordinarily rests with managers up to the point of payment);

- n) seek to minimize the amount of time taken in correcting trivial errors, such as miscoding, in order that resources can be focused on addressing the most material financial issues that affect the council.

#### 1.4.3 Responsibilities of Department managers:

- a) monitoring against budgets in line with the timetable published by the Corporate Director of Finance and Resources, with support from finance only for training and complex budgets (as agreed with Corporate Director, Finance and Resources per 1.4.2.g);
- b) to address any exceptions identified in their transactions by Finance;
- c) monitoring of salary budgets, and ensuring that their service can afford the recorded HR establishment and any agency staff hired;
- d) actively managing their budgets to deliver an outturn within their agreed budget, and following the rules set out in sections 2.3 & 3.2 for any potential overspends on revenue and capital;
- e) to ensure that their teams prepare and manage purchase orders, with prompt recording of purchases and receipts, and clear descriptions of what has been purchased and received, in order that these records form the primary audit trail for the council's expenditure;
- f) to ensure that all income due to the council is recorded promptly with appropriate descriptions, using a financial system approved by the Corporate Director, Finance and Resources for this purpose;
- g) to ensure that their teams, and anyone processing transactions on their behalf have the right information to be able to record transactions correctly first time;
- h) to manage relationships and communications with suppliers and customers; and
- i) to ensure that all the information they are responsible for is recorded correctly and promptly so that suppliers are paid within 30 days of the receipt of a valid invoice where the invoice is not disputed.

## 2. REVENUE BUDGETS

### 2.1 General Provisions

2.1.1 The Budget is proposed by the Cabinet and agreed by Full Council. The Budget and Policy procedure rules are set out in Standing Orders. It is the Council's financial representation of its policies.

2.1.2 The Corporate Director, Finance and Resources is responsible for:

- Developing and maintaining a resource allocation process that ensures due consideration of Full Council's policy framework.
- Preparing a consolidated budget for all Revenue Account activities and for reporting on the robustness of budget estimates and the adequacy of financial reserves.
- Preparing a policy for approval by full council on the reserve levels required to ensure the financial sustainability of the council.
- Developing a long term financial strategy for the council, that should be developed alongside the council's Borough Plan and submitted to Full Council for approval alongside the Borough Plan.
- Preparing a medium term financial strategy based on the long term financial strategy and borough plan to ensure the sustainability of the council's finances. This medium term financial strategy must include both revenue and capital strategies.

- Preparing a budget monitoring statement to the Cabinet on a quarterly basis. Budgetary control action should be specified and where the action is endorsed by the Cabinet which would make changes to the Policy Framework and the Budget then it will require agreement by Full Council (detailed further under **“THE POLICY FRAMEWORK AND THE BUDGET”** in Part 2 of the constitution). Officers cannot implement these changes until such endorsement is obtained.
- Preparing and maintaining a Scheme of Transfers and Virements to be approved by Full Council and approving Transfers and Virements where required under the Scheme.
- Preparing and maintaining the Required Financial Practice Notes (RFPNs), which require review and approval by CMT prior to issue.
- Ensuring that systems are in place to measure activity and collect accurate information for use in performance indicators and performance plans.
- Determining what constitutes revenue expenditure and income and which relevant account in which a transaction should be properly recorded.

## **2.2 Setting the Revenue Budget**

- 2.2.1 The Corporate Director, Finance and Resources is responsible for preparing annual budget preparation guidelines for authorisation by the Chief Executive via the Corporate Management Team (CMT) and publishing a detailed budget book covering council spending.
- 2.2.2 Members of the Corporate Management Team and Directors are responsible for preparing and submitting draft budget estimates and accompanying schedules as required. Service plans must be supported by adequate budgets.
- 2.2.3 The inclusion of an item within the Revenue Budget as approved by the Full Council provides the necessary authorisation to responsible officers to spend up to that sum for the specified purposes for that budget.
- 2.2.4 Finance will ensure the robustness of Directorate budgets by working with budget holders to prepare budgets and to report any weakness or concern covering budget construction or its adequacy to cover service provision.
- 2.2.5 Development of the annual revenue budget should be underpinned by medium and long term financial strategies that consider the sustainability of the council's financial position and help to prevent short term decisions significantly damaging the long term sustainability of the council.

## **2.3 Revenue Budget Monitoring, Forecasting and Overspends**

- 2.3.1 Members of the Corporate Management Team and Directors and their officers are not authorised to exceed the cash limited budget under their control and must identify and set performance measures linked to service plans. They must make suitable arrangements to ensure that identified overspends are controlled and implement corrective action within the overall constitution.
- 2.3.2 Members of the Corporate Management Team and Directors are responsible for preparing accurate financial forecasts and must report forecast overspends or forecast reductions in income to the DOF along with a detailed plan of action aimed at controlling the situation.
- 2.3.3 Members of the Corporate Management Team and Directors shall identify budget holders who will prepare budgets, keep spending within cash limits, maintain forecasts, monitor and report performance data.

- 2.3.4 Finance will identify Finance Business Partners to work with and support Directorates in ensuring the robustness of the monitoring and forecasting arrangements. They must report to the Corporate Management Team (CMT) any significant failures to adhere to those arrangements or any overspends identified and will ensure the completeness and accuracy of the budget and transactional data input and held in the general ledger. Material failures are to be reported to Cabinet (materiality will follow the same levels and criteria as used by external audit for the Statement of Accounts).
- 2.3.5 Finance will co-ordinate a process to monitor delivery of savings across the council and report any delays or issues in delivering savings to Cabinet. Directors will be required to submit information for their Departments on savings delivery. Where there is a shortfall in savings, the Corporate Director, Finance and Resources will work with Directors to propose alternative saving(s) for agreement by Cabinet.
- 2.3.5 The Corporate Director, Finance and Resources will review the monitoring information and provide summary information and exception reports to the Corporate Management Team (CMT). CMT will examine proposed recovery plans and take any other necessary action to deliver spending within those overall resources.

### **3. THE CAPITAL PROGRAMME**

#### **3.1 Authorisation and Financing**

- 3.1.1 The Full Council will approve the Capital Programme and make budget allocations to Directorates as part of the Policy Framework and the Budget.
- 3.1.2 The Corporate Director, Finance and Resources will prepare for approval by Full Council a capital programme report detailing the capital budget and will ensure that all reporting requirements under the Prudential Code are met and that prudential indicators are maintained. The Corporate Director, Finance and Resources will also determine the method of financing of capital schemes.
- 3.1.3 Members of the Corporate Management Team will prepare capital schemes for inclusion within the capital programme report.
- 3.1.4 The Corporate Director, Finance and Resources must set aside an amount of minimum revenue provision (MRP) which is prudent and also prepare an annual statement of their policy on making MRP to Full Council.

#### **3.2 Capital Programme Monitoring**

- 3.2.1 Members of the Corporate Management Team will make adequate arrangements for the management and monitoring of their capital programme. They must report scheme progress, slippage and forecast underspends and overspends, detailing the action they propose to control the overspend and to set out the arrangement by which it will be funded from within the Directorate's programme. In cases where this proposed action will stop or significantly change any previously agreed projects or programmes then this may require the approval of the Cabinet and Full Council as set out in the Council's Scheme of Virements and Transfers.
- 3.2.2 Members of the Corporate Management Team shall identify Budget Holders responsible for ensuring expenditure is contained within the capital resources allocated in each financial year and that the overall cost of the scheme does not

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exceed the budget allocated. They must ensure that all external funding streams are validated and collected.

- 3.2.3 Members of the Corporate Management Team must identify those officers responsible for issuing and approving variations to orders for works and building contracts. This process must adhere to best practice and guidance.
- 3.2.4 Finance through the Finance Business Partner will ensure the robustness of the monitoring and forecasting arrangements. They must report to CMT any significant failures to adhere to those arrangements or any overspends identified. They must ensure the completeness and accuracy of the budget and transactional data input and held in the general ledger. Material failures are to be reported to Cabinet (materiality will follow the same levels and criteria as used by external audit for the Statement of Accounts).

### **3.3 Capital Expenditure**

- 3.3.1 Finance will ensure all capital expenditure meets the required definition for-capital expenditure, any expenditure incorrectly badged as capital expenditure will be moved to the revenue cost centre(s) of the relevant Department manager.
- 3.3.2 Budget holders are responsible for ensuring that payments made are in accordance with the terms and conditions of the contract provisions in relation to stage, interim and retention payments. They must keep a contract payment register to provide a record of all interim payments and any outstanding retention amounts and also make proper arrangements for the identification of expenditure liable for construction industry scheme tax.

## **4. FINANCIAL SYSTEMS AND ACCOUNTING**

### **4.1 Accounting Systems and Procedures**

- 4.1.1 The Corporate Director, Finance and Resources will propose the main accounting system that shall be used by the Council, which will need approval as per Contract Standing Orders in Part 2 of the Constitution and propose the financial processes that shall be operated for review by XXX prior to issue. The Corporate Director, Finance and Resources is to ensure adequate controls and segregation of duties exist within the system, that adequate security arrangements have been made and that adequate procedures are in place to enable financial records to be reconstructed in the event of system and procedure failures.
- 4.1.2 Finance will determine and maintain the allocation of user responsibilities within the system.
- 4.1.3 Where Members of the Corporate Management Team and Directors require ancillary financial systems to be provide specialised functions not available in the main financial system, they must seek written permission from the Corporate Director, Finance and Resources for use of such systems prior to tender and entering into any contracts for ancillary financial systems. Each ancillary financial system requires a director to be responsible for its operation. The Corporate Director, Finance and Resources is to maintain a record of approved ancillary financial systems and the responsible directors. Procurement of such financial systems requires Contract Standing Orders in Part 2 of the Constitution to be followed, in addition to approval by the Director of Finance.

- 4.1.4 The director responsible for each ancillary financial system is for ensuring:
- adequate controls and segregation of duties exist within the system,
  - that adequate security arrangements have been made,
  - that adequate procedures are in place to enable financial records to be reconstructed in the event of system and procedure failures, and
  - determining and maintaining the allocation of user responsibilities within the system.
- 4.1.5 Finance will advise directors on how to discharge these responsibilities, and Internal Audit will review the adequacy of such arrangements.

## **4.2 Accounts and Accounting Policies**

- 4.2.1 The Corporate Director of Finance and Resources will determine the:
- Council's accounting policies and ensuring that the annual statement of accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the UK and for ensuring proper arrangements are made for the audit of the accounts in accordance with the Accounts and Audit Regulations.
  - Treatment of balances where a provision and/or liability recorded in the balance sheet is deemed no longer appropriate.
  - Arrangements and procedures for preparing the annual accounts; requirements for Department Managers and Budget Holders will be proposed to the Chief Executive via CMT for sign off.

## **4.3 Balance Sheet Monitoring**

- 4.3.1 The Corporate Director, Finance and Resources shall publish procedures and a timetable for sign off by the Chief Executive via CMT to ensure that the items record on the council's balance sheet are reviewed at least quarterly.
- 4.3.2 Officers with responsibility for balance sheet transactions, such as the operation of debtors systems (e.g. council tax collection), shall ensure their staff follow these procedures and timetable.
- 4.3.3 Council officers are required to ensure that all entries that they are responsible for in the balance sheet are updated prior to this review, and correctly accounted for in line with the accounting standards adopted by the council.
- 4.3.4 The Corporate Director, Finance and Resources must communicate any significant risks identified by this balance sheet review to the CMT as part the quarterly report to CMT. Any material risks identified must be reported to Cabinet in the quarterly report to cabinet.

## **5. PROCUREMENT, CONTRACTS & LEASING**

### **5.1 Procurement**

- 5.1.1 The Member of the Corporate Management Team responsible for Procurement in consultation with the Corporate Director, Finance and Resources propose the council's procurement system(s) (subject to approval as per Contract Standing Orders in Part 2 of the Constitution) and ensure this is maintained after procurement.
- 5.1.2 Procurement covers a range of activities from sourcing through the tender process to receipting purchase orders, these activities are governed as follows:



- Sourcing, Tendering and Contract Award as per Contract Standing Orders (Part 2 of the Constitution)
- Contract Management – as per the Contract Management Policy issued by Member of the Corporate Management Team responsible for Procurement following approval by the Chief Executive via CMT
  - o The Contract Management Policy must include details of how the council's contract register is to be maintained.
- Purchase orders and Receipting as per RFPNs issued by the Corporate Director, Finance and Resources (approved as per paragraph 2.1.2).

5.1.3 All Officers are required to procure using the procurement system and following the policy and procedures set out in 5.1.2.

5.1.4 Procurement and contracts require co-ordination across Finance, Procurement and Legal, therefore the Monitoring Officer, Corporate Director, Finance and Resources and the Member of the Corporate Management Team responsible for Procurement should be consulted prior to issuing changes for approval by the Chief Executive via CMT or where appropriate Full Council.

5.1.5 The Member of the Corporate Management Team responsible for Procurement shall maintain a contract register for the council based on the information provided under the Contract Management Policy covered in 5.1.2.

5.1.6 Members of the Corporate Management Team must ensure that adequate monitoring and review arrangements are in place to cover contracts for externally provided services and sign off any variations or amendments to contracts.

## **5.2 Contract Management**

5.2.1 Officers are required to follow this framework when managing contracts. It is the responsibility of Directors to ensure that arrangements in their service units deliver effective contract management to secure value for money for the council, and that there is appropriate reporting on the performance of contracts within their services, and that the Leadership Team is informed of significant issues.

5.2.2 Members of the Corporate Management Team and Directors must also ensure that contract management and budget monitoring are appropriately linked to contract management by their staff, so that the value of goods and services recorded as supplied to the council correctly matches the actual value of goods and services supplied to the council; and that any applicable deductions in the contract are recorded and applied correctly.

## **5.3 Assets used by the council and its contractors and leasing**

5.3.1 Accounting rules require the council to recognise leases in a wide range of contracts that are not explicitly called leases. Department managers and budget holders must request a formal written review from Finance of whether proposed tenders and contracts contain a lease. Where a proposed tender or contract does contain a lease, the financial implications of this must be determined by Finance, and summarised in the financial implications section of any paper required for decision making.

5.3.2 The Corporate Director, Finance and Resources is to maintain a register of the leases identified by the process detailed in the previous paragraph.

## **6. ORDERS AND PAYMENTS**

- 6.1 Members of the Corporate Management Team must ensure that all officers procure using the procurement system, or an appropriate ancillary financial system as set out in section 5.1. They must allocate and then maintain a record of officers' roles and approval levels within the procurement system. This record is called the system scheme of delegation and covers officers authorised to make requisitions and approve requisitions.
- 6.2 Budget Holders must ensure that value for money has been obtained in the purchasing of all goods and services, the requisition is lawful expenditure, and the correct code has been used to charge that expenditure.
- 6.3 Budget holders must ensure that an up to date audit trail with clear descriptions is recorded in the council's procurement system of what has been ordered and what has been delivered.
- 6.4 The Corporate Director, Finance and Resources will set a policy as part of the RFPNs (subject to approval as above) for how long purchase orders will be kept open, and the cleansing of the purchase orders, receipts and invoices from the financial systems.

## **7. EXPENDITURE ITEMS**

### **7.1 GPC / Business credit cards/Pre pay cards**

- 7.1.1 The Corporate Director, Finance and Resources is responsible for putting in place arrangements for the use of these cards to be detailed as part of the RFPNs (subject to approval as detailed in 2.1.2).
- 7.1.2 Members of the Corporate Management Team must ensure that only authorised officers have access and use of these cards.

### **7.2 Payroll**

- 7.2.1 The Corporate Director, Finance and Resources shall approve arrangements for the payment of all salaries, wages, pensions, compensation, other emoluments and the deductions from salaries for tax, superannuation and other deductions to and/or from all employees and former employees of the Council. All redundancy and early retirements have to be approved by the Corporate Director of Finance and Resources. Policy for these payments is to be detailed in the RFPNs (subject to approval as detailed in 2.1.2).
- 7.2.2 Members of the Corporate Management Team or Directors must authorise the recruitment of permanent or temporary staff and the undertaking of overtime or additional payments. They must ensure that and that adequate budget provision is available. Within Departments the budget holders must ensure that all appointments, resignations, absences, overtime or other circumstances affecting the salary, wage or emoluments of an employee included in their budget is acted upon immediately and notified to Finance.

### **7.3 Officer Expenses Claims**

- 7.3.1 Budget holders are responsible for authorising officer expenses and for ensuring the correct method of reimbursement is used.

**7.4 Petty Cash and cash/cheque handling**

- 7.4.1 Petty cash is not allowable unless approved by the Corporate Director of Finance and Resources.
- 7.4.2 In the rare cases, where staff or contractors must handle cash or cheques on behalf of the council, the directors responsible for the staff and/or contract under which cash is handled must ensure that there are written cash and cheque handling procedures, and that these are approved by the Corporate Director of Finance and Resources.

**7.5 Internal Trading & Recharges**

- 7.5.1 The Corporate Director, Finance and Resources is responsible for approving all internal trading and recharging initiatives. Where necessary approval of the Cabinet or Full Council will be obtained. The relevant policies are to be detailed in RFPNs (subject to approval as detailed in 2.1.2).
- 7.5.2 Budget holders must ensure that the agreed budgeting, accounting and charging procedures for internal trading and recharging are adhered to.

**7.6 Income and Expenditure Taxation Returns**

- 7.6.1 It is council policy to fully comply with HMRC's requirements on taxation.
- 7.6.2 The Corporate Director, Finance and Resources will make arrangements and issue guidance for the completion of all returns to the HM Revenue and Customs. The relevant policies are to be detailed in RFPNs (subject to approval as detailed in 2.1.2).
- 7.6.3 Finance are responsible for ensuring that the council's financial systems enable all input and output invoices to be tax compliant in every respect.
- 7.6.4 Budget holders are responsible for seeking advice from Finance on the tax implications of their plans for income and expenditure, and complying with rules and procedures set out by Finance to ensure tax is recorded and accounted for correctly.
- 7.6.5 Budget holders, must provide information on employee benefits in the format and timetable required by central finance.
- 7.6.6 Budget holders must ensure that the required employment status and Construction Industry Scheme checks are undertaken prior to approving new suppliers or requisitions.

**8. INCOME AND DEBT****8.1 Income – General**

- 8.1.1 The Corporate Director, Finance and Resources is responsible for approving all debt recovery arrangements including performance monitoring and any on-line income collection or payment facilities. Council wide policy is to be documented in RFPNs (subject to approval as detailed in 2.1.2).

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- 8.1.2 Members of the Corporate Management Team shall review all charges within their area at least annually. Such reviews shall take account of any criteria agreed by Full Council except where such charges are fixed by statutory provision.
  - 8.1.3 Budget holders are required to record all outstanding debts on one of the financial systems approved by the Director of Finance. They are responsible for ensuring that the correct instructions are communicated to customers so that payments from customers can be efficiently allocated to the relevant debt(s).
  - 8.1.4 Finance is responsible for setting policy for the collection of all debt over 31 days old and ensuring records are maintained relating to income collection and debt write-offs.

## **8.2 Income – Grants**

- 8.2.1 The Corporate Director, Finance and Resources is responsible for signing grant claims unless otherwise required by the grant giving body. The DOF will maintain a grants register.
- 8.2.2 Members of the Corporate Management Team are responsible for signing off grant applications and ensuring that where the grant application requires matching resources to be input, that the matching amount is available from within existing budgets or verified other sources.
- 8.2.3 Budget Holders are responsible for claiming and recovering grant due. Copies of grant notifications, remittances and claims must be sent to the appropriate finance officer nominated by the Corporate Director of Finance and Resources.
- 8.2.4 Finance will scrutinise claims and review working papers.

## **8.3 Income – Bad Debts and Write Offs**

- 8.3.1 The Corporate Director, Finance and Resources will put in place arrangements for the collection and write off of bad debts. This policy is to be documented in RFPNS, and subject to approval as per 2.1.2.
- 8.3.2 Members of the Corporate Management Team must ensure adequate bad debt provision exists to cover debt within their service. They have delegated powers to authorise the write-off of debts only in relation to their own operational budgets up to the value of £1,000 per debt, a schedule of which must be submitted to the Corporate Director, Finance and Resources in an approved format. The Corporate Director, Finance and Resources will set a policy for how these delegated powers are to be exercised to increase consistency across the council. Any single debt above £20,000 is to be agreed individually in advance by the Corporate Director of Finance and Resources. Those debts over £20,000 will be reported to the Cabinet bi-annually.
- 8.3.4 Finance Services will ensure that following approval to write-off debt the appropriate accounting and budgeting adjustments are made and the debt recovery team are informed.

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## **9. EXTERNAL ARRANGEMENTS**

### **9.1 Accountable Body and Partnership Arrangements**

9.1.1 The Corporate Director, Finance and Resources must be informed and written approval from the Corporate Director, Finance and Resources obtained before entering into any proposed accountable body or partnership arrangements

9.1.2 Members of the Corporate Management Team must ensure that the objectives of the arrangement are consistent with the Council objectives and priorities. Within Departments the budget holders are responsible for managing & controlling such arrangements and the expenditure incurred and income received.

9.1.3 Prior to entering into any proposed accountable body or partnership arrangements the tax implications of such an arrangement must be formally reviewed by Finance, and summarised in the financial implications of any papers requesting a decision to be made on such an arrangement.

9.1.4 The officers and members responsible for the management of the Accountable Body and Partnership Arrangements must ensure that these arrangements:

- Focus on long term value over short term savings
- Reflect the nature and extent of risk inherent to these arrangements so risk is managed
- Create a culture of openness and mutual respect
- Promote collaborative, problem- solving approach
- Are adaptable to evolving circumstances
- Embrace creativity, drawing on combined skills, experience and expertise
- Maintain transparent and accountable arrangements for effective scrutiny and oversight
- Include an agreed way to measure the performance of the arrangements
- Provide that the Council/partner seeks regular feedback from service users and potential service users

9.1.5 Finance is responsible for monitoring and validating such arrangements.

### **9.2 Provisions of Goods, Services and works to Other Bodies**

9.2.1 Members of the Corporate Management Team can enter into such arrangements providing they have written legal advice that the Council has power to make such arrangements. Specific Cabinet approval (or if appropriate the General Purposes Committee) will be required if:

- the contract value would exceed £1m per annum;
- the gross cost to the Council of providing the relevant goods or services under the contract is estimated to exceed £1m per annum having consideration to the full costs over the term of the contract. It is not acceptable to split contracts into smaller parcels to avoid exceeding the £1m per annum threshold above;
- a company is to be set up for the purposes of the arrangements; or
- the contract shall be in a formal document under the seal of the Council where the value exceeds the threshold set in Standing Orders for the sealing of documents.

- 9.2.2 Budget holders are responsible for the maintenance and control of such contracts.
- 9.2.3 Members of the Corporate Management Team must seek tax advice on such arrangements before making a decision to proceed with them. The tax implications must be included in the financial implications of any report for decision in respect of a proposal to provide goods, services and/or works to other bodies.

### **9.3 Grants to Outside Bodies**

- 9.3.1 Members of the Corporate Management Team are responsible for ensuring that grants to outside bodies are only given where the Council has the statutory powers to do so. Legal opinion must be given before grant is awarded.
- 9.3.2 The Budget Holder is responsible for administering, monitoring and enforcing the terms and conditions of that grant. They must kept records of how they have ensured that the grant is being used in line with its terms and conditions.

## **10. RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **10.1 Risk Management and Insurance**

- 10.1.1 The Member of the Corporate Management Team responsible for Audit and Investigations shall be responsible for the preparation and promotion of the Council's risk management policy statement.
- 10.1.2 Subject to any liability imposed on the Council by statute or other legal obligation, all insurance shall be effected by the Corporate Director, Finance and Resources or under arrangements approved by him/her.
- 10.1.3 Members of the Corporate Management Team must:
- ensure that adequate risk management controls are implemented, monitored and reviewed and that assets under their control have appropriate insurance cover within the overall guidance issued.
  - notify the Corporate Director, Finance and Resources immediately of any loss, liability or damage that may lead to a claim against the Council and of all new risks, properties or vehicles that require insurance and of any alternations affecting existing insurances;
  - consult with the Corporate Director, Finance and Resources and the Member of the Corporate Management Team responsible for Audit and Investigations to the Council on any terms or any indemnity that the Council is requested to enter into.

### **10.2 Internal Controls**

- 10.2.1 The Member of the Corporate Management Team responsible for Audit and Investigations shall make arrangements for the production and publications of an annual independent statement on internal control and risk management.
- 10.2.2 Members of the Corporate Management Team must ensure that adequate systems of internal control are established, adhered to, tested and reviewed in order to be confident in the areas set out in the annual assurance matrix and that all staff have a clear understanding of the consequences of lack of control and knowledge of Financial Regulations.

### 10.3 Assurance

10.3.1 In the first instance, it is the responsibility of management, especially Members of the Corporate Management Team and Directors, to ensure that they have assurance that the council's services are well managed and there is good financial management. A number of approaches can be used to provide assurance to senior management that management controls and oversight ensure good financial management, including (but not limited to):

- Review of controls by the Department itself
- Peer review by colleagues from inside or outside the council
- Appropriate training on risks/controls
- Advice from specialists within the council such as Finance or IT
- External review by appropriately qualified and experienced experts

10.3.2 It is the responsibility of each director to ensure they have adequate assurance from such methods to ensure that the council's services are well managed and there is good financial management in each Department.

10.3.3 Further assurance is provided by reviews of internal controls by the internal audit service.

### 10.4 Audit Requirements

10.4.1 The Corporate Director of Finance and Resources, or authorised representative, shall have authority to:

- Enter any building, land or area where records relating to any activity of the Council, its partners, contractors or any body partly or wholly funded by the Council, are, or may be, held. This includes all schools who receive funding from the Council. If necessary, to conduct searches of those areas, including cabinets, workspaces, desks for the purposes of locating documents or other material relevant to any matter under investigation. Where necessary to remove and examine IT equipment.
- Have access to all records, data, computer systems, correspondence and any other source of information relating to any matter under examination and remove any documents and records as deemed necessary. This will include documentation held by Council Officers in respect of organisations who are partners of the Council receiving funding from the Council or are providing services on behalf of the Council.
- Require and receive such explanations as are considered necessary concerning any matter under examination.
- Require any person holding or controlling cash, stores or any other Council property to produce such items for examination. These may be removed as deemed necessary.

10.4.2 The Member of the Corporate Management Team responsible for Audit and Investigations will ensure that a strategic and annual audit plan is prepared by the Deputy Director, Organisational Assurance and Resilience which takes account of the characteristic and relative risks of the activities involved. The Member of the Corporate Management Team responsible for Audit and Investigations is responsible to the Audit and Standards Committee for ensuring that adequate arrangements are made for the effective delivery of this plan.

10.4.3 The Member of the Corporate Management Team responsible for Audit and Investigations will ensure that members, and in particular the audit committee, and

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chief officers receive suitable reports setting out the findings of internal audit reports.

10.4.4 The Corporate Director, Finance and Resources will ensure that members, and in particular the audit committee, and chief officers receive suitable reports setting out the findings of internal and external audit reports.

10.4.5 Members of the Corporate Management Team must:

- consider and ensure Managers respond promptly to recommendations in both internal and external audit reports;
- ensure that agreed actions arising from the audit recommendations are carried out in a timely and efficient fashion;
- report to members the reasons for any failure by Managers to implement those audit recommendations.

## **10.5 Financial Irregularities**

10.5.1 All officers have a responsibility to report any irregularities concerning cash, stores or other property of the Council or any suspected financial irregularity in the exercise of the functions of the Council

10.5.2 Directors must ensure that their staff follow the council's Gifts and Hospitality policy.

## **10.6. Money and Banking**

10.6.1 Members of the Corporate Management Team must ensure the adequacy of security arrangements for the holding of cash including controlling access to safes and other receptacles. They must also approving the authorised signatories to all bank accounts within their control

10.6.2 The Corporate Director, Finance and Resources is responsible for opening and amending details of any bank account, and maintaining the authorised signatories to all bank accounts within the council's control.

## **10.7. Money Laundering**

10.7.1 It is the responsibility of the Deputy Director, Organisational Assurance and Resilience -to put in place anti-money laundering policies.

10.7.2 All officers have a responsibility to identify possible money laundering activities, and report possible money laundering in line with the council's anti-money laundering policies.

## **10.8. Property, Stock and Equipment**

10.8.1 Officers responsible for property, stock and equipment must ensure adequate security arrangements are made. They must maintain an inventory of, and ensure the care and custody of valuable goods and equipment.

10.8.2 The Corporate Director, Finance and Resources shall maintain an appropriately valued asset register of all the Council's land and buildings.

10.8.3 The Member of the Corporate Management Team responsible for Property shall ensure records are maintained of all properties owned or managed by the Council and that where commercial rents are payable to the Council a regular review of such rents is carried out to ensure they are set at an appropriate level. The terms



of any leases should generally reflect market rents. An annual review of property should be undertaken for the purpose of identifying surplus or inefficient properties. These records shall include details of all properties that the council has opted to tax for VAT purposes.

### **10.9. Sale of Council Assets – General Requirements**

10.9.1 Officers disposing of assets must at all times have regard to the RFPNs and must obtain the required consent before any disposal takes place

10.9.2 The treatment for amounts received in excess of the costs of disposal shall be determined by the Corporate Director of Finance and Resources.

10.9.3 Prior to any disposal of assets in excess of £1,000, the Corporate Director, Finance and Resources must be informed of the proposed disposal, and its legal structure. As many contracts that do not have the legal form of a lease are leases from an accounting perspective, the Corporate Director, Finance and Resources must review if this disposal contains a lease, as defined by the CIPFA Code of Practice on Local Authority Accounting, and determine the financial implications of disposing of the asset accounted for as a lease. The financial implications of any disposal accounted for as a lease must be formally recorded, and summarised in the financial implications provided to the relevant decision maker(s).

10.9.4 The Corporate Director, Finance and Resources is to maintain a register of the leases identified by the process detailed in the previous paragraph.

### **10.10 Disposal of Equipment and Stock**

10.10.1 Members of the Corporate Management Team can authorise disposals up to the value of £1000. The Corporate Director, Finance and Resources must be consulted on any disposals expected to exceed this sum.

10.10.2 Disposal of IT hardware and software must be approved by the Member of the Corporate Management Team responsible for IT.

### **10.11. Disposal of Land and Buildings**

10.11.1 All disposals must be agreed by the Council's Cabinet except in circumstances specified in the Council's Constitution.

10.11.2 The Member of the Corporate Management Team responsible for Property shall make arrangements for the disposal of all land and property except in circumstances specified in the Council's Constitution.

### **10.12 Treasury Management**

10.12.1 The Corporate Director, Finance and Resources is responsible for the execution and administration of treasury management decisions. The Corporate Director, Finance and Resources will act in accordance with the Treasury Policy Statement, Treasury Management Practices and CIPFA's Standard of Professional Practice on Treasury Management.

10.12.2 The Corporate Director, Finance and Resources shall effect all borrowings and investments ( or make arrangements to do so), report periodically to the Council, be responsible for the safe custody of securities held by or on behalf of the Council, and approve all Trust Funds.

10.12.3 The Corporate Director, Finance and Resources shall be responsible for maintaining adequate cashflow forecast and for ensuring that the Council has adequate liquidity at all times.

### **10.13 Business Cases and evaluation of financial implications**

10.13.1 Financial sustainability depends on difficult and complex decisions being made. The authority's decisions must be supported by clear business cases based on application of appropriate option appraisal techniques. The appraisal methodology used must be documented along with working papers showing the details of any calculations and assumptions. The methodology used must be suitable to demonstrate value for money in the council's decisions.

10.13.2 As part of the evaluation of different options, officers should:

- engage with relevant stakeholders,
- seek appropriate professional advice and
- use realistic, evidence based targets (not overly optimistic ones that may not be achievable in practice)

10.13.3 For complex, multiple year option appraisals these appraisals should be undertaken by appropriately qualified and experienced staff and comply with the IFAC/PAIB Project and Investment Appraisal for Sustainable Value Creation guidance.

10.13.4 Complex and/or multi-year option appraisals will also need to consider different scenarios to ensure that the options considered are value for money, and to evaluate the risks that may emerge from foreseeable events. In these cases, this scenario analysis must be clearly summarised and communicated to the relevant decision makers, along with key assumptions made.

10.13.5 Business cases must consider the taxation implications of any options appraised, with appropriate advice as necessary.

10.13.6 To deliver accountability in the decision making process, any business case must consider the whole council, whole life cost of a decision, and not just the isolated impact on a particular service or financial year.

10.13.7 Business cases must be reviewed by Finance prior to starting to write reports with financial implications, in order to reduce the risk that time is wasted on proposals with weak business cases, and to help identify flaws with business cases. Where Finance has prepared business case, the business case should be reviewed by a member of Finance with minimal involvement in preparation of the business case to avoid self-review.

**10.14 Financial Implications within Reports**

10.14.1 All officers involved in the origination of reports must consult with the DOF before preparing reports to committee. They must ensure that reports they present to Full Council, the Cabinet, or any other committee of the council should contain a section covering the Financial Implications prepared in accordance with the RFPN requirements.

10.14.2 The Corporate Director, Finance and Resources may, where considered necessary, issue a concurrent report on matters requiring the Members' attention or where the financial implications of a report are considered invalid he/she may:

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

**11. RETENTION OF DOCUMENTS**

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

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## **Scheme of Transfers and Virements under Standing Order 20(I)**

### **Definitions**

#### **GENERAL**

1. Except where explicitly stated to the contrary, no virement, transfer, or new spending is authorised by this scheme if it is in conflict with the Policy Framework or the Constitution or if it conflicts with anything specifically agreed by Full Council as part of the budget setting process other than by a decision of Full Council.
2. The CIPFA Code of Practice on Local Authority Accounting in United Kingdom takes precedence over this document in determining how items should be accounted for; nothing in this document shall be construed as requiring the requirements of the Code of Practice to be breached.
3. Reserves must not be used to fund ongoing overspends unless there is an agreed, realistic plan to eliminate the overspend before the reserve is exhausted (this applies to all reserves, both earmarked and non-earmarked). The Corporate Director, Finance and Resources must review planned uses of reserves to ensure that these are not being used to hide or obscure systemic overspends. The Corporate Director, Finance and Resources must report to Full Council report any areas with inadequate plans to address overspends.

#### **TRANSFERS BETWEEN FUNDS AND TO/FROM RESERVES**

##### **General**

4. Spending on any-Fund (that is the General Fund (GF), Housing Revenue Account (HRA), Dedicated Schools Grant (DSG) or Capital Programme) above that allowed for in the Budget, or a shortfall in income below that estimated in the Budget will result in a charge to reserves unless compensating changes are made. This follows from the Accounting Code of Practice, which has statutory force. It is acknowledged that such transfers may result in a conflict with the Constitution. Statute provides procedures for dealing with such transfers, especially where the resultant transfers exhaust reserves. This scheme does not deal with these transfers, although limits are placed on the Cabinet's action to minimise the chance that such circumstances arise.
5. In certain circumstances where such overspends on Funds arise, there is a choice as to which reserve the charge should be made.- The annual Budget Report will identify which reserves overspends will and will not be charged against, for approval by Full Council. In the event of inadequate reserves to fund overspends, the Corporate Director, Finance and Resources may have to use additional reserves to fund overspends, any such action is to be reported to Full Council.

