

GOVERNANCE COMMITTEE

AGENDA

7.30pm

Wednesday
23 January 2008

Havering Town Hall
Main Road, Romford

Members 10: Quorum 4

COUNCILLORS:

**Conservative Group
(6)**

Frederick Thompson
(Chairman)
Kevin Gregory (Vice-
Chairman)
Steven Kelly
Eric Munday
Roger Ramsey
Michael White

**Residents' Group
(2)**

Gillian Ford
Barbara Matthews

**Rainham &
Wennington
Independent
Residents' Group
(1)**

Jeffery Tucker

**Labour Group
(1)**

Keith Darvill

For information about the meeting please contact:

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NOTES ABOUT THE MEETING

1. HEALTH AND SAFETY

The Council is committed to protecting the health and safety of everyone who attends meetings of its Committees.

At the beginning of the meeting, there will be an announcement about what you should do if there is an emergency during its course. **For your own safety and that of others at the meeting, please comply with any instructions given to you about evacuation of the building, or any other safety related matters.**

2. MOBILE COMMUNICATIONS DEVICES

Although mobile phones, pagers and other such devices are an essential part of many people's lives, their use during a meeting can be disruptive and a nuisance. Everyone attending is asked therefore to ensure that any device is switched to silent operation or switched off completely.

3. CONDUCT AT THE MEETING

Although members of the public are welcome to attend meetings of the Committee, they have no right to speak at them. Seating for the public is, however, limited and the Council cannot guarantee that everyone who wants to be present in the meeting room can be accommodated. When it is known in advance that there is likely to be particular public interest in an item the Council will endeavour to provide an overspill room in which, by use of television links, members of the public will be able to see and hear most of the proceedings.

The Chairman of the meeting has discretion, however, to invite members of the public to ask questions or to respond to points raised by Members. Those who wish to do that may find it helpful to advise the Committee Officer before the meeting so that the Chairman is aware that someone wishes to ask a question.

PLEASE REMEMBER THAT THE CHAIRMAN MAY REQUIRE ANYONE WHO ACTS IN A DISRUPTIVE MANNER TO LEAVE THE MEETING AND THAT THE MEETING MAY BE ADJOURNED IF NECESSARY WHILE THAT IS ARRANGED.

If you need to leave the meeting before its end, please remember that others present have the right to listen to the proceedings without disruption. Please leave quietly and do not engage others in conversation until you have left the meeting room.

AGENDA ITEMS

1 CHAIRMAN'S ANNOUNCEMENTS

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

**2 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS
(if any) - receive.**

3 DECLARATION OF INTERESTS

Members are invited to declare any interests in any of the items on the agenda at this point of the meeting. Members may still declare an interest in an item at any time prior to the consideration of the matter.

4 MINUTES

To approve as correct records the minutes of the meeting of the Committee held on 21 November 2007, and to authorise the Chairman to sign them

5 APPOINTMENTS TO OTHER ORGANISATIONS, 2007/08 - further report

6 TENTH LONDON LOCAL AUTHORITIES BILL – second resolution

7 AMENDMENTS TO THE CONSTITUTION

8 REVIEW OF MEMBERSHIP OF THE PENSIONS COMMITTEE

9 OVERVIEW AND SCRUTINY – work programmes

10 COUNCILLOR CALL FOR ACTION

**11 DEALING WITH PETITIONS – Department of Communities & Local Government:
consultation**

Governance Committee, 23 January 2008

12 **APPOINTMENT OF SCHOOL GOVERNORS**

13 **STANDARDS COMMITTEE – INDEPENDENT CHAIRMAN**

14 **URGENT BUSINESS**

To consider any other item in respect of which the Chairman is of the opinion, by reason of special circumstances which shall be specified in the minutes, that the item should be considered at the meeting as a matter of urgency.

Cheryl Coppel
Chief Executive

**MINUTES OF A MEETING OF THE
GOVERNANCE COMMITTEE
Havering Town Hall
21 November 2007 (7.30pm – 8.55pm)**

Present:

COUNCILLORS:

Conservative Group Frederick Thompson (in the Chair), Kevin Gregory, Steven Kelly, Eric Munday, Roger Ramsey and +Lynden Thorpe

Residents' Group Gillian Ford and Barbara Matthews

Rainham & Wennington Independent Residents' Group Jeffrey Tucker

Labour Group -

+ Substitute Member: Councillor Lynden Thorpe (for Michael White)

Apologies were received for the absence of Councillors Keith Darvill and Michael White

All decisions were taken with no vote against

The Chairman reminded Members of the action to be taken in an emergency

21 MINUTES

The Minutes of the meeting of the Committee held on 3 October 2007 were approved as a correct record and were signed by the Chairman.

22 ALTERNATIVE BUDGETS

The Constitution currently required budget amendments to be considered at the Council Tax Setting Meeting to be submitted by the midnight of the Monday proceeding the Council Meeting. Advice and comments were then issued to all Members of the Council by the Corporate Management Team and Chief Finance Officer in her capacity as S151 Officer required to comment on budget robustness.

The Local Government Act 2003 obliged the Chief Finance Officer (CFO) to comment, at the meeting of Council at which the Council Tax

is set, on the robustness of estimates and the adequacy of the financial reserves. The CFO had to be content that the estimates used to formulate alternative budget proposals were robust.

The Committee now considered proposals drawn up following officers' review of the current arrangements. Information from other London Borough Councils had indicated that alternative budgets were generally kept confidential, that the relevant CFO confirmed accuracy/calculations and raised any robustness issues, and the Management Team comment on the overall deliverability.

It was suggested that the deadline for submission of amendments to the budget report be brought forward, and that Members be encouraged to put forward ideas for the budget through the Overview & Scrutiny process.

RESOLVED:

That the Committee **RECOMMEND** to the Council that the following amendments be made to the Constitution:

- 1 That the Council Procedure Rules in Section 5 of Part 4, paragraph 13.9(ii) be amended by the substitution in line 8 of "Thursday" for "Monday".
- 2 That the following be added to the Budget & Policy Framework in Section 2 of Part 4, paragraph 3:

 “(d) All Councillors and parties are actively encouraged to contribute issues and ideas into the budget process via the Overview and Scrutiny Committees.”

23 POLLING DISTRICTS AND POLLING PLACES REVIEW

The Electoral Administration Act 2006 provided, among other things, that each local authority review its polling districts and polling places by the end of 2007. Although there had been a review in 2006, the Act had required the exercise to be undertaken again.

The Committee noted that consultation had been undertaken with Councillors, Members of Parliament and the public including groups representing the disabled to see if they had any proposals for change in addition to the changes put in place following the 2006 review. Some polling districts would change automatically as a result of the implementation at the next general election of the new constituency boundaries, but no further changes had been proposed as a result of this particular review.

RESOLVED:

That the Committee **RECOMMEND** to the Council that the outcome of the polling district and polling places review be noted and that it be agreed that no amendments are required to the present arrangements.

24 ETHICAL GOVERNANCE SURVEY – FINDINGS

The Committee noted (from a report also to be submitted to the Standards Committee) that, during the summer, the Council had carried out an ethical governance survey (hosted by the Audit Commission), targeted at all Members and all top managers, the key finding of which was that the Audit Commission had noted no areas of major concern.

The response return rate for Members had been comparatively low, but of those who completed the survey, the responses were more positive than for officers and were significantly above national averages in a number of areas.

The results showed that:

- The Leader of the Council and the Chief Executive were viewed as positive role models and both were considered to be proactive in promoting the ethical agenda, a result that was more positive than the national picture;
- Members were provided with clear guidelines regarding their personal conduct and their responsibilities under the ethical framework;
- Decision-making by Members was generally considered to be transparent and Members were considered to be accountable for their decisions and actions, with the public generally having easy access to information on who had taken particular decisions;
- Most Members and officers considered that the whistle-blowing policy was used appropriately and without fear of reprisal; and
- Survey findings indicated that the public could easily access the Members' code of conduct, the register of Member interests, and documents relating to the Standards Committee.

However there were some areas that were identified as less positive, including:

- How open and constructive communication is with officers;
- The ease with which the Monitoring Officer could fulfil her role appropriately;
- How good relationships and trust are between Members and senior officers;
- Transparency of decision-making by Members and accountability for their decisions;

Governance Committee, 21 November 2007

- Whether there is a culture for challenging decisions without fear of reprisal; and
- Strength of partnership working.

Without a more complete survey of Members it was, however, difficult to assess whether these perceptions were shared by other Members:

- There are a number of Members and officers who are unclear about what action to take if they believe there has been a failure to comply with the Member code of conduct;
- Member training/briefings on key legislation falls below national averages in a number of cases;
- A significant percentage of senior officers disagree that the Council's approach to promoting ethical standards is building public confidence in local democracy;
- The role of the Standards Committee is not always well understood, particularly by officers. Not all respondents were convinced that it was making a difference or is effective;
- While the majority of respondents reported they had a good understanding of what a conflict of interest involved, a number of Members did not know what to do if they were appointed to an external body with a different code of conduct.

The Audit Commission was accordingly recommending that the Council provide further information to Members and officers about what action to take if they believe there has been a failure to comply with the Member code of conduct, and that it should establish why a significant percentage of senior officers tended to disagree that the Council's approach to promoting ethical standards was building public confidence in local democracy. The Council should then reconsider its approach as necessary to ensure that its actions have greater impact.

The role of the Standards Committee was not always well understood and the Council needed to consider whether more internal and external publicity is needed or whether that Committee needed to become more proactive. The survey also indicated that there was need to re-publicise the whistle-blowing policy to Members and officers, to ensure that the requirements of Codes of Conduct were integrated into other schemes, policies and procedures, such as human rights, freedom of information, data protection and equalities policies, and conveyed to Members and officers and to clarify what Members appointed to represent the Council on an external body should do if that body's internal rules conflicted with the Council's Code.

The Committee noted that the Governance Group, chaired by the Group Director, Finance & Commercial would ensure that these recommendations were implemented, with the Committee overseeing its actions.

25 **CODE OF CONDUCT AND RELATED MATTERS**

Following the adoption by the Council of the new Members' Code of Conduct on 18 July 2007, effective from that date, it was suggested to the Committee that it would be prudent now to consider updating ancillary matters and other Codes and Protocols.

Accordingly, the Committee was invited to agree that Council should incorporate the "General Principles of Public Life" and the Local Government Code of Publicity in the Constitution immediately after the Members' Code of Conduct and adopt new or revised versions of the following documents:

1. The Protocol on Gifts and Hospitality (a new document).
2. The Protocol on Probity in planning matters (revised).
3. The Protocol on Member/Officer relations (revised).

The Committee also considered whether to confer speaking rights on Members of the public attending meetings where such rights do not currently exist but decided not to pursue that possibility. In relation to speaking rights at the Regulatory Services Committee, the Committee considered a suggestion that the existing constitutional provision be amended so that the maximum permitted time allocation per speaker could be altered by resolution of that Committee, either generally or for a specific application.

RESOLVED:

That the Committee **RECOMMEND** to the Council that the following amendments to the Constitution be approved:

- 1 That the "General Principles of Public Life" and the Local Government Code of Publicity (both as set out in Appendix 1 to these minutes) be incorporated in the Constitution immediately after the Members' Code of Conduct, and that revised versions of the following documents be adopted:
 1. The Protocol on Gifts and Hospitality (Appendix 2)
 2. The Protocol on Probity in planning matters (Appendix 3)
 3. The Protocol on Member/Officer relations (Appendix 4)
- 2 In Part 4, section 3 of the Constitution (Committee Procedure Rules), in the section "Rules for specific meetings", **add** to paragraph 4(d) (Regulatory Services Committee: speaking):

"... or such lesser time as the Committee by resolution,

either generally or in relation to a specific application, may agree”

26 **LOCAL IMPROVEMENT NETWORK FOR HEALTH AND SOCIAL CARE (LINK)**

The new Local Government & Public Involvement in Health Act required the Council, as an authority having social services responsibilities, to procure a “host organisation” to set up and run a Local Involvement Network. Current indications were that such arrangements would need to be in place for 1 April or as soon as practicable after then.

The Committee was now advised that, in order to enable the Council to make progress with implementing its new responsibilities, including the procurement and placing of the relevant contract, delegation of authority to the appropriate officer was now necessary.

In view of potential conflicts of interest that could arise were directly-affected Services to be involved in these matters, it had been agreed that the lead would be taken by Legal & Democratic Services. The Committee was therefore invited to recommend that the Democratic Services Manager be authorised to manage the contract with the Host organisation for the Local Involvement Network for Health and Social Care (LINK).

RESOLVED:

That the Committee **RECOMMEND** to the Council that the following addition be made to the scheme of delegation in the Council’s Constitution:

In Part 3, section 3.9.2 (ACE Legal & Democratic Services)

Add new para. 32:

Democratic Services Manager

To manage day to day the contract between the Council and the Host organisation for the Local Involvement Network for Health and Social Care (LINK), including (but not limited to) references between the LINK and the relevant Overview & Scrutiny Committee.

27 **OUTSIDE BODIES AND OTHER ORGANISATIONS – representation by Members – proposed guidance**

The Committee was reminded that, soon after the Annual Council meeting each year, it appointed representatives or made nominations to over 70 organisations. Added with sub-committee appointments etc., Havering Members sat on 85 bodies as a direct appointment by the Council.

Several Councils were known to issue guidance to Councillors who serve on outside bodies as their representative(s). Havering had not done this before but it was now suggested that such a practice should be adopted and the Committee was invited to consider draft “Guidance for Councillors involved in outside and other organisations as the Council’s representative or nominee” (as set out in Appendix 5), which stressed what Members should do before they put themselves forward for appointment and set out their duties and responsibilities once they do represent the Council.

The guidance also summarised the legal framework associated with statutory corporations, companies, un-incorporated associations and charities and reminded Members of the relevant provisions in the Members’ Code of Conduct, including the obligation to notify the Monitoring Officer of Members of any outside body appointment for inclusion in the public register of interests.

RESOLVED:

That the proposed guidance be adopted.

A. THE TEN GENERAL PRINCIPLES OF PUBLIC LIFE

1. **Selflessness** – members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
2. **Honesty and integrity** – members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.
3. **Objectivity** – members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
4. **Accountability** – members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.
5. **Openness** – members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
6. **Personal judgement** – members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
7. **Respect for others** – members should promote equality by not discriminating against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.
8. **Duty to uphold the law** – members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.
9. **Stewardship** – members should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.
10. **Leadership** – members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

(Relevant Authorities (General Principles) Order 2001 (S.I. 2001/1401)

B. CODE OF RECOMMENDED PRACTICE ON PUBLICITY

1. Local authorities have a variety of statutory powers which enable them to produce publicity and circulate it widely, or to assist others to do so. Those commonly used include the powers in sections 111, 142, 144 and 145 of the Local Government Act 1972, sections 69, 88 and 90 of the Local Government (Scotland) Act 1973 and sections 15 and 16 of the Local Government and Planning (Scotland) Act 1982; but there are several others.
2. Some of these powers relate directly to the publishing authority's functions. Others give a more general discretion to publicise matters which go beyond an authority's primary responsibilities. For example, sections 142(1A) of the 1972 Act and 88(1) of the 1973 Act authorise local authorities to arrange for the publication within their area of information as to the services available in the area provided by them or by other local authorities; and Section 54 of the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication within their area of information on questions relating to health or disease.
3. This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions.
4. In considering the subject areas in which publicity is to be issued, the following matters will be important:
 - (i) the publicity should be relevant to the functions of the authority.
 - (ii) it should not duplicate unnecessarily publicity produced by central government, another local authority or another public authority.
 - (iii) in areas where central government, another tier of local government, or another public authority have the primary service or policy responsibility, local authorities should issue publicity only on matters that are directly relevant to their own functions.

Costs

5. Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure, in the first instance through the audit arrangements.
6. For publicity, as for all other expenditure, the aim should therefore be to achieve the greatest possible cost-effectiveness.
7. To achieve this, there may well be cases where the benefit of higher expenditure to gain better presentation or improve other aspects of publicity will justify the extra cost.
8. Local authorities should therefore always have in mind the extent to which expert advice is needed for publicity.
9. In some cases publicity may justify its cost by virtue of savings which it achieves. More commonly it will be necessary to take a view of the importance of the unquantifiable benefits as compared with other uses to which the resources could be put.
10. In deciding whether the nature and scale of proposed publicity, and

consequently its cost, are justified, the following matters will be relevant:

- (i) whether the publicity is statutorily required or is discretionary.
- (ii) where it is statutorily required, the purpose to be served by the publicity.
- (iii) whether the expenditure envisaged is in keeping with the purpose and expected effect of the publicity.

Content and style

11. Local authorities produce a variety of publicity material. It ranges from factual information about the services provided by the authority, designed to inform clients or attract new ones, to material necessary to the administration of the authority, such as staff recruitment advertising. There will also be publicity to explain or justify the council's policies either in general, as in the annual report, or on specific topics, for example as background to consultation on the line chosen for a new road.
12. Any publicity describing the council's policies and aims should be as objective as possible, concentrating on facts or explanation or both.
13. Where publicity is used to comment on, or respond to, the policies and proposals of central government, other local authorities or other public authorities, the comment or response should be objective, balanced, informative, and accurate. It should aim to set out the reasons for the council's views, and should not be a prejudiced, unreasoning or political attack on the policies or proposals in question or on those putting them forward. Slogans alone will not be an adequate means of justifying or explaining the authority's views or their policy decisions.
14. Publicity relating to the provision of a service should concentrate on providing factual information about the service.
15. In some cases promotional publicity may be appropriate - for example about the local authority's sports and leisure facilities or about tourist attractions.
16. Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the council, should be handled with particular care. It should not over-simplify facts, issues or arguments. Again, it is unlikely that slogans alone will achieve the necessary degree of balance, or capture the complexities of opposing political arguments.
17. Publicity should not attack, nor appear to undermine, generally accepted moral standards.
18. Publicity campaigns by local authorities are appropriate in some circumstances: for example, to promote the effective and efficient use of local services and facilities, or to attract tourists or investment. Publicity campaigns may also be an appropriate means of influencing public behaviour or attitudes on such matters as health, safety, crime prevention or race relations.
19. Legitimate concern is, however, caused by the use of public resources for some forms of campaigns which are designed to have a persuasive effect. Publicity campaigns can provide an appropriate means of ensuring that the local community is properly informed about a matter relating to a function of the local authority and about the authority's policies in relation to that function

Governance Committee, 21 November 2007

and the reasons for them. But local authorities, like other public authorities, should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.

Dissemination

20. The main purposes of local authority publicity are to increase public awareness of the services provided by the authority and the functions it performs; to explain to electors and ratepayers the reasons for particular policies and priorities; and in general to improve local accountability.
21. Information and publicity produced by the council should be made available to all those who want or need it. Local authorities should not discriminate in favour of, or against, persons or groups in the compilation and distribution of material for reasons not connected with the efficiency and effectiveness of issuing the publicity.
22. Where material is distributed on matters closely affecting vulnerable sections of the community - for example, the elderly - particular care should be taken to ensure that it is unambiguous, readily intelligible, and unlikely to cause needless concern to those reading, seeing or listening to it.
23. Local authority newspapers, leaflets, and other publicity distributed unsolicited from house to house are inevitably more intrusive than publicity available on application to the council.
24. Publicity that reaches the public unsolicited should be targeted as far as practicable on those whose interests are clearly and directly affected by its content.
25. Material touching on politically controversial issues should be distributed unsolicited only where there is a strong case for letting a particular group of people have information of direct concern to them and no other equally efficient and effective means can be found.
26. Local authority newspapers or information bulletins are a special case. They are often a cost-effective means of disseminating information, but they may touch on controversial issues. If they do, they should treat such issues in an objective and informative way, bearing in mind the principles set out in paragraphs 11 -19 of the Code.
27. Where it is important for information to reach a particular target audience, consideration should be given to using the communications networks of other bodies, for example those of voluntary organisations.

