

# ANNUAL MEETING OF THE COUNCIL

7.30pm WEDNESDAY, 26 MAY 2010  
AT HAVERING TOWN HALL  
MAIN ROAD, ROMFORD

Members of the Council of the London Borough of Havering are hereby summoned to attend the Annual Meeting of the Council at the time and place indicated for the transaction of the following business



Democratic Services Manager

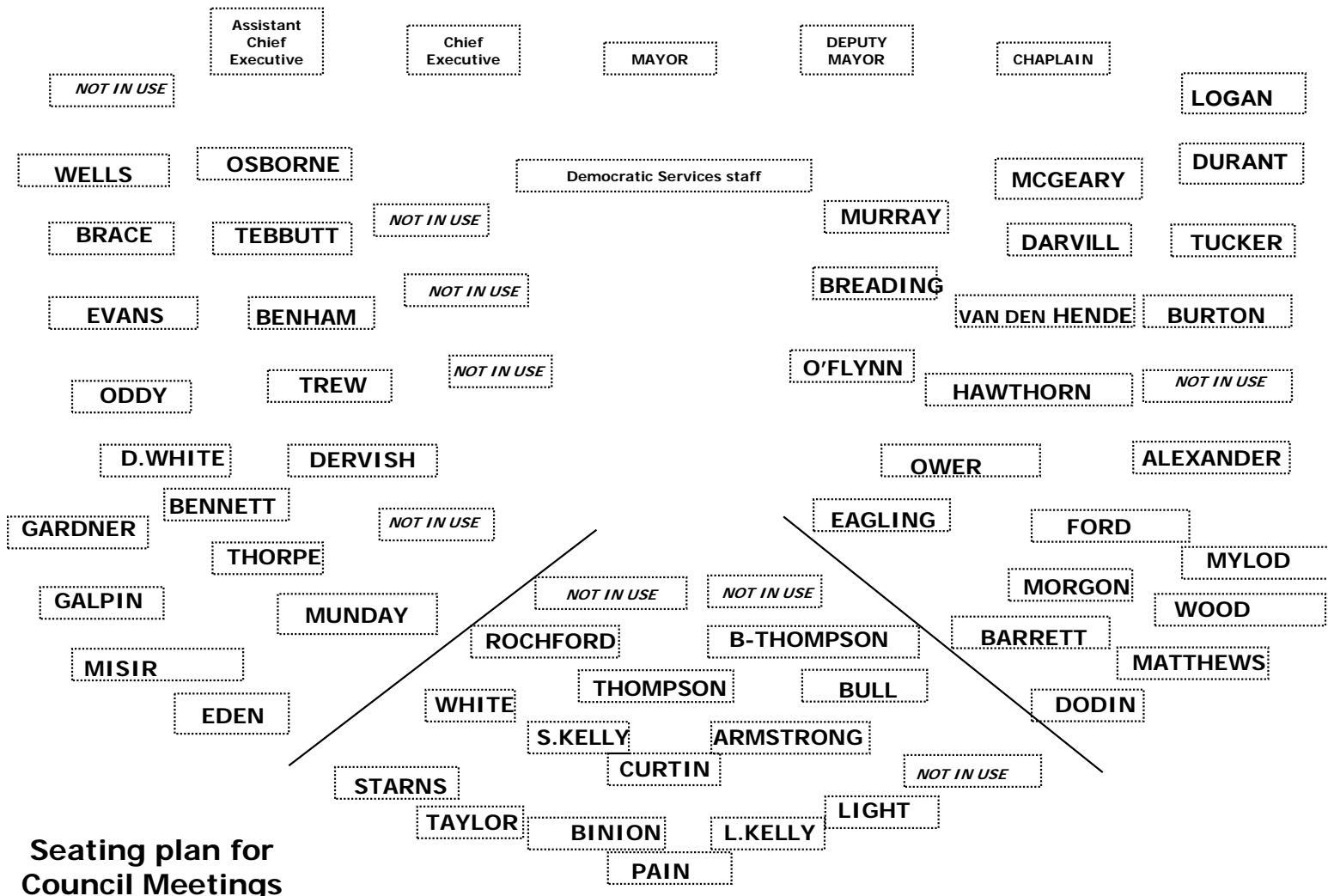
For information about the meeting please contact:  
Ian Buckmaster (01708) 432431  
[ian.buckmaster@haverling.gov.uk](mailto:ian.buckmaster@haverling.gov.uk)



Webcast

Please note that this meeting will be webcast.

Members of the public who do not wish to appear on the webcast will be able to sit in the balcony, which is not in camera range.



**Seating plan for Council Meetings**

**Note: this seating plan reflects seat allocations prior to the election of the Mayor**

## AGENDA

### 1 PRAYERS

2 To receive apologies for absence (if any)

### 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.*

<b>MAYORALTY</b>
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*Separate guidance on the Ceremonial Procedure for the Election of the Mayor will be issued to Members before the meeting*

### 4 MAYORALTY

(a) To elect the Mayor of the Borough for the Municipal Year 2010/11.

#### 4A Motion on behalf of the Conservative Group

That **Councillor Pam Light** be elected Mayor for the Municipal Year 2010/11

(b) To receive notice of the appointment of the Deputy Mayor of the Borough for the Municipal Year 2010/11.

**INITIAL BUSINESS****5 MINUTES**

To approve as a true record the minutes of the meeting of the Council held on 24 March 2010 (circulated as separate document), and to authorise the Mayor to sign them.

**6 ANNOUNCEMENTS BY THE MAYOR OR BY THE CHIEF EXECUTIVE****FORMING  
THE EXECUTIVE****7 TO ELECT THE LEADER OF THE COUNCIL**

In accordance with the Local Government Act 2000, as amended, the Leader is elected for a term of four years ending at the Annual Meeting of the Council following the borough elections in 2014.

**7A Motion on behalf of the Conservative Group**

That **Councillor Michael White** be elected to the office of Leader of the Council for the Municipal Years 2010/14

**8 TO RECEIVE NOTICE OF THE APPOINTMENTS BY THE LEADER OF THE MEMBERS OF THE CABINET, INCLUDING THE DEPUTY LEADER**

In accordance with the Local Government Act 2000, as amended, the Leader may appoint up to nine other Members of the Cabinet, one of whom must be appointed as Deputy Leader. The Council's Constitution requires that the Leader must announce the names of the Deputy and other Cabinet Members at this meeting.

<b>APPOINTMENT OF COMMITTEES ETC</b>
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## 9 ESTABLISHING THE COMMITTEES OF THE COUNCIL

To consider the Monitoring Officer's final report (Agenda item 9) on establishing Committees, and political balance, and then – subject to Agenda items 10 to 12 following – to establish:

- (a) the following statutory Committees:
  - (i) Overview & Scrutiny Committees
  - (ii) the Standards Committee
  - (iii) the Licensing Committee
- (b) other, non-statutory, Committees to deal with matters which are neither reserved to the Council nor are executive functions, as set out within the Council's Constitution.

## 10 CHANGES TO THE COMMITTEE STRUCTURE

The supplementary report of the Monitoring Officer (Agenda item 10, printed on gold-coloured paper) should be read in conjunction with the following motion.

### Motion on behalf of the Conservative Group

- 1 That a Highways Advisory Committee be established (under section 102(4) of the Local Government Act 1972) to advise the Council's Executive on local highway management schemes; and that the Area Committees and Regulatory Services Committee cease to exercise the powers delegated to them in relation to such matters.
- 2 To **RECOMMEND to the Leader of the Council** that the Executive functions in relation to advice by the Highways Advisory Committee be exercised by the Cabinet Member for Community Empowerment.
- 3 That the Highways Advisory Committee comprise 7 Members (politically balanced, including no more than one Member of the Cabinet, excluding the Cabinet Member for Community Empowerment as decision-maker in relation to the Committee's advice), and meet monthly.
- 4 (a) That, other than the Crime & Disorder Committee and the Health Overview & Scrutiny Committee, the functions of the Overview & Scrutiny Committees be realigned to accord with the Council's Goals and its partnership arrangements, and that the following Overview & Scrutiny Committees be established accordingly:

**Children's & Learning**  
**Environment**  
**Individuals**  
**Partnerships**  
**Towns and Communities**  
**Value**

- (b) That the new Overview & Scrutiny Committees be assigned the functions set out in the Monitoring Officer's supplementary report accompanying this motion.
- (c) That the Overview & Scrutiny Committees be advised of the limited resources available to support their activities and requested to restrict their Topic Group activities to one at any one time.
- (5) Amend the Appendix to the Monitoring Officer's report (agenda item 9) as follows:

**Add** to the Table in Appendix 2 of the report, after "Governance Committee", "Highways Advisory Committee"

**Delete** the existing names of the Overview & Scrutiny Committees as set out in that Appendix, other than "Crime and Disorder" and "Health", and

**Insert**, in alphabetical order as appropriate, the following Overview & Scrutiny Committee names:

**Children's & Learning**  
**Environment**  
**Individuals**  
**Partnerships**  
**Town and Communities**  
**Value**

- (6) Amend recommendation 3 of the Monitoring Officer's report as follows:

**Delete** "Children's Services"

**Add** "Children's & Learning"

10A **Amendment on behalf of the Independent Residents' Group**

That the Independent Residents' Group be allocated a seat on each of the following Committees:

- (a) Highways Advisory Committee  
(b) Environment OSC

(c) Towns and Communities OSC

(d) Crime and Disorder OSC

and that no seat on the Audit Committee be allocated to that Group.

**Note:** if carried, the Independent Residents' Group amendment would affect the **Table in Appendix 2** to the Monitoring Officer's Report (Agenda item 9). There are several possible options but that which has the least effect upon the balance of other Committees would be to allocate to the Highways Advisory Committee 8 seats rather than 7 and to reduce the Audit Committee from 8 seats to 7. Overall, the effects would be as follows:

<b>Highways</b>	<b>8</b>	4.89	<b>5</b>	1.78	<b>1</b>	0.74	<b>1</b>	0.59	<b>1</b>
<b>Audit</b>	<b>7</b>	4.28	<b>4</b>	1.56	<b>2</b>	0.65	<b>1</b>	0.52	<b>0</b>
<b>Pensions</b>	<b>7</b>	4.28	<b>4</b>	1.56	<b>1</b>	0.65	<b>1</b>	0.52	<b>1</b>

Assuming that the allocation to OSCs requested by the Independent Residents' Group is agreed, the three OSCs would be those shown in the Table as OSCs 5, 6 and 7, each with seating allocations of 7 (4:2:0:1), as follows:

<b>Environment OSC</b>	<b>7</b>	4.28	<b>4</b>	1.56	<b>2</b>	0.65	<b>0</b>	0.52	<b>1</b>
<b>Towns &amp; Communities OSC</b>	<b>7</b>	4.28	<b>4</b>	1.56	<b>2</b>	0.65	<b>0</b>	0.52	<b>1</b>
<b>Crime &amp; Disorder OSC</b>	<b>7</b>	4.28	<b>4</b>	1.56	<b>2</b>	0.65	<b>0</b>	0.52	<b>1</b>

## 11 AREA COMMITTEES

### Motion on behalf of the Conservative Group

- 1 That the Council appoint the Chairmen and Vice-Chairmen of Area Committees rather than the Committees themselves.
- 2 That ordinary meetings of Area Committees be held twice a year, in July and January, rather than four times as hitherto; and that their meetings take place either at the Town Hall or Langtons in Hornchurch, as determined by the Chairman of each Committee.

### 11A Amendment on behalf of the Independent Residents' Group

#### **Amend 1 to read:**

That all Area Committee Chairmen and Vice-Chairmen be appointed by the respective Area Committees.

**12 AMENDMENT OF THE CONSTITUTION****Motion on behalf of the Conservative Group**

That the Assistant Chief Executive Legal & Democratic Services be authorised to make such adjustments to the Constitution as are necessary to give effect to the decisions consequent upon Agenda items 9, 10 and 11.

**13 APPOINTMENT OF THE CHAIRMEN AND VICE-CHAIRMEN OF COMMITTEES**

The Constitution provides for each Committee to have one Vice-Chairman, apart from the Adjudication & Review Committee (two Vice-Chairmen) and Licensing Committee (three Vice-Chairmen), both of which have more than one Vice-Chairman in order to facilitate the chairing of Hearings Panels and Licensing Sub-Committees.

**13A Motion on behalf of the Conservative Group**

That the following Chairmen and Vice-Chairmen be appointed –

<b>Committee</b>	<b>Chairman <i>Councillor</i></b>	<b>Vice-Chairman <i>Councillor</i></b>
Adjudication & Review (2 Vice-Chairmen)	Dennis Bull	1 Garry Pain
Appointments	Keith Wells	Steven Kelly
Audit	Georgina Galpin	Osman Dervish
Governance	Michael White	Rebecca Bennett
Pensions	Eric Munday	Damian White
Licensing (3 Vice-Chairmen)	Peter Gardner	1 Georgina Galpin 2 Linda Trew 3 Lynden Thorpe
Regulatory Services	Barry Oddy	Barry Tebbutt
Highways	Frederick Thompson	Billy Taylor
Children's & Learning Overview & Scrutiny Learning	Sandra Binion	



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Environment Overview & Scrutiny	Jeff Brace	
<b>Committee</b>	<b>Chairman Councillor</b>	<b>Vice-Chairman Councillor</b>
Individuals Overview & Scrutiny	Wendy Brice-Thompson	
Partnerships Overview & Scrutiny	Roger Evans	
Towns and Communities Overview & Scrutiny	Frederick Osborne	
Value Overview & Scrutiny	Robby Misir	
Crime & Disorder Overview & Scrutiny	Ted Eden	
Health Overview & Scrutiny	Lynden Thorpe	

**13B Amendment on behalf of the Residents' Group**

That the following Vice-Chairmen be appointed –

Licensing		Linda Van den Hende (instead of Linda Trew)
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Adjudication & Review		2 June Alexander
Children's & Learning Overview & Scrutiny Learning		Gillian Ford
Environment Overview & Scrutiny		John Mylod
Individuals Overview & Scrutiny		Linda Van Den Hende
Partnerships Overview & Scrutiny		Barbara Matthews
Towns and Communities Overview & Scrutiny		Linda Hawthorn
Value Overview & Scrutiny		Ray Morgon

<b>Committee</b>	<b>Chairman Councillor</b>	<b>Vice-Chairman Councillor</b>
Crime & Disorder Overview & Scrutiny		John Wood
Health Overview & Scrutiny		June Alexander

**Note:** Only one appointment of Chairman or Vice-Chairman is contested: that of one of the three Vice-Chairmen of the Licensing Committee.

The nominees are:

<b>Licensing</b>		Linda Trew (Conservative)  <i>or</i>  Linda Van den Hende (Residents')
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#### 14 **APPOINTMENT OF THE CHAIRMEN AND VICE-CHAIRMEN OF AREA COMMITTEES**

Assuming that the Conservative Group motion at Agenda item 11 is carried, Council will need to make appointments of Chairman and Vice-Chairman of each Area Committee. The following nominations have been submitted:

##### 14A **On behalf of the Conservative Group**

That the following Chairmen and Vice-Chairmen be appointed –

<b>Area Committee</b>	<b>Chairman Councillor</b>	<b>Vice-Chairman Councillor</b>
Harold Wood & Emerson Park	Lesley Kelly	Paul Rochford
Hylands & Elm Park	Roger Evans	Damien White
North Romford	Billy Taylor	Linda Trew
Pettits	Lynden Thorpe	Ted Eden
Romford	Frederick Osborne	Robert Benham

<b>Area Committee</b>	<b>Chairman Councillor</b>	<b>Vice-Chairman Councillor</b>
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14B **On behalf of the Independent Residents' Group**

That the following Chairman and Vice-Chairman be appointed –

South Hornchurch & Rainham	Michael Deon Burton	David Durant
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14C **On behalf of the Residents' Group**

That the following Chairmen and Vice-Chairmen be appointed –

Hornchurch	John Mylod	Nic Dodin
Upminster	Gillian Ford	Linda Van den Hende

14D **On behalf of the Labour Group**

That the following Chairman and Vice-Chairman be appointed –

Harold Hill	Denis O'Flynn	Paul McGeary
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15 **APPOINTMENT OF THE STATUTORY LEAD MEMBER FOR CHILDREN'S SERVICES**

The Council has a legal obligation to appoint one of its Members to be the statutory Lead Member for Children's Services.

Having regard to the duties of that office, it is usual for the Cabinet Member whose portfolio includes responsibility for Children's Services to be appointed to it, but there is no obligation to do so.

15A **Motion on behalf of the Conservative Group**

That the Cabinet Member for Children's & Learning be appointed Statutory Lead Member for Children's Services and Champion for the new Diploma Scheme.

**16 APPOINTMENT OF THE MEMBER CHAMPIONS**

To appoint Member Champions for the following roles:

- (i) The 16-19 Diploma Scheme (see item 11A above)
- (ii) Diversity
- (iii) The Historic Environment
- (iv) The Over Fifties
- (v) Standards
- (vi) The Voluntary Sector Compact and
- (vii) Younger Persons

**16A Motion on behalf of the Conservative Group**

That the following be appointed Champions as indicated:

For Diversity	Councillor Osman Dervish
For Elderly Persons	Councillor Pam Light
For the Historic Environment	Councillor Andrew Curtin
For Standards	Councillor Wendy Brice-Thompson
For the Voluntary Sector Compact	Councillor Andrew Curtin
For Younger Persons	Councillor Garry Pain

**16B Amendment on behalf of the Residents' Group**

That the following be appointed Champions as indicated:

For Diversity	Councillor Nic Dodin
For Elderly Persons	Councillor Linda Van den Hende
For the Historic Environment	Councillor Linda Hawthorn
For Standards	Councillor Gillian Ford
For the Voluntary Sector Compact	Councillor Barbara Matthews
For Younger Persons	Councillor Ray Morgon

**STATEMENT BY  
LEADER OF THE COUNCIL**

17 TO RECEIVE A STATEMENT BY THE LEADER OF THE COUNCIL

**NOTE:** *One or more supplementary agendas will follow before the meeting.*





**MINUTES OF A MEETING OF THE COUNCIL OF THE  
LONDON BOROUGH OF HAVERING  
Havering Town Hall, Romford  
24 March 2010 (7.30pm – 11.25pm)**

**Present:** The Mayor (Councillor Roger Ramsey) in the Chair

**Councillors:** June Alexander, Michael Armstrong, Clarence Barrett, Robert Benham, Sandra Binion, Jeff Brace, Wendy Brice-Thompson, Dennis Bull, John Clark, Jonathan Coles, Andrew Curtin, Keith Darvill, Ted Eden, Roger Evans, Gillian Ford, Chris Fox, Mark Gadd, Georgina Galpin, Peter Gardner, Linda Hawthorn, Coral Jeffery, Lesley Kelly, Steven Kelly, Pam Light, Andrew Mann, Barbara Matthews, Robby Misir, Ray Morgon, Eric Munday, John Mylod, Barry Oddy, Fred Osborne, Paul Rochford, Geoff Starns, Mark Stewart, Barry Tebbutt\*, Frederick Thompson, Lynden Thorpe, Jeffrey Tucker, Melvin Wallace, Keith Wells, Michael White, Steve Whittaker, Mike Winter, John Wood and Linda Van den Hende

\* for part of the meeting

Air Commodore Brian Batt DL and Hon. Aldermen Graham Price and Louise Sinclair were also present.

Colonel Kevin Hodgson, Major Tony Jones, Major Chelsea Hall and Warrant Officer Steven Neal of the Royal Anglian Regiment were present, with Major Nick Williams and Captain Pervez Badruddin of the Army Cadet Force, Flight Lieutenant Richard Cottam, Sergeant Gareth Clark and Cadet Sergeant Robert Gladwin of the Air Training Corps and Volunteer Stephanie Reeves and Cadet Anthony Le Ronde of the Metropolitan Police Cadets. Cadets of the Army Cadet Force and Air Training Corps lined the stairs of the Town Hall while Members arrived.

Some 25 Members' Guests and members of the public and a representative of the press also attended.

Apologies were received for the absence of Councillors Tom Binding, Michael Deon Burton, Kevin Gregory, Mark Logan and Pat Mylod. Councillor Barry Tebbutt apologised for leaving the meeting early as he felt unwell.

The Mayor advised Members and the public of action to be taken in the event of emergency evacuation of the Town Hall becoming necessary.

The Reverend David Banting of St Peter's Church, Harold Wood opened the meeting with prayers.

The meeting closed with the singing of the National Anthem.

The Mayor announced that, in accordance with Council Procedure Rule 17(iv), he had decided to bring forward agenda item 79 (conferment of Honorary Freedom of the Borough) to be dealt with before his announcements.

76 **MINUTES (agenda item 3)**

It was **RESOLVED**:

**That the minutes of the Meeting of the Council held on 24 February 2010 be signed as a true record.**

77 **DECLARATIONS OF INTEREST (agenda item 4)**

There were no declarations of interest

78 **ORDER OF BUSINESS**

The Mayor announced that, in exercise of the power conferred by Council Procedure Rule 7(iv), he was bringing forward agenda item 6 – Conferment of the Freedom of the Borough – so that it might be considered as the next item of business.

79 **CONFERMENT OF FREEDOM OF THE BOROUGH  
(Agenda item 6)**

Council had before it a proposal to confer the Freedom of the Borough upon the Royal Anglian Regiment.

The Leader of the Council (Councillor Michael White) proposed that the award be conferred upon the Regiment in recognition of its long and distinguished service. The Regiment had been formed by the amalgamation of a number of former units, among them the Essex Regiment, upon which the former Romford Council had conferred the Freedom of the Borough following the Second World War. The Leader referred to service in the Regiment's predecessors by residents of Havering and by Members of the Council, and to the current deployment of units of the Regiment to Afghanistan.

Councillor Ted Eden seconded the proposal, referring to his own service in two of the Regiment's predecessor units, and Councillors John Mylod and Keith Darvill also supported the proposal.

The proposal was **AGREED** unanimously (see voting division 1) and it was **RESOLVED**:

**To confer on the Royal Anglian Regiment the Honorary Freedom of the Borough.**

The Mayor then presented a certificate and plaque to Colonel Kevin Hodgson on behalf of the Regiment. Colonel Hodgson responded to the



Council (see **Appendix 1 of these minutes**) and presented to the Mayor a Regimental plaque.

**80 ANNOUNCEMENTS BY THE MAYOR (agenda item 5)**

The Mayor's Announcements are attached as **Appendix 2 to these minutes**.

In the course of his announcements, the Mayor presented plaques to

Flight Lieutenant Richard Cottam and Cadet Sergeant Robert Gladwin of 6F (Hornchurch) Squadron, Air Training Corps

Volunteer Stephanie Reeves and Cadet Anthony Le Ronde of the Metropolitan Police Cadets, Havering

Air Commodore Brian Batt, Deputy Lieutenant for Havering

**81 ANNOUNCEMENTS BY THE LEADER OF THE COUNCIL (agenda item 5)**

The Leader of the Council's announcements are attached as **Appendix 3 to these minutes**.

**82 PETITIONS (agenda item 7)**

Under paragraph 24 of the Council Procedure Rules, petitions were presented to the Mayor by:

Councillor Andy Mann, from residents of the Epping Close/Forest Road area, objecting to a planning application; and

Councillor Keith Darvill, objecting to the sale of land between Petersfield Avenue, Gooshays Drive and the Health Centre (and supplementing an earlier petition on the same matter).

It was noted that the petitions would be passed to the appropriate Heads of Service for attention or report to members.

**83 ANNUAL REPORTS OF COMMITTEES AND MEMBER CHAMPIONS (agenda item 8)**

Council received the annual reports for 2009/10 of the Audit, Pensions and Standards Committees, the eight Overview and Scrutiny Committees (presented by the Committees' respective Chairmen), the Standing Advisory Committee on Religious Education and the Member Champions. Each of the reports was agreed or received without going to the vote and it was **RESOLVED –**

- 1 That the annual report of the Audit Committee be agreed.
- 2 That the annual report of the Pensions Committee be agreed.
- 3 That the annual report of the Standards Committee be agreed and that of the Member Champion for Standards, be received.
- 4 That the annual report of the Adult Services Overview and Scrutiny Committee be agreed.
- 5 That the annual report of the Children's Services Overview and Scrutiny Committee be agreed.
- 6 That the annual report of the Corporate Overview and Scrutiny Committee be agreed.
- 7 That the annual report of the Crime and Disorder Committee be agreed.
- 8 That the annual report of the Culture and Regeneration Overview and Scrutiny Committee be agreed.
- 9 That the annual report of the Environment Overview and Scrutiny Committee be agreed.
- 10 That the annual report of the Health Overview and Scrutiny Committee be agreed.
- 11 That the annual report of the Housing Overview and Scrutiny Committee be agreed.
- 12 That the annual report of the Standing Advisory Council on Religious Education be agreed.
- 13 That the annual report of the Member Champion for the 14-19 Diploma Scheme be received.
- 14 That the annual report of the Member Champion for Diversity be received.
- 15 That the annual report of the Member Champion for the Historic Environment be received.
- 16 That the annual report of the Member Champion for the Over Fifties be received.
- 17 That the annual report of the Member Champion for the Voluntary Sector Compact be received.

- 18 That the annual report of the Member Champion for Younger Persons be received.

84 **AMENDMENTS TO THE CONSTITUTION (agenda item 9)**

Council considered two reports of the Governance Committee.

