

# PART 1



---

## SUMMARY

- (b) Citizens have the right to attend meetings of the Executive or its committees when Key Decisions are being made, or discussed with officers present, except where exempt or confidential information is being discussed.
  - (c) Citizens also have the right to see reports and background papers, and any record of decisions made by the Council and the Executive, again subject to the rules relating to exempt and confidential information.
-

## DEFINITIONS

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

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

## DEFINITIONS OF TERMS USED IN THE CONSTITUTION

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

## DEFINITIONS OF TERMS USED IN THE CONSTITUTION

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

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

## DEFINITIONS OF TERMS USED IN THE CONSTITUTION

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

Formatted: No bullets or numbering

## DEFINITIONS OF TERMS USED IN THE CONSTITUTION

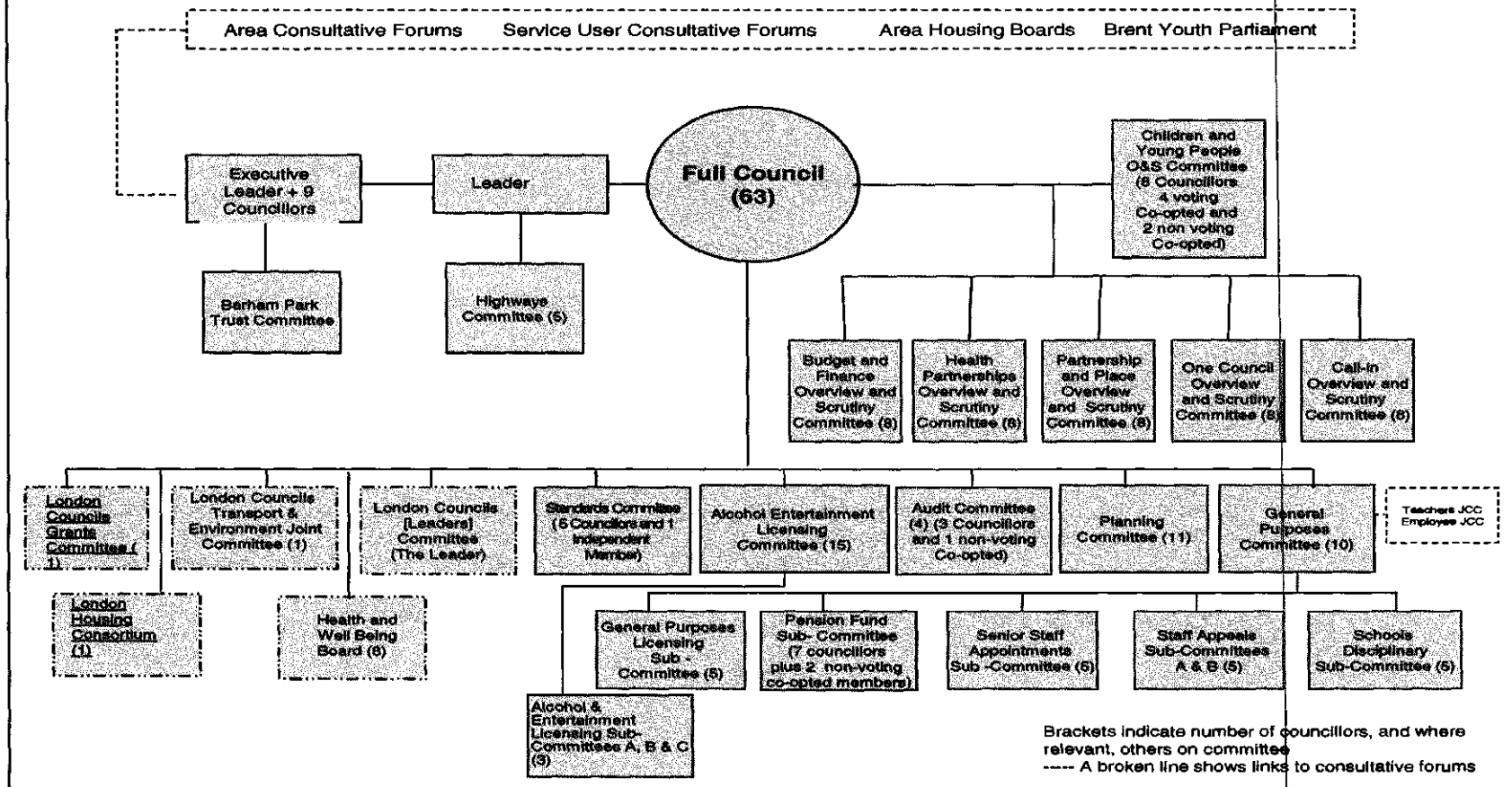
- The **Policy Framework** means the plans, policies and strategies set out in Table 3 of Part 4 of this Constitution.
- **Portfolio** refers to the key responsibilities or roles allocated to an Executive Member by the Leader.
- **Proper Officer** has a statutory definition in section 270(3) of the Local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

Formatted: Indent: Left: 0 cm,  
Hanging: 0.75 cm, Bulleted + Level: 1  
+ Aligned at: 0.63 cm + Indent at:  
1.27 cm, Tab stops: 0.75 cm, List tab

Formatted: No bullets or numbering



# **LONDON BOROUGH OF BRENT DECISION MAKING STRUCTURE CHART**



## Register of Members of the Brent Executive

### Address for Executive Members

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

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

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

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

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

# PART 2



### Teachers' Joint Consultative Committee

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

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

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

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

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

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

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

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

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

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

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

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

## Article 11 – Other Bodies and Panels

### Introduction

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

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

### Adoption and Permanency Panel

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

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

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

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

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

### Fostering Panel

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



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

### **Local Safeguarding Children Board**

- 11.4 (a) The Children Act 2004 requires each Local Authority to establish a Local Safeguarding Children Board, to be made up of representatives from the agencies and bodies which have regular contact with children or responsibilities for services to them in the local area.

- (b) The Brent Local Safeguarding Children Board will be the key statutory mechanism for agreeing how the relevant organisations in the London Borough of Brent will co-operate to safeguard and promote the welfare of children in the area, and for ensuring the effectiveness of what the agencies do.

- (c) Objectives of the Board:

- (i) To co-ordinate what is done by each person or body represented on the Board for the purposes of safeguarding and promoting the welfare of children in the London Borough of Brent; and
- (ii) To ensure the effectiveness of what is done by each such person or body for those purposes.