Advertising

28. Advertising, especially on billboards or on television and radio, is a highly intrusive medium. It can also be expensive. It may however provide a cost effective, efficient means of conveying public information to the widest possible audience. Advertising on local radio networks has, for example, been used as a relatively inexpensive means of telling potential clients about local authority services. Advertising can also be the most cost-effective means of publicising a local authority's activities on tourism, and in the area

Governance Committee, 21 November 2007

of economic development generally.

29. The primary criterion for decisions on whether to use advertising should be cost-effectiveness.
30. Advertisements are not normally likely to be appropriate as a means of explaining policy or commenting on proposals, since an advertisement by its nature summarises information, compresses issues and arguments, and markets views and opinions.
31. Advertising in media which cover an area significantly wider than that of the authority is not likely to be an appropriate means of conveying information about a local authority's policies as opposed to attracting people to the authority's area or to use its facilities.
32. The attribution of advertising material leaflets and other forms of publicity that reach the public unsolicited should be clearly set out.
33. It is not acceptable, in terms of public accountability, to use the purchase of advertising space as a disguised means of subsidy to a voluntary, industrial or commercial organisation. Such support should be given openly through the normal grant arrangements. However, the conditions attached to a grant may require the provision of publicity, including publicity for the work of the authority.
34. Any decision to take advertising space in a publication produced by a voluntary, industrial or commercial organisation should be made only on the grounds that it provides an effective and efficient means of securing the desired publicity.
35. Local authorities should never use advertising as a means of giving financial support to any publication associated with a political party.

Recruitment advertising

36. Local authorities have respected in their staff employment policies the tradition of a politically impartial public service. Their recruitment publicity should reflect this tradition, and the fact that local authority staff are expected to serve the authority as a whole, whatever its composition from time to time.
37. The content of recruitment publicity and the media chosen for advertising job vacancies should be in keeping with the objective of maintaining the politically independent status of local authority staff.
38. Advertisements for staff should not be placed in party political publications.

Publicity about individual members of an authority

39. The functions of a local authority are discharged by the council corporately. It is therefore inappropriate for public resources to be used to publicise individual councillors.
40. In the interests of public accountability, however, it may be appropriate to give publicity to the views or activities of individual members when they are representing the council as a whole: for example, when the chairman of a

Governance Committee, 21 November 2007

council speaks or acts as the first citizen of the whole community, or when a chairman of a committee opens a new scheme or launches a policy approved by the council or by his committee on the council's behalf.

41. For the same reason a local authority may justifiably in certain circumstances issue press releases reporting statements made by individual members. Examples of cases where such press releases may be appropriate are as reports of the discussion at the meetings of the council or committees, or quotations of comments made by leading members of the council in response to particular events which call for a particularly speedy reaction from the council.
42. This does not prevent a member of staff of a local authority from responding to questions about individual members, since that is not publicity as defined in the 1986 Act.

Timing of Publicity

43. Particular care should be taken when publicity is issued immediately prior to an election or by-election affecting the authority's area to ensure that this could not be perceived as seeking to influence public opinion, or to promote the public image of a particular candidate, or group of candidates. Between the time of publication of a notice of an election and polling day, publicity should not be issued which deals with controversial issues, or which reports views or policies in a way that identifies them with individual members or groups of members.

Assistance to others for publicity

44. The principles set out above apply to decisions on publicity issued by local authorities. They should also be taken into account by local authorities in decisions on assistance to others to issue publicity. In all such decisions local authorities should, to the extent appropriate:
 - (a) incorporate the relevant principles of the Code in published guidance for applicants for grants;
 - (b) make the observance of that guidance a condition of the grant or other assistance;
 - (c) undertake monitoring to ensure that the guidance is observed.
45. It can be appropriate for local authorities to help charities and voluntary organisations by arranging for pamphlets or other material produced and paid for by the organisation to be available for collection by the public in public libraries and other suitable locations. Such material should not offend against any legal provision, but (subject to this) any such facility should be made available on a fair and equal basis.

PROTOCOL ON GIFTS AND HOSPITALITY

1. Meaning of gifts and hospitality

- 1.1 The expressions 'gifts' and 'hospitality' have wide meanings and no conclusive definition is possible. Gifts and hospitality include:
 - (a) The gift of any goods or services;
 - (b) The opportunity to acquire any goods or services freely or at a discount or at terms not available to the general public;
 - (c) The offer of food, drink, accommodation or entertainment or the opportunity to attend any cultural or sporting event on terms not available to the general public.
- 1.2 Common gifts include pens, diaries, calendars and other business stationery, key rings, articles of clothing, books, flowers, bouquets and promotional items.
- 1.3 Common hospitality includes lunches, dinners or refreshments.

2. General Caution

- 2.1 The fundamental principle must always be that any offer of a gift or hospitality should be treated with great care. Your prime duty as a Member is to ensure that there is no conflict of interest in the performance of your duties. Treat with caution any gift or hospitality that is made to you personally. Your personal reputation and that of the Council can be seriously jeopardised by the inappropriate acceptance by you of a gift or hospitality.
- 2.2 You should consider carefully all the circumstances surrounding the offer of a gift or hospitality. The scale, amount of the offer and the potential frequency and source are relevant factors. Also be sensitive to the timing of the offer in relation to decisions which the Council may be taking, affecting those making the offer.
- 2.3 You should avoid hospitality in situations where you would be the sole guest.
- 2.4 You may have to estimate the value of the gift or hospitality.
- 2.5 The decision for you in every case is whether or not it is appropriate to accept any gift or hospitality that might be offered to you, having regard to how it might be perceived by an ordinary member of the public. No hard and fast rules can be laid down to cover every circumstance as to what is appropriate or inappropriate. In any case of doubt, advice should be sought from the Monitoring Officer.

To refuse may cause misunderstanding or offence; however to accept may give rise to questions of impropriety or conflict of interest.

Where the decision whether to accept hospitality is left to your judgement, you must ask yourself some commonsense questions: for instance, whether there is a benefit to the Council in your accepting the invitation; whether the entertainment is lavish, on a scale which you could not personally afford; whether you are accepting too much hospitality from the same source; and, if your position is prominent, whether just your attendance at an event might be open to interpretation as a signal of support.

3. Code of Conduct requirements

- 3.1 The Member Code of Conduct requires that you register in your Register of Personal Interests (maintained by the Monitoring Officer), any gifts or hospitality with an estimated value of £25 or more, which are received and accepted by you, in the conduct of the business of the Council, the business of the office to which you have been elected or appointed or when you are acting as representative of the Council. You must also register the source of the gift or hospitality.
- 3.2 You must register the gift or hospitality within 28 days of its receipt/acceptance.
- 3.3 The Member Code of Conduct provides that you automatically have a personal interest in a matter under consideration at a Council meeting, if it is likely to affect the person who gave you the gift or hospitality which you have registered. In practical terms, this means that, although you have registered the gift or hospitality and its source in your Register of Personal Interests, you must still orally, at the meeting, disclose as a personal interest, the existence and nature of the gift and hospitality, the person who gave it to you and how the business under consideration relates to that person and then decide whether your interest is also prejudicial. If the interest is prejudicial, then you must declare you have a prejudicial interest and comply with the rules on prejudicial interests.
- 3.4 You must continue to disclose the existence and nature of the gift or hospitality etc at relevant Council meetings, for 3 years from the date you first registered the gift or hospitality. This disclosure requirement ceases for gifts and hospitality interests registered more than 3 years ago.
- 3.5 Where any gift (no matter the value) is accepted, the donor should always be advised that acceptance will not confer any advantage for that donor in his/her dealings with the Council.

4. Series of gifts or hospitality adding up to £25 or more in value

The registration requirement in the Code is limited to gifts or hospitality worth £25 or more. If you receive a series of gifts or hospitality from the same source that add up to £25 or more, then this must be registered on your Register of Personal Interests as an accumulation. You may have to estimate the value of the gifts or hospitality.

5. What to avoid

Governance Committee, 21 November 2007

- 5.1 In deciding whether it is appropriate to accept any gift or hospitality, you must apply the following principles:
- (a) do not accept a gift or hospitality as an inducement or reward for anything you do as a Member. If you have any suspicion that the motive behind the gift or hospitality is an inducement or reward, you must decline it. 'Reward' includes remuneration, reimbursement and fee.
 - (b) do not accept a gift or hospitality of significant value or whose value is excessive in the circumstances.
 - (c) do not accept a gift or hospitality if you believe it will put you under any obligation to the provider as a consequence.
 - (d) do not solicit any gift or hospitality and avoid giving any perception of doing so.
 - (e) do not accept a gift or hospitality, if acceptance might be open to misinterpretation. Such circumstances will include gifts and hospitality:
 - (i) from parties involved with the Council in a competitive tendering or other procurement process.
 - (ii) from applicants for planning permission and other applications for licences, consents and approvals.
 - (iii) from applicants for grants, including voluntary bodies and other organisations applying for public funding.
 - (iv) from applicants for benefits, claims and dispensations.
 - (v) from parties in legal proceedings with the Council.
- 5.2 It is a criminal offence corruptly to solicit or receive any gift, reward or advantage as an inducement to doing or forbearing to do anything in respect of any transaction involving the Council. The onus would be on you to disprove corruption in relation to the receipt of a gift or hospitality from a person holding or seeking to obtain a contract from the Council.
- 5.3 Cash or monetary gifts should always be refused without exception and the refusal notified to the Monitoring Officer.

It is a well-established and recognised rule that no Councillor or other public servant should accept gifts, hospitality, or services from anyone, which would or might appear to place him/her under an obligation. If you are in doubt about what is proper, there are three particular things you should bear in mind;

- ***DO*** err on the side of caution. If the thought of the acceptance of the gift or hospitality becoming public makes you uncomfortable, do not accept;
- ***DO*** consult the Monitoring Officer or Deputy Monitoring Officer if you are still unsure;
- ***DO*** consider if you decide to go ahead to record with the Monitoring Officer that you have addressed the issue of propriety and setting out your reasons for believing that your actions comply with this Protocol.

6. Gifts and hospitality which need not be registered

There are some circumstances where you may accept gifts and hospitality without the need to register the gift or hospitality. Some situations will require the exercise of your personal judgement. You should always be cautious, when additional services, privileges or advantages are offered, which might be related to your position as a Member. Remember - always register a gift or hospitality if it could be perceived as something given to you because of your position.

- (i) Official hospitality such as a civic reception or a working/business lunch in Council owned premises or hosted elsewhere, by a partner organisation of the Council.
- (ii) Civic hospitality provided by another public authority.
- (iii) Refreshment in connection with any meeting in the course of your work as a member e.g. tea, coffee and other normal beverages and refreshments.
- (iv) Meals or refreshments funded by other public sector partners, as part of joint working/collaboration.
- (v) Meals or refreshments provided as part of a ceremony or event to promote/or launch a project or initiative.
- (vi) Meals or refreshments provided at design/progress meetings, by a consultant, contractor or advisor who is already appointed by the Council for that project, scheme or initiative.
- (vii) Drinks or other refreshment in the normal course of socialising arising consequentially from Council business e.g. inclusion in a round of drinks after a meeting.
- (viii) Small low value gifts, such as pens, calendars, diaries, flowers and other mementos and tokens.
- (ix) Gifts and hospitality arranged and paid for wholly by your own political party.
- (x) Gifts and hospitality not related or connected with your membership of the Council i.e. received by you outside the performance of your functions as a Member.
- (xi) Gifts and hospitality you may receive from family and friends e.g. birthday presents that are not related to your position as a Member.

Governance Committee, 21 November 2007

- (xii) Gifts given to the Council that you accept formally on the Council's behalf and are retained by the Council and not by you personally e.g. a commemorative goblet for display in the Mayor's parlour.
- (xiii) Gifts given as prizes at exhibitions, conferences, seminars etc. as part of a free raffle or draw.
- (xiv) Gifts and hospitality which you do not accept (refer to the guidance in para. 7 of this Protocol).
- (xv) Gifts which you donate to the Mayor's charity, subject to you indicating this intention to the donor of the gift.
- (xvi) Gifts known to be available to all members of the Council e.g. badges and ties bearing the Council's coat of arms.
- (xvii) Souvenirs and gifts from other public bodies intended as personal gifts e.g. arising from town-twinning and other civic events.
- (xviii) Hospitality known to be available to all members of the Council e.g. Annual Meeting/Mayor making refreshments
- (xix) Hospitality ancillary to the Council business being conducted, such as an overnight stay for an 'away – day with a partner organisation of the Council'.
- (xx) Hospitality ancillary to attendance at conferences, seminars and courses where the hospitality is corporate, rather than personal.
- (xxi) Hospitality ancillary to attendance at functions where you represent the Council (opening ceremonies, public speaking events, conferences).
- (xxii) Hospitality ancillary to attendance as Mayor or Deputy Mayor, at charity events, garden parties, fetes, schools, concerts etc.
- (xxiii) Trips in the UK or abroad which are paid for by the Council or which involve reciprocity of payment with other local authorities, government bodies/ departments or outside bodies/organisations, together with any hospitality associated with such visits and available to all participants.

7. Gifts and hospitality declined

There is no requirement to register gifts and hospitality offered but declined. When gifts or hospitality are declined, the offeror should be courteously but firmly informed of the procedures and standards operating within the Council.

8. Reporting of inappropriate gifts and hospitality offered

It is a criminal offence for a person corruptly to give or offer any gift, reward or advantage as an inducement or reward to you for doing or forbearing to do anything as a member of the Council. You must immediately report to the Monitoring Officer any circumstances where an inappropriate gift or hospitality has been offered to you. You may thereafter be required to assist the Police in providing evidence.

9. Overseeing this Protocol

The Standards Committee has responsibility for overseeing compliance with this guidance and allegations of any failure to meet the guidance must be made in writing to the Monitoring Officer.

PROTOCOL ON PROBITY IN PLANNING MATTERS

Summary

The Council's function of development raises various issues of conduct and procedure for members including sometimes difficult matters of reconciling their role as ward member with their role as decision maker. The planning process allows decisions to be challenged either through the appeal process or the courts, or to be tested through the Ombudsman for maladministration or the District Auditor in some cases, with potentially severe consequences if decisions cannot be justified.

Consequently, it is of the utmost importance that the Council's processes and decision making should be open, accountable and objective.

This protocol applies to members and staff involved in the planning process and is concerned with maintaining the integrity of the planning system, including the conduct of members and staff in its processes and procedures. This Protocol should be read in conjunction with the Members Code of Conduct, the Staff Code of Conduct, and the Protocol on Member/Officer Relations.

Provisions

The following general areas of advice take into account earlier Local Government Association guidance on planning issues for local authorities. They require members and staff involved in the planning process to conduct themselves according to certain standards.

1 Declaration and registration of interests

- (a) Members are required to declare and register their interests, and should review their interests regularly. A register of members' interests will be maintained by the Monitoring Officer.
- (b) Where a member has a personal interest in a matter, he must declare it, but he is not necessarily debarred from participation in the discussion of the matter.
- (c) If a member has personal interest which is also a prejudicial interest, then he should leave the room, unless members of the public are allowed to make representations, give evidence or answer questions about the matter either because they have a statutory right to do so or because the Constitution permits them to do so. In this case a member can attend the meeting to exercise this right but must immediately leave the room afterwards and cannot remain in the public gallery. A member with a prejudicial interest cannot participate in the discussion, vote and must not seek to improperly influence a decision on the matter.
- (d) A member must regard him or herself as having a personal interest in a planning matter:
 - (i) if the matter relates to an interest in respect of which the member has given notice in the statutory register of members'

interests; or

- (ii) if a decision upon it might reasonably be regarded as affecting to a greater extent than other council tax payers, ratepayers or inhabitants of the ward, the well-being or financial position of themselves, members of their family, or people with whom they have a close association or
- an employment or business carried on by such persons
 - any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors
 - any corporate body in which such persons have a personal interest in a class of securities exceeding the nominal value £25,000 or one hundredth of the total issued share capital (whichever is the lower)
 - any body which the member is required to register in the statutory register of interests, in which such persons hold a position of general control or management.
 - The interests of any person from whom a member has received a gift or hospitality with an estimated value of at least £25 within a period of 3 years before the date of the meeting.
- (e) A member with a personal interest in a planning matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest and (i) the matter does not fall within any exempt categories (ii) the matter affects a member's financial interests or relates to a licensing or regulatory matter. Further information on personal and prejudicial interests is contained in the Members' Code of Conduct and the Guide for Members 2007 issued by the Standards Board.
- (f) Members who are unsure whether an interest should be declared should seek advice of the Monitoring Officer. However, the ultimate decision is for the member.

2 Role and Conduct of Members and Officers

(a) Role of Councillors

- (i) It is advisable for Members not to become directly involved in pre- or post-submission discussions or negotiations with applicants or objectors.
- (ii) Members serving on planning committees or who become involved in making planning decisions (where the full Council deals with a planning application) must not in their official capacity, or in any other circumstances, use or attempt to use their position as a member improperly to confer on or secure for themselves or any other person, an advantage or disadvantage.

Governance Committee, 21 November 2007

- (iii) Members should take account of opposing interests involved in planning decisions, but should not favour any person, company or group or locality, nor put themselves in a position where they appear to do so.
 - (iv) Members must treat others with respect and must not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Council.
 - (v) Members should not bully staff nor seek to put undue influence on staff for a particular recommendation nor to instruct staff to make a particular recommendation. Instructions to staff may only be given through a decision of the Council, Executive, or committee decision.
 - (vi) Members can seek information from staff on behalf of constituents in the normal way. Members will need to be aware that there is often a fine line between seeking information and appearing to support or oppose an application. Further advice is given in the section on lobbying.
 - (v) Confidential information must not be disclosed save for and strictly in accordance with the limited circumstances set out in the Members' Code of Conduct and only after seeking legal advice.
- (b) **Role of staff**
- (i) Unless given clear delegation by the Council to act on behalf of the authority, staff can only advise.
 - (ii) It is part of the normal role of staff, and acknowledged as good practice, to give advice and guidance to potential applicants, landowners, or interested third parties in relation to an application being made.
 - (iii) All advice is given "without prejudice" either to the applicant's rights or the Council's decision.
 - (iv) Staff must always act impartially.
 - (v) It is part of the role of staff to facilitate consultation with appropriate interest groups and third parties – for example, statutory consultees, nearby occupiers to a proposal etc. – and to guide them, as necessary, to enable their participation and understanding of schemes.
 - (vi) Wherever possible, staff of the Council should decline offers of hospitality from people with an interest in a planning matter. If the receipt of hospitality is unavoidable, officers should ensure that it is of a minimal level and declare its receipt as soon as possible in the hospitality register. Offers of hospitality should be recorded whether accepted or not and the register will be reviewed regularly by the Monitoring Officer. Reference should

be made to the Gifts and Hospitality Protocol which contains more detailed advice.