**Local Democracy, Economic Development and Construction Act 2009 – designation of Statutory Scrutiny Officer**

The Local Democracy, Economic Development and Construction Act 2009 required the designation of a new, statutory Scrutiny Officer, with effect from 1 April 2010. It was suggested that, having regard to the statutory requirements and his current responsibilities, the Democratic Services Manager be so designated.

**New Executive arrangements: revisions to the Council's Constitution – Final Report**

The Committee presented its final report on the revisions required to the Council's Constitution in consequence of the new Executive arrangements that were shortly to come into effect. The report invited approval of a number of changes to parts of the Constitution, sought agreement to arrangements for settling a number of day-to-day operational delegations to officer, invited the Council to re-affirm the designation of certain Proper Officers and suggested for approval means of adjusting the text of the revised Constitution in order to update cross-references within the text or to eliminate inadvertent inconsistencies.

Each of the reports was **AGREED** without going to the vote and it was **RESOLVED –**

- 1 (a) That the post of Democratic Services Manager be designated as statutory Scrutiny Officer with effect from 1 April 2010 and that the current holder of the post, Philip Heady, be appointed accordingly.
- (b) That the Monitoring Officer be authorised to make the amendments to the Council's current Constitution necessary to give effect to this designation/appointment.
- 2 (a) That the Council approve the following revised Parts (as set out in Appendix 4 of these minutes), subject to adjustment where necessary to reflect changes elsewhere in the Constitution:
  - Part 3: 2 Executive functions
  - Part 3: 3 Functions delegated to staff

**Part 3: 5 Local choice functions**

**Part 3: 6 Proper Officer functions**

**Part 4: Access to Information Rules**

**Part 4: Budget Framework Procedure Rules**

**Part 4: Contract Procedure Rules**

**Part 4: Executive Procedure Rules**

**Part 4: Financial Procedure Rules**

**Part 4: Overview & Scrutiny Procedure Rules**

**Part 4: Policy Framework Procedure Rules**

**Part 4: Staff Employment Procedure Rules**

- (b) That the Monitoring Officer be authorised to finalise, with other Members of the Corporate Management Team as necessary, the detailed delegations to officers of day-to-day operational matters that do not require decision at Member-level.**
- (c) That the various officers designated in the tables appended to Part 3: Proper Officer functions be designated Proper Officers for the functions specified.**
- (d) (i) That the various minor changes set out in the Schedule of Changes appended to the report submitted, be agreed.**
  - (ii) That the Monitoring Officer be authorised to make any further changes in the approved revised texts of the various parts of the Constitution that become necessary in consequence of their merger into a single document.**

**85 DATES OF COUNCIL MEETINGS, 2010/11 (Agenda item 10)**

Council had before it a report of the Chief Executive concerning the dates of Council meetings during the municipal year 2010/11 and beyond.

The report was considered without debate or division and it was –

**RESOLVED:**

**That the Council fix the dates of its meetings for the Municipal Year 2010/11 and, on a provisional basis, the balance of 2011, as follows:**

2010 (already shown in the current diary as provisional)

28 July  
20 October  
8 December

2011

2 February  
23 February (Council tax Setting)  
2011 *continued*  
30 March  
25 May (Annual Meeting)  
20 July (provisional)  
19 October (provisional)  
7 December (provisional)

86 **REPORT OF LOCAL GOVERNMENT OMBUDSMAN – NOT FINDING MALADMINISTRATION (agenda item 11)**

*The report was submitted with the agreement of the Mayor as an urgent matter, pursuant to Section 100B(4) of the Local Government Act 1972, in order that the matter could be considered expeditiously.*

The Local Government Ombudsman (LGO) and the Health Ombudsman had jointly reported upon complaints relating to the care of an individual, Mrs S, who had dementia, and had died as the result of a fall that occurred in a hospital while she was compulsorily detained under the Mental Health Act.

The LGO had expressed some concerns about the way in which the complaint had been handled by the Council but did not consider that the failing identified amounted to maladministration and had not found any maladministration by the Council relating to the substantive complaints. No part of the complaint against the Council was upheld. The complaint against the former North East London Mental Health Trust had been upheld in part.

Although there had been no finding of maladministration, the Council was required by the Local Government Act 1974 to consider the Ombudsmen's report.

The Monitoring Officer's report was agreed without debate or vote and it was **RESOLVED:**

**That the Council receive the Ombudsmen's report into the complaint about the care of Mrs S, and note that, although the LGO had expressed some concerns about the way in which the complaint was handled by the Council, he did not consider that the failing identified amounted to maladministration, had not found any maladministration by the Council relating to the substantive complaints and had not upheld the complaint.**

**87 CAPITAL PROGRAMME (agenda item 12)**

*The report was submitted with the agreement of the Mayor as an urgent matter, pursuant to Section 100B(4) of the Local Government Act 1972, as the Cabinet decision had been made after the despatch of the agenda for this meeting.*

The Council had previously approved a capital programme. To enable officers to progress the planned works on an effective basis, to achieve best value for money, and to make effective use of external funding sources, it had been proposed to implement a two year programme of works in specific instances, in particular, for the Hilldene and Rainham Village projects and the programme of works for StreetCare. Council's approval of the use of funds for financial year 2011/12 was now required.

The budget for the Housing Revenue Account (HRA) included the proposed capital programme for the Council's housing stock, designed to enable the Council to achieve Decent Homes by 2014.

The Cabinet's report was agreed without debate or vote and it was **RESOLVED:**

**A. Hilldene School**

- 1. That the Education Capital Programme be expanded by £1.7m for this project, funded by receipts from the primary review projects.**
- 2. That the Council's capital budget for this project be increased by a total of £7m, to be funded from the £1.7m above and by redirecting existing resources/grants from other projects.**
- 3. That elements of the indicative capital programme for 2012/2013 to 2014/2015 be committed to this project.**
- 4. That some of the 2013/014 and 2014/2015 indicative capital programme to be committed (by 3 above) be brought forward to 2012/2013 to match the cash flow for this project.**

**B. Rainham Village Primary School**

- 1. That elements of the indicative capital programme for 2011/2012 and 2013/2014 be committed on this project.**
- 2. That some of the 2013/014 indicative capital programme to be committed be brought forward to 2012/2013 to match the cash flow for this project.**

**C. StreetCare capital works**

1. That £2m of the 2011/12 indicative capital programme be committed to this project.
2. That the £1m of the 2011/12 indicative capital programme on behalf of Harold Hill Ambitions Project to be committed to this programme of works.

**D. HRA Capital Programme**

1. That the HRA Capital Programme resource allocation of £20.090m and the HRA Capital Programme, as set out in Appendix 4 of the Cabinet report, be approved.
2. That it be noted that the as yet unallocated HRA capital budget of £2m for 2010/11, which had been identified as a result of the successful receipt of £9m Homes and Community Agency ALMO funding, would be the subject of further report in due course.
3. That the Housing Capital Budget outlined in Appendix 5 of the Cabinet report, be approved.

**88 MEMBERS' QUESTIONS (agenda item 13)**

16 questions were asked under the Council Procedure Rules. The questions and answers, together with a summary of answers to supplementary questions where asked, are set out in Appendix 5 to these minutes.

**89 PROCEDURAL MOTION TO EXTEND LENGTH OF MEETING**

**Procedural motion on behalf of the Residents' Group**

That the meeting continue beyond three hours to enable all remaining business to be debated.

The procedural motion was considered without debate. On being put to the vote, it was **LOST** by 16 votes to 30 (see division 2).

**90 *LIVING* NEWSPAPER (agenda items 14/14A/14B)**

**Motion on behalf of the Residents' Group**

This Council expresses its concern about the frequency in publication of the *Living* newspaper, the lack of accountability, the lack of representation of the work of all elected members of Havering Council and the impact the

publication has on the local newspaper industry. The Council also agrees to undertake a public consultation on *Living* in order to justify the publication to the residents of Havering.

**Amendment on behalf of the Administration**

**Delete** existing text and **substitute**:

This Council notes the great success of the pilot to increase the frequency of the *Living* magazine, and supports its continuation. This Council also recognises that the *Living* magazine provides information to our local communities on Council-related matters and notes that six out of ten residents in Havering are satisfied with this publication.

**Amendment on behalf of the Labour Group**

**Delete** the final sentence of the motion;

**Insert** the following in its place:

The Council agrees to undertake an urgent wide ranging consultation on *Living* to obtain the views of the community and to ensure that the publication improves its service to the Borough's residents.

Following debate, the Administration amendment was **CARRIED** by 30 votes to 16 (see division 3) and the Labour Group amendment was **LOST** by 6 votes to 30. The substantive motion, as amended, was then **CARRIED** by 33 votes to 13, and it was **RESOLVED** that:

**This Council notes the great success of the pilot to increase the frequency of the *Living* magazine, and supports its continuation. This Council also recognises that the *Living* magazine provides information to our local communities on Council-related matters and notes that six out of ten residents in Havering are satisfied with this publication.**

91 **HOUSING STRATEGY (agenda item 15)**

With the consent of the Council, the motion on behalf of the Labour Group was withdrawn.

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Mayor  
26 May 2010

**Note:** the record of voting divisions is attached as **Appendix 6 to these minutes.**



**Appendix 1  
(Minute 78)**

**RESPONSE OF COLONEL KEVIN HODGSON ON BEHALF OF THE ROYAL ANGLIAN REGIMENT TO THE CONFERMENT OF THE FREEDOM OF THE BOROUGH**

Your Worship, Deputy Lieutenant, Councillors, Ladies and Gentlemen:

On behalf of the Colonel of the Regiment, General Sir John McCole, whose duties as Deputy Supreme Commander Allied Forces Europe sadly prevent him from attending this evening, I would like to thank the Council for voting to grant the freedom of the London Borough of Havering to the Royal Anglian Regiment.

This is a very great honour and one which we will cherish and, in due course, hope to exercise. As we are gathered here this evening the Regiment has well over four hundred soldiers in harm's way in Afghanistan, mostly from our first battalion, the Vikings, but also from our third, Territorial Army, battalion, the Steelbacks; and our second battalion are currently training very hard for their first deployment to Afghanistan from their new base in Cyprus later on this year.

The war is taking a toll and yesterday the bodies of Lance Corporal Scott Hardy from Chelmsford and Private James Gregg from Suffolk were repatriated to England, whilst next Tuesday is the funeral with full military honours of Captain Martin Driver, a fine young officer, who died last week in hospital after being terribly injured in Afghanistan in February. But you might not be aware that the Regiment has actually lost 18 soldiers in the past four years alone. Fourteen killed in Afghanistan, two killed in Iraq and two killed in training accidents. Many more have been injured, some very grievously. All of them were wonderful young men who will leave enduring gaps in the lives of their families, with whom our thoughts are today.

The soldiers of your county infantry regiment don't ask for much and frankly, they don't get much, and they certainly don't want your sympathy: after all, they are professional and tough young men all of whom are volunteers. But they do want your support and they do want your understanding and they do want your recognition of the difficult job that they are tasked to do on your behalf and I can think of no finer way for your borough to demonstrate this than by doing what you have done this evening on this important day. - apart from, of course, packing the streets to give them a thundering welcome when they are finally able to exercise our new-found freedom by marching through your borough "with bands playing, drums beating, colours flying and bayonets fixed".

So on behalf of the Regiment, thank you very much indeed for the great honour you have bestowed on us this evening, and if I may, Your Worship, I would also like to present you with a plaque from the Regiment to your borough and thank you very much indeed.

## **MAYOR'S ANNOUNCEMENTS**

First I would like to thank Reverend David Banting of St Peter's Church, Harold Wood, who said prayers this evening. May I say that the multi-million pound refurbishment work that has been carried out at St Peter's is a great credit to the hard work and fund raising efforts of the church and the community to which it serves.

It has been a very busy time for the Council with the setting of the Council Tax and I would like to thank everyone involved in making it such a smooth process.

This month has proved an eventful one. The Civic Service at St Edward the Confessor Church in the Market Place was attended by many mayors from other local authorities in London, Essex and Kent. I would like to thank them and the Members who came along and gave their support on this occasion.

It was also memorable to be able to welcome to the borough, two days later, the Archbishop of Canterbury, Dr Rowan Williams, to celebrate the 600<sup>th</sup> anniversary of the church.

Present at the Civic Service were cadets from the Air Training Corps and Police Cadets who paraded and formed a guard of honour. Their smartness and conduct was a real credit to the borough and the young people they represent. We can be really proud of them. I would like to take this opportunity to present them with a Civic Shield to mark their achievement.

I mentioned briefly at the last Council Meeting that I was hosting a visit by the Mayor of Hesdin, Jean Marie Roussel and his wife Francine, to mark the 10th anniversary of twinning between our towns.

Our visitors were given a special preview of the Havering Museum before it opened. The lottery funded museum, which has now officially opened, looks set to become a heritage hub for the borough. It is a testament to the determination and dedication of everyone involved in its creation, a venture which started many years ago.

As you are probably aware the refurbishment of Central Library in Romford is nearing completion. I recently had the opportunity to tour the building and the renovation work. I am sure this will be the jewel in the crown of the borough's increasingly impressive library service.

I also attended the Annual Awards for Carers of Looked After Children and met some of the many good hearted and caring people who dedicate their lives to the well being of the children in care. I would like to take this opportunity to record our thanks to this very fine service of the local community.

I was also impressed with the work of the Havering Youth Zone which celebrated its 10<sup>th</sup> birthday. Thousands of the borough's young people use the information and advice shop, which is funded by the Council.

The Council's Human Resources team also has something to celebrate after being shortlisted in the category of Talent Management for the Public Sector People Managers' Association Awards. My congratulations go to the team.

I would now like to say well done to Havering's Community Safety team for its very successful conference attended by more than 250 organisations. This was held to share information about the work that earned Havering the Beacon award in the after dark category.

Now, as you are no doubt aware, Air Commodore Brian Batt, Havering's Deputy Lieutenant is retiring in July, having served Havering well as the Queen's ambassador and an outstanding ambassador for the Royal Air Force. Colonel Markham Bryant, Deputy Lieutenant, will take over from Brian in July. [The Mayor invited the Leader of the Council (Councillor Michael White) to pay a tribute to Air Commodore Batt – see Appendix 3 to these minutes]

And finally I would like to thank those councillors who will not be returning after the local elections for all their work on behalf of our residents.

**Appendix 3  
(Minutes 79 and 80)**

**LEADER OF THE COUNCIL'S ANNOUNCEMENTS**

1. Tribute to Air Commodore Brian Batt, DL (minute 79)

I would like to pay a special tribute to Air Commodore Brian Batt this evening: Havering's Deputy Lieutenant who will be retiring from that office in July.

Brian has devoted his entire life to service of his country; service to us and to this community that has continued since his retirement from the Royal Air Force. He is a model of public service through his dedication to the Royal Air Force, the Air Training Corps and his duties as a Deputy Lieutenant and in his commitment to the communities of the London Borough of Havering.

From the early 1950's, Brian served in the RAF in various roles, including being a front line station commander and serving as air attaché in two South American countries. His service record speaks volumes for his commitment to the United Kingdom with his subsequent voluntary service speaks volumes for his commitment, not only to Britain, but also to Havering and its communities. Since retiring from the RAF in 1991 Brian has continued to serve his country well beyond the call of duty. This is, of course, not an ordinary retirement, as he has worked and continues to work in various guises: we all saw the Cadets this evening, so smartly turned out, and Brian works with veteran organisations and many others.

Mr Mayor, I know everyone would join me in a vote of thanks for Brian, for his contribution to this borough and we would like to wish him best in his forthcoming retirement.

2. Review of Council achievements (minute 80)

As this will be the last time that we will come together as a Council before the elections in May, I would like to start this evening by echoing your sentiments Mr Mayor. As Leader of Havering Council I would like to take this opportunity to thank colleagues from across the Chamber for the hard work and commitment to Havering they have put in, and we have put in, over the past four years.

Our political viewpoints may divide us but we all share one common privilege. The privilege of representing our residents of our wards. I know that every member has taken that responsibility very seriously. Two years ago, Mr Mayor, I presented this Administration's living ambition vision for Havering. A programme of investment and innovation to provide the people of Havering with the highest possible quality of life. It both encompasses and develops our stated objectives for Havering. Objectives that we have delivered, from new libraries to better parks, from new and better pavements, to the cuts in this year's Council Tax.

I have to thank all councillors for their commitments, but Mr Mayor, I would like to reserve special thanks for you, and to my colleagues on this side of the Chamber in particular. Those colleagues who have been a part of the Cabinet have delivered, I believe, real and lasting improvements in Havering. Working with determination and a professional team of officers, this Administration has delivered on its promises. It has guided the Council through difficult years of recession and delivered, I believe, better and more affordable

services to the borough's tax payers. This year has seen the culmination of many of our projects, whilst others will of course continue to be delivered, and deliver those improvements across the borough for years to come.

Mr Mayor, our goal for value underpins all of our work. Over the last year Councillor Eric Munday and before him, you Mr Mayor, Councillor Roger Ramsey have worked tirelessly with Directors of Finance to deliver the savings and efficiencies that we need to keep pushing down on the burden of Council Tax for our residents of Havering.

I will be the first to acknowledge that Council Tax in Havering is higher than I would like it to be. I think that we all agree in this Chamber, Mr Mayor, that Havering gets a raw deal from the Government and from the funding system. The funding system should, I believe reflect the unique challenges that we face as a borough. With that background, we have been working flat out over the past four years to firstly sustain sustainable Council Tax and this year, to reduce it. We have gradually, sensibly and consistently reduced the cost of our services whilst at the same time improving the quality of those services to the public and their satisfaction with them. This year we have managed, not only to put the brakes on fifteen years of growth in the Council Tax, but actually to reverse it, delivering a very small symbolic cut that underlines our determination to get value for money. This cut would not have been possible without the hard work of our Members and officers and so it is this that we have achieved, and achieved much more.

The efficiency savings now total £26m since 2006, yet the challenges from the recession and the ambition of this Administration mean that we need to continually work smarter to deliver more for less. We may have kept spending on a tight leash but we still have to manage our investment in our improvement and the quality of life to our residents.

Mr Mayor, our goal for towns and communities is about improving places and lives across the borough. We have seen major regeneration projects launched where tens of millions of pounds have been delivered and been invested in improving the quality of life for the people who live in Havering. For instance, in Harold Hill there will be a new library, a new youth centre, improvements to their homes, improvements to Central Park, new community facilities, improvements on pavements and a smarter shopping centre as well as a state of the art, yes, a state of the art learning village providing a full range of education.

That's not all; in Rainham the improvements are also underway. Enhancing the historical village, creating new homes bringing new employment opportunities around CEME and opening up the Thames Riverside and our rich natural heritage which is, of course, Rainham Marshes.

And we have done a lot more, Mr Mayor, we have preserved and enhanced Hornchurch. Its role as a cultural centre for Havering, supporting the Queen's Theatre and investing in the High Street. In Romford, we have seen the transformation of the Market, with new apartments, shops, health centre as well as a fantastic new museum.

We have also seen the launch and the delivery of our key strategic projects. These have included a comprehensive library modernisation programme. Community halls refurbishment and an award winning improvement in our parks open spaces. They all contribute to our community making our community stronger and our towns a better place in which to live. We have also delivered more, a lot more, for instance our festivals....

Mr Mayor, twelve and half thousand, nearly thirteen thousand enjoyed Romfest this year for our local residents. They not only enjoyed Romfest: forty thousand of them enjoyed the Havering Show; from Harold Hill festivals to the Christmas tree lights switch on and to

the St George's Day celebrations. All these put on for our residents all of them free of charge to our residents.

We also acknowledge, of course, and continue to acknowledge, our armed services as proved this evening. From our new relationship with HMS Raider, through to our Armed Forces' Day Parade and tonight with the award of the Freedom of the Borough to the Royal Anglian Regiment.

Our parks and open spaces now have six "green flag" awards, making them among the best parks in London. We have built the greenest public building in London, Elm Park Library. Today I opened the new Depot, what a fantastic building that is as well.

We have responded to the recession and its impact on Havering with a co-ordinated, comprehensive support of our local residents and local businesses from the Havering card, with over six hundred businesses signed up, to the recruitment of apprentices right here in our Town Hall. We have secured millions of pounds in Decent Homes funding for new bathrooms, for kitchens, for windows, for Council tenants: and this is despite the backtracking of the Government on its original promises to the people of Havering! And yes, Mr Mayor, we have delivered hundreds of affordable homes, allowing young local residents to take their very first steps on the housing ladders to put a roof over their heads and putting their roots down here in Havering.

I must thank Mr Mayor, Councillors Steven Kelly, Michael Armstrong and Andrew Curtin for driving us forward towards our goals in relation to towns and communities.

Mr Mayor, our goal for learning makes it clear that we want the highest possible standards of learning for our young people and to provide opportunities for our residents from all ages so that we can have continuous learning throughout their lives. Under the direction of Councillors Starns and Rochford, our schools and our young people have truly prospered. I'm sure members across the Chamber will join me in congratulating those students for year after year of improved exam results at both GCSE and A level.

We have also taken huge strides forward to improving our school buildings: our primary modernisation programme is now delivering new schools for our young people and we have secured tens of millions of pounds' worth of investment to rebuilding and improving our secondary schools.

Our goal for the environment Mr Mayor, is crucial to our residents – they tell us this time and time again. They want clean, safe streets and that is what we are delivering.

Councillor Tebbutt has overseen a huge ongoing investment in a better road and pavement programme, providing 51 road improvement schemes and over 100 pavement improvement schemes during the past two years alone. We have spent tens of millions of pounds on our StreetCare since 2006, something which I know the Council will agree with me, we need to continue to do. We have almost completed, Mr Mayor as I said earlier, the relocation of our Highways and Transport Departments back into Havering making our fleet more responsive to the needs of our local residents and we have supported residents in the doubling of their recycling rate. Mr Mayor, this year we are going to achieve 26% of our recycling across the borough.

Councillor Peter Gardiner has been working on community safety and with our community safety partnership to make our streets a safer and more secure. We know that crime rate is low in Havering and our work in Romford has been recognised with the Beacon Award, but we also understand that any crime is too much crime – like our work to clean up the environment, our work to make our communities safer will continue.

Mr Mayor, our goal for individuals is about valuing people, particularly about providing fair and appropriate care to those people in most need of our support. This year our Adult Care Services Department was recognised as one of the fastest improving in the country. Councillor Steven Kelly, working with officers deserves our thanks for all of that achievement. Older and vulnerable residents in Havering are being helped to fulfil a more rewarding life through this innovation of care. We have moved away from institutional forms of care and we now focus on helping older disabled residents to regain their independence and live much longer in their own homes.

Mr Mayor, vulnerable children too deserve our, with further investment this year. We all have read and heard the horror stories about cases from around the country. We hear about the cases of neglect and abuse of children. We must remain ever vigilant to protect the children of this borough from those who would do them harm.

Our Living Ambition therefore, Mr Mayor, is just that. It's a vision that evolves and grows, it can't be filed away on a shelf, it has a life of its own, it has a future, our Living Ambition must adapt to the changes and challenges ahead.

I have given a flavour of this Administration's achievements over the past four years, but the work of local government is never done. Next year there will be new challenges for this Council to face: we will have a new Government, elected with a new manifesto and it will face huge challenges of re-securing our public finances.

We all know that public spending will be much tighter and we also know that local government will have to play its part. In Havering, that means finding new ways of delivering the best possible services whilst reducing our costs still further. It means putting value for money at the heart of everything that we do. This will mean forging new partnerships with other public bodies and public services, with the voluntary sector and with our residents to improve the quality of life here in Havering. That is the challenge for the next Administration of this Council.

As we wait for our residents to make their choice in May, I would like to say how proud I am of this Administration and the difference it has made to the quality of life of people here in Havering. I would like to say thank you to my colleagues and to you, Mr Mayor, I would like to say thank you for your contribution to Havering in particular over the past year. I believe that Havering is a far better place to live now than it was four years ago. Most of the credit of that must go to our residents and our businesses and our partners for the tremendous community spirit that marks Havering out as a special place in which to live but I also believe that the Council has played its part in improving the fabric of our borough and by providing a solid base in which it our community can thrive.

## **NEW EXECUTIVE ARRANGEMENTS: REVISIONS TO THE COUNCIL'S CONSTITUTION**

*Note: Certain areas of text in this appendix are high-lighted and in italic font. These areas of text are subject to adjustment, depending on changes made in other parts of the Constitution that have yet to be reviewed and will therefore feature in future reports.*

### **Part 3: Responsibility for functions**

#### **2 Executive functions**

2.1 The Leader of the Council may by way of written notice delegate Executive functions to:

- Cabinet
- Individual Cabinet Members
- Staff
- Area Committees
- Joint Committees

And may exercise any Executive functions personally provided notice is given.

2.2 The Leader of the Council will give notice in writing, duly signed and dated, to the Proper Officer as to the exercise of Executive functions and will submit a fresh notice on each occasion that those delegations are amended.

2.3 Executive functions may not be exercised by the Leader or individual Cabinet Members until written notice in accordance with 2.2 above has been received by the Proper Officer. The Proper Officer will maintain a record of Leader delegations.

2.4 The following General functions are a list of functions which the Leader may delegate to full Cabinet. The Leader may upon given written notice add other Executive functions to this list.

#### **General functions**

##### **Policy matters**

- 1 To formulate the Council's overall policy objectives and priorities and to recommend them to Council for approval where they fall within the budget and/or policy frameworks.
- 2 To determine the Council's strategy and programme in relation to the policy and/or budget frameworks set by full Council.
- 3 To determine all substantial policy matters and strategic decisions and those minor matters which are referred by the Leader at the request of an individual Cabinet Member as being particularly contentious.



