

Appendix 1

PART 1 - INTRODUCTION

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6. Scrutiny

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The Scrutiny Committees shall comprise **118** members of the Council who shall not be members of the Cabinet. The Community and Wellbeing Scrutiny Committee shall also comprise of 4 voting education co-opted members and 2 non-voting education co-opted members appointed in accordance with Standing Order 50. Members, chairs and vice chairs of the Scrutiny Committees will be appointed by Full Council.

DEFINITIONS

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- The term **Key Decision** is defined in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. A decision will be a Key Decision if it relates to an executive function and is likely:
 - (a) to result in the local authority incurring expenditure ~~which is~~ or the making of savings of £500k or more; -which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
 - (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.
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- Officers designated as **Operational Directors** are those officers who are directors of the various service units which make up the service areas and who report directly to either a Strategic Director or the Chief Executive.
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Recordable Decisions are those decisions made by officers which are not otherwise published and are not operational or administrative and which fall within the following criteria:

- a) A decision which in the opinion of the Chief Executive or the relevant Strategic Director are of such significance that a published record of the decision is required to ensure transparency and accountability in relation to decision making within the Council.
- b) Decisions which are an exception to an approved council policy and/or raise significant new issues of policy.
- c) decisions to exercise powers of Compulsory Purchase;
- d) decisions that would have a significant impact on communities in a single ward.
- e) decisions to carry out major road works
- f) determination of licencing applications, building control decisions and notices;
and
- g) determinations of planning applications and listed building consents.
- h) A decision specifically delegated to an Officer at a Cabinet meeting.

PART 2 - PROCEDURAL RULES

75. Appointments to Senior Management Posts

- (a) The Director of Legal and HR Services shall be consulted on all appointments to posts covered by this Standing Order. 'Appointments' in this Standing Order 75 refers to permanent appointments. Fixed terms and interim appointments to Senior Management posts are addressed in Standing Order 76 below.
- (b) This Standing Order shall apply to the posts of:-
- (i) the Chief Executive;
 - (ii) any director (or other senior officer) reporting directly or being directly accountable to the Chief Executive;
 - (iii) statutory Chief Officers being:
 - the Strategic Director Children and Young People (acting as the Director of Children's Services appointed under section 18 of the Children Act 2004);
 - the Strategic Director Community Wellbeing (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; and
 - (vi) any Operational Director reporting directly to a Strategic Director.
- (c) The posts mentioned in paragraph (b) above may only be created, amended (other than a minor variation) or deleted by the **Cabinet or the**¹ Chief Executive in consultation with the relevant Cabinet member(s) following consideration of a report from the relevant Strategic Director or other officer nominated by the Chief Executive setting out the proposed job description and person specification for that post and/or the reasons for the creation, amendment or deletion of the post and any legal or financial or other implications arising there from.

86. Contracts not subject to full tendering requirements

- (c) Save where required by European Procurement Legislation, no formal tendering procedures apply to Low Value 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. Unless the Council's procurement officers advise that it is not necessary or appropriate, all quotes shall be sought using the Electronic Tender Facility and at least one of the quotes shall be sought from a Local Brent Provider. ~~In the case of Low Value Works Contracts valued at above the relevant EU Threshold for supplies or services contracts (currently £181,302), approval of the Director of Legal and HR Services is required to use a quotation process; if~~

¹ This is a clarification

~~approval is not given then a tender process under Standing Order 96 below is required for such contract.²~~

ACCESS TO INFORMATION RULES

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Recordable Key Decisions

26. As soon as reasonably practicable after an officer has made a recordable decision as defined in Part 1 of the Constitution, the officer must produce and send to the Proper Officer to be made available at the Civic Centre and on the council's website a record of the decision which must include:

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

EXCEPT THAT this paragraph shall not:

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

Key Decisions

27. A decision taken by Cabinet or a Cabinet Committee, the Leader or a Cabinet Member or an officer exercising an executive function under delegated powers will be a Key Decision if the decision is likely to:

- (a) result in the Council incurring expenditure ~~which is, or the~~ making of savings ~~of £500k or more 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.

PART 3 - RESPONSIBILITY FOR FUNCTIONS

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9. Powers Delegated to Officers

- 9.1 .
- 9.2 .