- (d) Terms of Reference of the Board

- (i) Monitor the effectiveness of organisations' implementation of their duties under section 11 of the Children Act 2004.
- (ii) Ensure that information is available to children to know who they can contact when they have concerns about their own safety and welfare.
- (iii) Develop policies and procedures for safeguarding and promoting the welfare of children in the area of the authority.
- (iv) Develop and implement strategies to safeguard and promote the welfare of groups of children who are potentially more vulnerable than the general population, for example children living away from home, children who have run away from home, or children with disabilities.
- (v) Ensure that systems are in place to identify and support the safety and welfare of children who are privately fostered.
- (vi) Develop and implement a training strategy to meet the training needs of staff across all agencies to work effectively together to safeguard and promote the welfare of children who may be at risk of significant harm.

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

(e) Membership

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

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

## Article 13 - Officers

### Management structure

#### 13.1 General

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

#### 13.2 Chief Officers

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

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

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

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

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

13.3 The Council has made the following designations:

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

### Structure

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

### Functions of the Monitoring Officer

13.5 (a) **Maintaining the Constitution**

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

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

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

**(c) Supporting the Standards Committee**

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

**(d) Conducting investigations**

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

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

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

**(f) Providing advice**

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

**(g) Section 36 determinations**

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

**Restrictions on posts**

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

**Functions of the Chief Finance Officer**

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

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

(b) **Administration of financial affairs**

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

(c) **Contributing to corporate management**

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

(d) **Providing advice**

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

(e) **Give financial information**

The Chief Finance Officer will provide financial information to the media, members of the public and the community.

**Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

13.8 The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

**Functions of the Director of Public Health**

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

**Conduct**

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



# PART 3



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

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

## 20. Call in of Executive decisions

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

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

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

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

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

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

- (a) If, following consideration by the Call-in Overview and Scrutiny Committee of a called in decision, at least 10 members of the Council (not including the independent or co-opted members) so request the decision the subject of the call in shall be referred to a meeting of Full Council for further consideration.
- (b) Any request to refer such a decision to Full Council, in accordance with paragraph (a) above, shall be made in writing, together with the reasons for the referral and may include details of any suggested alternative proposal, action, or resolution (standard forms are available from member's group offices), to the Democratic Services Manager within 5 days of the date on which the Call-in Overview and Scrutiny Committee met in accordance with Standing Order 18(a) or the date on which the decision maker reconsidered their decision in accordance with Standing Order 18(e) if later. The Democratic Services Manager shall forthwith copy the request and the reasons to the Leader.
- (c) The Leader shall include in his or her report to Full Council any comments of the Executive on the referral and the reasons given therefore.
- (d) Full Council may make such recommendations to the Executive as it sees fit and the Executive shall, if the recommendations relate to a function which is properly exercisable by the Executive, take into account but shall not be obliged to accept those recommendations.

**[Paragraph number 22 not used]**

## THE POLICY FRAMEWORK AND THE BUDGET

### 23. The Framework for Executive decisions

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

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

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

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

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

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

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

- (l) In the event that there is a dispute between the Executive and Full Council on all or any part of the Capital Programme which cannot be resolved at the relevant

## MEETINGS OF FULL COUNCIL

## 27. Types of Meeting

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

## 28. Time of Meeting

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

## 29. Intervals

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

## 30\*. Chair of Meeting

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

## 31. Quorum of Meetings of Full Council

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

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

### 32. The Annual Meeting

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

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

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

(b)\* **Mayor:**

*To elect the Mayor for the following year.*

(c) **Deputy Mayor:**

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

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

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

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

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

(f) **Declarations:**

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

(g) **Minutes:**

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

(h) **Agree the Constitution:**

To agree any changes to the Constitution.

(i) **Political Balance:**

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



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

**51. Smoking and Mobile Phones at Meetings**

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

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

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

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

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

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

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

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

## PETITIONS AND DEPUTATIONS

### 68. Petitions

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

## STANDING ORDERS

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

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

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

**75. Seeking Support for Appointment**

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

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

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

**77. Appointments to Senior Management Posts**

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

(b) This Standing Order shall apply to the posts of:-

- (i) the Chief Executive;
- (ii) any director (or other senior officer) reporting directly or being directly accountable to the Chief Executive;
- (iii) statutory Chief Officers being:
  - the Strategic Director of Children and Families/Young People (acting as the Director of Children's Services appointed under section 18 of the Children Act 2004);
  - the Strategic Director of Adults Social Services (acting as the Director of Adult Social Services appointed under section 6 (A1) of the Local Authority Social Services Act 1970 as amended by the Children Act 2004);
  - the Chief Finance Officer appointed under section 151 of the Local Government Act 1972;
- (iv) any officer who, as respects all or most of the duties of his or her post, is required to report directly or is directly accountable to the Full Council itself or any committee or sub-committee of the Authority;
- (v) the Monitoring Officer;
- (vi) any ~~assistant director or deputy director~~ Operational Director reporting directly to a ~~Service Area Strategic Director~~ or the Chief Executive ~~Corporate Director~~;
- (vii) the following other officers:
  - the Head of Revenues and Benefits.

- (c) The posts mentioned in paragraph (b) above may only be created, amended (other than a minor variation) or deleted by the Executive following consideration of a report from the Chief Executive or other officer nominated by him or her setting out the proposed job description and person specification for that post and/or the reasons for the creation, amendment or deletion of the post and any legal or financial or other implications arising there from.
- (d) The terms and conditions of any of the posts mentioned in paragraph (b) above and the grading structure to be applied to them may only be determined by the General Purposes Committee.
- (e) The posts mentioned in paragraph (b) above may only be appointed to by the Senior Staff Appointments Sub-Committee (*which sub-committee shall include at least one member of the Executive\**),
- (f) Unless it is intended that the appointment shall be made exclusively from among existing officers (e.g. where one or more officer is entitled to a ring fenced interview under the Council's Human Resources procedures) paragraphs (g) – (i) below shall apply to the appointment to any of the posts mentioned in paragraph (b) above.