- 4 To determine the Council's policy, strategy and programme in relation to the area and in respect of all Executive matters.
- 5 To co-ordinate the statutory functions and obligations of the Council with respect to equality of opportunity and non-discrimination, including its function as an employer.
- 6 To promote strategic and Council-wide initiatives to improve the quality, efficiency and effectiveness of the Council's services to the public.

**Other matters**

- 7 To allocate and control financial and land and property resources, to determine priorities in the use of these resources, and take any other action necessary to achieve those objectives.
- 8 To have overall responsibility for acquisitions and disposal of any interest in land, buildings or the real and leasehold property of the Council and to have responsibility for land and property used for operational purposes, 'in principle', disposals of land in excess of £1,000,000 [with the Cabinet Member for Finance & Commerce having authority to agree the 'in principle' disposal of land etc., below that sum.]
- 9 To exercise control over the Council's revenue and capital budgets (including the housing revenue account).
- 10 To exercise control over all human resource matters including the number and type of staff, payroll and pensions, equalities issues, occupational health and safety and organisational development (subject to the Council's policies and procedures) except for staff appointments and dismissals.
- 11 To oversee and take responsibility for effective joint work with partner agencies.
- 12 To approve funding for voluntary organisations.
- 13 To affiliate with and appoint representatives to outside bodies, where these are not specifically identified elsewhere in this constitution.
- 14 To consider whether the Council should give evidence before a parliamentary select committee, royal commission, Government committee or similar body.
- 15 To undertake those functions assigned to the Cabinet under Part 3, section 5: local choice functions.
- 16 To award all contracts above a total contract value of £10,000,000.
- 17 To approve applications for the submission of bids for grants and other financial assistance which require the provision of additional finance or match funding or are likely to lead to residual costs or implications for the Council
- 18 To be responsible for all executive matters even if not expressly set out in Part 3 of this constitution.

**Corporate functions**

**Finance**

- 19 To take decisions on all matters relating to the Council's finances including but not exclusively:
  - (a) budgetary control

- (b) establishing long and short term capital and revenue programmes for all areas of service and allocations of both capital and revenue expenditure to other services
- (c) financial planning
- (d) operational management of insurance arrangements
- (e) budget revisions
- (f) considering the annual estimates of revenue expenditure and income and the Treasury Policy Statement and make recommendations to the Council on the setting of the council tax
- (g) virements £1 million or more
- (h) virements between services over £250,000 and up to and including £999,999

**Treasury management strategy**

- 20 To consider the Council's treasury management strategy, making recommendations to full Council on its content and to subsequently monitor its effectiveness taking account of appropriate expert advice

**Resource management**

- 21 To exercise the Council's functions relating to the use of the Council's resources and human resources. Such functions include:
- (a) corporate human resources policies and procedures
  - (b) e-government and customer access
  - (c) responsibility for the Council's health and safety policies as an employer
  - (d) Council's Employment Relations framework
  - (e) overall responsibility for properties held for investment purposes
  - (f) corporate purchasing policies and procedures
  - (g) corporate communication strategies
  - (h) overall responsibility for the management and maintenance of the Council's office accommodation and corporate assets
  - (i) emergency planning and civil defence.

**Education functions**

- 22 To exercise the Council's functions in relation to education including the formulation of the Council's future policies for recommendation to Council where appropriate and their co-ordination and implementation. Such functions include, but are not limited to, the following:
- (a) proposals for schemes of the fair funding of schools, including special schools
  - (b) making awards and other allowances to students attending courses at institutions for further and higher education and exercising the discretionary powers of the Council in that connection

- (c) the provision of day care under section 18 of the Children Act within Early Years Service.

### **Quality of life functions**

#### **Environment**

- 23 To exercise the Council's functions in relation to environmental matters including the formulation of the Council's policies for referral to Council where appropriate and their co-ordination and implementation. Such functions include (but are not limited to) the following:
  - (a) town planning
  - (b) environmental health
  - (c) highway engineering
  - (d) public health
  - (e) building control
  - (f) consumer protection and licensing
  - (g) traffic management and parking control
  - (h) transport planning
  - (i) waste and energy management
  - (j) cemeteries
  - (k) managing the transport fleet.
- 24 To encourage and promote the environmentally sustainable development and regeneration of the borough and the health of the population through its planning, transport, economic planning, waste and energy management and environmental health policies and programmes.
- 25 To adopt or amend Interim Planning Guidance for the borough and to approve planning briefs and guidance for the development of sites in the borough and conservation area statements.
- 26 To respond to consultation exercises or notices of intent by external authorities where they relate to strategic issues pertaining to planning control.

#### **Housing**

- 27 To exercise the Council's functions in relation to housing and homelessness including the formulation and co-ordination of policies and their co-ordination and implementation. Such functions include, but are not limited to, the following:
  - (a) assessing housing need, demand and supply and developing appropriate strategies, including specific strategies for groups in need
  - (b) oversight and monitoring of the ALMO Homes in Havering
  - (c) managing and maintaining all land and property held for the Council's housing functions other than that land and property the management of which has been delegated to Homes in Havering.
  - (d) assessing and setting rents and other charges
  - (e) setting and varying charges for the use of garages, car parking spaces and other facilities on the Council's housing estates

- (f) making and rescinding compulsory purchase order resolutions under the relevant housing legislation
- (g) keeping under review issues affecting non-public housing tenures in accordance with the Council's housing strategy, in pursuance with the Council's duties under current legislation
- (h) taking responsibility for all matters relating to housing associations except the appointment of Members

#### **Leisure and cultural services**

28 To exercise the Council's functions in relation to leisure services, including the formulation and co-ordination of policies and their co-ordination and implementation. Such functions include (but are not limited to) the following:

- (a) library and information services
- (b) arts and museum services
- (c) providing and maintaining leisure facilities for children and young persons
- (d) providing facilities for sports
- (e) developing tourism opportunities and provision of tourism services
- (f) taking responsibility for provision and upkeep of the Council's public parks, gardens, open spaces, allotments, cemeteries and burial grounds.

29 To develop strategic policies for the provision of co-ordinated, accessible and quality leisure services that reflect the multi-ethnic, social and cultural diversity of those who live, work and study within the borough.

30 To plan the provision of leisure facilities whether provided by the Council or others.

#### **Social care and health**

31 To exercise the Council's functions in relation to social services including the formulation of the Council's policies and their co-ordination and implementation. Such functions include (but are not limited to) the following:

- (a) all matters within Schedule 1 of the Local Authority Social Services Act 1970 and, in particular, functions in relation to child protection, children in need, community care and mental health provision
- (b) all matters relating to the National Health Services, including the consideration and review of NHS policies in so far as they affect the borough and in particular to have responsibility for joint care planning and liaison with the appropriate health authorities.

#### **2.5 The following Functions may be delegated to individual Cabinet members by the Leader.**

Each individual Cabinet member, as appropriate, may be delegated one or more of the following functions, within the portfolio allocated to him or her by the Leader. If a Cabinet member is unable to act, the Leader may act on his or her behalf, or may authorise another Cabinet member to do so. Matters delegated to individual Cabinet members under this section give them individual decision making powers. Where any paragraph refers to 'in conjunction with' or 'in consultation with' the decision remains that of the individual Cabinet member.

1 To monitor the budgets and the performance of the services allocated by the Leader.

- 2 Where there are implications for policies of the Council, to agree members of staff's responses to consultation papers from:
  - the Government (including White and Green papers)
  - the London Councils, the Greater London Authority, the Local Government Association and all other bodieswhere those papers affect the services allocated.
- 3 To agree an appropriate response by members of staff to issues raised in petitions presented to the Council in respect of allocated services.
- 4 To determine priorities in conjunction with the relevant member of CMT (within the policy framework and budget).
- 5 To make suggestions for policy initiatives (within the budget and/or policy frameworks) and for amendments to the budget and/or policy framework, for agreement by the Cabinet and Council.
- 6 To recommend to the Cabinet a response to reports from the overview and scrutiny committees in respect of the allocated services.
- 7 To approve an exception to the Contracts Procedure Rules set out in Part 4 of this constitution, in accordance with Rule 26(a) of those Rules.
- 8 To award contracts, agree extensions of contract terms and awards/extensions of Consortia contracts of a value above £5,000,000 and less than £10,000,000 and contracts where external funding is guaranteed and there is no longer term financial commitment to the Council. *(Note: Pension Committee has powers to invite tenders and award contracts for investment matters within their terms of reference)*
- 9 To review customer satisfaction, results of consultation with stakeholders and the efficiency of service provision generally and to agree arrangements for continuous improvements to be made.
- 10 To consider and recommend plans in respect of the portfolio allocated.
- 11 To consider the needs of the allocated service for particular properties and to make recommendations to the Cabinet as appropriate.
- 12 To promote effective relationships and partnerships between the Council and all other bodies and agencies affecting the community.
- 13 To consider reports on the exercise of virement, within the Budget Framework Procedure Rules and/or Finance Procedure Rules set out in Part 4 of this constitution.
- 14 To consider reports on contract overspends and to report to Cabinet as necessary.
- 15 To consult any advisory bodies as directed by the Cabinet
- 16 To agree the demolition of housing stock in appropriate cases
- 17 To agree minor matters and urgent or routine policy matters
- 18 To approve supplementary planning guidance and policies.
- 19 To approve the 'in principle' decision of the Council disposing of an interest in property or land where the disposal or acquisition receipt is not considered likely to exceed £1,000,000.

- 20 To approve individual virements within a service above £250,000 up to and including £999,999.
- 21 To approve virements within services where resources are available or where they are not but the virement is below the identified threshold.
- 22 To approve all virements over £250,000 unless it is a permanent virement between services.
- 23 To approve all in year changes to both fees and charges.
- 24 To determine allocations from the contingency.
- 25 To consider and agree the setting up of any specific services earmarked reserves along with the arrangements for their use.
- 26 To authorise expenditure of the Cemeteries and Crematorium Improvement from Income Fund and the Cemeteries and Crematorium Improvement Donation Fund above the level delegated to the Head of Housing & Public Protection.
- 27 To approve all Community Safety Partnership Strategies arising under the Crime and Disorder Act or other related legislation.
- 28 The Leader may delegate other functions not expressly set out herein to individual Cabinet Members provided they are Executive functions and provided due notice of the exact terms of the delegation and the name of the Cabinet Member to exercise the delegation is given by notice in writing by the Leader to the Proper Officer as set out in paragraphs 2.2 and 2.3 above.

## **2.6 Portfolios to be assigned to individual Cabinet members**

The Leader is responsible for assigning portfolios to individual Cabinet members. Any Cabinet member, including the Leader, may hold more than one portfolio, although a Cabinet Member need not hold any portfolio. Suggested portfolios are as follows, although the Leader may determine the nature of any portfolio as he or she considers appropriate:

- IT
- Procurement
- Project Management
- Asset Management
- Development Control
- Building Control
- Exchequer Services
- Financial Services
- Human Resources
- Commissioning
- Adult Social Care
- Children & Young People's Services
- Learning & Achievement
- Schools for the Future
- Community Engagement
- Policy and Partnerships

- Communications
- Culture & Leisure
- Customer Services
- Housing
- Public Protection
- Regeneration
- Strategic Planning
- Streetcare
- Legal Services
- Democratic Services
- Community Safety
- Health & Safety
- Electoral Registration

The names of individual Cabinet Members are listed on the Council's website and on a list which is available at the Town Hall reception.

### **Joint working delegations**

#### **2.7 Functions exercised by joint arrangements with another Council or other Councils**

As stated in Article 11.02(e), the Council has established the following joint arrangements under section 101(5) of the Local Government Act 1972:

- (a) The Thames Chase Joint Committee
- (b) London Councils

The functions that the Council has delegated to each of these joint arrangements are set out below:

##### **(a) The Thames Chase Joint Committee**

This committee comprises three members from each of the following local authorities: Brentwood Borough Council, Essex County Council, London Borough of Barking & Dagenham, London Borough of Havering and Thurrock Borough Council.

Its function is to oversee the development of a community forest.

##### **(b) London Councils**

London Councils comprises all 33 London local authorities.

**Its functions are set out in full in Schedule 2 of the *Association of London Government Agreement* dated 13 December 2001 (as amended). In summary, the Council committee is authorised to deal with the following matters:**

- consulting on common interests of London local authorities, discussing local government matters and providing forums for such discussion
- representing the interests of London local authorities to other bodies, including national and local government, Parliament and the European Union

- formulating policies for the development of democratic and effectively managed local government
- appointing representatives or staff to serve on any other body
- representing the interests of London local authorities as employers
- disseminating relevant information to London local authorities
- providing information to the public and other bodies on London Councils policies and local government issues relevant to London
- acting as the regional body of the Local Government Association.

London Councils have the following committees which carry out functions on behalf of the Council:

### **Transport and Environment Committee**

This committee comprises one member from each of the 33 London local authorities and a member from Transport for London (which is part of the Greater London Authority).

**Its functions are set out in full in Schedule 2 of the *Association of London Government Transport and Environment Committee Agreement* dated 13 December 2001 (as amended). In summary, the committee is authorised to deal with the following matters:**

- undertaking various matters related to parking adjudicators, including making appointments, providing accommodation and administrative staff, determining the places at which adjudicators will sit and making an annual report on adjudicators' discharge of their functions
- determining penalty charge levels and fees and discounts for early payment
- publishing and updating the Code of Practice for Parking in London
- co-ordinating and maintaining vehicle removal and clamping operations
- establishing and maintaining a communications and control service to deal with vehicle removals
- overseeing the London lorry ban
- overseeing the London taxicard scheme.

### **Housing Forum**

- i. This committee comprises one representative from each of the following London local authorities:

Barnet, Brent, Camden, Croydon, Ealing, Enfield, Greenwich, Hackney, Hammersmith and Fulham, Haringey, Havering, Hillingdon, Hounslow, Islington, Lambeth, Lewisham, Merton, Newham, Redbridge, Southwark, Tower Hamlets and Waltham Forest.

**Its functions are set out in full in Schedule 3 of the *Association of London Government Agreement* dated 13 December 2001 (as amended). In summary, the committee is authorised to deal with the following matters:**



- considering housing functions of local authorities generally and housing activities of other housing agencies where relevant
- providing, organising and co-ordinating housing publicity and information on issues relevant to member authorities
- conducting research, evaluation and analysis on housing matters including housing policy and service delivery
- conducting investigations into and collecting information about housing, and making such information available
- assisting member boroughs with publicity on housing functions
- providing professional, administrative and technical assistance to member boroughs and other bodies in the preparation and implementation of specific projects.

#### **The Grants Committee**

This committee comprises one member from each of the 33 London local authorities.

Its functions are:

- To make grants to voluntary organisation benefiting more than one London borough.
- To consider and review the needs of London in relation to the grants scheme.
- To recommend an annual budget to the London Councils which, once approved, must be agreed to by a two-thirds majority of the London local authorities before it can be binding on all London local authorities.

**Part 3: Responsibility for functions**

**3 Functions delegated to staff**

- 3.1 General provisions and limitations
- 3.2 Powers of Chief Executive
- 3.3 Powers of members of the Corporate Management Team
- 3.4 Powers of Assistant Directors and Heads of Service

**3.1 GENERAL PROVISIONS AND LIMITATIONS**

- 1 Staff shall exercise powers under this scheme in compliance with:
  - (i) the rules of procedure set out in Part 4 of this constitution
  - (ii) corporate policies and strategies
  - (iii) any additional conditions imposed either by the Council or by statute or any statutory code of practice.
- 2 The exercise by staff of the powers delegated under this constitution involving the incurring of any expenditure is subject to there being sufficient approved provision within the budget to cover that expenditure.
- 3 A staff member exercising a decision-making power delegated under this constitution may consult with the Leader of the Council, with the relevant individual Cabinet member or with the Chairman of the relevant committee, as appropriate, when the staff member considers such consultation necessary or appropriate in light of the decision required.
- 4 A staff member may refer any matter within a delegation or authorisation to them to the Leader of the Council, the Cabinet, the relevant individual Cabinet member or to an appropriate Council committee or sub-committee provided that the matter is within the delegated powers and duties of whom or to which it is referred.
- 5 A member of the Corporate Management Team (CMT), Assistant Directors or a Head of Service may further delegate any of the powers delegated to them under this constitution, in so far as is legally permissible. Any such delegation must be:
  - (i) recorded in writing; and
  - (ii) lodged with the Monitoring Officer who will keep a public record of all such delegations.

Any such delegation will become valid only when these conditions are complied with.
- 6 From time to time the Chief Executive may assign Assistant Directors and Heads of Service to the other members of CMT. Each CMT member shall have all the powers and duties delegated to the Assistant Directors and Heads of Service assigned to them, so far as legally permissible.
- 7 The Chief Executive or any other CMT member is authorised to discharge the relevant functions of the Council where:
  - (i) the matter is of minor importance whether urgent or not, and/or

- (ii) as a matter of urgency in other cases, it is necessary that action should be taken before the date of a meeting of a body in whom the power of decision rests.

8 In the following delegations “the relevant Cabinet Member” means the Leader of the Council or another Cabinet Member to whom the Leader has assigned a portfolio or otherwise delegated authority to act in relation to that matter.

### **3.2 POWERS OF CHIEF EXECUTIVE**

- 1 To exercise authority over all other CMT members, Assistant Directors and Heads of Service including allocating CMT portfolios and from time to time assigning Assistant Directors and Heads of Service to particular CMT members.
- 2 To exercise the powers delegated to any member of staff so far as the law allows.
- 3 To carry out the functions of the Council for civil aid and emergency planning and to take any action, including incurring expenditure, in connection with an emergency or a disaster in the borough.
- 4 To undertake those functions assigned under:
  - (i) Part 3, section 4 of this constitution: functions not to be the responsibility of an authority’s Executive
  - (ii) Part 3, section 5 of this constitution: local choice functions.
  - (iii) Part 3, section 6, of this constitution: Proper Officer functions
- 5 To authorise activities under the Regulation of Investigatory Powers Act 2000
- 6 To exercise the following Local Authority Gold resolution approved on 19 April 2006:
  - (i) This resolution is made in accordance with section 138 Local Government Act 1972, section 101 Local Government Act 1972, section 19 Local Government Act 2000, Regulations 7 and 10 Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and all other enabling powers. The resolution has regard to “Emergency Response and Recovery” the non-statutory Guidance issued pursuant to the Civil Contingencies Act 2004.
  - (ii) As from the date of this resolution the Council’s functions under section 138(1) Local Government Act 1972 (Powers of principal councils with respect to emergencies or disasters) are delegated to the Council which has appointed the Head of Paid Service as defined in paragraph 3 below in the circumstances set out below.
  - (iii) The Head of Paid Service is the person appointed by one of the Councils under section 4 Local Government and Housing Act 1989 who, following the convening of the Strategic Co-ordinating Group (“Gold Command”) to respond to an incident requiring a “Level 2” response (as defined in paragraph 4 below) has agreed to discharge the functions under section 138(1) Local Government Act 1972 (“the functions”) on behalf of the Councils.
  - (iv) An emergency requiring a Level 2 response is a single site or wide-area disruptive challenge which requires a co-ordinated response by relevant agencies.

- (v) The functions hereby delegated shall not be exercised until resolutions delegating the functions have been made by all the Councils.
  - (vi) The powers hereby delegated to the Council which has appointed the Head of Paid Service shall not include any power to incur expenditure or to make grants or loans to any person unless either:
    - a. the Head of Paid Service has received confirmation from the Minister that expenditure reasonably incurred by the Head of Paid Service in taking immediate action to safeguard life or property or to prevent suffering or severe inconvenience will be reimbursed by HM Government; or
    - b. the Head of Paid Service has received confirmation on behalf of the Council(s) in whose area(s) the incident has occurred that expenditure reasonably incurred by the Head of Paid Service in taking immediate action to safeguard life or property; to prevent suffering or severe inconvenience and to promote community cohesion and a return to normality, will be met by the Council (or the Councils in proportions to be agreed by them).
  - (vii) In discharging the functions, the Head of Paid Service shall, insofar as reasonably practicable, consult with and inform any Council whose area is affected by the emergency regarding any action proposed to be taken in that Council's area
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.

**3.3 POWERS OF MEMBERS OF THE CORPORATE MANAGEMENT TEAM (other than the Chief Executive: see Part 7 of this constitution, Management Structure)**

Members of the Corporate Management Team (CMT) have delegated authority to act as follows within the assigned service service/portfolio of responsibilities, subject to the general provisions and limitations set out in section 3.1 above.

**3.3.1 General powers**

- 1 To take any steps necessary for proper management and administration of allocated portfolios.
- 2 To exercise all the powers delegated to them personally, those powers delegated to relevant Assistant Directors and Heads of Service and other staff members where circumstances require and so far as legally permissible. Exercise of such powers should be recorded where appropriate. Where possible, a CMT member should give notice to a relevant staff member that he or she intends to exercise a specified power that is delegated to that staff member.
- 3 To make arrangements to secure continuous improvement in the way the Council's functions are exercised having regard to a combination of economy, efficiency and effectiveness etc as required by external regulatory agencies.
- 4 To monitor the progress within their Directorates of national and other performance indicators against agreed targets.
- 5 To restructure within existing service budgets and/or if budgetary provision is already made in the budget.
- 6 To authorise activities under the Regulation of Investigatory Powers Act 2000

- 7 Each member of CMT shall ensure that the rules of procedure set out in Part 4 of this constitution are observed throughout their service.

### **3.3.2 Human resource powers**

To exercise overall responsibility within their Group Directorate for human resource matters.

### **3.3.3 Financial responsibilities**

- 1 To oversee the delivery of programmes agreed by Council and Cabinet.
- 2 In consultation with the relevant Cabinet Member to apply for, accept and manage external funding up to a limit of £500,000 per grant in support of any function within their Directorate provided that any financial contributions by the Council are made from within existing budgets.
- 3 To authorise the making of ex gratia payments up to the limit specified from time to time by the Head of Financial Services to individuals where the Local Government Ombudsman has recommended that such payment be made in local settlement of a complaint.

### **3.3.4 Contract powers**

- 1 To approve commencement of a tendering process for all contracts above a total contract value of £156,000.
- 2 To award all contracts with a total contract value of between £156,000 and £5,000,000.
- 3 To sign contracts on behalf of the Council which do not require sealing under Part 2, Article 10, paragraph 10.5 of this constitution.

## **3.4 POWERS OF ASSISTANT DIRECTORS AND HEADS OF SERVICE**

Assistant Directors and Heads of Service all have delegated authority to act as follows within the assigned service, subject to the general provisions and limitations set out in section 3.1 above.

### **3.4.1 General powers**

- 1 To take any steps necessary for proper management and administration for their allocated portfolios.
- 2 To exercise all the powers delegated to relevant staff members where circumstances require, so far as legally permissible. Exercise of such powers should be recorded. Where possible, an Assistant Director or Head of Service should give notice to a relevant staff member that he or she intends to exercise a specified power that is delegated to that staff member.
- 3 To manage buildings and facilities under their control including letting, hiring or otherwise permitting the use of such premises and property for occasional purposes and to dispose of obsolete, worn out and surplus stores, equipment and vehicles.
- 4 To be responsible and accountable for all health and safety matters.
- 5 To monitor the progress within their Service of national and other performance indicators against agreed targets.
- 6 To apply for statutory consent, eg, planning permission.

- 7 To undertake consultation with the Council's customers and relevant stakeholders, in accordance with the Council's consultation procedures, in order to establish:**
- (i) levels of customer satisfaction with the Council's services**
  - (ii) the public and stakeholders' responses to consultation documents, strategies and surveys.**

**3.4.2 Human Resource powers**

- 1 To exercise responsibility for all human resource matters within their service, providing that the following requirements are met:**
- (i) all decisions must be taken in accordance with human resource policies
  - (ii) all appointments to permanent posts must be within the approved establishment and be appointments to an identifiable vacant post and all appointments to temporary posts must be within existing service budgetary provision
  - (iii) the creation of a new post outside of the Council's organisational change process requires the agreement in writing or by e-mail of
    - (a) the relevant Cabinet Member for a post up to PO7 or
    - (b) the relevant Cabinet Member and the Leader of the Council for a post above PO7such agreement to be given or withheld within seven working days of being sought
  - (iv) suspension and dismissal of employees must be undertaken in accordance with the Council's procedures
  - (v) a notice of compulsory redundancy to individual employees where all options for redeployment have been exhausted must be issued in accordance with the Council's procedures
  - (vi) payment of allowances in accordance with the "Croydon Scheme" to staff injured in the course of their duties must be made in consultation with Head of Human Resources
  - (vii) to approve applications for leave for trade union conferences and training courses in consultation with the Head of Human Resources
  - (viii) to approve payment of claims by employees for loss or damage to property and clothes up to the limit specified from time to time by the Head of Financial Services; otherwise payment must be made in consultation with the Group Director Finance & Commerce
  - (ix) to grant permission for employees to undertake outside work or duties whether paid or unpaid subject to there being no conflict of interest
  - (x) to approve honoraria payments in consultation with the service personnel manager

**3.4.3 Financial responsibilities**

- 1 To implement any approved financial programme, including the authorisation of day-to-day expenditure and procurement of goods and services.**

- 2 To implement approved fees, charges, rents etc and to ensure that proper arrangements exist for their collection.
- 4 In consultation with the relevant Cabinet Member , to apply for, accept and manage external funding up to a limit of £250,000 per grant in support of any function within their service provided that any financial contributions by the Council are made from within existing budgets.