##### **Earmarked Reserves for Specified Purposes**

6. Reserves have been established to aid the smooth running of the Council's finances, and it will be normal to charge costs to those reserves subject to financial regulations and local procedures and policies. Further, the council has capital monies, such as capital grants and capital receipts held in the council's useable reserves. The Schedule of Earmarked Reserves in the Budget Report must specify how the council's useable reserves are to be used, including if they can be used to fund overspends, and this needs to be approved by Full Council as part of the Budget Report. Officers may make transfers from these reserves up to the amounts in the Budget Report for the specified purposes.

7. Transfers from Reserves not included in the Schedule of Earmarked Reserves or transfers from Reserves for purposes other than those for which they were established require the approval of Full Council, unless Cabinet is permitted to do this in accordance with the next section.

### **Cabinet Powers**

8. The Cabinet shall have the power to approve any Transfer that does not result in additional gross expenditure or reduction in gross income across Funds (GF, HRA, DSG), on the recommendation of the Corporate Director of Finance and Resources, for the purposes of the efficient management of the Council's financial affairs.
9. For the purposes of maintaining reserves at a prudent level (as determined by the Cabinet on advice from the Corporate Director of Finance and Resources), the Cabinet may make any Transfer from any Fund to the appropriate reserve if there is a reported underspend in that Fund.
10. The Cabinet may make one or more Transfers up to a total of £1,500,000 in the financial year from any Reserve to any appropriate Fund for the purposes of New Spending provided that:
  - (a) Reserves are maintained at a prudent level after considering the effect of the Transfer and any risks that fall upon Reserves;
  - (b) The Fund to which the Transfer is to be made is not immediately prior to making the transfer forecast to overspend; and
  - (c) The New Spending is for an objective contained within the Borough Plan, a legislative requirement or a contractual obligation.

### **VIREMENTS – GENERAL FUND AND DEDICATED SCHOOLS GRANT**

#### **Officers**

11. Officers may make any virement within a budget line in a Department within a single fund (i.e. within the control of a single director and within either the General Fund or the Dedicated Schools Grant budget
12. Subject to paragraph 13, officers may agree any virement within their area of responsibility which is designed to keep function and finance together (as determined by the Corporate Director of Finance and Resources), such as moving budget following a restructure that moves responsibility and staffing from one Department to another.
13. Virements in paragraph 12 may only be agreed by officers provided that:
  - (a) They do not result in a commitment which would itself lead to an increased overspend in the current financial year or give rise to unfunded expenditure in future years;
  - (b) They are consistent with the Borough Plan;
  - (c) They do not conflict with any prior decision made or policy or plan or strategy adopted by the Cabinet ; and

- (d) The virements are not used to circumvent the rules on use of earmarked reserves, or on new income and underspends detailed within this scheme; and
  - (e) They are reported to the Corporate Director of Finance and Resources.
14. The Corporate Director, Finance and Resources may agree any virement between areas of responsibility of different Officers whose effect falls within the criteria set out in paragraph 12 subject to the constraints in paragraph 13(a) to 13(c).

### **Cabinet**

15. Subject to paragraph 16, the Cabinet may agree any virement either within or between any Directorate which:
- (a) Is designed to keep function and finance together (as determined by the Corporate Director of Finance and Resources), such as moving budget following a restructure that moves responsibility and staffing from one Department to another;
  - (b) Helps to maintain prudent levels of Reserves; or
  - (c) Finances new initiatives supporting the Borough Plan but not explicitly included in the Service Plan and Budget.
16. The Cabinet may only agree virements under paragraph 15 if it has received advice from the Corporate Director, Finance and Resources that after the virement:
- (a) Reserves remain at prudent levels; and
  - (b) The virements are not used to circumvent the rules on use of earmarked reserves, or on new income and underspends detailed within this scheme; and
  - (c) No unfunded expenditure commitments arise in future years.

### **New Income and underspends**

17. If the council receives new grant, donations or contributions, and these are limited for a specific purpose (such that only one Department can utilise the new income), then officers may commit to additional expenditure providing that:
- (a) There is no unfunded spending commitment for future years; and
  - (b) Any match funding for the current year is met from identified underspends.
18. If the council receives new grant, donations or contributions, and these could be used for two or more different purposes (i.e. more than one Department can utilise the funding), then Cabinet may determine how this funding is used, providing that:
- (a) *It is used to deliver or support objectives within the current Borough Plan or other council strategies or plans;*

- (b) There is no unfunded spending commitment for future years; and
- (c) Any match funding for the current year is met from identified underspends.
19. Proposals to spend new income from grants, donations or contributions on objectives outside both the Borough Plan and not to and the council's other strategies and plans require approval from Full Council.
20. Where Departments generate additional income from current income streams, or underspend on expenditure, this can be used by officers, subject to approval by the Corporate Director of Finance and Resources, for:
- (a) Addressing overspends in the council,
- (b) Match funding new grant, donations or contributions (as set out in paragraphs 17 and 18), and/or
- (c) Allocating to reserves (subsequent use of reserves is subject to the rules set out under the "Earmarked Reserves for Specified Purposes" heading in this document).
21. Cabinet may approve use of additional income from current income streams, or underspends on expenditure for new items of expenditure if the objectives are within the Borough Plan or to carry out the council's statutory responsibility, and no unfunded commitments are created in current or future years. Approval from Full Council is necessary for new items of expenditure outside the objectives of the Borough Plan or to carry out the council's statutory responsibility.
22. Officers may create new income streams where both the additional income and the estimated risk to the council is less than £0.1m (as determined by the Director of Finance), above this limit approval is required from cabinet where the additional income will be spent on objectives in the Borough Plan or to carry out the council's statutory responsibility;, and from Full Council where it will be spent on objectives outside the Borough Plan or not to carry out the council's statutory responsibility.

## **VIREMENTS - CAPITAL PROGRAMME**

### **General**

23. The Capital Programme consists of a number of programmes managed by an Director and then further broken down into projects with their own Project Manager. The Capital Programme is funded by a combination of capital receipts, grants and other direct external contributions and borrowing. The Corporate Director, Finance and Resources is responsible for ensuring the capital programme is affordable, prudent and sustainable in line with CIPFA's Prudential Code for Capital Finance in Local Authorities (2017).
24. Capital projects often span more than one year, and include provisions for contingencies, provisional sums and the like. This generates a degree of flexibility available for managing the overall programme.
25. Many funding streams for Capital projects are limited to particular types of projects. Nothing in this scheme allows virement between projects if the funding stream

cannot be vired because of some other condition or limitation restricting or precluding a virement.

### **Officers**

26. Directors should make such virements, including between both project and programme headings, as are necessary to ensure that the overall capital spend is kept within the sums allocated provided that:
- (a) They do not stop or significantly change projects approved by Full Council or the Cabinet except where as part of project approval the Full Council or Cabinet has delegated authority to officers to revise or reschedule such projects;
  - (b) They do not commit expenditure beyond resources available in future years; and
  - (c) Where the change is:
    - Up to £0.5m, the change is approved by the appropriate Programme Board
    - Between £0.5m-£3m, the change is approved by Capital Programme Board

### **Cabinet**

27. The Cabinet may make such virements within the Capital Programme as are necessary to ensure that overall spending is within the resources available, and it can bring forward, delay or stop projects as necessary to achieve this.
28. The Cabinet may vire funding between both project and programme headings, to another without limit provided that:
- (a) Reductions are not made to funding of projects below the level that is contractually committed;
  - (b) Spending commitments in future years are not made beyond the resources already committed to the relevant projects/programmes within the Capital Programme.

### **Treatment of Year-end Balances**

29. Due to the multi-year nature of capital projects, at the end of each financial year the actual expenditure may deviate from budget. This will include projects that have underspent due to delays or overspending as a project is ahead of schedule.
30. The Cabinet may vire of budget within approved capital projects across financial years to reflect timing differences between planned expenditure and actual expenditure.

### **New Spending**

31. Where new Capital projects, are identified during the year, the Cabinet may commit new expenditure provided that:



- 
- (a) Spending commitments in future years are not made beyond the resources already committed to the relevant projects/programmes within the Capital Programme;
  - (b) The cost of any new borrowing is affordable and prudent;
  - (c) The new spending meets objectives set out in the Borough Plan.

#### **VIREMENTS – HOUSING REVENUE ACCOUNT**

- 32. The Member of the Corporate Management Team Responsible for Housing may make any virements necessary for the efficient running of the Housing Revenue Account (HRA) within the HRA, including the use of revenue resources for capital purposes except purchase or construction of new properties, provided that:
  - (a) Spending commitments in future years are not made beyond the resources available to fund them;
  - (b) The changes are reported to the Corporate Director of Finance and Resources.
- 33. Purchase and/or construction of new properties shall be subject to the approval process set out in the Capital Programme section.

#### **REPORTING ARRANGEMENTS**

- 34. Subject to paragraph 32, all Transfers, Virements and New Income are to be reported to Cabinet whether or not they require Cabinet's approval. Normally this will be done by means of the regular expenditure monitoring reports made by the Corporate Director of Finance and Resources. The reports will classify changes by whether Officer, Cabinet or Full Council approval was required.
- 35. Virements within one line of the Directorate Budget Summary Appendix of the Report, within one capital programme portfolio headings, (except purchase and/or construction of new properties-will not normally be reported to Cabinet, but will be reported if the Corporate Director, Finance and Resources or the Monitoring Officer consider that a report should be submitted.
- 36. Any failure to report to or notify the Corporate Director, Finance and Resources on any matter as required under this scheme will not invalidate the decision by virtue of that failure to report or notify alone.

# PART 3

## RESPONSIBILITY FOR FUNCTIONS

**General Powers Delegated to Officers**

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

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

**Decisions by individual members**

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

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

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

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

**Table 4A The Membership and Terms of Reference of the Barham Park Trust Committee of the Cabinet**

**Table 5 Proper and Statutory Officer Provisions**

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

# RESPONSIBILITY FOR FUNCTIONS

## 1. General

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

- Full Council
- The Leader
- The Cabinet
- Individual members of the Cabinet
- Committees and sub committees of the Council or the Cabinet
- Joint committees
- Officers

Other persons so authorised where the law permits.

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

1.2 This Authority operates a Leader and Cabinet executive. The Leader and Councillors appointed to the Cabinet are collectively referred to as the Cabinet. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 give effect to section 9D of the Local Government Act 2000 by specifying which functions are not to be the responsibility of the Cabinet, which functions may (but need not) be the responsibility of the Cabinet ('Local Choice Functions') and which functions are to some extent the responsibility of the Cabinet. All functions of the Authority which are not the responsibility of any other part of the Authority, whether by law or, where the law provides a choice, under the Constitution are the responsibility of the executive and may be exercised by the Leader or delegated by the Leader to the Cabinet, a Committee of the Cabinet, an individual member of the Cabinet, or to an officer. Where the Leader has arranged for the discharge of executive functions by the Cabinet, the Cabinet may arrange for the discharge of those functions by a committee of the Cabinet, an individual member of the Cabinet or an officer. Both the Leader and Cabinet may also exercise executive functions jointly with other local authorities including (but not limited to) joint committee arrangements.

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

1.4 The Leader has agreed to delegate all executive functions to the Cabinet and, to the limited extent set out in this Part 3 of the Constitution, to individual members of the Cabinet or officers. Arrangements for the joint exercise of executive functions are also set out in this Part.

## 2. The Leader

2.1 The Leader will be a councillor elected to the position of Leader by Full Council at the first post election annual meeting held after the ordinary elections. If the Council fails to elect a Leader at that Annual Meeting then it shall elect a Leader at a subsequent meeting of the Council.

- 2.2 The Leader will hold office as Leader from the day of his election as Leader until the day of the post election Annual Meeting of the Council which is held after the ordinary local elections, which follow his/her election as Leader, unless he/she is removed from, or otherwise vacates the office, in accordance with paragraph 2.4.
- 2.3 The office of Leader continues to the post election annual meeting of the Council as in paragraph 2.2 above, whether or not the Leader is re elected as a Councillor to this authority.
- 2.4 The office of Leader becomes vacant if:
- (a) he/she resigns from the office; or
  - (b) he/she is disqualified from being a councillor by a court under section 34(4) of the Localism Act 2011; or
  - (c) he /she ceases to be a councillor (save for the circumstances in paragraph 2.3)
  - (d) The Leader shall cease to hold office following a vote of no confidence in him/her proposed and voted upon in accordance with Standing Orders.

### **3. Other Cabinet Members**

- 3.1 The Leader will appoint between two and nine members to the Cabinet and shall notify the Deputy Director of Democratic Services of those appointments.
- 3.2 The Mayor and Deputy Mayor cannot be appointed to the Cabinet.
- 3.3 A Cabinet member shall hold office until
- a) he/she resigns from office
  - b) he/she is disqualified from being a councillor by a court under section 34(4) of the Localism Act 2011; or
  - c) he/she ceases to be a councillor
  - d) he/she is removed from office by the Leader
- 3.4 Portfolio responsibilities of the Cabinet members are determined by the Leader. These portfolios provide the members of the Cabinet with responsibility for setting the direction and being accountable for the operation of the services or functions comprised within their respective portfolios. The Leader agrees to provide details of the portfolios allocated to the Cabinet members to the Deputy Director of Democratic Services and those details shall be provided to Full Council.

### **4. The Deputy Leader**

- 4.1 The Leader shall appoint one of the members of the Cabinet to be Deputy Leader.
- 4.2 The Deputy Leader shall hold office until the end of the term of office of the Leader unless
- (a) he/she resigns as Deputy Leader, or
  - (b) he/she is disqualified from being a councillor by a court under section 34(4) of the Localism Act 2011; or
  - (c) he/she ceases to be a councillor of the authority
  - (d) the Leader removes the Deputy Leader from office
  - (e) until the Annual Meeting following his/her appointment as Deputy Leader

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

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

**5. Appointments by the Leader**

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

**6. Other Vacancies in the Cabinet**

6.1 If the Leader is unable to act, or the office is vacant, and also the Deputy Leader is unable to act, or the office is vacant, all responsibilities of the Cabinet shall be carried out by the Cabinet collectively.

6.2 If at any time a Cabinet member other than the Leader or Deputy Leader ceases to be a member of the Cabinet, the responsibilities of that member shall revert to the Leader until such time as the Leader shall have appointed a replacement, or, where appropriate, re-appointed the member concerned.

6.3 In the event of there being no Leader or Deputy Leader appointed and an insufficient number of members of the Cabinet appointed to achieve a quorum, all executive functions shall in the interim be carried out by the Chief Executive.

6.4 The responsibilities and powers of the Deputy Leader may not be carried out by any other member of the Cabinet in his/her absence, or if the post is vacant.

**7. Responsibility for the discharge of executive functions**

7.1 The Leader may exercise the executive functions or may delegate those functions to the Cabinet, a committee of the Cabinet or a Joint Committee, another local authority, an individual member of the Cabinet or officers. The Cabinet may arrange for executive functions delegated to it to be carried out by a committee of the Cabinet, a joint committee, another Local Authority, an individual Cabinet member or an officer.

7.2 The Monitoring Officer maintains a list of the committees of the Cabinet, officers or joint arrangements, which are responsible for the exercise of particular executive functions. The allocation of executive functions and delegations by the Leader and Cabinet are set out in Part 3 and elsewhere in this Constitution.

7.3 The Leader delegates to the Cabinet all executive functions and to individual Cabinet members or to officers such executive functions as are set out in this Constitution. The Cabinet has established a Committee; the Barham Park Trust Committee, to decide matters relating to the Trust. The Cabinet has agreed to delegate such functions to the Barham Park Trust Committee as are set out in the Constitution in Part 4 (Terms of Reference).

7.4 (a) The Council may delegate non-executive functions to another local authority or, if the function is an executive function of the other local authority, to the Executive of that local authority.

(b) The Leader may establish joint arrangements with one or more local authorities and/or their Executives to carry out any of their functions. The Leader has delegated his/her executive functions in this regard to the Cabinet.

(c) The Cabinet may delegate executive functions to the Cabinet of another local authority or if the function is a non-executive function of the other local authority to that local authority.

(d) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Full Council in the case of a delegation to the local authority and to the Cabinet in the case of a delegation to the Cabinet.

7.5 Any such joint arrangements may involve the appointment of joint committees with the other local authorities and/or their Executives. Where all the functions of a joint committee are executive functions, the Cabinet can only appoint Cabinet members to that joint committee (and those members need not reflect the political composition of the local authority as a whole) unless the joint committee will be exercising executive functions for only part of the area of the authority, and that area is smaller than two-fifths of the total area of the authority or the population of that area is less than two-fifths of the total population of the authority. In such cases, the Cabinet may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area. The Executive may appoint non-executive councillors to a joint committee in other circumstances permitted by legislation.

7.6 Individual Cabinet Members may delegate their executive functions to an officer.

7.7 If the Leader makes any changes to the allocation of functions and delegations he/she shall either:

- (i) Report the change to the Council or;
- (ii) Notify the Monitoring Officer in writing of the change

And no change shall be effective until either (i) or (ii) has been complied with. The Monitoring Officer shall as soon as practicable report any change notified to him/her to Full Council.

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

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

- 7.10 Table 3 sets out the functions which are not solely executive responsibilities. So far as those functions are to be executive functions, the Leader has agreed to arrange for these functions to be carried out by the Cabinet. The Table describes the plans, policies and strategies, which form the Authority's Policy Framework and specifies what role the Cabinet will play in relation to those plans, policies and strategies. Essentially, the Cabinet will develop and consult on the plans, policies and strategies listed and will then refer them to Full Council for consideration and approval. If approved, the Cabinet will then be responsible for ensuring they are implemented.
- 7.11 Part 4 of the Constitution describes the membership and terms of reference for the Council committees and sub-committees. These are:-
- Health and Wellbeing Board
  - Audit and Standards Advisory Committee
  - Audit and Standards Committee
  - Corporate Parenting Committee
  - Community and Wellbeing Scrutiny Committee
  - Resources and Public Realm Scrutiny Committee
  - General Purposes Committee
  - Pension Fund Sub-Committee
  - Senior Staff Appointments Sub-Committee
  - Senior Staff Appeals Sub-Committees
  - Planning Committee
  - Licensing Committee
  - Alcohol and Entertainment Licensing Sub-Committee
  - Regulatory Sub-Committee
  - Dismissal Advisory Panel
- 7.12 In addition to the powers described in the Tables as being specifically delegated to officers, any other Council and executive functions are delegated to officers in accordance with paragraph 2, 'Powers Delegated to Officers'.
- 7.13 Table 5 sets out the 'proper officers' designated for the purposes of certain statutory provisions. Any reference in any Act or any part of this Constitution to 'the proper officer' will be a reference to the person so specified in the Table but if none is specified, the Chief Executive or a person nominated by him or her for the purpose will be identified. Any other function not otherwise specified in the Tables or elsewhere in this Constitution is the responsibility of the Cabinet (including the Leader and individual Cabinet members), unless specifically precluded by law from so being, in which case it shall be the responsibility of the General Purposes Committee (unless specifically reserved to Full Council in which case it shall be exercised by Full Council).
- 7.14 All functions shall be exercised in accordance with this Constitution including, for the avoidance of doubt, the Standing Orders and Financial Regulations and this Part 3 and Part 4.
- 7.15 In exercising any function or making any decision, the decision making body or person shall take into account all relevant considerations and ignore all irrelevant considerations and shall comply with the Access to Information Rules.
- 7.16 A number of joint committees have been established with other London Boroughs under the umbrella of the London Councils. The London Councils' Committee and the Transport and Environment Committee exercise executive

and non-executive functions. The terms of reference and make up of these committees and the sub-committee are described in Part 4.

## Management structure

### 8.1 General

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

### 8.2 Chief Officers

The Council will engage persons for the following posts, with the responsibilities out at paragraph 9.4 who will be designated chief officers:

- Chief Executive
- Corporate Director, Community Health and Wellbeing
- Corporate Director, Children and Young People
- Corporate Director, Neighbourhoods and Regeneration
- Corporate Director, Finance and Resources
- Corporate Director, Law and Governance
- Corporate Director, Partnerships, Housing and Residents Services

### Head of Paid Service, Monitoring Officer and Section 151 Officer and other Statutory Chief Officer posts

8.3 The Council has made the following designations:

Post	Designation
Chief Executive	Head of Paid Service
Corporate Director, Law and Governance	Monitoring Officer
Corporate Director, Finance and Resources	Section 151 Officer
Corporate Director, Children and Young People	Director of Children's Services
Director of Adult Social Care	Director of Adult Social Services
Director of Public Health	Director of Public Health

## Structure

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



**9. Powers Delegated to Officers**

- 9.1 Those officers named in the Tables or elsewhere in the Constitution have delegated to them the powers specified therein but subject to the limitations specified therein. For the avoidance of doubt, this includes an officer appointed to a named post on an acting interim or temporary basis.
- 9.2 References in this Part 3 to a 'director' or 'relevant director' are references to one or more of the officers specified in paragraph 9.4 below.
- 9.3 The Chief Executive may exercise any functions delegated to other officers and may authorise one or more officers in any of the Council's Directorates to make decisions or exercise functions unless expressly prohibited by law from doing so.
- 9.3.1 The Chief Executive shall also have the authority to carry out all executive functions in the interim in the event of there being no Leader, or Deputy Leader appointed and insufficient members of the Cabinet appointed to achieve a quorum.
- 9.3.2 Exceptionally, (including at any time when the Chief Executive is acting as "Gold" on behalf of the London local authorities following the convening of the Strategic Co-ordinating Group ("Gold Command") notwithstanding anything in this Constitution, the Chief Executive shall be authorised to exercise either executive or non-executive functions where the matter is urgent unless this is prohibited by law.
- 9.3.3 If the Chief Executive acts in the circumstances set out in paragraphs 9.3.1 and 9.3.2 above, the Chief Executive shall notify, as appropriate, the Leader or Deputy Leader of the Council, the Lead Member with portfolio responsibility for the matter to which the decision relates and the Leader of the Principal Opposition Group of any such action.
- 9.4 The Chief Executive, and Corporate Directors listed below shall have responsibility for the following general and related areas:-

**(a) Chief Executive:**

Head of Paid Service. Managerial leadership of the Council including responsibility for overall corporate management and operational responsibility for all staff. Providing and securing of advice to the Council, and councillors, on strategy and policy. Acting in an executive capacity by making decisions or ensuring a system is in place for other officers to make decisions, as authorised by the Council. Delivering probity, value for money and continuous improvement. Acting as Returning Officer for General, Greater London Authority and Local elections.

**(b) Corporate Director, Community Health and Wellbeing:**

Adult Social Services, community services, direct services and client affairs, adult physical disability, learning disability, mental health services, services to older people, safeguarding adults, emergency duty team, asylum, reablement, adult social care complaints, commissioning and quality, support planning and review, any other function listed in Schedule 1 of the Local Authority Social Services Act 1970 (not delegated to the Corporate Director, Children and Young People), strategic commissioning and procurement, health partnerships, health inequalities and Public Health. Leisure centres, sport and physical activity.

(c) **Corporate, Director Children and Young People:**

Statutory Director of Children's Services, school effectiveness service, outdoor education, pupil referral units, education tuition service, parent partnership service, exclusion teams, education welfare service, behaviour support, SEN assessment service, SEN transport, education psychology, youth and 16-19 education, employment, family support, education, and schools organisation, child protection, safeguarding, children's social care, adoption, fostering, placements, children with disabilities and all functions of the Local Authority not reserved to members including but not limited to early years education and school places, education and training provision for young people. Commissioning of education related capital build projects.

(d) **Corporate Director, Finance and Resources:**

Statutory s151 officer, finance, capital programme management, direct delivery of capital build projects, payroll and pensions, property and facilities management, the energy team, health and safety, IT/digital shared services, audit, investigations, insurance and emergency planning.

(e) **Corporate Director, Neighbourhoods and Regeneration:**

Regulatory services, street naming and numbering, employment and skills (including adult and community education), environmental health, licensing, street trading, trading standards, contaminated land, pollution control, food safety and pest control. Caretaking services on housing estates. Licensing. Public realm, transportation, highways, parking, street lighting, waste management and recycling, refuse and street cleansing, environment, CCTV monitoring. Parks, open spaces. Regeneration, urban renewal, economic development, environmental infrastructure services, statutory land use, planning, development and building control and land charges. Strategic housing, housing partnerships, wholly owned housing companies, housing regeneration, affordable housing development.

(f) **Corporate Director, Law and Governance**

Statutory Monitoring Officer, SIRO, legal services, human resources, organisational development, governance, scrutiny, electoral services, Mayoral support, complaints, Corporate Management team and senior manager executive support.

(g) **Corporate Director, Partnerships, Housing and Residents Services:**

Nationality service, Registrar of Births, Deaths and Marriages, cemeteries and customer services. Revenue and benefits. Private sector housing, housing management and neighbourhood management (not including caretaking services). ASB, nuisance and crime. Community safety and Prevent. Making all Public Spaces Protection Order under the Anti-Social Behaviour Crime and Policing Act 2014 Act in consultation with the Cabinet Member for Safer Communities & Public Protection. Housing needs. Mortuary. Communications, conference and events, assets of community value and partnerships. Cultural services (including arts, libraries, museums and archives and the London Borough of Culture legacy). Insight and innovation. Data protection and freedom of information. Community engagement and equalities. Corporate planning, policy and performance. Climate resilience. Insight, innovation, data and digital transformation.

9.5 In addition to those powers specified in the Tables and elsewhere in this Constitution, the officers specified above have delegated to them by the Council or the Leader, or Cabinet (as the case may be) all and any of the powers of the Council and the executive as may be necessary or desirable to enable them to effectively manage and operate their Directorate or to carry out the roles and responsibilities required of them from time to time (not necessarily restricted to those roles and responsibilities specified above). These powers are subject to the exemptions, restrictions and limitations specified in paragraph 10 below or elsewhere in this Constitution. These powers include (but are not limited to) the powers set out in the following table which are also, subject to any exemption, restriction or limitation specified in respect of them in that table:-

<b>Power</b>	<b>Exception, restriction or limitation</b>
1. to exercise all functions that may from time to time fall within the scope of their professional and operational responsibility.	
2. to manage, within the approved cash limits, the budget allocated to the functions for which the officer has responsibility and to make virements or transfers as necessary.	<p>(a) no action may be taken which would result in growth, which cannot be contained in future years budgets or which would affect a budget which is not under the officer's direct control.</p> <p>(b) no virements or transfers may be made other than in accordance with the Scheme of Transfers and Virements agreed by Full Council.</p> <p>(c) no internal trading arrangements shall be established without the approval of the Corporate Director, Finance and Resources.</p>
3(a) to invite expressions of interest, agree shortlists, invite tenders, negotiate, award, enter into and terminate contracts, agreements, deeds or other transactions; to purchase supplies and services; to appoint external consultants; to make minor or consequential changes to any of the documents mentioned above which were previously agreed by the Cabinet or the Council or their committees or sub-committees.	<p>Provided that:</p> <p>(a) In the case of a contract, agreement, deed or transaction where the Council would be in receipt of works, services or supplies (other than the supply of electricity or gas through a corporate contract) if the value of the contract, agreement, deed, transaction, supply, service, work or consultancy would or would be likely or is estimated at the commencement of any procurement process to exceed £2 million in respect of services, supplies or £5 million in respect of works, such value to be</p>

	<p>aggregated over the life of the contract (including any possible extension) then:-</p> <ul style="list-style-type: none"> <li>(i) no expressions of interest shall be invited without the prior approval of either the relevant Cabinet Member in respect of contracts relating to executive functions (where the Cabinet Member has power to make the decision) or alternatively Cabinet (or in the appropriate cases the General Purposes Committee) in all other cases;</li> <li>(ii) no contract, agreement, deed or transaction shall be awarded, entered into or terminated without the prior approval of either the relevant Cabinet Member in respect of contracts relating to executive functions (where the Cabinet Member has power to make the decision) or alternatively Cabinet (or in appropriate cases the General Purposes Committee), and</li> <li>(iii) shortlists may only be drawn up and tenders may only be evaluated in accordance with the evaluation criteria approved by either the Cabinet Member in respect of contracts relating to executive functions where the Cabinet Member has power to make the decision) or alternatively the Cabinet (or in appropriate cases the General Purposes Committee) in accordance with Standing Orders 88(b) and 89(vi).</li> </ul> <p>(b) in the case of an agreement where the Council is a service provider to another organisation, the contract value or cost to the Council in providing the service is less than £1 million per year; otherwise Cabinet approval must be sought in accordance with Standing Order 87(c).</p>
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	<ul style="list-style-type: none"> <li>(c) In the case of a contract or agreement that does not fall within (a) or (b) above, such as a funding or settlement agreement, the total value passing from the Council to another organisation does not exceed £1 million.</li> <li>(d) The award of contract, approval of the agreement or termination of the contract or agreement would not place the Council in breach of procurement legislation.</li> <li>(e) there is sufficient budgetary provision</li> <li>(f) admission agreements in respect of the pension fund may only be agreed by the Corporate Director, Finance and Resources and in accordance with criteria adopted by the General Purposes Committee or the Pension Fund Sub-Committee.</li> <li>(g) contracts in respect of the supply of electricity or gas through a corporate contract may only be awarded by the Corporate Director, Finance and Resources.</li> </ul>
<p>3(b) to extend, vary, renegotiate, novate or assign contracts, agreements, deeds or other transactions.</p>	<ul style="list-style-type: none"> <li>(a) provided that the extension, variation, renegotiation, novation or assignment would not be in breach of Procurement Legislation.</li> <li>(b) provided that the extension, variation, renegotiation, novation or assignment does not substantially alter the terms and conditions of the contract.</li> <li>(c) provided that there is sufficient existing budgetary provision.</li> <li>(d) if the extension goes beyond the period of extension provided for in the contract (if any) or is otherwise not in accordance with the extension provisions in the contract:             <ul style="list-style-type: none"> <li>(i) in the case of any contract, agreement, deed or other transaction with a life of not more than one year (including any possible extension provided for in the contract)</li> </ul> </li> </ul>

	<p>the extension shall not exceed a period of six months; or</p> <p>(ii) in the case of any contract, agreement, deed or other transaction with a life of more than one year (including any possible extension provided for in the contract) the extension shall not exceed a period of one year.</p> <p>(e) the relevant cabinet member shall be consulted prior to a decision within (d) (i) or (ii) above and may request that the decision instead be referred to them.</p> <p>(f) provided that in the case of any variation (other than an extension):</p> <p>(i) the total value of the variation is less than £1m; and</p> <p>(ii) if the total value of the variation (and any previous variations agreed under this provision) is more than £50k it is not more than 50% of the original contract value (calculated over the life of the contract including any extensions or possible extensions and adjusted in accordance with any price review mechanism provided for in the contract).</p> <p>(g) the relevant cabinet member shall be consulted prior to a decision within (f) (i) or (ii) above and may request that the decision instead be referred to them.</p> <p>(h) provided that in the case of any novation or assignment that the relevant Director is satisfied that the contractor to which the contract, agreement, deed or other transaction is to be novated or assigned meets the Council's requirements for financial standing, health and safety standards and technical expertise.</p>
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<p>4. to establish or re-organise the staffing structure of their Directorate and to appoint, discipline and dismiss staff.</p>	<p>(a) subject to the Standing Orders relating to staff.</p> <p>(b) any staffing restructure report potentially giving rise to a redundancy situation shall be approved by the Corporate Director, Finance and Director of HR &amp; OD.</p> <p>subject to the council's pension Employer Discretion Policy .</p> <p>(c) no severance payment and no award of compensatory added years on the grounds of termination of employment in the interests of the efficient exercise of the Council's functions shall be made or agreed to be made to a HAY graded member of staff except with the prior written approval of the s151 Officer, the Monitoring Officer and the Chief Executive.</p>
<p>5. on the approval of the Corporate Director of Law and Governance to institute, defend or settle any actual or contemplated legal or formal proceedings on behalf of the Council and to appear by counsel or in person or to authorise an officer to so appear in any proceedings and to verify a document by signing a Statement of Truth under the Civil Procedure Rules on behalf of the Council.</p>	
<p>6. to obtain any necessary consent, authority, registration, licence, certificate, deed, notice, order or other similar document that the Council may require.</p>	
<p>7. to register, issue, grant, or refuse permissions, consents, approvals, licences (not being occupational licences), notices, certificates, orders or similar documents which the Council is authorised or required to register, issue, grant, give, make or refuse by or under any enactment and to impose any conditions limitations or exceptions as they may consider appropriate.</p>	<p>(a) except where this is the responsibility of a committee or sub-committee. This exception does not apply to the making of minor or consequential changes to any permission, consent, approval, licence, notice, certificate, order or similar document which were previously authorised by the Cabinet or the Council or their committees or sub-committees or any</p>

	<p>conditions, limitations or exceptions imposed or to be imposed.</p>
<p>8. to exercise discretion in writing off or remitting in whole or in part debts due to the Council.</p>	<p>(a) all reasonable steps to recover the debt(s) have been taken.</p> <p>(b) no sums exceeding £20,000 shall be written off without the written approval of the Corporate Director, Finance and Resources.</p> <p>(c) all such debts written off shall be notified to the Corporate Director, Finance and Resources.</p> <p>(d) the Corporate Director, Finance and Resources, has not required the matter to be referred to him or her for consideration.</p>
<p>9. to bid for and make grants or give other financial or other assistance to organisations.</p>	<p>(a) Provided that if the grant or other financial assistance involves the grant of funds from Council's own resources</p> <p>(i) the relevant Director is satisfied that no adverse capital finance or other negative implications would arise, unless written consent of the Corporate Director, Finance and Resources is obtained.</p> <p>(ii) no grant shall be made by officers if it amounts to more than £25k per annum except in the case of Neighbourhood Infrastructure Level grants which may be made by the Corporate Director of Neighbourhoods and Regeneration up to the value of £100k.</p> <p>(iii) no grant shall be withdrawn or reduced by officers if the receiving body has received a grant from the Council for each of the last five years for the same purpose unless such withdrawal is due to the fact that the body no longer meets the relevant grant criteria or conditions of grant.</p> <p>(iv) the grant criteria has been approved by the Cabinet, other appropriate body, the relevant Corporate Director or other person with appropriate authority.</p>



	<p>(v) no grant shall be made by officers from the council's Voluntary Sector Initiative Fund except with the prior approval of the Cabinet.</p> <p>(b) Provided that where the grant or other financial assistance involves the distribution of funds received from a third party the grant or other financial assistance complies with the conditions under which the funds have been received by the Council.</p> <p>(c) Provided that submission of bids for additional resources from government and other bodies shall be to consultation with the relevant Cabinet Member.</p>
<p>10. to create and/or register legal charges in respect of debts owed to the Council.</p>	
<p>11. to act as a receiver.</p>	
<p>12. to authorise or nominate other officers to act on their behalf in exercising any of their functions.</p>	<p>(a) this may not be exercised other than by the officers listed in paragraph 9.4 above.</p> <p>(b) authorisations and nominations are subject to any limitations or provisos that the officers listed in paragraph 9.4 above may consider appropriate.</p> <p>(c) the names of the persons authorised or nominated shall be notified to the Corporate Director of Law and Governance.</p>
<p>13. to appoint a person to be the statutory 'proper officer' for any functions falling within their designated area of responsibility and which are required to be undertaken by a proper officer. The designations specified in the Tables shall be deemed to have been amended accordingly.</p>	<p>(a) the name of the person appointed to a 'proper officer' position shall be specified in a list maintained by the appointing officer for that purpose and notified to the Corporate Director, Law and Governance.</p>
<p>14. to take up posts on outside bodies or companies and appoint other staff to outside bodies or companies.</p>	<p>(a) only where it is related to their area of work or is agreed by the Chief Executive.</p>

	(b) the prior advice of the Corporate Director, Law and Governance should be obtained.
15. to act as an authorised signatory for the Council.	
16. to hear or determine appeals on matters which are within their area of responsibility or any other area if requested to do so by the Chief Executive.	(a) provided they were not the person who made the decision, the subject of the appeal.
17. to carry out works for, or to provide services or supplies to, or to exercise functions on behalf of other local authorities or bodies.	(a) where permitted by law. (b) subject to compliance with Contract Standing Orders and Financial Regulations.
18. to determine whether any application received in relation to any matter is valid according to the rules or procedures governing such applications including for the avoidance of doubt, any application for planning permission or similar and to determine whether any other document report assessment (including an Environmental Impact Assessment) or other information is required to be provided or carried out prior to validation or determination of that application.	
19. to determine any other minor issue, or make any minor modification or variation relating to a matter previously determined by the Cabinet or the Council or their committees or sub-committees e.g. minor amendments to conditions on planning permissions which Planning Committee have resolved to grant or minor amendments to terms and conditions of employment previously agreed by the General Purposes Committee.	
20. to respond to consultation papers from other bodies or local authorities.	