- (vii) Professionally qualified staff are bound by the relevant codes of conduct of their own institutes or societies and the National Code of Conduct for Local Government Employees. All officers involved in the planning process should comply with the relevant parts of the Royal Town Planning Institute's Code of Professional Conduct
- (viii) The Council as a whole is entitled to unbiased and carefully considered professional opinion.

3 Development proposals submitted by the Council, members and all Planning staff, Chief Officers and Heads of Service

Proposals for a Council's own development can easily give rise to suspicions of impropriety. So indeed can proposals to their own authority by Members and staff and their close friends and relatives. It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in a way which gives no grounds for accusations of favouritism.

- (a) Proposals for a Council's own development should be treated in the same way as those by private developers.
- (b) Members who act as agents for people pursuing planning matters within the authority should play no part in the decision-making process for those proposals.
- (c) Members who submit their own proposals to the authority on which they serve, should play no part in its processing and a member should not seek to improperly influence a decision about the matter. The consideration of a proposal from a member in such circumstances would be considered a prejudicial interest and the member would be required to withdraw from any consideration of the matter, save that a member attends on the same basis as a member of the public in accordance with the Constitution and in order to make representations but must not attend any other part of the meeting.
- (d) Staff responsible for processing planning applications shall not act as agents for people pursuing a planning matter.
- (e) Staff described above who submit their own planning proposals to the authority, should take no part in its processing.
- (f) The Monitoring Officer shall be informed of development proposals submitted by the Council, members and staff described above when they occur.
- (g) Proposals by Members and staff described above should be reported to the Regulatory Services Committee as main items and not dealt with by staff under delegated powers; as part of the report the Monitoring Officer should confirm whether it has been processed normally.

4 Pre-application/post submission discussions

Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit. However it would be easy for such discussions to be seen as part of a lobbying process by the applicant. In order to avoid this perception pre-application and post-application discussions should take place within the guidelines outlined below.

- (a) It should be made clear at the outset that any discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional.
- (b) Any advice given to an applicant should be consistent and based upon the development plan and material considerations. Advice should only be given after careful consideration and must be unbiased.
- (c) All members and staff taking part in such discussions should make clear whether or not they are the decision-maker.
- (d) A written note should be made of all potentially contentious meetings. At least one member of staff should attend such meetings and a follow-up letter should be written. A note should be made of all similarly contentious telephone discussions.
- (e) Care should be taken to ensure that any advice given is not partial.

5 Lobbying

- (a) In making a decision on a planning application the need for impartial assessment is sometimes at variance with the role which a member may feel they should fulfil as a ward member representing their own constituents' views.
- (b) Lobbying is a normal and proper part of the political process. Those who may be affected by a planning decision or an applicant who is aware of a likely adverse recommendation by a member of staff will often seek to influence it by approaching their elected ward member or a member of the committee which will determine the application.
- (c) However such lobbying can, if not properly handled, lead to the impartiality of a member serving on the committee which determines the application being called into question.
- (d) Ward members and members of the planning committee who are lobbied should avoid expressing an opinion that may be taken as indicating they have already made a decision on the issue before they have been exposed to all the evidence and arguments.
- (e) Members of the planning committee should not openly declare which way they intend to vote in advance of the planning meeting, and of hearing evidence and arguments on both sides.
- (f) A member can easily find his or her position prejudiced by inadvertently participating in advocacy, lobbying and the use of pressure on other members. Unless common sense is exercised by all parties concerned, such situations could lead to the impartiality of a

Councillor being called into question and the need for an interest to be declared.

- (i) If a member expresses an opinion in public on a planning application before it comes to committee it will be virtually impossible for that member to argue convincingly when the committee comes to take its decision that he or she has carefully weighed the evidence and arguments presented. Many of these may only become apparent when the item is discussed at committee.
- (ii) If it is difficult or inappropriate not to express an opinion members are advised to make it clear that they have yet to hear all the arguments and see the evidence before forming a final view. Ideally this caveat should be put in writing to the applicant/objector.
- (iii) Political group meetings prior to the planning committee meeting should not be used to decide how Councillors should vote. The use of political "whips" at group meetings over planning applications is contrary to the National Code and could amount to maladministration.
- (iv) If a meeting or phone call with objectors or applicants is likely to be contentious, members are advised to make a note at the time of what is said and, preferably, to arrange for a member of staff to be present.
- (v) In committee, members should ensure that they are able to concentrate on the application and the discussion.
- (vi) If a member decides that they must lobby for or against a proposal, or publicly expresses support of a particular outcome, they should attend the committee as an individual and not take part in the decision making process for any matter being considered at that meeting.

6 Written reports to committee

To avoid public concern and loss of confidence in the probity, quality and consistency of decision making and the possibility of maladministration or judicial review, committee reports will:

- (a) normally be available to the public five clear days prior to the meeting
- (b) be accurate, objective and fair and cover amongst other things, the proposal, policy and background issues, the substance of any objections, and the views of those consulted
- (c) include an exposition of the development plan; site or related history; and any other material considerations
- (d) contain a recommendation clearly justified by technical appraisals.
- (e) if the report's recommendation is contrary to the provisions of the

Governance Committee, 21 November 2007

development plan, the material considerations which justify the departure must be clearly stated.

- (f) oral reporting to committee will as far as possible be confined to updating the meeting on developments since the publication of the report – for example, late representations or suggested additional conditions.

7 Decisions contrary to staff recommendation and/or the development plan

- (a) Decisions on planning applications are to be made in accordance with the development plan unless material considerations dictate otherwise. This is a requirement of the Town and Country Planning Act 1990.
- (b) Decisions contrary to the development plan should:
 - (i) be identified as soon as possible.
 - (ii) be advertised in accordance with section 8 of the Town and Country Planning Act 1990.
 - (iii) if it is intended to approve such an application, the material considerations leading to the conclusions must be clearly identified, and how the considerations justify overriding the development plan clearly identified.
- (c) Where the planning committee makes a decision contrary to a staff member's recommendation:
 - (i) a detailed minute of the committees reasons should be made and a copy placed on the application file.
 - (ii) the staff member should be given the opportunity to explain the implications of the contrary decision.
 - (iii) reasons for departing from the recommendation should be clear and convincing. The personal circumstances of an applicant will rarely provide such grounds (a notable exception is where a planning policy allows for this).
- (d) A senior legal officer will always attend committee meetings to ensure appropriate procedures are followed.

8 Committee site visits

- (a) Site visits are used for fact finding and members are always accompanied by staff.
- (b) Committee site visits can only be authorised by the Regulatory Services committee, should only be made where the expected benefit is substantial, and will be arranged by staff.
- (c) A site visit will only be necessary if the impact of the proposed

development is difficult to visualise from the plans and supporting material, or there is good reason why the comments of the applicant and objectors cannot be expressed adequately in writing, or the proposal is particularly contentious.

- (d) Site visits are not decision-making meetings.
- (a) All committee members will be invited and will be accompanied by staff. Relevant ward members will be invited.
- (f) Where applicant and objector are present it is important that the interested parties are not allowed to make further submissions so as to avoid inappropriate lobbying.
- (g) To avoid prejudice to third parties, the landowner/operator/ applicant will be advised that only factual answers/information should be given and that lobbying will be unacceptable.
- (h) Where the committee consider it appropriate, objectors premises may also be visited and similar rules on lobbying will apply.
- (i) site visits and the reasons they were made will be recorded.

9 Reviews

- (a) A review of planning decisions should be undertaken annually. Such a review should include samples from a broad range of planning decisions and briefing notes should be prepared on each case. The planning committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

PROTOCOL ON MEMBER/OFFICER RELATIONS

Introduction

1. Given the variety and complexity of Member and Officer relations, this Protocol does not seek to cover everything or be prescriptive in its application. General guidance is offered on some of the issues that most commonly arise or cause concern. It is hoped, therefore, that the approach, which this Protocol adopts, will serve as a guide to dealing with other issues that may arise from time to time.
2. This Protocol seeks to encourage best practice and to promote greater clarity and certainty between the various relationships. If any Member is unsure about any matter, s/he should contact the Monitoring Officer for appropriate advice and assistance. If any Officer is unsure about any matter, s/he should contact the relevant Group Director and/or the Monitoring Officer. If there is any disagreement in the interpretation of this Protocol, the opinion of the Chief Executive and/or Monitoring Officer will prevail.
3. The Standards Committee and the Monitoring Officer will issue general guidance on Havering's Code of Conduct for Members, this Protocol on Member/Officer relations and the Protocol on Probity in Planning. Where appropriate, the Monitoring Officer will also consult the Chief Financial Officer and the Chief Executive on any further general guidance.

General Member/Officer Issues

4. The opportunity is taken to reinforce the following points:-
 - (i) In order to ensure the business of the Council is transacted in an effective and efficient manner and with a view to ensuring that the Council is not brought into disrepute, the key guiding principle for Members and Officers has to be one of "engendering mutual trust, openness, honesty, fairness, transparency and treating everyone with respect";
 - (ii) Officers, being employees of the Council, must act in the best interests of the Council, as a whole, and must not give politically partisan advice. Anyone breaching this requirement, will face disciplinary action and may, ultimately, be dismissed by the Council;
 - (iii) Political Group meetings, whilst they perform an important part in the preliminaries to Council decision-making, are not formal decision-making bodies of the Council and, as such, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as Council decisions and it is essential that Members and Officers understand and interpret such decisions accordingly;
 - (iv) Officer support to Political Groups must not extend beyond providing information and advice in relation to Council business (not Party politics/business);

Governance Committee, 21 November 2007

- (v) it is good practice for Party political debates and decision-making to take place in the absence of Officers, in order to avoid any suspicion of impropriety or misunderstanding;
- (vi) Officers must respect the confidentiality of any Political Group discussions at which they are present; and
- (vii) any breach of this part of the Protocol by an Officer must be brought to the attention of the Chief Executive and / or the Monitoring Officer for consideration.

Legal and Audit Commission Considerations

5. Members of the Council do not, as elected members, have any special immunity from civil or criminal wrongs that they may commit against fellow Members, Officers or members of the public. Members must abide by Havering's Code of Conduct for Members and ensure they do not, for example, slander or libel another person. During the course of their normal duties for the Council, Members will, therefore, only have a qualified (not absolute) protection against prosecution or civil action. This requires that there must of necessity be an absence of malice.
6. Members must also not pressurise any Officer to change his/her professional opinion on any Council business matter or do anything that compromises, or which is likely to compromise, the impartiality of Officers or those who work for, or on behalf of the Council. It is also imperative that Members are clear about their roles and the roles of Officers, so as to avoid getting inappropriately involved in, for example, the internal office management, discipline and/or other employment related issues, as the actions of the Member(s) may be held to be the actions of the Council, as an "employer".

Standards Board for England Issues

7. Any member of the public (including Officers and other members) can complain to the Standards Board for England against a Member's breach of Havering's Code of Conduct for Members and/or bring private civil litigation proceedings against an elected member. The District Auditor can also take legal action against an elected member and the Council, as a whole, for any breaches of the law.

Public Relations Issues

8. The Council's Communications Section are responsible for dealing with the press and other media organisations on behalf of the Council. It is important, therefore, that all official communication relating to the Council (but not party political or private matters) is dealt with by this section, so as to ensure the proactive, effective and efficient management of the Council's public image, relations and interface.

Specific Points on Member/Officer Relations

9. The relationship between Members and Officers generally is characterised by mutual trust, respect and courtesy. These are essential for good local government and serve to enhance local democracy.
10. Close personal familiarity between individual Members and Officers can damage professional relationships and can prove embarrassing to other

Governance Committee, 21 November 2007

Members and Officers. Situations should be avoided, therefore, that could give rise to suspicion and/or appearance of improper conduct or behaviour.

Employer/Employee Issues

11. Any dealing between Members and Officers should, therefore, be conducted with mutual trust, respect and courtesy, and neither party should seek to take an unfair advantage of his/her position. In particular, Members should recognise and pay due regard to their role as an employer in their dealings with Officers, as Officers could use inappropriate behaviour and conduct of Members in bringing employment cases against the Council.
12. Members must guard against putting inappropriate pressure, in particular, on junior officers and must ensure that all communication between them (including written communication) does not bring the Council into disrepute, cause any embarrassment to them, or lead to the breakdown of mutual trust, respect and courtesy in Member/Officer relations.
13. In seeking advice and support, Members should have due regard to the seniority of the Officer with whom they are dealing and recognise that, whilst those Officers owe an overriding duty to the Council as a whole, such duties are first expressed to their respective line managers and the Chief Executive and not to any individual Member. For this reason, Members should not give direct instructions to staff, and where possible should ensure their communications are with staff at an appropriate level within the Council.

Equality Issues

14. The Council has statutory duties with regard to equality issues and in accordance with Havering's Code of Conduct for Members, Members must also promote equality by not discriminating against others. Members and Officers shall not, therefore, by their behaviour or speech act in a discriminatory manner with regard to, for example, a person's gender, race, disability, religion, ethnicity, nationality, sexual orientation or age. Such principles will apply to the implementation of personnel policies, recruitment and promotion as they apply to day to day dealings with fellow human beings.

Officer Conduct or Capability Issues

15. Members should not raise matters relating to the conduct or capability of an Officer (or of Officers, collectively) at meetings held in public or before the Press, as Officers have no means of responding to the same in public. Neither should members display any inappropriate behaviour or language to Officers at such meetings or at any other meetings to which they are invited or are represented. Inappropriate behaviour or language is considered to be as described in paragraph 26. If any Member feels that s/he has not been treated with the proper mutual trust, respect or courtesy or has any concern about the conduct or capability of an Officer, s/he should raise the matter, in private, with the relevant Officer and, if necessary, the Group Director of the directorate concerned. Any concerns with regard to an Group Director should be discussed, in private, with the Chief Executive and/or the Leader of the relevant Political Group. Whispering campaigns against Members and Officers do not project a healthy environment for engendering mutual trust, openness, honesty, fairness, transparency, respect or courtesy and should be avoided.

Governance Committee, 21 November 2007

16. Members will be in breach of Havering's Code of Conduct for Members if they require any Officer to:
 - (a) change his/her professional advice; or
 - (b) take any action which the Officer considers to be unlawful or illegal or which could amount to maladministration or breach any relevant Codes of Conduct (including professional codes of conduct).

Monitoring Officer/Chief Financial Officer Consultations

17. Members are required to consult with the Monitoring Officer and the Chief Financial Officer over any legality, maladministration, financial impropriety, or probity issues or where they have any doubt as to whether particular decisions are or were likely to be contrary to the Council's Policy Framework Rules, the Budget Framework Rules or the law. Inappropriate or late consultation will not satisfy the need to consult those Officers at the relevant time.

Political Impartiality

18. Members shall, at all times, respect the political impartiality of Officers and must not expect or encourage Officers to give a political view on any matter.
19. For the avoidance of doubt, it must be recognised by all that, in discharging their duties, Officers serve the Council, as a whole, and not exclusively any Political Group, combination of groups, or any individual Members.
20. Officers may properly be called upon to support and contribute to the deliberations of Political Groups but they must, at all times, maintain political neutrality. This applies, in particular, to Politically Restricted Officers, who are governed by the Local Government and Housing Act 1989. All Officers must, in their dealings with Political Groups and individual Members, treat them in a fair and even handed manner.
21. Any request for advice given to a Political Group or Member will be treated with the strictest of confidence by the Officers concerned and will not be accessible to any other Political Group(s). Factual information upon which any advice is based will, if requested, be available to all Political Groups.
22. When attendance is requested for Political Group meetings:
 - (a) The request to attend a Political Group meeting must normally be made through the relevant Group Director;
 - (b) Such a request can only be made in relation to Council business; and
 - (c) Officers will:-
 - (i) provide relevant factual advice and assistance;
 - (ii) normally leave during the deliberations of the Political Group on the issue;
 - (iii) respect the confidentiality of any Political Group decision at which they are present; and

Governance Committee, 21 November 2007

- (iv) not champion, defend, action or spend any resources of the Council, or be held responsible for actioning in any way whatsoever the decisions of the Political Group(s), unless and until such decisions have become the formal decisions of the Council.

Specific Points on Overview and Scrutiny Arrangements

- 23. The Council's Overview and Scrutiny Committees will seek the advice of:-
 - (a) The Monitoring Officer, where they consider there is doubt about the legality of any Executive decision(s); or
 - (b) The Monitoring Officer, Chief Financial Officer and other relevant Group Directors, where they consider a decision (or decisions) of the Executive might be contrary to the Council's policy framework.
- 24. When asking Officers to give evidence before any Overview and Scrutiny Committee, questions should be confined, so far as is possible, to questions of fact and explanation of any professional opinion relating to policies and decisions. Officers must respond to questions from Members in an open, constructive and helpful manner. Officers must not mislead or be economical with the truth.
- 25. Where they consider it appropriate, the Chairman of the relevant Overview and Scrutiny Committee may ask Group Directors to explain any advice given by them to Members of the Executive and explain any decision(s) the Group Director may have taken under the Scheme of Delegations to Officers. For the avoidance of doubt, this will not apply to any private or confidential matters.

Unacceptable or Inappropriate Behaviour

- 26. The relevant Chairman of the Overview and Scrutiny Committee shall ensure that Members of the Executive and Officers are not questioned (whether through the nature, tone or language used), in such a manner as could be considered by a reasonable person to be hostile, offensive, derogatory, harassing, bullying, victimising, discriminatory or otherwise unacceptable or inappropriate behaviour by a Member. Equally, it has to be recognised that such Committees have no jurisdiction to deal with matters, which are of a disciplinary nature for the relevant Political Group (in respect of Members) or the relevant Group Director/Chief Executive (in respect of Officers).
- 27. Any allegation of unacceptable or inappropriate behaviour by a Member will be reported to the Leader of the relevant Political Group for consideration and/or the Standards Board for England, if there has been a breach of the Code of Conduct for Members. The relevant Leader may also refer the matter to the Standards Committee for consideration, guidance or sanction, if the matter is not a breach of the Code of Conduct for Members.

Use of Local Authority Resources

- 28. The only basis on which the Council can lawfully provide support services to Members (e.g. computers, telephone, mobile phones, blackberries, stationery, typing, printing, photo-copying, transport etc.) is to assist them in

Governance Committee, 21 November 2007

the effective and efficient discharge of their duties and role as Members of the Council. Such support services must, therefore (as set out in paragraph 6 of Havering's Code of Conduct for Members), be only used for Council business save for under the Council's IT Protocol, limited personal use of telephones only is permissible upon payment of the bill relating to personal use. In all other circumstances the same should never be used for or in connection with Political, Party Political or campaigning activities or for private purposes.

29. Accordingly, any Member, a member of the public or an Officer could report a breach of Havering's Code of Conduct for Members to the Standards Board for England.