**3.4.4 Contract powers**

- 1 To approve commencement of a tendering process for, and to award, all contracts below a total contract value of £156,000.
- 2 To sign contracts on behalf of the Council which do not require sealing under Part 2, Article 10, paragraph 10.5 of this constitution.

**Part 3: Responsibility for functions****5 Local choice functions**

The following functions are specified as local choice functions in schedule 2 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the regulations).

<b>Function</b>	<b>Decision-making body</b>
1. Any function under a local Act other than a function specified or referred to in regulation 2 or schedule 1 of the regulations	Cabinet
2. Determining an appeal against any decision made by or on behalf of the authority	Adjudication and Review Committee
3. The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools	Adjudication and Review Committee
4. The making of arrangements pursuant to Sections 94(1), (1A) and (4) of the School Standards and Framework Act 1998 (admissions appeals)	Adjudication and Review Committee
5. The making of arrangements pursuant to Section 95(2) of the School Standards and Framework Act 1998 (Children to whom Section 87 applies): appeals by governing bodies	Adjudication and Review Committee
6. Conducting best value reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999	Cabinet
7. Any function relating to contaminated land	Head of Housing & Public Protection
8. Discharging any function relating to the control of pollution or the management of air quality	Head of Housing & Public Protection
9. Serving an abatement notice in respect of a statutory nuisance	Head of Housing & Public Protection
10. Passing a resolution that schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	Regulatory Services Committee
11. Inspecting the authority's area to detect any statutory nuisance	Head of Housing & Public Protection
12. Investigating any complaint as to the existence of a statutory nuisance	Head of Housing & Public Protection
13. Obtaining information under section 330 of the Town and Country Planning Act 1990 about interests in land	<ul style="list-style-type: none"> <li>• Head of Housing &amp; Public Protection</li> <li>• Head of Regeneration and Strategic Planning</li> <li>• Head of Development and Building Control</li> </ul>



Function	Decision-making body
	<ul style="list-style-type: none"> <li>• Assistant Chief Executive Legal &amp; Democratic Services</li> <li>• Head of Streetcare</li> </ul>
14. Obtaining particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976	<ul style="list-style-type: none"> <li>• Head of Development and Building Control</li> <li>• Assistant Chief Executive Legal &amp; Democratic Services</li> <li>• Head of Regeneration and Strategic Planning</li> </ul>
15. Making agreements for the execution of highways works	<ul style="list-style-type: none"> <li>• Head of Streetcare</li> <li>• Assistant Chief Executive Legal &amp; Democratic Services</li> </ul>
<p>16. Appointing any individual:</p> <p>(a) to any office other than an office in which he is employed by the authority</p> <p>(b) to any body other than:</p> <ul style="list-style-type: none"> <li>• the authority</li> <li>• a joint committee of two or more authorities, or</li> </ul> <p>(c) to any committee or sub-committee of such a body</p> <p>And the revocation of such appointment</p>	Governance Committee
17. Making agreements with other local authorities for the placing of staff at the disposal of those other authorities	Chief Executive or relevant Group Director

**Part 3: Responsibility for functions**

**6 Proper officer functions**

The following tables show the Proper Officers appointed for the functions specified.

The deputy proper officer is shown after the proper officer. The deputy proper officer is appointed to act where the proper officer is absent and/or unable to act. Where neither the designated proper officer nor the designated deputy proper officer is able to act, or if there is no specified designated proper officer, the Chief Executive is appointed to act or may designate an appropriate person to act as proper officer or deputy proper officer. If the Chief Executive is unable to act, this power shall be delegated to the Assistant Chief Executive Legal & Democratic Services or, if the Assistant Chief Executive Legal & Democratic Services is unavailable, to the next most senior lawyer employed by the Council available to act.

**Public Health Act 1936**

84	Officer authorised to issue a certificate requiring an article to be cleansed purified, disinfected or destroyed.	The Council hereby appoints any person for the time being employed by the North East London Health Protection Unit as Consultant in Communicable diseases (CCDC) or by the North East London Primary Care Trusts (PCTs) as Consultant in Public Health Medicine (CPHM) for the authority's area as proper officer.  Public Protection Services Manager.
85	Officer authorised to issue report to take measures to cleanse verminous clothing.	As above  Public Protection Services Manager.

**National Assistance Act 1948**

47	Officer authorised to issue a certificate to enable a local authority to apply for a court order to remove a person from insanitary living conditions	The Council hereby appoints any person for the time being employed by the North East London Health Protection Unit as Consultant in Communicable diseases (CCDC) or by the North East London Primary Care Trusts (PCTs) as Co Public Health Medicine (CPH authority's area as proper off

**National Assistance (Amendment Act) 1951**

48	Amends section 47 of the National Assistance Act 1948 (as above) to enable a local authority to apply for a court order to remove a person from insanitary living conditions without giving notice of intention to apply for the order.	As above
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## Public Health Act 1961

37	Officer authorised who may cause verminous articles to be disinfected or destroyed.	The Council hereby appoints any person for the time being employed by the North East London Health Protection Unit as Consultant in Communicable diseases (CCDC) or by the North East London Primary Care Trusts (PCTs) as Consultant in Public Health Medicine (CPHM) for the authority's area as proper officer.  Public Protection Services Manager.
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## Local Government Act 1972

83(1)-(4)	Officer to whom persons elected to any of the following offices of the Council shall make declaration of acceptance of office: mayor, deputy mayor, councillor	Chief Executive (Assistant Chief Executive Legal & Democratic Services)
84	Officer to whom a person elected to any office under the Council may give written notice of resignation	Chief Executive (Assistant Chief Executive Legal & Democratic Services)
88(1)	Receiving notice of casual vacancy in office of councillor	Chief Executive (Assistant Chief Executive Legal & Democratic Services)
88(2)	Officer who may convene a meeting of the Council for the election to fill a vacancy	Chief Executive (Any Group Director)
89(1)(b)	Officer who may receive notice in writing of a casual vacancy in the office of councillor from two local government electors	Chief Executive  Assistant Chief Executive Legal & Democratic Services
100B(2)	Officer who may think fit to exclude from reports open to inspection parts relating to items during which the meeting is likely not to be open to the	Democratic Services Manager  Committee Administration

	public	Manager
100B(7)(c)	Officer who may think fit to supply to the press additional material supplied to members of the Council in connection with items of business to be discussed	Assistant Chief Executive Legal & Democratic Services Head of Legal Services
100C(2)	Officer responsible for preparing a written summary of those parts of the committee proceedings which disclose exempt information	Democratic Services Manager Committee Administration Manager
100D(1)(a) and	Officer responsible for identifying background papers and compiling list of such documents	Democratic Services Manager Committee Administration Manager
100F(2)	Officer making decision as to documents disclosing exempt information which are not required to be open to inspection by council members	Chief Executive Assistant Chief Executive Legal & Democratic Services
115	Officer to whom all officers shall pay monies received by them and due to the local authority	Group Director Finance and Commerce Head of Financial Services
146(1)	Officer authorised to produce a statutory declaration specifying securities and verifying name change of authority	Group Director Finance and Commerce Head of Financial Services
210(6) and (7)	Officer in whom power in respect of a charity will vest as at 1 April 1974	Assistant Chief Executive Legal & Democratic Services Head of Legal Services
225(1)	Officer with whom documents may be deposited pursuant to law to make notes or endorsements and give acknowledgements or receipts	Assistant Chief Executive Legal & Democratic Services Head of Legal Services
229(4) and (5)	Officer who shall certify that a document is a photographic copy of a document in the custody of the Council	Assistant Chief Executive Legal & Democratic Services Head of Legal Services
234(1)	Officer who may authenticate documents	Assistant Chief Executive Legal & Democratic Services Head of Legal Services
236(9)	Officer responsible for sending certified copies of bylaws to appropriate bodies	Assistant Chief Executive Legal & Democratic Services Head of Legal Services
238	Officer who shall certify copies of bylaws as true copies	Assistant Chief Executive Legal & Democratic Services Head of Legal Services

248(2)	Officer who shall keep the roll of freemen of the borough	Chief Executive (Assistant Chief Executive Legal & Democratic Services)
Para 4(2)(b) of Schedule 12	Officer who may sign a summons to council meetings	Democratic Service Manager Committee Administration Manager
Para 4(3) of Schedule 12	Officer who may receive notice from a member of address to which a summons to a meeting is to be sent	Democratic Service Manager Committee Administration Manager
Para 25(7) of Schedule 14	Officer who may certify copies of resolutions passed under the Public Health Acts 1875 to 1925 as true copies for production in legal proceedings	Assistant Chief Executive Legal & Democratic Services Head of Legal Services

**Local Government Act 1974**

30(5)	Officer responsible for arranging publication in newspapers of notice of Local Commissioner's report on investigation of a complaint	Democratic Services Manager Committee Administration Manager
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**Local Government (Miscellaneous Provisions) Act 1976**

41	Officer responsible for certifying copies of resolutions, minutes and other documents	Democratic Services Manager Committee Administration Manager
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**Local Government (Miscellaneous Provisions) Act 1982**

Para 13(6) of schedule 3	Certification, for legal proceedings, of copy of any regulations made by the appropriate authority	Assistant Chief Executive Legal & Democratic Services Head of Legal Services
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**Representation of the People Act 1983**

8	Officer acting as registration officer for registration of parliamentary and local government electors	Chief Executive (Assistant Chief Executive Legal & Democratic Services)
35	Officer acting as returning officer for council	Chief Executive

	elections	(Assistant Chief Executive Legal & Democratic Services)
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**Building Act 1984**

78(8)	Officer responsible for taking immediate action in relation to dangerous buildings	Building Control Manager
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## Public Health (Control of Diseases) Act 1984

11	Officer to be informed of a notifiable disease or food poisoning	The Council hereby appoints any person for the time being employed by the North East London Health Protection Unit as Consultant in Communicable diseases (CCDC) or by the North East London Primary Care Trusts (PCTs) as Consultant in Public Health Medicine (CPHM) for the authority's area as proper officer.
18	Officer responsible for furnishing information with regard to notifiable diseases or food poisoning	As above
20	Officer empowered to prevent someone working in order to stop spread of disease	As above
21	Officer empowered to exclude a child from school if the child is liable to convey a notifiable disease	As above
22	Officer responsible for maintaining a list of day pupils at school having a case of notifiable diseases	As above
24	Officer responsible for ordering that infected articles not be sent to any laundry	As above
29	Officer responsible for letting of house or room after recent case concerning a notifiable disease	As above
31	Officer responsible for ordering disinfection of premises	As above
32	Officer responsible for ordering a person removed from an infected house	As above
36	Officer who may issue certificate stating that a person is believed to carry an organism capable of causing a notifiable disease and that a medical examination is expedient	As above
40	Officer who may apply for a warrant to enter a common lodging-house and examine any person for a notifiable disease	As above
42	Officer who may certify a common lodging-house	As above

	which has been closed to be free from infection	
43	Officer who may certify that a person who has died in hospital while suffering from a notifiable disease should not be removed from the hospital except to be taken directly to a mortuary or to be buried or cremated	As above
48	Officer responsible for ordering removal of body to a mortuary or for immediate burial	As above
59	Officer responsible for authenticating documents	As above
60	Officer responsible for serving notices and other documents	As above

## Public Health (Infectious Diseases) Regulations 1988

Regulations 6, 8, 9 10 and Schedule 3 and 4		As above

## Housing Act 1985

606(1) and (2)	Officer responsible for making reports on unfitness and clearance	Public Protection Services Manager

## Local Elections (Principal Areas) Rules 1986

44	Officer [to whom returning officer gives notice] giving public notice of name of successful candidate/s in Council elections	Chief Executive (Assistant Chief Executive Legal & Democratic Services)
46	Officer to whom, after election, returning officer forwards ballot papers and related documents for safe custody	Chief Executive (Assistant Chief Executive Legal & Democratic Services)
47	Officer whom court may order to produce ballot papers and related documents	Chief Executive (Assistant Chief Executive Legal & Democratic Services)
48	Officer responsible for retaining ballot papers and related documents for public inspection, prior to destroying the documents after a six month period	Election Services Manager

**Local Government Finance Act 1988**

114	Officer responsible for making financial report to the authority	Group Director Finance and Commerce Head of Financial Services
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**Local Government & Housing Act 1989**

2	Officer responsible for receiving deposit of list of politically restricted posts	Head of Human Resources
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**Local Government (Committees and Political Groups) Regulations 1990**

8(1) and (5)	Officer to whom notice is delivered about the constitution of a political group, or the change or name of a political group	Democratic Services Manager Committee Administration Manager
9 and 10	Officer to whom notice is delivered about a councillor's membership of, or cessation of membership of, a political group	Democratic Services Manager Committee Administration Manager
13	Officer to whom the wishes of a political group are expressed	Democratic Services Manager Committee Administration Manager
14	Officer responsible for notifying a political group about allocations and vacations of seats	Democratic Services Manager Committee Administration Manager

**Environmental Protection Act 1990**

149	Officer for discharging functions for dealing with stray dogs	Public Protection Services Manager
	Dogs Act 1871 and Dangerous Dogs Act 1991	Public Protection Services Manager
	Guard Dogs Act 1975	Public Protection Services Manager

**Food Safety Act 1990**

49	Officer authorised to sign any document that the Council, as food authority, is authorised or required to make under the Act	Public Protection Services Manager
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## Party Wall etc. Act 1996

10(8)	Officer responsible for appointing a third surveyor where this becomes necessary	Head of Development & Building Control
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## The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000

3(1)	Officer responsible for producing a written statement of all executive decisions made at a public or private meeting of Cabinet, including the information specified in regulation 3(2)  This officer is the proper officer referred to in rule 18 of the Access to Information Procedure Rules set out in Part 4 of this constitution	Democratic Services Manager Committee Administration Manager
4(1)	Officer responsible for producing a written statement of all executive decisions made by an individual Cabinet member, including the information specified in regulation 4(2)  This officer is the proper officer referred to in rule 20(c) of the Access to Information Procedure Rules set out in Part 4 of this constitution	Democratic Services Manager Committee Administration Manager
5(1)	Officer responsible for ensuring that a copy of the following documents is available for public inspection: <ul style="list-style-type: none"> <li>• the written statement referred to in regulations 3 and 4 above</li> <li>• part or all of any report considered by the decision-maker and relevant to the decision made</li> </ul> This officer is the proper officer referred to in rule 6 of the Access to Information Procedure Rules set out in Part 4 of this constitution	Democratic Services Manager Committee Administration Manager
6	Officer responsible for compiling a list of background papers to the report referred to in regulation 5 above  This officer is the proper officer referred to in rule 8 of the Access to Information Procedure Rules set out in Part 4 of this constitution	Democratic Services Manager Committee Administration Manager
9(2)	Officer responsible for making publicly available any report which an individual Cabinet member or member of staff intends to consider when making a key decision	Democratic Services Manager Committee Administration Manager
9(4)	Officer responsible for including a list of background papers for the report referred to in regulation 9(2) above and for making available copies of those papers where appropriate	Democratic Services Manager Committee Administration Manager
11(2)	Officer who may exclude whole or part of any report provided for public inspection under regulation 11(1), where the part excluded relates	Democratic Services Manager

	to a matter for which the proper officer considers a meeting is not likely to be open to the public  This officer is the proper officer referred to in rule 11 of the Access to Information Procedure Rules set out in Part 4 of this constitution	Committee Administration Manager
11(7)(c)	Officer who may supply to a newspaper a copy of any document supplied to Cabinet members, if he or she thinks fit	Democratic Services Manager  Committee Administration Manager
12(1)	Officer responsible for publishing the information relating to key decisions specified in regulation 12(1)  This officer is the proper officer referred to in rule 14 of the Access to Information Procedure Rules set out in Part 4 of this constitution	Democratic Services Manager  Committee Administration Manager
15(1)	Officer responsible for doing the following where the inclusion of a matter on the forward plan is impracticable and the matter would be a key decision: <ul style="list-style-type: none"> <li>• giving notice to the Chairman of the relevant overview and scrutiny committee</li> <li>• making that notice available for public inspection</li> </ul> This officer is the proper officer referred to in rule 15 of the Access to Information Procedure Rules set out in Part 4 of this constitution	Democratic Services Manager  Committee Administration Manager
17(3) and (4)	Officer responsible for determining whether compliance with regulations 17(1) or 17(2) would involve the disclosure of either exempt information or advice provided by a political adviser or assistant	Democratic Services Manager  Committee Administration Manager
21(4)(a) and (b)	Officer who may form an opinion as to whether a document contains or is likely to contain information confidential information, exempt information or the advice of a political adviser or assistant	Democratic Services Manager  Committee Administration Manager

#### The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000

4(2)	Officer who publishes the number that is equal to 5 per cent of the number of local government electors for the authority's area	Election Services Manager

**The Local Authorities (Standing Orders) (England) Regulations 2001**

Paragraphs 5 and 6 of Part II of Schedule 1	Officer for receiving notification of proposed appointment of certain officers, notifying executive members of that proposed appointment and for receiving and notifying of objections to the proposed appointment  This officer is the proper officer referred to in rules 9 and 10 of the Staff Employment Procedure Rules set out in Part 4 of this constitution	Head of Human Resources
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**Proper officer functions referred to in guidelines issued by the Secretary of State under section 38 of the Local Government Act 2000 and set out in Part 4 of this constitution**

<b><i>Access to Information Procedure Rules</i></b>		
17	Officer who may, when requested to do so on behalf of an overview and scrutiny committee, require Cabinet to submit a report to the Council within such reasonable time as the committee specifies	Democratic Services Manager Committee Administration Manager
<b><i>Executive Procedure Rules</i></b>		
2(e)	Officer who may place an item on the agenda of the next available meeting of the Cabinet for consideration, when requested to do so by the Leader or any other member of the Cabinet	Democratic Services Manager Committee Administration Manager
<b><i>Overview and Scrutiny Committee Procedure Rules</i></b>		
7	Officer who may call a meeting of an overview and scrutiny committee meeting if he or she considers it necessary or appropriate.	Democratic Services Manager Committee Administration Manager
9	Officer who may place an item on the next available agenda of an overview and scrutiny committee upon receiving notice from any member of the committee	Democratic Services Manager Committee Administration Manager
11(a)	Officer to whom an overview and scrutiny committee must submit any report containing recommendations on proposals for policy development, if the committee wishes the Cabinet to consider the report	Democratic Services Manager Committee Administration Manager
12(b)	Officer to whom: <ul style="list-style-type: none"> <li>• an overview and scrutiny committee must submit any report relating to a matter for which an individual Cabinet member has delegated decision- making power</li> <li>• the individual Cabinet member must provide a copy of his or her written response to the overview and scrutiny committee's report</li> </ul>	Democratic Services Manager Committee Administration Manager
14(b)	Officer responsible for informing a member or member of staff that he or she is required to	Democratic Services Manager

	attend an overview and scrutiny committee, where the Chairman has informed the proper officer that such attendance is required	Committee Administration Manager
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### The Local Democracy, Economic Development and Construction Act 2009

31	Officer responsible for promoting and providing support and guidance to Overview & Scrutiny Committees and its Members	Democratic Services Manager
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### Notes on the proper officer functions

- The Chief Executive may sign any notice, order or other document that the Council is authorised or required to give, make or issue. The Chief Executive may not exercise this power if:
  - it would require him or her to undertake a statutory or professional function that he or she is not qualified to undertake
  - the Council has designated a proper officer (other than the Chief Executive) responsible for signing the notice, order or document in question.
- The Chief Executive shall be the proper officer in respect of any statutory functions not referred to in this constitution.
- In the absence of the Chief Executive, any Group Director and the Assistant Chief Executive, Legal and Democratic Services shall be empowered to act, where legally permissible.

### Functions of Statutory Officers

#### 1 Functions of the Head of Paid Service

- (a) The Head of Paid Service may, where appropriate, report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of staff required for the discharge of functions and the organisation of staff.
- (b) The Head of Paid Service may not be the Monitoring Officer but may be the Chief Finance Officer if a qualified accountant.
- (c) Where he or she is consulted by the Monitoring Officer or Chief Finance Officer, the Head of Paid Service will provide that officer with an opinion as to whether decisions of the Executive or staff are in accordance with the budget and/or policy frameworks.

#### 2 Functions of the Monitoring Officer

- (a) To maintain an up-to-date version of the constitution and ensure that it is widely available for consultation by members, staff and the public.
- (b) After consulting with the Head of Paid Service and the Chief Finance Officer, to report to the full Council or to the Cabinet in relation to any function if:
  - (i) he or she considers that any proposal, decision or omission would give rise to unlawfulness, or
  - (ii) where a Local Commissioner has conducted an investigation to the proposal, decision or omission concerned, any proposal, decision or omission has given rise to maladministration.

Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

- (c) Conduct investigations as directed by the Standards Committee into potential breaches by members of the code of conduct or similar protocols and make reports and recommendations in respect of them to the Standards Committee. This function will also be carried out by Deputy Monitoring Officers.
- (d) To ensure that executive decisions, together with the reasons for those decisions and relevant staff reports and background papers are made publicly available as soon as possible.
- (e) To advise whether decisions of the Executive or staff are in accordance with the policy framework in consultation with the Head of Paid Service and the Chief Finance Officer, where appropriate.
- (f) To provide advice on the scope of powers and authority to take decisions, maladministration (where first investigated by a Local Commissioner), financial impropriety, probity and budget and policy framework issues to all councillors.
- (g) The Monitoring Officer cannot be the Head of Paid Service or the Chief Finance Officer.

3 Functions of the Chief Finance Officer

- (a) After consulting with the Head of Paid Service and the Monitoring Officer, to report to the full Council or to the Cabinet in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) To have responsibility for the administration of the financial affairs of the Council.
- (c) To contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) To provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget framework issues to all councillors and will support and advise councillors and staff in their respective roles.
- (e) To advise whether decisions of the Executive or staff are in accordance with the budget framework in consultation with the Head of Paid Service and the Monitoring Officer, where appropriate.

The Monitoring Officer, Chief Finance Officer and Chief Education Officer are each responsible for designating the post of the member of staff who will serve as his or her deputy officer.

**Part 4: Procedure Rules**

**Access to Information Procedure Rules**

**1 Scope**

These rules apply to all meetings of the Council and its committees as set out in Articles 4, 6 and 7 of Part 2 of this constitution, and to public meetings of the Cabinet (together called meetings).

They are complementary to the statutory rights of access to information conferred by Sections 100A to H and schedule 12A of the Local Government Act 1972, as amended, the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, as amended, and the Standards Committee (England) Regulations 2008

**2 Definition of “clear days”**

In these Rules, “clear days” means a normal working day, excluding:

- the day of publication in hard copy
- the day of the meeting
- Saturday and Sunday
- Public or bank holidays
- Other days when the Council’s offices are closed (other than in circumstances that could not reasonably have been foreseen)

**3 Access to agenda, minutes and reports before meeting**

The Council will make a paper copy of the agenda, the minutes of the previous meeting and any subsequent special meeting(s) (if available) and such reports as are open to the public available for inspection at Havering Town Hall at least five clear days before the meeting.

The agenda, minutes and reports will be posted to the Council’s website as soon as possible after the paper copy is made available.

If a report is published later than the agenda or an item is added to the agenda, that report and any revised agenda will be made available to the public for inspection at the same time as it is sent to Members of the Council. Such agendas and reports will be added to the Council’s website as soon as possible. This rule does not apply to meetings of the Cabinet (because the law does not permit late or additional reports).

**4 Supply of copies**

The Council will supply to any person on request copies of:

- (a) any agenda and reports which are open to public inspection
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda
- (c) if the proper officer thinks fit, copies of any other documents supplied to councillors in connection with an item

A charge for postage and any other costs may be made for the supply of all such documents.

The agenda, draft minutes, minutes and reports of every meeting open to the public will be available on the Council’s internet website ([www.havering.gov.uk](http://www.havering.gov.uk)) and may be freely downloaded from there (subject to any copyright restrictions that may exist and shall be noted on the website where relevant).

**5 Access to minutes etc. after meeting**

The minutes of a meeting will not normally be available until they are published in unconfirmed form with the agenda for the following meeting.

Electronic copies of documents will be available on the Council's website. The Council reserves the right to place documents in an electronic archive from which copies will be made available on request.

**6 Exclusion of access by the public to meetings**

All Council meetings, including those of the Cabinet, will be open to the public but the Council reserves the right to exclude the public when entitled to do so by law if confidential or exempt information is to be considered (see the Appendix for categories of confidential and exempt information).

**7 Application of rules to the Cabinet meetings**

In general, these Rules apply to Cabinet Meetings other than those whose sole purpose is for members of staff to brief members.

**8 Record of decisions of Cabinet**

The law requires that, as soon as practicable after any meeting of the Cabinet, whether held in public or private, a record must be made of every decision taken at that meeting, including a statement of the reasons for each decision and of any alternative options considered and rejected at that meeting.

The minutes of a meeting will usually constitute this record of decisions.

**9 Cabinet meetings relating to matters that are not key decisions**

The Cabinet will decide whether meetings relating to matters that are not key decisions will be held in public or private. The general presumption will be in favour of meetings being held in public.

**10 Decisions by individual Cabinet members, Area Committee chairmen or officers**

In order to comply with the legal requirements, the following procedure will be followed for Key Executive Decisions to be taken by individual Cabinet Members (alone or jointly with one or more other Cabinet Members) and by officers (alone, or in consultation with Area Committee Chairman/men).