- 9.6 The Chief Executive and Corporate Directors (The Chief Officers), may, from time to time, nominate a deputy to act on their behalf in the event of their absence. The nominated deputy may, (subject to the same restrictions as would apply to the relevant Chief Officer) exercise all the powers of the relevant Chief Officer; save in so far as that is inconsistent with any other part of the Constitution.
- 9.7 Officers designated as Directors have delegated to them, (subject to the same restrictions as would apply to their Corporate Director; all the powers of their Corporate in so far as they relate to the Department for which they are responsible, save in so far as that is inconsistent with any other part of the Constitution or their Corporate Director (or the Chief Executive) has directed them not to exercise particular powers.
- 9.8 For the avoidance of doubt, the officers specified in 8.3 will retain the specific statutory responsibilities arising from their designations irrespective of these delegations.
- 9.9 The following officers have delegated to them the following powers in relation to all of the Council's services and areas of responsibility:-

**(a) Corporate Director, Finance and Resources**

To undertake the S151 statutory role:

- **Ensuring lawfulness and financial prudence of decision-making**

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

- **Administration of financial affairs**

The Corporate Director, Finance and Resources will have responsibility for the administration of the financial affairs of the Council.

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

To operate and advise on an effective system of internal control for the Authority, including the provision of an effective internal audit and risk management.

**(b) Corporate Director, Law and Governance**

To undertake the statutory role of and exercise the powers of the Monitoring Officer, including standards and probity:

- After consulting, as appropriate, with the Head of Paid Service and Corporate Director, Finance and Resources, the Monitoring Officer will report to Full Council, or to the Cabinet in relation to an executive function, if he or she considers that any proposal, decision or omission has, may or would give rise to unlawfulness or to any maladministration which has been investigated by the Ombudsman. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- Contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Standards Advisory Committee and the Audit and Standards Committee. The Monitoring Officer will conduct investigations into matters referred to him or her by the Audit and Standards Committee (or arrange for such investigations to be conducted) and make reports or recommendations in respect of them to the Audit and Standards Committee.

To be responsible for advising whether decisions of the Cabinet are in accordance with the Policy Framework and the Budget and to provide advice to all councillors on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issue.

Power to institute, defend or settle any actual or contemplated legal or formal proceedings on behalf of the Council and to appear by counsel or in person or to authorise an officer to so appear in any proceedings and to verify a document by signing a Statement of Truth under the Civil Procedure Rules on behalf of the Council; power to sign contracts, deeds, orders, notices and all other documents unless any enactment requires otherwise, the qualified person for Section 36 Freedom of Information Act 2000 determinations, responsibility to maintain an up-to-date version of the Constitution and ensure that it is widely available for inspection by councillors, officers and the public.

*\*The Monitoring Officer cannot be the Corporate Director, Finance and Resources or the Head of Paid Service.*

*\*The Council will provide the Monitoring Officer s151 Officer with such officers, accommodation and other resources as are in those officers' opinion sufficient to allow their duties to be performed.*

**(c) Director of Public Health**

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

response under the Licensing Act 2003, to authorise Patient Group Directions on behalf of the Local Authority.

- 9.10 The Corporate Director, Finance and Resources, who is responsible for management of the Council's municipal buildings portfolio and its property disposal programme; estates management and valuation; maintaining the Council's property (terrier) records; producing, updating and enforcing Corporate Property Standards; co-ordinating property management function across the Council; advice on property and delivering the annual Asset Management Plan has the delegated powers as described in paragraph 11 below.

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

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

(a) **Policy:**

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

(b) **Constitution:**

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

(c) **Advice:**

The exercise of that function or the making of that decision would or would be likely to conflict with advice from the Head of Paid Service, Monitoring Officer or the s151 Officer or the External Auditor carrying out their statutory functions.

(d) **Ultra Vires:**

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

(e) **Overspends:**

The making of that decision would or would be likely to result in discretionary spending of either a revenue or capital nature significantly exceeding the approved revenue or capital budgets in either the current or any future year. [Where the overspend is considered unavoidable (or not incurring it would result in breach of statutory requirements or serious failure to deliver agreed corporate priorities) it must nonetheless be reported at the first available opportunity].

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

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

(g)<sup>1</sup> **Company or partnership:**

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

(i) **Personal interests:**

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

(k) **Change in service delivery:**

The exercise of that function or the making of that decision would or would be likely in the opinion of the relevant Corporate Director or the Chief Executive to result in a very significant change in the model of service delivery.

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

The exercise of that function or the making of that decision would or would be likely to expose the Council to a significant or unusual level of risk, financial or otherwise, as determined by the Chief Executive, the Corporate Director, Finance and Resources or the Corporate Director, Law and Governance.

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

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

(n) **Charges and Fees:**

The decision relates to the setting, levying or increase of any fees or charges to any member of the public in respect of a Council service (other than room lettings and copying charges) unless it is authorised by the Council's Fees and Charges Policy and related guidance.

(p) **Some other reason:**

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

10.2 In cases where an officer is prevented from exercising any function delegated to him or her by virtue of any of the above or where he or she or the Chief Executive decides

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<sup>1</sup> This is covered elsewhere in the constitution

that they cannot or should not exercise the function then, subject to paragraph 9.3 above, that function shall be exercised by the person or body who would otherwise have responsibility for that function, or the General Purposes Committee if none other is specified (unless it is a matter which is reserved to Full Council).

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

- 11.1 Only the Corporate Director, Finance and Resources or the Director of Property and Assets may acquire or dispose of an interest in land or buildings. The restrictions placed upon such acquisitions or disposals are set out in paragraphs 11.2, 11.3 and 11.6 below. The Corporate Director, Finance and Resources or the Director of Property and Assets shall refer all other acquisitions and disposals including matters where the disposal or acquisition value or the length of lease are over and above the restrictions set out in 11.2, or 11.3 but below the amounts set out in section 13 below to the Cabinet Member with delegated authority or to the Cabinet.
- 11.2 The Corporate Director, Finance and Resources may dispose of or acquire freehold land or buildings up to a value, in his or her view, of £1m. The Corporate Director, Finance and Resources may acquire or dispose of leases, licences, and easements in respect of land or buildings except where
- i. the annual rental value (excluding other outgoings) exceeds £250k
  - ii. if acquired or disposed of at a premium the value would, in his or her view, exceed £1m in value or
  - iii. where the leasehold term exceeds 125 years
- 11.3 Where any disposal or acquisition of an interest in land or buildings is, in the view of the Corporate Director, Finance and Resources, of a value over £250k and below £1m, where any leasehold interest has an annual value over £100k or below £250k, or where the lease length is between 50 and 125 years he or she shall consult with the Lead Member.
- 11.4 The Corporate Director, Finance and Resources should be advised of any disposal or acquisition undertaken by this delegated authority within three months of any transaction.
- 11.5 All Members of the Cabinet will receive a report at least yearly on all these delegated authority transactions.
- 11.6. The Corporate Director, Finance and Resources may not sell or grant any lease or easement, licence or otherwise dispose of any land or buildings unless the consideration received, as confirmed by them is the best that can reasonably be obtained, whether or not the grant, sale or disposal is covered by a general or specific consent from the relevant Secretary of State.
- 11.7 Nothing in this paragraph 11 shall prevent the Corporate Director, Partnerships, Housing and Residents Services from granting, in accordance with the Council's policies and procedures, any secure tenancy of housing accommodation nor from selling the leasehold or freehold interest in any residential property pursuant to the right to buy scheme or the voluntary sales scheme as promoted by the Secretary of State from time to time.
- 11.8 Nothing in this paragraph 11 shall prevent the Corporate Director, Finance and Resources acquiring or disposing of freehold land or acquiring granting or disposing of leasehold land for any term of years or licences and easements in respect of land and buildings where:

- (a) there is an statutory entitlement to a freehold or leasehold interest arising from a claim made in respect of residential land under the statutory enfranchisement provisions of the Leasehold Reform, Housing and Urban Development Act 1993 or Leasehold Reform Act 1967 as amended or re-enacted; or
  - (b) there is an statutory entitlement to a freehold or leasehold interest in accordance with the Academies Act 2010 as amended or re-enacted or other education legislation regulation order direction under education legislation or where the acquisition grant or disposal of a freehold or long leasehold term or easement is advised in accordance with a circular or guidance issued by the Secretary of State from time to time in respect of school land inclusive of the designation provision or conversion of a school into an academy or the provision of land for any school; or
  - (c) statutory undertakers, telecommunication undertakings or other utilities are providing installations or equipment or laying cables pipes or other service media to in and over or through land or buildings.
- 11.9 In acquiring, selling or disposing of any land or buildings or granting any lease, licence or easement in respect thereof regard shall be had to any relevant Corporate Standards on property acquisitions, management and disposals.
- 11.10 No person shall create or grant a service tenancy or service occupancy without the prior written approval of the Chief Executive.
- 11.11 In any cases where officers do not have or may not exercise delegated powers in respect of land or buildings the matter shall be determined by the Cabinet (unless precluded by law or the Constitution from exercising that power in which case the matter will be determined by the General Purposes Committee where possible or the Full Council if not possible).
- 11.12 For the avoidance of doubt the rules in this paragraph do not apply to the adoption of highways and footways if there is no legal transfer of title to land.

## **12. Highways and Traffic Regulation**

The powers delegated to the Corporate Director, Partnerships, Housing and Residents Services in respect of highways and related functions do not include:

- i. Strategic and high level highways and transportation matters which includes decisions which affect 4 wards or more;
- ii. Strategies or policies in respect of highways or transportation matters;
- iii. Highways and transportation matters involving expenditure over £2m for services and supplies and or £5m works;
- iv. Highways or transportation matters which have a significant effect on income;

## **13. Decisions by individual Members**

The Leader has delegated the following functions to Cabinet members to be exercised within their portfolio area and in consultation with the Leader.



Categories of decisions for individual Cabinet Members, to be taken in consultation with the Leader.

<b>CATEGORY</b>	<b>INDIVIDUAL MEMBER DELEGATED DECISIONS (in relation to their portfolio area)</b>
<b>Financial</b>	Agreement of changes to existing fees and charges where this is not within powers delegated to officers in accordance with the Fees and Charges policy adopted by Council.
<b>Contracts and procurement</b>	<p>Agreement to invite expressions of interest, agree pre-tender considerations, agree shortlists, invite tenders, negotiate, award, enter into and terminate contracts; deeds, agreements and other transactions to purchase supplies and services and to appoint external consultants if:</p> <p>(a) the value of the contract, supply, service, work or consultancy would, or would be likely, or is estimated, at the commencement of any procurement process to exceed the value at which officers may take the decision, but does not exceed £5 million in respect of services or supplies or £10 million in respect of works, such value to be aggregated over the life of the contract (including any possible extension); or</p> <p>(b) the likely or estimated value does not exceed the value at which officers may take the decision, but the decision is referred by the relevant officer to the relevant Cabinet Member.</p>
	Agreement of waivers of Contract Standing Orders for medium and High value revenue and capital contracts, as set out in the Council's Contract Standing Orders.
	<p>Agreement of changes to the following as adopted by Cabinet:</p> <ul style="list-style-type: none"> <li>• the tender procedure to be adopted;</li> <li>• the evaluation criteria and process.</li> </ul>
	<p>Agreement of contract extension, variation or termination where the decision is excluded from officer delegated powers because:</p> <p>(a) the extension goes beyond the period of extension provided for in the contract (if any) or is otherwise not in accordance with the extension provisions in the contract; and</p> <p>(b) the contract, agreement, deed or other transaction has a life of not more than one year (including any possible extension provided for in the contract) and the extension exceeds a period of six months;</p> <p>(c) the contract, agreement, deed or other transaction has a life of more than one year (including any possible extension provided for in the contract) and the extension exceeds a period of one year; or</p> <p>(d) in the case of any variation (other than an extension):</p> <p style="padding-left: 40px;">(i) the total value of the variation is £1 million or more; and</p>

	(ii) the total value of the variation is more than £50k and is more than 50% of the original contract value (calculated over the life of the contract including any extensions or possible extensions and adjusted in accordance with any price review mechanism provided for in the contract).
	Agreement of other contract extensions, variations or terminations where the individual requests that a decision be referred to them pursuant to Part 3 paragraph 9.5 3(b)(e) or 3(b)(g).
<b>Grants</b>	<p>Agreement to make grants or give other financial assistance to organisations (other than from the Voluntary Sector Initiative Fund) provided that:</p> <p>a) if the grant or other financial assistance involves the grant of funds from Council's own resources the grant or other financial assistance shall not exceed £50k (and shall exceed £25k unless specifically referred to the Cabinet Member by the relevant officer)</p> <p>b) if the grant or other financial assistance involves the distribution of funds received from a third party the grant or other financial assistance complies with the conditions under which the funds have been received by the Council.</p>
<b>Property</b>	<p>Agreement to acquire or dispose of leases, licences, and easements in respect of land or buildings where:</p> <ul style="list-style-type: none"> <li>• the annual rental value (excluding other outgoings) exceeds £500k (or does not exceed this figure but is referred by the relevant officer); and</li> <li>• if acquired or disposed of at a premium the value would in the reasonable opinion of the Corporate Director, Finance and Resources exceed £2m in value (or would not exceed this figure but the Corporate Director, Finance and Resources has decided to refer the decision to the Cabinet Member); and</li> <li>• the leasehold term does not exceed 125 years.</li> <li>• the lease, easement or licence is disposed of at less than the best price that can reasonably be obtained and is covered by a general consent, or is not covered by a general consent, in which case agreement will be subject to any specific consent required from the Secretary of State being obtained.</li> </ul>
<b>Performance</b>	Agreement of performance standards where referred by an officer.
<b>Consultations and Supplementary Planning Documents</b>	To agree Supplementary Planning Documents (SPDs) for consultation, together with the arrangements for consultation, and following consultation to adopt SPDs or refer them to Cabinet for adoption.
<b>Consultations</b>	Agreement of broad public consultation arrangements relating to issues which will be decided by the Cabinet or a Cabinet Member.

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

- 14.1 Legislation provides that some Council functions/decisions can only be exercised or made by the Full Council, that is all the members or a specified number or percentage of them meeting together.
- 14.2 Table 6 sets out a list of functions which may only by law be undertaken by Full Council.

**TABLE 1**

**FUNCTIONS WHICH CANNOT BE EXERCISED BY THE CABINET** (including the Leader and individual Cabinet members)

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

<p><b>4.</b> Power to decline to determine application for planning permission.</p>	<p>Section 70A of the Town and Country Planning Act 1990.</p>	
<p><b>5.</b> Duties relating to the making of determinations of planning applications.</p>	<p>Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made thereunder.</p>	
<p><b>6.</b> Power to determine application for planning permission made by a local authority, alone or jointly with another person.</p>	<p>Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492).</p>	
<p><b>7.</b> Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.</p>	<p>Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418).</p>	
<p><b>8.</b> Power to enter into agreement regulating development or use of land.</p>	<p>Section 106 of the Town and Country Planning Act 1990.</p>	
<p><b>9.</b> Power to issue a certificate of existing or proposed lawful use or development.</p>	<p>Sections 191(4) and 192(2) of the Town and Country Planning Act 1990.</p>	
<p><b>10.</b> Power to serve a completion notice.</p>	<p>Section 94(2) of the Town and Country Planning Act 1990.</p>	
<p><b>11.</b> Power to grant consent for the display of advertisements.</p>	<p>Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992.</p>	

<b>12.</b> Power to authorise entry onto land.	Section 196A of the Town and Country Planning Act 1990.	
<b>13.</b> Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990.	
<b>14.</b> Power to serve a planning contravention notice, breach of condition notice or stop notice.	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990.	
<b>15.</b> Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990.	
<b>16.</b> Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990.	
<b>17.</b> Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990.	
<b>18.</b> Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.	Paragraph 2(6) (a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c. 25) and paragraph 6(5) of Schedule 14 to that Act.	N/A
<b>18A.</b> Power to issue a temporary stop notice	Section 171 E of the Town and Country Planning Act 1990	
<b>19.</b> Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990.	
<b>20.</b> Power to determine application for listed building consent, and related powers.	Sections 16(1) and (2), 17, and 33(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.	

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

<p><b>28.</b> Any other planning related functions which are or become a function which cannot be exercised by the Executive.</p>		
<p><b>29.</b> Such of the functions listed in 1-28 above as shall arise under the Old Oak and Park Royal Development Corporation (OPDC) Scheme of Delegation agreed by the Council on 2 March 2015.</p>	<p><b>Section 203 Localism Act 2011</b></p>	
<p><b>B.</b> Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)</p>		<p><b>Except where specified all of the functions listed under this section B will be exercised by the Corporate Director, Partnerships, Housing and Residents Services, or a person nominated or authorised by him or her, except those functions which are the responsibility of the Licensing Committee, the Licensing Sub-Committees or the General Purposes Committee or are required to be determined by the Full Council</b></p>
<p><b>1.</b> Power to issue licences authorising the use of land as a caravan site ("site licences").</p>	<p>Section 3(3) of the Caravan Sites and Control of Development Act 1960.</p>	
<p><b>2.</b> Power to license the use of moveable dwellings and camping sites.</p>	<p>Section 269(1) of the Public Health Act 1936.</p>	

<p><b>3.</b> Power to license hackney carriages and private hire vehicles.</p>	<p>(a) as to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875, and section 15 of the Transport Act 1985; and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976;</p> <p>(b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.</p>	<p>N/A</p>
<p><b>4.</b> Power to license drivers of hackney carriages and private hire vehicles.</p>	<p>Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.</p>	<p>N/A</p>
<p><b>5.</b> Power to license operators of hackney carriages and private hire vehicles.</p>	<p>Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.</p>	<p>N/A</p>
<p><b>6.</b> Power to register pool promoters.</p>	<p>Schedule 2 to the Betting, Gaming and Lotteries Act 1963.</p>	
<p><b>7.</b> Power to grant track betting licences.</p>	<p>Schedule 3 to the Betting, Gaming and Lotteries Act 1963.</p>	
<p><b>8.</b> Power to license inter-track betting schemes.</p>	<p>Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963.</p>	
<p><b>9.</b> Power to grant permits in respect of premises with amusement machines.</p>	<p>Schedule 9 to the Gaming Act 1968.</p>	
<p><b>10.</b> Power to register societies wishing to promote lotteries.</p>	<p>Schedule 1 to the Lotteries and Amusements Act 1976.</p>	



<b>11.</b> Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976.	
<b>12.</b> Power to issue cinema and cinema club licences.	Section 1 of the Cinema Act 1985.	
<b>13.</b> Power to issue theatre licences.	Sections 12 to 14 of the Theatres Act 1968.	
<b>14.</b> Power to issue entertainment licences.	Section 12 of the Children and Young Persons Act 1933 section 52 of, and Schedule 12 to, the London Government Act 1963, section 79 of the Licensing Act 1964, sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982.	
<b>14A.</b> Any function of a licensing authority	Licensing Act 2003 and any regulations or orders made under that Act.	
<b>14AZA</b> Powers and functions relating to late night levy requirements	Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 and any regulations made under that Chapter.	
<b>14AA</b> Duty to comply with requirement to provide information to Gambling Commission.	Section 29 of the Gambling Act 2005	
<b>14AB</b> Functions relating to exchange of information.	Section 30 of the 2005 Act.	
<b>14AC</b> Functions relating to occasional use notices	Section 39 of the 2005 Act.	

<b>14B</b> Power to resolve not to issue a casino premises licence.	Section 166 of the 2005 Act.	Full Council in respect of the power to resolve not to issue a casino premises licence under section 166 of the Gambling Act 2005
<b>14C</b> Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises.	Section 304 of the 2005 Act.	
<b>14CA</b> Power to make order disapplying section 279 or 282(1) of the 2005 Act in relation to specified premises.	Section 284 of the 2005 Act.	
<b>14D</b> Power to institute criminal proceedings	Section 284 of the 2005 Act.	
<b>14E</b> Power to exchange information.	Section 350 of the 2005 Act.	
<b>14F</b> Functions relating to the determination of fees for premises licences.	The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007.	
<b>14G</b> Functions relating to the registration and regulation of small society lotteries.	Part 5 of Schedule 11 to the 2005 Act.	
<b>15.</b> Power to license sex shops and sex cinemas.	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.	
<b>16.</b> Power to license performances of hypnotism.	The Hypnotism Act 1952.	
<b>17.</b> Power to license premises for acupuncture, tattooing, ear piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.	
<b>18.</b> Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907.	

<p><b>19.</b> Power to register door staff.</p>	<p>Paragraphs 1(2) and 9 of Schedule 12 to the London Government Act 1963 and Part V of the London Local Authorities Act 1995.</p>	
<p><b>20.</b> Power to license market and street trading.</p>	<p>Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982, Part III of the London Local Authorities Act 1990 and section 6 of the London Local Authorities Act 1994).</p>	
<p><b>21.</b> Power to license night cafes and take-away food shops.</p>	<p>Section 2 of the Late Night Refreshment Houses Act 1969, Part II of the London Local Authorities Act 1990 and section 5 of the London Local Authorities Act 1994.</p>	
<p><b>22.</b> Duty to keep list of persons entitled to sell non-medicinal poisons.</p>	<p>Sections 3(1) (b) (ii), 5, 6 and 11 of the Poisons Act 1972.</p>	
<p><b>23.</b> Power to license dealers in game and the killing and selling of game.</p>	<p>Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831; sections 2 to 16 of the Game Licensing Act 1860, section 4 of the Customs and Inland Revenue Act 1883, sections 12(3) and 27 of the Local Government Act 1874, and section 213 of the Local Government Act 1972.</p>	
<p><b>24.</b> Power to register and license premises for the preparation of food.</p>	<p>Section 19 of the Food Safety Act 1990.</p>	
<p><b>25.</b> Power to license scrap yards.</p>	<p>Scrap Metal Dealers Act 2013</p>	

<p><b>26.</b> Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.</p>	<p>The Safety of Sports Grounds Act 1975.</p>	
<p><b>27.</b> Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.</p>	<p>Part III of the Fire Safety and Safety of Places of Sport Act 1987.</p>	
<p><b>28.</b> Power to issue fire certificates.</p>	<p>Section 5 of the Fire Precautions Act 1971.</p>	
<p><b>29.</b> Power to license premises for the breeding of dogs.</p>	<p>Section 1 of the Breeding of Dogs Act 1973 and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999.</p>	
<p><b>30.</b> Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.</p>	<p>Section 1 of the Pet Animals Act 1951; section 1 of the Animal Boarding Establishments Act 1963; the Riding Establishments Acts 1964 and 1970; section 1 of the Breeding of Dogs Act 1973, and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.</p>	
<p><b>31.</b> Power to register animal trainers and exhibitors.</p>	<p>Section 1 of the Performing Animals (Regulation) Act 1925.</p>	
<p><b>32.</b> Power to license zoos.</p>	<p>Section 1 of the Zoo Licensing Act 1981.</p>	
<p><b>33.</b> Power to license dangerous wild animals.</p>	<p>Section 1 of the Dangerous Wild Animals Act 1976.</p>	
<p><b>34.</b> Power to license knackers' yards.</p>	<p>Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999 (S.I. 1999/646).</p>	

<p><b>35.</b> Power to license the employment of children.</p>	<p>Part II of the Children and Young Persons Act 1933, bylaws made under that Part, and Part II of the Children and Young Persons Act 1963.</p>	<p>Corporate Director, Children and Young People</p>
<p><b>36.</b> Power to approve premises for the solemnisation of marriages.</p>	<p>Section 46A of the Marriage Act 1949 and the Marriages (Approved Premises) Regulations 1995 (S. I. 1995/510).</p>	<p>Corporate Director , Resident Services</p>
<p><b>37.</b> Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to –</p> <p>(a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c. 67) or</p> <p>(b) an order under section 147 of the Inclosure Act 1845 (c. 8 &amp; 9 Vict. c. 118).</p>	<p>Regulation 6 of the Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843).</p>	
<p><b>38.</b> Power to register variation of rights of common.</p>	<p>Regulation 29 of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471).</p>	
<p><b>39.</b> Power to license persons to collect for charitable and other causes.</p>	<p>Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939.</p>	
<p><b>40.</b> Power to grant consent for the operation of a loudspeaker.</p>	<p>Schedule 2 to the Noise and Statutory Nuisance Act 1993.</p>	

<b>41.</b> Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991.	
<b>42.</b> Power to license agencies for the supply of nurses.	Section 2 of the Nurses Agencies Act 1957.	
<b>43.</b> Power to issue licences for the movement of pigs.	Article 12 of the Pigs (Records, Identification and Movement) Order 1995 (S.I. 1995/11).	
<b>44.</b> Power to license the sale of pigs.	Article 13 of the Pigs (Records, Identification and Movement) Order 1995.	
<b>45.</b> Power to license collecting centres for the movement of pigs.	Article 14 of the Pigs (Records, Identification and Movement) Order 1995.	
<b>46.</b> Power to issue a licence to move cattle from a market.	Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998/871).	
<b>46A.</b> Power to grant permission for provision, etc of services, amenities, recreation and refreshment facilities on highway, and related powers.	Section 115E, 115F and 115K of the Highways Act 1980	Corporate Director, Partnerships, Housing and Residents Services
<b>47.</b> Power to permit deposit of builder's skip on highway.	Section 139 of the Highways Act 1980.	Corporate Director, Partnerships, Housing and Residents Services
<b>47A.</b> Duty to publish notice in respect of proposal to grant permission under section 115E of the Highways Act 1980	Section 115G of the Highways Act 1980(a)	Corporate Director, Partnerships, Housing and Residents Services
<b>48.</b> Power to license planting, retention and maintenance of trees etc. in part of highway.	Section 142 of the Highways Act 1980.	Corporate Director, Partnerships, Housing and Residents Services
<b>49.</b> Power to authorise erection of stiles etc. on footpaths or bridleways.	Section 147 of the Highways Act 1980.	Corporate Director, Partnerships, Housing and Residents Services

<b>50.</b> Power to license works in relation to buildings etc., which obstruct the highway.	Section 169 of the Highways Act 1980.	Corporate Director, Partnerships, Housing and Residents Services
<b>51.</b> Power to consent to temporary deposits or excavations in streets.	Section 171 of the Highways Act 1980.	Corporate Director, Partnerships, Housing and Residents Services
<b>52.</b> Power to dispense with obligation to erect hoarding or fence.	Section 172 of the Highways Act 1980.	Corporate Director, Partnerships, Housing and Residents Services
<b>53.</b> Power to restrict the placing of rails, beams etc. over highways.	Section 178 of the Highways Act 1980.	Corporate Director, Partnerships, Housing and Residents Services
<b>54.</b> Power to consent to construction of cellars etc. under street.	Section 179 of the Highways Act 1980.	Corporate Director, Partnerships, Housing and Residents Services
<b>55.</b> Power to consent to the making of openings into cellars etc. under streets, and pavement lights and ventilators.	Section 180 of the Highways Act 1980.	Corporate Director, Partnerships, Housing and Residents Services
<b>56.</b> Power to sanction use of parts of buildings for storage of celluloid.	Section 1 of the Celluloid and Cinematography Film Act 1922.	
<b>57.</b> Power to approve meat product premises.	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (S.I. 1994/3082).	
<b>58.</b> Power to approve premises for the production of minced meat or meat preparations.	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205).	
<b>59.</b> Power to approve dairy establishments.	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (S.I. 1995/1086).	
<b>60.</b> Power to approve egg product establishments.	Regulation 5 of the Egg Products Regulations 1993 (S.I. 1993/1520).	

<p><b>61.</b> Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.</p>	<p>Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (S.I. 1995/1763).</p>	
<p><b>62.</b> Power to approve fish products premises.</p>	<p>Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I. 1998/994).</p>	
<p><b>63.</b> Power to approve dispatch or purification centres.</p>	<p>Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.</p>	
<p><b>64.</b> Power to register fishing vessels on board which shrimps or molluscs are cooked.</p>	<p>Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.</p>	<p>N/A</p>
<p><b>65.</b> Power to approve factory vessels and fishery product establishments.</p>	<p>Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.</p>	<p>N/A</p>
<p><b>66.</b> Power to register auction and wholesale markets.</p>	<p>Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.</p>	
<p><b>67.</b> Duty to keep register of food business premises.</p>	<p>Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/2828).</p>	
<p><b>68.</b> Power to register food business premises.</p>	<p>Regulation 9 of the Food Premises (Registration) Regulations 1991.</p>	



<p><b>69.</b> Power to issue near beer licences.</p>	<p>Section 16 to 19 and 21 of the London Local Authorities Act 1995 and to the extent that it does not have effect by virtue of regulation 2(3), section 25 of that Act.</p>	
<p><b>70.</b> Power to register premises or stalls for the sale of goods by way of competitive bidding.</p>	<p>Section 28 of the Greater London Council (General Powers) Act 1984.</p>	
<p><b>71.</b> Power to register motor salvage operators</p>	<p>Part 1 of the Vehicles (Crime) Act 2001</p>	
<p><b>72.</b> Functions relating to the registration of common land or village greens</p>	<p>Part 1 of the Commons Act 2006 and the Commons Registration (England) Regulations 2008.</p>	
<p><b>73.</b> Any other licensing related functions which are or becomes a function which cannot be exercised by the Executive.</p>		
<p><b>C. Functions relating to health and safety at work</b></p>		<p><b>All of the functions listed under this section C will be exercised by the Corporate Director, Law and Governance, or by a person nominated or authorised by him or her</b></p>

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

<del>7. Duty to provide assistance at European Parliamentary elections.</del>	<del>Section 6(7) and (8) of the European Parliamentary Elections Act 2002.</del>	<del>Chief Executive</del>
<b>7. Duty to divide constituency into polling districts.</b>	Section 18A – E of, and Schedule A1 to the Representation of the People Act 1983.	Full Council or General Purposes Committee
<b>8. Power to divide electoral divisions into polling districts at local government elections.</b>	Section 31 of the Representation of the People Act 1983.	Full Council or General Purposes Committee
<b>9. Powers in respect of holding of elections.</b>	Section 39(4) of the Representation of the People Act 1983.	N/A
<b>10. Power to pay expenses properly incurred by electoral registration officers.</b>	Section 54 of the Representation of the People Act 1983.	Chief Executive
<b>11. Power to fill vacancies in the event of insufficient nominations.</b>	Section 21 of the Representation of the People Act 1985.	N/A
<b>12. Duty to declare vacancy in office in certain cases.</b>	Section 86 of the Local Government Act 1972.	Chief Executive
<b>13. Duty to give public notice of a casual vacancy.</b>	Section 87 of the Local Government Act 1972.	Chief Executive
<b>14. Power to make temporary appointments to parish councils.</b>	Section 91 of the Local Government Act 1972.	NA
<b>15. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.</b>	Section 10 of the Representation of the People Act 2000.	Full Council
<b>16. Duty to consult on change of scheme for elections.</b>	Sections 33(2), 38(2) and 40(2) of the Local Government and Public Involvement in Health Act 2007	Chief Executive

17. Duties relating to publicity	Sections 35, 41 and 52 of the Local Government and Public Involvement in Health Act 2007	Chief Executive
18. Duties relating to notice to Electoral Commission	Sections 36 and 42 of the Local Government and Public Involvement in Health Act 2007	Chief Executive
19. Power to alter years of ordinary elections of parish councillors	Section 53 of the Local Government and Public Involvement in Health Act 2007	n/a
20. Functions relating to change of name of electoral area	Section 59 of the Local Government and Public Involvement in Health Act 2007	Full Council
21. Any other election related functions which by statutory instrument or order are or become functions which cannot be exercised by the Executive.		Full Council or General Purposes Committee
<b>E. Functions relating to name and status of areas and individuals</b>		<b>All of the functions listed in this section will be exercised by the Full Council</b>
1. Power to change the name of a county, district or London borough.	Section 74 of the Local Government Act 1972.	
2. Power to change the name of a parish.	Section 75 of the Local Government Act 1972.	N/A
3. Power to confer title of honorary alderman or to admit to be an honorary freeman.	Section 249 of the Local Government Act 1972.	
4. Power to petition for a charter to confer borough status.	Section 245(b) of the Local Government Act 1972.	