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



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

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

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

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

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

	Value Contracts (under which different thresholds apply for services / supplies and construction / works).
<b>Low Value Contract</b>	<p>In the case of contracts for services or supplies: a contract with an estimated value over the life of the contract (including any period of extension(s) anticipated by the contract) of between £20,001 and up to the amount which is the current threshold for services and supplies contracts under the European Procurement Rules (which is currently £173,934).</p> <p>In the case of a contract for construction or works: a contract with an estimated value over the life of the contract (including any period of extension(s) anticipated by the contract) of between £20,001 up to £250,000, provided that the contract is classified as a contract for works and not services by the European Procurement Rules.</p>
<b>Medium Value Contract</b>	<p>In the case of contracts for services or supplies: a contract with an estimated value over the life of the contract (including any period of extension(s) anticipated by the contract) of between the amount which is the relevant threshold for services or supplies contracts under the European Procurement Legislation (which is currently £173,934) and £250,000.</p> <p>In the case of a contract for construction or works, a contract with an estimated value of between £250,000 and £500,000, provided that the contract is classified as a contract for works and not services by the European Procurement Rules.</p>
<b>Member</b>	An elected member of Brent Council.
<b>Monitoring Officer</b>	The Director of Legal and Procurement.
<b>Official Order</b>	An order for services, supplies or works to the Council issued by an authorised officer using the Council's official order form.
<b>OJEU</b>	The Official Journal of the European Union.
<b>Online Market Place</b>	A web-based facility approved by the Director of Legal and Procurement which enables the procurement of specified types of services, supplies or works contracts.

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

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

The following contracts are exempt from Contract Standing Orders:-

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

### **84. General Requirements**

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

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

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

all tenderers are treated equally and fairly;

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

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

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

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

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

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

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

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

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

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

- (a) The Local Authorities (Goods and Services) Act 1970 ("the 1970 Act") provides that local authorities may enter into contracts to provide goods and services to public bodies defined as such by the 1970 Act. Section 96 of the Local Government Act 2003 provides that local authorities may do for a commercial purpose anything which they are authorised to do for the purpose of carrying on any of their ordinary functions provided this power is exercised through a company within the meaning of Part 5 of the Local Government Act 1989. The general power of competence in the Localism Act 2011 may also authorise the provision of goods, works and services by the Council.
- (b) Before entering into arrangements under ~~either~~any of these provisions, officers must comply with the relevant requirements of Financial Regulation in Part 6 of the Constitution.
- (c) Authority to enter into arrangements under ~~either~~any of these provisions must be agreed by the Executive (or if appropriate the General Purposes Committee) where:
  - (i) the contract value would exceed £150,000 per annum; or
  - (ii) the gross cost to the Council of providing the relevant goods, services or works under the contract is estimated to exceed £150,000 per annum calculating the full costs over the term of the contract (including any period of extension(s) anticipated by the contract);
  - (iii) where a company is to be set up for the purposes of the arrangements.
- (d) In all cases advice shall be sought from the Director of Legal and Procurement and the ~~Director of Finance and Corporate Services~~Chief Finance Officer prior to entering into any such arrangement and/or prior to seeking approval by the Executive.

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

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

**89. Pre-Tender Considerations**

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

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

**90. Estimated contract value**

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



**91. Small Lots**

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

**92. Procurement by consultants**

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

**93. Appointment to the Evaluation Panel**

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

**94. Prior Information Notice**

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

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

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

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

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

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

**(b) Single Stage Tender**

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

(c) **Two-Stage Tender**

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

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

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

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

## 102. Late Tenders

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

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

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

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

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

### **104. Tender Evaluation**

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

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

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

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

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

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

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

**108. Contract Award Notice**

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

**109. Letters of Intent**

Letters of intent shall only be used as follows:

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

**110. Contracts Register**

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

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

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

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

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

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

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

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

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

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

# PART 4





# **PART 4**

## **RESPONSIBILITY FOR FUNCTIONS**

**General  
Powers Delegated to Officers**

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

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

**Decisions by individual members**

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

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

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

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

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

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

**Table 5 Proper and Statutory Officer  
Provisions**

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

## RESPONSIBILITY FOR FUNCTIONS

### 1. General

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

- Full Council
- The Leader (although for the time being the Leader will not exercise executive functions alone)
- The Executive
- Individual members of the Executive (although for the time being individual members will not be exercising functions)
- ~~Committees and sub-committees of the Council or the Executive~~
- Joint committees
- Officers

Other persons so authorised where the law permits

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

#### 1.3 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 give effect to section 13 of the Local Government Act 2000 by specifying which functions are not to be the responsibility of the Executive, which functions may (but need not) be the responsibility of the Executive ('Local Choice Functions') and which functions are to some extent the responsibility of the Executive. All other functions not so specified are to be the responsibility of the Executive. These Regulations have been amended from time to time and those amendments are reflected in this Constitution.

#### 1.4 This Part of the Constitution and the Tables set out below describe whether the various functions of the Authority are 'Council functions' or 'Executive functions' and whether, in either case, those functions have been delegated by the Council in the case of Council functions, or the Leader in the case of executive functions, to a committee, sub-committee, joint committee, officer or other person or body4-7

#### 1.5 Table 1 sets out the functions, listed in Schedule 1 to the Regulations (as amended), which cannot be the responsibility of the Executive and specifies which part of the Authority will be responsible for them. It also specifies to whom, if anyone, those functions have been delegated. For instance, in the case of development control, all functions are delegated to the Strategic Director of Regeneration and Major Projects Growth and/or the Head of Area Planning~~Assistant Director of Planning and Development~~ except those which are specified as being the responsibility of the Planning Committee.

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

## RESPONSIBILITY FOR FUNCTIONS

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

## RESPONSIBILITY FOR FUNCTIONS

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

### 2. Powers Delegated to Officers

- 2.1 Those officers named in the Tables or elsewhere in the Constitution have delegated to them the powers specified therein but subject to the limitations specified therein. For the avoidance of doubt this includes an officer appointed to a named post on an acting interim or temporary basis.
- 2.2 References in this Part 4 to a 'director' or 'relevant director' are references to one or more of the officers specified in paragraph 2.4 below.
- 2.3 The Chief Executive may exercise any functions delegated to other officers and may delegate decisions or functions to one or more officers in any of the Council's directorates unless expressly prohibited by law from doing so. The Chief Executive shall also have authority to carry out all executive functions in the interim in the event of there being no Leader, or Deputy Leader appointed and insufficient members of the executive appointed to achieve a quorum. .
- 2.4 The Chief Executive, ~~directors~~ and Strategic Directors ~~other officers~~ listed below shall have responsibility for the following general and related areas:-

#### (a) Chief Executive:

Head of Paid Service, overall corporate management and operational responsibility including overall management responsibility for officers, and provision of professional advice to all parties in the decision making process. Management of policy, performance, scrutiny, partnership, community engagement, communications, complaints, human resources, equalities, business support, legal services, procurement, electoral , committee, member and Mayoral services, Freedom of Information, finance, audit and investigation, IT, public health.

