PART 5

CODES AND PROTOCOLS

Brent Members' Code of Conduct

Planning Code of Practice

Licensing Code of Practice

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Code of Practice on Publicity

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Protocol on Members' Rights of Access to Information

Protocol on Call-in

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BRENT MEMBERS' CODE OF CONDUCT[1]

Maintaining High Standards of Conduct

Introduction

1. This Code applies to you as a member of Brent Council.

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***.

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[2].

8. You must not bully[3] any person.

9. You must not intimidate or attempt to intimidate any person who is or is likely to be:

   (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.

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.

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.

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[11] 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.
[2] The Council has adopted the International Holocaust Remembrance Alliance (IHRA) definition of anti-semitism
[3] 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.

(iv) In the case of an exceptional item (i.e. an item valued as £500 or more), the reason why you consider it appropriate to accept the gift or hospitality.

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.

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.

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 codes, protocols, policies and procedures[4] 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:

(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

[4] 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

1. Selflessness	You should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
2. Integrity	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.
3. Objectivity	You should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
4. Accountability	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.
5. Openness	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.
6. Honesty	You should be truthful in your Council work and avoid creating situations where your honesty may be called into question.
7. Leadership	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
Employment, office, trade, profession or vocation	*Any employment, office, trade, profession or vocation carried on for profit or gain which you or the relevant person* undertakes.*
Sponsorship	*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.*
Contracts	*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 –* *(a) under which goods or services are to be provided or works are to be executed; and* *(b) which has not been fully discharged.*
Land	*Any beneficial interest in land which you or the relevant person* has and which is within the area of the Council.*
Licences	*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.*

Corporate tenancies	*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'**.*
Securities	*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.*

* '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 Neighbourhoods 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 Neighbourhoods 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 Neighbourhoods 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

<u>Development proposals where the Council is the applicant or landowner</u>

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.

<u>Conduct expected of members and officers involved in the pre-application process</u>

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 Director of Law 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 Neighbourhoods 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 Neighbourhoods 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 difficultly 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 Director of Law 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 20011 provides that a councillor should not be regarded has 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 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 Neighbourhoods 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 difficultly 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	Director of Law
S18 Children Act 2004	Director of Children's Services	Corporate Director Children, Young People and Community Development

S6 Local Authority Social Services Act 1972	Director of Adult Social Services	Director Adult Social Care
Health Social Care Act 2012	Director of Public Health	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

- Each Directorate is responsible for supporting a statutory local partnership arrangement (i.e. the Health and Wellbeing Board, Safeguarding Adults Board and Children's Trust) and some non statutory partnerships such as Partners for Brent.

- 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 Director of Law 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 newssheets 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 Director of Law.

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 Director of Law (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 Director of Law.

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 Director of Law. 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 Democratic & Corporate Governance will take advice from the Director of Law.

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 spilt in this way is contained in section 6.4 of this Protocol.

4. ACCESS TO REPORTS

4.1 The Deputy Director Democratic & Corporate Governance 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 Democratic & Corporate Governance 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 Democratic & Corporate Governance 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 Democratic & Corporate Governance (if necessary on the advice of the Director of Law 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 Director of Law.

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 COMMERCIALLY 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 Democratic & Corporate Governance which meets the requirements of Standing Order 14(b)((i) – iv) the Deputy Director Democratic & Corporate Governance will refer it to the Chief Executive, who, in consultation with the Deputy Director Democratic & Corporate Governance (as the council's designated Scrutiny Officer) and the Director of Law, 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 Director of Law and the Deputy Director Democratic & Corporate Governance 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 Democratic & Corporate Governance 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.