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

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

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

<p><b>3.</b> Any other pension related functions which by statutory instrument or order are or become functions which cannot be exercised by the Executive.</p>		
<p><b>I. Miscellaneous functions</b></p>		
<p><b>Part I: Functions relating to public rights of way</b></p>		<p><b>All of the functions listed under Part 1 of this section will be exercised by the Corporate Director, Partnerships, Housing and Residents Services or by a person nominated or authorised by him or her unless within the terms of reference of a Council committee or sub-committee or unless otherwise specified</b></p>
<p><b>1.</b> Power to create footpath, bridleway or restricted byway by agreement.</p>	<p>Section 25 of the Highways Act 1980.</p>	<p>General Purposes Committee</p>
<p><b>2.</b> Power to create footpaths, bridleways and restricted byways.</p>	<p>Section 26 of the Highways Act 1980.</p>	<p>General Purposes Committee</p>
<p><b>3.</b> Duty to keep register of information with respect to maps, statements and declarations.</p>	<p>Section 31A of the Highways Act 1980.</p>	
<p><b>4.</b> Power to stop up footpaths, bridleways and restricted byways.</p>	<p>Section 118 of the Highways Act 1980.</p>	<p>General Purposes Committee</p>
<p><b>5.</b> Power to determine application for public path extinguishment order.</p>	<p>Sections 118ZA and 118C (2) of the Highways Act 1980.</p>	<p>General Purposes Committee</p>
<p><b>6.</b> Power to make a rail crossing extinguishment order.</p>	<p>Section 118A of the Highways Act 1980.</p>	<p>General Purposes Committee</p>
<p><b>7.</b> Power to make a special extinguishment order.</p>	<p>Section 118B of the Highways Act 1980.</p>	<p>General Purposes Committee</p>



<b>8.</b> Power to divert footpaths, bridleways and restricted byways.	Section 119 of the Highways Act 1980.	
<b>9.</b> Power to make a public path diversion order.	Sections 119ZA and 119C (4) of the Highways Act 1980.	
<b>10.</b> Power to make a rail crossing diversion order.	Section 119A of the Highways Act 1980.	
<b>11.</b> Power to make a special diversion order.	Section 119B of the Highways Act 1980.	
<b>12.</b> Power to require an applicant for a special diversion order to enter into an agreement.	Section 119C (3) of the Highways Act 1980.	
<b>13.</b> Power to make an SSSI diversion order.	Section 119D of the Highways Act 1980.	
<b>14.</b> Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.	Section 121B of the Highways Act 1980.	
<b>15.</b> Power to decline to determine certain applications.	Section 121C of the Highways Act 1980.	
<b>16.</b> Duty to assert and protect the rights of the public to use and enjoyment of highways.	Section 130 of the Highways Act 1980.	
<b>17.</b> Duty to serve notice of proposed action in relation to obstruction.	Section 130A of the Highways Act 1980.	
<b>18.</b> Power to apply for variation of order under section 130B of the Highways Act 1980.	Section 130B (7) of the Highways Act 1980.	
<b>19.</b> Power to authorise temporary disturbance of surface of footpath, bridleway or restricted byway.	Section 135 of the Highways Act 1980.	

<b>20.</b> Power temporarily to divert footpath, bridleway or restricted byway.	Section 135A of the Highways Act 1980.	
<b>21.</b> Functions relating to the making good of damage and the removal of obstructions.	Section 135B of the Highways Act 1980.	
<b>22.</b> Powers relating to the removal of things so deposited on highways as to be a nuisance.	Section 149 of the Highways Act 1980.	
<b>23.</b> Power to extinguish certain public rights of way.	Section 32 of the Acquisition of Land Act 1981.	General Purposes Committee
<b>24.</b> Duty to keep definitive map and statement under review.	Section 53 of the Wildlife and Countryside Act 1981 (c. 69).	
<b>25.</b> Power to include modifications in other orders.	Section 53A of the Wildlife and Countryside Act 1981.	
<b>26.</b> Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981.	Section 53B of the Wildlife and Countryside Act 1981.	
<b>27.</b> Power to prepare map and statement by way of consolidation of definitive map and statement.	Section 57A of the Wildlife and Countryside Act 1981.	
<b>28.</b> Power to designate footpath as cycle track.	Section 3 of the Cycle Tracks Act 1984.	
<b>29.</b> Power to extinguish public right of way over land acquired for clearance.	Section 294 of the Housing Act 1981.	General Purposes Committee
<b>30A.</b> Power to authorise stopping up or diversion of highway	Section 247 of the Town and Country Planning Act 1990(c. 8)	General Purposes Committee

<b>31.</b> Power to authorise stopping-up or diversion of footpath, bridleway or restricted byway.	Section 257 of the Town and Country Planning Act 1990.	General Purposes Committee (in relation to stopping up only)
<b>32.</b> Power to extinguish public rights of way over land held for planning purposes.	Section 258 of the Town and Country Planning Act 1990.	General Purposes Committee
<b>33.</b> Power to enter into agreements with respect to means of access.	Section 35 of the Countryside and Rights of Way Act 2000.	
<b>34.</b> Power to provide access in absence of agreement.	Section 37 of the Countryside and Rights of Way Act 2000.	
<b>Part II: Other miscellaneous functions</b>		
<b>35.</b> Functions relating to sea fisheries.	Sections 1, 2, 10 and 19 of the Sea Fisheries Regulation Act 1966.	N/A
<b>36.</b> Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972.	Full Council
<b>37.</b> Power to appoint staff and to determine the terms and conditions on which they hold office (including procedures for their dismissal).	Section 112 of the Local Government Act 1972.	The relevant Corporate Director may appoint staff on such terms and conditions as they may determine but which are in line with any overall terms and conditions agreed by the General Purposes Committee save that, in the case of posts covered by the Standing Orders Relating to Staff, the terms and conditions shall be determined by the General Purposes Committee and the appointment made by the Senior Staff Appointments Sub-Committee.
<b>38.</b> Power to make standing orders as to contracts.	Section 135 of the Local Government Act 1972.	Full Council

<b>39.</b> Duty to make arrangements for proper administration of financial affairs etc.	Section 151 of the Local Government Act 1972.	Corporate Director, Finance and resources
<b>40.</b> Power to appoint an officer for a particular purpose (appointment of "proper officer").	Section 270(3) of the Local Government Act 1972.	The Chief Executive or the relevant Chief Officer in whose area of responsibility the matter relates.
<b>41.</b> Power to make limestone pavement order.	Section 34(2) of the Wildlife and Countryside Act 1981.	N/A
<b>42.</b> Power to make closing order with respect to take-away food shops.	Section 4 of the Local Government (Miscellaneous Provisions) Act 1982.	Corporate Director, Partnerships, Housing and Residents Services
<b>43.</b> Duty to designate officer as the head of the authority's paid service, and to provide staff, etc.	Section 4(1) of the Local Government and Housing Act 1989.	Full Council
<b>44.</b> Duty to designate officer as the monitoring officer, and to provide staff, etc.	Section 5(1) of the Local Government and Housing Act 1989.	Full Council
<b>44A.</b> Duty to provide staff, etc to person nominated by the Monitoring Officer.	Section 82A(4) and (5) of the Local Government Act 2000	Full Council
<b>44B.</b> Powers relating to overview and scrutiny committees (voting rights of co-opted members).	Paragraphs 12 and 14 of Schedule 1 to the Local Government Act 2000	Full Council
<b>45.</b> Duty to approve authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts (as the case may be).	The Accounts and Audit Regulations 2015 (S.I. 2015/234).	Audit and Standards Committee
<b>46.</b> Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997 (S.I. 1997/1160).	Corporate Director Neighbourhoods and Regeneration

<b>47.</b> Powers relating to the preservation of trees.	Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999 (S.I. 1999/1892).	Corporate Director Neighbourhoods and Regeneration
<b>47A.</b> Powers relating to complaints about high hedges.	Part 8 of the Anti-Social Behaviour Act 2003.	Corporate Director, Partnerships, Housing and Residents Services
<b>48.</b> Power to make payments or provide other benefits in cases of maladministration etc.	Section 92 of the Local Government Act 2000.	The relevant Director within whose area of responsibility the maladministration arose.
<b>49.</b> Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption	Section 13(2) of the Criminal Justice and Police Act 2001	Corporate Director, Partnerships, Housing and Residents Services
<b>50.</b> Power to make or revoke an order designating a locality as an alcohol disorder zone	Section 16 of the Violent Crime reduction Act 2006	Full Council
<b>51.</b> Power to apply for an enforcement order against unlawful works on common land.	Section 41 of the Commons Act 2006	Corporate Director, Law and Governance
<b>52.</b> Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference.	Section 45(2)(a) of the Commons Act 2006	Corporate Director, Partnerships, Housing and Residents Services
<b>53.</b> Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens.	Section 45(2)(b) of the Commons Act 2006	Corporate Director, Partnerships, Housing and Residents Services
<b>J. Other functions which are not to be the responsibility of the Executive</b>		
<b>1.</b> Members allowances.		Full Council

<p><b>2.</b> Establishing committees under section 101 of the Local Government Act 1972.</p>		<p>Full Council</p>
<p><b>3.</b> Except where specified any function which by virtue of any enactment passed or made before 19<sup>th</sup> October 2000 may be discharged only by an Authority.</p>		<p>Full Council unless otherwise specified elsewhere in the Constitution.</p>

**TABLE 2**

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

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

<b>6.</b> Any function relating to contaminated land.	Cabinet	Corporate Director, Partnerships, Housing and Resident Services
<b>7.</b> The discharge of any function relating to the control of pollution or the management of air quality.	Cabinet	Corporate Director, Partnerships, Housing and Resident Services
<b>8.</b> The service of abatement notice in respect of a statutory nuisance.	Cabinet	Corporate Director, Partnerships, Housing and Resident Services
<b>9.</b> The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Full Council	Corporate Director, Partnerships, Housing and Resident Services
<b>10.</b> The inspection of the authority's area to detect any statutory nuisance.	Cabinet	Corporate Director, Partnerships, Housing and Resident Services
<b>11.</b> The investigation of any complaint as to the existence of a statutory nuisance.	Cabinet	Corporate Director, Partnerships, Housing and Resident Services
<b>12.</b> The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	The Council if the information is required for the purposes of a Council function and the Cabinet if for the purposes of a Cabinet function.	The relevant director who has responsibility for the function in question.
<b>13.</b> The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	The Council if the particulars are required for the purposes of a Council function and the Cabinet if for the purposes of a Cabinet function.	The relevant director who has responsibility for the function in question.
<b>14.</b> The making of agreements for the execution of highways works.	Cabinet, unless the need for the highways agreement has arisen from a planning decision in which case the responsibility shall be with the Council.	Corporate Director, Neighbourhoods and Regeneration or Planning Committee if it falls within the committee's terms of reference.



<p><b>15.</b> The appointment of any individual –</p> <p>(a) to any office other than an office in which he or she is employed by the authority;</p> <p>(b) to any body other than -</p> <p>(i) the authority;</p> <p>(ii) a joint committee of two or more authorities; or</p> <p>(c) to any committee or sub-committee of such a body and the revocation of any such appointment.</p>	<p>The Council</p>	<p>In the case of a member of staff, the relevant director in whose Directorate the member of staff is employed. In the case of the Councillor appointments they shall be made by Full Council as soon as possible after the Annual Meeting of the Council and then again by the Full Council or the General Purposes Committee if a vacancy arises during that municipal year.</p>
<p><b>16.</b> The making of arrangements with other local authorities for the placing of staff at the disposal of those other authorities.</p>	<p>If the arrangement is in connection with a function of the Cabinet then the Cabinet shall make the arrangement. If the arrangement is in connection with a function which is the responsibility of the Council then the Council shall make the arrangement.</p>	<p>In either case the relevant director within whose area of responsibility the function lies.</p>
<p><b>17.</b> Functions under sections 106, 110, 111 and 113 of the 2007 Act relating to Local Area Agreements</p>	<p>Cabinet</p>	

**TABLE 3**

**FUNCTIONS NOT TO BE THE SOLE RESPONSIBILITY OF THE CABINET**

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

<b>Plans and Strategies</b>	<b>Reference</b>	<b>Mandatory (M) or Discretionary (D) Plan</b>
Crime and Disorder Reduction Strategy	Section 5 and 6 of the Crime and Disorder Act 1998	M
Development Plan Documents	Section 15 of the Planning and Compulsory Purchase Act 2004	M
Youth Justice Plan	Section 40 of the Crime and Disorder Act 1998	M
A plan or strategy for the control of the authority's borrowing investments or capital expenditure or for determining the authority's minimum revenue provisions	Local Authority (Functions and responsibilities) Regulations s4(1)(b)	M
Licensing Authority Policy Statement	Section 349 of the Gambling Act 2005	M
Borough Plan		D
Corporate Plan		D
Any other plan or strategy (whether statutory or non statutory) which the authority determines should be approved or adopted by the authority and not the Cabinet.		D

2. The Cabinet or a member of the Cabinet may not in relation to those plans or strategies listed above do the following which are the responsibility of Council:-
- (a) give an instruction requiring the Cabinet to reconsider any draft plan or strategy submitted by the Cabinet for consideration by the Council;
  - (b) amend any draft plan or strategy submitted by the Cabinet for consideration by the Council other than following an instruction under (a);
  - (c) approve for the purpose of its submission to the Secretary of State for independent examination, a development plan document;

- (d) approve, for the purposes of its submission to the Secretary of State or any Minister of the Crown for his or her approval, any such plan or strategy required to be so submitted for approval; nor
  - (e) adopt with or without modification the plan or strategy.
3. Cabinet may amend, modify, revise, vary, withdraw or revoke any such plan or strategy only where such amendment, modification, revision, variation, withdrawal or revocation is:-
- (a) required for giving effect to any requirements of the Secretary of State or a Minister of the Crown in relation to any such plan or part thereof submitted to him or her for approval; or
  - (b) in the case of development plan documents recommended by the person carrying out an independent examination of any such document; or
4. The Cabinet may make an application:-
- (a) under subsection (5) of section 135 (programmes for disposals) of the Leasehold Reform, Housing and Urban Development Act 1993 for the inclusion of a disposal in a disposal programme;
  - (b) for consent to that disposal under section 32 (power to dispose of land held for the purposes of Part II) or section 43 (consent required for certain disposals not within section 32) of the Housing Act 1985;

PROVIDED that the Council has authorised the making of such an application.

5. The following shall, subject to paragraph 6 below, be the responsibility of the Council; to make any calculation required to be made in accordance with sections 32 to 37, 43 to 49, 52I, 52J, 52T and 52U of the Local Government Finance Act 1992 whether originally or by way of substitute.
6. In relation to those functions listed in the paragraph above the Cabinet may:-
- (a) prepare estimates of the amounts to be aggregated in making the calculation or of other amounts to be used for the purposes of the calculation and estimates of the calculation for submission to the appropriate part of the Council for consideration;
  - (b) prepare the amounts required to be stated in the precept for submission to the appropriate part of the Council for consideration;
  - (c) reconsider those estimates and amounts in accordance with the Council's requirements; and
  - (d) submit for the consideration by the appropriate part of the Council the revised estimates and amounts.
7. The discharge of functions under Sections 28 to 31 of the Planning and Compulsory Purchase Act 2004 (joint local development documents and joint committees) shall, subject to paragraph 8 below, be the responsibility of the Cabinet.
8. In relation to the functions listed in paragraph 7 above the Cabinet may not:-

- (a) make an agreement to prepare one or more joint development plan documents;
  - (b) make an agreement to establish a joint committee to be, for the purposes of Part 2 (local development) of the 2004 Act, the local planning authority;
  - (c) where the authority is a constituent authority to a joint committee, make an agreement that the joint committee is to be, for the purposes of Part 2 of the 2004 Act, the local planning authority for any area or matter which is not the subject of an order under section 29 of the 2004 Act or an earlier agreement under section 30 of the 2004 Act; or
  - (d) make a request to the Secretary of State for the revocation of an order constituting a joint committee as the local planning authority for any area or in respect of any matter.
9. Where a function which is subject to an Order made under section 70 of the Deregulation and Contracting Out Act 1994 is the responsibility of the executive then the Cabinet may authorise another person to exercise that function and may revoke any such authorisation.
10. Where a function which is subject to an Order made under section 70 of the Deregulation and Contracting Out Act 1994 is not the responsibility of the executive then the Cabinet may not authorise another person to exercise that function and nor may it revoke any such authorisation.

**TABLE 4**

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

**Membership**

The committee comprises 5 members of the Cabinet appointed by the Cabinet.

**Chair and Vice Chair**

To be appointed by the Barham Park Trust Committee

**Quorum**

3 Cabinet members

**Terms of Reference**

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

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

The Committee shall meet not less than once per year.

**TABLE 5**

**PROPER AND STATUTORY OFFICER PROVISIONS**

The following definitions are used in this Table:-

FOIA 2000	=	Freedom of Information Act 2000
GDPR 2016	=	General Data Protection Regulations 2016
LASSNHSCR 2009	=	Local Authority Social Services and National Health Service Complaints (England) Regulations 2009
LGA 1972	=	Local Government Act 1972
LGA 2000	=	Local Government Act 2000
LG (MP) A 1976	=	Local Government (Miscellaneous Provisions) Act 1976
LGFA 1988	=	Local Government Finance Act 1988
LGHA 1989	=	Local Government and Housing Act 1989
LGA 2000	=	Local Government Act 2000
RPA 1983	=	Representation of the People Act 1983

\*Chief Officers also have power delegated to them in the table found at paragraph 2.5 of this Part 3 to designate proper officers falling within their area of responsibility.

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

<b><i>(1) statutory provision</i></b>	<b><i>(2) Function</i></b>	<b><i>(3) Proper Officer</i></b>
Section 83 LGA 1972	Witness and receipt of declarations of acceptance of office of Mayor, Deputy Mayor and Councillors.	Chief Executive
Section 84 LGA 1972	Receipt of notice of resignation of office of Mayor, Deputy Mayor and Councillors.	Chief Executive
Section 88 LGA 1972	Convening of meeting for the election of Mayor in the event of a casual vacancy.	Deputy Director of Democratic Services

Section 89 LGA 1972	Receipt of notice of casual vacancies in the council membership.	Deputy Director of Democratic Services
Section 100 LGA 1972	All references to proper officer in connection with the access to information provisions of the Local Government Act.	Deputy Director of Democratic Services
Section 115 LGA 1972	Receipt of monies from accountable officers.	Corporate Director, Finance and Resources
Section 146 LGA 1972	Certificates as to securities on alteration to local authority area or name.	Corporate Director, Law and Governance
Section 151 LGA 1972	Officer with responsibility for the council's financial affairs.	Corporate Director, Finance and Resources
Section 225 LGA 1972	Deposit of any documents pursuant to any enactment, instrument or parliamentary standing orders.	Deputy Director of Democratic Services
Section 229 LGA 1972	Certification of any photographic copy of a document in the custody of the council or of any document destroyed while in which custody, or any part of any such document.	Corporate Director, Law and Governance
Section 233 LGA 1972	Receive documents required to be served on the Council.	The Chief Executive or the Corporate Director, Law and Governance
Section 234(1) LGA 1972	Signature or authentication of any notice or other document which the local authority is authorised or required to give or make or issue.	All officers specified in paragraph 8.2 of this Part 3.
Section 238 LGA 1972	Certification of printed copies of bye laws.	Corporate Director, Law and Governance
Section 41 LG(MP)A 1976	Certification of Minutes, Resolutions, Orders and Reports of the council.	Deputy Director of Democratic Services

Section 35 RPA 1983	The Returning Officer at an election of Councillors of the borough.	Chief Executive
Section 8 RPA 1983	The Electoral Registration Officer of any constituency (or part thereof) in the borough.	Chief Executive
Section 72 Weights and Measures Act 1985	Functions of Chief Inspector of Weights and Measures.	Head of Regulatory Services
Section 114 LGFA 1988	Report to Council concerning unlawful expenditure.	Director of Finance
Section 2 LGHA 1989	Deposit of list of "politically restricted posts" under LGHA 1989.	Corporate Director of Law and Governance
Section 4 LGHA 1989	Head of paid service.	Chief Executive
Section 5 LGHA 1989	Monitoring officer.	Corporate Director of Law and Governance
Regulation 23 Non-Domestic (Collection and Enforcement) (Local Lists) Regulations 1989	Certification of the Local Non-Domestic List.	Director of Finance
Accounts and Audit Regulations 2015	The responsible financial officer.	Director of Finance
Births deaths and marriages	Any reference to the proper officer in any enactment relating to registration of births, death or marriages.	Corporate Director, Partnerships, Housing and Resident Services
LGA 1972, Schedule 12, Part 1, Paragraph 4(2)(b)	Signature of summonses to Council meetings and receipt of notices of addresses to which summonses to meetings to be sent.	Chief Executive
Local Government (Committees and Political groups) Regulations 1990	Receipt of notification from members.	Deputy Director of Democratic Services
Localism Act 2011 Section 29	Establishment and maintenance of the register of interests of	Corporate Director, Law and Governance as Monitoring Officer



	members including voting co-opted members.	
Localism Act 2011 Section 33	Granting dispensations	Corporate Director, Law and Governance as Monitoring Officer
Local Authorities (Standing Orders) (England) Regulations 2001	Notices under regulations 5 and 6 regarding proposed appointments and dismissals of staff.	Corporate Director, Law and Governance
Local Authorities (Referendums) (Petitions and Directions) Regulations	Functions relating to verification and publicity of petitions.	Chief Executive
Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012	All references to the proper officer.	Deputy Director of Democratic Services unless otherwise specified in the Regulations or the Constitution.
Local Authorities (Conduct of Referendums) (England) Regulations 2001	All references to the proper officer.	Chief Executive
Public Health (Control of Diseases) Act 1984 and the Public Health (Infectious Diseases) Regulations 1988	All references to the proper officer	Corporate Director, Partnerships, Housing and Residents Services
Section 36 FOIA 2000	Qualified person for decision on exempt information not to be disclosed	Chief Executive Monitoring Officer
Regulation 4 LASSNHSCR 2009	All references to the responsible person	Corporate Director, Community Health and Wellbeing
Local Government Act 2000 Section 9FB	To provide support to overview and scrutiny committees as the council's Scrutiny Officer.	Deputy Director of Democratic Services
National Health Service Act 2006 S73A	Director of Public Health	Director of Public Health
GDPR 2016 Art 37 and Data Protection Act s69	Data Protection Officer	Senior Constitutional and Governance Lawyer

RESPONSIBILITY FOR FUNCTIONS

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Generally *	Any other proper officer function not otherwise designated.	Chief Executive
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**TABLE 6**

**LIST OF FUNCTIONS THAT MAY ONLY BE EXERCISED BY FULL COUNCIL**

*(Items in italics and marked with an asterisk are not reserved to the Full Council under the law but are only exercisable by the Full Council under this Constitution)*

1	The levying or issuing of a precept for a rate and the setting of council tax and limits for borrowing money.	Local Government Finance Act 1988. Local Government Finance Act 1992. Section 3 Local Government Act 2003.
2	The establishment and abolition of Committees, and Joint Committees (with other local authorities) and the appointment, replacement and removal of members of them other than in cases where the Executive is entitled to make appointments to joint committees <i>and the appointment, replacement and removal of the Chairs, and Vice Chairs of them.*</i>	Local Government Act 1972. Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000.
3.	Resolution to operate executive arrangements.	Section 9KC of the Local Government Act 2000.
4.	Authorisation of applications to Secretary of State for approval of housing land transfers.	Leasehold Reform and Urban Development Act 1993. Sections 32 and 43 of the Housing Act 1985.
5.	<i>Approving the work programme of the Overview and Scrutiny Committees*.</i>	
6	Subject to the urgency procedure in the Standing Orders of this Constitution to make decisions about any function of the Cabinet where the decision maker is minded to make a decision which would be contrary to the policy framework or not wholly in accordance with the budget.	The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.
7	Adopting or amending a members' allowances scheme.	Section 18 of the Local Government and Housing Act 1989. Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.

8	Electing and dismissing the Leader	Sections 9I and 9IA of the Local Government Act 2000.
9	Adoption of the Members' Code of Conduct.	Section 27 of the Localism Act 2011
10	Approval of the appointment of the Head of Paid Service and the dismissal of the Head of Paid Service, Monitoring Officer and Director of Finance.	The Local Authorities (Standing Orders) (England) Regulations 2001 as amended.
11	Adoption of the Policy Framework and the Budget.	The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.
12	Changing the name of the borough.	Section 74 of the Local Government Act 1972.
13	Appointment of the Mayor.	Schedule 4 to the Local Government Act 1972.
14	Power to confer title of honorary alderman or to admit to be an honorary freeman.	Section 249 of the Local Government Act 1972.
15	The making, altering or revoking of standing orders except as provided for in Standing Orders 4 and 5 of this Constitution.	Sections 29, 106 and Schedule 12 of the Local Government Act 1972. Sections 8 and 20 Local Government and Housing Act 1989.
16	Power to make, amend, revoke or re-enact byelaws.	Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978.
17	Power to promote or oppose local or personal Bills.	Section 239 of the Local Government Act 1972.
18	The making of an agreement to establish a joint planning committee or to prepare a joint development plan document or to request the Secretary of State to revoke an order establishing such a joint committee.	Sections 28 to 31 of the Planning and Compulsory Purchase Act 2004 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.
19	Duty to determine and publish, in respect of its licensing functions, a statement of that policy.	Section 5 of the Licensing Act 2003
20	Power to resolve not to issue a casino premises licence and duty to determine and publish the 3 year licensing policy statement	Sections 166 and 349 of the Gambling Act 2005

21	Any other matter that by law is reserved for consideration, approval or resolution by the Council.	
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# **PART 4**

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

**Introduction**

**Health and Wellbeing Board**

**Audit and Standards Committee**

**Audit and Standards Advisory Committee**

**Corporate Parenting Committee**

**Scrutiny Committees**

- *Community and Wellbeing Scrutiny Committee*
- *Resources and Public Realm Scrutiny Committee*

**General Purposes Committee**

- *Pension Fund Sub-Committee*
- *Senior Staff Appointments Sub-Committee*
- *Senior Staff Appeals Sub-Committee*

**Planning Committee**

**Licensing Committee**

- *Alcohol and Entertainment Licensing Sub-Committee*
- *Regulatory Sub-Committee*

**Dismissal Advisory Panel**

**Joint Committees**

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

## Introduction

1. The Council has determined that functions of the Council may be discharged by the committees and sub-committees set out below.

## Council Committees

2. The Council has appointed the following committees:
  - Health and Wellbeing Board
  - Audit and Standards Committee
  - Audit and Standards Advisory Committee
  - Corporate Parenting Committee
  - General Purposes Committee
  - Planning Committee
  - Licensing Committee
  - Community and Wellbeing Scrutiny Committee
  - Resources and Public Realm Scrutiny Committee
  - Dismissal Advisory Panel

## Council Sub-Committees

3. The General Purposes Committee has appointed the following sub-committees:
  - Senior Staff Appointments Sub-Committee
  - Senior Staff Appeals Sub-Committee
  - Pension Fund Sub-Committee
4. The Licensing Committee has appointed 2 Sub-Committees known as the Alcohol and Entertainment Licensing Sub-Committee and the Regulatory Sub-Committee.

## Task Groups, Panels and Commissions

5. The Scrutiny Committees may, establish task groups, panels or Commissions.

## Political Balance

6. The rules on political balance will apply to all committees and sub-committees except the Alcohol and Entertainment Licensing Sub-Committee. The rules on political balance are disapplied in relation to the Health and Wellbeing Board. The Dismissal Advisory Panel comprises of 3 Independent Persons only.

## Terms of Reference and Membership

7. The terms of reference and membership of the committees and any special rules relating to membership are set out below.



**Joint Committees**

8. A number of joint committees have been established with other London Boroughs under the umbrella of the London Councils. The London Councils Committee and the Transport and Environment Committee exercise executive and non-executive functions.
9. The terms of reference and make up of these committees are described below (even though some of the functions are executive functions).
10. The Council has also established the Northwest London Joint Health Overview and Scrutiny Committee.
11. In November 2017, the Joint Committee of the London Boroughs of Brent, Lewisham and Southwark was established to oversee the provision of a shared ICT Service.

## Health and Wellbeing Board Membership

### Membership

#### *Voting Membership*

- Five elected councillors to be nominated by the Leader of the Council. Four councillors will be Cabinet members from the majority party. The fifth member will be an opposition member. An elected councillor will chair the Health and Wellbeing Board.
- Four representatives of Brent Integrated Care Partnership Executive
- A representative of Healthwatch
- A representative of the nursing and care home sector

#### *Non-voting Membership*

- Chief Executive, London Borough of Brent
- Corporate Director, Adult Social Care and Health
- Corporate Director, Children and Young People
- Director of Public Health
- Director of Adult Social Services

An elected councillor will chair the Health and Wellbeing Board.

At least one of the North West London Integrated Care System members shall be a GP. This member will also take on the role of Vice Chair of the Health and Wellbeing Board.

All members of the Health and Wellbeing Board have voting rights, except council officers.

The quorum for the Health and Wellbeing Board is four voting members, with at least two councillors and two other voting members (one of which must be a member of the Brent Integrated Care Partnership) present in order for a meeting to take place.

### Terms of Reference

Brent's Health and Wellbeing Board will:

1. Lead the improvement of health and wellbeing in Brent, undertaking duties required by the Health and Social Care Act 2012.
2. Lead the needs assessment of the local population and subsequent preparation of the borough's Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy. It will ensure that both are updated at regular intervals and that integrated care strategies that are prepared by the Brent Integrated Care Partnership (Brent ICP) are taken into account in this process.
3. Oversee the implementation of the priorities in the Joint Health and Wellbeing Strategy and other work to reduce health inequalities in Brent.
4. Promote integration and partnership working between health and the council, including social care and public health, across all ages by providing steer and oversight to the Brent ICP board to meet borough's health and wellbeing.
5. Develop initiatives between partners to maximise opportunities for early intervention and prevention.

6. Provide leadership to partner agencies on tackling health inequalities resulting from disparities in housing, education, climate emergency, air quality, physical activity, disability and poverty.
7. Review and respond with its opinion on the Forward Plans that are provided by the North West London Integrated Care System and if appropriate within its discretion, give its opinion on the Forward Plans to NHS England.
8. Contribute to the implementation of strategies developed by partners such as the council's Borough Plan, the NHS Long Term Plan and the Office for Health Improvement and Disparities.
9. Seek assurance of partner plans to responding to a health related emergency, e.g. pandemics.
10. Oversee and ensure publication of borough's Pharmaceutical Needs Assessment, which is updated every three years.
11. Agree an annual work programme for the Board.
12. Consider representations from Brent Scrutiny Committees and Healthwatch Brent on matters within the remit of the Health and Wellbeing Board.
13. To receive updates on partner investments into the local health and wellbeing system and make representations at local and national level on sufficiency of resources (e.g. finance, estates and workforce).

## **AUDIT AND STANDARDS ADVISORY COMMITTEE**

### **Membership**

- The committee comprises 7 non-executive councillors and up to 4 voting co-opted members, one of whom will be the Chair of the committee.

### **Terms of Reference**

#### **Audit**

To provide an independent and high-level focus on the adequacy and effectiveness of governance, risk and control arrangements for both internal challenge and public accountability.

To consider the following matters and to make recommendations to the relevant Council bodies or to officers:

#### *Audit Activity*

1. The Deputy Director, Organisational Assurance and Resilience's annual report and opinion, and a summary of internal audit activity (actual and proposed), and the strategic and annual audit plans, and consider the level of assurance these can give over the council's corporate governance arrangements.
2. Summaries of specific internal audit reports as appropriate.
3. The annual review of the effectiveness of internal audit.
4. Reports from internal audit on the effectiveness of internal controls and monitoring of the implementation of agreed audit recommendations, including those not implemented within a reasonable timescale.
5. Specific reports as agreed with the external auditor.
6. The scope and depth of external audit work and to ensure it gives value for money.
7. To consider reports on the effectiveness of financial management arrangements, including compliance with CIPFA's Financial Management Code
8. To consider the council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.

#### *Regulatory Framework*

9. The Council's constitution in respect of Contract Standing Orders and financial regulations.
10. Any issue referred to it by the Chief Executive or a director, or any council body.
- 11.. Effective development and operation of risk management and corporate governance in the Council.
12. To monitor progress in addressing risk-related issues reported to the committee.

13. To review the assessment of fraud risks and potential harm to the council from fraud and corruption.
14. Council policies to facilitate confidential reporting by employees of suspected fraud, corruption or any other wrongdoing and the Council's anti-fraud and anti-corruption policies.
15. The Council's Annual Governance Statement
16. The Council's arrangements for corporate governance and actions to ensure compliance with best practice.
17. To review the governance and assurance arrangements for significant partnerships or collaborations
18. The Council's compliance with its own and other published standards and controls.
19. The handling of any reports from the Local Government Ombudsman.

#### *Accounts*

20. The external auditor's report to those charged with governance on issues arising from the audit of the accounts.
21. The statement of accounts and any issues from the financial statements or from the audit that need to be brought to the attention of the Council.

#### **Standards**

To consider the following matters and to make recommendations to the Monitoring Officer, Audit and Standards Committee or Full Council as appropriate:

22. The Council's obligation to promote and maintain high standards of conduct by members and co-opted members.
23. The operation and effectiveness of, and compliance with, the Brent Members' Code of Conduct (the Code) and other codes, protocols and guidance which supplement the Code.
24. Advice and assistance to members and co-opted members on how to observe the Code and on conduct and standards generally.
25. Training on the Code and conduct and standards generally.
26. Arrangements for dealing with written allegations of failure to comply with the Code.

## **AUDIT AND STANDARDS COMMITTEE**

### **Membership**

- The committee comprises of the 7 councillor members of the Audit and Standards Advisory Committee.

### **Terms of Reference**

#### **Audit**

- 1 To review and approve the annual statement of accounts and consider whether there are any issues from the financial statements or from the audit that need to be brought to the attention of the Council.
- 2 To adopt the Council's Annual Governance Statement.

#### **Standards**

3. To promote and maintain high standards of conduct by members and co-opted members.
4. To approve codes or protocols to supplement the Brent Members' Code of Conduct as referred by the Monitoring Officer.
8. To approve arrangements for dealing with written allegations of failure to comply with the Code.
9. To deal with matters relating to complaints about the conduct of individual members and co-opted members including what, if any, action to take following the investigation of complaints, the hearing of complaints and determining the sanctions to be imposed and/or action to be taken following a finding of breach.
10. To carry out all other functions relating to complaints about members' conduct referred by the Monitoring Officer.

## **CORPORATE PARENTING COMMITTEE**

### **Membership:**

Lead member for children and young people (Chair), four other elected members of the Council and up to four non-voting co-opted members.

### **Terms of reference:**

1. To secure sustained improvements in the life chances of looked after children and care leavers in Brent and work within an annual work plan to that end.
2. To ensure the Council is fulfilling its duties for looked after children and care leavers corporately and with other partners and statutory agencies to ensure services are responsive to the needs of looked after children and care leavers.
3. To monitor and review the quality and effectiveness of services across the council, partner agencies and commissioned services to achieve continuing improvements in outcomes for looked after children and care leavers.
4. To provide a forum for children in care in Brent to talk about issues relating to their experience of being looked after by the Council and to participate in decision making.
5. To directly receive the views of children and young people looked after and leaving care via the Children in Care Council mechanisms and annual consultation to ensure their views and experiences directly influence decisions made at this level.
6. To promote joint-working arrangements between council Directorates and partner agencies in order to improve outcomes for looked after children.
7. To consider recommendations from internal and external inspections and reviews, to agree the actions needed to address any issues identified and to evaluate the implementation of any agreed plan.
8. To champion the educational achievement of children in care.
9. To develop, maintain and keep under review the Brent Looked After Children and Care Leaver Strategy and Action Plan.
10. To consider matters referred to the Committee within its terms of reference and to make recommendations as appropriate to the relevant committee, portfolio holder, officer or partner agency.
11. To provide an annual report on the work of the Committee, highlighting strengths and areas for development in supporting looked after children in Brent.