- 1 As soon as the need for a Key Decision has been identified, it must be included in the Forward Plan. The Decision must not be taken before the month indicated in the Forward Plan.
- 2 If the Decision relates to exempt information in its entirety, it may be taken at any time during the month indicated in the Forward Plan.
- 3 In all other cases, at least seven working days before the date on which the Decision is due to be taken, the author of the intended Decision must send a copy of it (in both hardcopy for signature and electronically, preferably in PDF format), clearly indicating the date on or after which the Decision may be taken:
  - In the case of a decision to be taken by an individual Cabinet Member (or jointly by two or more Cabinet Members), to that Member/those Members;
  - In the case of a decision to be taken by an officer in consultation with the Chairman/men of Area Committee(s), to the Chairman/men; or
  - In the case of a decision to be taken by a Group Director, Head of Service or Senior Manager having delegated authority, to that officer; and

- In each case, a copy of the intended Decision must be sent electronically (preferably in PDF format) to the Democratic Services Manager. On receiving the intended Decision, the Democratic Services Manager will arrange for it to be posted to the Council's website.

- 4 Once the five clear day period before which the Decision cannot be taken has expired – or in the case of an exempt decision, on receiving it - the individual Cabinet Member(s) or officer may proceed to make the Decision.
- 5 When the Decision has been made, the signed, original Decision Form will be provided to the Democratic Services Manager for logging and, unless or to the extent that it is not, exempt, publication.

## 11 **Overview and scrutiny committees' access to documents**

### (a) **Rights to copies**

Subject to rule 11(b) below, an overview and scrutiny committee (including any sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relating to

- (i) any business transacted at a meeting of the Cabinet, or
- (ii) any decision taken by an individual Cabinet member.

### (b) **Limit on rights**

An overview and scrutiny committee will not be entitled to:

- (i) any document that is in draft form, or
- (ii) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise.

## 12 **Additional rights of access for members**

### (a) **Material relating to previous business**

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet and contains material relating to any business previously transacted at a meeting unless it contains exempt information falling within paragraphs 1 to 7 of the statutory categories of exempt information.

### (b) **Material relating to key decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet which relates to any key decision unless rule 12(a) applies.

### (c) **Nature of rights**

The members' rights set out in this rule are additional to any other right a member may have.



**13 Decisions taken by an officer following consultation with the Chairman of the relevant committee**

An officer may make a non-executive decision after consultation with the Chairman of a Committee to deal with issues which are within the terms of reference of the Committee concerned and are:

- Comparatively minor but nonetheless require Member level input
- Settling details once the Committee has approved an issue in principle
- Of such genuine urgency that there is not sufficient time to convene a meeting of the full committee

Such a decision is not subject to call-in; may be acted on as soon as it is signed; will be notified to members by way of Calendar Brief; and must be made by the completion and signature of the Consultation with Chairman form.

**APPENDIX****CONFIDENTIAL AND EXEMPT INFORMATION.****(a) Confidential information – requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

“Confidential information” means information given to the Council by a Government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by court order.

**(b) Exempt information – discretion to exclude public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person’s civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified below. The parties to a hearing will be able to remain throughout until the meeting adjourns to consider a decision.

Exempt information means information falling within the following categories:

	<b>Category</b>
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.

	Category
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: <ul style="list-style-type: none"> <li>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</li> <li>(b) to make an order or direction under any enactment</li> </ul>
7	Information relating to any action taken or to be taken in connection with the prevention investigation or prosecution of crime.

Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:

- (a) the Companies Act 1985;
- (b) the Friendly Societies Act 1974;
- (c) the Friendly Societies Act 1992
- (d) the Industrial and Provident Societies Acts 1965 to 1978;
- (e) the Building Societies Act 1986; or
- (f) the Charities Act 1993

Information is not exempt if it relates to proposed development for which the local planning authority may grant itself planning permission under regulation 3 of the Town and Country Planning General Regulations 1992.

Information which—

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of the above paragraphs, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

***The provisions of this legislation are modified in their application to meetings of the Cabinet and of the Standards Committee as follows:***

**Cabinet:**

The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, as amended

The Regulations provide for additional requirements in respect of key decisions. Generally, a meeting must be held in public where a key decision will be made or where there will be discussion of matters relating to a key decision to be made subsequently. Where a meeting is to be held in public there must be advance publication of agendas, reports and background papers for the meeting. Likewise, where key decisions are to be made by individuals the documents relating to these decisions must be available to the public. In general, the terms of the Regulations are identical to those of the 1972 Act and, in particular, the Regulations use the Act's definitions of exempt information..

**Standards Committee:**

The Standards Committee (England) Regulations 2008

The Regulations make provision as to public access to meetings and documents of standards committee proceedings. Where a sub-committee of a standards committee is considering an allegation against a member or a request to review a decision to take no action, there is no public right of access to the meetings or documents but the sub-committee is required to produce a written summary of its consideration of those matters, which is available to the public. Otherwise, the proceedings of standards committees and sub-committees of standards committees are to be open to the public in a manner similar to that in which other proceedings of local authorities are made open.

The 1972 Act applies to meetings of a standards committee or a sub-committee as if, after paragraph 7 of Schedule 12A, the following descriptions of exempt information were inserted—

- 7A.** Information which is subject to any obligation of confidentiality.
- 7B.** Information which relates in any way to matters concerning national security.
- 7C.** Information presented to a standards committee, or to a sub-committee of a standards committee, set up to consider any matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58(1)(c) of the Local Government Act 2000.

#### **Part 4: Procedure Rules**

##### **Budget Framework Procedure Rules**

###### **1 Framework for executive decisions**

- (a) The Council will be responsible for the adoption of its budget framework.
- (b) Once the framework is in place it will be the responsibility of the Leader of the Council to implement it but the Leader may delegate specific responsibilities to the Cabinet, to individual Cabinet Members, to officers, to Area Committees or to joint arrangements discharging executive functions (hereafter referred to collectively as the "Executive").
- (c) The budget framework provides the financial basis for the implementation of the Council's policy framework and for the development of the Council's budget.
- (d) The budget framework covers:
  - Medium Term Financial Strategy
  - Capital Strategy
  - Treasury Management Strategy.
- (e) The Chief Finance Officer will be primarily responsible for providing advice and guidance on the budget framework and its application, but will consult with the Monitoring Officer where appropriate.

###### **2 Process for developing and approving the budget framework**

The process for developing and approving the budget framework is:

- (a) The Executive will provide an initial report on its Medium Term Financial Strategy and Capital Strategy for consideration by Council. This report will be published by October or such other date agreed by Cabinet.
- (b) The report will be available to the Overview and Scrutiny Committees, Havering Strategic Partnership and other local stakeholders who wish to express a view.

- (c) The Executive will issue detailed proposals for consultation having given due consideration to:
- comments from Overview and Scrutiny Committees, Havering Strategic Partnership and other local stakeholders
  - feedback from the consultation process
  - the Government's financial announcements
  - information from precepting and levying bodies
  - the advice of senior officers.
- (e) There will be one joint briefing of the Overview and Scrutiny Committees. Key local stakeholders, including members of the Havering Strategic Partnership, will also be consulted on the budget proposals. Area Committees will also be consulted.
- (f) Having considered responses to the consultation on its initial detailed budget proposals, and any further information on Government funding and precepts/levies, the Executive may amend its proposals before submitting them to Council.
- (g) The Executive will also publish a Treasury Management Strategy which will be submitted to Council alongside its final budget proposals.
- (h) At any time when a report is submitted to Council on the budget the Council will consider the proposals of the Executive and may adopt them, refer them back to the Executive or substitute its own proposals in their place.
- (i) All Councillors and parties are actively encouraged to contribute issues and ideas into the budget process via the Overview and Scrutiny Committees.

### **3 Decisions outside the approved budget framework**

- (a) The Executive may only make decisions which are in line with the approved budget framework. A decision that is not relevant to or covered by the budget framework but which is in line with a plan or strategy approved by the Executive is not contrary to the budget framework.
- (b) Subject to 4 below, if the Executive wish to make a decision which is contrary to the budget framework, then that decision can only be made by the Council.
- (c) If the Executive want to make a decision which potentially is contrary to or not wholly in accordance with the budget framework, they must take advice from the Chief Finance Officer. If the advice is that the decision is contrary to or not wholly in accordance with the budget framework then the decision must be referred to Council for decision, unless the decision is a matter of urgency, in which case paragraph 4 shall apply (urgent decisions outside the budget framework).

### **4 Urgent decisions outside the budget framework**

- (a) Having consulted with the Chief Finance Officer, the Executive may take a decision which is contrary to or not wholly in accordance with the budget framework, or where the expenditure falls outside the approved budget, if the decision is a matter of urgency.

However, the decision may only be taken if:

- (i) it is not practical to convene a quorate meeting of the Council, and

(ii) the Chairman (or in his or her absence the Deputy Chairman) of a relevant overview and scrutiny committee accepts that the decision is a matter of urgency.

- (b) The reasons why it is not practical to convene a quorate meeting of the Council and the consent of the relevant Chairman of overview and scrutiny committee must be noted on the record of the decision and reported to the next available Council meeting along with a full report explaining:
- the decision
  - the reasons for the decision
  - why the decision was treated as a matter of urgency.

## **5 Call-in decisions outside the Budget framework**

- (a) Where an overview and scrutiny committee is of the opinion that an executive decision is, or if made would be, contrary to or not wholly in accordance with the Council's Budget framework, then it shall seek advice from the Chief Finance Officer who in appropriate cases will consult with the Head of Paid Service.
- (b) Where that opinion relates to a decision that has already been taken and implemented, and the Chief Finance Officer considers that the decision is contrary to or not wholly in accordance with the Budget framework, the Chief Finance Officer shall report on the matter to the Cabinet, sending a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the report and report on the matter to the Council.
- (c) Where that opinion relates to a decision yet to be made, or that has been made but not yet implemented, and the advice from the Chief Finance Officer is that the decision is contrary to or not wholly in accordance with the Budget framework, the overview and scrutiny committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter.
- (d) At the meeting, the Council will receive a report about the decision or proposals and the advice of the Chief Finance Officer. The Council may:
- (i) endorse a decision or proposal of the Executive as falling within the existing Budget framework; or
  - (ii) amend the Budget framework to encompass the decision or proposal and agree to the decision or proposal with immediate effect; or
  - (iii) if it accepts that the decision or proposal is contrary to or not wholly in accordance with the Budget framework and does not amend the existing Budget framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of the Chief Finance Officer.

The decision of Council shall be recorded in its minutes.

## **6 Virements**

- (a) Virement is the ability to meet increased expenditure or reduced income under one service's budget head from savings in another. Virements may be used for both revenue and capital budgets.

(b) Any decisions taken by the Executive shall not exceed those budgets allocated to each relevant budget head. Members do not have authority to create budgets.

(c) Approval of virements must comply with the limits laid down in the Financial Procedure Rules.

**7 In year changes to budget**

(a) Decisions by the Executive can discharge only those executive functions that are within the approved budget.

(b) No changes to the approved budget, except within the budget or virement rules set out in the Financial Procedure Rules, can be made unless approved by the Council.

**8 Use of contingency funds**

(a) The Group Director Finance & Commerce may set up a central revenue contingency fund. There will only be one such fund for the entire Council.

(b) The Group Director Finance & Commerce is authorised to release sums from the contingency if:

- the amounts are not greater than £25,000, and
- the item is deemed by them as unforeseen and a relevant use of the contingency, or
- if the item is urgent (e.g. an emergency or threat to life) and there is insufficient time to consult with the relevant Cabinet member.

(c) The relevant Cabinet member can release all other sums from the contingency if:

- the item is deemed by the Group Director Finance & Commerce as unforeseen and a relevant use of the contingency, or
- the item is urgent (e.g. an emergency or threat to life) after consultation with the Group Director Finance & Commerce.

(d) The Chief Executive has power to incur expenditure from the Contingency Fund without any further approval in exercise of their powers under paragraph 3.2 of part 3 of the Constitution to incur expenditure in connection with an emergency or disaster within the borough.

(e) The Group Director Finance & Commerce will also provide for a level of contingency for capital projects that is appropriate in their view, taking into account the level of risk associated with the capital programme. Sums will be released in accordance with the capital virement rules set out in the Financial Procedure Rules.

**10 Future year's commitments to budget**

(a) The Executive has authority to make individual future years' commitments not provided for within the budget up to a total of £500,000 per financial year subject to:

- information being included within the first available budget monitoring report following the decision, which will show a cumulative review of decisions on future spending commitments made by the Executive and Council respectively.
- a report to Council each year as part of the budget process setting out the individual sums.

(b) Once the limit specified in (a) above is reached, each and every item relating to commitments for future years needs the approval of Council

(c) Any additional individual commitments that have been approved by the Council do not count towards the £500,000 limit for future year commitments but will be included in the yearly report referred to in (a) above.

**11 Advice to Group Leaders in Budget preparation**

(a) During preparation of the budget or alternative budgets prepared by Group Leaders leading to the Council Tax Setting meeting, the Council's Group Director Finance & Commerce and/or relevant finance staff designated by them will give Group Leaders and/or their nominated Members such advice and assistance as the Group Director Finance & Commerce deems appropriate in connection with the preparation of the budget or alternative budget.

(b) This information will be given in strictest confidence and staff will not copy other Members into the information. Members shall not share the paperwork or information provided outside the political group or outside the organisation.

(c) The advice will specifically cover whether the proposals would allow the Group Director Finance & Commerce (the Chief Finance Officer) to consider the budget to be balanced and the impact any proposals would have on Council balances in subsequent years.

(d) The information will be treated as provided in the preparation of alternative budgets if provided with effect from 1<sup>st</sup> February up to and including the date of the Council Tax Setting Meeting, in any given year.

**12 Fees & Charges**

(a) A schedule of fees & charges will be produced by each service and submitted to the Executive for approval as part of the annual budget-setting process. The relevant Cabinet members should be consulted on the fees & charges within their portfolio.

(b) All fees & charges must be set in accordance with the corporate charging policy and with the relevant service charging policy.

(c) Any changes to fees & charges during the financial year require the approval of the relevant Cabinet member.

**Part 4: Procedure Rules****Contracts Procedure Rules**

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## 1 Introduction

### (a) Purpose

The purpose of these rules is to ensure that all Council contracts are awarded:

- in compliance with all relevant United Kingdom and European legislation including best value and EC procurement legislation
- to ensure probity
- to ensure value for money is obtained
- to maximise competition wherever possible
- in accordance with best practice
- to ensure a fair and transparent process
- in a way which demonstrates an audit trail with evidence that there was a fair process and value for money was obtained.

### (b) Requirements

- (i) All contracts shall be awarded in accordance with these rules and the Financial Procedure Rules which are compulsory and with the relevant provisions of the Council's Procurement Framework. A contract is any order or purchase of goods, supplies, services or works.
- (ii) All contracts shall be awarded in accordance with all relevant United Kingdom and European legislation including best value and European procurement legislation.

- (iii) No contract may be awarded unless there is sufficient budget available for the goods, supplies, services or works being procured and appropriate delegated authority to award the contract.
- (iv) The person awarding the contract shall have a duty to ensure and demonstrate that the best value is obtained, having regard to the appropriate balance between quality and price.
- (v) Group Directors, Assistant Chief Executive, Assistant Directors and Heads of Service are responsible for ensuring that:
  - contracts are awarded in accordance with these Rules
  - all persons responsible for awarding contracts are familiar with the Council's Procurement Framework, familiarise themselves with its contents and attend relevant Council training as appropriate.
  - all contracts over £50,000 are recorded on the Contracts Register maintained by the Business Development Unit
  - all contracts over £50,000 shall have a nominated Contract Monitoring Officer

## 2 **Contract Procedure**

**All** contracts **shall** be let in accordance with the relevant procedure as set out in Schedules A to K based on the value of the contract.

## 3 **Calculating the value of a contract**

In calculating the value of the contract for the purposes of the competition requirement:

- (i) values are total lifetime contract values not annual values
- (ii) values exclude VAT
- (iii) values are to be aggregated – for example, if there is a recurring need on an annual basis for supplies
- (iv) An estimate shall be made of the total purchasing requirement/whole life costing/financial implications – for example, including ongoing maintenance and support costs. If there are variables which result in the estimate being a range of figures rather than a single figure, then the highest figure in the range will be the value of the contract for the purposes of these Rules.
- (v) The valuation shall include the value of possible contract extensions and possible additional options.
- (vi) Where a contract is of indeterminate length the value of the contract shall be assessed on the basis of the maximum anticipated length of the contract.
- (vii) Where a contract is for a number of organisations and the Council is the lead authority, then the value of the contract shall be the total value of the contract for all the organisations. If the Council is not the lead authority then the value of the contract for the purposes of these Rules shall be the value of just this Council's proportion of the contract. It is a breach of these Rules to deliberately divide up contracts to evade the need to follow a more complex/lengthy procurement procedure or evade the requirements of European or UK legislative requirements.

## 4 **European procurement requirements**

**(a) Thresholds**

European procurement legislation shall be complied with for all contracts above the following thresholds:

Type of contract	Threshold
Services	£ 156,442
Supplies	£ 156,442
Works	£ 3,927,260

These thresholds will be revised every two years. The next revision will be January 2012.

**(b) Procurement procedures**

The relevant procedures set out in the Schedules to these Rules and in the Procurement Framework shall be followed for all contracts subject to European procurement rules.

**5 Legal, procurement and technical support****(a) Consulting Business Development Unit**

The Business Development Unit shall be advised at the outset on all contracts for a value of more than £50,000 and the advice of the Unit must be sought to confirm that there are not existing contracts for similar goods or services in order to ensure that the European thresholds are not inadvertently breached.

**(b) Notifying Assistant Chief Executive Legal & Democratic Services**

The Assistant Chief Executive Legal & Democratic Services shall be notified at the outset of all proposed contracts with a value of more than £156,000 in order to advise on applicability of EU rules, TUPE, best value and any other legislative requirements and to nominate a legal representative to the project team.

**(c) Notifying Technical Services & Surveying**

Technical Services & Surveying are to be notified of all proposed works contracts

**6 Requirements in relation to TUPE**

Where a contract award for services may result in Council or contractor staff being affected – for example, by possible redundancy, relocation or transfer to the successful tenderer – the advice of the Head of Exchequer Services (re pensions), Head of Human Resources and the Assistant Chief Executive Legal & Democratic Services must be obtained before commencement of the tender process. Details must be included in the pre-tender report to members referred to in rule 7.

**7 Pre-tender report**

(a) All contracts with a value of more than £156,000 must be reported to the appropriate Group Director for approval to commence the tendering process

unless an exception set out in 7(c) applies. The report must set out:

- the likely total cost and budget provision
  - the appropriate European procurement route
  - the proposed tendering strategy and timetable
  - the project team
  - a summary of best value issues and any service improvement requirements
  - application of TUPE.
  - project risk assessment
- (b) Contracts within the terms of reference of the Pension Committee may be dealt with by that committee.
- (c) Contracts for the procurement of gas, electricity and water supplies for Council buildings including schools may proceed without a formal pre-tender report with the approval of the Group Director, Finance & Commerce.

## **8 Tender process**

### **(a) General**

- (i) All tender processes shall be conducted in accordance with the requirements of these Rules (including the procedure set out in the relevant Schedule), the Financial Procedure Rules, European procurement rules (if applicable), the Procurement Framework.
- (ii) Where there is the need to initially assess the capability of tenderers to undertake a proposed contract or the list of potential tenderers exceeds 8, the relevant Head of Service may issue a Pre-Qualification Questionnaire to assess which potential tenderers should be included/ excluded provided that such PQQs are assessed using fair, appropriate and consistent evaluation criteria and that the process is fully documented
- (iii) The Invitation to Tender for all contracts over £60,000 shall include the following information:
- a description of the services, supplies or works sought
  - the procurement timetable
  - rules for submitting tenders
  - pricing mechanism
  - the relevant terms and conditions of contract
  - the evaluation criteria including weightings
  - the Council's view on the applicability of TUPE
  - Any other information necessary to prepare tenders
- (iv) The lists of contractors maintained by Constructionline shall be preferred for the formation of shortlists of potential tenderers for all construction contracts with a value of less than £3,900,000 for buildings and roads maintained by the Council unless otherwise agreed by the relevant Group Director and the Assistant Chief Executive, Legal & Democratic Services

### **(b) Evaluation criteria**

The award of all contracts shall be based on fair and appropriate evaluation criteria in accordance with the Procurement Framework and the European procurement rules (if applicable). Full and complete written records of the evaluation process must be maintained.

(c) **Number of Tenders/Quotes**

The minimum number of tenders or quotes to be sought shall be as set out in the relevant Schedule unless these Rules or the Assistant Chief Executive Legal & Democratic Services approves otherwise.

(d) **Award**

(i) The tender or quotation accepted shall be the one which represents the best value for money for the Council overall, taking account of price, quality of service, risk to the Council and other benefits, as set out in the evaluation criteria chosen for the tender and as described in the Procurement Framework .

(ii) For all contracts to which EU procurement rules apply all tenderers must be notified of:

- The evaluation criteria
- Their score using the criteria
- The winning score
- An explanation why the winning tender scored more highly than that tenderer's one
- The identity of the winner of the contract

(iii) For all other contracts with a value in excess of £60,000 all bidders must be notified of:

- Their score in the evaluation
- The winning score

9 **Procedure for submission and opening of tenders**

(a) **Submitting tenders**

Every invitation to tender shall state that no tender will be considered unless it is returned in plain, sealed packaging which bears the word "tender" followed by the contract name, reference number, if applicable, and closing date and time. The instructions shall clearly indicate that there must be no name or mark indicating the tenderer's identity.

(b) **Returning tenders**

(i) All tenders with a likely value of more than £60,000 must be returned to the Business Development Unit, Mercury House, Mercury Gardens, Romford, RM1 3SL. Other tenders should be returned to the responsible Head of Service.

(ii) Tenders shall be delivered to the place and by the time stated. Late tenders shall not be considered without the written approval of the Assistant Chief Executive Legal & Democratic Services which must set out the justification for the decision.

(c) **Opening tenders**

(i) Tenders shall be kept secure and unopened until formal opening.

- (ii) All tenders for a particular contract shall be opened together at one time, in the presence of at least two members of staff not previously involved in the tender process. Where tenders are likely to have a value of more than £60,000, the two members of staff must consist of one representative of the Business Development Unit and one representative of the relevant Service. Where tenders are likely to have a value of less than £60,000, the two members of staff must consist of one representative of the relevant Group Director and one representative of the relevant Service.
  
- (iv) The details of the tenders and the tenderers shall be recorded by the staff opening the tenders on the pro forma in the Procurement Framework at Appendix A. Copies shall be sent to (or retained by)
  - the relevant department
  - the Assistant Chief Executive Legal & Democratic Services
  - the Business Development Unit.
  - Internal Audit
  - Technical Services & Surveying (construction contracts only)

**10 Conduct of negotiations**

- (a) All negotiations shall be conducted in accordance with European procurement rules, if applicable.
  
- (b) The Assistant Chief Executive Legal & Democratic Services and the Group Director Finance & Commerce shall be advised of all contracts in excess of £156,000 that require negotiation before negotiations commence.
  
- (c) Negotiations shall be conducted by at least two senior members of staff, at least one of whom shall be either a Head of Service or a more senior officer. The relevant Group Director is responsible for the negotiations. If the value of the contract exceeds £1,000,000 then a senior member of the Assistant Chief Executive Legal & Democratic Services' staff should also be present at the negotiations.
  
- (d) Negotiations must be conducted, and full and proper records shall be kept, in accordance with the relevant section of the Procurement Framework

**11 Awards in-house**

- (i) Where there is an in-house team capable of performing the required services, the team may be invited to bid if such a bid is in accordance with the Procurement Strategy.
  
- (ii) An award may be made to an in-house team after competition, provided that:
  - the in-house team has been evaluated as the most economically advantageous tender in accordance with the requirements set out in the Procurement Framework
  
  - the person making the award can demonstrate that the in-house team represents the best value in terms of quality and price.

12 **Post Tender Reports**

(a) **Pre-award report**

- (i) The results of the evaluation process for all contracts with a value of more than £156,000 and up to £5,000,000 except for contracts falling within the category set out in 12(b) below, must be reported to the appropriate Group Director for approval and award of the contract.

Contracts with a value of more than £156,000 and up to £5,000,000 except for contracts falling within the category set out in 12(b) below, must be reported to an individual Cabinet Member for approval and award of the contract

Contracts with a value of more than £10,000,000 must be reported to the Leader or Cabinet for approval and award of contract.

The report shall set out the details of all stages of the evaluation process and criteria, risk assessment and risk allocation, the results, and a recommendation as to the proposed award of the contract.

(b) **Post-award notification**

Works contracts in respect of the Council's buildings and assets where the total contract value is between £156,000 and £5,000,000 are awarded by Heads of Service or more senior staff (as provided for in the constitution Part 3, Section 3).

(c) **Pension Committee**

Contracts within the terms of reference of the Pension Committee may be dealt with by that Committee.

13 **Council standard terms of contract**

(a) **General**

- (i) All Council contracts with a value in excess of £2,000 shall be on the Council approved standard terms and conditions for that type of contract unless:

- the contract is let under an existing framework agreement which specifies the terms & conditions under which an individual contract can be let.
- The Council's standard terms and conditions are not appropriate for the particular contract.
- the Assistant Chief Executive Legal & Democratic Services approves otherwise.