² As this requirement only covers works contracts is a very narrow range (£181,302 - £250,00) which is well below the EU threshold, it is proposed that this requirement be removed.

9.3 The Chief Executive may exercise any functions delegated to other officers and may ~~delegate authorise decisions or functions to~~ one or more officers in any of the Council's departments to make decisions or exercise functions unless expressly prohibited by law from doing so.

Power	Exception, restriction or limitation
<p>3(b) to extend, vary, renegotiate, novate or assign contracts, agreements, deeds or other transactions.</p>	<p>(a) .</p> <p>(b) .</p> <p>(c) .</p> <p>(d) if the extension goes beyond the period of extension provided for in the contract (if any) or is otherwise not in accordance with the extension provisions in the contract:</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) <u>the relevant cabinet member shall be consulted prior to a decision within (d) (i) or (ii) above and may request that the decision instead be referred to them.</u>³</p> <p>(f) provided that in the case of any variation (other than an extension):</p> <p>(i) the total value of the variation is less than £1m; and</p> <p>(ii) if the total value of the variation (and any previous variations agreed under this provision) is more than £50k it is not more than 50% of the original contract value (calculated over the life of the contract including any extensions or possible</p>

³ This provision has been added to ensure that cabinet members can ask for such decisions to be referred to them instead where they consider this appropriate

	<p>extensions and adjusted in accordance with any price review mechanism provided for in the contract).</p> <p>(gf) <u>the relevant cabinet member shall be consulted prior to a decision within (f) (i) or (ii) above and may request that the decision instead be referred to them.</u></p>
<p>4. to establish or re-organise the staffing structure of their service area or corporate unit and to appoint, discipline and dismiss staff.</p>	<p>(a) subject to the Standing Orders relating to staff.</p> <p><u>(b) any staffing restructure report potentially giving rise to a redundancy situation shall be approved by the Chief Finance Officer and the Director of Legal and HR shall be notified of any potential redundancy situation as soon as it becomes apparent and:</u></p> <p>(b) subject to the council's pension Employer Discretion Policy, no award of compensatory added years on the grounds of redundancy and no severance payment on the grounds of redundancy that exceeds the amount normally payable under the Council's severance scheme shall be made or agreed to be made without the prior written approval of the Chief Finance Officer.</p> <p>(d) the Chief Finance Officer 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>(c) no severance payment and no award of compensatory added years on the grounds of termination of employment in the interests of the efficient exercise of the Council's functions shall be made or agreed to be made to a HAY graded member of staff except with the prior written approval of the Chief Finance Officer, the Monitoring Officer and the Chief Executive.⁴</p>

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⁴ These changes reflect existing good practice

8. to exercise discretion in writing off or remitting in whole or in part debts due to the Council.	<p>(a) -</p> <p>(b)(a) no sums exceeding £204,000⁵ shall be written off without the written approval of the Chief Finance Officer.</p>
12. to authorise or nominate other officers to act on their behalf in exercising any of their functions.	<p>(a) this may not be exercised other than by the officers listed in paragraph 9.4 above.</p> <p>(b) authorisations and nominations are subject to any limitations or provisos that the officers listed in paragraph 9.4 above may consider appropriate.</p> <p>(c) the names of the persons authorised or nominated shall be specified in a list maintained by the relevant officer listed in paragraph 9.4 above for that purpose and notified to the Director of Legal and HR Services</p>
14. 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 or is agreed by the Chief Executive.</p> <p>(b) the prior advice of the Director of Legal and HR Services should be obtained.</p>

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9.6 [The Chief Executive and Strategic Directors \(The Chief Officers\), may, from time to time, nominate a deputy to act on their behalf in the event of their absence. The nominated deputy may, \(subject to the same restrictions as would apply to the relevant Chief Officer\) exercise all the powers of the relevant Chief Officer; save in so far as that is inconsistent with any other part of the Constitution.](#)

9.7 [Officers designated as Operational Directors have delegated to them, \(subject to the same restrictions as would apply to their Strategic Director \(or the Chief Executive as applicable\); all the powers of their Strategic Director \(or the Chief Executive if the Operational Director reports directly to her\) in so far as they relate to the services \(s\) for which they are responsible, save in so far as that is inconsistent with any other part of the Constituion or their Strategic Director \(or the Chief Executive\) has directed them not to exercise particular powers.](#)

9.8 [For the avoidance of doubt, the officers specified in 8.3 will retain the specific statutory responsibilities arising from their designations irrespective of these delegations.](#)

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

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⁵ This updates a provision that has been in place for many years

(c) **Advice:**

The exercise of that function or the making of that decision would or would be likely to conflict with advice from the Head of Paid Service, Monitoring Officer or the Chief Finance¹⁵¹ Officer or the External Auditor carrying out their statutory functions.