## **SCRUTINY COMMITTEES**

### **General**

The general membership rules and terms of reference of the Council's scrutiny committees are set out below. Each scrutiny committee may exercise any of the functions set out in the general terms of reference only in respect of those functions which are relevant to the remit of the committee. Any additional functions which are specific to individual committees are set out separately.

The terms of reference of the scrutiny committees reflect the functions the Council must ensure its scrutiny committees can exercise as well as those functions which the Council has decided to delegate to its scrutiny committees. Scrutiny committees are unable to exercise any other functions.

From time to time an issue may arise which fall within the terms of reference of both Scrutiny committees. On these occasions, it may be convenient for the two committees to meet together to consider an item relating to that matter. Should this occur, as the committees remains separately constituted, each committee will continue to be required to meet its own quorum requirements, vote on recommendations at the end of the item (if a vote is required) and be chaired by its own chair.

In order to facilitate an orderly discussion of the item by members of the two committees, the committee chairs will seek to agree between them which of them will co-ordinate proceedings at the joint meeting. In the event that agreement is not reached, agreement will be sought at an informal pre-meeting of both committees.

### **General Membership rules**

Each committee shall comprise of 11 councillors in total. None of the councillors shall be members of the Cabinet or the Health and Wellbeing Board.

### **General Terms of Reference**

Meet six times each municipal year and as and when required to consider any matter 'called-in' in accordance with standing orders.

Review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive.

Make reports or recommendations to Full Council or the Cabinet with respect to the discharge of any functions which are the responsibility of the executive.

Review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive.

Make reports or recommendations to Full Council or the Cabinet with respect to the discharge of any functions which are not the responsibility of the executive.

Make reports or recommendations to Full Council or the Cabinet on matters which affect the borough or its inhabitants.



Decide, in accordance with standing orders, whether a decision made but not implemented in connection with the discharge of any functions which are the responsibility of the executive should be reconsidered or to arrange for Full Council to decide whether the decision should be reconsidered (i.e. to exercise 'call-in' powers).

Review or scrutinise the performance of any body carrying out any function on behalf of or in partnership with the Council.

Commission in depth evidence based reviews.

Consider requests for reviews on the handling of petitions in accordance with standing orders. Produce and publish an annual report.

Co-ordinate the activities of the Committee with scrutiny undertaken by the voluntary sector and other bodies.

### **General Limitations**

The terms of reference of the scrutiny committees exclude matters concerning individual applications for consent, permission, approval, registration or grants. Examples include but are not limited to individual planning and licensing decisions.

### **Community and Wellbeing Scrutiny Committee**

#### **Specific Membership Rules**

In addition to the 11 councillors, the membership of the Community and Wellbeing Scrutiny Committee shall comprise of 4 voting education co-opted members (who may vote on matters relating to school education only) and 2 non-voting education co-opted members (who may not vote on any matter).

#### **Remit**

Adult social care; Safeguarding; Children's services; Cultural services; Education; Health; Housing; Public Health and Wellbeing.

#### **Specific Terms of Reference**

Discharge the functions of the Council under Part 4 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 in respect of the review and scrutiny of relevant NHS bodies or relevant health service providers including:

- reviewing or scrutinising any matter relating to the planning, provision and operation of the health service in the borough; and
- making reports or recommendations to the relevant NHS bodies or relevant health service providers or Full Council on any matter reviewed or scrutinised; however
- in response to any consultation by the relevant NHS bodies or relevant health service providers in respect of any proposal for a substantial development of the health service in the borough or for a substantial variation in the provision of such service, to make recommendations to Full Council only.

## **Resources and Public Realm Scrutiny Committee**

### **Remit**

Corporate policy, partnerships and resources; Budget; Customer services; Commercial services; Planning policy; Environmental policy; Public realm; Employment and skills; IT; Recycling; Regeneration; Transport and highways; Community safety; Property; Emergency planning and business continuity.

### **Specific Terms of Reference**

Review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities (as defined by section 5 of the Crime and Disorder Act 1998) of their crime and disorder functions and to make reports or recommendations to Full Council with respect to the discharge of those functions. This committee is therefore the “crime and disorder committee” for the purposes of section 19 of the Police and Justice Act 2006.

Review or scrutinise the exercise by risk management authorities (including the Council, the Environment Agency and water companies) of flood risk management functions which may affect the borough for the purposes of Part 1 of the Flood and Water Management Act 2010.

## **GENERAL PURPOSES COMMITTEE**

### **Membership**

- The committee comprises 8 councillors.

### **Terms of Reference**

1. Subject to paragraph 10 below, to carry out those functions specified in this Constitution as being the responsibility of the General Purposes Committee, except to the extent that those functions have been delegated to officers or sub-committees of the General Purposes Committee, including but not limited to: -
  - (a) closing and creating footpaths, public rights of way and bridleways;
  - (b) public path and railway extinguishments orders; and
  - (c) agreeing changes to appointments to outside bodies.
2. To appoint its sub-committees as set out in the Constitution.
3. To set the Council Tax Base.
4. To agree the calculation of estimated income from National Non-Domestic Rates.
5. To determine the terms and conditions on which staff appointed by the Senior Staff Appointments Sub-Committee shall hold office, including procedures for their dismissal, and to determine the grading structure to be applied to posts appointed by the Senior Staff Appointments Sub-Committee.
6. To determine the overall framework of terms and conditions of service for employees.
7. To consider workforce equalities and diversity matters referred to it by the Corporate Director, Law and Governance.
8. To determine matters referred to it by the Corporate Director of Finance and Resources or the Pension Fund Sub-Committee concerning the Council's functions under the Local Government Pension Scheme.
9. To agree changes to polling districts, places and stations.
10. To carry out any non-executive functions which are not the responsibility of any other person or Council committee or sub-committee, except where prevented by law from doing so or by any other provision in this Constitution.
11. To carry out any other functions which are non-executive functions and which have been delegated to its sub-committees or officers but which the relevant sub-committee or officer is for whatever reason unable or unwilling to so exercise.

## **PENSION FUND SUB-COMMITTEE**

### **Membership**

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

### **Terms of Reference**

1. To undertake statutory functions on behalf of the Local Government Pension Scheme and ensure compliance with legislation and best practice.
2. To determine policy for the investment, funding and administration of the pension fund.
3. To consider issues arising and make decisions to secure efficient and effective performance and service delivery.
4. To appoint and monitor all relevant external service providers for the Brent Pension Fund, namely:
  - fund managers;
  - custodian;
  - corporate advisers;
  - independent advisers;
  - actuaries;
  - governance advisers;
  - all other professional services associated with the pension fund.
5. To monitor performance across all aspects of the service.
6. To ensure that arrangements are in place for consultation with stakeholders as necessary.
7. To consider the annual statement of pension fund accounts.
8. To consider and approve the Brent Pension Fund actuarial valuation.

## **SENIOR STAFF APPOINTMENTS SUB-COMMITTEE**

### **Membership**

- The sub-committee comprises 5 councillors, at least one of whom shall be a member of the Cabinet.

### **Terms of Reference**

To make appointments to the senior posts set out in the Standing Orders relating to Staff, subject to first complying with the procedures for such appointments set out in those Standing Orders and on the terms and conditions agreed by the General Purposes Committee.

## **SENIOR STAFF APPEALS SUB-COMMITTEE**

NB: The committee will meet on an ad hoc basis as required.

### **Membership**

The sub-committee comprises 5 councillors.

### **Terms of Reference**

To consider and determine, in accordance with the relevant terms and conditions of service, any appeal by any Corporate Director and, exceptionally, any Director against any dismissal arising out of disciplinary action.

## PLANNING COMMITTEE

### Membership

- The committee comprises 8 councillors or such other number of councillors as Full Council may determine from time to time.

### Terms of Reference

1. To determine the following:

- a. Applications for Planning Permission made under the Town and Country Planning Act 1990; and
- b. Applications for Listed Building Consent made under the Planning (Listed Buildings and Conservation Areas) Act 1990,

where the recommendation is for approval and the application falls within at least one of the following categories:

- i. construction of 20 or more dwellings
- ii. outline residential development with a site larger than 0.1 hectare
- iii. construction of a non-residential building exceeding 1,000sq. metres in floorspace outside a designated Strategic Industrial location or Locally Significant Industrial site;
- iv. outline non-residential development with a site larger than 0.1 hectare, outside a designated Strategic Industrial location or Locally Significant Industrial site;
- v. the matter relates to a proposal falling within one of the categories i. to iv. above, and would, if approved, represent a significant departure from one or more of the policies in the Development Plan and, in the opinion of the Corporate Director Communities and Regeneration or the Head of Planning constitute a substantial conflict with the aims and objectives of the relevant policy or policies; or
- vi. 8 or more written objections or a petition containing at least 51 signatures have been received, in accordance with the criteria set out below but only if the application does not relate to:
  - a. alterations to residential buildings including extensions, outbuildings (including garages), walls, vehicular accesses, hardstandings, porches, aerials;
  - b. satellite television dishes or aerials;

2. To determine the following:

- a. Applications for Planning Permission made under the Town and Country Planning Act 1990; and
- b. Applications for Listed Building Consent made under the Planning (Listed Buildings and Conservation Areas) Act 1990,

where at least three Brent Councillors have requested, in accordance with the criteria set out below, that the application be considered by the Planning Committee.

3. To determine or consider any other planning application or planning matter, including pre-application presentations and proposals subject to non-determination appeals, referred to the committee by the Corporate Director, Communities and Regeneration or the Head of Planning.
4. To determine any other planning application or planning matter which the Planning Committee has specifically indicated it wishes to consider itself with the exception of proposals subject to non-determination appeals which in the opinion of the Corporate Director, Communities and Regeneration or the Head of Planning require an urgent response.

### **Limitations**

With the exception of applications falling within paragraphs 1. vi. or 2. above, section 73 of the Town and Country Planning Act 1990 applications for minor material amendments are excluded unless, in the view of the Corporate Director, Communities and Regeneration or the Head of Planning, the minor material amendment raises issues of planning significance not previously considered.

### **Criteria for written objections**

For the purposes of paragraph 1. vi. above, an objection is valid only if, in the opinion of the Corporate Director, Communities and Regeneration or the Head of Planning, all of the following criteria are met:

- it is submitted on-line via the Council's Planning Public Access System or it is received by letter or an email\*;
- it is in response to a current application that has been publicised by the Council;
- it includes the person's name and postal address;
- it is from a person who lives or works or carries on a business:
  - in Brent; or
  - in a ward which is actually and directly affected by the application and adjoins Brent but is in a neighbouring authority's area;
- it raises planning considerations that are material and related to the application;
- it clearly states what is being objected to and gives reason(s) which are relevant planning considerations; and
- any material planning objection raised cannot be overcome by imposing planning condition(s) or securing planning obligation(s).

\* Identical, similar or pro-forma letters or emails, which also meet all of the above criteria, will each be treated as a single signature in support of a petition and not as individual objections in their own right.

**Criteria for Councillor referral (Call- in procedure)**

An application will fall within paragraph 2. above if, in the opinion of the Corporate Director, Communities and Regeneration or the Head of Planning, all of the following criteria are met:

- it clearly states that the Councillor wishes the application to be determined by the Planning Committee and explains why it is not appropriate for the application to be determined under officer delegated powers;
- it states whether or not the Councillor has been in contact with the applicant, agent, objector(s) or any other interested party concerning the application and, if so, provides details of the approach(es), including the identity of the person(s);
- it is in response to a current application that has been publicised by the Council; and
- it raises planning considerations that are material and related to the application.



## **LICENSING COMMITTEE**

### **Membership**

- The Committee comprises 10 members.

### **Terms of Reference**

1. To discharge all (non-executive) licensing functions of the Council under the Licensing Act 2003 and the Gambling Act 2005, except
  - a. the determination of the Council's Statement of Licensing Policy and the publication of that Statement under either Act;
  - b. the making, and varying or revoking, of an order under section 172A of the Licensing Act (early morning alcohol restriction order); and
  - c. and the making of a resolution not to issue a casino premises licence under section 166 of the Gambling Act.
2. To discharge all of the Council's other licensing and registration functions which are not the responsibility of Cabinet or have not been reserved for Full Council.
3. To consider and review policies, procedures and other issues falling within the terms of reference of the Committee.
4. To establish and appoint to sub-committees to discharge:
  - a. the Committee's functions under the Licensing Act 2003;
  - b. the Committee's functions under the Gambling Act 2005; and
  - c. all of the Council's other licensing and registration functions.
5. To arrange for the discharge of its functions by officers as permitted by law.
6. To receive and consider annual reports, where appropriate, on the needs of the local tourist economy, employment and investment in the area and any other matter directly related to the licensing functions in the borough.
7. To direct officers to report to the Planning Committee, where appropriate, on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder.

## **Alcohol and Entertainment Licensing Sub-Committee**

### **Membership**

- The sub-committee shall comprise of 3 members.
- All members and alternate members must be members of the Licensing Committee.

### **Terms of Reference**

To consider and determine applications and other matters under the Licensing Act 2003 which cannot be determined by officers in accordance with section 10 of the Licensing Act 2003 or any other enactment and any other matter referred to it for determination by the Corporate Director Neighbourhoods and Regeneration.

To consider and determine applications and other matters under the Gambling Act 2005 which cannot be determined by officers in accordance with section 10 of the Licensing Act 2003, as applied by various provisions of the Gambling Act 2005 or any other enactment, and any other matter referred to it for determination by the Corporate Director Neighbourhoods and Regeneration.

### **Regulatory Sub-Committee**

#### **Terms of Reference**

- The sub-committee shall comprise of 5 members.
- All members and alternate members must be members of the Licensing Committee.

To discharge all of the Licensing Committee's licensing and registration functions which do not relate to the Licensing Act 2003 or the Gambling Act 2005.

### **DISMISSAL ADVISORY PANEL**

#### **Membership**

- The Panel comprises 3 independent persons appointed under s28 (7) of the Localism Act 2011 and in accordance with the requirements of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 ('the 2015 Regulations).
- The Panel shall be appointed at least 20 working days before any meeting of Full Council to consider whether or not to approve a proposal to dismiss the Chief Executive, Monitoring Officer or Director of Finance for any reason other than redundancy, permanent ill-health or infirmity of mind or body.

#### **Terms of reference**

1. The function and remit of the Panel are as set out in the 2015 Regulations. Accordingly, the Panel can give advice, express its views and make recommendations to Full Council before it meets to consider whether or not to approve a proposal to dismiss the Chief Executive, Monitoring Officer or Director of Finance.

## **JOINT COMMITTEES**

### **1. INTRODUCTION**

The Council is a member of a number of joint committees under the umbrella of London Councils (formerly known as the Association of London Government or the ALG). The ALG Agreement dated 1 April 2000 (as varied by an agreement dated 13 December 2001) established the Leaders' Committee, the Grants Committee and the London Housing Unit Committee as joint committees. There is a further agreement dated 15 January 1998 (as varied by the Agreement dated 13 December 2001), which established another joint committee known as the Transport and Environment Committee. The Council is also a member of the Northwest London Joint Health and Overview and Scrutiny Committee and the West London Economic Prosperity Board. In November 2017, the Joint Committee of the London Boroughs of Brent, Lewisham and Southwark was established to oversee the provision of a shared ICT Service.

### **2. LONDON COUNCILS' COMMITTEE (KNOWN AS THE LEADERS' COMMITTEE)**

#### **Membership**

- The Leaders' Committee is comprised of the Leader of each of the 33 London Local Authorities including the Leader of Brent Council.

#### **Terms of Reference**

(This joint committee discharges executive and non-executive functions)

The terms of reference of the Committee are set out in full in the Agreement dated 1 April 2000 and are summarised below:

1. To consult on the common interests of the London Local Authorities and to discuss matters relating to Local Government.
2. To represent the interests of the London Local Authorities to national and Local Government, to Parliament, to the European Union and other international organisations and to other bodies and individuals, and to negotiate as appropriate on behalf of member authorities.
3. To formulate policies for the development of democratic and effectively management Local Government.
4. To provide forums for the discussion of matters of common concern to the London Local Authorities and a means by which their views may be formulated and expressed.
5. To appoint representatives or staff to serve on any other body.
6. To represent the interests of the London Local Authorities as employers.

7. To provide services to the London Local Authorities including the dissemination of information on Local Government and on other relevant issues.
8. To provide information to the public, individuals and other organisations on the policies of London Councils and Local Government issues relevant to London.
9. To act as the regional body of the Local Government Association.
10. To act for, and on behalf of London Local Authorities in their role as employers, through the provision and development of a range of services.

### **Rules of Procedure**

The rules of debate and procedure for the conduct of meetings of the Leaders' Committee are set out in Standing Orders contained in the 1 April 2000 Agreement and which are also published on the London Councils' website. London Councils is also required to comply with Financial Regulations contained in the ALG Agreement. These Standing Orders and Financial Regulations also apply to the other London Councils joint committees detailed below.

## **3. TRANSPORT AND ENVIRONMENT COMMITTEE**

### **Membership**

- This Committee was established under an Agreement dated 15 January 1998, which was varied by Agreements dated 13 December 2001 and 1 May 2003. The Committee is comprised of one councillor from each of the London Local Authorities including a councillor from Brent Council and Transport for London.

### **Terms of Reference**

(This joint committee discharges executive and non-executive functions)

The terms of reference of the Committee are set out in full in the Agreement of 13 December 2001 and are summarised below:

1. Appoint and provide accommodation and administrative support for parking adjudicators and determine the places at which parking adjudicators are to sit.
2. Determine the penalty charge levels and fees for de-clamping, vehicle recovery, storage and disposal subject to the approval of the Secretary of State.
3. Determine the rate of discount for early payment of penalty charge notices.
4. Determine the form for aggrieved motorists to make representations to London Local Authorities under Section 71 of the Road Traffic Act 1991.

5. The publication and updating as necessary of the Code of Practice for Parking in London.
6. The co-ordination and maintenance of vehicle removal and clamping operations.
7. The establishment of links with the Metropolitan and City Police and County Courts and the DVLA.
8. Ticket processing, general data collection and service monitoring.
9. The establishment of common training standards in connection with parking standards, the accreditation of training centres and award qualifications.
10. The establishment of London-wide parking schemes.
11. Implementation and enforcement of the London Lorry Ban.
12. Managing the Concessionary Fares Scheme.
13. Managing the London Taxicard Scheme.

#### **4. GRANTS COMMITTEE**

##### **Membership**

- This Committee was established to take decisions in relation to the London Councils Grants Scheme which was established under section 48 of the Local Government Act 1985. The members of the Grants Committee are from the 33 London Boroughs (this includes the City of London).

##### **Terms of Reference**

(This joint committee discharges executive functions)

The Terms of Reference of the Committee are:

1. to ensure the proper operation of the London Borough Grants Scheme;
2. to make recommendations to the Leaders' Committee on overall policies, strategy and priorities;
3. to make recommendations to the Leaders' Committee on the annual budget for the London Borough Grants Scheme;
4. to consider grant applications and make grants to eligible voluntary organisations;  
and

5. to make all decisions relating to the making of grants and the operation of the scheme save those which are specifically reserved to constituent councils.

## **5. LONDON HOUSING CONSORTIUM**

### **Membership**

- The London Housing Consortium is a joint committee and is a building procurement consortium for housing, schools and corporate buildings. There are 12 Full Members of the London Housing Consortium which comprise of ten London Boroughs, Buckinghamshire County Council and one registered social landlord.

### **Terms of Reference**

The Terms of Reference of this Committee are:

1. To provide specialist technical and procurement services related to building programmes undertaken by London Housing Consortium constituent authorities and other public sector bodies.
1. To establish, develop and manage framework agreements for the procurement of building components and services for the use and benefit of all constituent authorities and other public sector bodies.

## **NORTH WEST LONDON JOINT HEALTH OVERVIEW AND SCRUTINY COMMITTEE**

### **Membership**

One nominated voting member from each Council participating in the North West London Joint Health Overview and Scrutiny Committee plus one alternate member who can vote in the voting member's absence. In addition, one non-voting co-opted member of the London Borough of Richmond. The committee will require at least six voting members in attendance to be quorate. The North West London Joint Health Overview and Scrutiny Committee will elect its own Chair and Vice Chair. Elections will take place on an annual basis each May, or as soon as practical thereafter, to allow for any annual changes to the committee's membership.

### **Terms of Reference**

1. To scrutinise the plans for meeting the health needs of the population and arranging for the provision of health services in North West London; in particular the implementation plans and actions by the North West Integrated Care System and their Integrated Care Board, focusing on aspects affecting the whole of North West London. Taking a wider view than might normally be taken by individual local authorities
2. To review and scrutinise decisions made, or actions taken by North West London Integrated Care System, their Integrated Care Board and/or other NHS service providers, in relation to the plans for meeting the health needs of the population and arranging for the provision of health services in North West London, where appropriate.
3. To make recommendations to North West London Integrated Care System and its Integrated Care Board, NHS England, or any other appropriate outside body in relation to the plans for meeting the health needs of the population and arranging for the provision of health services in North West London; and to monitor the outcomes of these recommendations where appropriate.
4. To require the provision of information from, and attendance before the committee by, any such person or organisation under a statutory duty to comply with the scrutiny function of health services in North West London. Individual local authority members of the North West London Joint Health Overview and Scrutiny Committee will continue their own scrutiny of health services in, or affecting, their individual areas (including those under the for North West London).

5. Participation in the Joint Health Overview and Scrutiny Committee will not preclude any scrutiny or right of response by individual boroughs. In particular, and for the sake of clarity, this joint committee is not appointed for and nor does it have delegated to it any of the functions or powers of the local authorities, either individually or jointly, under Section 23 of the local authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

### **Duration**

The Joint Health Overview and Scrutiny Committee will continue until all participating authorities decide otherwise and does not preclude individual authorities from leaving the Committee if they choose to do so. The Committee will keep under review whether it has fulfilled its remit and recommendations of the Committee will be reported to a Full Council meeting of each participating authority, at the earliest opportunity

## **WEST LONDON ECONOMIC PROSPERITY BOARD**

### **Membership**

One member from each participating borough. Brent Council will be represented by the Leader or another Member of the Cabinet nominated by the Leader.

### **Terms of Reference**

The participating boroughs have agreed arrangements for certain of their functions to be discharged jointly with the intention of promoting economic prosperity in West London as detailed in the Board's Functions and Procedure Rules and other governance documentation.

## **JOINT COMMITTEE OF THE LONDON BOROUGHS OF BRENT, LEWISHAM AND SOUTHWARK**

### **1. Establishment of a Joint Committee**

- 1.1. The Joint Committee shall be formed of the London Boroughs of Brent, Lewisham and Southwark.
- 1.2. In exercise of their powers under the Local Government Act 1972, the Local Government Act 2000, the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 and all other enabling powers the Councils (which for this purpose includes Brent's Cabinet, Southwark's Cabinet and Lewisham's Mayor and Cabinet) shall establish a joint committee to be known as the Joint Committee of the London Boroughs of Brent, Lewisham and Southwark (and within these Terms of Reference also referred to as "the Joint Committee") with effect from 1st November 2017.



## 2. Purpose and function

2.1. The London Boroughs of Brent, Lewisham and Southwark have established the Joint Committee to discharge executive functions on behalf of the three boroughs, in so far as they relate to joint activities or areas of common concern in relation to the provision of ICT infrastructure and related supporting services. The Joint Committee shall be responsible for and shall have delegated to it the following functions of the Councils as set out in a written agreement between the Councils and referred to in these Terms of Reference as the Shared ICT Service Agreement (the Agreement):

- the strategic direction for the Shared ICT Service
- those matters for which it is identified as responsible for under the Agreement
- to consider matters referred to it by the Joint Management Board (as referred to in the Agreement)
- to act as the decision making body in respect of any joint decision required to be taken by the Councils under the Agreement other than those that have been excluded and defined as Reserved Decisions

Which shall together be known as “the Agreed Functions”.

2.2. The governance arrangements provide flexibility so that the Agreed Functions can be added to or amended over time.

2.3. Each Council hereby empower the Joint Committee to discharge on their behalf the Agreed Functions and empower the Joint Committee to arrange for the discharge of the Agreed Functions or any of them by any officer or officers of the Councils.

2.4. The Joint Committee shall operate and discharge its responsibilities in accordance with the terms of these Terms of Reference and the Agreement.

2.5. The work of the Joint Committee shall be supported by the Joint Management Board.

2.6. The Joint Committee does not have power to exercise non-executive functions on behalf of the Councils.

2.7. The initial meeting of the Joint Committee shall take place within six (6) months of the Effective Date and thereafter, they shall occur twice yearly.

2.8. Meetings of the Joint Committee shall be rotated between the offices of each of the Councils.

2.9. The Joint Committee may delegate to an officer of the Councils but may not delegate to sub-committees.

2.10. Meetings of the Joint Committee will be open to the public except to the extent that they are excluded under the following paragraph.

2.11. The public may be excluded from a meeting of the Joint Committee during an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that, if members of the public were present during that item, confidential information as defined in section 100A(3) of the Local Government Act 1972 or exempt information as defined in section 100I and Schedule 12A to the Local Government Act 1972 would be disclosed to them.

### **3. Business to be transacted**

3.1. Standing items for each meeting of the Joint Committee will include the following:

- Apologies for absence
- Declaration of Interest
- Minutes of the Last Meeting
- Provision for public participation
- Substantive items for consideration.
- Exclusion of the Public
- Closed items for consideration

3.2. The Chair may vary the order of business and take urgent items as specified in the Access to Information Requirements / Rules as set out in the respective Councils' constitutions at his/her discretion. The Chair should inform the Appointed Members of the Joint Committee prior to allowing the consideration of urgent items.

3.3. An item of business may not be considered at a meeting unless:

3.3.1. A copy of the agenda included the item (or a copy of the item) is open to inspection by the public for at least five clear days before the meeting unless it contains confidential information or exempt information as referred to in the Access to Information Requirements / Rules referred to in paragraph 3.2; or

3.3.2. By reason of special circumstances which shall be specified in the minutes the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency, or

3.3.3. "Special Circumstances" justifying an item being considered as a matter of urgency will relate to both why the decision could not be made at the meeting allowing the proper time for inspection by the public as well as why the item

or report could not have been available for inspection for five clear days before the meeting.

#### **4. Extraordinary meetings**

4.1. Arrangements may be made following consultation with Chair of the Joint Committee to call an extraordinary meeting of the Joint Committee. The Chair should inform the Appointed Members prior to taking a decision to convene an extraordinary meeting.

4.2. The business of an extraordinary meeting shall be only that specified on the agenda.

#### **5. Cancellation of meetings**

5.1. Meetings of the Joint Committee may, after consultation with the Chairman, be cancelled if there is insufficient business to transact or some other appropriate reason warranting cancellation. The date of meeting may be varied after consultation with the Chairman and Appointed Members of the Joint Committee in the event that it is necessary for the efficient transaction of business.

#### **6. Rules of debate**

6.1. The rules of debate in operation in the Chair's Council shall apply.

#### **7. Request for determination of business**

7.1. Any Appointed Member of the Joint Committee may request at any time that:

- The Joint Committee move to vote upon the current item of consideration.
- The item be deferred to the next meeting.
- The item be referred back to a meeting of the Chief Executives of the Participating Boroughs for further consideration.
- The meeting be adjourned.

The Joint Committee will then vote on the request.

#### **8. Urgency Procedure**

8.1. Where the Chair (following consultation with the Appointed Members of the Joint Committee) is of the view that an urgent decision is required in respect of any matter within the Joint Committee's functions and that decision would not reasonably require the call of an Extraordinary Meeting of the Joint Committee to consider it and it cannot wait until the next Ordinary Meeting of the Joint Committee, then they may request in writing the Chief Executive of each Council (in line with pre-existing delegations in each Council's Constitution) to take urgent action as is required within each of the constituent Councils.

## **9. Membership**

- 9.1. Each Council shall appoint two of its Council Members to sit on the Joint Committee as “Appointed Members” to the Joint Committee. Each Council should also appoint a named substitute/s to attend in the event any one member is absent. Appointed Members or their named substitute shall be an executive member for those operating executive governance arrangements). The member appointed as a substitute shall have full voting rights when they are acting as substitute.
- 9.2. Each Appointed Member of the Joint Committee shall serve upon the Joint Committee for as long as he or she is appointed to the Joint Committee by the relevant Council but shall cease to be an Appointed Member of the Joint Committee if he or she ceases to be a member of the Council appointing him or her.

## **10. Chair**

- 10.1. The Chair of the Joint Committee shall be rotated between the Appointed Members of the Councils for each meeting of the Joint Committee.

## **11. Quorum**

- 11.1. A meeting of the Joint Committee shall require a quorum of three of the six Appointed Members of the Joint Committee and that there shall be no quorum unless at least one Appointed Member from each Council is present.

## **12. Voting**

- 12.1. The Joint Committee’s decision making will operate on the basis of mutual cooperation and consent. It is expected that decisions will be taken on a consensual basis wherever reasonably possible.
- 12.2. Where a vote is required it will be on the basis of one vote per member and unless a recorded vote is requested, the Chair will take the vote by show of hands.
- 12.3. Any matter shall be decided by a simple majority of those members voting and present. Where there is an equality of votes, the Chair of the meeting shall have a second and casting vote.
- 12.4. Reserved Decisions must be referred back to the members of each Council.

## **13. Overview and scrutiny**

- 13.1. Overview and scrutiny (within the meaning of the Local Government Act 2000) will be the responsibility of each Council and the appropriate scrutiny

arrangements of each Council will apply subject to any necessary changes being made to meet the circumstances of the Joint Committee arrangement.

#### **14. Administration**

14.1. Administrative support for the meetings of the Joint Committee will be provided by the Host Authority and will be formally designated as clerk to the Joint Committee with responsibility for the provision of administrative support.

#### **15. Lead Borough / Accountable Body Arrangements**

15.1. The London Borough of Brent is the lead accountable body for the Shared ICT Service.

#### **16. Dispute Resolution**

16.1. Any dispute that arises as a result of these Terms of Reference shall be dealt with in accordance with Clause 17 of the Agreement governing the Shared ICT Service.

# **PART 5**

## **CODES AND PROTOCOLS**

**Brent Members' Code of Conduct**

**Planning Code of Practice**

**Licensing Code of Practice**

**Local Code of Corporate Governance**

**Code of Practice on Publicity**

**Protocol for Member/Officer Relations**

**Protocol on Members' Rights of Access to Information**

**Protocol on Call-in**

**Protocol on Extraordinary Meetings**

## BRENT MEMBERS' CODE OF CONDUCT<sup>1</sup>

### *Maintaining High Standards of Conduct*

#### Introduction

1. This Code applies to you as a member of Brent Council.
  - (a) a complainant;
  - (b) a witness; or
  - (c) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with this Code.
2. You must comply with this Code when you act, claim to act, or give the impression you are acting as a member of the Council.
3. It is your responsibility to ensure that you are familiar with, and comply with, this Code.

#### High Standards of conduct

4. You must maintain a high standard of conduct.
5. In particular, you must comply with the seven principles of conduct in public life set out in **Appendix 1**.
10. You must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.
11. You must not make frivolous, vexatious or repeated complaints against another member or an officer of the Council.

#### Your obligations

6. You must treat others with respect.
7. You must not do anything which may cause the Council to breach any of the duties under the Equality Act 2010<sup>2</sup>.
8. You must not bully<sup>3</sup> any person.
9. You must not intimidate or attempt to intimidate any person who is or is likely to be:
  12. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.
  13. You must not disclose any information which is confidential in nature or which is provided in confidence without consent or authority.
  14. You must not prevent another person from gaining access to information to which that person is entitled by law.

<sup>1</sup> The Code of Conduct is reviewed at least annually by the Monitoring Officer and any changes are approved at a meeting of Council, usually at its annual meeting. The most recent changes were adopted 18 May 2022.

<sup>2</sup> The Council has adopted the International Holocaust Remembrance Alliance (IHRA) definition of anti-semitism

<sup>3</sup> The Council uses the definition contained in Advisory, Conciliation and Arbitration Service (ACAS) publication *Bullying and Harassment at Work* which states: "Bullying may be characterised as: Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient".

15. You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.
16. You must, when using or authorising the use by others of the resources of the Council:
- (a) act in accordance with the Council's reasonable requirements;
  - (b) ensure that such resources are not used improperly for private or political purposes (including party political purposes); and
  - (c) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
17. When reaching decisions on any matter you must have regard to any relevant advice provided to you by:
- (a) the Council's Chief Executive (the Head of Paid Service);
  - (b) the Council's Corporate Director of Finance and Resources; or
  - (c) the Council's Monitoring Officer,
- where that officer is acting pursuant to his or her statutory duties.
18. You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.
19. You must attend mandatory training sessions on this Code or Members' standards in general, and in accordance with the Planning Code of Practice and Licensing Code of Practice.
20. You must attend Safeguarding, Equalities and Data Protection training provided by the Council and receive, attend and consider updates as appropriate. In the event that you fail to attend mandatory Data Protection training your access to the council's IT systems may be restricted.

### Registration of Interests

21. You must, within 28 days of your election or your appointment as a co-opted member, notify the Monitoring Officer in writing of any disclosable pecuniary interests (**see para. 27 and Appendix 2**) or any registrable personal interests (**see para. 31**).
22. You must, within 28 days of:
- (a) your re-election; or
  - (b) your re-appointment as a co-opted member; or
  - (c) becoming aware of any change to an interest registered or any new interest which you are required to register

notify the Monitoring Officer in writing of any change to an interest registered or any new interest which you are required to register (**see para. 21**).

23. The Monitoring Officer will maintain the Council's register of interests and enter onto that register all interests notified to him/her.

### Sensitive interests



24. If the nature of your interest is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation your interest will be considered to be a sensitive interest.
25. Your sensitive interest will still be entered in the Council's register of interests, but the copies of the register that are made available for inspection, and any published version of the register, will not include details of the interest. Instead it will state that you have an interest but the details have been withheld because it is a sensitive interest.
26. If at a meeting you have an interest which the Monitoring officer agrees is a sensitive interest, you must disclose to the meeting that you have an interest that is sensitive but need not disclose the nature of the interest or any sensitive information to the meeting.

### **Disclosable Pecuniary Interests**

27. You have a disclosable pecuniary interest if it is an interest specified in regulations made by the Secretary of State from time to time. The current disclosable pecuniary interests are set out in **Appendix 2**.
28. You have a disclosable pecuniary interest if it is an interest that you have or your spouse or civil partner (or person with whom you are living as a spouse or civil partner) has and which you are aware of.

### **Personal interests**

29. You have a personal interest in any business of the Council where either:
- (a) the business of the Council relates to or is likely to affect a registrable personal interest (**see para. 31**); or
  - (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a connected person (**see para. 30**);
- and
- (c) that interest is not a disclosable pecuniary interest.
30. A connected person is:
- (a) a member of your family;
  - (b) your friend;
  - (c) any person with whom you have a close association; or
  - (d) any person or body who is the subject of a registrable personal interest (**see para. 31**).