Access to Information – 'Need To Know'

Statutory provisions

30. The Local Government (Access to Information) Act 1985 (which is Section 100F of the Local Government Act 1972) was introduced to give additional rights to Elected Members. The Act was at pains to stress that these rights were in addition to those at common law.
31. Section 100F makes it clear that any document which is in the possession or under the control of the Council and contains material relating to any business to be transacted at a meeting of the Council, or a committee or a sub-committee of the Council will be open to inspection by a Member of the Council, unless it contains confidential/exempt information as defined within the section. A non-committee members right to information is therefore enhanced by Section 100F subject to the Proper Officer withholding confidential/exempt information within those paragraphs.
32. Section 100F does not, however, go as far as the common law, vis-à-vis, the Committee Member. For non-Committee Members, their position is enhanced by section 100F. In both cases, however, if there appears to be confidential/ exempt information, by virtue of the other parts of the Act, there is still the discretion for the relevant Proper Officer to withhold the confidential/exempt information.
33. It is also a matter of fact as to whether or not the information is 'in the possession or under the control of' the Council. The key issue to be determined is whether or not the information belongs to the Council or to another person. If it belongs to another person, Officers will only release any confidential information after an appropriate consent to release such information has been obtained from the relevant person. Officers will not, therefore, "hand over" their files to a Member, without the Officer being clear about the reasonableness of the request and the Officer's ability to share confidential information with a Member. If any Officer is unsure about a request for information, s/he must discuss the same with his/her line manager and/or the Monitoring Officer.
34. Under the Local Government Act 2000 Executive arrangements and subject to important exceptions (see paragraph 35 below), any relevant document which:
 - (a) is in the possession, or under the control, of the Executive; and

Governance Committee, 21 November 2007

- (b) contains material relating to any business to be transacted at a public meeting of the Council, will be available for inspection by Members of the Council.
35. The exceptions, to the above general requirement of paragraph 34, are that exempt information in respect of Schedule 12A of the Local Government Act 1972 – see paragraph 36 below) would be disclosed
36. In addition to the above and subject to important exceptions (see paragraph 37 below), an Overview and Scrutiny Committee Member will be entitled to a copy of the relevant document which:
- (a) is in the possession or under the control of the Executive;
 - (b) contains material relating to:-
 - (i) any business carried out at a private or public meeting of the Council;
 - (ii) any decision taken by a relevant Cabinet Member; or
 - (iii) any key decision of the Cabinet.
37. The exceptions to the above general requirements of paragraph 36 are that such a document (or part of it) contains exempt or confidential information, unless it is relevant to any action or decision being reviewed or scrutinised under the overview and scrutiny arrangements
38. For the purposes of completeness, Appendix A provides an extract of the statutory exempt information paragraphs, which permit reports to be considered in private. As a guiding principle and in keeping with good open government, Executive Members, Chairmen of relevant Committees and Officers will ensure that, so far as is possible and permitted by law, reports are considered in public. If any Member or Officer has any concerns over whether a private report ought to be (or should have been) considered in public, s/he should raise the matter, at the earliest opportunity, with the relevant Group Director, Chairman of the Committee or the Monitoring Officer for a decision.

Common law principles

39. In addition to the statutory provisions, the common law right of Members to access information is based on the principle that any Member has a *prima facie* right to inspect Council documents *so far as his/her access to the documents is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council*. This principle is commonly referred to as the “need to know” principle.
40. This principle applies equally to leaders of the Political Groups and, under common law principles; the courts have not determined that any leader has an ‘automatic’ right to information. Accordingly, for the purpose of legal considerations, leaders fall to be considered as ordinary Members, if they wish to see Council documents; although they will, in most situations, be able to readily satisfy the ‘need to know’ requirements on the submission of reasonable information or by reasonable implication to substantiate the same. Leaders of Political Groups will, therefore, still have to demonstrate that their

Governance Committee, 21 November 2007

request is a proper and reasonable one and give adequate reasons for requiring the information.

41. In addition, it should be remembered that the access to information right will vary from Member to Member, will arise at different times and, as such, a Member's 'need to know' will be considered on a case by case basis and will not last indefinitely.
42. The above statements on the common law position are subject to additional safeguards to protect Council information; namely, if the motive of a Member requesting to see documents is indirect, improper or ulterior, this may be raised by the Council as a bar to the Member's entitlement to inspect documents that are addressed to the Council. The entitlement of a relevant Committee Member to inspect documents of the Committee is a strong one and certainly stronger than that of a non-Member of the Committee. However, as indicated earlier, the rights of the former are not absolute, as it would still be open to the Committee/ Council to raise a bar to the exercise of such a right on the grounds of the Member's motives being improper, indirect or ulterior.
43. Furthermore, the law does not entitle a Councillor to go on a "roving or a fishing expedition" or to receive every working document that Officers have access to or may have had access to in the past. As a Councillor, s/he will only be entitled to see those documents that are relevant background papers mentioned in any report received by the (Sub-) Committee or other reasonable requests for relevant papers in order to comply with his/her 'right to know'. Clearly, any confidentiality attached to the same remains and the same must be kept confidential and not released to any other person. This includes, of course, members of the press. A breach of confidence by a Member is actionable by way of a complaint to the Standards Board for England. If the breach is serious enough, the person whose confidence has been betrayed may also bring a civil action against the Member (and/or the Council) for damages.
44. By equal token, any unreasonable requests for information can and will be declined. A balance has therefore to be struck between a Member's right to know and an individual's/ business'/ organisation's need for confidentiality, especially where the individual/ business/ organisation has requested confidentiality of the information provided to Council Officers.
45. If any confidential information is contained in public documents then it will, of course, lose its confidentiality. Equally, draft-working documents are subject to change and it is reasonable for those documents to be withheld until the matter is formally reported to the relevant committee / decision-maker.
46. The Freedom of Information Act 2000 will bring additional rights, responsibilities and safeguards regarding confidential information. The Act will become fully operational in January 2005 although a "Publication Scheme" has been in place since February 2003. In addition the Members' Code of Conduct contains a paragraph on confidentiality.

Election Period and Special Responsibility Posts

47. During the election period, special rules apply with regard to local authority publicity and these can be found in "The Code of Recommended Practice on Local Authority Publicity",.

Governance Committee, 21 November 2007

48. In terms of any serving Councillor who may be standing for re-election, it is imperative that s/he maintains a clear distinction between his/her private wish to stand for re-election and his/her official duties as a serving Councillor. S/he should, therefore, be particularly careful to guard against giving any impression that Council resources are being or could have been used for his/her re-election and/or private purposes. To do so, could amount, in serious cases, to a breach of the Code of Conduct for Members and a written complaint could be made to the Standards Board for England.
49. The fact that the Councillor is a serving Councillor can, of course, be stated on any elections material. However, the Council address and/or his/her Council e-mail address facilities should not be used or allowed to be used on any elections material produced by him/her or produced on his/her behalf by another person.
50. Members are provided with officer support to assist them with the discharge of their duties for the Council. Such staff should never be asked or used to carry out Party political purposes or private purposes.

Sanctions for Breach of Havering's Code of Conduct for Members and this General Guidance

51. Complaints against any breach of Havering's Code of Conduct for Members must be referred to the Standards Board for England, which could lead, ultimately, to the disqualification of a Member. Complaints against any breach of this Protocol by a Member may be referred to the Standards Committee. Complaints against any breach of this Protocol by an Officer may be referred to the relevant Group Director, the Chief Executive or the Monitoring Officer.

APPENDIX A

Meaning of exempt information

Exempt information means information falling within the following 10 categories (subject to any condition):

Category	Notes
1	Information relating to any individual
2	Information which is likely to reveal the identity of an individual
3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)
4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6	Information which reveals that the authority proposes: (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment
7	Information relating to any action taken or to be taken in connection with the prevention investigation or prosecution of crime.
8	Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:

“employee” means a person employed under a contract of service;

“financial or business affairs” includes contemplated, as well as past or current activities;

“labour relations matter” means:

(a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or

(b) any dispute about a matter falling within paragraph (a) above;

and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;

“office holder”, in relation to the authority, means the holder of any paid officer appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;

“registered” in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).

Any reference to “the authority” is a reference to the principal council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference:

(a) in the case of a principal council, to any committee or sub-committee of the council; and

Governance Committee, 21 November 2007

	Category	Notes
	<p>(a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992 (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; or (f) The Charities Act 1993</p>	<p>(b) in the case of a committee, to:</p> <ul style="list-style-type: none"> (i) any constituent principal council; (ii) any other principal council by which appointments are made to the committee or whose functions the committee discharges; and (iii) any other committee or sub-committee of a principal council falling within sub-paragraph (i) or (ii) above; and
9	<p>Information is not exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p>	<p>(c) in the case of a sub-committee, to:</p> <ul style="list-style-type: none"> (i) the committee, or any of the committees, of which it is a sub-committee and (ii) any principal council which falls within paragraph (b) above in relation to that committee
10	<p>Information which:</p> <ul style="list-style-type: none"> (a) falls within any of paragraphs 1 to 7; and (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above <p>is exempt information is and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>	

Guidance for Councillors involved in Outside and Other Organisations as the Council's representative or nominee

- 1 This guidance note is for Councillors appointed or nominated by the Council to represent it on outside and other bodies who should bear it in mind when carrying out their duties.
2. Any member of such a body has a responsibility to take the task seriously, attend meetings and carry out work for the body. Some organisations have rules about attendance (e.g. missing a number of consecutive meetings may lead to loss of the place on the committee). In view of the demands on councillors' time and energy, it is prudent to check out what is expected before accepting a place and to be clear what commitment can be made right from the start.
3. If you are asked to allow the Council to put your name forward, you should find out what will be expected of you. Any organisation which asks the Council for a nomination should be able to provide this information. If it is unable to provide such information, you should ask yourself whether you wish to be a member of such an organisation.
4. As a member of an outside body, you will be expected to participate fully in that organisation. If your other commitments mean that you will regularly have to miss meetings of the organisation, or that you have to withdraw from meetings because of conflicts of interest, you will be doing that organisation no favours, and this may reflect badly on the Council. Therefore do not allow your name to be put forward unless you are satisfied that you can participate fully in that organisation.
5. What does representation entail?
 - acting according to the rules, constitution and framework set by the outside or other body.
 - making independent and personal judgments in line with the duty of care to the body.
 - behaving ethically and following as far as applicable the Council's local Code of Conduct for Members.
 - taking an active and informed role in the body's affairs.
 - Helping to promote the cause or raise the profile of the organisations concerned particularly when the body has charitable status

It does not mean

- following instructions from a political party or group to which the Councillor may owe their political loyalty.
- looking at things simply from the Council's perspective.
- Making financial or other commitments on behalf of the Council.

Governance Committee, 21 November 2007

- being there in name only and merely turning up to meetings.
6. The role of councillors on outside and other bodies may give rise to occasional conflicts of interest. The Council's Code of Conduct for Members addresses some of the issues in this respect. In essence, if any matter relating to the outside or other body comes up in the course of the councillor's work as a councillor, it is likely that the councillor will have an interest which they will have to disclose. Where the conflict is such that it might be considered likely to affect the way that the councillor would vote or act as a councillor, he/she may have not only to disclose the outside interest but to take no part in the consideration of the matter.
 7. If there is a major dispute between the Council and the outside or other body, the councillor could be placed in an untenable situation. It is possible that the councillor may find he/she is unable adequately to carry out their responsibilities properly, both as a councillor and as a member or director of the body. Such circumstances would be rare and should not deflect councillors generally from being prepared to participate in the management and running of outside organisations.
 8. In almost all circumstances you will owe a duty to act in the best interests of that body. You will have to exercise your own best judgement and you cannot just take instructions from the Council. It is permissible to take account of the Council's wishes, but in any conflict, you must act in the best interests of the outside body. The Council recognises this in appointing or nominating you.
 9. Your responsibilities as a member of an outside body depend on the legal form of that body. The principal forms are:

(a) Statutory corporations

These are bodies which are set up under by statute. There is a wide range of such statutory corporations, including school governing bodies, universities, combined Police and Fire Authorities, and many "quangos". The members of the statutory corporation, such as the governors of a school, and how they are appointed is set out in the statute, as are the powers of the statutory corporation. That statute will also set out the responsibilities and liabilities of members of the corporation.

(b) Companies

Companies are separate legal entities which are set up by their members, who may be either shareholders or guarantors. In a company limited by shares, each member's personal liability is limited to the face value of their shares. In a company limited by guarantee, their personal liability is limited to the value of their guarantee, which may be as little as £1. The structure of the company, and its powers, in terms of the activities which it may undertake and its powers to buy and sell land, employ staff or enter contracts are defined in its Memorandum and Articles. Directors of companies can incur personal liability for their actions or failings, particularly if the company becomes insolvent. The extent of the responsibilities and liabilities of company directors has recently been extended by legislation. Industrial and Provident Societies (IPs), are similar to companies, but the member's liability is limited to their annual subscription to the association. This legal structure is popular for housing associations.

(c) Unincorporated Associations

Unincorporated associations are more or less informal organisations, in which the members regulate their relationship by a contract, such as a membership agreement or the rules of the club or association. Because the association has no legal existence separate from its members, there can be no limited liability. Each member incurs full personal liability for his/her own actions, and relies on the membership contract to be able to recover his/her costs from the other members.

(d) Charities

Some companies and unincorporated associations are also charities. To be a charity, the body or organisation must satisfy the Charity Commissioners that it is directed to charitable objectives. As a charity, it gains relief from corporation tax, VAT and business rates, but is subject to stricter regulation by the Charity Commissioners, to ensure that it is properly managed and that it is spending its money properly on the charitable objects.

For further information see the attachment.

10. Each member of the Council, elected or co-opted, is required to sign an undertaking to observe the provisions of the Code of Conduct for Members. The requirements of the Code can be summarised as:
- a. a requirement to comply with specific rules in respect of the member's conduct;
 - b. a requirement to notify the Council's Monitoring Officer of membership of or employment by any outside body, which information will then be included in a public register of interests;
 - c. when any matter affecting such an outside body comes before the Council and the member would in any manner be involved in consideration of that matter, to disclose the member's interest in that outside body and, in cases where a significant conflict of interest arises, to withdraw from taking any part in that consideration.
11. Where a member fails to register all such interests, fails to disclose such an interest or fails to withdraw when required to do so, any person may make a complaint to the Standards Board for England. If the member is adjudged by a Case Tribunal to have failed to comply with the Code of Conduct, a Case Tribunal can suspend the member in whole or in part for up to one year, or in extreme cases can disqualify the member from being a member of any local authority for up to five years.

1. COMPANIES

- 1 On incorporation a company becomes a separate legal entity which can hold property in its own right, enter into contracts, employ staff and sue and be sued in its own name. The company is distinct from its members, who may be either shareholders or guarantors.
- 2 Companies limited by shares are those which have a share capital (e.g. 1000 shares of £1 each). Each Member holds shares and receives a share in the profits made by the company according to the value of the shares held. Shares can be sold, although there may be restrictions requiring the shares to be offered to existing shareholders. In the case of a limited liability company, the liability of members of the company is limited to the amount they paid or agreed to pay when they joined the company, or the amount of their guarantee. This can be as little as £1.
- 3 Companies limited by guarantee are those where there is no shareholding. Instead each Member agrees that in the event of the company being wound up they will agree to pay a certain amount. This may also be as little as £1.
- 4 Where a company is a trust, it is not permitted to distribute any profit to its shareholders, but must ensure that any such profit is ploughed back into the business. Trust companies are normally limited by guarantee, and this form of company is the most usual form in the public and voluntary sector, particularly where charitable status is sought.
- 5 The management of a company is generally the responsibility of a board of directors, elected by the members of the company. The powers of the directors are usually set out in the company's Articles of Association (the rules each company has to govern its internal management). Sometimes even though a company has been incorporated the directors may be referred to as members of the committee of management, governors or even trustees. However this does not change their status as directors. Conversely, sometimes officials are called directors but they are not members of the board. Again their status will not be affected. Directors are those who are appointed by the company to act in that capacity.
- 6 Directors' Duties

A director is an agent of the company. His/her prime duties are as follows:-

- (1) A fiduciary duty to the company (not to individual shareholders) to act honestly and in good faith and in the best interests of the company as a whole. Directors are therefore in the position of "quasi trustees" who must take proper care of the assets of the company. The fiduciary duty of the director towards the company is very similar to the fiduciary duty of councillors to the Council Tax payers.
- (2) A general duty of care and skill to the company. So long as the Company remains solvent, a director requires no greater skill than might reasonably be expected of someone of that individual's particular knowledge and experience. A director is not deemed to be an expert, but is expected to use due diligence and to obtain expert advice if necessary. However if the Company becomes insolvent, the Court may expect that the director brings an appropriate level of skill, competence and experience to the job.

Governance Committee, 21 November 2007

- (3) Like a councillor in respect of Council decisions, the director is under a duty to exercise independent judgement, though it is permissible for him/her to take account of the interests of a third party which he/she represents. In such a case the director must disclose that position and treads a fine line between the interests of the company and the party represented (in this case the authority). The director cannot vote simply in accordance with the authority's instructions. To do so would be a breach of duty.
- (4) There may be actual or potential conflicts between the interests of the company and those of the Council. The councillor or officer cannot waive their statutory responsibilities as a director. So they may have to cease to act as a councillor or officer in relation to the particular matter.
- (5) Directors are not allowed to make a private profit from their position. They must therefore disclose any interests they or their family may have in relation to the company's contracts. Whether they are then allowed to vote will depend on the Articles of Association. Equally, officers are not allowed under cover of their office to take any more than their proper remuneration. They must obtain the consent of their employing authority if they are to receive any remuneration from a company to which they have been appointed by their employing authority.
- (6) Directors must ensure compliance with the Companies Acts in relation to the keeping of accounts, and that the relevant returns are made to the Registrar of Companies. Directors of charities have similar responsibilities to ensure compliance with charities law. Failure to do so may incur fines and persistent default can lead to disqualification as a director.

7 Directors' Liabilities

- (1) The company's identity must clearly be shown on its stationery. The company number, place of registration, registered office address and if any of the directors' names are shown then they must all appear. Non-compliance is an offence and the directors and company officers can be fined.
- (2) A company can only act within the scope set out in its Memorandum of Association (the document which sets out the objects of the company). A director who knowingly causes the company to act beyond the activities set out in the Memorandum can be liable personally. In very limited circumstances it is possible for the actions of the directors to be ratified by the Members of the company after the event.
- (3) A director may also be liable for breach of trust, if he/she misapplies the money or property of the company. Directors may also be liable if they fail to take action to prevent the breach of a co-director of which they are aware.
- (4) In the event of failure to act in accordance with the best interests of the company, or if a director uses his/her powers improperly or makes personal profit from his/her position as director, then the director may be personally liable for loss to the company and may be required to give the company the personal profit made.

Governance Committee, 21 November 2007

- (5) If the level of skill and care shown by a director falls below that which could be reasonably expected and the company suffers loss, the director will be liable for the loss incurred. However if it believes the director acted honestly and reasonably, a Court may excuse the director liability.
- (6) If a company continues to trade despite the fact that the directors know or ought to know that there is no reasonable prospect of the company meeting its liabilities, this is "wrongful trading". Where a director participates in wrongful trading, a Court may require that director to meet any creditor's additional losses resulting from the failure of the company to cease trading as soon as it knew that it could not remain solvent. No such order will be made if the Court is satisfied that the director took all reasonable steps to minimise the loss to the creditors. If a director has concerns about the company's financial position he/she could be well advised to inform the other directors and seek advice from the company auditors.
- (7) A director will also be liable if to his/her knowledge the company carries on business with intent to defraud creditors or any other person, or for any other fraudulent purpose. Fraudulent trading can also lead to disqualification from acting as a director.
- (8) All cheques and similar documents which purport to be signed on behalf of the company must bear the company name. Where they do not, the director signing on behalf of the company may be liable to a fine and may also be liable to the payee if the company fails to honour the cheque. It is therefore wise for directors to make sure that all documents they sign on behalf of the company state very clearly that they act as agent for the company, (e.g. Director, for and on behalf of.....)
- (9) A third party who enters into a contract on the assumption that a director has power to bind the company, may be liable to claim damages against the director if it subsequently transpires that the director had no such power. Directors would be well advised to ensure that contracts are approved by the board and that the authority to enter into any contract has been properly delegated before signing it.
- (10) Though company liability ceases on dissolution the liability of the directors (if any) may still be enforced after dissolution.