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

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

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

## RESPONSIBILITY FOR FUNCTIONS

Statutory Director of Adult Social Services, health, adult physical disability, learning disability, mental health services, services to older people, emergency duty team, asylum in so far as it is not a housing matter, public health commissioning, adult social care complaints, and any other function listed in Schedule 1 of the Local Authority Social Services Act 1970 not delegated to the Strategic Director of Children and Families Young People.

**(d) Director of Strategy, Partnerships and Improvement:**

~~Policy development, strategic planning improvement and efficiency programme, partnership working, community safety, overview and scrutiny, complaints, liaison with the ombudsman~~

**(ed) Strategic Director of Environment and Neighbourhoods Services:**

Environment, environmental health (other than in relation to private sector housing), highways, transport strategy, Brent Transportation Services, transportation, streetcare, refuse and street cleansing, parks, parking and open spaces, cemeteries and mortuary, ~~licensing, street trading, trading standards, health & safety, contaminated land, accident prevention and emergency planning, waste management and recycling, street lighting, CCTV monitoring, pollution control, food safety, pest control, land charges, sport and leisure, leisure centres, arts, libraries, museums, and archives, London 2012 community safety, nationality service, Registrar of Births, Deaths and Marriages.~~

**(f) Director of Finance and Corporate Services:**

~~Chief Finance Officer, section 151 officer, administration of the payroll and pensions, management of the superannuation fund, financial investments, financial management, finance services, insurance and risk management, audit and investigations, revenues and benefits, accountable body functions (once accountable body status has been formally conferred), IT, HR including the development of corporate HR policies, advice on HR policies and procedure, assistance with appointments and dismissals, handling appointments and dismissals where requested, the peoples centre, consultation and negotiation with Trade Unions, People's Centre~~

**(g) Strategic Director of Regeneration and GrowthMajor Project:**

Regeneration, urban renewal, economic development, building new education facilities, statutory land use, planning, development and building control, land charges, strategic transport planning, street naming and numbering, housing regeneration, affordable housing development, corporate property, facilities and premises management, Civic Centre Programme. All permanent and temporary housing, including temporary accommodation for asylum seekers, right to buy management, private sector housing services (including related environmental health functions), liaison and transactions with Housing Associations, homelessness and housing strategy, housing management, customer services, adult and community education, revenue and benefits.

Formatted: Font: Bold

Formatted: Font: Bold

**(h) Director of Customer and Community Engagement:**

## RESPONSIBILITY FOR FUNCTIONS

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

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

~~Chief legal officer; monitoring officer; sealing of deeds; issuing, defending, settling legal proceedings; entering contracts, agreements, deeds and other transactions; standards and probity; issuing notices and orders; certification of documents, electoral services, committee services, member services, legal services, qualified person for section 36 Freedom of Information Act 2000 determinations, corporate and strategic procurement~~

- 2.5 In addition to those powers specified in the Tables and elsewhere in this Constitution, the officers specified above have delegated to them by the Council or the Leader, or Executive (as the case may be) all and any of the powers of the Council and the Executive as may be necessary or desirable to enable them to effectively manage and operate their service area or unit or to carry out the roles and responsibilities required of them from time to time (not necessarily restricted to those roles and responsibilities specified above). These powers are subject to the exemptions, restrictions and limitations specified in paragraph 3 below or elsewhere in this Constitution. These powers include (but are not limited to) the powers set out in the following table which are also, subject to any exemption, restriction or limitation specified in respect of them in that table:-

Power	Exception, restriction or limitation
1. to exercise all functions that may from time to time fall within the scope of their professional and operational responsibility.	
2. to manage, within the approved cash limits, the budget allocated to the functions for which the officer has responsibility and to make virements or transfers as necessary.	<p>(a) no action may be taken which would result in growth, which cannot be contained in future years budgets or which would affect a budget which is not under the officer's direct control.</p> <p>(b) no virements or transfers may be made other than in accordance with the Scheme of Transfers and Virements agreed by Full Council.</p> <p>(c) no internal trading arrangements shall be established without the approval of the <del>Director of Finance and Corporate Services</del> <u>Chief Finance Officer</u>.</p>

## RESPONSIBILITY FOR FUNCTIONS

<p>3(a) to invite expressions of interest, agree shortlists, invite tenders, negotiate, award, enter into and terminate contracts, agreements, deeds or other transactions; to purchase supplies and services; to appoint external consultants; to make minor or consequential changes to any of the documents mentioned above which were previously agreed by the Executive or the Council or their committees or sub-committees.</p>	<p>Provided that:</p> <p>(a) In the case of a contract, agreement, deed or transaction where the Council would be in receipt of works, services or supplies (other than the supply of energy through the Local Authority Energy Buying Group administered by Kent County Council ("Laser")) if the value of the contract, agreement, deed, transaction, supply, service, work</p>
	<p>or consultancy would or would be likely or is estimated at the commencement of any procurement process to exceed £250k in respect of services or supplies or £500k in respect of works, such value to be aggregated over the life of the contract (including any possible extension) then:-</p> <p>(i) no expressions of interest shall be invited without the prior approval of the Executive (or in the appropriate cases the General Purposes Committee);</p> <p>(ii) no contract, agreement, deed or transaction shall be awarded, entered into or terminated without the prior approval of the Executive (or in appropriate cases the General Purposes Committee); and</p> <p>(iii) shortlists may only be drawn up and tenders may only be evaluated in accordance with the basis of the evaluation criteria approved by the Executive (or in appropriate cases the General Purposes Committee) in accordance with Standing Orders 88(b) and 89(vi).</p> <p>(b) in the case of an agreement where the Council is a service provider to another organisation, the contract value or cost to the</p>