### **Registrable personal interests**

31. You have to register the following personal interests:
- (a) any body of which you are a member or in a position of general control or management, and to which you are appointed or nominated by the Council;

(b) any body:

- (i) exercising functions of a public nature;
- (ii) directed to charitable purposes; or
- (iii) whose principal purposes include the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management; and

(c) a gift or hospitality you have received worth an estimated value of at least £50 in your capacity as a member. 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. You must notify the Monitoring Officer in writing of the following details:

- (i) the name of the person from whom you have received the gift or hospitality;
- (ii) when it was received; and
- (iii) what you reasonably believe to be the value or approximate value of the gift or hospitality. In deciding the value of the gift or hospitality it is what, for example, a member of the public would have had to pay to attend an event that matters (i.e. the open market value or official price) and not the fact that a courtesy/corporate ticket has a nil face value.

### Disclosure of personal interests and participation in meetings

32. Subject to para. 24, where you have a personal interest in any matter being considered by the Council and you are present at a meeting of the Council at which the matter is considered, you must disclose the existence and nature of the interest before the matter is discussed or as soon as it becomes apparent to you.

33. Para. 32 only applies where you are aware or ought reasonably to be aware of the existence of the interest.

34. If the personal interest is such that:

(a) a member of the public knowing the facts would reasonably regard it as so significant that it is likely to prejudice your judgement of the public interest; **and**

(i) it affects your financial position or the financial position of a connected person (see para. 30); **or**

(ii) it relates to a regulatory matter affecting or likely to affect you or a connected person (see para. 30),

(b) then, as well as complying with para. 32, you must not participate, or participate further, in any discussion of, or in any vote or further vote taken on, the matter at the meeting, save that you may remain in the meeting only for the purpose of making representations,

answering questions or giving evidence relating to the matter, and provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise; and

- (c) subject to (c), you must withdraw from the room where a meeting considering the matter is being held.

### **Disclosable pecuniary interests and effect on participation and voting**

35. Sub-paragraphs (1), (2), (3) and (4) apply to you if you:

- (i) are present at a meeting of the Council,
  - (ii) have a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting, and
  - (iii) are aware that the condition in sub-paragraph (ii) is met.
- (1) You must disclose the existence and nature of the interest to the meeting, but this is subject to paragraph 24.
  - (2) You must not participate, or participate further, in any discussion of, or in any vote or further vote taken on, the matter at the meeting.
  - (3) You must withdraw from the room where a meeting considering the matter is being held.
  - (4) If the interest is not yet entered in the Council's register, and is not the

subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the meeting.

36. Sub-paragraphs (1) and (2) apply to you if:

- (i) a function of the Council may be discharged by a member acting alone;
  - (ii) you have a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, by you in the course of discharging that function, and
  - (iii) you are aware that the condition in sub-paragraph (ii) is met.
- (1) If the interest is not yet entered in the Council's register, and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date when you become aware that the condition in sub-paragraph (b) is met in relation to the matter.
  - (2) You must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by you).
  - (3) For the purposes of this and the previous paragraph, an interest is the "subject of a pending notification" if:
    - (a) the interest has been notified to the Monitoring Officer, but

- (b) that interest has not yet been entered in the Council's register in consequence of that notification.

codes, protocols, policies and procedures<sup>4</sup> which do not form part of this Code but which impact upon and regulate your conduct as a councillor. You are required to comply with these rules and any breach may be regarded as a breach of this Code. Examples include:

### Dispensations

37. On a written request to the Monitoring Officer, the Council may grant you a dispensation to participate in a discussion and/or vote on a matter at a meeting, or discharge a Council function acting alone, where you would otherwise not be allowed to if, after having had regard to all relevant circumstances, one of the grounds specified in section 33(2) of the Localism Act 2011 is satisfied.

- (1) Members' Gifts and Hospitality Protocol
- (2) Planning Code of Practice
- (3) Licensing Code of Practice
- (4) Local Authority Code of Publicity
- (5) Protocol for Member/Officer relations
- (6) IT policies and procedures

### Definitions

38. A **member** includes a co-opted/independent member.
39. A **co-opted/independent member** is a person who is not a member of the Council but is a member (with or without voting rights) of any committee or sub-committee of the Council or represents the Council on any joint committee or joint sub-committee of the Council.
40. A **meeting** means any meeting of Full Council; the Cabinet; any of the Council's or Cabinet's committees, sub-committees, joint committees or joint sub-committees.

### Related documents

41. The Council has adopted other

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<sup>4</sup> In relation to the Mayor, this includes the Financial and Procedural Rules governing the Mayor's Charity Appeal.

### Appendix 1 – Seven Principles of Conduct in Public Life

<b>1. Selflessness</b>	You should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
<b>2. Integrity</b>	You should not place yourself in situations where your integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
<b>3. Objectivity</b>	You should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
<b>4. Accountability</b>	You should be accountable to the public for your actions and the manner in which you carry out your responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to your particular office.
<b>5. Openness</b>	You should be as open as possible about your actions and those of the Council, and should be prepared to give reasons for those actions.
<b>6. Honesty</b>	You should be truthful in your Council work and avoid creating situations where your honesty may be called into question.
<b>7. Leadership</b>	You should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

## Appendix 2 - Disclosable Pecuniary Interests

### (The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012)

Subject	Description of interest
<b>Employment, office, trade, profession or vocation</b>	<i>Any employment, office, trade, profession or vocation carried on for profit or gain which you or the relevant person* undertakes.</i>
<b>Sponsorship</b>	<i>Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. The relevant period is the 12 months ending on the day when you notify the Monitoring Officer about this particular disclosable pecuniary interest.</i>
<b>Contracts</b>	<i>Any contract which is made between you or the relevant person* (or 'a body in which you or the relevant person has a beneficial interest'**) and the Council –</i>  <i>(a) under which goods or services are to be provided or works are to be executed; and</i>  <i>(b) which has not been fully discharged.</i>
<b>Land</b>	<i>Any beneficial interest in land which you or the relevant person* has and which is within the area of the Council.</i>
<b>Licences</b>	<i>Any licence (alone or jointly with others) which you or the relevant person* holds to occupy land in the area of the Council for a month or longer.</i>

<b>Corporate tenancies</b>	<i>Any tenancy where (to your knowledge) - (a) the landlord is the Council; and (a) the tenant is 'a body in which you or the relevant person has a beneficial interest'</i> **.
<b>Securities</b>	<i>Any beneficial interest which you or the relevant person* has in securities of a body where – (a) that body (to your knowledge) has a place of business or land in the area of the Council: and (b) either – (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you or the relevant person* has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</i>

\* 'relevant person' = your spouse or civil partner or person with whom you are living as a spouse or civil partner.

\*\* 'a body in which you or the relevant person has a beneficial interest' = a firm in which you or the relevant person is a partner or a body corporate of which you and the relevant person is a director, or in the securities of which you and the relevant person has a beneficial interest.

# 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. Councillors and officers have different, but complementary roles, however, both serve the public and act in the public interest. Both councillors and officers must make planning decisions openly, impartially, with sound judgment and for justifiable planning reasons. The Protocol for Member /Officer relations provides guidance to members and officers of the council in their relations with one another. 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 pre-determination. 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 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 which results in an actual or perceived conflict of interest they should declare that interest as soon they become aware of the interest and should not take no part in the consideration of that matter. If a member is unsure as to whether they must declare an interest or their involvement in respect of a planning matter they should seek advice from the Council's Legal Service.
- 4.4. 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.
- 4.5. 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.
- 4.6. 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.
- 4.7. 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.

- 4.8. A failure to comply, without reasonable excuse, with the rules relating to disclosable pecuniary interests can be an offence.
- 4.9. 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.
- 4.10. For the avoidance of doubt, where a member of the Council is a Freemason or a member of a similar secret society and is aware that the applicant, agent or other interested party in relation to a particular planning application is also a Freemason or a member of the same secret society, the member shall treat this as a personal interest which is so significant that it is likely to prejudice the member's judgement of the public interest.
- 4.11. 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.
- 4.12. If any officer of the Council who is involved in making recommendations or decisions on planning applications has had any involvement with an applicant, agent or interested party, whether or not in connection with the particular application being determined, which could possibly lead an observer with knowledge of all the relevant facts to suppose that there might be any possibility that the involvement could affect the officer's judgement in any way, then that officer shall declare a prejudicial interest in the public register held by the Corporate Director Communities and Regeneration 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.
- 4.13. No officer of the Council shall engage in any paid work for any town planning matter for which Brent is the Local Planning Authority other than on behalf of the Council.
- 4.14. 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 Corporate Director Communities and Regeneration. 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 process and transparency requirements 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 Corporate Director Communities and Regeneration. 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 Officer's 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. Members who sit on Planning Committee should not approach an interested party without first speaking to a relevant planning officer and should never meet an applicant without a council officer being present. 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. PRE-APPLICATION ADVICE AND DISCUSSIONS**

- 8.1 Discussions between a potential applicant, interested parties and the Council prior to submitting an application can be of considerable benefit to all parties and are strongly encouraged by the Council. The government and the Local Government Association recognise that members have an important part to play in these discussions.
- 8.2 Officers will regularly interact with potential applicants and interested parties through pre-application discussions as part of their professional duties. More occasionally, members will also engage with potential applicants before an application is made.
- 8.3 Members' and officers' interactions with potential applicants should reflect their respective roles and responsibilities. At all times members must abide by the requirements of this Code to ensure the highest standards of ethical conduct.
- 8.4 Pre-application discussions can be subject to public scrutiny. It is vital that such discussions are conducted in accordance with this Code so there can be no suggestion of actual pre-determination or bias, or any perception of pre-determination or bias, or any other procedural impropriety.

### Conduct expected of members and officers involved in the pre-application process

- 8.5. The Planning Committee Chair may request, or the Director of Regeneration Growth & Employment or the Head of Planning & Development Services may suggest, a briefing for Planning members on a potential application and provide an opportunity for questions to be asked. Officers will organise the briefing normally alongside, but not part of, a Planning Committee meeting.

*The opinions offered by officers or members during the course of pre-application discussions are without prejudice to the final decision of any subsequent planning application.*

- 8.6. Only a potential applicant, officers and Planning members will be entitled to participate in the meeting. Both the Members' Code of Conduct and this Code apply at these meetings and they will follow the procedures in paragraph 8.7

*Advice provided by officers in a pre-application meeting shall be based upon the development plan and material planning considerations.*

- 8.7 Members may attend relevant meetings (as defined in paragraph 8.9 below), either individually or together, with potential applicants and/or their agents before an application is received. Both the Members' Code of Conduct and this Code apply

at these meetings. Where these meetings involve a planning member they will be subject to the following procedures:

- (i) the meeting shall be organised through officers by contacting the Head of Planning & Development Services;
- (ii) the meeting shall be agreed with the Planning Committee Chair and either the
- (iii) Director of Regeneration Growth & Employment or the Head of Planning & Development Services in advance;
- (iv) a Council planning officer shall be present for the entire meeting (including any form of live interaction including conference calls and video conferencing);
- (v) it should be made clear at the beginning of the meeting and throughout where appropriate that the discussion will not bind the Council or any individual councillor attending the meeting to making a particular decision and that any view expressed is personal and provisional;
- (vi) no commitment to take any particular position on a planning matter shall be made and no inference of pre-determination shall be given;
- (vii) the focus should be on the requirements of the development plan and material considerations with negotiations and advice left for meetings with officers;
- (viii) a contemporaneous note of the meeting shall be prepared by the planning officer attending and a copy sent to all parties present and the Planning Committee Chair if not present within 14 days of the meeting or on submission of the relevant application, whichever is the sooner; and

8.8 Members may attend relevant meetings (as defined in paragraph 8.9 below), either individually or together, with potentially interested parties, before an application is received. Potentially interested parties include those who might object to, or support, a potential application. Both the Members' Code of Conduct and this Code apply at these meetings. Where these meetings involve a planning member they will be subject to the following procedures:

- (i) the meeting shall be agreed with the Planning Committee Chair and the Director of Regeneration Growth & Employment or the Head of Planning & Development Services in advance;
- (ii) it should be made clear at the beginning of the meeting and throughout where appropriate that the discussion will not bind the Council or any individual councillor attending the meeting to making a particular decision and that any view expressed is personal and provisional;
- (iii) no commitment to take any particular position on a planning matter shall be made and no impression of pre-determination shall be given;
- (iv) the focus should be on the requirements of the development plan and material considerations with negotiations and advice left for meetings with officers;
- (v) a note of the meeting shall be prepared by the officer(s) attending and shall be provided to the Director Regeneration, Growth & Employment within 14 days of the meeting or on submission of the relevant application, whichever is the sooner; and

8.9 For the purpose of this Code a "relevant meeting" in paragraphs 8.7 and 8.8 means a formal pre-application meeting and any other meeting which includes substantive

discussions about a forthcoming application, specific potential development site or proposal or other specific planning matter.

- 8.10 Members may also become involved in pre-application discussions and offer valuable local knowledge, expertise and understanding of community concerns to the process. Officers involved in the pre-application process should also be aware of the responsibilities of members and the terms of their involvement which must be in accordance with this Code.

**9. DISCUSSIONS BETWEEN MEMBERS AND MEETINGS WITH DEVELOPERS OR THEIR REPRESENTATIVES**

- 9.1. 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.
- 9.2. 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.
- 9.3. 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.
- 9.4. 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.
- 9.5. 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.
- 9.6. 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.

## **10. PLANNING COMMITTEE SITE VISITS**

- 10.1. 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.
- 10.2. 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.
- 10.3. 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.
- 10.4. 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.
- 10.5. 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.

## **11. MEMBERSHIP AND JURISDICTION OF THE PLANNING COMMITTEE**

- 11.1. 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.
- 11.2. 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.



11.3. 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 Corporate Director of Governance or his or her representative shall be obtained forthwith.

## **12. MEETINGS OF THE PLANNING COMMITTEE**

12.1. 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.

12.2. 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.

12.3. 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.

12.4. 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.

12.5. 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 57 set out in Part 2 of this Constitution which addresses the speaking rights of members of the public.

- 12.6. 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.
- 12.7. 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.
- 12.8. 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.

### **13. Post submission discussions**

- 13.1. For the avoidance of doubt this section of the Code shall apply to councillors only.
- 13.2. A Planning Committee Member should not usually be involved in discussions with an applicant or agent when a planning application has been submitted and remains to be decided. Potentially, these discussions could be interpreted, particularly by objectors to a proposal, as an indicator of predetermination or bias
- 13.3. In limited circumstances planning members may legitimately engage in post-submission discussions. An example would be in the case of a large-scale development, where it is desirable for there to be a full understanding of the Council's planning and economic objectives. Such meetings will be organised by officers and run under the same procedural rules as pre-application discussions.
- 13.4. If a Planning Committee Member is contacted by the applicant, their agent or objectors, they should follow the rules on lobbying and consider whether or not it would be prudent in the circumstances to make notes when contacted. A Member should report to Director of Regeneration, Growth Employment or the Head of Planning and Development Service any significant contact with the applicant or other parties, explaining the nature and purpose of the contacts and their involvement in them, so that it can be recorded on the planning file.
- 13.5. Planning Committee Members should not attend post-submission meetings that are not organised through, and attended by, officers and any meeting that does proceed shall also be subject to the as the pre-application discussions.

### **14. PLANNING APPEALS & ENFORCEMENT**

- 14.1. Appeals into the planning decisions of the Council are heard by a Planning Inspector appointed by the Secretary of State. Any hearing or inquiry will be open to the public and Members are able to attend. Members are encouraged to attend such hearings, as they can be a good learning experience. This part of the Code is concerned with Members who wish to actively participate in these appeals.

- 14.2. If a Member wishes to attend a public inquiry or informal hearing as a ward Member or as a member of the public, they are free to do so. It is strongly recommended that they discuss their participation with the Director of Regeneration, Growth Employment or the Head of Planning and Development Service to ensure that they are aware of the process and that they do not act in a manner which compromises their position as a Member of the Council or brings the Council into disrepute or puts the decision made at risk of challenge
- 14.3. A Member cannot attend an appeal on behalf of the Council's Planning Committee, even if they sat on that Committee, unless this is as part of the Council's case as decided by the Director of Regeneration, Growth Employment or the Head of Planning and Development Service. The decision of the Committee will be documented in the minute and set out in the decision notice. The planning officer will present the Council's case on its planning merits, in accordance with the Committee's decision. The inspector is required to determine the appeal on its planning merits and therefore all representations should be so directed.
- 14.4. Where the appealed decision was contrary to the officer's recommendation, officers are generally able to present the Council's case in a satisfactory manner. Where this may not be possible, the case will be presented by a planning consultant employed by the Council.
- 14.5. It is perfectly legitimate for Members to bring to the attention of the planning service suspected breaches of planning control so that they may be investigated to see whether any action is possible or necessary. They should bring these to the attention of the Director of Regeneration, Growth Employment or the Head of Planning and Development Service.
- 14.6. The Council's planning enforcement service operates to a priority system so that those breaches that cause the most harm are dealt with first. This priority system is designed to produce a fair and responsive enforcement service.

## **15. MEMBER AND OFFICER RELATIONS**

- 15.1. 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 Corporate Director Communities and Regeneration and not to the officer concerned. No such criticism shall be raised in public.
- 15.2. 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 Corporate Director Communities and Regeneration.
- 15.3. Members of Planning Committee shall not attempt in any way to influence the terms of the officers' report or recommendation upon any planning matter.

## 16. TRAINING FOR PLANNING COMMITTEE

- 16.1. Members of the Planning Committee (and substitute members) must participate in a programme of training on the planning system and decision making (known as the planning and decision making induction training) in addition to related matters as decided by the council from time to time. The planning and decision making induction training is mandatory for members (including substitute members) of the Planning Committee.. If a Member (including substitute members) of the Planning committee fails to participate in the training this may result in that member being asked to stand down as a member of Planning Committee.
- 16.2. 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.
- 16.3. Where a member has a genuine difficulty in participating in any particular training session officers will try when practicable to accommodate a request for an individual or repeat session.
- 16.4. Substitute members are recommended to familiarise themselves with the Planning Committee papers 24 hours prior to a Planning Committee meeting to ensure they are familiar with the issues before the committee, in the event they are required to attend.

## 17. ROLES OF MEMBERS AND OFFICERS

- 17.1 Members and officers have different but complementary roles. Both serve the public but members are responsible to the electorate, whilst officers are responsible to the Council as a whole.

### Role of the Chair of Planning Committee

- a) To chair the Planning Committee in accordance with the agreed protocols and terms of reference.
- b) To foster and seek to maintain a disciplined approach by the Councillors involved having regard to high standards of behaviour and conduct including the Planning Code of Practice.
- c) To ensure that contributions by the public to meetings are facilitated and controlled in accordance with the agreed procedure.
- d) To conduct site visits by the Committee, if applicable.

### Role of members

- a) To act fairly, openly and apolitically;
- b) To approach each planning application with an open mind, avoiding pre-conceived opinions;
- c) To carefully weigh up all relevant issues;
- d) To determine each application on its individual planning merits;
- e) To avoid undue contact with interested parties; and
- f) To ensure that the reasons for their decisions are clearly stated.

- 17.2 Where a member, who is neither a member of, nor a substitute on the Planning Committee, attends a meeting of the Committee, he or she is also under a duty to act fairly and openly and avoid any actions which might give rise to an impression of bias or undue influence.

#### Role of Planning Officers

Planning Officers advise Councillors on planning policy and planning applications. Their role is to:

- a) to act apolitically;
- b) provide professional, objective and comprehensive advice;
- b) provide a clear and accurate analysis of the issues;
- c) advise on the Development Plan and other material considerations;
- d) give a clear recommendation; and
- e) implement the Committee's/Council's decisions (including those made by Officers under powers delegated to them).

### **18. REVIEW OF CODE OF PRACTICE**

The Corporate Director of Governance 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.

## LICENSING CODE OF PRACTICE

### PURPOSE OF THIS CODE

The Licensing Code of Practice has been adopted by Brent Council to regulate the performance of its licensing function. Its major objectives are to guide members and officers of the Council in dealing with licensing related matters and to inform potential licensees and the public generally of the standards adopted by the Council in the exercise of its licensing functions. The Licensing Committee and the Alcohol and Entertainment Licensing Sub-Committee exercise functions under the Licensing Act 2003 (the sale by retail of alcohol, the supply of alcohol, the provision of regulated entertainment, and the provision of late night refreshment), and the Licensing Committee and the Regulatory Sub-Committee exercise the Council's licensing and registration functions under all other legislation. The Licensing Code of Practice is in addition to the Brent Members' Code of Conduct adopted under the provisions of the Localism Act 2011. Members should follow the requirements of the Brent Members' Code and apply this Code in light of the Members' Code. The provisions of this code are designed to ensure that licensing decisions are taken on proper licensing grounds, in a fair consistent and open manner and that members making such decisions are, and are perceived as being, accountable for those decisions. The Code is also designed to assist members in dealing with and recording approaches from applicants, licensees and objectors and is intended to ensure that the integrity of the decision-making process is preserved.

This Code also draws members' attention to the different status of the Licensing Committee or its Sub-Committees from normal Council committees, by their quasi-judicial nature and the requirement to strictly follow the rules of natural justice.

If a member does not abide by the 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.

If you have any doubts about the interpretation of this Code, you should consult appropriate officers on the point.

### THE CODE

- A. On the Licensing Committee or its Sub-Committees, Members are exercising quasi-judicial functions and as a consequence have a duty to follow the rules of natural justice and act in accordance with the Council's duty to act in a way that is compatible with the Convention rights under the Human Rights Act 1998.
- B. 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.
- C. The Human Rights that are particularly relevant to the Licensing process 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. Further information about these rights is set out in Annexe 1 to this Code.

## 1. GENERAL PROVISIONS AS TO CONDUCT

### BIAS AND PREDETERMINATION

- 1.1 No one should decide a case where they are not impartial or seen to be impartial. Licensing members should not take a decision on a matter when they are actually biased in favour or against the application, or when it might appear to a fair and informed observer that there was a real possibility of bias, or where a member has predetermined the matter by closing their minds to the merits of the decision before they come to it.
- 1.2 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 a particular matter.
- 1.3 Although the Localism Act recognises the reality of the role of the members in matters of local interest and debate, it does not amount to the abolition of the concept of pre-determination. A member of the Licensing Committee must not make up their mind on how they will vote on any licensing matter prior to formal consideration of the matter at the meeting of the relevant Sub-Committee and the member hearing the evidence and arguments on both sides. A member should not make comments on Licensing policy or procedures, or make any commitment in advance as to how they intend to vote on a matter, which might indicate that they have closed their mind. Any licensing decision made by a member who can be shown to have approached the decision with a closed mind will expose the council to the risk of legal challenge.

### Accountability and Interests

- 1.4 If a member of the Council has a personal interest in any licensing application or other matter before the Licensing Committee or its Sub-Committees, 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.
- 1.5 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.
- 1.6 If a member of the Council is aware he/she has a disclosable pecuniary interest in any licensing application or other matter before the Licensing Committee or its Sub-Committees, 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 licensing 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.

- 1.7 If a member has a disclosable pecuniary interest in any licensing application or other matter before the Licensing Committee or its Sub-Committees, 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.
- 1.8 A failure to comply, without reasonable excuse, with the rules relating to disclosable pecuniary interests can be an offence.
- 1.9 Members of the Licensing Committee should not determine any application if the member, his/her relative, friend or associate is the applicant or agent for that matter or an objector.
- 1.10 Members who have business or other interests which may bring them into contact with the Council's licensing system on a regular basis should not be considered for membership of the Licensing Committee.

#### Approaches

- 1.11 If an approach is received by a member of a Licensing Committee from an applicant, objector, their agents or an interested party in relation to a particular licensing application or any matter which may give rise to a licence application, the member shall:
  - (a) inform such applicant or agent or interested party that such approach should only be made to officers or to elected members who are not members of the Licensing Committee;
  - (b) forthwith notify in writing to the Monitoring Officer the fact that such an approach has been made, identifying the application, the nature of the approach, by whom it was made, and the action taken by the Member concerned;
  - (c) keep an adequate written record so as to enable the Member to disclose the fact and nature of such an approach at any relevant meeting.
- 1.12 If an elected member who is not a member of the `Committee is contacted by an applicant objector or interested party then that member should discuss the issues raised by their constituent with the appropriate licensing officer and may forward any representations or evidence to that officer, who will include the relevant information in the report to the Licensing Committee or the relevant Sub-Committee. If an elected member wishes to make their own representations about a matter they should likewise make those representations to the appropriate Licensing officer.
- 1.13 No amendment to any licence application shall be considered by the Licensing Committee or its Sub-Committees unless it can be taken into account without causing prejudice to objectors or persons who might otherwise have objected.



## 2. SITE VISITS

- 2.1 If a site visit takes place, its purpose is to gain information relating to the premises which are the subject of the licensing application or revocation to be considered by the Licensing Committee or the relevant Sub-Committee. A site visit may also assist members in matters relating to the context of the application or revocation, the characteristics of the premises and the surrounding area. Members should avoid expressing opinions during site visits to any person present, including other members.
- 2.2 During site visits, members of the Licensing Committee shall not engage individually in discussion with applicants or objectors.
- 2.3 On site visits applicants, agents, objectors or other interested parties shall only be permitted to point out to Members features to look at either on the premises or in the vicinity, which are relevant to the application. No discussion will take place on the merits of the application or revocation.
- 2.4 Members of the Licensing Committee may request a site visit, prior to the relevant meeting, in which case their name shall be recorded. They shall provide and a record be kept of:
- (i) their reason for the request; and
  - (ii) whether or not they have been approached concerning the application and if so, by whom

and unless the member provides these at least one week prior to the relevant meeting, the site visit will not proceed.

- 2.5 If any Member of the Licensing Committee wishes to informally view an applications site than that viewing must only take place if it can be done from a public place. Members of the Licensing Committee shall not enter any premises which are the subject of a licensing application or known by them to be likely to become such in order to meet the agent, applicant, licensee or other interested party, save in the course of a formal accompanied site visit. In exceptional circumstances such as where a member is unable to attend the official site visit that has been arranged, a site visit by an individual member may be carried out provided that the member is accompanied by a licensing officer.

## 3. INVOLVEMENT OF OFFICERS

- 3.1 Members of the Licensing Committee shall not attempt in any way to influence the terms of the officers' report upon any application.
- 3.2 Any criticism by Members of the Licensing Committee of an officer in relation to the handing of any licence application shall be made in writing to the Corporate Director Communities and Regeneration and *not to the officer handling the application*. No such criticism shall be raised in public.
- 3.3 If any officer feels or suspects that pressure is being exerted upon him/her by any member of the Council in relation to any particular application, he or she shall forthwith notify the matter in writing to the Monitoring Officer.
- 3.4 If any officer of the Council who is involved in dealing with any licensing application 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 Monitoring Officer and take no part. This public register to be available for inspection at Licensing Committee or Sub-Committee meetings.

- 3.5 No officer of the Council shall engage in any paid work for any licensing matter for which Brent is the Licensing Authority other than on behalf of the Council.

#### **4. CONDUCT OF MEETINGS**

- 4.1 Members of the Licensing Committee shall refrain from personal abuse and party-political considerations shall play no part in the Committee's or its Sub-Committees' deliberations. Members shall be respectful to the Chair and to each other and to officers and members of the public including applicants, their agents and objectors and shall not bully any person. Members should not make up their minds before hearing and considering all relevant information at the meeting and should not declare in advance of the vote how they intend to vote on a particular application.
- 4.2 The Monitoring Officer shall maintain a register of contact made by applicants, licensees, objectors, agents or interested parties with individual members of the Council on each and every licence application.
- 4.3 Members of the Licensing Committee should not speak to members of the public (including applicants and agents) during a meeting of the Licensing Committee or its Sub-Committees or immediately prior to or after the meeting concerned other than in accordance with this Code or Standing Orders.
- 4.4 When questioning witnesses at a meeting of a Licensing Committee or the relevant Sub-Committee, members shall ensure that their questions relate only to licensing considerations relevant to the particular application.
- 4.5 The Licensing Committee or a licensing Sub-Committee should hear both sides of the case, in accordance with the rules of natural justice. The Committee/Sub-Committee must ensure that both the applicant and the objectors receive a fair hearing. Applicants must have the opportunity *in advance of the hearing* to prepare their case in answer to the objectors.
- 4.6 It is permissible for the Chair of the meeting to curtail statements of parties or witnesses, if they are merely repeating matters which have already been given in evidence.
- 4.7 Hearsay evidence, whilst admissible, must be treated with great reservation by members, who must make an assessment of its weight and credibility.

#### **5. LICENSING SUB-COMMITTEE PROCEDURES**

- (A) The following procedure should be followed at meetings of the Alcohol and Entertainment Licensing Sub-Committee and Regulatory Sub-Committee.
- A.1 The Chair will ask the parties to the hearing to identify themselves and confirm whether they are represented or not.
- A.2 The sub-committee will consider any requests that have been made by any party for another person to speak at the hearing.
- A.3 The Chair will explain the procedure to be followed at the hearing.

- A.4 Where there are a number of parties bringing representations either in support or objection to the granting of the licence application officers will attempt before the hearing to agree a limit in the number of people who will address the sub-committee.
- A.5 If any party has indicated that they will not attend or failed to indicate whether or not they will attend and is absent, the Sub-Committee may hold the hearing in that party's absence or decide to adjourn.
- A.6 A Licensing Officer will give details of the application and of the number and type of representations received as set out in the papers circulated.
- A.7 Persons who have made representations will be allowed to address the sub-committee for up to 5 minutes each (unless the Chair permits a longer period). They should not repeat what is already set out in their representations or notice. In their address they should provide clarification on any points previously requested by the Council. In respect of hearings held under the Licensing Act 2003, petitions will be treated as representations provided they meet the requirements for relevant representations. Members should proceed with caution when relying upon petitions used as evidence due to the structure and wording used.
- A.8 The order in which persons making representations shall be called to speak is as follows;
- i. Statutory Parties including the Police, Environmental Health, Fire Authority, Child Protection Unit or other bodies as appropriate
  - ii. Other parties making representations in objection to the licence application
  - iii. Other parties making representations in support of the licence application
- A.9 The members of the sub-committee may ask questions of the person making representations after their address.
- A.10 Officers may ask questions of such person in order to clarify points for the sub-committee.
- A.11 Where a person making relevant representations has requested that another person be permitted to speak and the sub-committee have allowed this under 2 above, they may be entitled to speak for up to 5 minutes (if the chair permits this) after questioning of the objector who made the request and provided that this does not disadvantage another party to the proceedings
- A.12 The members of the sub-committee may ask questions of such other person after they have spoken.
- A.13 Officers may ask questions of such person in order to clarify points for the sub-committee.
- A.14 The same procedure as set out in 2.7 to 2.11 above is followed in respect of the applicant.
- A.15 The members of the sub-committee may ask further questions of any party or other person allowed to appear at this stage.

- A.16 Cross examination of any party or any other person allowed to appear will not be allowed unless specifically permitted by the Chair.
- A.17 The sub-committee will consider its decision in private save that the licensing officer, legal adviser and committee clerk will be entitled to remain.
- A.18 The Chair will intervene at any stage of the hearing to prevent repetitious or irrelevant points being raised.
- A.19 Documentary evidence will only be considered by the Sub-Committee if this has been provided to the Council and the other party (or parties) prior to the hearing, or with the consent of other parties, at the hearing. The Chair does have the discretion to accept the filing of late evidence provided that all relevant parties agree and are not adversely affected by late disclosure. Each case will need to be looked at on its own merits and advice given by officers accordingly.

## **6. MAKING THE DECISION**

- 6.1 The decision whether or not to, for example, grant a licensing application (or a decision in respect of a notice) is a decision for the members of the Licensing Committee only. [*The assessment of the weight and credibility of evidence is for Committee members alone to decide.*]
- 6.2 Members shall retire to decide the matter in closed session. The Legal Officer, Licensing Officer and Governance Officer present at the meeting will retire with them. During such closed session, the Legal Officer and Licensing Officer will only provide advice on legal issues relating to the application.
- 6.3 In accordance with regulations, members of the Alcohol and Entertainment Licensing Sub-Committee should disregard any information provided by any party which is not relevant to;
- a) their application, representations or notice (as applicable); and
  - b) the promotion of the licensing objectives.
- 6.4 The meeting will return to open session to announce its decision, and will confirm its decision in writing with reasons usually within 5 working days (in respect of the Alcohol and Entertainment Licensing Sub-Committee) and 7 days (in respect of the Regulatory Sub-Committee). The written notice will set out the rights of appeal against a decision.
- 6.5 Members own knowledge of the circumstances surrounding an application is valid, provided that they are put to the applicant for a response. In reaching their decision members must have regard to the evidence presented at the hearing, both the documents circulated in advance and the oral evidence. The decision must be based on the evidence alone and members have a duty to ensure that they have regard to all the relevant matters before them and only those matters.
- 6.6 Members considering an application have a duty to determine it only on the facts before them relating to that individual case and not decide it as a matter of general policy. Members must not make unreasonable decisions that no other reasonable licensing authority would arrive at, having regard to the legal principle of “Wednesbury reasonableness”.

- 6.7 Members should be aware that an unreasonable decision taking into account the above criteria, is unlikely to be sustained on appeal. In this instance, the authority foregoes the opportunity to attach terms and conditions to a licence and may have to pay costs. The role of officers is to point this out and advise members as to the potential risk of losing an appeal and being required to pay the other parties' costs as a consequence. This needs to be balanced with the Council's fiduciary duty towards the local taxpayer in terms of the Council being a public body spending public money.

## **7. APPEALS**

- 7.1 The Licensing Committee's or its Sub-Committees' decision is not a final one. In respect of decisions of the Regulatory Sub-Committee, usually the applicant has the right to appeal to the Magistrates Court, subsequently to the Crown Court (or in certain instances directly to the Crown Court), and beyond.
- 7.2 In respect of decisions of the Alcohol and Entertainment Licensing Sub-Committee, all parties (the Applicant, residents/businesses who made a relevant representation and responsible authorities) have the right of appeal to the Magistrates' Court. Subject to an appeal to a higher court on a point of law, the Magistrates' decision is however final.
- 7.3 An appeal must be lodged with the Justices' Chief Executive for the Magistrates' Court within 21 days beginning on the day on which the appellant was notified by the Licensing Authority of the decision to be appealed against.
- 7.4 On such appeals the hearing takes on an increasingly formalised nature, based solely on the evidence given. The Council will only be able to sustain its defence if it can substantiate its grant or refusal of a licence by relevant admissible evidence.
- 7.5 Members who consider basing the grant or refusal of a licence on their personal knowledge should be prepared to testify to the relevant facts in any appeal proceedings.
- 7.6 Taking this factor into account along with the real risk of costs against the Council, members must be wary of relying on any matters which could not readily be proved in evidence. In short, for licensing decisions to "stand up" on appeal and to avoid costs being awarded against the Authority, decisions to grant or refuse licences or impose conditions must be justified.