8 Indemnities

Councillors who are directors cannot be indemnified by the company against liability arising out of negligence, default, or breach of duty or trust. However the company's Articles of Association may allow for directors to be indemnified by the company in respect of the cost of defending such proceedings if the director is granted relief by the Court or acquitted. It is lawful for companies to purchase insurance to protect its directors against claims of negligence, breach of duty, trust, default etc. Directors would be well advised to ensure that such a policy of insurance is maintained at all times.

9 Local Authorities (Companies) Order 1995

- (1) This Order, made under the Secretary of State's powers contained in Part Five of the Local Government and Housing Act 1989, sets out rules concerning local authorities' involvement in "regulated companies" which are subject to extensive controls, and their involvement in other companies where a number of rules apply.

- (2) "Regulated companies" are so defined if they are controlled or influenced by the local authority. "Influenced companies", under the effective control of the local authority, will be subject to the capital finance regime and special property controls. In broad terms, the test as to whether companies are local authority influenced is whether the local authority has the right to or in fact does exercise a dominant influence over the company in question.
- (3) The original concept of controlled influenced and minority interests in companies were introduced by the 1989 Act. "Influenced" means at least 20% local authority interest plus a business relationship with the company accounting for over 50% of the company's turnover and/or the company was located on local authority land leased or sold for less than best consideration. "Controlled" means over 50% local authority interests, and "minority" less than 20% interest. The concept in the 1989 Act stands, but the Order introduces the term "regulated".
- (4) A local authority influenced or controlled company must state this on all business documents.
- (5) Councillors or officers who are directors of outside companies to which they have been nominated by the Council are under the following obligations:-
 - (a) (Councillors only) that the remuneration they receive from the company should not exceed that received from a local authority and should be declared.
 - (b) to give information to councillors about their activities required by the local authority (save for confidential information) and
 - (c) to cease to be a director immediately upon disqualification (councillor) or termination of their employment by the Council.

You will be notified by officers if you are appointed to a regulated local authority company.

2. CHARITIES

- 2.1 To be a charity an organisation must operate for a charitable purpose. There are four such charitable purposes:
 - the relief of poverty and human suffering
 - the advancement of education
 - the advancement of religion
 - another purpose for the benefit of the community.It must operate for the public benefit and have exclusively charitable purposes. An organisation which operates for political purposes will not qualify for charitable status.
- 2.2 To register as a charity the organisation must submit its completed constitution (usually Certificate of Incorporation and the Memorandum and Articles of Association of a company limited by guarantee) to the Charity Commissioners for approval. If they are satisfied that the organisation is charitable it will be registered as such.
- 2.3 Those who are responsible for the control and administration of a charity are referred to as its trustees, even where the organisation is a company limited by guarantee even though they are not strictly trustees. Trustees of a charity

retain personal liability, and can only delegate to the extent that the constitution authorises them so to do

2.4 Trustees' Duties

- (1) Trustees must take care to act in accordance with the constitution and to protect the charity's assets. They are also responsible for compliance with the Charities Acts, and should note the particular requirements of the Acts in respect of land transactions.
- (2) Trustees must not make a private profit from their position. They cannot receive remuneration without the sanction of the Charity Commission. They must also perform their duty with the standard of care which an ordinary, prudent business person would show. Higher standards are required of professionals, and in relation to investment matters.
- (3) Charitable trustees must ensure that the information relating to the charity and trustees is registered with the Charity Commissioners and that annual accounts, reports and returns are completed and sent.
- (4) If charitable income exceed £10,000, the letters, adverts, cheques etc must bear a statement that the organisation is a registered charity.
- (5) Trustees are under a duty to ensure compliance with all relevant legislation (e.g. in relation to tax and land matters).

2.5 Trustees' Personal Liability

- (1) Generally a trustee incurs personal liability if he/she:-
 - acts outside the scope of the trust deed
 - falls below the required standard of care
 - acts otherwise than in the best interests of the charity, in a way which causes loss to the charity fund
 - makes a personal profit from the trust assets

In such circumstances the trustee will incur personal liability for losses incurred.

- (2) If in doubt, always consult the Charity Commissioners. A trustee who does so can avoid personal liability for breach of trust if he/she acts in accordance with the advice given.
- (3) Trustees of a trust can be liable personally to third parties unless the trust is also a company, and therefore has a separate legal identify from the trustees. The constitution will normally provide for trustees to be given an indemnity from the trust assets, provided they act properly in incurring the liability. Trustees remain personally liable for their own acts and defaults once they have retired. If they have entered into any ongoing contracts on behalf of the trust they should seek an indemnity from their successors. If the charity is a company, the trustees will be protected from liabilities incurred in the day-to-day running of the charity in the normal course, but will be personally liable if they commit a breach of trust (see (1) above).
- (4) Trustees may be liable to fines if they do not comply with the duty make returns etc.

2.6 Indemnities

An indemnity can be given from the trust fund provided the trustees has acted properly and within his/her powers. Trustees may take out insurance to protect themselves against personal liability but not for criminal acts, fraud etc. There will be no problem if the trustees themselves pay the premiums but if they are paid out of the charitable funds the trustees will need the consent of the Charity Commissioners first, unless the trust deed allows it.

3. MANAGEMENT COMMITTEES

3.1 Unincorporated Associations

Groups which are not charitable trusts or companies are "unincorporated associations" and have no separate legal identity from their members. The rules governing the members' duties and liability will be set out in a constitution which is simply an agreement between the members as to how the organisation will operate. Usually the constitution will provide for a management committee to be responsible for the everyday running of the organisation. An unincorporated organisation may be charitable and may register as a charity.

3.2 Property will have to be held by individuals as the association has no legal existence of its own.

3.3 Duties

Broadly, Management Committee members must act within the constitution, and must take reasonable care in exercising their powers.

3.4 Liabilities

- (1) Generally, the Management Committee members are liable for the acts of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the Committee members are personally liable for the shortfall.
- (2) If one person is appointed by the constitution to act as the agent of the organisation for certain purposes, then that person acts as the agent for all the members, who have joint liability for the agent's actions.
- (3) Members of the Committee of Management will have personal liability if they act outside the authority given to them or if they do not comply with statute e.g. the payment of employees' tax etc.

3.5 Indemnities

Members will be entitled to an indemnity if they act in accordance with the constitution and are not at fault. It is possible to obtain insurance but if the organisation is to pay the premium it must be permitted by the constitution.



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	23 JANUARY 2008	5

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: APPOINTMENTS TO OTHER ORGANISATIONS, 2007/08 - further report

The main series of appointments to other organisations was dealt with at the Committee's meeting on 30 May 2007. Since then, however, some further issues relating to various appointments have arisen. The Committee is asked to deal with them now.

(a) Romford Combined Charity

The Council appoints four "Nominative" Trustees (there are also one Trustee *ex officio*, the Vicar of St Edwards, Romford, and two "co-optative" trustees (who are appointed by the other trustees collectively)).

Two of the current nominative trustees are Members (currently Councillors Michael Armstrong and Andrew Curtin); a third is former Councillor Wilf Mills, appointed on the nomination of the Labour Group for a term expiring in October this year. It has become customary for the remaining nominative trustee to be appointed on the recommendation of the Trustees collectively.

The Trustees have recommended that Christine Hunnable (formerly Assistant Clerk to the Trustees), who was appointed in 2003 for a four year term that expired on 25 October 2007, be re-appointed for a further term expiring on 25 October 2011.

The Committee is therefore asked to confirm that Christine Hunnable be re-appointed as a Nominative Trustee.

Governance Committee, 23 January 2008

(b) Havering College of Further & Higher Education

The Council is entitled to nominate two Governors to the corporation of the Havering College of Further & Higher Education.

Councillor Paul Rochford's term of office expires imminently. He is eligible to be re-appointed.

Councillor Mark Gadd has recently resigned as a Governor.

The Committee is asked to appoint two Members to serve on the Management Committee.

Human resources implications and risks

No implications or risks for the human resources arise from this report.

Equalities implications and risks

No implications or risks for equalities arise from this report

Environmental implications and risks

No implications or risks for the environment arise from this report

Financial implications and risks

No financial implications or risks arise from this report.

Legal implications and risks

No legal implications or risks arise from this report.

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Telephone: 01708 432431

**Cheryl Coppel
Chief Executive**

Background Papers

None



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	23 JANUARY 2008	6

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: TENTH LONDON LOCAL AUTHORITIES BILL – second resolution

SUMMARY

This report deals with the promotion of the current London Local Authorities Bills. Council has agreed to support the Bills previously and the procedures now require a second resolution to confirm that support.

RECOMMENDATION

That Council be recommended to adopt the following resolution in connection with the approval of the London Local Authorities Bills promoted by Westminster as set out below –

RESOLVED

that the resolution of this Council passed at a meeting of the Council held on 5 December 2007 to promote a Bill or Bills in the last session of Parliament, pursuant to which the Bills intituled “A Bill to confer further powers upon local authorities in London; and for related purposes”; “A Bill to introduce in London a prohibition on the supply of certain bags by retailers, to confer powers upon the local authorities in

London to enforce the prohibition; and for related purposes” and “A Bill to confer further powers upon local authorities in London and upon Transport for London; and for related purposes” have been deposited in Parliament, be and the same is hereby confirmed.

REPORT DETAIL

1. At its meeting on 17 October Council adopted a resolution supporting the promotion of the Ninth Local Authorities Bill. A copy of the report considered by Council is attached. The resolution in the report was agreed by Council.
2. London Councils are proceeding with the Bill on behalf of the Boroughs and the Corporation and the Parliamentary procedures now require the London Boroughs to confirm their support for the Bill.
3. The **financial implications and risks, legal implications and risks, human resource implications and risks, and equalities and social inclusions implications and risks** remain as set out in the report to Council.

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CHERYL COPPELL
Chief Executive

Background Paper

M Ivantsoff, London Councils, 13.12.07

APPENDIX



GOVERNANCE COMMITTEE

3 OCTOBER 2007

REPORT TO COUNCIL 17 OCTOBER 2007

TENTH LONDON LOCAL AUTHORITIES BILL

London Councils (through Westminster City Council) is promoting general powers legislation on behalf of London Boroughs following consultation with the Boroughs. This is similar to action that has been taken on nine occasions since 1986. Boroughs have been formally asked whether they wish to participate in the proposed legislation for the 2007/08 parliamentary session. If a Borough does not participate in the promotion of the Bill, it will not be included in the schedule listing participating Boroughs and, should the Bill become law, would not be able to use any of the provisions. The Bill is known as the Joint London Authority and Transport for London Bill.

It has been indicated that each participating Borough would need to make provision in the region of £9,500 to cover London Councils' costs in promoting the Bill. This would be spread over several financial years.

In order to accord with the procedures associated with local legislation of this nature, it is necessary for various notices to be published and resolutions to be passed by the Council for Havering to be included among the participating Boroughs. Some additional costs to those indicated above, e.g. for public notices etc., fall directly on the Council. These should not exceed a few hundred pounds. A Borough wishing to be included has to pass a resolution approving the provisions and that the motion must:

- a) Be passed by a majority of a whole number of the members of the Council at a meeting of the Council held after 30 clear days notice of the meeting and its purpose has been given by advertisement in one or more local newspapers circulating in the areas of the Borough(s), such notice being given in addition to other ordinary notice required to be given for the convening of such a meeting of the Council. Due notice was placed by London Councils on 10 August 2007 in the London Evening Standard.

- b) Be confirmed by a like majority at a further such meeting convened in accordance with (a) above and held as soon as may be after the expiration of 14 days after the Bill has been deposited in Parliament.

This means that at least 28 Members must vote for the proposal if the Council are to participate in promoting the Bill.

The Bill should be deposited by the end of November 2007. Consequently the first Council meeting mentioned in (a) above must be that of 17 October 2007. All London Boroughs have been included in the public notice in anticipation of their participation.

A list of the proposals for inclusion in the list is appended as appendix 1

Experience of previous Bills has shown that suggestions are likely to be made as the promotion deadline approaches, that some of the proposals will be controversial (and therefore difficult to enact) and others will not be suitable for private legislation. London Councils' Leaders' Committee would be able to come to a final view on which proposals to proceed with at its meetings in October and/or November 2007. The list has yet to be analysed by Parliamentary Agents, and their advice will be taken if a Bill proceeds on each item's suitability.

Financial Implications and risks:

The suggested costs, £9,500, would be met from the contingency. There is a risk that the Bill will not eventually pass onto law: expended funds would be irrecoverable.

Once provisions do pass into law there will be financial consequences of enacting them. A better view on this can be taken once the final list has been fully worked up. It is expected that some of the provisions will be adoptive, i.e. the Council would have to specifically resolve, after due notice, to bring the provisions into effect.

Legal Implications and risks:

If the Council does not participate in promoting the Bill then it will not be able to utilise the powers granted once the Bill becomes law

Human Resources Implications and risks:

None direct associated with the promotion of the Bill.

Equalities and Social Inclusion Implications and risks:

London Councils reports that any proposals in a new Bill would have to be carefully considered to ensure that they were in conformity with the statutory

equalities duties applicable to London Councils and member authorities. There are no equalities and Social Inclusion Implications associated with the promotion of the Bill.

The format of the resolution that the Council needs to pass in order to participate in the promotion of the Bill has been provided by London Councils and is in the formal form of wording provided by the Parliamentary agents and the Committee **RECOMMENDS TO COUNCIL THAT IT BE PASSED IN THE RECOMMENDED FORMAT AS FOLLOWS:**

RESOLVED -

That the Council approves the inclusion in a bill or bills to be promoted by Westminster City Council or, as the case may be in a bill or bills to be promoted jointly by Westminster City Council and any other person as appropriate, of provisions effecting all or some of the following purposes -

- (a) to make provision about the decriminalisation of offences relating to public health, highways and road traffic and making contravention of the relevant legislation subject to a civil penalty charge regime; the introduction of a local levy, administered by London borough councils, on the provision of disposable shopping bags or to introduce a prohibition on the provision of disposable shopping bags; the introduction of a local levy administered by the London borough councils on the sale of chewing gum; an extension of the type of premises in respect of which a street litter control notice can be issued under the Environmental Protection Act 1990 to include a wider range of non-domestic premises; to enable councils to better control the feeding of wild birds; to enable borough councils to make charges for the use of urinals; to make further provision about the control of the placing of items on the highway; altering London borough councils' powers to fix signs and apparatus to buildings; amending London borough councils' powers to charge for the provision of amenities on highways under Part VIIA of the Highways Act 1980; controlling the placing of household waste in street litter bins; to enable London borough councils to recover costs incurred by them in rectifying damage caused by them when removing unlawful advertisements; to enable London borough councils, as local housing authorities, to take enforcement action and recover costs in cases where there has been a failure to comply with a duty imposed in relation to the management of houses in multiple occupation under regulations made under Section 234 of the Housing Act 2004; imposing a requirement in respect of food premises which are subject to inspection by London borough councils under the Food Safety Act 1990 to display copies of inspection notices or summaries thereof on the premises; to impose a new licensing regime for social clubs; to alter the requirements relating to the service of documents under the City of Westminster Act 1996, which deals with sex establishments; to

enable London borough councils to exert better control over the licensing of premises which, but for the Licensing Act 2003 would be required to be licensed as sex encounter establishments; to enable London borough councils to delegate their functions under existing street trading legislation and enable other bodies to manage street markets; to alter the street trading legislation in the City of Westminster so as to enable Westminster City Council, without a court order, to dispose of articles seized under the Act; to make further alterations to street trading legislation in London; to control the distribution of free refreshments on the highway and in other public open places; to enable the highway authority to recover traffic management and street cleansing costs incurred as a result of public events and to have the power to close or manage traffic for certain special events; to enable the highway authority to provide charging points for electric vehicles in the highway; to enable local planning authorities to require that a deposit is provided prior to commencement of development, to be offset against costs arising from making good damage to the highway caused by the construction of the development; to enable action to be taken against persons who interfere with gates placed in pursuance of powers under road traffic legislation; to enable councils to better control pedicabs; to enable councils to serve penalty charge notices by post where there has been a parking contravention, and where service was prevented by the vehicle driving away; to allow decriminalised enforcement in respect of advanced stopping areas for cyclists at traffic lights; to allow decriminalised enforcement in respect of the use of mobile phones whilst driving; to enable London borough councils to vary fixed penalty levels for cycling on the footway; to enable the better control of the depositing of builders' skips on the highway; and to provide for a decriminalised regime of enforcement in relation to the driving of abnormal vehicles on the highway;

- (b) to enact any additional, supplemental and consequential provisions that may appear to be necessary or convenient.

No.	Item	Possible provision	Initiating borough	Comments / detail
ENVIRONMENT				
ENV 1	Environmental Fixed penalties	Provide a decriminalised regime (with appeals to an adjudicator) or allow borough to keep fines handed down by courts	London Councils	Currently there is little incentive for local authorities to pursue unpaid environmental fixed penalties through the courts. The costs of taking such cases to court is not met by costs and boroughs do not get to keep the fine.
ENV 2	Plastic bag levy or outright ban	Introduce a (10p?) levy on any plastic bag, possibly based on the Irish system. Income to be used to help pay for new waste facilities	Lambeth, Sutton and London Councils	May not be possible to introduce on a London basis but promoting a provision may force the Government to move on this policy. A ban has just been proposed in San Francisco and others.
ENV 3	Chewing gum levy	Introduce a levy on chewing gum which would be used to pay for cleaning discarded gum off the street	Westminster and London Councils	May not be possible to introduce on a London basis but promoting a provision may force the Government to move on this policy. 9th Bill tried to impose regulations on sale of chewing gum.
ENV 4	Smoking related litter	Extend range of premises where a street litter control notice can be issued.	Chartered Institute of Wastes management, and ENCAM	This will address smoking related litter by amending section 94 of the Environmental Protection Act 1990 to allow street litter control notices to be issued in respect of any premises if there is smoking related litter in the vicinity of the premises and this is due to customers or users of the premises. Smoking related litter outside buildings is expected to be a major issue when the indoor smoking ban takes effect in 2007.

Governance Committee, 23 January 2008



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	23 rd January 2008	7

REPORT OF THE MONITORING OFFICER

SUBJECT: AMENDMENTS TO THE CONSTITUTION

SUMMARY

Part 2 Article 15.02(c) of the Constitution authorises the Monitoring Officer to amend the Constitution to correct errors or to comply with any legal requirement or to reflect organisational changes to the Council's structure.

The constitution provides that this committee must be notified of any such amendment at the first reasonable opportunity.