- (ii) All Council contracts where the Council approved standard terms and conditions are not appropriate **must** be awarded on the basis of a written specification of the Council's requirements on contract terms and conditions approved by the Assistant Chief Executive Legal & Democratic Services in advance.

(b) **Written requirements**

Contracts above £60,000 shall include details of:

- (i) what is to be provided, (description, quality and quantity where relevant) and when
- (ii) payment provisions (amount and timing)
- (iii) the Council's standard conditions in relation to the following matters:
  - the time scale within which the contract is to be performed
  - no sub-contracting or assignment without prior consent
  - sub-contractors to be appointed in accordance with these rules
  - sub-contractors to be paid within 30 days
  - the Council's insurance requirements
  - the Council's health and safety requirements
  - the Council's data protection and Freedom of Information requirements
  - the Council's equalities requirements
  - a right of access to relevant documentation, data and records of the contractor for monitoring and audit purposes
  - a right of termination for the Council
  - a requirement at the discretion of the Council for security for performance – for example, a bond, guarantee or retention sum
  - quality assurance requirements and consequences
  - implementation
  - Performance monitoring requirements.
  - Best value requirements
  - the Council's standard prevention of corruption clause
  - TUPE requirements.

(c) **Contracts for construction works**

All Council contracts for construction works with a total value of more than £10,000 shall be awarded on the basis of a written specification of the Council's requirements and the current conditions of:

- (i) the relevant standard form of JCT, or
- (ii) the standard form of ICE, or
- (iii) the standard form of PPC 2000
- (iv) the relevant form of NEC
- (v) the relevant framework agreement

whichever is appropriate, or another standard form of contract approved by the Assistant Chief Executive, Legal & Democratic Services.

14 **British or other applicable European standards**

All contract specifications shall include reference to appropriate British or European standards where such standards are current and appropriate.

15 **Early Authorisation Approval**

In the event that there is a need for a contract to commence prior to the completion of the formal contract documentation then a Group Director after consultation with the Assistant Chief Executive Legal & Democratic Services may authorise the issuing of an Early Authorisation Approval to the contractor. The Early Authorisation Approval shall include the following information:

- Work to be undertaken



- Terms & conditions (this can be by reference to other documents)
- Subject to completion of formal contract

**16 Execution of contracts**

**(a) Contracts over £100,000 to be sealed**

Contracts with a total value of more than £100,000 shall be executed under seal in accordance with Article 10.05 of the Constitution unless the Assistant Chief Executive Legal & Democratic Services approves otherwise. The Legal Document Execution Form must be duly completed by or on behalf of the relevant Head of Service or more senior staff prior to the contract being submitted for sealing.

**(b) Contracts under £100,000**

(i) Unless the Assistant Chief Executive Legal & Democratic Services approves otherwise, contracts with a total value of less than £100,000 shall be executed by the signature of the duly authorised Head of Service or more senior staff as appropriate, in accordance with the functions delegated to staff under section 3 of Part 3 of this constitution.

(ii) Contracts with a total value of less than £100,000 may be executed under seal where the Head of Service or Group Director and the Assistant Chief Executive Legal & Democratic Services deems this appropriate: for example, where the Council may wish to enforce the contract for more than six years after its end.

**(c) Care & Consultancy Contracts**

(i) Contracts for the provision of personal social services to an individual (eg residential care) and educational placements may be signed by the relevant approved officer (as formally designated by the Head of Service or more senior staff and lodged with the Assistant Chief Executive Legal & Democratic Services) provided that the annual value of the contract does not exceed £200,000. If it will exceed £200,000 then the contract must be signed by the Assistant Chief Executive Legal & Democratic Services

(ii) Contracts for consultancy services and specialist advice (other than those that form part of a larger contract or project) may be signed by the relevant Head of Service or more senior staff provided that the total value of the contract does not exceed £200,000. If it will exceed £200,000 then the contract must be signed by the Assistant Chief Executive Legal & Democratic Services

**17 Records to be kept**

**(a) Retaining relevant documents**

(i) The Group Director shall be responsible for ensuring that there is a secure system of filing and storing all tender process documentation.

(ii) All written records in relation to the award of contracts and the tender process, including supporting documentation, shall be maintained securely and safely by the Group Director in a properly identifiable filing system to be available for inspection by the Council's internal and external auditors, or other authorised member of staff, immediately upon request.

(iii) All written records shall be maintained as follows:

contracts with a value between £5,000 and £60,000	three years after end of the contract
contracts with a value between £60,000 and £100,000	six years after the end of the contract
all sealed contracts and contracts with a value over £100,000	twelve years after the end of the contract

- (iv) The sealed original contract documents shall be retained by the Assistant Chief Executive Legal & Democratic Services in the Council's deeds' room for twelve years after end of the contract.

(b) **Retaining copies of contracts**

Once executed the Council shall retain one original of the complete contract documents, and one copy of the complete contract document shall be provided to the contractor. Where the contract is under seal, one original copy of the contract documents shall be sent to/retained by the Assistant Chief Executive Legal & Democratic Services for storage in the Council's deeds room and one copy shall be retained by the person awarding the contract, as well as one copy being provided to the contractor.

(c) **Documents to be retained**

- (i) The complete original set of the contract documents shall be retained including:

- the contract conditions
  - specification
  - evaluation criteria
  - invitation to tender
  - pricing schedule
  - contractor's tender submission
  - any pre-tender correspondence which affects the specification, pricing schedule or contract conditions
  - any post tender correspondence
  - the award letter, and
  - all documentation of all variations and extensions of the contract

- (ii) Where an exception to the competition financial thresholds applies, the following documents shall also be retained:

- the Competition Financial Thresholds Exceptions Approval Form signed by a Group Director
- the contract and correspondence with the contractor
- any evidence of how value for money was obtained – for example, alternative written or oral quotes.

- (iii) A complete check list of documents to be retained is included in the Procurement Framework at section E20. It is mandatory to retain all the documents listed if they formed part of the process.

**18 Contracts database**

**(a) Responsibility to maintain central register**

The Business Development Unit shall maintain a central register of all Council contracts with a value of more than £50,000.

**(b) Responsibility to notify contract to central register**

The person awarding the contract shall notify the Business Development Unit of the details of the contract by completing and e-mailing the pro forma set out in the Procurement Framework.

**19 Prevention of corruption**

**(a) General standards of conduct**

All persons involved in the award of contracts shall comply with Council guidance on conduct of staff [and with the Staff Code of Conduct when issued by the Secretary of State] and shall not invite or accept any gift or reward or inducement which could influence them in any way in relation to the award or monitoring of any Council contract. High standards of ethical conduct are mandatory. Staff shall take steps to ensure that their behaviour could not lead to accusations of corruption. Corrupt behaviour is a criminal offence and will lead to criminal investigation and if proven, dismissal and a criminal record.

**(b) Declaring an interest**

Any person who has a pecuniary or other interest in any actual or potential Council contract must declare it in writing to the relevant Group Director. All hospitality, gifts or other inducements received shall be recorded in the hospitality register held by the relevant Group Director.

**20 Best value requirements**

All persons awarding contracts for services shall ensure that they can demonstrate that they have complied with the legislative requirements for best value. In addition to the requirements for the report to members set out in rules 7 & 12, the contract award report shall set out:

- how the legal duty to challenge, consult, compare and compete has been met
- how the contract award will meet the Council's statutory duty of economy, efficiency and effectiveness (i.e. best value)
- how continuous improvements in service provision will be maintained and monitored.

**21 Council corporate contracts and framework contracts**

**(a) Setting up corporate contracts**

Group Directors with the agreement of the Group Director, Finance & Commerce and the Assistant Chief Executive Legal & Democratic Services may set up

corporate and/or framework contracts for goods services, supplies or works across the Council and other public sector bodies, eg stationery supplies. These shall be advertised and competitively tendered in accordance with the Council's competition and selection procedures set out in these rules and the Procurement Framework.

- (b) Where an appropriate corporate contract or select list is in place this shall be used wherever appropriate. The Group Director responsible for the corporate contract or select list shall issue guidance as to its use, after consultation with the Assistant Chief Executive Legal & Democratic Services and the Business Development Unit.

(c) **Reviewing corporate contracts**

Any corporate contract shall be reviewed regularly and shall be re-advertised re-tendered at least once every four years.

(d) **Setting up approved lists**

Group Directors may maintain approved lists of potential providers of services, supplies and works for contracts in Schedules A, B & C. These providers will not have been competitively tendered and use of providers on these lists is subject to the normal Council competitive tendering requirements set out in these Rules and the Procurement Framework.

22 **Contract extensions and variations**

(a) **Variations (non-construction work)**

Contract variations (ie alteration to the terms of the contract which do not alter the length of it) must comply with the following points:

- The nature of the variation has been approved by either the Business Development Unit or the Assistant Chief Executive Legal & Democratic Services.
- The variation must be in writing and the document will be completed (ie signed or sealed) in the same manner as the original contract unless otherwise provided for within the original contract.
- It must clearly set out which provisions in the original contract are being varied, the replacement provision and the date that the variation takes effect.
- Variations which are to be met from existing budget provisions may be agreed by Heads of Service or more senior staff.
- Variations which increase expenditure must have funding secured. Such variations will need to be agreed by a Form A Executive Decision.

(b) **Variations (construction work)**

Contract variations to construction contracts which alter the detailed design, method of construction, materials used, extent of the works or the timing of the works are permissible provided that:

- The variation is in writing and authorised in accordance with the variation provisions set out in the contract
- It can either be met from existing budget provisions or, if additional funding is required, that authority for the increased budget is obtained first

(c) **Extensions**

- (i) Extensions to the duration of existing contracts are generally not permitted except where all of the conditions set out in column A below are met AND at least one of the conditions set out in column B is met:

<b>Column A</b> <b>ALL of these conditions must be met</b>	<b>Column B</b> <b>AT LEAST one of these conditions must be met</b>
Value for money can be demonstrated	One of the exceptions set out in rule 27 below applies
The extension is for the same or a lesser value and period than the original contract	The possibility of an extension was included in the invitation to tender documents
For an extension with a value in excess of £5,000,000, there is a report to Cabinet For an extension with a value in excess of £156,000 and under - £5,000,000 approval of an individual Cabinet member is required	Where applicable, the Assistant Chief Executive Legal & Democratic Services confirms in writing that one of the permissible grounds for extension under European procurement rules applies

- (ii) The extension document will be completed (ie signed or sealed) in the same manner as the original contract except in the case of construction contracts where the extension will be authorised in accordance with the relevant provisions set out in the contract

23 **Non-commercial considerations**

(a) **Considerations to be excluded**

Subject to rule 23(b), no part of the tender process, evaluation, contract award or contract or specification documents shall be based on:

- (i) the terms and conditions and composition of the contractor's workforce
- (ii) whether subcontractors are self-employed
- (iii) the contractor's involvement in irrelevant areas of government policy
- (iv) the contractor or contractor's employees' involvement in industrial disputes
- (v) the contractor's business locations – for example, to buy local or buy British
- (vi) any political, industrial or sectarian links or interest of the contractors, its directors or owners, or employees
- (vii) the contractor's financial support (or lack of it) to any organisation which the Council does or does not support.

(b) **Considerations which may be included for contracts for services subject to best value legislation**

Contracts for services which are subject to best value legislation may base any part of the tender process, evaluation, contract award or contract or specification documents on:

- the terms and conditions and composition of the contractor's workforce, and/or
- the conduct of contractors or their workers in industrial disputes between them

provided that such matters are included either because:

- (i) TUPE applies, or
- (ii) it is reasonably necessary or expedient to permit or facilitate compliance with the best value requirements of the Local Government Act 1999

**24 Appointment of consultants**

- (a) The appointment of consultants is a contract for services and is therefore covered by these Rules as well as subject to the Financial Procedure Rules and the Procurement Framework.
- (b) Consultants may be appointed only if the appropriate Group Director is satisfied that the tasks required cannot be carried out adequately in-house – for example, due to lack of internal resources or expertise, specialist knowledge, independence and urgency.
- (c) The Consultant's contract must include provisions identifying who (normally it should be the Council) owns the intellectual property rights to any documentation, report, design or other work produced by the consultant and, if the Council is not to be the owner of those rights, the licensing terms for the use of the rights.
- (d) A consultant who provides advice or expertise to the Council on the nature, scope, extent or terms of a project /another contract shall not be permitted to bid, either alone or with others, for that project/other contract and the consultant's contract shall include provisions to ensure compliance with this Rule.

**25 Framework Contracts**

- (a) A Framework Contract is one where there is a main contract for the supply of goods or services which sets out the overall period of the contract (usually for no more than 4 years which is mandatory for contracts above the EU threshold) and the terms and conditions on which the goods or services will be purchased, but does not commit the Council to purchase any goods or services from that supplier. Any subsequent purchase contracts for those goods or services from that supplier will be made under that main Framework Contract.
- (b) The main Framework Contract shall be let in accordance with the requirements of these Rules using the procedure set out in Schedules D, E, F or G as appropriate
- (c) Once the Framework Contract is operative all subsequent purchases under the Framework shall either not require further competition (if a single supplier) or, if there are 2 or more suppliers for those goods or services on Framework Contracts, the competition shall be in accordance with the provisions in the Framework Contract, or if no specific provisions by simple written quotations by those suppliers on the price payable for the goods or services

- (d) Government Framework Contracts (eg Buying Solutions contracts) and other public sector framework contracts.

Where the proposed contract is one for which Buying Solutions or another public sector body on behalf of the public sector has undertaken a competitive tendering exercise which fulfils EU Procurement Requirements and set out the terms and conditions on which such a contract is to be let and where the Council is seeking tenders only from those suppliers accredited to that framework tender and is to use the agreed terms and conditions then the tender process shall be as set out in Schedule H

**26 Electronic Business**

- (a) Purchases made using the Council's e-procurement system are effectively individual contracts entered into under the provisions of a framework agreement previously agreed between the Council and the supplier. Such purchases shall either not require further competition or, if there are 2 or more suppliers for those goods or services on the e-procurement system, the competition shall be by simple quotations by those suppliers on the price payable for the goods or services.
- (b) In the event of a Service wanting to use some other form of electronic business, eg e-auction, the procedure to be adopted shall first be agreed with the Assistant Chief Executive Legal & Democratic Services and the Group Director Finance & Commerce and in the event that the likely value of the contract will be over £156,000 that procedure shall be approved by the relevant Cabinet Member.

**27 Exceptions**

**(a) General Exceptions to Rules**

No exception to these Rules shall be permitted except upon approval by an individual Cabinet member using an executive decision Form A or by some other provision in this Rule. The report shall set out the background, the rule being waived, the reasons the waiver is required, how value for money will be demonstrated, any legal or financial risks or implications and shall be approved by the Assistant Chief Executive Legal & Democratic Services and the Group Director Finance & Commerce

**(b) Exceptions to competitive requirements**

Exceptions to the competition requirements set out in Schedules A to K apply may be made only if all relevant law is complied with e.g. European procurement and best value legislation and one of the following circumstances applies:

- (i) the contract falls within one of the exceptions listed in this Rule, and
  - the Competition Financial Thresholds Exceptions Form (set out in the Procurement Framework at section C2), is fully and properly completed and signed by the relevant Group Director, and
  - the person awarding the contract can demonstrate that the contract represents the best value that can be obtained in the circumstances.
- (ii) an individual Cabinet member has approved the waiving of the application of these rules, as permitted by Rule (a) above.
- (iii) the contract is solely for the employment of agency staff or interim managers (but not consultants)

- (iv) joint purchasing with or through another public body provided that the public body awarding the contract can demonstrate that the arrangements comply with European procurement, best value and other applicable legislation.
- (v) The instructing of counsel by the Assistant Chief Executive, Legal & Democratic Services
- (vi) they are allowed by some other specific provision in these Rules

The exceptions are:

- (i) **Genuine emergency**  
Unforeseen events likely to cause immediate danger to people or property such as bombing or flooding.
  - (ii) **Specialist services/supplies**  
Available only from one supplier in the European Union – for example, specialist niche consultants or supplies.
  - (iii) **For reasons of compatibility**  
With existing services/products – for example, equipment that needs parts from its own manufacturer.
  - (iv) **Urgency NOT of the Council's own making**  
The urgency must be unforeseen – for example, a current supplier ceases to operate, or a contract is terminated for poor performance. *Urgency caused by previous delay by the Council or a requirement to implement a strategy or project urgently will not justify an exception under this exception.*
  - (v) **Exceptions permitted under European procurement rules**  
Where the contract is subject to the full application of the European procurement rules and there are specific exceptions which shall be complied with.
  - (vi) **Best Interests of the Council**  
Where it is in the best interests of the Council or the Borough for a provision in these Rules to be waived to enable a contract procurement to be rapidly progressed while still complying with European procurement rules.
- (c) **Emergency Action**

The Chief Executive or a Group Director personally may authorise a waiver of any of these Rules if they consider that the circumstances are such that such a waiver is necessary and desirable to further the aims of the Council or for the benefit of the residents of the borough. Such a waiver and the reasons for it shall be fully documented and, if reasonably possible, before giving the authorisation the Chief Executive or the Group Director shall consult with the Group Director, Finance & Commerce and the Assistant Chief Executive, Legal & Democratic Services and may consult with the relevant Cabinet Member.

## **SCHEDULES**

### **Schedule A - Contracts under £ 15,000**

- a) Advertising – none required



## b) Quotes &amp; contract award

<u>Value</u>	<u>Number of quotes</u>	<u>Contract awarded by</u>
Less than £2000	One quote	Council staff member authorised by Head of Service
£2000 to £14,999	Two quotes – oral or written	Council staff member authorised by Head of Service

- c) Award criteria – normally solely price once quality threshold achieved
- d) Documentation – wherever possible through the Council's purchasing card system or using an approved standard form of contract.
- e) Retain documents – all documentation to be retained for 3 years or the life of the contract whichever is the longer
- f) Also check compliance with Rules 19, 20 & 23

**Schedule B - Contracts between £ 15,000 and £ 59,999**

- a) Advertising – none required
- b) Quotes & contract award – 3 written quotes sought, contract awarded by 3rd or 4th tier manager or staff member authorised by Head of Service
- c) Award criteria – compliance with specification and price
- d) Documentation - all such contracts (except construction works contracts and those covered by specific exceptions) shall be placed using an approved standard form of contract
- e) Retain documents – all documentation to be retained for 3 years after the end of the contract
- f) Also check compliance with Rules 19, 20 & 23

**Schedule C - Contracts between £ 60,000 and £155,999**

- a) Advertising – none required. Selection from existing approved list/existing contractors/Constructionline/
- b) Process & contract award – Mini tender – one stage
- competitive tender against written specification of requirements
  - minimum of three written tenders sought
  - contract awarded by 3rd or 4th tier manager or staff member authorised by Head of Service and financial representative of Executive Director Finance & Planning
- c) Award criteria – compliance with the specification and price

- d) Documentation - all such contracts (except construction works contracts and those covered by specific exceptions) shall have a written specification of the Council's requirements and the standard terms and conditions listed below:
- (i) For supplies: the Council's Standard Terms of Purchase for Goods
  - (ii) For services: the Council's Standard Terms and Conditions for Services
- Contract to be signed by the duly authorised Head of Service, Group Director or Chief Executive, as appropriate or staff member authorised by the Head of Service
- e) Retain documents – all documentation to be retained for 6 years after the end of the contract
- f) Also check compliance with Rules 3, 5, 8, 9, 10, 14, 18, 19, 20 & 23

**Schedule D - Contract between £156,000 and £1,000,000** which is not subject to European procurement legislation advertising requirements (i.e. Part B services, or works less than £3,927,,000)

- a) Pre tender Report – report to the appropriate Group Director or the Chief Executive for approval unless an exception applies – see Rule 27
- b) Advertising –it shall be advertised in either the local press, specialist trade press, or national press as appropriate to the contract. A minimum of 10 working days shall be allowed for interested providers to express interest in tendering for the contract
- c) Process – Full tender – 2 stages
- Selection of potential tenderers from those who express interest as a result of the initial advert
  - competitive tender against written specification of requirements
  - a minimum of 10 working days shall be allowed for tenders
  - minimum of three written tenders sought
  - contract assessed by a project team reporting to Head of Service and including appropriate specialists e.g. legal, finance, procurement, health and safety
- d) Pre – award Report – there must be a report to an individual Group Director or the Chief Executive for approval and award after the final evaluation of tenders by the evaluation team unless an exception applies – see Rule 27
- e) Contract award - contract awarded by Group Director or the Chief Executive
- f) Award criteria – compliance with the evaluation criteria (primarily specification & price) agreed prior to the dispatch of tender documentation
- g) Documentation - all such contracts (except construction works contracts and those covered by specific exceptions) shall have a written specification of the Council's requirements and the standard terms and conditions listed below:
- (i) For supplies: the Council's Standard Terms and Conditions for Supplies
  - (ii) For services: the Council's Standard Terms and Conditions for Services
- Contract to be executed under seal in accordance with Article 10.05 of this constitution. The Legal Document Execution Form must be duly completed.
- h) Retain documents – all documentation to be retained in accordance with Rule 17

- i) Also check compliance with Rules 3, 5, 8, 9, 10, 14, 18, 19, 20 & 23

**Schedule E - Contract between £156,000 and £1,000,000** which is subject to European procurement legislation advertising requirements (i.e. contracts for supplies, EU Part A services)

- a) Pre tender Report – report to the appropriate individual Group Director or the Chief Executive for approval unless an exception applies – see Rule 27
- b) Advertising – it shall be advertised in the Official Journal of the European Community. A minimum of 37 days shall be provided for expressions of interest in accordance with EU procurement legislation, except where the legislative requirements permit a shorter time scale. In addition there shall be at least 1 advertisement in either the specialist trade, local or national press, if appropriate to the contract.
- c) Process– Full EU advertised competitive tender process
- competitive tender against written specification of requirements
  - a minimum of 40 calendar days shall be allowed for tenders
  - minimum of three written tenders sought
  - contract assessed by a project team reporting to Head of Service and including appropriate specialists e.g. legal, finance, procurement, health and safety
- d) Pre – award Report – there must be a report to an individual Group Director or the Chief Executive for approval and award after the final evaluation of tenders by the evaluation team unless an exception applies – see Rule 27.
- e) Contract award - contract awarded by Group Director or the Chief Executive
- f) Award criteria – compliance with the evaluation criteria (primarily specification & price) agreed prior to the dispatch of tender documentation
- g) Documentation - all such contracts (except construction works contracts and those covered by specific exceptions) shall have a written specification of the Council's requirements and the standard terms and conditions listed below:
- (i) For supplies: the Council's Standard Terms and Conditions for Supplies
- (ii) For services: the Council's Standard Terms and Conditions for Services

Contract to be executed under seal in accordance with Article 10.05 of this constitution. The Legal Document Execution Form must be duly completed.

- h) Retain documents – all documentation to be retained in accordance with Rule 17
- i) Also check compliance with Rules 3, 5, 8, 9, 10, 14, 18, 19, 20 & 23

**Schedule F - Contract between £5,000,000 and £10,000,000** which is not subject to European procurement legislation advertising requirements (i.e. Part B services, or works less than £3,927,000)

- a) Pre tender Report – report to the appropriate individual Group Director or the Chief Executive for approval unless an exception applies – see Rule 27
- c) Advertising –it shall be advertised in either the local press, specialist trade press, or national press as appropriate to the contract. A minimum of 10 working days shall be allowed for interested providers to express interest in tendering for the contract
- c) Process– Full tender –2 stages

- Selection of potential tenderers from those who express interest as a result of the initial advert
  - competitive tender against written specification of requirements
  - a minimum of 10 working days shall be allowed for tenders
  - minimum of three written tenders sought
  - contract assessed by a project team reporting to Head of Service and including appropriate specialists e.g. legal, finance, procurement, health and safety
- d) Pre – award Report – there must be a report to an individual Cabinet Member for approval and award after the final evaluation of tenders by the evaluation team unless an exception applies – see Rule 27
- e) Contract award - contract awarded by Cabinet Member approval
- f) Award criteria – compliance with the evaluation criteria (primarily specification & price) agreed prior to the dispatch of tender documentation
- g) Documentation - all such contracts (except construction works contracts and those covered by specific exceptions) shall have a written specification of the Council's requirements and the standard terms and conditions listed below:
- (i) For supplies: the Council's Standard Terms and Conditions for Supplies
  - (ii) For services: the Council's Standard Terms and Conditions for Services
- Contract to be executed under seal in accordance with Article 10.05 of this constitution. The Legal Document Execution Form must be duly completed.
- h) Retain documents – all documentation to be retained in accordance with Rule 17
- i) Also check compliance with Rules 3, 5, 8, 9, 10, 14, 18, 19, 20 & 23

**Schedule G - Contract between £5,000,000 and £10,000,000** which is subject to European procurement legislation advertising requirements (i.e. contracts for supplies, EU Part A services)

- a) Pre tender Report – report to the appropriate individual Group Director or the Chief Executive for approval unless an exception applies – see Rule 27
- b) Advertising – it shall be advertised in the Official Journal of the European Community. A minimum of 37 days shall be provided for expressions of interest in accordance with EU procurement legislation, except where the legislative requirements permit a shorter time scale. In addition there shall be at least 1 advertisement in either the specialist trade, local or national press, if appropriate to the contract.
- c) Process– Full EU advertised competitive tender process
- competitive tender against written specification of requirements
  - a minimum of 40 calendar days shall be allowed for tenders
  - minimum of three written tenders sought
  - contract assessed by a project team reporting to Head of Service and including appropriate specialists e.g. legal, finance, procurement, health and safety
- d) Pre – award Report – there must be a report to an individual Cabinet Member for approval and award after the final evaluation of tenders by the evaluation team unless an exception applies – see Rule 27.