## **8. TRAINING**

- 8.1 Members of the Licensing Committee must participate in a programme of training on the licensing system and related matters agreed by and organised by officers. The programme will consist of compulsory and discretionary elements. If a Member of the Licensing 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 the Licensing Committee.
- 8.2 Members should be aware that training is particularly important for members who are new to the Licensing Committee and for members who have not participated in training in the recent past.
- 8.3 Where a member has a genuine difficulty in participating in any particular training session officers will try when practicable to accommodate a request for an individual or repeat session.

ANNEXE 1  
**CONVENTION RIGHTS**

**ARTICLE 6**

Article 6 of the European Convention on Human Rights provides (in part):

"In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."

Decisions on most licensing functions are subject to independent tribunals, usually the Magistrates' or Crown Courts, so satisfying the provisions of Article 6.

The Licensing Committee and its Sub-Committees must however conduct a fair hearing in accordance with the rules of natural justice.

**ARTICLE 1 OF THE FIRST PROTOCOL**

Article 1 of the First Protocol also has relevance to the licensing function. This states:

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principals of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

An existing licence is a possession under Article 1 of the First Protocol.

Any decision to, for example, revoke a licence must be according to the law. Any decision to impose terms and conditions on the grant of a licence will need to be proportionate and necessary to protect the interests of a democratic society.

Article 1 of the First Protocol also has relevance in respect of any third parties objecting to a licensing application, because of their right to the enjoyment of their property.

**ARTICLE 8**

The impact of a decision on a neighbouring property also brings into play the right to respect for home, privacy and family life (Article 8)

Article 8 states:

"1. Everyone has the right to respect for his private and family life, his home and his correspondence

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others."

## LOCAL CODE OF CORPORATE GOVERNANCE

### INTRODUCTION

Each local authority operates through a governance framework. The governance framework is an interrelated system that brings together an underlying set of legislative requirements, standards of behaviour, and management processes.

Good governance means that the way a local authority operates is based on sound and transparent decision making with an effective process to support this; acting in the public interest at all times.

This Code sets out the Council's governance framework. It is based on Guidance issued by the Chartered Institute of Public Finance and Accountancy ('CIPFA') and the Society of Local Authority Chief Executives ('SOLACE') guidance entitled Delivering Good Governance in Local Government Framework 2016 Edition.

There are seven core principles and further supporting principles identified by CIPFA/SOLACE which underpin and inform the way in which a local authority should perform its services and other functions. These principles inform the Council's governance framework, the Local Code of Corporate Governance and the standards by which the Council is audited.

The principles and standards set out below in this Code reflect those set out by the current CIPFA/SOLACE Guidance.

#### 1. **BEHAVING WITH INTEGRITY, DEMONSTRATING STRONG COMMITMENT TO ETHICAL VALUES, AND RESPECTING THE RULE OF LAW**

The Constitution sets out how the council operates, how decisions are made and the policies which are followed to ensure that these are efficient, transparent and accountable to local people. The Constitution comprises six parts which set out the basic rules for governing the council's business, as well as detailed procedures and codes of practice.

The Constitution is regularly reviewed. The Constitution sets out the responsibilities of both members and officers. In particular the council has identified the following six statutory posts:

Legislation	Statutory Post	Officer
S4 Local Government and Housing Act 1989	Head of Paid Service	Chief Executive
Section 151 Local Government Act 1972	Section 151	Corporate Director of Finance and Resources
S5 Local Government and Housing Act 1989	Monitoring Officer	Corporate Director of Law & Governance
S18 Children Act 2004	Director of Children's Services	Corporate Director Children and Young People

S6 Local Authority Social Services Act 1972	Director of Adult Social Services	Director Adult Social Care
Health and Director of Public Health Social Care Act 2012	Health and Director of Public Health Social Care	Director of Public Health

- A Scheme of Delegation sets out the powers delegated to officers as part of the Constitution. The Financial Regulations are also part of the Constitution, together with this Code of Corporate Governance and the Contract Standing Orders. The Constitution is reviewed regularly, with all changes (other than minor variations which may be made by the Monitoring Officer) approved by the Council and published on the external website.
- The Members' Code of Conduct is set out in the Constitution, together with other codes. These are kept under review and updated if necessary. The council has an Audit and Standards Committee and an Audit and Standards Advisory Committee to deal with member conduct issues and these Committees are politically balanced and consist of five members and, in respect of the latter, independent or co-opted members too. Independent Persons have also been appointed in accordance with the Localism Act 2011 and have an important role to play in respect of specific complaints. The standards remit of these Committees is supported by the Monitoring Officer. There is a register of member interests and gifts and hospitality.
- All councillors receive training on the requirements of the Members' Code of Conduct and related issues. Monitoring Officer Advice Notes give advice to members on decision making and standards of conduct.
- All staff, in particular managers, are responsible for ensuring that laws and regulations are complied with and that the authority's policies are implemented in practice. Corporate Directors, Directors and Heads of Service are responsible for monitoring implementation of the council's policies.
- The Council has a number of key governance related policies. Officers are made aware of their responsibilities through general communications, such as Weekly Round Up, manager briefings, staff events and via the induction process.

**2. ENSURING OPENNESS AND COMPREHENSIVE STAKEHOLDER ENGAGEMENT**

- The Neighbourhoods and Regeneration Directorate is responsible for supporting some statutory local partnership arrangements (i.e. the Health and Wellbeing Board, Safeguarding Adults Board and Children's Trust) and some non statutory partnerships such as Partners for Brent. The Strategic Partnerships Team co-ordinates a broad range of collaborative activities, which stem from the Council's engagement with local public, private and voluntary sector organisations.
- An overarching collaborative space or strong "Team Brent" identity is being initiated related to the new Change programme described in paragraph 5 below. To build on the Council's role as a convenor for the place, a partnership event



will be held focused on sharing a collective assessment of the “state of the borough” with organisations contributing to a longer-term vision for Brent as a whole, for the local economy and for positive outcomes across employment, skills, health and wellbeing for local people. This will provide a space to agree how partners can all work together as “anchors” in Brent as well as explore the concept and practice of community power.

- This will culminate in a more formal strategic partnership arrangement to facilitate wider involvement and engagement in the delivery and of public services across the borough and the concept of greater community power.
- At a Department level, the objectives of partnerships are documented in the Service Plans and within contract documentation. They are then reflected in staff’s individual objectives.
- Commitments to deliver against our responsibilities in relation to equity and diversity feature strongly in the Council’s Borough Plan. Regard to equity, diversity and human rights duties is embedded in the budget setting and business planning process, and templates for each require that officers and members take into consideration in an appropriate manner the equity, diversity and human rights impacts of proposed decisions. The Council’s approach is to embed equity and diversity within all of its work so that equity considerations are part of day-today management. During 2024 a new officer board, the Equity, Diversity and Inclusion (EDI) Board has been established to oversee the council’s EDI related activities and to ensure progress is being made.

**3. DEFINING OUTCOMES IN TERMS OF SUSTAINABLE ECONOMIC, SOCIAL AND ENVIRONMENTAL BENEFITS**

- The Council has a Borough Plan for the period of 2023-2027 agreed by the Cabinet and Full Council. This document includes the corporate objectives of the Council and our shared partnerships priorities with other public agencies. Key performance indicators which relate to the priorities in the plan are monitored on a quarterly basis and reported to CMT and the Cabinet. The Borough Plan references other key relevant documents, including the following:
  - Health and Wellbeing Strategy;
  - Equality Strategy;
  - Climate and Ecological Emergency Strategy;
  - the Black Community Action Plan, and
  - the Poverty Commission Delivery Plan
- The priorities of the Borough Plan are regularly set out in The Brent Magazine, its website, press releases and targeted campaigns. Service priorities are extensively consulted on with users and other relevant stakeholders. Directorate Service Plans are discussed annually with Lead Members prior to finalisation.

**4. DETERMINING THE INTERVENTIONS NECESSARY TO OPTIMISE THE ACHIEVEMENT OF THE INTENDED OUTCOMES**

- We are seeking to build on the successes achieved to-date in transforming the Council and the Borough while developing a much sharper focus on services

designed around the individual and creating better outcomes for those residents with complex circumstances. We are directing our resources towards priorities which will have a more significant impact in improving local people's opportunities and life chances. Our approach is intended to facilitate much closer cross council and inter-agency working on common themes and address the big issues affecting the future of the borough. A programme of activity is in place to support delivery of this vision with reports on progress provided regularly to CMT and elected councillors.

- The Cabinet consider risks as part of their decision making role on corporate policies, including the annual budget setting processes, major policy decisions and major projects. The Corporate Management Team review corporate risks through regular monitoring reports. Risks are identified within Service Plans and considered on a regular basis within Directorate management teams and key operational risks are reported through to the Corporate Management Team.

## **5. DEVELOPING THE ENTITY'S CAPACITY, INCLUDING THE CAPABILITY OF ITS LEADERSHIP AND THE INDIVIDUALS WITHIN IT**

- A full member learning and development programme is in place and there is a comprehensive induction programme for all councillors within the first few weeks of their election to office. Training on the Council's Code of Conduct for Councillors is compulsory. The council has adopted specific codes of conduct for councillors involved in planning or licensing decision-making and these councillors receive additional training in these areas as a pre-condition of their participation. A bespoke annual learning and development programme is provided for Councillors appointed as Members or Substitutes on the Scrutiny, Planning and Licensing committees.
- There is a corporate induction programme in place for staff, which is largely e-learning based, and one for new managers, supplemented by various internal training courses. Within the New Manager Essential Programme the key objectives are for delegates to understand the roles and responsibilities (core standards and expectations) of the Brent Manager and the Management competencies. Key information and policies are highlighted to new staff and managers and held on the intranet.
- A Strategic change programme has recently been adopted, designed to harness our strengths, focus our ambitions, and ensure that as an organisation we improve and evolve to tackle current and emerging challenges in meeting the needs of our local communities. The Change Programme is about the key cross-cutting enablers that form the building blocks of an effective organisation and will drive our operating model in the future. And at the heart, it is about how we will do things going forward, with a focus on developing a culture that enables us to work much more collaboratively with each other, with partners, and, crucially, with our residents, establishing a real sense of place. The change programme is organised into the following eight workstreams:
  - Organisational culture and workforce strategy
  - Strategic Partnerships
  - Community power and resilience
  - Place making

- Strategic Commissioning and capacity building
- Digital and Data
- Property and assets
- Customer Access

**6. MANAGING RISKS AND PERFORMANCE THROUGH ROBUST INTERNAL CONTROL AND STRONG PUBLIC FINANCIAL MANAGEMENT**

- Decision making arrangements are set out in the Constitution. The Council operates a Leader and Cabinet model of decision making. Although some decisions are reserved for Full Council, most are made by the Cabinet, individual cabinet members or by committees, sub-committees or officers.
- All forthcoming Key decisions by Cabinet are published in the Council's Forward plan and published every month on the Council's website.
- Reports and minutes of meetings are also published on the council's website and are available through the Libraries. This includes urgent decisions, which are reported to the next formal meeting of Cabinet.
- The council has an Audit and Standards Advisory Committee which meets approximately 6 times during the year, and considers the findings of the council's annual governance review and recommends approval of the Annual Governance Statement by the Audit and Standards Committee in advance of approval of the annual statement of account. It also advises on member standards issues.
- The Audit and Standards Advisory Committee, has been established to enhance the effectiveness of the Audit and Standards Committee, with clear terms of reference and an annual work programme to consider and advise on internal audit and risk management. This enables the independent Members to be equal voting members of the committee.
- The Audit and Standards Committee meets at least twice a year to approve the Annual Governance Statement and the annual statement of accounts.
- The Council maintains an Internal Audit service that operates in accordance with the published internal audit standards expected of a local authority in the United Kingdom. The Head of Internal Audit (now the Deputy Director, Organisational Assurance and Resilience) has direct access to the Chief Executive, the Section 151 Officer, the Chair of the Audit and Standards Committee and the Chair of the Audit and Standards Advisory Committee.
- The council has established a counter fraud team to ensure a systematic, disciplined approach to investigation, evaluating and improving the effectiveness of fraud prevention and detection and the subsequent prosecution of individuals and organisations where appropriate.
- Robust business continuity management arrangements exist within the council, with all critical services having business continuity plans in place.

- The Council has a three year Medium Term Financial Strategy, which is reviewed and updated annually as part of the budget setting process to support the achievement of the council's corporate priorities. The budget and policy framework outlines the process and timetable to be followed each year when setting the council's budget. The financial management framework includes regular budget monitoring reports to directorate management teams, Corporate Management Team and Cabinet.

**7. IMPLEMENTING GOOD PRACTICES IN TRANSPARENCY, REPORTING, AND AUDIT TO DELIVER EFFECTIVE ACCOUNTABILITY**

- The statutory Forward Plan is published monthly on the internet, and details all key decisions proposed to be made by the council during the relevant period. Any key decision which is not on the Forward Plan may not be taken within that period, unless the report author is able to demonstrate to the Monitoring Officer and relevant members that urgency procedure requirements are met and, where required under Standing Orders, appropriate agreement of the Chief Executive or the relevant Chair of Scrutiny is obtained. All urgent decisions taken are monitored by the Monitoring Officer and regular reports taken to Full Council.
- Members are required to make sound decisions based on written reports which are prepared in accordance with the report writing guide and have to be cleared by both Finance and Legal. The Cabinet receives a briefing concerning the most important up-coming decisions at the Policy Co-ordination Group, (which is the Cabinet's regular meeting with the Corporate Management Team, and members can ask detailed technical questions of officers about those issues and other matters due to be determined by Cabinet. All reports must be reviewed and signed-off by or on behalf of the Corporate Director of Finance and Resources and the Corporate Director of Law & Governance and contain clear financial and legal advice to help members arrive at decisions.
- In accordance with the Local Government Act 2000, the Council has mechanisms in place to allow the effective, independent and rigorous examination of the proposals and decisions by the Cabinet. These mechanisms involve the Scrutiny process including call-in. The conduct of the Council's business is governed by the Constitution, which includes Standing Orders and Financial Regulations.
- All members and chief officers are required to complete an annual statement relating to third party transactions and a register of members' interests, which is updated by members, is maintained and published on the Council's website.
- The Brent Council Code of Conduct for Members, revised in 2022, defines the standards of conduct expected of elected representatives, based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- In addition, the following codes, protocols and systems are well established within the council. All are regularly reviewed and updated to account for developments in governance arrangements and changes in local government.

These include:

- A declaration of interest process for members and senior officers as described above;
- Rules and protocols are in place and are being further developed for all partnership working;
- Organisation-wide performance appraisal and employee development schemes are in operation;
- There is a corporate complaints procedure in place in line with Ombudsman good practice requirements;
- Whistle-blowing, anti-fraud and anti-corruption / bribery policies are in place and publicised in compliance with the national transparency agenda; senior officers' remuneration is published on the council website.

### **ANNUAL REVIEW AND REPORTING**

Each year the council will carry out a review of the governance arrangements measured against this Code and the principles set out in the CIPFA/SOLACE Framework to ensure compliance with this Code, and the delivery of good governance within the local government framework and current good practice. The purpose of the review will be to provide assurance that governance arrangements are good and operating effectively and to identify any action required to improve effective governance in the future.

The outcome of the review will take the form of an Annual Governance Statement prepared on behalf of the Leader of the Council and the Chief Executive in accordance with the timetable for the preparation of the annual accounts. The findings of the review will be considered by the officers who make up the council's Assurance Board (the Chief Executive, the Monitoring Officer, the s151 officer and the head of internal audit) and the Corporate Management Team and then submitted to the Audit and Standards Advisory Committee and then the Audit and Standards Committee for consideration in accordance with the Audit and Accounts Regulations 2015. This requires findings of the review of the system of internal control to be considered by a committee, or by members of the council meeting as whole and that the Annual Governance Statement be approved by resolution of a committee, or members of the council meeting as a whole in advance of approving the statement of accounts.

The Governance Framework consists of a range of documents, policies and procedures developed, maintained and promoted by a number of different Directorates which are published and promoted to members, officers and others by publication on the council's website.

This Code will be reviewed annually and when any new CIPFA/SOLACE guidance is issued.

# THE CODE OF RECOMMENDED PRACTICE ON LOCAL AUTHORITY PUBLICITY

## 1. INTRODUCTION

- 1.1 This code applies to all local authorities in England specified in section 6 of the Local Government Act 1986 and to other authorities in England which have that provision applied to them by other legislation. Where the term “local authorities” is used in this code it should be taken as referring to both those categories of authority. References to “the Act” are to the Local Government Act 1986.
- 1.2 Local authorities are required by section 4(1) of the Act to have regard to the contents of this code in coming to any decision on publicity. Section 6 of the Act defines publicity as “any communication in whatever form, addressed to the public at large or a section of the public”. The code therefore applies in relation to all decisions by local authorities relating to paid advertising and leaflet campaigns, publication of free newspapers and newsheets and maintenance of websites – including the hosting of material which is created by third parties.
- 1.3 Nothing in this code overrides the prohibition by section 2 of the Act on the publication by local authorities of material which in whole or in part appears to be designed to affect public support for a political party. Paragraphs 21 to 24 offer some guidance for local authorities on the management of publicity which may contain or have links to party political material.

## PRINCIPLES

- 1.4 Publicity by local authorities should:-
  - be lawful
  - be cost effective
  - be objective
  - be even-handed
  - be appropriate
  - have regard to equality and diversity
  - be issued with care during periods of heightened sensitivity

## LAWFULNESS

- 1.5 Local authorities should ensure that publicity complies with all applicable statutory provisions. Paid-for advertising must comply with the Advertising Standards Authority’s Advertising Codes.
- 1.6. Part 3 of the Communications Act 2003 prohibits political advertising on television or radio. Local authorities must ensure that their publicity does not breach these restrictions.
- 1.7. Section 125 of the Political Parties, Elections and Referendums Act 2000 places a specific restriction on the publication by a local authority of material relating to a referendum under Part 7 of that Act, during the period of 28 days immediately before the referendum is held.
- 1.8. Regulation 5 of the Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089) prohibits local authorities from publishing material in the 28 days immediately before a referendum which expresses support

for, or opposition to a particular answer to a referendum question relating to the constitutional arrangements of the authority.

- 1.9. Regulation 15 of the Local Authorities (Referendums, Petitions and Directions) (England) Regulations 2000 (S.I. 2000/2852) prohibits local authorities from incurring expenditure to publish material which appears designed to influence people in deciding whether or not to sign a petition relating to the constitutional arrangements of the authority, or to assist others to publish such material.

### **COST EFFECTIVENESS**

- 1.10. In relation to all publicity, local authorities should be able to confirm that consideration has been given to the value for money that is being achieved, including taking into account any loss of potential revenue arising from the use of local authority-owned facilities to host authority publicity.
- 1.11. In some circumstances it will be difficult to quantify value for money, for example where the publicity promotes a local amenity which is free to use. In such a case authorities should be able to show that they have given thought to alternative means of promoting the amenity and satisfied themselves that the means of publicity chosen is the most appropriate.
- 1.12. If another public authority, such as central government, has issued publicity on a particular topic, local authorities should incur expenditure on issuing publicity on the same matter only if they consider that additional value is achieved by the duplication of that publicity. Additional value might be achieved if locally produced publicity gives a local context to national issues.
- 1.13. The purchase of advertising space should not be used as a method of subsidising voluntary, public or commercial organisations.
- 1.14. Local authorities should consider whether it is appropriate to seek advice from economic analysts, public relations experts or other sources of expert advice before embarking on a publicity campaign involving very large expenditure.

### **OBJECTIVITY**

- 1.15. Local authorities should ensure that publicity relating to policies and proposals from central government is balanced and factually accurate. Such publicity may set out the local authority's views and reasons for holding those views, but should avoid anything likely to be perceived by readers as constituting a political statement, or being a commentary on contentious areas of public policy.
- 1.16. Any publicity describing the council's policies and aims should be as objective as possible, concentrating on the facts or explanation or both. Local authorities should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy. It is acceptable for local authority publicity to correct erroneous material which has been published by other parties, despite the fact that the material being corrected may have been published with the intention of influencing the public's opinions about the policies of the authority. Such publicity should seek to explain the facts in an objective manner.

- 1.17. Where paid-for advertising is used by local authorities, it should be clearly identified as being advertising. Paid-for advertising, including advertisements for the recruitment of staff, should not be used in any publication owned or controlled by a political party.
- 1.18. Advertisements for the recruitment of staff should reflect the tradition of political impartiality of local authority employees and should not (except in the case of advertisements relating to the appointment of staff pursuant to section 9 of the Local Government and Housing Act 1989 (assistants for political groups)) refer to any political activities or affiliations of candidates.

### **EVEN-HANDEDNESS**

- 1.19. Where local authority publicity addresses matters of political controversy it should seek to present the different positions in relation to the issue in question in a fair manner.
- 1.20. Other than in the circumstances described in paragraph 34 of this code, it is acceptable for local authorities to publicise the work done by individual members of the authority, and to present the views of those individuals on local issues. This might be appropriate, for example, when one councillor has been the “face” of a particular campaign. If views expressed by or attributed to individual councillors do not reflect the views of the local authority itself, such publicity should make this fact clear.
- 1.21. It is acceptable for local authorities to host publicity prepared by third parties – for example an authority may host a blog authored by members of the authority or a public forum on which members of the public may leave comments. Maintenance by a local authority of a website permitting the posting of material by third parties constitutes a continuing act of publication by that local authority which must accordingly have a system for moderating and removing any unacceptable material.
- 1.22. It is generally acceptable for local authorities to host publicity, such as a blog, which itself contains links to external sites over which the local authority has no control where the content of those sites would not itself comply with this code. This does not amount to giving assistance to any person for the publication of material which local authorities are not permitted to publish. However, particular care must be taken by local authorities during the period before elections and referendums to ensure that no breach of any legal restriction takes place. It may be necessary to suspend the hosting of material produced by third parties or public forums which contain links to impermissible material during such periods.
- 1.23. It is acceptable for publicity containing material prepared by third parties and hosted by local authorities to include logos of political parties or other organisations with which the third parties are associated.
- 1.24. It is acceptable for publicity produced or hosted by local authorities to include a logo associated with a particular member of the authority, such as a directly elected mayor, or leader of the authority. Publicity material produced by local authorities relating to a particular member must not seek to affect public support for that individual.
- 1.25. Where local authorities provide assistance to third parties to issue publicity they should ensure that the principles in this code are adhered to by the recipients of that assistance.



**APPROPRIATE USE OF PUBLICITY**

- 1.26. Local authorities should not incur any expenditure in retaining the services of lobbyists for the purpose of the publication of any material designed to influence public officials, Members of Parliament, political parties or the Government to take a particular view on any issue.
- 1.27. Local authorities should not incur expenditure on providing stands or displays at conferences of political parties for the purpose of publicity designed to influence members of political parties to take a particular view on any issue.
- 1.28. Local authorities should not publish or incur expenditure in commissioning in hard copy or on any website, newsletters, newssheets or similar communications which seek to emulate commercial newspapers in style or content. Where local authorities do commission or publish newsletters, newssheets or similar communications, they should not issue them more frequently than quarterly, apart from parish councils which should not issue them more frequently than monthly. Such communications should not include material other than information for the public about the business, services and amenities of the council or other local service providers.
- 1.29. Publicity about local authorities and the services they provide should be freely available to anyone who wishes to receive such information in a format readily accessible and understandable by the person making the request or by any particular group for which services are provided.
- 1.30. All local authority publicity should clearly and unambiguously identify itself as a product of the local authority. Printed material, including any newsletters, newssheets or similar publications published by the local authority, should do this on the front page of the publication.

**EQUALITY AND DIVERSITY, ETC.**

- 1.31. Publicity by local authorities may seek to influence (in accordance with the relevant law and in a way which they consider positive) the attitudes of local people or public behaviour in relation to matters of health, safety, crime prevention, race relations, equality, diversity and community issues.
- 1.32. Local authorities should consider how any publicity they issue can contribute to the promotion of any duties applicable to them in relation to the elimination of discrimination, the advancement of equality and the fostering of good relations.

**CARE DURING PERIODS OF HEIGHTENED SENSITIVITY**

- 1.33. Local authorities should pay particular regard to the legislation governing publicity during the period of heightened sensitivity before elections and referendums – see paragraphs 7 to 9 of this code. It may be necessary to suspend the hosting of material produced by third parties, or to close public forums during this period to avoid breaching any legal restrictions.
- 1.34. During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues or report views or proposals in such a way that identifies them with any individual members or groups of members. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period unless expressly authorised by or under statute. It is permissible for local authorities to publish factual information which identifies the names, wards and parties of candidates at elections.

1.35. In general, local authorities should not issue any publicity which seeks to influence voters. However this general principle is subject to any statutory provision which authorises expenditure being incurred on the publication of material designed to influence the public as to whether to support or oppose a question put at a referendum. It is acceptable to publish material relating to the subject matter of a referendum, for example to correct any factual inaccuracies which have appeared in publicity produced by third parties, so long as this is even-handed and objective and does not support or oppose any of the options which are the subject of the vote.

## **PROTOCOL FOR MEMBER / OFFICER RELATIONS**

### **1. INTRODUCTION**

- 1.1. The purpose of this Protocol is to guide members and officers of the Council in their relations with one another.
- 1.2. This Protocol forms part of a series of Codes which are set out in the Constitution. Members are reminded that breach of this protocol could result in action being taken against that member under the Members' Code of Conduct which can include investigation and reports to the Council's Audit and Standards Committee. Officers are also bound by this protocol and breaches by officers are addressed under the Council's disciplinary processes.
- 1.3. Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other issues that may arise.
- 1.4. This protocol is to a large extent no more than a written statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty.
- 1.5. This protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to members and officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and as such demand very high standards of personal conduct.

### **2. RELATIONS BETWEEN MEMBERS AND OFFICERS**

- 2.1 Members and officers should at all times treat each other with respect and courtesy. It is essential for the operation of the Council that there is a close working relationship, built on mutual respect, between members and officers.
- 2.2 It is clearly important that there should be a close working relationship between the Leader, Cabinet Members or Chair of a committee or sub-committee and the Chief Officers and other senior officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officer's ability to deal impartially with other members and other party groups or with Council business generally.
- 2.3 Officers are not obliged to attend members' surgeries and it is recommended that they do not.
- 2.4 Whilst the Leader of the Cabinet or Chair of a committee (or sub-committee) will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in some situations a Chief Officer will be under a duty to submit a report on a particular matter. Similarly, a Chief Officer will always be fully responsible for the contents of any reports submitted in his/her name. Any issues arising between the Leader or a Chair and a Chief Officer in this area should be referred to the Chief Executive for resolution.

**3. OFFICER ADVICE TO PARTY GROUPS**

- 3.1. It is common practice for party groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups.
- 3.2. The support provided by officers can take many forms, ranging from a briefing meeting with the Leader of the Cabinet, Cabinet member, or a committee chair to a presentation to a full party group meeting. Whilst in practice such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.
- 3.3. Certain points must however be clearly understood by members and officers alike. In particular:
  - (a) officer support in these circumstances must not extend beyond providing information and advice in relation to matters of *Council* business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not invited to be present nor attend at meetings, or parts of meetings, when matters of *party* business are to be discussed;
  - (b) party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
  - (c) similarly, where officers provide information and advice to party group meetings in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Council or the Cabinet or a relevant committee or sub-committee thereof, when the matter in question is considered.
- 3.4. Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting which includes persons who are not members of the Council. Such persons will not be bound by the Brent Members' Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a members only meeting.
- 3.5. Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group. Similarly, members should not disclose confidential or exempt information to other persons, including other members and non-members who may not be entitled to receive that information.
- 3.6. Any particular cases of difficulty or uncertainty in this area of officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

#### **4. SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS**

- 4.1 The only basis upon which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport, etc.) to members is to assist them in discharging their role as members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.
- 4.2 Members should not seek, and officers should not provide, support or assistance for any other purpose, including political purposes.

#### **5. CORRESPONDENCE**

- 5.1 It should not normally be necessary for an officer to copy correspondence between an individual member and the officer to any other member. Where, exceptionally, it is necessary to copy the correspondence to another member, this should be made clear to the author of the original correspondence.
- 5.2 Official letters on behalf of the Council should be sent out under the name of the appropriate officer rather than a member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear under the name of a member, but this should be the exception rather than the norm. This would normally be in the name of the Leader or other Cabinet member.
- 5.3 Members should not write letters which create obligations or give instructions on behalf of the Council.
- 5.4 Members should not coerce officers to send particular correspondence or to write or refrain from writing a particular statement.
- 5.5 The Council's logo may be used on correspondence from members but only where the correspondence relates to Council business. Guidance on letterheads and the use of the Council's logo will be issued from time to time and members should comply with that guidance. Members should also be familiar with the Code of Practice on Local Authority Publicity which may be relevant.

#### **6. INVOLVEMENT OF WARD COUNCILLORS**

- 6.1 Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the ward or wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the ward members should be notified at the outset of the exercise.

#### **7. PRESS RELEASES AND PUBLICITY**

- 7.1 Press releases issued by the Council's Head of Communications may contain quotes from the Leader, Cabinet Members, or the appropriate Chair of committees. Press releases will be confined to factual information and an explanation of agreed Council policy. Where the press make a request for political comments this will be referred to the relevant party spokesperson(s).
- 7.2 The Members of the Cabinet relevant chairs and vice-chairs and group spokesperson(s) will be sent copies of Council press releases when they are

published. Where Council press releases relate solely to a specific ward issue the ward members will also receive a copy of the press release when it is issued.

7.3 Any press release issued by the Council under the above arrangements will comply with the Local Government Act 1986 and the Code of Practice on Local Authority Publicity, and in particular:

- must have the principal purpose of explaining or commenting upon Council policy
- must be factually correct; and
- must not include materials the main effect of which is party political (i.e. designed to affect public support for a political party).

7.4 Special care in relation to press releases and publicity should be taken during the pre-election period. Members and officers should pay particular attention to any guidance issued on this point by the Monitoring Officer, Chief Executive or other relevant officer(s).

7.5 Members of the Council may respond to requests for press, radio and television interviews, but these will be given in a personal capacity and will be the personal responsibility of the member concerned. Where a formal Council view is requested this will be referred by the Head of Communications to the Leader of the Cabinet, the appropriate Cabinet member, or the appropriate committee Chair.

7.6 The recognised channel for press approaches to the Council is through the Head of Communications. At his/her discretion, officers may deal with any request for information or questions asked by the press, television or radio, and may accept invitations to broadcast or appear on television in order to give the facts of a situation or explain the Council's practices. It is important that the relevant senior officer(s) is involved in signing off any draft response prepared. The Leader of the Cabinet, Cabinet member, or relevant chair will be informed as soon as practicable.

7.7 When press conferences or media events setting out agreed Council policy are arranged Leader and other members of the Cabinet, or the relevant chair and vice-chair of the committee, will be invited to attend.

7.8 Members should not coerce officers into issuing publicity or organising events which would, or might, contravene the rules on political publicity.

## **8. VISITS**

8.1 Any arrangements for visiting relevant Council establishments shall be available to relevant party spokesperson(s) on an equal basis.

## **9. DIRECTIONS TO STAFF**

9.1 Members should not issue any instruction to officers to do or to refrain from doing anything. There are exceptions to this in relation to the Leader and members of the Cabinet where the issue relates to Council policy or business and are executive matters. This general rule shall not however, prevent committee chairs from requesting officers to make arrangements or provide documents in respect of meetings of which they are chair.

- 9.2 Members should not make statements to staff whether verbally or in writing which could be construed as amounting to a suspension, dismissal or disciplinary action nor do anything which could amount to constructive dismissal.

## **10. STAFF APPROACHES TO MEMBERS**

10.1 It is important that appropriate boundaries of behaviour and proper communication channels are maintained at all times which reflect the respective roles of officers and members in the Council.

10.2 The Brent Council officers' Code of Conduct sets out standards of behaviour for officers, breach of which can lead to disciplinary action. Included in that Code are the following restrictions on officers' interaction with Members

- do not canvass members on employment related matters nor seek to influence members prior to any meetings of the Senior Staff Appointments Sub Committee or Staff Appeals Sub Committee, other than in the context of giving proper professional advice
- do not take up any staffing problems or issues with members.

Any such approaches from officers or ex officers of the Council to a Member should be referred by the member to the Corporate Director of Governance.

## **11. CODE OF CONDUCT AND CODES OF PRACTICE**

11.1 Members' must adhere to the Brent Members Code of Conduct, the Planning Code of Practice and the Licensing Code of Practice at all times and the general principles of conduct set out in the Localism Act 2011 namely:

- Selflessness;
- Integrity;
- Objectivity;
- Accountability;
- Openness;
- Honesty
- Leadership.

## **12. WHEN THINGS GO WRONG**

12.1 Procedure for officers

From time to time the relationship between a councillor and officers may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior manager, officers can have recourse to the Chief Executive, as appropriate to the circumstances. Officers also have recourse to the Council's Whistleblowing Procedure or can refer the matter to the Corporate Director of Governance (the council's Monitoring Officer) if they consider that a councillor has broken the Code of Conduct.

12.2 Procedure for Councillors

In the event that a Councillor is dissatisfied with the conduct, behaviour or performance of an officer, the matter should be raised with the appropriate Director. Where the officer concerned is a Corporate Director the matter should be raised with the Chief Executive. Where the employee concerned is the Chief Executive the matter should be raised with the Corporate of Governance.

# PROTOCOL ON MEMBERS' RIGHTS OF ACCESS TO INFORMATION

## 1. INTRODUCTION

- 1.1 The purpose of this protocol is:
  - (a) to set out the rights of access to Council information that members of the Council have; and
  - (b) to provide guidance to members and officers on the approach to be adopted in the exercise of these rights in respect of availability of Cabinet and Committee Reports and to information held by the Council generally.
- 1.2 This protocol does not deal with the rights of access of the public and the press which are set out in the Access to Information Rules.

## 2. GENERAL PRINCIPLES

- 2.1 Members are free to approach Council staff of appropriate seniority to provide them with such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as members of the Council. This can range from a request for general information about some aspect of a Directorate's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Corporate or other Director or another senior officer of the Directorate concerned.
- 2.2 Members should not try to use their position to coerce officers into releasing to them information which they are not entitled to see. Any issues should be taken up with the relevant Corporate or other Director.
- 2.3 Any difficulty as to whether a member is entitled to particular information should be referred by the relevant member or officer for advice from the Corporate Director, Law and Governance. The final decision in a disputed case is a matter for the relevant Council committee or sub-committee or in the case of executive functions, the Cabinet or its committee(s).
- 2.4 The effect of the rules contained in statute and regulations is that all councillors are entitled to see all reports to the Cabinet and Committees in advance, together with documents relating to the matters contained in the report, except those that are exempt information as set out in the Access to Information Rules in Part 2 of the Constitution. The restriction on access under category 3 only applies in so far as the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract and there is no restriction for members on access to information that is exempt because it falls within category 6. Members of the Scrutiny Committees are entitled to see those excluded reports after the decision has been taken if the report concerns a matter in their work programme or is called in to be considered by them. This is the position set out in the Access to Information Rules in the Constitution.
- 2.5 Reports containing confidential information as defined in the legislation (i.e. information stated by the government to be confidential or which is covered by a prohibition on disclosure in legislation or which is covered by a court order) cannot be made public and the public must be excluded from any part of a meeting during which such a report is discussed. There is no discretion in respect of this category of information.