RECOMMENDATIONS

That this report be noted.

REPORT DETAIL

The Monitoring Officer has the ability to make limited amendments to the Constitution as set out in the summary above.

Amendments to the Constitution were made by the Monitoring Officer since 1st May 2002 and this latest amendments are Amendment No. 29 dated 28th November 2007 and Amendment No. 30 dated 7th January 2008.

Governance Committee, 23 January 2008

In addition to the Constitutional requirements the Monitoring Officer has determined that she will notify Group Leaders as soon as any Monitoring Officer amendments are made to the Constitution. The notification will then appear in Calendar Brief so that all members are aware of the amendments. The notification of the amendments will be numbered so there is no confusion.

The meeting of this committee is the first opportunity for the reporting of the most recent amendments made and the committee is requested accordingly to note the amendments made.

Financial Implications None

Equalities Implications None

Environmental Implications None

Legal Implications None

CHRISTINE DOOLEY
Monitoring Officer

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Background Papers
Email correspondence

Notification No. 29

Date 28th November 2007

Notification of amendments to the constitution

Amendments made by the Monitoring Officer

Part 2, Article 15.02(c) of the constitution provides that the Monitoring Officer has a limited authority to amend the constitution. The Monitoring Officer is authorised to amend the constitution to correct errors or to comply with any legal requirement or to reflect organisational changes to the Council's structure. The Governance Committee must be notified of any such amendment at the first reasonable opportunity.

In accordance with this authority, the Monitoring Officer gives notice of the following amendments to the constitution:

Part and article/ section	Page reference	Substance of amendment / amended wording	Reason for amendment
Part 3 Section 7	168	Add Animal Welfare Act 2006 following Animal Health Act 1981	Legislation
Part 2 Article 4 and Part 3 Section 1.2	12 57	Amend References The Local Authorities (Functions and Responsibilities) Regulations 2000 to Local Authorities (Functions and Responsibilities) (England) (Amendment) (No.2) Regulations 2007 (SI 2007/1557): these regulations, which come into force on 1 July 2007, amend SI 2000/2853 so that local authority functions relating to the enforcement of the smoke free legislation under the Health Act 2006 are not to be the responsibility of the executive. See: http://www.opsi.gov.uk/si/si2007/20071557.htm .	Legislation
Part 3 Section 3	83-138	Alteration in the reporting structure within the Scheme of Delegation with effect from 30 th October 2007. The Head of Development and Building Control to report to the Group Director Finance & Commercial. The Heads of Housing & Health and Regeneration and Strategic Planning to report to the Group Director Public Realm. The Statutory post of Director of Adult Services to be held by Interim Director Alan Adams until 31.12.07 and then the Group Director of Children's Services from 1.1.08 Paragraphs 3.7.1 (1-2) to be allocated to the Group Director	Organisational Change

Part and article/ section	Page reference	Substance of amendment / amended wording	Reason for amendment
		Finance and Commercial. Paragraphs 3.7.1 (3 to 8) to remain with the statutory post of Director of Adult Services	
Part 3 Section 2.2 Paragraph 3.1	79	Delete the Cabinet Member for Crime and Safety and insert The Cabinet Member for Environment and Technical Services	Organisational Change

Notification No. 30

Date 7th January 2008

Notification of amendments to the constitution

Amendments made by the Monitoring Officer

Part 2, Article 15.02(c) of the constitution provides that the Monitoring Officer has a limited authority to amend the constitution. The Monitoring Officer is authorised to amend the constitution to correct errors or to comply with any legal requirement or to reflect organisational changes to the Council's structure. The Governance Committee must be notified of any such amendment at the first reasonable opportunity.

In accordance with this authority, the Monitoring Officer gives notice of the following amendments to the constitution:

Part and article/ section	Page reference	Substance of amendment / amended wording	Reason for amendment
Part 3 Section 3.2	85	Section 3.2 Powers of the Chief Executive add after 6. 7. To exercise the power on behalf of the Council to consent to a dispersal order under the Anti Social Behaviour Act 2003 and to be a consultee for the purpose of a closure notice under the Anti Social Behaviour Act 2003.	Correction
Part 3 Section 7 Appendix C	169	Amend Section 3.7.4 function 57 to <i>Section 3.6.7 function 47, 48, 49, 59 and 69(i)</i>	Correction
Part 3 Section 7 Appendix D	173	Amend Section 3.7.4 functions 45, 46, 47 and 57 to <i>Section 3.6.7 functions 28(i) and (ii) 46, 46, 48, 49 and 59</i>	Correction
Part 3 Section 7 Appendix F	175	Amend Section 3.6, function 34 to <i>Function 10 and 20(ii) and 28(ii)</i>	Correction
Part 4 Section 4.4	216	European procurement requirements. New thresholds effective from 1st January 2008 (thresholds are reviewed once every two years). On this occasion, due to currency fluctuations, the thresholds have gone down. Amend new thresholds: Works £3,497,313 (previously £3,611,319) Supplies & Services £139,893 (previously £144,371).	Legislation



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	23 January 2008	8

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: REVIEW OF MEMBERSHIP OF THE PENSIONS COMMITTEE

SUMMARY

The Pensions Committee has recently reviewed the Pension Fund's Governance Policy and noted that, currently, the representation of admitted/scheduled bodies only partially complies with the published suggested best practice. Authority is therefore sought to enable the membership of that Committee to be adjusted.

RECOMMENDATION

That the Committee recommend to the Council that:

1. Membership of the Pensions Committee be extended to permit the co-option of a non-voting representative on behalf of the admitted/scheduled bodies.
2. The Governance Policy of the Pension Fund be amended accordingly.

REPORT DETAIL

1. Background

- 1.1 The 1997 Local Government Pension Scheme (LGPS) regulations, the Local Government Pension Scheme (Amendment) (No 3) Regulations 2007 and the Department of Communities and Local Government draft Governance Compliance Statement Guidance, set out regulations and best practice which LGPS Committees can adhere to and measure themselves against. Whilst acknowledging the impracticality of encompassing every group or sector that has an interest in fund decisions, the principle that all key stakeholders should be afforded the opportunity to be represented is provided for within the legislation. The Council, under section 102 of the Local Government Act 1972, decides the actual membership of its Committee.

- 1.2 Should it be so minded, the Council could also, under section 13 of the Local Government and Housing Act 1989, confer voting rights on representatives from outside bodies provided they are eligible to be committee members. Consideration of conferring such rights is not currently requested
- 1.3 The Pensions Committee has recently considered its membership. The current membership comprises six members (politically balanced) and two union representatives, who attend on behalf of LGPS members. There is no representation on behalf of 'admitted' and 'scheduled' bodies.

Admitted and Scheduled Bodies

- 2.1 Currently the Havering pension fund has six admitted bodies (Havering Citizens Advice Bureau; May Gurney Ltd; Morrisons Facilities Services; Catering for Education; Sports & Leisure Management Ltd and KGB Cleaners). "Admitted bodies" are those who, by agreement, have been admitted to the fund, normally as part of the arrangements to outsource discretionary Council services.
- 2.2 There are also three scheduled bodies within the Havering pension fund: Havering College of Further & Higher Education; Havering Sixth Form College and Homes for Havering. As these all discharge Council functions under delegated authority, admission to the fund is as a matter of 'scheduled' right (as opposed to agreement, in the case of the admitted bodies)
- 2.3 Currently 12% of LGPS members are from admitted and scheduled bodies. Should the Council seek to out-source further services the percentage position of the admitted and/or scheduled bodies could easily increase.

Committee Representation

- 3.1 Employees of admitted and scheduled bodies clearly form a substantial proportion of the LGPS membership but these employees currently have no direct involvement in the governance of the scheme. Accordingly the Pension Committee considered that it would be appropriate to co-opt one representative on behalf of the 9 bodies in question. The mechanism for agreeing that representative will be discussed and agreed with the bodies if the Committee and the Council agree to the principle of what is being requested.

Financial Implications and risks:

There are no financial implications or risks arising directly from this report. The review of the Governance document will however ensure that the Council as the administering authority is compliant with current suggested best practice.

Legal Implications and risks:

Governance Committee, 23 January 2008

Compliance with governance requirements or guidance reduces the risk of challenge to decisions relating to the pension fund.

Human Resources Implications and risks:

It is good practice to include representatives of employers and employees in the governance of the Pension Fund.

Equalities and Social Inclusion Implications and risks:

Inclusion of representatives of admitted and scheduled bodies will assist the Council in demonstrating its commitment to inclusivity.

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CHERYL COPPELL
Chief Executive

Background Papers List

March 2007 version of Governance Policy Statement
DCLG's covering letter dated 8 October 2007
DCLG's Governance compliance Statement: Statutory Guidance 2007

Governance Committee, 23 January 2008



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	23 RD JANUARY 2008	9

REPORT OF THE CHIEF EXECUTIVE

Subject: OVERVIEW AND SCRUTINY – work programmes

SUMMARY

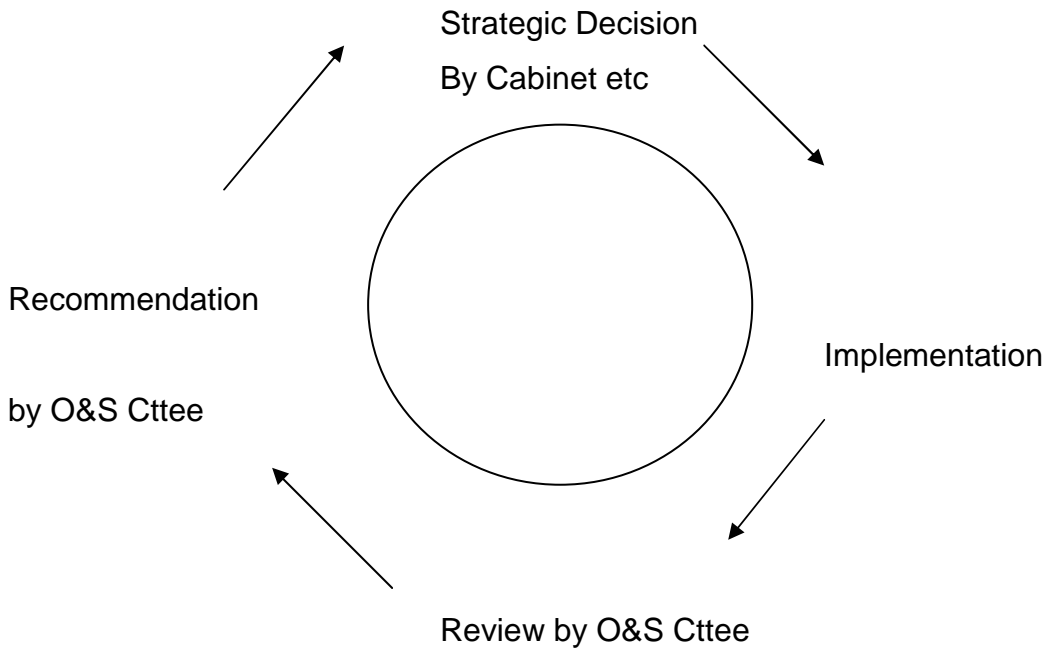
1. There are several legislative developments around new developments in Overview and Scrutiny activity. These are the subject of reports elsewhere on this committee's agenda.
2. This report deals with the issue raised in the CPA regarding work programmes. In particular it outlines a mechanism in response to the recommendation that the Council review the operation of scrutiny to ensure greater alignment of corporate priorities in particular to make immediate steps to articulate short, medium and long term work programmes to achieve greater member involvement in the Overview & Scrutiny process.

RECOMMENDATION

3. That the Committee notes the arrangements being put in place in response to the CPA recommendation.

REPORT DETAIL

4. The “Council Continuous Improvement Model” (CCIM) has emerged following discussion with the Leader of the Council. It features the normal planning cycle of policy development as set out below.



5. In brief every Cabinet strategy decision is to be put to the relevant OSC for review after a given period subject to the OSC choosing to review that policy. While O&S committees can pick and choose which policies they would like to examine, it is desirable that any review of the strategy chosen is undertaken in the context of the Council’s declared priorities. In other words officer effort would be likely to be directed towards any agreed strategy’s review in any event.
6. In the future every cabinet strategy decision will periodically be presented in list form to the relevant OSC with a date alongside (eg six months, nine months, one year, two years etc.) showing the most suitable period after which a meaningful OSC review might be best undertaken. Such action would be predicated on Cabinet recommending the “suitable period “. The lists submitted to each O&S committee could, in effect, form the committees’ medium and long term work programme.

Governance Committee, 23 January 2008

7. This organisational arrangement does not need any amendment to the Constitution, but it would be helpful for the committee to note the intentions.
8. It should be noted that adoption of this approach does not preclude any OSC from deciding to carry out reviews of other policy issues. The Local Government Act 2000 gives OSCs statutory powers to review any Council activity within their respective terms of reference at any time.
9. **Financial Implications and risks:** There are no direct financial implications or risks arising from this report. Officers will need to continue to support the overview & scrutiny process and in particular ensure that any recommendations or proposals resulting from the review of Cabinet decisions are properly costed and evaluated
10. **Legal Implications and risks:** There are no additional implications.
11. **Human Resources Implications and risks:** There are no identifiable implications.
12. **Equalities and Social Inclusion Implications and risks:** There are no identifiable implications.

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CHERYL COPPELL
Chief Executive

Background Papers

There are no background papers



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	23 JANUARY 2008	10

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: COUNCILLOR CALL FOR ACTION

SUMMARY

The Local Government & Public Involvement in Health Act 2007 (the Act) introduces a number of changes in local governance as part of the government's aim for getting local authorities to engage more effectively (and in new ways) with citizens. The Committee has already considered a report on the Local Involvement Network for Health & Social Care (LINK) and further reports on other aspects of the new legislation will follow. This report concerns provisions known as "Councillor Call for Action" (CCA), which build on both the traditional constituency/community leadership role of Councillors (not previously described in legislation) and the specific statutory provision in the Local Government Act 2000 introducing executive governance, enabling Members of an Overview & Scrutiny Committee (OSC) to require specific issues to be placed on the agenda of that OSC.

The report outlines the new provisions and invites approval of the manner in which it is suggested that they are to operate within Havering. The report also refers to some associated issues, affected by CCA.

RECOMMENDATIONS

- 1 That the government's intention to introduce CCA (as part of its moves for more effective engagement with citizens), and the proposed means of operating it, be noted.

- 2 That a local pilot scheme be put into effect from no later than 1 April 2008 and that the Democratic Services Manager be authorised to pursue it, in consultation as necessary with Group Leaders.
- 3 That the Assistant Chief Executive, Legal and Democratic Services, be authorised to make all necessary changes to the Constitution, and in particular the Overview & Scrutiny Procedure Rules, to give effect to the consequences of the introduction of CCA.
- 4 For consideration as to whether there should be any response to the consultation paper (referred to in Appendix 3), and if so, what.

REPORT DETAIL

1 Introduction

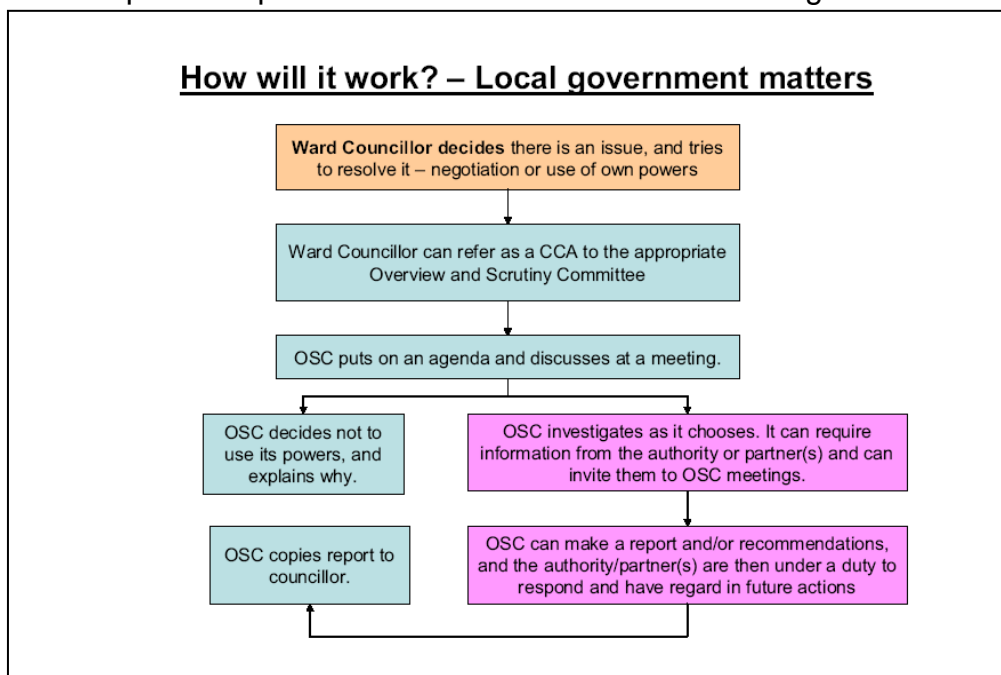
- 1.1 CCA in effect places on a statutory footing the constituency work and community leadership role that has traditionally always been undertaken by Members. It builds on provisions that already exist to enable individual Members of OSCs to require particular issues to be placed on Committees' agendas by extending that ability to all Members (including Cabinet Members acting in their capacity as ward Members).
- 1.2 The intention is that Members will be able to refer local issues that concern them to the relevant OSC with a request that the OSC look into them. There is no limitation to the scope of CCA referrals other than that they should be concerned with "local government functions", although it should be noted that it is intended for matters affecting the community at large rather than as a way of dealing with matters concerning specific individuals. That is, in fact, a broad scope given that, with powers such as "general well-being", a very wide range of activity potentially comes within it.
- 1.3 It is not open to the Council to seek to impose its own definitions as to what may be considered within the scope of CCA. Most referrals are likely to be obviously about Council functions but those that relate to issues that appear marginal will need to be considered individually, on their merits.
- 1.4 Other provisions in the Act extend the scope of O&S to certain activities of "partner authorities" – the full list of which is set out in Appendix 1.

2 The statutory procedure

- 2.1 The Act sets out a precise procedure to be followed when handling CCAs. It should be noted that there is little scope for departure from the prescribed process and that any such departure, unless very clearly justifiable, is likely to result in a finding of maladministration if those who had sought the Member's support complain to the Ombudsman.