## RESPONSIBILITY FOR FUNCTIONS

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



## RESPONSIBILITY FOR FUNCTIONS

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

# RESPONSIBILITY FOR FUNCTIONS

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

## RESPONSIBILITY FOR FUNCTIONS

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

## RESPONSIBILITY FOR FUNCTIONS

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

## RESPONSIBILITY FOR FUNCTIONS

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

## RESPONSIBILITY FOR FUNCTIONS

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

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

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

Formatted: Font: Bold

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

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

Formatted: Font: Bold

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

## RESPONSIBILITY FOR FUNCTIONS

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

### (c) Director of Public Health

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

Formatted: Font: Bold

Formatted: Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0 cm + Tab after: 1.06 cm + Indent at: 1.06 cm

Formatted: Default, Left, Indent: Left: 0 cm, Hanging: 1 cm, No bullets or numbering, Tab stops: Not at 1.9 cm

Formatted: Indent: Left: 1.06 cm, First line: 0 cm

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

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

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

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

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

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

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

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

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

## RESPONSIBILITY FOR FUNCTIONS

---

(d) **Ultra Vires:**

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

(e) **Overspends:**

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

---

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

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

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

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

(h) **Company or partnership:**

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

(i) **Credit arrangement:**

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

(j) **Personal interests:**

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

(k) **Transfer or redundancy:**

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

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

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



## RESPONSIBILITY FOR FUNCTIONS

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

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

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

(n) **Call In:**

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

(o) **Charges and Fees:**

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

(p) **Some other reason:**

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

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

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

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

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

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

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

## RESPONSIBILITY FOR FUNCTIONS

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

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

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

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

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

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

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

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

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

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

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

4.142 For the avoidance of doubt the rules in this paragraph 4 do not apply to the adoption of highways and footways if there is no legal transfer of title to land.

---

## RESPONSIBILITY FOR FUNCTIONS

---

### **5. Decisions by individual Members**

At the present time no members (including the Leader and members of the Executive) have authority to make any individual decisions.

### **6. Decisions to be taken only by Full Council**

6.1 Legislation provides that some Council functions/decisions can only be exercised or made by the Full Council, that is all the members or a specified number or percentage of them meeting together.

6.2 Table 6 sets out a list of functions which may only by law be undertaken by Full Council.

---

# RESPONSIBILITY FOR FUNCTIONS

TABLE 1

## FUNCTIONS WHICH CANNOT BE EXERCISED BY THE EXECUTIVE

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

## RESPONSIBILITY FOR FUNCTIONS

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

## RESPONSIBILITY FOR FUNCTIONS

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

# RESPONSIBILITY FOR FUNCTIONS

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

# RESPONSIBILITY FOR FUNCTIONS

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



## RESPONSIBILITY FOR FUNCTIONS

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

## RESPONSIBILITY FOR FUNCTIONS

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

# RESPONSIBILITY FOR FUNCTIONS

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

# RESPONSIBILITY FOR FUNCTIONS

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

## RESPONSIBILITY FOR FUNCTIONS

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

## RESPONSIBILITY FOR FUNCTIONS

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

## RESPONSIBILITY FOR FUNCTIONS

<p><b>H. Functions relating to pensions etc.</b></p>		<p>All of the functions listed in this section will be exercised by the <u>Director of Finance and Corporate Services</u> <u>Chief Finance Officer</u> except those functions which fall within the terms of reference of the <u>General Purposes Committee</u> or the <u>Pension Fund Sub-Committee</u> and the determination of "stage 2" applications under Regulation 102 of the Local Government Pension Scheme Regulations 1997 on behalf of the Council as Administering Authority and as employer in the case of discretionary matters covered by the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2000 and earlier equivalent Regulations. These functions shall be exercised by the <u>Operational Director Human Resources</u> <u>Assistant Director, People and Development</u>. In the absence of the <u>Assistant Director People and Development</u> <u>Operational Director Human Resources</u>, or in the event a conflict arises, these functions shall be exercised by the <u>Chief Finance Officer</u> <u>Director of Finance and Corporate Services</u></p>
<p><b>1. Functions relating to local government pensions, etc.</b></p>	<p>Regulations under section 7, 12 or 24 of the Superannuation Act 1972.</p>	

## RESPONSIBILITY FOR FUNCTIONS

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



# RESPONSIBILITY FOR FUNCTIONS

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

## RESPONSIBILITY FOR FUNCTIONS

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

# RESPONSIBILITY FOR FUNCTIONS

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

## RESPONSIBILITY FOR FUNCTIONS

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

## RESPONSIBILITY FOR FUNCTIONS

**TABLE 2**

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

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

## RESPONSIBILITY FOR FUNCTIONS

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

## RESPONSIBILITY FOR FUNCTIONS

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

## RESPONSIBILITY FOR FUNCTIONS

**TABLE 3**

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

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

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



**TABLE 4A**

**THE MEMBERSHIP AND TERMS OF REFERENCE OF THE HIGHWAYS COMMITTEE OF THE EXECUTIVE**

**Membership**

The committee is comprised of 5 members of the Executive appointed by the Leader.

**Chair and Vice Chair**

To be appointed by the Leader.

**Quorum**

3 Executive members.

**Terms of Reference**

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

1. Scheme approval for traffic management and related matters associated with the public highway, public rights of way and off-street car and lorry parks. Traffic management includes traffic calming, signals, pedestrian crossings, bus lanes, cycle routes, stopping up orders, controlled parking zones, waiting restrictions and charges for parking and penalty charges.
2. Reviewing performance of the implementation of schemes and of parking enforcement.
3. Any other matter relating to traffic management which the ~~Director of Environment and Neighbourhood Services~~ Strategic Director Environment and Neighbourhoods considers should be referred to the Committee for a decision.

**TABLE 4B**

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

**Membership**

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

**Chair and Vice Chair**

To be appointed by the Barham Park Trust Committee

**Quorum**

3 Executive members

**Terms of Reference**

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

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

The Committee shall meet not less than once per year.