- e) Contract award - contract awarded by Cabinet Member approval
- f) Award criteria – compliance with the evaluation criteria (primarily specification & price) agreed prior to the dispatch of tender documentation
- g) Documentation - all such contracts (except construction works contracts and those covered by specific exceptions) shall have a written specification of the Council's requirements and the standard terms and conditions listed below:
  - (i) For supplies: the Council's Standard Terms and Conditions for Supplies
  - (ii) For services: the Council's Standard Terms and Conditions for Services

Contract to be executed under seal in accordance with Article 10.05 of this constitution. The Legal Document Execution Form must be duly completed.
- h) Retain documents – all documentation to be retained in accordance with Rule 17
- i) Also check compliance with Rules 3, 5, 8, 9, 10, 14, 18, 19, 20 & 23

**Schedule H- Contract above £10,000,000** which is not subject to European procurement legislation advertising requirements (i.e. Part B services)

- a) Pre tender Report – report to individual Group Director or the Chief Executive for approval unless an exception applies
- b) Advertising –it shall be advertised in either the local press, specialist trade press, or national press as appropriate to the contract. A minimum of 10 working days shall be allowed for interested providers to express interest in tendering for the contract
- c) Process– Full tender –2 stages
  - competitive tender against written specification of requirements
  - a minimum of 10 working days shall be allowed for tenders
  - three tenders sought
  - contract assessed by a project team reporting to Head of Service and including appropriate specialists e.g. legal, finance, procurement, health and safety
- d) Pre – award Report – there must be a report to Cabinet for approval and award after the final evaluation of tenders by the evaluation team unless an exception applies.
- e) Contract award - contract awarded by the Leader or Cabinet.
- f) Award criteria – compliance with the evaluation criteria (primarily specification & price) agreed prior to the dispatch of tender documentation
- g) Documentation - all such contracts (except construction works contracts and those covered by specific exceptions) shall have a written specification of the Council's requirements and the standard terms and conditions listed below:
  - (i) For supplies: the Council's Standard Terms and Conditions for Supplies
  - (ii) For services: the Council's Standard Terms and Conditions for Services

Contract to be executed under seal in accordance with Article 10.05 of this constitution. The Legal Document Execution Form must be duly completed.

- h) Retain documents – all documentation to be retained in accordance with Rule 17
- i) Also check compliance with Rules 3, 5, 8, 9, 10, 14, 18, 19, 20 & 23

**Schedule I - Contract above £10,000,000** which is subject to European procurement legislation advertising requirements (i.e. contracts for supplies, EU Part A services)

- a) Pre tender Report – report to individual Group Director or the Chief Executive
- b) Advertising – it shall be advertised in the Official Journal of the European Community. A minimum of 37 days shall be provided for expressions of interest in accordance with EU procurement legislation, except where the legislative requirements permit a shorter time scale. In addition there shall be at least 1 advertisement in either the specialist trade, local or national press, if appropriate to the contract.
- c) Process– Full EU advertised competitive tender process
  - competitive tender against written specification of requirements
  - a minimum of 40 calendar days shall be allowed for tenders
  - three tenders sought
  - contract assessed by a project team reporting to Head of Service and including appropriate specialists e.g. legal, finance, procurement, health and safety
- d) Pre – award Report – there must be a report to Cabinet for approval pre-award after the final evaluation of tenders by the evaluation team unless an exception applies.
- e) Contract award - contract awarded by the Leader or Cabinet
- f) Award criteria – compliance with the evaluation criteria (primarily specification & price) agreed prior to the dispatch of tender documentation
- g) Documentation - all such contracts (except construction works contracts and those covered by specific exceptions) shall have a written specification of the Council's requirements and the standard terms and conditions listed below:
  - (i) For supplies: the Council's Standard Terms and Conditions for Supplies
  - (ii) For services: the Council's Standard Terms and Conditions for ServicesContract to be executed under seal in accordance with Article 10.05 of this constitution. The Legal Document Execution Form must be duly completed.
- h) Retain documents – all documentation to be retained in accordance with Rule 17
- i) Also check compliance with Rules 3, 5, 8, 9, 10, 14, 18, 19, 20 & 23

**Schedule J - Framework Contracts**

- a) Pre tender Report– report to the appropriate individual Group Director or the Chief Executive.
- b) Advertising –it shall be notified to those suppliers accredited by the OGC as having been accepted as part of he OGC tender process. A minimum of 10 working days shall be allowed for interested providers to express interest in tendering for the contract
- c) Process & contract award – Full tender – two stages
  - competitive tender against written specification of requirements
  - a minimum of 10 working days shall be allowed for tenders
  - three tenders sought

- if below £156,000 contract awarded by Head of Service on report from 3rd or 4th tier manager or staff member authorised by Head of Service and financial representative of Group Director Finance & Commerce  
if between £156,000 and £5,000,000 contract awarded Group Director or the Chief Executive if between £5,000,000 and £10,000,000 awarded by individual Cabinet member on a report from the relevant Head of Service  
if above £10,000,000 contract awarded by the Leader or Cabinet via a Pre-award Report
- d) Award criteria – compliance with the evaluation criteria (primarily specification & price) agreed prior to the dispatch of tender documentation
- e) Documentation - all such contracts shall have a written specification of the Council's requirements and the standard terms and conditions approved by the OGC for that particular contract  
  
Contracts over £100,000 to be executed under seal in accordance with Article 10.05 of this constitution. The Legal Document Execution Form must be duly completed.
- f) Retain documents – all documentation to be retained for in accordance with Rule 17
- g) Also check compliance with Rules 3, 5, 8, 9, 10, 14, 18, 19, 20 & 23

**Schedule K - Consortium Arrangements (where LBH is not a member)**

- a) Pre-tender Report – report to individual Group Director or the Chief Executive for approval to use a consortium. Report to include details of the procurement process used by the consortium and confirmation that Havering's involvement will be within the terms of the consortium and will not breach European procurement requirements in addition to the standard requirements for such reports.
- b) There should be a minimum of three suppliers to the consortium who can be invited to provide quotations for the goods or services
- c) Award criteria - compliance with the evaluation criteria (primarily specification & price) either as set out in the consortium documentation or if none agreed prior to the dispatch of tender documentation
- d) Pre – award Report – there must be a report to an individual Group Director or the Chief Executive if below £5,000,000 or an individual Cabinet Member (if below £10,000,000) or to the Leader or Cabinet for approval pre-award after the final evaluation of tenders by the evaluation team unless an exception applies – see Rule 27.
- e) Documentation - all such contracts shall have a written specification of the Council's requirements and the standard terms and conditions of the Consortium for that particular contract  
  
Contracts over £100,000 to be executed under seal in accordance with Article 10.05 of this constitution. The Legal Document Execution Form must be duly completed.
- f) Retain documents – all documentation to be retained for in accordance with Rule 17
- g) Also check compliance with Rules 3, 5, 8, 9, 10, 14, 18, 19, 20 & 23

## **Part 4: Procedure Rules**

### **Executive Procedure Rules**

#### **1. Rules**

This records the rules made by the Leader governing meetings of the Cabinet and the discharge of Executive functions by himself, the Cabinet and Cabinet Members. It should be noted that Executive decisions may also be delegated elsewhere e.g. to officers.

#### **2. Role**

The Executive will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

#### **3. Form and Composition**

The Executive will take the form of a Cabinet consisting of the Executive Leader together with at least 2, but not more than 9 Councillors appointed to the Cabinet by the Leader.

#### **4. Meetings of the Cabinet**

- (a) Meetings of the Cabinet shall be held on such dates and at such times and venues as the Leader shall decide.
- (b) The Proper Officer will summon all Members of the Cabinet to meetings by sending an agenda and accompanying papers to each Cabinet Member and by publishing the Agenda in accordance with any statutory requirements.
- (c) The meeting or part of a meeting must be held in public where the Leader, reasonably believes that one of the following circumstances apply:
  - 4.c.i. A decision made will be a key decision; or
  - 4.c.ii. A matter that is included in the Forward Plan or is the subject of a notice given under Regulation 15 (exception to inclusion on the forward plan) is likely to be discussed; and
  - 4.c.iii. The decision on the matter is likely to be made within 28 days; and
  - 4.c.iv. An officer who is not a political assistant will be present at the discussion

#### **5. Portfolios and responsibility of functions**

The Members of the Cabinet shall have the portfolios designated by the Leader. The Leader will maintain a list and notify this list to the Proper Officer setting out what individual members of the Cabinet, committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular Executive functions.

#### **6. The agenda for Cabinet meetings**

The agenda for each meeting of the Cabinet will comprise:

- (a) The minutes of the previous meeting for approval and signing
- (b) Declarations of interest, if any



- (c) An item referred for consideration by Cabinet as the result of an overview and scrutiny committee upholding the requisition of an Executive Decision by Cabinet or by and individual Cabinet Member.
- (d) An item placed on the agenda by the Proper Officer where the full Council have resolved that an item be considered by the Cabinet at its next available meeting.
- (e) An item placed on the agenda by the Proper Officer within two months of a relevant overview and scrutiny committee referring an item for consideration by the Cabinet.
- (f) An item that the Leader or any other member of the Cabinet has required the Proper Officer to place on the agenda of the next available meeting for consideration.
- (g) An item placed on the agenda of the next available meeting of the Cabinet by the Proper Officer at the request of a Champion. That Champion shall be invited to attend the meeting and shall be allowed to speak to it.
- (h) Any item that the Leader has agreed at the request of any member of the Council will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the member who asked for the item to be considered. This member will be invited to attend the meeting and will be allowed to speak. However, there may only be up to two such items per Cabinet meeting.

**7. Quorum**

The quorum for a meeting of the Cabinet is three Members.

**8. Chairing**

If the Leader or Deputy Leader is not present or able to preside, the Cabinet shall elect another Member to preside for that meeting or item.

**9. Attendance and speaking**

- (a) All members of the Council may attend meetings of the Cabinet.
- (b) Without prejudice to the powers of the person presiding at the meeting to control debate as chairman, the following rights of address apply:
  - (i) Members of the Cabinet are entitled to speak at any meeting on any matter.
  - (ii) Any Group Leader who is not a member of the Cabinet (or a member nominated by him) may speak on any item before the Cabinet.
  - (iii) Champions in accordance with Rule 14(b) below
  - (iv) Any other member may speak only with the consent of the person presiding.
- (c) For the avoidance of doubt and in the interests of orderly debate, the person presiding has discretion to limit the amount of time, and the number of times, that any member may speak on a particular item.
- (d) The person presiding at the meeting has discretion to permit one or more members of the public to address the Cabinet on a matter on the Agenda provided he is satisfied that to do so will assist the Cabinet in coming to a decision on that matter. In giving such permission, the Chairman may attach such conditions as he thinks fit.

**10. Conduct of Meeting**

- (a) The person presiding at the meeting shall have power to exercise the powers conferred on the Mayor in relation to the conduct of meetings of the Council. In any conflict between these rules and those of Council these rules shall prevail.
- (b) The person presiding may vary the order of the agenda where it is necessary to do so for the proper conduct of the business of the meeting. Where the person presiding is of the opinion that there is insufficient information available to the Cabinet to enable a proper decision to be reached, consideration of the report in question may be deferred to a future meeting.

**11. Private meetings of the Cabinet**

Cabinet meetings will be held in public save where there would otherwise be a disclosure of confidential or exempt information within the meaning of the Local Government Act 1972 as amended.

**12. Consultation**

All reports to the Cabinet from any member of the Cabinet or a member of staff on proposals relating to the budget framework and the policy framework must contain details of the nature and extent of consultation with stakeholders and relevant overview and scrutiny committees, and the outcome of that consultation, if any. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

**13. Conflicts of interest**

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Members' Code of Conduct set out in Part 5 of this constitution.
- (b) If every member of the Cabinet has a conflict of interest this should be dealt with as set out in the Members' Code of Conduct.
- (c) If the exercise of an Executive function has been delegated to an individual member or a member of staff, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made.

**14. Key decisions**

A key decision is an Executive decision which is likely

- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates and for this purpose "significant" is defined as

**Revenue Expenditure/Savings**

- (i) over £500,000 or in excess of 10% of the gross controllable composite budget at Head of Service/ Assistant Chief Executive level
- (ii) the 10% calculation will exclude a de minimis level of £250,000 and therefore no decision under £250,000 will be a key decision
- (iii) a single revenue virement in excess of £500,000

**Capital Expenditure**

- (i) a capital scheme in excess of £500,000 expenditure
- (ii) a single virement in excess of £500,000, or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority

In determining the meaning of “significant”, regard must be had to any guidance issued by the Secretary of State.

- (c) A decision maker may make a key decision only in accordance with the requirements of the Access to Information Procedure Rules set out in Part 4 of this constitution.
- (d) A key decision is recorded and published on the Council’s website and is published to members by way of a weekly Calendar Brief

**15. Forward Plan**

The Executive Leader must instruct the Proper Officer to publish a document stating the following:

- (i) That key decisions are to be made on behalf of the local authority;
- (ii) That a “Forward Plan” containing particulars of the matters in respect of which those decisions are to be made will be prepared monthly by the authority;
- (iii) That a Forward Plan will contain details of the key decisions likely to be made by the authority for the four month period following publication of the forward plan;
- (iv) That each current Forward Plan may be inspected at all reasonable hours and free of charge at the local authority’s offices;
- (v) That each Forward Plan contains a list of the documents submitted to the decision makers for consideration in relation to the matters in respect of which decisions are to be made;
- (vi) The address from which copies of listed documents are available;
- (vii) That other relevant documents may be submitted to the decision-makers’
- (viii) The procedure for requesting details of any such documents as they become available.
- (ix) The dates in each month in the following 12 months on which each Forward Plan will be published and available at the authority’s offices.
- (x) The document must be published in at least one local newspaper annually between 14 and 21 days before the first Forward Plan of that year comes into effect.

**16. Recording of Executive decisions made by individuals**

- (a) As soon as reasonably practicable after an individual Executive decision has been made, the Proper Officer shall produce a written statement in respect of that decision which includes:
  - (i) A record of that decision;
  - (ii) A record of the reasons for that decision;
  - (iii) Details of any alternative options considered and rejected at the time;
  - (iv) A record of any conflict of interest or of any dispensation granted
- (b) After a private meeting or a public meeting of a decision making body at which an Executive decision has been made; after an individual member has made an Executive decision or after an officer has made a key decision the Proper Officer shall ensure that:
  - (i) Any records prepared in connection with and
  - (ii) Any report considered shall be available for inspection by members of the public, as soon as is reasonably practicable, at the offices of the authority.

**17. Executive decision-making processes**

- 1. Key decisions may be taken only if due notice has been given of them in the Forward Plan unless the procedure for taking decisions without due notice has been followed.
- 2. Key decisions may be taken by Cabinet, by individual members of Cabinet or Chairmen of area committees or by officers acting in accordance with powers delegated generally or for specific purposes.
- 3. Executive decisions that are not key decisions may be taken by officers as well as by Cabinet, individual Cabinet members or area committee chairmen, in accordance with powers delegated generally or for specific purposes.
- 4. A list of all Executive decisions (whether or not key decisions) taken by members and of key decisions taken by officers in the preceding week will normally be published in the weekly Calendar Brief but where circumstances so require a supplementary Calendar Brief may be issued at any time.
- 5. No key decision shall be acted upon until either the deadline for submission of a requisition has passed without one being submitted, or any requisition submitted has been disposed of.
- 6. Where an Cabinet Member or Officer receives a report, which they intend to take into consideration when making the key decisions, they must not make that decision until the report has been available for public inspection for at least five clear days.
- 7. The Cabinet Member or Officer must ensure that the Proper Officer makes the report (and a list and copies of Background Papers) available for public inspection as soon as reasonably practicable after the Cabinet Member or Officer receives it.
- 8. Where a report has been submitted to an Cabinet Member or Officer with a view to it being considered by him when he makes a key decision, the person submitting

the report must, as soon as reasonably practicable, supply a copy to the Chairman of every relevant Overview and Scrutiny Committee

**18. Action where a key decision has not been shown on the Forward Plan**

- (a) A key decision that has not been shown on the Forward Plan shall be made only in exceptional circumstances.
- (b) Such a key decision shall be made only if the Chairman of the relevant overview & scrutiny committee signifies in writing that he is satisfied on the report of the member or officer responsible for making the decision that
  - (i) it was reasonable in all the circumstances for notice of need for the decision not to appear in the Forward Plan
  - (ii) there is urgency for the decision to be made that justifies its being dealt with immediately rather than awaiting processing in the normal way
  - (iii) there are no grounds for supposing that the decision would be likely to be called in if processed in the normal way
- (c) Where the Chairman so signifies, the decision may be made forthwith and implemented without delay, and shall not be liable to be called in under the procedure provided for in paragraph 17 of the Overview & Scrutiny Procedure Rules in Part 4 of the Constitution.

## **Part 4: Procedure Rules**

### **Financial Procedure Rules**

#### **Introduction**

#### **1 Status of Financial Procedure Rules**

- (a) The Financial Procedure Rules provide the framework for managing the Council's financial affairs. They provide the platform on which the implementation of the Council's Budget Framework is based.
- (b) The Financial Procedure Rules ensure that there are rules to govern how the Council's money and other assets are looked after and how its spending is controlled. This enables the Council to ensure that it makes the most effective use of the resources available to it in delivering value for money services to the local community.
- (c) The Financial Procedure Rules focus on an overview of the key financial areas and responsibilities. Details, clarifying and explaining the processes involved, are set out in greater depth in the Council's Financial Framework. The Financial Framework sets out the detailed procedures that need to be followed and provides more detailed guidance than the Rules.
- (d) The Rules identify the responsibilities for financial matters within the Council. They apply to every member and officer of the Council and anyone acting on its behalf. Compliance with both the Rules and the Financial Framework is a requirement for all Council employees.
- (e) CMT are responsible for ensuring that they and all staff in their services are aware of the existence and content of the Council's Financial Procedure Rules and other internal regulatory documents and that they comply with them.
- (f) The Group Director Finance & Commerce is responsible for issuing advice and guidance to underpin the Financial Procedure Rules that members, officers and others acting on behalf of the Council are required to follow.
- (g) The Group Director Finance & Commerce is responsible for maintaining a continuous review of these Rules and for submitting any additions or changes necessary to Council for approval. The financial limits contained within these Procedure Rules will be subject to an annual review by the Group Director Finance & Commerce.
- (h) The Group Director Finance & Commerce is also responsible for reporting, where appropriate, breaches of the Rules to the Council and/or to Cabinet.

#### **2 Financial Responsibilities**

- (a) The Group Director Finance & Commerce has statutory duties in relation to the financial administration and stewardship of the authority. This statutory responsibility cannot be overridden. The statutory duties arise from:
  - Section 151 of the Local Government Act 1972
  - The Local Government Finance Act 1988
  - The Local Government and Housing Act 1989
  - The Accounts and Audit Regulations 1996.
- (b) The Group Director Finance & Commerce is responsible for:
  - the proper administration of the authority's financial affairs
  - setting and monitoring compliance with financial management standards

- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
  - providing financial information
  - preparing the budget
  - treasury management.
- (c) Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer (the Group Director Finance & Commerce) to report to the Council, Cabinet and external auditor if the authority or one of its officers:
- has made, or is about to make, a decision which involves incurring unlawful expenditure
  - has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the authority
  - is about to make an unlawful entry in the authority's accounts.
- (d) Section 114 of the 1988 Act also requires:
- the Chief Finance Officer to nominate a properly qualified member of staff (the Head of Financial Services) to deputise should he or she be unable to perform the duties under section 114 personally
  - the authority to provide the Chief Finance Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out their duties under section 114.

## **Financial Planning & Financial Management**

### **3 Accounting and Accounting Policies**

- (a) The Group Director Finance & Commerce is responsible for:
- selecting accounting policies and ensuring that they are applied consistently
  - determining the accounting procedures and records for the Council and how accounting information will be compiled and maintained
  - the operation of the Council's accounting systems, the form of accounts and the supporting financial records
  - approving the use and operation of all financial systems.
- (b) Any changes made by Assistant Directors/Heads of Service to the existing financial systems or the establishment of new systems within their services must be approved by the Group Director Finance & Commerce. However, Assistant Directors/Heads of Service are responsible for the proper operation of financial processes in their own services.

### **4 Budgets**

- (a) The form and content of revenue and capital budgets will be determined by the Group Director Finance & Commerce.
- (b) The Group Director Finance & Commerce is responsible ensuring that the following are prepared:
- a revenue budget on an annual basis
  - a Medium Term Financial Strategy on a three-yearly basis (or such other basis as Cabinet determines)
  - a Capital Strategy, on a similar basis
  - a Treasury Management Strategy
- in compliance with the budget framework.

- (c) It is the responsibility of Assistant Directors/Heads of Service to ensure that budget estimates:
- reflect agreed service plans
  - reflect the Medium Term Financial Strategy and Capital Strategy
  - are prepared in line with guidance issued by the Group Director Finance & Commerce.
- (d) No expenditure can be incurred unless:
- (i) it is contained within the Council's approved budget (subject to virement rules), or
  - (ii) external funding sufficient to meet it is available and approval has been given via an executive decision.
- (e) It is the responsibility of the Group Director Finance & Commerce to advise Cabinet and/or Council on prudent levels of reserves for the Council.

## **5 Budget Management**

- (a) The Group Director Finance & Commerce is responsible for providing appropriate financial information to enable budgets to be monitored effectively. They must monitor and control expenditure against budget allocations and report to Cabinet on the overall position on a regular basis.
- (b) Assistant Directors/Heads of Service are responsible for controlling income and expenditure within their area and to produce forecasts and monitor financial performance, taking account of financial information provided by and in accordance with guidance issued by the Group Director Finance & Commerce.
- (c) Assistant Directors/Heads of Service should report on variances within their own areas. They should also take any action necessary to avoid exceeding their budget allocation.
- (d) The Group Director Finance & Commerce must be consulted by Assistant Directors and Heads of Service as soon as they become aware of any matters in their service areas, which could materially affect the Council's budget and which cannot be contained within existing approved budgets of the service area.

## **6 Budget Virements**

- (a) Budget virements are required when a change to Council policy and/or service delivery requires resources to be reallocated, or when additional resources are received, or to meet any anticipated budgetary shortfalls.
- (e) Revenue virements are subject to the following authorisation process:
- Virements in excess of £1 million will require Cabinet approval and will be a key decision requiring notification in the Forward Plan.
  - Virements between £500,000 and up to £1 million will require approval by the relevant Cabinet Members.
  - Virements between £250,000 and up to £500,000 that are key decisions will require approval by the relevant Cabinet Members.
  - Virements between £250,000 and up to £500,000 that are not key decisions will require approval by the CMT member and the Group Director Finance & Commerce.



- All other virements will need to comply with procedures specified by the Group Director Finance & Commerce.
- (f) Capital virements are subject to the following authorisation process:
- Virements in excess of £1 million will require Cabinet approval and will be a key decision requiring notification in the Forward Plan.
  - Virements between £500,000 and up to £1 million will require approval by the relevant Cabinet Members.
  - Virements between £250,000 and up to £500,000 between CMT members will require approval by the relevant Cabinet Members.
  - Virements between £250,000 and up to £500,000 within a single CMT member's service area will require approval by the CMT member and the Group Director Finance & Commerce.
  - All other virements will need to comply with procedures specified by the Group Director Finance & Commerce.
- (k) The cumulative value of virements for the year should be considered when deciding whether the various thresholds have been reached. The Group Director Finance & Commerce will take the final decision as to whether a number of smaller virements need to be grouped together for threshold calculation purposes.

## **7 Closedown of Accounts**

- (a) The Group Director Finance & Commerce will make arrangements to close the accounts in accordance with legislative arrangements, the overall strategy and their duties/powers as Chief Finance Officer.
- (b) The Group Director Finance & Commerce is responsible for ensuring that the annual statement of accounts is prepared in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice*.
- (c) The Group Director Finance & Commerce is responsible for establishing procedures for carrying forward under- and overspendings on budget headings and for the creation and use of earmarked reserves.
- (d) The relevant Cabinet member will consider and agree the setting up of any specific earmarked reserves along with the arrangements for their use.

## **Risk Management and Control of Resources**

### **8 Internal control**

- (a) The Group Director Finance & Commerce is responsible for:
- establishing adequate systems to monitor and control the Council's financial transactions
  - ensuring that such systems are adequately maintained and reviewed
  - advising on effective systems of internal control and giving advice and guidance accordingly
  - ensuring compliance with all applicable statutes and regulations, and other relevant statements of best practice

- ensuring that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

(b) It is the responsibility of Assistant Directors and Heads of Service to:

- maintain and promote sound arrangements for internal control, including appropriate authorisation arrangements
- comply with the advice and guidance of the Group Director Finance & Commerce
- ensure that they take due account of risk in the management of their functions
- ensure that they allocate resources to appropriately manage that risk.

## **9 Risk management**

(a) The Group Director Finance & Commerce is responsible for:

- reviewing and making recommendations on the Council's approach to risk management, including the risk management strategy
- promoting the strategy throughout the Council
- advising and instructing Assistant Directors and Heads of Service accordingly.