- 2.2 The first stage is for a Member to consider whether an issue warrants treatment as a CCA. This will be a personal matter for the Member: he/she alone has the ability to decide whether to make the referral. If the Member decides not to make a referral, that decision is unchallengeable by a third party (although there should be some mechanism for putting a decision not refer “on the record”). In coming to a decision, the Member must take into account guidance from the Secretary of State. It is understood that the intention is that a Member will be able to refer a matter under CCA only where it relates to his or her ward; where, as in Havering, there are multi-Member wards, there will be no need for more than one ward Member to support it.
- 2.3 Assuming that the Member is minded to pursue the issue as a CCA, he/she is expected initially to pursue it informally, and to refer it formally as a CCA only if informal attempts to resolve it are unsuccessful. Provisions in the Act include a power for delegation to individual Members of decision-making in certain areas, including the ability to spend money: these powers will be the subject of a separate report in due course, but if invoked, would need to be exhausted before a CCA were contemplated.
- 2.4 Once the Member has decided to deal with the issue as a CCA and has been unable to resolve the matter by informal means, he/she will be able to refer it to the relevant OSC, and that referral must be placed on the agenda of the next available meeting of that OSC. The OSC is bound to consider the referral but retains complete discretion as to whether or not to pursue it.
- 2.5 If the OSC declines to pursue a CCA, it must give reasons for that decision.
- 2.6 If, however, the OSC decides to pursue the CCA, it is free to do so as it thinks fit, although the two most likely approaches are:
- To call for a detailed report from the relevant Head(s) of Service; or
 - To commission a group of Members to investigate and report
- 2.7 To avoid confusion with the Topic Groups set up by OSCs to look at policy issues, it is suggested that groups of Members looking into CCAs be termed “Action Groups”. Where a CCA matter involves a “partner authority”, that authority can be invited to participate in the consideration of the CCA and the OSC has power to seek information from it (and the authority has a duty to respond).
- 2.8 Once the matter has been investigated, the OSC can:
- Decide not to pursue the matter further
 - Report formally on it to Cabinet or Council, or to another Committee, with or without recommendations
 - Report formally to any partner authority, again with or without recommendations
- 2.9 Where a report or recommendation to a partner authority relates to a matter specified in the local area agreement (LAA), the OSC can require the partner authority to have regard to the report or recommendations in exercising its functions.

2.10 The steps of the procedure are illustrated in the following flowchart:



3 Operating CCA in Havering

- 3.1 Members have already noted that CCA is effectively an adjunct to Members' constituency work. As such, it is intended that the existing support offered to them through the Members' Support Service within Democratic Services will continue to be Members' initial point of support for CCA matters.
- 3.2 Members' Support staff will assist individual Members with assembling the information needed to deal with a CCA, including facilitating contact between the Member and relevant staff, as well as the constituent(s) in question. Once a Member has been unable to resolve the matter locally and has decided to proceed with the CCA, Members' Support staff will assist in preparing the formal reference.
- 3.3 It is intended that there will be a specific form to be used for such referrals – see Appendix 2 for a draft of such a form. The use of a form is proposed in order to ensure that all relevant information is gathered together for presentation in a usable format to the OSC. Members will not be obliged to use the form to make a referral but it will be more convenient administratively if they do so.
- 3.4 Once completed, the Member's referral form and any background correspondence will be passed from Members' Support to Committee Support and the Committee Officer who supports the OSC will then take charge of the process. The Member's referral and background papers, together with the formal response from the relevant HoS, will be submitted to the OSC at the next available meeting and the OSC will be invited to determine what, if any, further action is to be taken.

3.5 Follow up action will be taken by the relevant Committee Officer, in consultation where necessary with the Chairman of the OSC.

4 Dealing with the outcome of a CCA

4.1 The Act has refined the process for dealing with the outcome of OSC investigations generally, amending the existing provisions for reporting to Cabinet and/or Council. In brief, the amendments require Cabinet or Council (as appropriate) to consider OSC reports within two months of their being referred for Cabinet/Council consideration, and also require that Cabinet/Council indicate what, if any, action is proposed to follow up the OSC recommendations.

4.2 In this context, the findings of an OSC on a CCA referral are no different from other activities resulting in a formal report by an OSC. Thus, where following a CCA there is a set of recommendations requiring Cabinet or Council consideration, their submission and consideration will follow the same path as recommendations on policy reviews etc.

4.3 Where a partner authority is involved, the same considerations will apply.

4.4 The Member who initiated the CCA will be entitled to receive a copy of the OSC report.

5 Implementation

5.1 Although the government is understood to be keen to introduce CCA as soon as possible, the need for consultation on its scope in detail and for formal ministerial guidance means that it will not be implemented on 1 April as originally intended – the current expectation is that it will be “mid-Summer”: possibly in effect 1 September.

5.2 Although formal implementation remains some way off, this report is submitted now to seek approval to the general approach to handling CCA. There will be need for a familiarisation programme for all Members so that the implications of, and arrangements for, CCA are well understood: Members will appreciate that, to enable that to progress, the basic approach to CCA needs to be agreed. Once ministerial guidance has been given, any fine tuning of the proposed process can be considered and adjustments made.

5.3 It is also suggested that it might be helpful to run an informal, pilot scheme with in a couple of wards to test the viability of the approach that is proposed. The experience of such a pilot would best be gauged over several months prior to the introduction of the full CCA process and could inform the final, detailed working arrangements. Early approval is thus needed for that to be worked up and put into effect (say from 1 April).

5.4 If the Committee agrees to a pilot scheme, the Democratic Services Manager and his staff will draw up the details and then, in consultation as necessary with Group Leaders, put it into operation by no later than 1 April 2008.

5.5 The government is currently consulting local authorities and others on the scope of CCA (within the parameters set by legislation). The DCLG has issued a consultation paper "*Local petitions and Calls for Action*", chapter 4 and part of chapter 5 of which are set out in Appendix 3. The Committee may wish to express views in response to the questions posed in Chapter 5.

6 Financial implications and risks

6.1 The costs of administering CCAs will be met from within existing Democratic Services budgets for Member Support and Committee Support. At present, levels of demand for CCA-related activity are unknown and no assessment of additional workload is possible. If the workload turns out to be significantly higher than anticipated, so that more staff resources become needed, a report will be submitted at that time.

6.2 The financial implications of individual CCA referrals will be addressed in the reports that emanate from them.

7 Legal Implications and risks

7.1 The process of CCA is introduced by the Local Government & Public Involvement in Health Act 2007. As such, its implementation is a statutory obligation which the Council cannot ignore.

7.2 The Committee is recommended to authorise the Assistant Chief Executive, Legal and Democratic Services, to make all necessary changes to the Constitution, and in particular the Overview & Scrutiny Procedure Rules, to give effect to the consequences of the introduction of CCA.

8 Human Resource Implications and risk

8.1 There are no HR implications or risks known at present, as the new work will be absorbed by existing staff. Should circumstances change, a further report will be submitted.

9 Equalities Implications and risk

9.1 There are no obvious equalities implications or risks.

Cheryl Coppell
Chief Executive

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Background Papers

Governance Committee, 23 January 2008

There are no background papers

Partner authorities

The partner authorities specified in the Local Government & Public Involvement in Health Act are, in the Havering context:

- (a) the London Fire and Rescue Authority;
- (b) the Metropolitan Police Authority;
- (c) the Metropolitan Police;
- (d) the East London Waste Authority;
- (e) Transport for London;
- (f) the Havering Primary Care Trust;
- (g) the London Development Authority;
- (h) the [local probation board];
- (i) the Havering Youth Offending Team;
- (j) the Barking, Havering and Redbridge Hospitals National Health Service Trust;
- (k) the London Ambulance Service National Health Service Trust;
- (l) the [North East London] Mental Health NHS [foundation] Trust.
- (m) the Arts Council of England;
- (n) the English Sports Council;
- (o) the Environment Authority;
- (p) the Health and Safety Executive;
- (q) the Historic Buildings and Monuments Commission;
- (r) the Learning and Skills Council for England;
- (s) the Museums, Libraries and Archives Council;
- (t) Natural England;
- (u) the Secretary of State, but only in relation to—
 - (i) his functions under section 2 of the Employment and Training Act 1973 (c. 60) (arrangements with respect to obtaining etc employment or employees);
 - (ii) functions which he has as highway authority by virtue of section 1 of the Highways Act 1980 (c. 66); and
 - (iii) functions which he has as traffic authority by virtue of section 121A of the Road Traffic Regulation Act 1984 (c. 27).

Draft CCA referral form



LONDON BOROUGH OF HAVERING

Overview & Scrutiny: Councillor Call for Action

If you need help to complete this form please contact your Members' Support Unit group secretary

Councillor _____

What specific issue(s) does your Councillor Call for Action involve?

To which Overview & Scrutiny Committee(s) do you wish to see this matter referred?

What do you think the Council should do to put things right? What remedy are you seeking?

Governance Committee, 23 January 2008

How have you sought to resolve the matter up to this point?

Please attach all relevant background papers, correspondence etc.

Your signature: _____

Date:

This referral will be placed on the agenda of the relevant Overview & Scrutiny Committee at its next available meeting. You will be invited to attend and to explain the reasons for your Call for Action.

Appendix 3

Chapter 4 of the consultation paper is reproduced in full, as follows:

The Councillors' Call for Action

34. In the recent Local Government and Public Involvement in Health Act 2007, Parliament amended section 19 of the Police and Justice Act 2006 – before, indeed, it had come into force – to align it with the provision in section 119 of the 2007 Act. All councillors are thus empowered to refer local government matters and local crime and disorder matters for consideration by the relevant overview and scrutiny committees of their local authorities.
35. The result amounts to a “**councillor call for action**”. Any councillor will be able to refer a local matter affecting his or her ward or division to the appropriate overview and scrutiny committee of his or her authority. In the case of a local crime and disorder matter, that will be to the authority’s crime and disorder committee.
36. The committee is required then to put the matter on its agenda, and discuss it at a meeting. It is not to be required to take any further action; but all the powers it has – to mount inquiries, to require information, and to make reports and recommendations – are to be available to it, if it decides to take the matter up.
37. The power to refer a matter is available only where the matter is of direct concern to the ward or division which the councillor represents. A councillor can refer a matter even if no citizen has asked him or her to consider it. There is no requirement for councillors in multi-member wards to agree – any of them can refer a matter.
38. A local government matter, in relation to a member of a local authority, is defined as a matter which:
 - (a) relates to the discharge of any function of the authority
 - (b) affects all or part of the electoral area for which the member is elected or any person who lives or works in that area, and
 - (c) is not an excluded matter.

A local crime and disorder matter, in relation to a member of a local authority, has been defined to mean a matter concerning:

 - (a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment), or
 - (b) the misuse of drugs, alcohol and other substances that affects the electoral area represented by the member, or the people who live or work in that area.
39. It will no doubt happen that some local issues have implications in more than one field. The Government’s view is that, in such a case, the councillor would be entitled to refer it to every overview and scrutiny committee which covers some aspect of the issue. In practice, committees will, no doubt, take the sensible decision to join forces in order to consider such matters in the round.

Excluded matters

40. The Secretary of State has power to exclude by order specified descriptions of matter that would otherwise be “local government matters”. This was included primarily so that confusion could be avoided between calls for action and well-defined statutory processes such as planning and licensing appeals. We now wish, as part of this consultation, to seek views about exactly what ought to be excluded, and why.

Guidance

41. The Secretary of State is empowered to issue statutory guidance for local authorities, their committees, and their members. She intends to do so when these measures are brought into force. Respondents are invited to highlight the key issues on which guidance (whether statutory or not), would be helpful.

Empowering communities to call for action

42. In the *Governance of Britain* green paper, Government highlighted its desire to achieve greater direct empowerment of communities, and undertook to consult on a number of areas, including “extending the right of people to intervene with their elected representatives through community rights to call for action”.
43. Having established a *councillor* call for action (in law, if not yet in practice), we take the view that a duty on local authorities to respond to qualifying local petitions would amount to a *community* call for action – albeit a call made by a community of interest. We should, however, like to hear views on whether other steps should be considered as well.

The following is extracted from chapter 5 of the consultation paper:

Consultation questions

44. We wish to take the views of citizens, local authorities, councillors and community organisations on all the details of the proposals set out in this document, but particularly on the following questions.

.....

Calls for action

- (d) What if any matters should be excluded from the call for action? (*Paragraph 40*)
- (e) What guidance should Government provide on the operation of the councillor call for action? (*Paragraph 41*)

Overall

- (f) Taken together, would petitions and calls for action sufficiently empower communities to intervene with their elected representatives? Should we contemplate other measures? (*Paragraph 43*)
- (g) Do you have other views on the operation of the new duty to respond to petitions and the call for action?



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	23 JANUARY 2008	11

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: DEALING WITH PETITIONS – Department of Communities & Local Government: consultation

SUMMARY

The Department of Communities & Local Government (DCLG) has sought comment on consultation paper that deals, in part, with how local authorities deal with petitions. Comments have been invited on some suggestions for formalising responses to petitions and taken them into account in the formulation of policies and actions.

This report appraises Members of the government's suggestions and seeks a response, if any, to them.

RECOMMENDATION

That the Committee indicates what, if any, response is required to the consultation paper.

REPORT DETAIL

1 Introduction

1.1 Arising out of the government's 2006 white paper on the future governance arrangements for local authorities, "*Strong and Prosperous Communities*", many of the proposals in which have since been legislated for in the subsequent Local Government & Public Involvement in Health Act 2007, the

DCLG has issued a consultation paper "*Local petitions and Calls for Action*". This report is concerned with the petitions aspect; Calls for Action are dealt with in a separate report.

- 1.2 Extracts from the consultation paper are appended to this report.

2 Current practice

2.1 Currently, the Council receives petitions in a number of ways. Of them, only one is a formal process – the Council Procedure Rules provide for individual Members, near the beginning of a Council meeting, to present petitions to the Mayor, generally on behalf of Ward constituents. There is usually at least one petition presented in this way at each meeting of the Council (other than the Annual Meeting and the Council Tax meeting).

2.2 Other means by which petitions reach the Council include

- (a) presentation to the Mayor other than at a Council meeting. This is usually done by prior arrangement and often provides a "photo opportunity" for the petitioners to demonstrate publicly that the petition has been presented;
- (b) presentation to the Leader of the Council; again, often with a "photo opportunity";
- (c) presentation to the Chairman of an Area Committee at its meeting; and
- (c) delivery to a relevant Council office – sometimes simply by post.

2.3 Whichever route a petition is delivered through, the invariable practice is that it is passed to the relevant Head of Service who will arrange for appropriate staff to comment on it. Depending upon the nature of the petitioners' objective, the service/issue that the petition addresses and the outcome it seeks, a response is sent. Where there is a clearly-identifiable correspondent for the petition, the response will go to that person; often, however, it is far from clear who is the "leader" and so, if a petition is short enough, the response goes to all signatories. Where that is impracticable, the first signatory is often regarded as the "leader".

2.4 The effectiveness of a petition is dependent upon many factors, not least its relevance to current activity and the nature of the issue addressed: the more focused a petition is, the more likely it is to be effective.

2.5 Other than as regards receiving petitions at Council meetings, however, petitions as such are rarely mentioned in reports. Where a petition is directly relevant to a matter under consideration – for example, at a Regulatory Services Committee meeting – reference will be made of it; otherwise, a petition would generally be a "background paper", contributing to the preparation of report.

3 The government's proposals

3.1 Details of the proposals are set out in the Appendix.

3.2 The key points are that the DCLG is suggesting that:

3.2.1 There should be a duty on local authorities to respond to petitions in the following circumstances:

- (a) the subject of the petition relates to the functions of the local authority, or other public services with shared delivery responsibilities with the local authority through the Local Area Agreement or other partnership arrangement
- (b) the petition has been organised by a "local" person
- (c) the petition demonstrates a sufficient level of support from local people
- (d) the petition satisfies minimum requirements in relation to
 - (i) The manner in which it was submitted
 - (ii) its form
 - (iii) its content

3.2.2 A "relevant" signature could be regarded as that either of:

- (a) an elector of the area; or
- (b) anyone who lives or works in the area.

Support would have to be reasonably current (eg signature within the last 12 months); but the DCLG also want to consider options for extending the range of relevant signatures to local children who either live in the area, or attend school there. Support for petitions might take the traditional form (signature, date, and address), but DCLG would also want to allow for electronic petitions.

3.2.3 Local authorities should be entitled to accept signatures without further validation if they have no reason to doubt them; but should be empowered to investigate if they felt it necessary, and to strike them out if appropriate.

3.2.4 Petitioners ought to be able to present their petitions either to the Council, or to one of its councillors.

3.2.5 Councils and their councillors would be under a general duty to consider whether any request or document they receive is a petition, and where it is so regarded, that would trigger the petition provisions.

3.2.6 A petition should at least contain:

- (a) the proposition which it promotes
- (b) the name and address of the organiser
- (c) the local authority from which a response is sought (and, if more than one, all the local authorities to which it has been submitted)

- (d) the area to which it relates (ie the whole authority, or a defined area forming part of it)
- (e) the names, addresses and signatures of those who support it (or, in the case of an electronic petition, their names, addresses and email addresses).

3.2.7 The Secretary of State should have the power to issue guidance about all aspects of the process.

4 Observations and comments

- 4.1 There are clearly advantages to a formal petition procedure. For example, people may be able to have a voice through petitioning whereas, at the moment, they may be lone voices, unaware others have a similar issue.
- 4.2 The process proposed nonetheless appears generally logical but somewhat bureaucratic, with a “one size fits all” approach that, if translated into legislation, could well reduce flexibility and lead to additional burdensome workloads. In particular, there is a risk that comparatively minor issues will consume disproportionately staff and Member time. Moreover, it is not clear from the consultation paper what would constitute a “response”, especially important given the proposed statutory duty “to respond”.
- 4.3 The requirements for numbers of petitioners – see paragraph 25 quoted in the appended extract – suggest there is a strong possibility that, if thresholds were set too low, local authorities could find themselves having to devote considerable resources to issues of concern to but a small number of residents. There is also the possibility of dispute arising as to whether or not a petition meets the criteria if, for example, the lead petitioners believed that there were sufficient signatures but, having counted them, the local authority found there were not, or in particular should the Council receive petitions seeking mutually contrary or incompatible action.
- 4.4 Members may also feel that it is sometimes the case that individuals approached to sign a petition do so, not out of conviction, but for other reasons such as a wish to be accommodating to a friend or neighbour, or even to be rid of unwanted attention as quickly as possible!
- 4.5 It should not be overlooked, however, that a clear and certain process could well promote more resident interest in the decision making process and so could be one way to address the issue of voter apathy. The receipt of a well-managed petition is a valuable signal to Members of those things that excite local people and dealing with petitions in a well-managed way would assist in ensuring that people are well informed, regardless of whether the Council meets the petitioners’ expectations.
- 4.6 A specific risk of introducing a statutory process for handling petitions, as opposed to the current discretionary approach, is that failure to observe all prescribed stages would open the Council to complaints of maladministration, to be investigated by the Local Ombudsman, or even judicial review proceedings.

- 4.7 It should also be noted that, while there is a clear relationship between handling petitions and the Councillor Call for Action – indeed, the DCLG suggests that petitions might conveniently be termed “Community Calls for Action” – the detail of that potential relationship remains vague. A much more robust description of the relationship will be needed if the link between the two is to be effective.
- 4.8 Members are invited to consider the proposals and to indicate what, if any, comments they wish to convey to the Secretary of State, particularly in response to the questions posed in Chapter 5.

5 Financial implications and risks

- 5.1 The cost of processing petitions through this proposed process cannot presently be quantified. The DCLG anticipates that costs will be minimal but whether that is over-optimistic remains to be seen. Certainly, the introduction of a statutory process is likely to prompt more petitions than currently and complying with it will certainly add to current costs.
- 5.2 Any additional costs for individual services for handling petitions will have to be met from within relevant existing budget provisions. As indicated, forecasting these could be problematic, especially given the potential for a marked increase in the number of petitions.
- 5.3 There is a risk that budget priorities could be distorted by the need to respond to petitions addressing different issues. Equally, a failure to respond may lay the Council open to complaints to the Local Ombudsman, or judicial review proceedings, with unpredictable outcomes and thus financial consequences.