## RESPONSIBILITY FOR FUNCTIONS

**TABLE 5**

**PROPER AND STATUTORY OFFICER PROVISIONS**

The following definitions are used in this Table:-

LGA 1972	=	Local Government Act 1972
LG(MP)A 1976	=	Local Government (Miscellaneous Provisions) Act 1976
RPA 1983	=	Representation of the People Act 1983
<del>LGFA 1988</del>	<del>=</del>	<del>Local Government Finance Act 1988</del>
LGHA 1989	=	Local Government and Housing Act 1989
LGA 2000	=	Local Government Act 2000
FOIA 2000	=	Freedom of Information Act 2000

LASSNHSCR 2009 = Local Authority Social Services and National Health Service Complaints (England) Regulations 2009

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

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

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

# RESPONSIBILITY FOR FUNCTIONS

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

# RESPONSIBILITY FOR FUNCTIONS

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

# RESPONSIBILITY FOR FUNCTIONS

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

---

# PART 5





## AUDIT COMMITTEE

### Membership

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

### Terms of Reference

#### *Audit Activity*

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

#### *Regulatory Framework*

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

---

TERMS OF REFERENCE OF COUNCIL COMMITTEES AND SUB-COMMITTEES

---

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

*Accounts*

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

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

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

#### **Membership**

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

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

#### **Terms of Reference**

---

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

#### **Limitations**

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

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

### **GENERAL PURPOSES COMMITTEE**

#### **Membership**

- The committee is comprised of 10 councillors.

#### **Terms of Reference**

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

TERMS OF REFERENCE OF COUNCIL COMMITTEES AND SUB-COMMITTEES

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

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

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

#### **Membership**

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

#### **Terms of Reference**

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

Formatted: Left

Formatted: Tab stops: 5.16 cm, Left

---

TERMS OF REFERENCE OF COUNCIL COMMITTEES AND SUB-COMMITTEES

---

**SCHOOLS DISCIPLINARY SUB-COMMITTEE**

**Membership**

The sub-committee is comprised of 5 members.

**Terms of Reference**

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

---

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

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

#### **Membership**

The sub-committee is comprised of 5 councillors.

#### **Terms of Reference**

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

Formatted: Indent: Left: 1.27 cm,  
No bullets or numbering



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

### **PLANNING COMMITTEE**

#### **Membership**

- The committee is comprised of 11 councillors.

#### **Terms of Reference**

1. To determine applications for planning permission, consent or approval (including listed building and conservation area consent) in respect of the following types of development:-

- (i) construction of 20 or more dwellings;
- (ii) outline residential development with a site larger than 0.1 hectare (approximately ¼ acre);
- (iii) construction of non-residential building exceeding 500 sq. metres in floorspace outside a designated employment area; and
- (iv) outline non-residential development with a site larger than 0.1 hectare (approximately ¼ acre), outside a designated primary employment area.

2. To determine applications for planning permission, consent or approval (including listed building and conservation area consent) which the Planning Committee has specifically indicated it wishes to consider itself.

3. To determine any application for planning permission, consent or approval (including listed building and conservation area consent) which at least three members of the Council have requested, in accordance with the Planning Code of Practice, be considered by the Planning Committee

4. To determine any other application for planning permission, consent or approval (including listed building and conservation area consent) in respect of which written objections have been received from 3 or more households or businesses except where those objections relate to:-

- (i) Alterations to residential buildings including extensions, outbuildings (including garages), walls, vehicular accesses and hardstandings, and porches
- (ii) satellite television dishes or aerials
- (iii) other domestic aerials
- (iv) certificates of lawful use or development (except applications which relate to the lawfulness of the use of a dwelling house by more than one family unit)

AND except where the officers are in any event minded to refuse the permission, consent or approval.

5. To determine any application for planning permission, consent or approval (including listed building and conservation area consent) which would, in the reasonable opinion of the ~~Director of Regeneration and Major Projects~~ Strategic

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

~~Director Regeneration and Growth Development~~ or the Assistant Director of Planning and Development  
~~Head of Area Planning,~~ significantly conflict with Council policies.

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

## Limitations

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

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

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

#### **Membership**

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

#### **Terms of Reference**

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

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

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

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

---

TERMS OF REFERENCE OF COUNCIL COMMITTEES AND SUB-COMMITTEES

---

12. To review premises licences under section 201.

**General**

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

---

# PART 6



# **PART 6**

## **OTHER RULES AND REGULATIONS**

---

**Access to Information Rules**

**Financial Regulations**

**Scheme of Transfers and Virements**

## ACCESS TO INFORMATION RULES

### Scope

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

### Rights of Press and Public to attend Meetings

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

### Media



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

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

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

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

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

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

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

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

### Background Papers

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

### Supply of Copies

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

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

### Rights of Access for Members of the Council

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

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

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

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

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

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

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

### Human Rights Act

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

### Key Decisions

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

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

27. Number ~~N~~not in use

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

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

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

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

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

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

### **The Forward Plan**

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

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

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

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

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

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

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

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

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

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

### Definitions

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

## GENERAL PROVISION

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

## TRANSFERS

### General

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

### Earmarked Reserves and Provisions for Specified Purposes

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

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

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

### **Executive Powers**

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

### **VIREMENTS – GENERAL FUND**

#### **Officers**

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

- (a) Is designed to keep function and finance together (as determined by the ~~Director of Finance and Corporate Services~~Chief Finance Officer); or
  - (b) Increases the budget of a unit that is overspending by reducing that of a unit that is underspending.
13. Virements in paragraph 12 may only be agreed by officers provided that:
- (a) They do not result in a commitment which would itself lead to an increased overspend in the current financial year or give rise to unfunded expenditure in future years;
  - (b) They are consistent with the Service Development Plan;
  - (c) They do not conflict with any prior decision made or policy or plan or strategy adopted by the Executive; and
  - (d) They are reported to the ~~Director of Finance and Corporate Services~~Chief Finance Officer.
14. The ~~Director of Finance and Corporate Services~~Chief Finance Officer may agree any virement between areas of responsibility of different Officers whose effect falls within the criteria set out in paragraph 12 subject to the constraints in paragraph 13(a) to 13(c).

#### Executive

15. Subject to paragraph 16, the Executive may agree any virement either within or between any Service Area which:
- (a) Falls within the purposes of paragraph 12;
  - (b) Helps to maintain prudent levels of Reserves; or
  - (c) Helps to keep expenditure within the overall budget totals; or
  - (d) Finances new initiatives supporting the Policy Framework or the Corporate Strategy but not explicitly included in the Service Development Plan and Budget.
16. The Executive may only agree virements under paragraph 15 if it has received advice from the ~~Director of Finance and Corporate Services~~Chief Finance Officer that after the virement:
- (a) Reserves remain at prudent levels; and
  - (b) No unfunded expenditure commitments arise in future years.