(d) **Ultra Vires:**

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

(e) **Overspends:**

The ~~exercise of that function or the~~ making of that decision would or would be likely to result in discretionary spending of either a revenue or capital nature significantly exceeding the approved revenue or capital budgets in either the current or any future year. [Where the overspend is considered unavoidable (or not incurring it would result in breach of statutory requirements or serious failure to deliver agreed corporate priorities) it must nonetheless be reported at the first available opportunity].⁶

~~(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 Chief Finance Officer has been obtained or approval has been obtained from the Cabinet⁷.~~

~~(h) **Company or partnership:**~~

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

(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 Strategic Director or the Chief Executive director for reasons of health and safety.

(n) **Call In:**

~~The matter is called in for scrutiny in accordance with Standing Orders.~~

~~(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) unless it is authorised by the Council's Fees and Charges Policy and related guidance.

⁶ This is a clarification

⁷ This is already covered elsewhere in the constitution

10.2 In cases where an officer is prevented from exercising any function delegated to him or her by virtue of any of the above or where he or she or the Chief Executive decides that they cannot or should not exercise the function then, subject to paragraph 9.3 above, that function shall be exercised by the person or body who would otherwise have responsibility for that function, or the General Purposes Committee if none other is specified (unless it is a matter which is reserved to Full Council).

11. Acquiring, managing and disposing of land and buildings

11.1 Only the Strategic Director Resources or the Operational Director of Property and Assets may acquire or dispose of an interest in land or buildings. The restrictions placed upon such acquisitions or disposals are set out in paragraphs 11.2 and 11.3 below.

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13. Decisions by individual Members

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CATEGORY	INDIVIDUAL MEMBER DELEGATED DECISIONS (in relation to their portfolio area)
	<u>Agreement of other contract extensions, variations or terminations where the individual requests that a decision be referred to them pursuant to Part 3 paragraph 9.5 3(b)(e) or 3(b)(g).</u>

PART 4 - TERMS OF REFERENCE FOR COUNCIL COMMITTEES AND SUB-COMMITTEES⁸

AUDIT AND STANDARDS ADVISORY COMMITTEE

1 MEMBERSHIP

- The committee comprises ~~7~~5 non-executive councillors and upto 5 voting co-opted members, one of whom will be the Chair of the committee.

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AUDIT AND STANDARDS COMMITTEE

2 MEMBERSHIP

- The committee comprises of the ~~7~~5 councillor members of the Audit and Standards Advisory

SCRUTINY COMMITTEES

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General Membership rules

Each committee shall comprise of ~~11~~8 councillors in total. None of the councillors shall be members of the Cabinet or the Health and Wellbeing Board.

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Community and Wellbeing Scrutiny Committee

Specific Membership Rules

In addition to the ~~11~~8 councillors, the membership of the Community and Wellbeing Scrutiny Committee shall comprise of 4 voting education co-opted members (who may vote on matters relating to school education only) and 2 non-voting education co-opted members (who may not vote on any matter).

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⁸ The changes is membership below are to reallocate the seats formerly on the Housing Scrutiny Committee

PART 5 - CODES AND PROTOCOLS

LOCAL CODE OF CORPORATE GOVERNANCE

- The Council maintains an Internal Audit service that operates in accordance with the published internal audit standards expected of a local authority in the United Kingdom. The Head of Internal Audit has direct access to the Chief Executive, the Section151 Officer and the Chair of the Audit and Standards Committee and now the Chair of the Audit and Standards Advisory Committee.
- The council has established a counter fraud team to ensure a systematic, disciplined approach to investigation, evaluating and improving the effectiveness of fraud prevention and detection and the subsequent prosecution of individuals and organisations where appropriate.
- Robust business continuity management arrangements exist within the council, with all critical services having business continuity plans in place.