6 Legal Implications and risks

- 6.1 If a statutory process is introduced for handling petitions, then failing to observe that process could leave the Council vulnerable to complaints to the Ombudsman, or to legal proceedings.

7 Human Resource Implications and risk

- 7.1 There are no HR implications or risks known at present, as any new work (both around validation activity and in responding) would have to be absorbed by existing staff.

8 Equalities Implications and risk

- 8.1 There are no obvious equalities implications or risks, although as noted petitioning can give a voice to people who might not otherwise be able to make their point.

**Cheryl Coppel
Chief Executive**

Governance Committee, 23 January 2008

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Background Papers

Inter-departmental correspondence.

Chapter 3 of the consultation paper is reproduced in full, as follows:

Local petitions

Evidence for change

13. There is evidence that a formal process for handling petitions adds value to public life. In 2005, 38 per cent of respondents to the Citizenship Survey said they had undertaken a civic activity. 60 per cent of them claimed that they had signed a petition in the previous twelve months. Petitioning was the most commonly undertaken of the nine activities grouped under civic engagement for the purposes of this survey.
14. Qualitative research in 2006 found that participants felt that petitions were a good method for bringing issues to the attention of local government. However, they were sceptical about local government's ability or willingness to act on or be responsive to petitions.
15. Overall, research indicates that responsiveness is a key element to petitions' political efficacy, whether in the form of a formal response from the governance body concerned, or of a referendum or ballot to decide the issue.
16. Petitioning is used in a number of countries as a trigger leading to electoral action, typically in the form of a referendum – Switzerland and the USA are typical examples. These can be either citizens' initiatives or popular referendums. In some instances, the referendums are binding. Petitions can also be used to initiate recall ballots. This system is used in the USA (at state and local/municipal levels), and in British Columbia, Canada.
17. Other jurisdictions, for example Scotland and Queensland, have formal petitioning systems which do not lead to ballots. Instead, the petitioner can expect a response from either the relevant committee or MP. In these examples, a response is not guaranteed.
18. Political parties and campaign groups in countries where petitioning is a well established feature of the democratic landscape have become adept at using petitions to further their own agendas. They can also counteract a petition campaign, either through developing a counter proposal or by demobilising support for the petition. The evidence therefore indicates that petitioning (as a tool of direct democracy), can support representative democracy.
19. The Government believes that there should be a duty on local authorities to respond to petitions in the following circumstances:
 - (a) **The subject of the petition relates to the functions of the local authority, or other public services with shared delivery responsibilities with the local authority through the Local Area Agreement or other partnership arrangement**
20. Local authorities have a wide range of functions, which include the promotion of the social, environmental and economic wellbeing of the area and its people. They are the "place shapers" for their area, and this has been reinforced by provisions of the Local Government and Public Involvement in Health Act 2007, which require a long list of partner organisations to cooperate with the local authority in developing the Sustainable Community Strategy for the area, and in setting local improvement

targets. The role of local authorities has also been reinforced by the Sub National Review published in July 2007.

21. The Government's proposal is that local authorities should be required to respond to any petition that asks them to consider any issue which falls within their broad functions as outlined above. Petitions which would more properly be dealt with by another public body – and raise issues which relate neither to local improvement targets agreed by that body, nor to the area's sustainable community strategy – would fall outside the proposed new duty.
22. An important example of this principle will arise in the context of education services. A local authority would not be required to respond to a petition which raises issues which can only be addressed substantively by the governors and head-teacher of a particular school. On the other hand, the duty would apply where the petition relates to the education functions of the local authority.

(b) The petition has been organised by a local person

23. It is proposed that there should be nothing to prevent local petitioners from invoking the help of national organisations having wider interests – but that the organiser of record of a local petition should be a local person. It is that person who should present the petition to the local authority. We would welcome views about how “local person” should be defined. Obvious options are:
 - (a) a person appearing in the electoral register for the local authority's area
 - (b) any adult who lives or works in the area at the time the petition is submitted, or
 - (c) any adult who has lived or worked in the area for at least a qualifying period of time before the petition is submitted.
24. Options (b) and (c) might both be extended to anyone who attends a school or college in the area, in order to make this form of engagement available to children. We would welcome respondents' views on that possibility.

(c) The petition demonstrates a sufficient level of support from local people

25. On the one hand, requiring local authorities to respond to all petitions, even those with a minimum level of support, could impose unnecessary processes and costs. On the other, setting a very high level of support as a requirement for a petition to receive a formal response would frustrate the underlying purpose of the policy. There are three possible approaches to setting a threshold of a sufficient level of support. They are to define:
 - in absolute terms the number of relevant signatories that a qualifying petition must have (for example, “at least 250 signatures”); or
 - a qualifying petition as one that has the signatures of a given proportion of those whose signatures are regarded as relevant (for example, at least 1 per cent of the electorate of the area in question). This could make it difficult for the petition organiser to know how many signatures were required for the petition to be valid; or
 - an absolute number, or a given proportion of the population, whichever is the lower (for example. “200 signatures or 5 per cent of the population” would mean that communities of less than 4,000 people would have to find fewer than 200 signatures).

Signatures

26. In the above options, a “relevant” signature could be regarded as that either of:
 - (a) an elector of the area; or

(b) anyone who lives or works in the area.

Support would have to be reasonably current (eg signature within the last 12 months).

27. We would, in either case, want to consider options for extending the range of relevant signatures to local children who either live in the area, or attend school there. We would welcome respondents' views on that possibility.
28. Support for petitions might take the traditional form (signature, date, and address), but we would want to allow for electronic petitions too, and would be glad to have respondents' views on how they might work.
29. We believe local authorities should be entitled to accept signatures without further validation if they have no reason to doubt them; but should be empowered to investigate if they felt it necessary, and to strike them out if appropriate.

(d) The petition satisfies minimum requirements in relation to

- i) The manner in which it was submitted**
- ii) its form**
- iii) its content**

30. It is proposed that petitioners ought to be able to present their petitions either to the council, or to one of its councillors.
31. Councils and their councillors would be under a general duty to consider whether any request or document they receive is a petition. We would hope to avoid technicalities here. The word "petition" would, we hope, have a plain English meaning; we would probably not seek to define it in statute. Where a council or councillor is of the view that a document is a petition, that decision would trigger the petition provisions.
32. We take the view that a petition should at least contain:
 - (a) the proposition which it promotes
 - (b) the name and address of the organiser
 - (c) the local authority from which a response is sought (and, if more than one, all the local authorities to which it has been submitted)
 - (d) the area to which it relates (ie the whole authority, or a defined area forming part of it)
 - (e) the names, addresses and signatures of those who support it (or, in the case of an electronic petition, their names, addresses and email addresses).

Guidance

33. We believe that the Secretary of State should have the power to issue guidance about all aspects of the process.

The following is extracted from chapter 4 of the consultation paper:

43. Having established a *councillor* call for action (in law, if not yet in practice), we take the view that a duty on local authorities to respond to qualifying local petitions would amount to a *community* call for action – albeit a call made by a community of interest. We should, however, like to hear views on whether other steps should be considered as well.

The following is extracted from chapter 5 of the consultation paper:

Consultation questions

44. We wish to take the views of citizens, local authorities, councillors and community organisations on all the details of the proposals set out in this document, but particularly on the following questions.

Petitions

- (a) The Government believes there should be a statutory duty on local authorities to respond to local petitions. What conditions must be met before a local authority is required to respond formally to a petition? (*Paragraph 19*)
- (b) In particular, how should we define the level of support required before a petition must get a formal, substantive response?
- By a fixed number of signatures?
 - By a percentage of the electorate in the area?
 - By a hybrid of the two?
 - Or in some other way? (*Paragraph 25*)

.....

Overall

- (f) Taken together, would petitions and calls for action sufficiently empower communities to intervene with their elected representatives? Should we contemplate other measures? (*Paragraph 43*)
- (g) Do you have other views on the operation of the new duty to respond to petitions and the call for action?



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	23 JANUARY 2008	12

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: APPOINTMENT OF SCHOOL GOVERNORS

The appointment of school governors who are also Members or employees of the Council is dealt with by this Committee (all other appointments are made by the Group Director, Children's Services under delegated powers).

The Governor Appointment Panel has now submitted for formal approval the nomination of Councillor John Mylod for reappointment to the Governing Bodies of Langtons Junior School, with effect from 1 January 2008.

Human resources implications and risks

No implications or risks for the human resources arise from this report.

Equalities implications and risks

No implications or risks for the environment arise from this report

Financial implications and risks

No financial implications or risks arise from this report.

Legal implications and risks

No legal implications or risks arise from this report.

Governance Committee, 23 January 2008

RECOMMENDATION

That Councillor John Mylod be reappointed to the Governing Body of Langtons Junior School.

**Contact Officer: Ian Buckmaster, Manager of Committee and Overview
& Scrutiny Support**

Telephone: 01708 432431

**Cheryl Coppel
Chief Executive**

Background Papers: None



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	23 January 2008	13

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: STANDARDS COMMITTEE – INDEPENDENT CHAIRMAN

SUMMARY

The Local Government and Public Involvement in Health Act 2007 Part 10 has enacted a range of ethical standards legislation which need to be implemented over the next few months once Regulations are in place.

Section 187 of the Act inserts into Section 53(4) of the Local Government Act 2000 a requirement for the Standards Committee to be chaired by an Independent Member.

It is suggested an Independent Chairman needs to be in place from 1st April 2008 according to the current consultation paper relating to the Conduct of local authority members.

RECOMMENDATIONS

To recommend Council to appoint Jack Knowles as the Chairman of the Standards Committee with effect from 1 April 2008.

REPORT DETAIL

1. The Local Government and Public Involvement in Health Act 2007 requires under Section 187 an Independent Chairman of the Standards Committee. It is likely that the Independent Chairman will need to be in place by the 1st April 2008. As the appointment needs to be made by full Council this will need to be put before the Council meeting on 19th March 2008. Currently the DCLG is consulting on the Regulations including the commencement date but the indication is that it may be 1st April.
2. The two current Independent Members have been asked whether they would be prepared to serve as the Chairman if appointed. Tracey Moran the Vice Chairman had indicated that currently she is unable to make this commitment. Jack Knowles has indicated he is prepared to stand as Chairman should Tracey be unable to stand. Currently the consultation paper is suggesting that three Independent Members may be the minimum required to operate under the new arrangements with two sub-committees of Standards Committee all being chaired by an Independent Member. Once the Regulations have been issued, if this provision remains, urgent action will be necessary to recruit any additional Independent Members.
3. Members should also be aware that the changes in the legislation will increase the business of the Standards Committee as it will be that committee which deals with the first sift of complaints, rather than the Standards Board.
4. The Standards Board is recommending a structure of sub-committees or the Standards Committee acting as a pool of members to deal with the different roles. As a minimum there will need to be two separate sub-committees, one for taking initial assessment decisions and one for taking decisions on reviews. Subject to regulations the Standards Board are of the view any sub-committee should also have an independent Chairman.
5. A report will be taken to the Council's Standards Committee on the wider implications once the Regulations are available.

Financial Implications and risk

There is currently no allowance for the Chairman or Vice Chairman of the Standards Committee. The two Independent Members receive £117 per meeting attended. The number of meetings is likely to increase under the new legislation.

Legal Implications and risk

Section 187 of the Local Government and Involvement in Public Health Act 2007 requires an Independent Member to be the Chairman of the Standards

Governance Committee, 23 January 2008

Committee, most likely with effect from 1 April 2008. This date is currently subject to consultation which requires a response by 15 February. To implement this any recommendation needs to be before full Council on 19 March 2008.

Human Resource Implications and risk

The two Independent Members of the Standards Committee were appointed by full Council. Full Council now needs to appoint one as the Chairman following the introduction of Section 187 into the 2000 Local Government Act.

Both Independent Members have been asked in writing whether they wish to be considered and have responded.

Equalities

Both current Independent Members have been asked whether they wish to be considered for the role and have responded. Only Jack Knowles wishes to be considered.

CHERYL COPPELL
Chief Executive

Contact: Christine Dooley
Telephone: 01708 432484

Background Papers

Correspondence with Independent Members



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	23 JANUARY 2008	5

SUPPLEMENTARY

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: APPOINTMENTS TO OTHER ORGANISATIONS, 2007/08

(c) Mardyke Neighbourhood Board

The Council has been invited to appoint four members of a 12-member board that will oversee the delivery of the new management arrangements for the Mardyke Estate in consequence of its transfer from Council ownership and management to that of the Circle Anglia and Old Ford Housing Associations.

A paper outlining the role, functions and structure of the new management arrangements is appended.

The name "Mardyke Neighbourhood Board" is an interim arrangement as the intention is to re-name the area in due course.

The Committee is requested to nominate the four Council appointees, who can be, but need not be, Members or Officers.

RECOMMENDATION

For consideration as to the four persons to be nominated to serve on the Mardyke Neighbourhood Board.

**Cheryl Coppel
Chief Executive**

Mardyke Neighbourhood Board.

Introduction

For the purpose of this paper the group will be referred to as the Mardyke Neighbourhood Board (MNB) although there is an intention to select an alternative name for the estate.

As part of the future governance of the estate and in compliance with the Housing Transfer Offer Document a Neighbourhood Board will be established.

The process for electing residents to the MNB is detailed in this report. A constitution and code of conduct will need to be adopted and is covered in a separate report.

It is important that the implementation of the MNB reflects the strategies and policy of Circle Anglia and Old Ford Housing Association and Circle Anglia.

Purpose of the MNB.

The MNB will have a strategic overview and will work with OFHA and Circle Anglia Officers to develop strategies for the Mardyke estate. They will be responsible for monitoring delivery of the pledges in the Offer Documents, monitoring performance of existing housing management functions including repairs. They will oversee and influence delivery of the Community Development strategy and will highlight potential service improvements via the correct channels.

When the regeneration work commences it will be this body that receives reports from Circle Anglia and OFHA officers regarding progress and will monitor the performance of contractors undertaking the redevelopment of the estate. Regular meetings will be held with the contractors to discuss and resolve any issues raised by either individual residents or by the Mardyke Residents Association (see separate paper on their remit).

MNB will ensure that commitments made during the master planning process are met and that if and when there is a need to deviate from any plans the community is kept informed and consulted about any proposed changes. They will ensure a continuous flow of information to the immediate community and the surrounding areas (Neighbours of Mardyke).

The MNB will receive reports from the Mardyke Residents Association with regard to the grass roots performance, and suggestions for service improvements and enhancements. They will discuss and decide what should be fed through the Residents Federation for consideration and referral to the OFHA Board.

A member from this group (normally the chair) will sit on the Old Ford Residents Federation who acts as a consultative body and co-ordinates feedback from all the constituencies to the OFHA Board.

The OFHA Board will expect a **minimum** of two resident nominees from the Mardyke estate, one of which must be a leaseholder, to be put forward for the 1 place on the OFHA Board. A panel of independent representatives will

interview nominees from all OFHA constituencies and will appoint those with the appropriate skills. It should be noted that training will be available for all those elected to sit on the OFHA Board.

Role of MNB members

The following list is a guide and may be amended at a future date.

The role of a board member.

- Establish future work programme for housing management and regeneration at the beginning of each year and ensure Key Indicators for performance are in place and agreed.
- Monitor the performance of the housing management team
- Monitor the expenditure for the housing management function
- Contribute to the Community Development strategy for the Mardyke estate
- Receive review and comment on all reports regarding housing management functions
- Receive, discuss and comment on reports concerning all aspects of the regeneration programme.
- Monitor the performance of the regeneration programme.
- Monitor the expenditure of the regeneration programme
- Monitor the delivery of promises made within the housing transfer offer documents
- Respond to residents enquiries on issues where you are competent to do so.
- Highlight any matters arising which could be detrimental to the residents of the Mardyke estate.
- Develop and monitor a communication programme
- Ensure that the MNB complies with policies and procedures for OFHA and Circle Anglia.
- Ensure that risks to the delivery of performance for either housing management or the regeneration programme are identified and managed.
- Ensure representation on the Old Ford Board

Requirements of the Role

As a Board Member you will be required to:

- Prepare for and attend board meetings *bi monthly initially*
- Contribute to and share responsibility for comments and recommendations of the board
- Support the aims and objectives of the policies of the Old Ford and Circle Anglia
- Abide by the code of conduct for the Mardyke Neighbourhood Board and maintain high standards of probity.
- Work with other board members, Old Ford Housing Association and Circle Anglia staff
- Attend training and development programmes as and when required to do so
- Promote a positive image for the Mardyke estate at all times.

Governance Committee, 23 January 2008

- Promote at all times a positive image of the MNB, Old Ford Housing Association and Circle Anglia Housing Group.
- Represent the best interests of the whole of the Mardyke estate
- Attend every MNB meeting as is practicable, to ensure that a meaningful discussion is possible.
- Where attendance is not possible members will send apologies ahead of the meeting.
- Attend master planning and other events interacting with residents
- Maintain confidentiality for matters of a sensitive nature
- Present a united approach to the work of the MNB

Membership of the MNB

As agreed in the Housing Transfer Offer Documents there will be a membership of 12 people with equal representation from residents, Council nominees and Independents.

There will be 4 resident places, of which at least one will preferably be a leaseholder.

The London Borough of Havering have 4 places to which they can nominate candidates, these do not have to be Councillors or Officers and, they can nominate suitable candidates who will be an asset to the group. The Council will have complete control over who is nominated to sit on the MNB.

The remaining 4 places are for Independent representatives, who have skills that are relevant to the needs of the board. For example they could include people from education and training, PCT or Police. They could also be people from other business' i.e. accountants, architects, and planners etc who may prove beneficial during the regeneration of the estate.

The board will endeavour to be representative of the local population in terms of gender balance, ethnicity and disability in its membership.

The MNB will meet bi monthly initially, at a time to be agreed that will ensure that no sector of the community is prevented from participating. All meetings will be held locally at a venue on the Mardyke estate.

If there are child care, transport, mobility or language issues OFHA will make suitable arrangements to ensure that these issues are addressed to the best of their ability. Every endeavour will be made to encourage participation across all sectors of the community.

Election to the MNB

Residents:

All residents living on the Mardyke estate will be eligible to sit on the MNB but this will be achieved through the recruitment process to the Mardyke Residents Association and subsequent nomination from the association to the MNB. In the event of more than 4 members wishing to be considered for a place on the MNB a vote will be taken by members of the Residents Association committee. In order to demonstrate transparency, and encourage equal opportunity to every one living on the estate a public meeting/s and or information events will

Governance Committee, 23 January 2008

be organised specifically to explain the purpose of the Mardyke Residents Association and the MNB, the roles and responsibility of all MNB members and how residents can become involved.

It will also be necessary to hold training sessions for those wishing to become involved to ensure they are able to compete with others that have already been involved in the process of housing stock transfer to date.

Council Nominees

These places will be filled at the discretion of the London Borough of Havering.

Independents

The places for independents will be advertised in the local press or if this should not attract the right people they could be recruited from the register held by the National Housing Federation.

The independent places will be filled by people who can show commitment and an interest in the future of the Mardyke estate. They will demonstrate a skill or knowledge base which will assist in the work being undertaken on the estate.

All members will be bound by the same rules around roles and responsibilities.

Mardyke Estate Governance Structure