#### New Spending

17. Where additional resources arise during the year and these are limited for a specific use (e.g. because of grant conditions), then officers may commit the New Spending provided that:
- (a) There is no unfunded spending commitment for future years;

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

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

## VIREMENTS - CAPITAL PROGRAMME

### General

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

### Officers

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

### **Executive**

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

### **New Spending**

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

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

#### VIREMENTS – HOUSING REVENUE ACCOUNT

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

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

#### REPORTING ARRANGEMENTS

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

---

# PART 7





6. If the Chair decides to allow a non-member of the Committee to speak, the non-member shall state the reason for wishing to speak. Such a member shall disclose the fact that he/she has been in contact with the applicant, agent or interested party if this be the case.
7. If a member of the Council has a personal interest in any planning application or other matter before the Planning Committee, then the member shall, if present, declare a personal interest at that meeting unless the interest arises because the member is a member of or is in a position of general control or management in a body to which they were appointed or nominated to by the Council or that exercises functions of a public nature. In which case the member only needs to disclose the personal interest if they address the Planning Committee meeting on that item.
8. If a member has a personal interest in a matter and if that interest is also a prejudicial interest the member shall withdraw from the room where the meeting is being held and not take part in the discussion save that they may make representations, answer questions or give evidence in respect of the application or matter in question in so far as the public have the right to do so. A member must then withdraw from the room for the rest of that item and play no further part in it.
9. If a member of the Council has a prejudicial interest in a planning application or other matter before the Committee, he/she shall not exercise his or her discretion to require the application or other matter to be referred from officers to the Planning Committee for consideration and nor shall he/she exercise his/her right to request a site visit.
10. For the avoidance of doubt, where a member of the Council is a Freemason or a member of a similar secret society and is aware that the applicant, agent or other interested party in relation to a particular planning application is also a Freemason or a member of the same secret society, the member shall treat this as a prejudicial interest for the purposes of paragraph 8 above.
11. The Monitoring Officer shall maintain a register of contact made by applicants, agents or interested parties with individual members of the Council on each and every planning application, in which members of the Planning Committee must record approaches referred to in paragraph 17 and other members of the Council may record such approaches if they so wish.
12. If any officer of the Council who is involved in making recommendations or decisions on planning applications has had any involvement with an applicant, agent or interested party, whether or not in connection with the particular application being determined, which could possibly lead an observer with knowledge of all the relevant facts to suppose that there might be any possibility that the involvement could affect the officer's judgement in any way, then that officer shall declare a prejudicial interest in the public register held by the ~~Director of Regeneration and Major Projects~~ Strategic Director Regeneration and Growth and take no part in the decision making process. The declaration of such interest shall also be recorded in the minutes of the meeting. This public register to be available for inspection at Planning Committee meetings.
13. No officer of the Council shall engage in any paid work for any town planning matter for which Brent is the Local Planning Authority other than on behalf of the Council.
14. In relation to all matters not addressed above, all such officers shall comply with the Royal Town Planning Institute Practice Advice Note No.5 relating to Consultancy by Current and Former Employees or any guidance replacing this.

### Call-in powers

15. Where under the provisions of the Constitution three members of the Council ask for an application or other matter to be decided by Committee rather than by officers, their request shall state:
- (i) the reason(s) which should solely relate to matters of material planning concern why they feel the application or other matter should not be dealt with under delegated powers; and
  - (ii) whether or not they have been approached by any person concerning the application or other matter and if so, by whom.

This information shall then be included in the relevant Planning Committee report.

Unless the request and the necessary supporting information outlined above has been provided by both members at least one week prior to the relevant meeting then the matter shall proceed to be determined by officers in accordance with their delegated powers.

### Development proposals submitted by Councillors who sit on the Planning Committee

16. The Council's monitoring officer should be informed of such a planning application and the application should be reported to the Planning Committee and not dealt with by officers under delegated powers.

### Approaches to members of the Planning Committee

17. If an approach is made to a member of the Planning Committee from an applicant or agent or objector or other interested party in relation to a particular planning application or any matter which may give rise to a planning application, the member of the Planning Committee shall:
- (i) inform the person making such an approach that such matters should be addressed to officers or to members who are not members of the Planning Committee.
  - (ii) disclose the fact and nature of such an approach at any meeting of the Planning Committee where the planning application or matter in question is considered; and
  - (iii) record the approach in the register maintained by the Monitoring Officer under paragraph 11.

For the avoidance of any doubt, if the applicant, agent or objector or other interested party attend and/or speak at a Council organised briefing for members of the Planning Committee then that briefing does not constitute an approach which has to be registered with the Monitoring Officer or disclosed under (ii).

18. Where a planning application is to be determined under delegated powers Councillors should not put improper pressure on officers for a particular recommendation or do anything which compromises, or is likely to compromise the officer's impartiality.

### Site Visits

19. Save as provided by paragraph 9 above, if two members of the Council request a site visit prior to a meeting of the Planning Committee at which the application in respect of the request is to be considered, they shall provide the following details at least two weeks before the date of the meeting at which the application is to be considered and a record shall be kept of those details:

- (i) their name;
- (ii) the reason for the request; and
- (iii) whether or not they have been approached concerning the application or other matter and if so, by whom.

If the details are not provided then the site visit shall not proceed. Alternatively, during any meeting of the Planning Committee, any member of the Planning Committee may request a site visit in respect of any application on the agenda of the meeting. The member must give the reason for the request.

20. The purpose of a site visit is to gain information relating to the land or buildings which are the subject of the planning application or other matter to be considered by the Planning Committee. A site visit may also assist members of the Planning Committee in matters relating to the context of the application or other matter in relation to the characteristics of the surrounding area. Members attending the site visit should avoid expressing opinions on site visits to any person present.
21. Members of Planning Committee shall not enter any premises which are the subject of a planning application or other matter or known by them to be likely to become such in order to meet the agent, applicant or other interested party, save in the course of a formal accompanied site visit. In exceptional circumstances such as where a member of the Planning Committee is unable to attend the official site visit that has been arranged, a site visit by an individual member may be carried out provided that the member is accompanied by a planning officer.
22. On site visits applicants or other interested parties shall only be permitted to point out to those members of the Planning Committee attending the site visit the features to look at either on the site or in the vicinity, which are relevant to the application or other matter. No discussion will take place on the merits of the application or other matter.
23. Whilst on site visits, members of Planning Committee shall keep together as a group and shall not engage individually in discussion with applicants or objectors.