- 2.6 The decision as to whether a report due to be considered by the Cabinet or the Barham Park Trust Committee, the Council or one of its committees contains exempt information as set out in the legislation and whether or not it should be generally circulated is made by the "proper officer". The proper officer in Brent is the Deputy Director of Democratic Services. The proper officer will be exercising a discretion in deciding whether to circulate exempt papers other than to members of the relevant body and that discretion must be exercised reasonably. The Deputy Director of Democratic Services will take advice from the Corporate Director of Governance .
- 2.7 There is no statutory right for councillors to attend meetings of bodies of which they are not a member while confidential or exempt reports are being considered.
- 2.8 It is a matter for the body which is meeting (i.e. the Cabinet or Barham Park Trust Committee or a Council committee) whether other councillors are allowed, as a matter of discretion, to remain at an otherwise open meeting while exempt matters are discussed. The Cabinet or the committee will be exercising discretion in deciding whether to allow any councillors who are not members of the body to remain and that discretion must be exercised reasonably.
- 2.9 Members have further rights of access beyond those specifically given in statute in certain circumstances. These additional rights are described as "common law rights". A member is entitled to see documents which are reasonably necessary to enable him or her to carry out his or her duties **as a Councillor**. This is generally described as the "need to know" principle.
- 2.10 There is no simple definition of this. Various court cases have given indications of how the common law right should be interpreted. There is no right to a "roving commission" to satisfy curiosity and the right will not arise if there is some form of ulterior or indirect motive (such as to assist someone in litigation against the council) which underlies the wish for access. Ulterior or indirect motive would cover any case where the "real" reason the Councillor wants access is not to do with carrying out his or her role **as a Councillor** (e.g. where the reason is to do with the members position as a party member, as a resident or as a member of any association.) Extra care will need to be taken in considering the application of this right in cases where there is litigation underway or contemplated connected to the information sought. However, the fact that the information is potentially embarrassing for the Cabinet or Council as a whole is not in itself a reason to deny access to information to which a Councillor is otherwise entitled. A member of a committee will normally be entitled to access to papers concerning matters for which the committee is responsible.
- 2.11 Reports which members are not entitled to see as of right may be made available to them and this Protocol explains the circumstances when this may happen.

### **3. APPLYING A PRINCIPLE OF OPENNESS IN THE WRITING OF REPORTS**

- 3.1 Reports to Committees and the Cabinet should only be marked exempt when this cannot reasonably be avoided in order to protect the interests of the Council and/or third parties in accordance with the statutory rules on exempt reports. Report writers should bear in mind the qualifications in respect of the categories of exempt information as marked in the Table at paragraph 53 of Part 2. of this Constitution and should also bear in mind that information which has been exempt at one stage may not remain so. For example, information which if disclosed at an early stage might have prejudiced the Council in negotiations for a contract may at a later stage

not be capable of having that effect. The information would then no longer be exempt.

- 3.2 It is sometimes possible for reports to be written in such a way that exempt information is separated out from the main body of the report to be included in a separate exempt sheet. Sometimes information in reports could be made anonymous without the effectiveness of the report being reduced. This is one way of ensuring that as many reports, and as much information, are made accessible as possible. There will still inevitably be a number of reports which are marked exempt.
- 3.3 Officers who write reports should strive to avoid entire reports being below the line (exempt) by omitting exempt information where possible and appropriate and in other cases trying to separate out the exempt information on to separate sheets.
- 3.4 Where a report is split in this way, the chair at the meeting at which it is considered will need to be careful to ensure that members are aware that there is additional information in an exempt section of the report. Guidance on how to handle reports split in this way is contained in section 6.4 of this Protocol.

#### **4. ACCESS TO REPORTS**

- 4.1 The Deputy Director of Democratic Services intends to apply a presumption of openness when exercising his discretion concerning giving members access to exempt reports that they do not have a positive right to see. The following sections set out the normal practice that will be followed in respect of automatic despatch of reports to members and in respect of responding to requests from members for reports.
- 4.2 All reports will of course be despatched to all members of the relevant committee or other body.
- 4.3 Subject to section 5 below, all reports (normally including exempt reports) will be sent to Leaders of Party Groups. The Deputy Director of Democratic Services would of course retain discretion not to despatch copies automatically in appropriate cases, for example if a report concerned a matter in which the member had a personal interest or concerned a person known to the member.
- 4.4 Subject to section 5 below, specific reports (normally including exempt reports) will be despatched to any councillor on request.
- 4.5 In some cases it may be appropriate for a member requesting access to a report to be given an opportunity to see the report without a copy being supplied for the member making the request to take away.
- 4.6 Members automatically sent exempt reports, or receiving them after making a request, would not be entitled to share the reports with other members of their party group but could alert them to the advisability of requesting a copy of the report/calling the report in. Other members could request a copy direct from the Deputy Director of Democratic Services. Such a request would then be dealt with in accordance with the principles set out in this section 4 and in section 5 below.
- 4.7 The Deputy Director of Democratic Services reserves the right not to provide exempt information to any councillor not entitled to it as of right if he believes the information is wanted for an improper purpose.

## 5. PARTICULARLY SENSITIVE CATEGORIES OF INFORMATION

- 5.1 Reports containing some categories of exempt information are less appropriate for automatic circulation or distribution on request to members not directly concerned in them through their role on the Cabinet or a committee than others.
- 5.2 It would not normally be appropriate for reports covered by categories 1, 2 and 5 in the Table at paragraph 53 of Part 2 (Access to Information) of this Constitution to be made generally available. These categories cover information about particular individuals or which enables individuals to be identified. Reports containing information falling into these exempt categories will only be provided to (or in some case made available to) councillors who are not members of the relevant body if they are able to positively demonstrate to the Deputy Director of Democratic Services (if necessary on the advice of the **Corporate Director of Governance** that they have a need to have a copy of or see the report in order properly to carry out their duties as a Councillor.
- 5.3 Reports containing information falling into category 3 to which members are not automatically entitled (terms proposed in the course of negotiations for a contract) may also be particularly sensitive. These reports will normally be provided as a matter of course to the Leaders of each political group and be made available or copied to other members on their specific request. However, where the report is particularly sensitive this will not happen. This may be the case for example where negotiations are on going in relation to price or price sensitive aspects of the contract.
- 5.4 Officers relying on category 3 on the basis that a report contains information about terms proposed in the course of negotiations for a contract will be expected either to prepare a report which separates the exempt from the non exempt information so the latter can be freely circulated, or to produce, on request, an expanded summary of the report for councillors who are not members of the decision making body and are not provided with a copy of the report but who want to know more about the matter than is contained in the brief "Summary" section within the report.
- 5.5 Separating out exempt information into a separate appendix, where possible, in order that the main body of the report can be publicly available is good practice in all cases and not just where category 3 (in respect of information about terms proposed in the course of negotiations for a contract) is relied on. Where a report is split in this way, when the open part of the report is considered at the Council, committee or Cabinet meeting the chair of the meeting shall draw to the meeting's attention that the report is a split report and that further information appears in the exempt papers. If any member of the body considering the report indicates that they wish to comment on or question the report in a manner likely to involve discussion of the exempt information, the body shall consider whether discussion of the item should be postponed until a part of the meeting from which it is expected the public will be excluded.

## 6. ESTABLISHING A NEED TO KNOW

- 6.1 It is not possible to include in this Protocol hard and fast rules as to the application of the "need to know" principle as it will inevitably depend very much on the specific circumstances. Where this principle applies members will be entitled to access to reports as of right even if access would not otherwise be given under the earlier sections of this protocol. However, the following general principles can be identified.

- 6.2 Members of the Scrutiny Committees are entitled to have access to exempt or confidential reports relevant to an action or decision being reviewed or scrutinised.
- 6.3 Party Leaders are likely to have a greater need (but no absolute right) to have access to exempt reports than ordinary councillors with no special role.
- 6.4 Ward Members may have a particular need to know about matters affecting their ward. This does not mean they are entitled to access all information the Council has concerning matters affecting their ward. For example, if the information is confidential and could not in any event be passed on by the Ward member to constituents, a clear need to know for reasons that did not involve sharing the information with constituents would need to be established.
- 6.5 A Councillor will generally have a need to know information a constituent had asked the councillor to obtain on their behalf if the constituent would themselves be entitled to that information.

## **7. ACCESS TO OTHER FORMS OF INFORMATION**

- 7.1 All Corporate or other Directors should ensure that relevant information within their areas of responsibility is supplied to particular members according to their legitimate individual needs and requests. This may be by way of committee reports, letters or any other appropriate means. In fulfilling this obligation, such directors should have particular regard to the information needs of members as local representatives, including:
- information on all significant matters which particularly affect the member's ward
  - information on local matters in which the member may have expressed a specific interest, even though they do not directly concern the ward he/she represents
  - where relevant, information at two stages: when a decision is being considered and when it is being implemented.
- 7.2 If a director considers that meeting a request for information would involve an unreasonable commitment of resources, the member making the request shall be so advised. If that member persists in requesting the information then the director may refer the matter initially to the Leader of the Cabinet or the appropriate committee of sub-committee chair (or in the absence of the Leader or chair the Deputy Leader or Vice Chair) and then on to the Cabinet or the appropriate committee or sub-committee if necessary.
- 7.3 Officers should not release to members or non-members any information which they are aware is exempt or confidential and which that person is not entitled to receive.
- 7.4 Positive briefings (i.e. those which originate from officers otherwise than in response to a request or enquiry) will generally only be given to members of the Cabinet or chairs or vice-chairs of committees or sub-committees although officers are not prevented from giving briefing to other members if they feel that is appropriate.
- 7.5 'Fishing expeditions' will not be responded to and the reasons for a member's request for information will be sought.
- 7.6 Ward members have a legitimate role as advocates for their constituents as a group and as individuals. Ward members seeking information about individual constituents will need to demonstrate that they have the agreement of their

constituent to the disclosure by the Council of the information. This will usually be by way of written confirmation, especially in the case of sensitive personal information. Ward members cannot use their role as a Councillor to obtain for constituents information to which the constituents themselves would not be entitled.

- 7.7 All requests for information will be dealt with in accordance with the established legal principles governing members' rights to information.
- 7.8 More detailed advice about access to specific documents can be obtained from the Corporate Director of Governance.

## **8. FREEDOM OF INFORMATION ACT (FOIA)**

- 8.1 Councillors have the same rights to access to information under the FOIA as anyone else. The special rights of access members have, as described above, may overlap with rights under the FOIA or may allow Councillors access to information (or documents) that would not be available to them under the FOIA. For example, it is not necessary to say why information is wanted if it is requested under the FOIA but it would be necessary to state this if a Councillor was relying on their need to know as a Councillor. It may be that information that is not available to a Councillor under the FOIA (because it is covered by an exemption) may be available to them on the basis of their special rights as a Councillor. So, in some respect the FOIA rights are wider than Councillor's other rights and in some respects they are narrower.

## **9. GUIDANCE ON POTENTIAL PENALTIES AND CLAIMS IF LOSS IS CAUSED BY DISCLOSURE OF PERSONAL OR COMMERCIAL SENSITIVE INFORMATION**

- 9.1 Much of the information kept by the Council relates to individual clients and officers and members are expected to be discreet in their handling of such information which is disclosed to them.
- 9.2 One element of this will be obligations to individuals or organisations about whom a report contains information which is confidential to respect that confidentiality. Wrongful disclosure of information which results in some form of damage to a person or business to which the obligation is owed could be actionable against the Council. Information is often provided by people to the Council for a particular purpose and to disclose or use it for another purpose can lead to a Data Protection Act breach. Clearly the Council itself could be damaged by information wrongly disclosed. Wrongful disclosure by a Councillor would be a matter to be dealt with under the Members Code of Conduct and could result in a complaint to the Audit and Standards Committee about the member concerned.
- 9.3 The Brent Members' Code of Conduct provides that:

“ You must .... –

- 13 not disclose any information which is confidential in nature or which is provided in confidence without consent or authority.
- 14 not prevent another person from gaining access to information to which that person is entitled by law.

- 15 not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage, and
  - 16 when using or authorising the use by others of the resources of the Council –
    - (i) act in accordance with the Council's reasonable requirements;
    - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
    - (iii) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.”
- 9.4 A breach of the Brent Members' Code of Conduct can lead to sanctions being imposed on the member concerned.

## PROTOCOL ON CALL-IN

### 1. INTRODUCTION

- 1.1 The basic premise of call-in is that it is a failsafe mechanism enabling non executive Councillors to make the Cabinet, Cabinet Committee, Cabinet Member or an officer making a key decision, re-consider a particular decision if it is of major concern or in Members' eyes profoundly flawed.
- 1.2 The statutory guidance on call-in states that there needs to be an appropriate balance between effectively holding the executive to account, being able to question decisions prior to them being implemented and allowing effective, efficient decision making. It also balances the need to make the process accessible and the need to ensure that call-in procedures are not abused or used to delay or slow down the decision making process.
- 1.3 As call-in can inevitably result in a delay to the implementation of decisions it should not be used for party political purposes to seek to further discuss a decision that some members do not agree with. Equally, the rights of non executive members to call-in a decision and exercise their right to question the decision, the decision maker and consider alternative options needs to be respected.
- 1.4 This protocol is designed to provide a locally agreed framework within which call-in can operate, a clear set of criteria against which an otherwise valid call-in request can be judged and a format for the effective conduct of the meeting considering the call in.

### 2. WHAT IS A CALL-IN?

- 2.1 A decision made by the council's Cabinet or a Cabinet committee, or a key decision by an officer, can be called in for review before it is implemented. Decisions can be called in by five non-executive members representing more than one political group or by the Scrutiny Committee. If a Cabinet decision is called-in, that decision cannot normally be implemented until it has been considered by a scrutiny committee. An urgency procedure is in place in Standing Orders for any decision that cannot afford to be delayed.
- 2.2 The Scrutiny Committee is required to meet within 15 working days of the date on which a call-in is accepted as valid. The Committee may decide to refer the matter back to the Cabinet or other decision maker, along with the reasons why the Committee thinks it should be reconsidered. The Cabinet or other decision maker will then decide whether to implement the original decision or review the decision based on the views of the Scrutiny Committee. Alternatively the Committee can decide that the matter should not be referred back to the Cabinet or other decision maker in which case the original decision will be implemented.

### 3. THE CALL-IN PROCESS

- 3.1 A call in request must be submitted in accordance with the requirements of Standing Order 14 within 5 days of the relevant decision being made or in the case of a key decision made by officers within 5 days of the date on which the record of the decision is made publicly available in accordance with the Access to Information Rules. When submitting the call in request members must either complete the call-in form available [LINK] or include in their written request all the information required by the form. In particular this includes:
  - an explanation as to why they are calling in the decision and if they are calling in all or part of the decision(s).

- an outline of the suggested alternative course of action.
- 3.2 When a call-in request is submitted to the Deputy Director of Democratic Services which meets the requirements of Standing Order 14(b)((i) – iv) the Deputy Director of Democratic Services will refer it to the Chief Executive, who, in consultation with the Head of Policy and Scrutiny (the council’s designated Scrutiny Officer) and the Corporate Director of Governance, will decide whether or not an otherwise valid call-in conforms with the following requirements of this protocol. The call-in request will be assessed against the following criteria:
- Is the call-in process being used as a means of gaining information / understanding or discussing general concerns with Members and officers? If this could be achieved through the general overview and scrutiny process or by talking to the relevant officer or lead member informally the call-in will not be valid,
  - Does the call-in duplicate a recent call-in on the same issue? If the call-in duplicates another call-in made within the previous 6 months it will not be valid,
  - Have the reasons for calling in the decision already been discussed by the Scrutiny Committee? If the reasons for calling in the decision have been discussed by the Scrutiny Committee prior to the decision being made the call-in will not be valid,
  - Call-in of a decision of the Cabinet referring a matter to Full Council for consideration will not be valid,
  - Call in of operational management decisions taken by officers will not be valid
  - If the call in request is considered by the Chief Executive to be frivolous, vexatious or clearly outside the call-in provisions it may be deemed invalid.

Prior to deciding the validity the Corporate Director of Governance and the Head of Policy and Scrutiny may seek clarification from the members concerned.

#### **4. THE CONDUCT OF THE CALL-IN MEETING**

- 4.1 Scrutiny Committees are official committees of the council and it meets in public.
- 4.2 The purpose of a call-in meeting is for non executive members to examine and consider the decision made by the Cabinet, Cabinet Committee, or officers (in respect of key decisions) and for members of the committee to make suggestions and recommendations they consider appropriate to the decision maker. The Scrutiny Committee meeting provides an opportunity for members to seek clarification of the methodology used in enabling a decision to be made, as well as explore work undertaken by officers culminating in the matter coming before the decision maker .
- 4.3 The relevant Cabinet Portfolio Holder and chief officer (or his/her representative) will be invited to attend the scrutiny committee meeting to explain the reasons for the decision, respond to the issues raised in the call-in request and answer questions at the meeting.
- 4.4 It is the chair of the scrutiny committee’s responsibility to manage the meeting effectively by applying standing orders, maintaining good discipline and fostering a culture of respect. All contributions to the meeting should go through the chair and the chair should ensure that no purely personal disagreements or comments are allowed to continue.
- 4.5 To ensure that the meeting is effective the procedure at the meeting (subject to the Chair’s discretion) shall be as follows:



- 
- (a) The chair will ask a representative of the members who called in the decision to set out the reasons for the call in for up to 5 minutes. In the event that different members have identified different reasons the chair may in their discretion as more than one member to speak in which case the available time under (b) below shall be shared equally between the members.
  - (b) The chair will consider whether to permit any member of the public who has made a request to address the meeting to do so, the rules relating to members of the public addressing a meeting as set out in Standing Orders apply. Members of the public can be allowed to speak for 2 minutes. If a number of requests to speak have been received then the chair should seek to limit the number of contributions to avoid hearing the same points repeated and should seek advice from the Deputy Director of Democratic Services about how this should be managed.
  - (c) All of the members of the public who it has been agreed will address the meeting will be heard prior to the lead member and any relevant officers being asked to respond to the issues raised by the call-in.
  - (d) The lead member shall then be invited to respond to the issues raised in the call in.
  - (e) The chair will then invite members of the committee to question the lead member and officers and discuss the issues. Members who are not members of the committee but wish to ask a question can be invited to do so.
  - (f) Having considered the call-in invite members of the committee are required to come to one of the following conclusions:
    - That the matter should be referred back to the decision maker for reconsideration with reasons for its request and what the committee wants the decision maker to do.
    - That it does not object to the decision and the decision can be implemented.

## PROTOCOL ON EXTRAORDINARY MEETINGS

### 1. Introduction

- 1.1 Legislation provides that 5 member of the council (“the requisitioning members”) may present a requisition to the Mayor requesting that the Mayor call an Extraordinary Meeting of the council. If the Mayor refuses to do so, or fails to call the meeting within 7 days after the requisition, the requisitioning members may call the Extraordinary Meeting.

*Note: the meeting need not take place within the 7 day period the requirement is that it be cited in that period.*

- 1.2 The requisitioning members are required to provide with the requisition a notice of the motion or motions to be debated at the Extraordinary Meeting.
- 1.3 The purpose of an Extraordinary Meeting it to enable business to be transacted, or a matter to be debated, that cannot await the next ordinary council meeting. The expectation, therefore, is that the matter covered in the notice of motion will be urgent.
- 1.4 Given the challenges of organising a full council meeting at short notice and the inconvenience that may be caused to members, the matter(s) covered in the notice of motion should also be one(s) that cannot be dealt with to the requisitioning members’ satisfaction in some other way.
- 1.5 This protocol is designed to provide a locally agreed framework within which requisitions for Extraordinary Meetings can be handled in a reasonable and cooperative way.
- 1.6 This does not affect the statutory rights of councillors to make such a requisition or of the Mayor to refuse to call an extraordinary meeting or to call an Extraordinary Meeting at any time after being presented with a requisition.

### 2. Before making a requisition

- 2.1 Councillors considering participating in the presentation of a requisition for an Extraordinary Meeting to the Mayor should first speak to the Chief Executive about the matter(s) of concern and seek her guidance as to how that matter can best be progressed and resolved.

### 3. Steps to taken during the requisition period

- 3.1 In the event that the matter is not resolved satisfactorily and a requisition is presented the Mayor, if it appears appropriate discussion with the requisitioning members will continue to see whether matters can be resolved without a full Council meeting being held.
- 3.2 In the event that the requisitioning members, or any of them, are satisfied before the 7 day period has expired, they should notify the Mayor that they no longer

support the requisition and will not participate in the calling of an Extraordinary Meeting if no such meeting is called by the Mayor.

- 3.3 If the number of requisitioning members falls below 5 the requisitioning member will not be entitled to call an Extraordinary Meeting in the event that the Mayor does not do so.

# **PART 6**

## **MEMBERS' ALLOWANCE SCHEME**

The London Borough of Brent, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003; the Local Government and Housing Act 1989; the Local Government Act 2000 and the Local Government Act 1972 hereby makes the following Scheme.

### **Introduction**

1. This is Brent Council's Members' Allowance Scheme. The allowances in Schedule 1 shall become effective from 1<sup>st</sup> April 2024. The Scheme was made on 29 February 2024.

### **Interpretation**

In this Scheme:

"Councillor" means a member of the London Borough of Brent who is a Councillor.

"Year" means a period of 12 months ending 31 March.

### **Basic Allowance**

2. For each year a basic allowance as set out in Schedule 1 of this Scheme shall be paid to each Councillor.

### **Special Responsibility Allowances**

3. (1) For each year, a Special Responsibility Allowance shall be paid to those Councillors who have the Special Responsibilities in relation to the authority that are specified in Schedule 1 of this Scheme.  
(2) The amount of each such Allowance shall be the amount specified against that Special Responsibility in Schedule 1.  
(3) No member shall receive more than one Special Responsibility Allowance.  
(4) No member of the Planning Committee, Licensing Committee, Adoption and Permanency Panel and Fostering Panel shall receive a Special Responsibility Allowance unless the member has attended or completed the mandatory training sessions for that body. The reference to mandatory training sessions are to such sessions as determined by the Council from time to time.

### **Allowances for the education co-opted members and the independent members on Audit and Standards Advisory Committee**

4. For each year an allowance as set out in Schedule 1 of this Scheme shall be paid to the education co-opted members and the independent members on the Audit and Standards Advisory Committee. The allowance will be paid in two instalments during the municipal year. For terms of office commencing from or after 18 May 2023 the allowance will only be paid where the co-opted/independent member has not been absent for a majority of meetings over the previous 6 months.

### **Dependants' Carers' Allowance**

- 5 (1) A dependants' carers' allowance may be claimed by a councillor in respect of such expenses of arranging for the care of their children or dependants as are necessarily incurred in the attendance at meetings or the performance of

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functions of a type specified in Schedule 2.

- (2) For the purposes of 5(1) above:
  - A Councillor's dependants are defined as children aged 15 or under, elderly, disabled or unwell relatives who cannot be left alone (either temporarily or permanently).
  - Payments will not normally be made to carers who are family members or person's resident at the Councillor's home.
  - Carers must be aged 18 or over.
- (3) The Carers' Allowance can also cover costs associated with Councillors who themselves need the help of a carer in order for them to fulfil their duties as a Councillor.
- (4) The maximum rate for this allowance is based on the Living Wage Foundation's 'real living wage' (unless specialist care is required and approved) to meet, or contribute towards, the actual costs incurred in arranging care. The maximum period from which any one claim can be made is the duration of the meeting/duty plus 'reasonable' travel time to and from meetings up to the maximum of an hour each way. What equates to reasonable travel time will be agreed with the Deputy Director of Democratic Services.
- (5) Payments will only be made where:
  - a. receipts are produced for any claim; and
  - b. written/email approval of the claim has been obtained from the Deputy Director of Democratic Services prior to the meeting.
- (6) Any queries on expenses or claims should be referred to the Deputy Director of Democratic Services.
- (7) For the purposes of regulation 7(1)(h) of the Local Authorities (Members' Allowances) (England) Regulations 2003 (see Schedule 2), the following are approved duties in respect of which councillors are entitled to claim a dependants' carers' allowance:
  - i) all approved internal and external learning and development sessions as part of the Council Member Learning and Development programme;
  - ii) meetings with government departments and other official bodies;
  - iii) meetings and/or briefings convened or authorised by Chief Officers provided that councillors of at least two political groups have been invited;
  - iv) Cabinet member/officer meetings;
  - v) formal inspections and site visits authorised by the Council;
  - vi) conferences that a councillor is appointed to attend;
  - vii) formal joint meetings with members of other authorities; and
  - viii) meetings of all other bodies to which councillors are appointed as a representative of the Council or a Committee. These include:
    - a. joint committees with staff;
    - b. working panels;
    - c. steering groups; and
    - d. advisory groups and outside bodies (appointed to by the Council).

- ix) the carrying out of any other duty approved by the authority, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the authority or any of its committees or subcommittees.

Summary: Care costs can be claimed for all formal Council work including attending Council meetings, committees and sub-committees, meetings for other bodies for which councillors have been appointed by the council, as well as attending internal and external learning and development sessions.

Care costs cannot be claimed for ward work, constituency meetings, meeting preparation or travel time as these are covered by the Basic Allowance.

### **Civic dignitaries**

6. In accordance with the necessary tax dispensation, for each year the allowances set out in schedule 1 shall be paid to the Mayor and Deputy Mayor to meet the expenses of their office.

### **Travelling and subsistence allowances**

7. (1) Subject to the conditions set out in this paragraph, reasonable travelling and subsistence expenses may be claimed by councillors (or co-opted or independent members) in respect of the attendance at conferences outside of the borough of Brent.
- (2) Subject to the conditions set out in this paragraph, reasonable expenses may be claimed for travel by councillors (or co-opted or independent members) with disabilities.
- (3) The expenses shall be for the purpose of, or in connection with, the discharge of the functions of the Council.
- (4) The prior written approval of the Deputy Director of Democratic Services or the Director Performance, Policy and Partnerships shall be obtained in respect of both the incurring of the expenses and the amount of the expenses.
- (5) Claims shall be reimbursed at the same rate as the Council reimburses expenses claimed by officers. Subject to any maximum limits which may apply, the amount of the claim shall be limited to the expense actually incurred.
- (6) Receipts shall be produced in respect of all claims.

### **Renunciation**

8. A Councillor (or co-opted or independent member) may, by notice in writing given to the Deputy Director of Democratic Services, elect to forego any part of their entitlement to an allowance under this Scheme.

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**Part-year Entitlements**

9. In so far as this scheme has effect for only part of a year or where, in the course of a year, this Scheme is amended or a Councillor or co-opted or independent member becomes or ceases to be a Councillor or co-opted or independent member, or accepts or relinquishes a special responsibility in respect of which a Special Responsibility Allowance is payable, the entitlement to such an allowance shall be to such part of the allowance as bears to the whole in the same proportion as the number of days during which their term of office subsists bears to the number of days in that year.

**Claims and Payments**

10. (1) A dependents' carers' allowance, travelling and subsistence allowances or education co-opted or independent members' allowance under this Scheme shall be made in writing within two months of the date on which the duty in respect of which the entitlement to the allowance arises.
- (2) Payments shall be made:
- (a) in respect of Basic and Special Responsibility Allowances, subject to Sub-Paragraph (4) below, in instalments of one-twelfth of the amount specified in this Scheme on a day each month as determined by the Deputy Director of Democratic Services.
  - (b) in respect of Mayoral and Deputy Mayoral allowances, in accordance with a scheme for which a tax dispensation has been given.
  - (c) in respect of dependents' carers' allowances, on the day as determined by the Deputy Director of Democratic Services in respect of claims received up to the last day of the preceding month.
- (3) Where a payment of one-twelfth of the amount specified in this Scheme in respect of a Basic Allowance or a Special Responsibility Allowance would result in the Councillor receiving more or less than the amount to which, by virtue of Paragraph 8, he or she is entitled, the payment shall be such amount as will ensure that no more or no less is paid than the amount to which he or she is entitled.
- (4) A record of all payments made under this Scheme showing recipient, nature and amount shall be maintained and made available for public inspection.
- (5) No member may claim an allowance under this Scheme if he or she is already claiming an allowance from another authority in respect of the same duties.
- (6) Where an allowance has already been paid in respect any period during which the person claiming the allowance was not entitled to so claim the Council may recover the amount paid.

**Annual Uplift**

11. Basic, special and civic allowances payable under this Scheme shall be increased with effect from each April by a percentage equal to the inflation pay award agreed as part of the Local Government Pay Settlement in the previous financial year, unless otherwise determined by the Council.



**Pensions**

12. (a) The following members of the Council are entitled to pensions in accordance with a members pension scheme:

*[none]*

- (b) The following allowances shall be treated as amounts in respect of which such pensions are payable:

*[none]*

**Maternity, Paternity, Adoption and Sickness Pay**

13. (1) A Councillor shall continue to receive in full a basic allowance as set out in Schedule 1 of this Scheme during any period of maternity, paternity, adoption and sickness leave.
- (2) Councillors giving birth are entitled to up to six months maternity leave with the option to extend up to 52 weeks with the approval of the Chief Executive following consultation with the Chief Whip, where applicable. Maternity leave can begin:
- (a) When the councillor chooses but no earlier than 11 weeks before the expected week of childbirth, or
- (b) from the day following childbirth if the baby is born earlier
- (3) A Councillor entitled to a Special Responsibility Allowance shall continue to receive their allowance during any period of maternity, paternity, adoption and sickness leave in the same way that the Council's employees enjoy such benefits.
- (4) If another Councillor is appointed to cover the period of absence, the replacement will be entitled to receive the same allowance. In accordance with paragraph 3.3 of this scheme, no Councillor shall receive more than one Special Responsibility Allowance.
- (5) Councillors wanting to take paternity leave must offer a declaration in writing that specifies the start day or date of the period of leave and its duration. If the child(ren) is born on a different date, the Council must be given notice of the changed period of parental leave as soon as possible.
- (6) Councillors shall be entitled to take up to 2 weeks paternity leave if they are the biological father or nominated carer of their partner/spouse following the birth or adoption of their child(ren).
- (7) Paternity leave can be taken as either:
- (a) a single period of leave of either one week or two weeks, or
- (b) two non-consecutive periods of leave of a week each
- (8) Councillors can take their paternity leave any time in the 52 weeks after the birth or adoption of their child(ren).

- (9) A Councillor who has made Shared Parental Leave arrangements is requested to advise the Council of these at the earliest possible opportunity. Every effort will be made to replicate the Council's staff policy in terms of leave as far as practicable with the approval of the Chief Executive following consultation with the Chief Whip, where applicable.
- (10) Where both parents are Councillors, leave may be shared up to a maximum of 24 weeks for the first six months and 26 weeks for any leave agreed thereafter, up to a maximum of 50 weeks. Special and exceptional arrangements may be made in cases of prematurity with the approval of the Chief Executive following consultation with the Chief Whip, where applicable.
- (11) If an election is held during the Member's maternity, paternity, shared parental or adoption leave and they are not re-elected, or decide not to stand for re-election, their basic allowance and SRA if appropriate will cease from the Monday after the election date when they would technically leave office.

\*Where adoption has taken place through an approved (domestic or overseas) adoption agency.

## SCHEDULE 1

**BASIC, SPECIAL RESPONSIBILITY AND CO-OPTED MEMBER  
ALLOWANCES WITH EFFECT FROM 1 APRIL 2024 (AS REVIEWED  
ON 29 FEBRUARY 2024)**

**Basic Allowance**

Payable to all councillors = £13,637

**Special Responsibility Allowances**  
**(No more than one allowance per member)**

1. Leader of the Council = £41,354
2. Deputy Leader of the Council = £30,138
3. Other Cabinet Members = £19,858
4. Chair of the Community and Wellbeing Scrutiny Committee = £14,858
5. Chair of the Resources and Public Realm Scrutiny Committee =  
£14,858
6. Chair of the Planning Committee = £14,858
7. Members of the Planning Committee = £2,265
8. Chair of the Audit and Standards Committee (Vice-Chair of the Audit  
and Standards Advisory Committee) = £5,202
9. Chairs of the Brent Connects Area Consultative Forums = £2,068
10. Chair of the Licensing Committee = £3,365
11. Members of the Licensing Committee = £2,068
12. Member of the Adoption and Permanency Panel = £3,354
13. Member of the Fostering Panel = £3,354
14. Leader of the Principal Opposition Group\* = £8,323
15. Leader of the Second Opposition Group = £4,000
16. Group Whip for the majority group with over 50% of councillors =  
£4,161
17. Mayor = £7,429
18. Deputy Mayor = £3,365

\*For the purposes of this Scheme this is the second largest group of the Council. If there are two or more opposition groups of the same size, it is such group as the Council shall decide.

**Co-opted Member Allowances**

1. Chair of the Audit and Standards Advisory Committee (voting) =  
£1,561
2. Independent members of the Audit and Standards Advisory  
Committee (voting) = £444

3. Education voting and non-voting co-opted members of the Community and Wellbeing Scrutiny Committee £235.

**SCHEDULE 2****Extract from The Local Authorities (Members' Allowances) (England) Regulations 2003****Dependants' carers' allowance**

7. (1) A scheme may provide for the payment to members of an authority of an allowance ("dependants' carers' allowance") in respect of such expenses of arranging for the care of their children or dependants as are necessarily incurred in—

- (a) the attendance at a meeting of the authority or of any committee or sub-committee of the authority, or of any other body to which the authority makes appointments or nominations, or of any committee or sub-committee of such a body;
- (b) the attendance at any other meeting, the holding of which is authorised by the authority, or a committee or sub-committee of the authority, or a joint committee of the authority and at least one other local authority within the meaning of section 270(1) of the Local Government Act 1972, or a sub-committee of such a joint committee, provided that—
  - (i) where the authority is divided into two or more political groups it is a meeting to which members of at least two such groups have been invited; or
  - (ii) if the authority is not so divided, it is a meeting to which at least two members of the authority have been invited;
- (c) the attendance at a meeting of any association of authorities of which the authority is a member;
- (d) the attendance at a meeting of the executive or a meeting of any of its committees, where the authority is operating executive arrangements;
- (e) the performance of any duty in pursuance of any standing order made under section 135 of the Local Government Act 1972 requiring a member or members to be present while tender documents are opened;
- (f) the performance of any duty in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises;
- (g) the performance of any duty in connection with arrangements made by the authority for the attendance of pupils at any school approved for the purposes of section 342 of the Education Act 1996 (approval of non-maintained special schools)(1); and
- (h) the carrying out of any other duty approved by the authority, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the authority or any of its committees or sub-committees.