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

24. When the membership of the Planning Committee is determined, care shall be taken to ensure that for each Ward there is always at least one Councillor who is not a member of Planning Committee. This is so that there will always be a Councillor who is not a member of the Planning Committee with whom residents will be able to discuss planning matters.
25. Any briefings which may be held prior to the Planning Committee meetings shall be open to all members (and alternates) of the Planning Committee. These briefings can help to speed up decision making by giving officers notice of additional information members of the Planning Committee may require at the meeting.
26. All members of Planning Committee, and in particular the Chair, shall be informed from time to time about the relevant provisions concerning access to information

contained in the Local Government Act 1972 and in the event of any dispute between members of the Planning Committee and officers as to the application of the 1985 Act, the advice of the Director of Legal and Procurement or his or her representative shall be obtained forthwith.

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

27. No material revision to any planning application which might lead to a change in the recommendation of officers shall be considered at Planning Committee unless it has been submitted such reasonable period in advance of the relevant Planning Committee meeting as is agreed by the ~~Assistant Director of Planning and Development~~ Head of Area Planning and has been the subject of a full appraisal by officers and consultation where necessary and that the minutes shall record the fact that revisions have been made to the application and the reasons for these shall be recorded in the supplementary information.
28. ~~If the Planning Committee wishes to grant planning permission contrary to officers'~~ recommendations the application shall be deferred to the next meeting of the Committee for further consideration. Following a resolution of "minded to grant contrary to the officers' recommendation", the Chair shall put to the meeting for approval a statement of why the officers recommendation for refusal should be overturned, which, when approved, shall then be formally recorded in the minutes. When a planning application has been deferred, following a resolution of "minded to grant contrary to the officers' recommendation", then at the subsequent meeting the responsible officer shall have the opportunity to respond both in a further written report and orally to the reasons formulated by the Committee for granting permission. If the Planning Committee is still of the same view, then it shall again consider its reasons for granting permission, and a summary of the planning reasons for that decision shall be given, which reasons shall then be formally recorded in the minutes of the meeting.
29. When the Planning Committee vote to refuse an application contrary to the recommendation of officers, the Chair shall put to the meeting for approval a statement of the planning reasons for refusal of the application, which if approved shall be entered into the minutes of that meeting. Where the reason for refusal proposed by the Chair is not approved by the meeting, or where in the Chair's view it is not then possible to formulate planning reasons for refusal, the application shall be deferred for further consideration at the next meeting of the Committee. At the next meeting of the Committee the application shall be accompanied by a further written report from officers, in which the officers shall advise on possible planning reasons for refusal and the evidence that would be available to substantiate those reasons. If the Committee is still of the same view then it shall again consider its reasons for refusing permission which shall be recorded in the minutes of the meeting.
30. Members of the Planning Committee shall refrain from personal abuse and party political considerations shall play no part in their deliberations. Members of the Planning Committee shall be respectful to the Chair and to each other and to officers and members of the public including applicants, their agents and objectors and shall not bully any person. Members of the Planning Committee should not make up their mind before hearing and considering all relevant information at the meeting and should not declare in advance of the meeting, how they intend to vote on a particular application or other matter.
31. Members of the Planning Committee should not speak to members of the public (including applicants and agents) during a meeting of the Planning Committee or immediately prior to or after the meeting concerned, other than where permitted by this Code or Standing Orders.

32. When questioning members of the public or the applicant who have spoken at a meeting of the Committee, members of the Planning Committee shall ensure that their questions relate only to planning matters relevant to the particular application.
33. The minutes of the Planning Committee shall record the names of those voting in favour, against or abstaining:
  - (i) on any resolution of "Minded to grant or minded to refuse contrary to Officers Recommendation";
  - (ii) on any approval or refusal of an application referred to a subsequent meeting following such a resolution.
34. A member of the Planning Committee shall not vote in relation to any planning matter unless he or she has been present in the meeting of the Planning Committee throughout the consideration of that particular matter as required by Standing Orders . Any dispute as to whether the member of the Planning Committee in question should be permitted to vote shall be decided by the Chair having taken appropriate advice from legal or other officers present.
35. Unless all members of the Planning Committee indicate that they intend to vote in accordance with the officers' recommendation on a particular item, the responsible officer shall be allowed time, at the beginning of the consideration of each application, to summarise his or her advice. If after discussion it appears that any member of the Planning Committee is minded to vote contrary to the officers' recommendation, the officer shall be allowed a further opportunity to respond to new points which have been raised, and to address the implications of a contrary decision.

### **Member and Officer Relations**

36. Any criticism by members of Planning Committee of officers in relation to the handling of any planning matter shall be made in writing to the ~~Director of Regeneration and Major Projects~~Strategic Director Regeneration and Growth and not to the officer concerned. No such criticism shall be raised in public.
37. If any officer feels or suspects that pressure is being exerted upon him or her by any member of the Council in relation to any particular planning matter, he or she shall forthwith notify the matter in writing to the ~~Director of Regeneration and Major Projects~~Strategic Director Regeneration and Growth.
38. Members of Planning Committee shall not attempt in any way to influence the terms of the officers' report or recommendation upon any planning matter.

## LICENSING CODE OF PRACTICE

### Purpose of this Code

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

### The Code

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

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

- 1.1 No one should decide a case where they are not impartial or seen to be impartial.
- 1.2 If a member of the Council has a personal interest in any licensing application or other matter before the Licensing Committee, then the member shall, if present, declare a personal interest at that meeting unless the interest arises because the member is a member of or is in a position of general control or management in a body to which they were appointed or nominated to by the Council or that exercises functions of a public nature. In which case the member only needs to disclose the personal interest if they address the Licensing Committee meeting on that item.
- 1.3 If a member has a personal interest in a matter and if that interest is also a prejudicial interest the member shall withdraw from the room where the meeting is being held and not take part in the discussion save that if they made representations under the Licensing Act and are therefore entitled to speak at the meeting, the member may make representations, answer questions or give evidence in respect of the application or matter in question in so far as the public have the right to do so. A member must then withdraw from the room for the rest of that item and play no further part in it.

## PROTOCOL ON CALL-IN

### 1. Introduction

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

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

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

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

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

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

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

### 3. The call-in process

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

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

an outline of the suggested alternative course of action.

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

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

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

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

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

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

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

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

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