(b) Assistant Directors and Heads of Services are responsible for ensuring the regular identification, review and management of risk within their services, having regard to the Council's risk management strategy and associated advice and instructions from the Group Director Finance & Commerce and other specialist officers (e.g. crime prevention, business continuity, health & safety).

(c) They are also responsible for promoting and implementing the risk management strategy within their service areas, for ensuring that service risk registers are compiled and regularly reviewed, and for taking appropriate mitigating action to reduce risk levels within their area.

## **10 Insurances**

(a) The Group Director Finance & Commerce is responsible for ensuring that proper insurance exists where appropriate.

(b) Assistant Directors and Heads of Service shall consult the Group Director Finance & Commerce and the Assistant Chief Executive Legal & Democratic Services on:

- (i) any terms of any indemnity that the Council is requested to give
- (ii) appropriate contract conditions for contractors to indemnify the Council and suitable minimum insurance levels for inclusion in contracts
- (iii) appropriate indemnities and minimum insurance cover for partnership arrangements.

(c) Assistant Directors and Heads of Service will be responsible for ensuring that they acquire additional professional indemnity insurance for any areas of work that they take on voluntarily, and for ensuring that staff in their service areas are similarly insured.

## **11 Treasury management and trust funds**

(a) The Council has adopted CIPFA's *Code of Practice for Treasury Management in Local Authorities (the CIPFA code)*.

- (b) The Group Director Finance & Commerce is responsible for:
  - implementing and monitoring the Council's treasury management policy and statement and ensuring its compliance with the CIPFA code.
  - controlling all money in the hands of the Council
  - all decisions on borrowing, investment or financing, provided these are in accordance with the CIPFA's Code
  - holding in custody all securities, other than title deeds, contracts legal agreements mortgages, and trust funds, which are the property of or in the name of the Council or its nominees
  - acting as the Council's registrar of stocks, bonds and mortgages.
- (c) Investments must be made only in the name of the Council or its approved nominees.
- (d) All trust funds must be in the name of the Council. The Group Director Finance & Commerce must be informed of all trust funds administered by employees as part of their Council duties.
- (e) All employees acting as trustees by virtue of their official position shall deposit for safe-keeping, all securities etc. relating to any trust fund, with the Assistant Chief Executive Legal & Democratic Services unless the deed otherwise provides.

**12 Internal and external audit**

- (a) The Group Director Finance & Commerce is responsible for arranging for a continuous audit examination of accounting, financial and other operations of the Council.
- (b) The Group Director Finance & Commerce is responsible for ensuring:
  - (i) the maintenance of an adequate and effective internal audit function that is sufficient in its coverage and independent in its planning and operation
  - (ii) that the Internal Audit & Corporate Risk Manager has direct access to the Chief Executive, all levels of management and the Audit Committee and the Corporate Overview & Scrutiny Committee
  - (iii) that the internal auditors are trained to comply with professional good practice.
- (c) The Audit Commission is responsible for appointing external auditors to the Council to review and report upon:
  - (i) the financial aspects of the Council's corporate governance arrangements
  - (ii) the Council's financial statements, to be satisfied that the statement of accounts presents fairly the financial position of the Council, and its income and expenditure for the year in question and complies with the legal requirements
  - (iii) aspects of the Council's arrangements to manage its performance, including the preparation and publication of specified performance information.
- (d) The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenues & Customs, who have statutory rights of access.
- (e) The Group Director Finance & Commerce or their authorised representative, including the appointed external auditor, or other external body, shall have authority to:
  - (i) enter at any time any Council premises or land, (subject to the rights of any occupier)

- (ii) have unrestricted access to all records, documents and correspondence relating to any financial and other transactions of the Council where so required in connection with normal audit work
  - (iii) remove and /or secure any record, document and correspondence of the Council as considered necessary
  - (iv) make site visits during the course of a contract and examine any records or information relating to the contract, and examine contract final accounts and review supporting records and documentation in order to form a view on the accuracy of such accounts
  - (v) have unrestricted access to employees and require and receive such information and explanations as are necessary concerning any matter under examination
  - (vi) require any employee of the Council to produce cash, stores or any other Council property under that employee's control.
- (f) It is the responsibility of Assistant Directors and Heads of Service to:
- (i) ensure that internal auditors, external auditors, and other authorised inspectors, are given access at all reasonable times to premises, personnel, documents and assets, and are provided with any information and explanations that they consider necessary for the purposes of their work
  - (ii) consider and respond promptly to recommendations in audit reports
  - (iii) ensure any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- (g) To ensure the independence of the Council's external auditors, CMT, Senior officers Assistant Directors and Heads of Service should not seek or receive personal financial or tax advice from them. Any other officers who may receive such advice from the Council's external auditors), or who may also act as director for another audit or advisory client of them, should advise the Group Director Finance & Commerce.

**13 Preventing fraud & corruption**

- (a) The Group Director Finance & Commerce is responsible for reviewing the anti-fraud & corruption policy and strategy and for advising the Audit Committee and CMT, Assistant Directors and Heads of Service on its implementation.
- (b) The Group Director Finance & Commerce is responsible for reviewing the anti-money laundering policy and strategy and for advising the Audit Committee and CMT, Assistant Directors and Heads of Service on its implementation.

**14 External arrangements**

- (a) The Group Director Finance & Commerce will ensure that the accounting arrangements adopted in relation to partnerships and joint ventures are subject to financial control procedures which reflect those of the Council.
- (b) CMT have a responsibility to take appropriate professional advice when entering into partnership arrangements and to ensure that any such arrangements do not impact adversely on Council services.

- (c) CMT, Assistant Directors and Heads of Service are also responsible for ensuring that any governance arrangements comply fully with the Constitution and the Financial Framework, and that any negotiations are in accordance with the Contract Procedure Rules.
- (d) CMT are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.
- (e) CMT are responsible for ensuring that appropriate management arrangements are put in place to deal with the ongoing governance of any partnerships, taking into account financial and legal advice.
- (f) CMT must ensure that all financial risks have been fully appraised and appropriate mitigation is taken before contracts and other relationships are entered into, and that arrangements exist to continue to manage risks throughout the duration of the relationship.
- (g) CMT will ensure that appropriate exit strategies are in place for partnership arrangements where these are time-limited.
- (h) The Group Director Finance & Commerce is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.

## **Financial Systems & Procedures**

### **15 Banking arrangements and cheques**

- (a) The Group Director Finance & Commerce is responsible for:
  - the operation of the Council's bank accounts and associated procedures
  - any arrangements that need to be made with the Council's bankers, including the withdrawal of funds or transfer from one account to another
  - making proper arrangements for the ordering, safe custody, use, and control of cheques (except those for authorised imprest and advance accounts).
- (b) The Group Director Finance & Commerce must be notified of all bank accounts operated by any of the Council's employees in connection with the business of the Council or unofficial funds held by the Council.
- (c) Cheques on the Council's main banking and National Giro accounts shall bear the pre-printed signature of the Group Director Finance & Commerce or be signed by the Group Director Finance & Commerce or other officer authorised by them to do so.
- (d) Cheques over £100,000 in amount must also bear the manuscript signature of the Group Director Finance & Commerce.
- (e) Assistant Directors/Heads of Service will ensure that all financial transactions are processed through the Council's main banking account, unless approval has been given by the Group Director Finance & Commerce for other arrangements to be in place.

### **16 Purchasing of and payments for works, goods and services**

- (a) The procurement of works, goods and services is governed by the Contract Procedure Rules, which set out the process and, dependent on the procurement process, the relevant financial limits. Any procurement must comply with the Contract Procedure Rules and any more detailed procedures laid down in the Procurement Framework.

- (b) Purchasing arrangements should comply with any advice, guidance and instructions issued by the Group Director Finance & Commerce.
- (c) Payment arrangements should comply with any advice, guidance and instructions issued by the Group Director Finance & Commerce.
- (d) Petty cash and imprest arrangements should comply with any advice, guidance and instructions issued by the Group Director Finance & Commerce.

**17 Financial administration of contracts**

- (a) For contracts with a value in excess of £156,000, CMT shall have in place and document adequate systems and procedures in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.
- (b) Assistant Directors/Heads of Service will ensure that all such systems and procedures, and any exceptions from them, are approved by the Group Director Finance & Commerce.
- (c) For all other contracts, Assistant Directors/Heads of Service will maintain systems and procedures as specified by the Group Director Finance & Commerce.

**18 Payments to employees and Members**

- (a) All payments to employees or former employees and Members of the Council shall be made under the direction of the Head of Human Resources in consultation with the Group Director Finance & Commerce, to include salaries, pensions, compensation and other emoluments, travelling & subsistence, expenses claims, and travel loans.
- (b) CMT, Assistant Directors and Heads of Service will notify the Group Director Finance & Commerce as soon as possible of all matters affecting such payments, in accordance with any procedures specified by the Group Director.

**19 Taxation**

- (a) The Group Director Finance & Commerce shall maintain and make available up to date guidance on the proper treatment and accounting for VAT and shall ensure that the net VAT payments are fully and promptly recovered from HM Revenue & Customs. The Group Director Finance & Commerce shall prepare and implement a timetable for the preparation and submission of VAT claims
- (b) CMT, Assistant Directors and Heads of Service shall comply with the timetable and associated procedures for VAT claims. They shall also ensure that the VAT implications of fees and charges levied by the Council, capital projects, all purchasing transactions and any consideration of alternative means of service provision are properly considered and recorded after due consultation with the Group Director Finance & Commerce.

**20 Income**

- (a) The Group Director Finance & Commerce shall approve all procedures for the collection of monies due to the Council regardless of the services within which they are collected.
- (b) Assistant Directors/Heads of Service is responsible for establishing appropriate and secure arrangements for ensuring that the income receivable, in their services, is promptly identified, billed and collected; through the corporate debtors service, or by staff in the service area. All income and VAT must be correctly accounted for.

- (c) Where the corporate system is not used, systems and processes for identifying, billing and collecting income require approval from the Group Director Finance & Commerce.
- (d) The level of fees and charges should be kept under review by CMT, Assistant Directors and Heads of Service. Charges shall be reviewed at least annually to coincide with the approval of the revenue budget.
- (e) Any changes to fees and charges within a financial year shall be made as soon as practicable.

**21 Write off of irrecoverable debts**

- (a) CMT shall ensure that every effort is made to recover debts due to the Council using the corporate debtor system/service as appropriate. No material arrangement should be made to any procedures for billing or recovery of monies due to the Council without prior consultation and agreement with the Group Director Finance & Commerce.
- (b) Write off of debts can only be approved by the Group Director Finance & Commerce in accordance with any limits set within the Constitution and where it can be demonstrated that all cost effective efforts have been made to recover the debt and the appropriate procedures for recovering debt have been followed.

**22 Safeguarding and controlling assets**

- (a) Assistant Directors/Heads of Service should ensure that records and assets are properly maintained and securely held.
- (b) Assistant Directors/Heads of Service should ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

**23 Administration of Private Funds**

- (a) Private Funds are defined as financial assets held in an official capacity by Council officers on behalf of third parties such as trust funds, voluntary grant aided funds or receivership accounts. Where private funds exist in connection with Council activities, the appropriate Assistant Director/Head of Service must ensure appropriate procedures are in place to manage such a fund.
- (b) The administration of these funds must comply any guidance issued by the Group Director Finance & Commerce. Accountancy records should be maintained to a standard so as to achieve an unqualified audit, and relevant year end treatment applied.
- (c) Assistant Directors and Heads of Service shall ensure that finance and legal advice is sought to ensure that legal issues are considered and tax responsibilities defined. A comprehensive risk appraisal must be carried out prior to entering into any form of private fund arrangement and due consideration should be given to any necessary measures to safeguard both the funds and the Council's interests.

**Part 4: Procedure Rules**

**Overview & Scrutiny Committee Procedure Rules**

**1 Membership**

All councillors (except members of the Cabinet) may be members of one or more Overview & Scrutiny Committees (OSCs). However, no member may be involved in scrutinising a decision in which he or she has been directly involved.

For the avoidance of doubt, no Member of an Area Committee exercising delegated executive authority shall be regarded as an executive Member unless they are a Member of the Cabinet.

**2 General role of OSCs**

**Within their individual terms of reference, OSCs may:**

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions or those of a partner authority (as defined for the purposes of the Local Government and Public Involvement in Health Act 2007) where relevant to the terms of reference of that OSC
- (b) make reports and/or recommendations to the full Council and/or the Cabinet and/or any policy, joint or area committee and/or to any partner authority in connection with the discharge of any functions  

In doing so the OSCs may record the views of members on that committee who are not members of the largest political group on the Council
- (c) consider any matter affecting the area or its inhabitants
- (d) exercise the right to call-in for consideration, decisions made but not yet implemented by the Cabinet
- (e) from time to time review previous decisions of Cabinet or of the committee in relation to strategic policy issues as part of the Continuous Improvement process.
- (f) Consider matters referred to them by individual Members using the Councillor Call for Action process (see paragraph 9 following).

**3 Specific functions of OSCs**

**(a) Policy development and review**

OSCs may:

- (i) assist in the development of the budget and policy framework by in-depth analysis of policy issues
- (ii) conduct research, community and other consultation in the analysis of policy issues and possible options
- (iii) encourage and enhance community participation in the development of policy options
- (iv) inquire of:
  - (a) members of the Cabinet, the Chief Executive, Group Directors, Assistant Chief Executive, Assistant Directors and Heads of Service (who may involve other staff as appropriate)



- (b) appropriate members and/or staff of partner authorities about their views on issues and proposals affecting the area
- (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

(b) **Scrutiny**

OSCs may:

- (i) review and scrutinise the decisions made by and performance of the Cabinet and/or council staff both in relation to individual decisions and over time. In reviewing decisions made by and the performance of council staff, it is expected that members will direct initial inquiries to the Chief Executive, Group Directors, Assistant Chief Executive, Assistant Directors and appropriate Heads of Service
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas
- (iii) inquire of members of the Cabinet and/or the Chief Executive, Group Directors, Assistant Chief Executive, Assistant Directors and Heads of Service about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects
- (iv) inquire of relevant partner authorities (as defined in the Local Government & Public Involvement in Health Act 2007) about their decisions and performance in relation to matters:
  - (a) falling within the scope of the National Health Service Act 2006 and any re-enactment thereof
  - (b) relating to the Local Area Agreement
- (v) make recommendations to the Cabinet, Council and/or partner authorities arising from the outcome of the scrutiny process
- (vi) review and scrutinise the performance of partner authorities and other public bodies in the area and invite reports from them by requesting them to address the OSC and local people about their activities and performance
- (vii) question and gather evidence from any other person (with their consent)
- (viii) Establish Topic Groups

The topic group must report back to the OSC which established it immediately after their first meeting with the group's suggested, detailed terms of reference for confirmation. The Committee is entitled to alter the terms of reference if it sees fit and to ask non-Members of the Committee to join the topic group. There is no requirement for topic groups to accord to the political balance rules or routinely be open to the public or non-Members of the topic group.

- (ix) Establish Groups, to be known as "CCA Groups", in response to Councillor Calls for Action pursuant to the Local Government & Public Involvement in Health Act 2007

(c) **Work programme**

The OSCs will be responsible for setting their own work programme.

(d) **Annual report**

OSCs must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

4 **Co-opted members**

Subject to paragraphs 5 and 6 following, each OSC or sub-committee shall be entitled to recommend to Council the appointment of people as non-voting members (as defined in section 13 of the Local Government and Housing Act 1989).

5 **Co-opted members and teacher representatives on Children's Services OSC**

(a) The Children's Services OSC (Informative: this is the statutory "Education" OSC) must include in its membership the following co-opted members:

- (i) one Church of England diocese representative
- (ii) one Roman Catholic diocese representative
- (iii) three parent governor representatives (elected by all governors in each of the three sectors of education)

Each of these appointees has statutory rights to attend and vote at meetings of the OSC at which education matters are discussed.

(b) The Children's Services OSC may also invite local teacher unions and professional association representatives to nominate, in each municipal year, two teacher representatives (one primary sector representative and one secondary sector representative).

6 **Co-opted members on the Crime & Disorder Committee**

The Crime & Disorder Committee may co-opt members in accordance with the provisions of Regulation 3 of the Crime and Disorder (Overview and Scrutiny) Regulations 2009.

7 **Meetings of the committees**

There shall be at least four ordinary meetings of each OSC in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An OSC meeting may be called by the Chairman of the relevant OSC, by half the whole number of members of the committee or by the proper officer if he or she considers it necessary or appropriate.

8 **Quorum**

The quorum for an OSC shall be as set out for committees in rule 4 of the Committee Procedure Rules in Part 4 of this constitution.

Co-opted Members – whether or not having voting rights – shall be taken into account when calculating the quorum of a Committee.

9 **Councillor Calls for Action**

- (i) Any member –
  - (a) of an OSC may refer to that Committee any matter which is relevant to the functions of that Committee; and
  - (b) of the Council may refer to an OSC any local government matter which is relevant to the functions of that Committee.

- (ii) Any member of the Council who is not a member of the Crime & Disorder Committee may refer any local crime and disorder matter to that Committee.

The proper officer shall include any matter referred in accordance with either (i) or (ii) above in the agenda for a meeting of the relevant Committee and the Chairman shall ensure that it is discussed at that meeting.

**10 Policy review and development**

- (a) The role of the OSCs in relation to the development of the Council's budget and policy framework is set out in detail in the Policy Framework Procedure Rules set out in Part 4 of this constitution.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy framework or budget framework, OSCs may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) OSCs may hold inquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration.

**11 Reports to Council and Cabinet**

- (a) Once it has formed recommendations on proposals for development, the OSC will prepare a formal report and submit it to the proper officer for consideration by the Council or by the Cabinet as appropriate.
- (b) If an OSC cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- (c) As soon as possible after the OSC has prepared the report, the proper officer shall serve a copy of it upon the relevant Cabinet Member.
- (d) The Council or Cabinet must consider the report of the OSC within two months of it being submitted to the proper officer.
- (e) Reports of OSCs referred to the Cabinet shall be considered by the Cabinet within two months of the meeting of the OSC at which its report and recommendations are agreed.

**12 Reports to partner authorities**

Where an OSC's report relates to a local improvement target which—

- (i) relates to a relevant partner authority, and
- (ii) is specified in a local area agreement of the authority

that Committee shall comply with the requirements of section 21C of the Local Government & Public Involvement in Health Act 2007.

**13 Rights of OSC members to documents**

- (a) In addition to their rights as councillors, members of OSCs have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this constitution.

- (b) Nothing in this rule prevents more detailed liaison between the Cabinet and OSC as appropriate depending on the particular matter under consideration.

#### **14 Members and staff giving account**

- (a) Any OSC or sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any individual Cabinet member, the Chief Executive, a Group Director and/or Assistant Chief Executive, Assistant Director and Head of Service (who may involve other staff as appropriate) to attend before it to explain, in relation to matters within their remit:

- (i) any particular decision or series of decisions
- (ii) the extent to which the actions taken implement Council policy, and/or
- (iii) their performance

and it is the duty of those persons to attend if so required.

- (b) Where any member or member of staff is required to attend an OSC under this provision, the Chairman of that committee will inform the proper officer. The proper officer shall inform the member or member of staff in writing giving at least seven working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or member of staff concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the member or member of staff is unable to attend on the required date, then the OSC shall in consultation with the member or member of staff arrange an alternative date for attendance to take place within a maximum of ten days from the date of the original request.

#### **15 Attendance by Cabinet Members**

- (a) A member of the Cabinet may attend any meeting of an OSC. Subject to (b) below, where a matter before the committee relates to an issue within the portfolio of that Cabinet member, he or she may address the committee about it unless to do so would breach any provision of the Members' Code of Conduct or any rule of law.
- (b) Where a decision of the Cabinet or of a Cabinet Member has been called in pursuant to rule 18 following, the relevant Cabinet Member or Members may attend the meeting at which the requisition is considered in order to explain the reasons for the decision and to respond to the decision, notwithstanding that the Cabinet Member has a prejudicial interest (which must be declared at the outset of the meeting). The Cabinet Member must, however, leave the meeting before the committee deliberates upon the matter and reaches a decision.

#### **16 Attendance by others**

An OSC may invite people other than those people referred to in paragraphs 14 and 15 above to address it, discuss issues of local concern and/or answer questions, such as residents, stakeholders and members and staff in other parts of the public sector.

#### **17 Call-in ("requisition") procedure**

- (a) All decisions of Cabinet and individual Cabinet members, and all key decisions taken by staff or area committees, will be notified weekly to all members, who shall

be entitled to requisition that decision. Notification will be by the weekly Calendar Brief (or, where necessary, by supplementary Calendar Brief) to all members, indicating the latest date for submission of a requisition.

- (b) If the Chief Executive is notified of a requisition of a decision shown on that notification within three working days of the publication in Calendar Brief (or any supplementary Calendar Brief) of a decision, then (subject to (h) following) that decision shall not be acted upon but shall be submitted to the next OSC meeting, or one convened for the purpose, for determination.
- (c) At that meeting, the OSC may resolve to initiate either of the specific call-in procedures set out in the Policy Framework Procedure Rules and/or the Budget Framework Procedure Rules.
- (d) Any requisition submitted under (b) above must be in writing and must be signed by:
  - (i) at least two members representing between them more than one group (and may include one or two members who are not attached to a group), or
  - (ii) at least one co-opted member and one member.

The requisition must state the grounds for the requisition.

- (e) Where a requisition relates to a matter falling within the purview of more than one OSC, it shall be referred to a joint meeting of both or all of those committees. A separate decision to uphold or not to uphold that requisition shall be taken by each of the participating committees. If any of the Committees decides to uphold the requisition, then the matter shall be referred back to the Council or Cabinet as appropriate.

In the remainder of this paragraph the term "committee" includes two or more committees meeting jointly as well as individual committees.

- (f) The committee may uphold a requisition in its entirety or in part, or may decline to uphold a requisition (in which case the original decision shall stand and be able to be implemented forthwith).

Following the consideration of the matter by the committee, if the requisition submitted under (b) above is upheld, the matter shall be referred to either

- (i) The Council where the committee considers the matter is contrary or not wholly in accordance with the policy or budgetary framework, or otherwise
- (ii) The Cabinet

The report of the committee submitted to the Council or Cabinet shall incorporate the committee's views on the requisition and any recommendations it wishes to put forward as to how the requisitioned decision should be reviewed or altered in order to address the points in the requisition that have been upheld.

The Committee's views may be articulated by an officer's report, by a minute of the Committee or by a summary of the minute.

- (g) A requisition under (b) above shall be determined at the committee meeting by simple majority. In the case of joint meetings, each Committee shall vote separately.
- (h) The members calling in the decision may indicate at the time of submitting any requisition that it is "holding" requisition, to permit informal discussion with the relevant Cabinet member or the Chairman of the relevant Committee, as the case

may be, as to the merits of the decision. Time shall be of the essence when dealing with "holding" requisitions. A "holding requisition" shall be treated as withdrawn if, eight clear days having passed from the publication of the decision, both members have not confirmed by notice in writing to the Chief Executive that the requisition should be subject to the full requisition procedure provided for in the preceding paragraphs.

- (i) Any requisition may be withdrawn by the requisitioners at any time prior to it being disposed of.
- (j) For the avoidance of doubt, "notice given in writing" for the purpose of this Rule includes notice given by a requisitioner by fax or by email from an address or number recognised as associated with the member sending it, and shall be regarded as validly signed by both members if either an identical fax or email is received from both of them or one clearly associates him or herself with a submission by the other, and different members may use different methods of giving such notices.

**18 Exception to the call-in ("requisition") procedure**

- (a) The call-in procedure set out above shall not apply where a decision being taken by Cabinet or an individual Cabinet member, or a key decision made by a member of staff or an area committee, is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public interests. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in.
- (b) The decision making person or body can only take an urgent decision and avoid the call-in procedures after obtaining agreement from the Chairman of the relevant OSC or OSCs that the decision be treated as urgent.

In the absence of the Chairman, the Vice Chairman, or if neither is able to act, then the Mayor, or in his/her absence the Deputy Mayor, may give that agreement.

- (c) Any agreement obtained under this provision shall be evidenced in writing.
- (d) The Leader of the Council will submit quarterly reports to Council on decisions taken by himself, Cabinet or individual Cabinet members, or key decisions made by a member of staff or area committees, pursuant to this rule in the preceding three months. The report will include the number of decisions taken and a summary of the matters in respect of which those decisions were taken.
- (e) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council by the proper officer with proposals for review if necessary.

**19 The Party Whip**

There shall be no Party Whip at a meeting of an OSC. "The Party Whip" is understood to mean "any instruction given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote before a OSC, or the application or threat to apply any sanctions by the group in respect of that Councillor should they speak or vote in any particular manner"

**20 Procedure at OSC meetings**

- (a) OSCs and any sub-committees shall consider the following business:
  - (i) minutes of the last meeting

- (ii) declarations of interest
  - (iii) consideration of any matter referred to the committee for a decision in relation to call in of a decision
  - (iv) responses of the Leader or Executive to reports of the OSC
  - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where the OSC conducts investigations (for example, with a view to policy development), the committee shall observe the following principles:
- (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak
  - (ii) that those assisting the committee by giving evidence be treated with respect and courtesy
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the committee or sub-committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

21 **Restriction on appointment to Housing OSC**

No member who has been appointed by the Council to the board of Homes in Havering shall be appointed to the overview & scrutiny committee responsible for scrutiny of the Council's housing management functions.

**Part 4: Procedure Rules**

**Policy Framework Procedure Rules**

**1 Framework for executive decisions**

The Council will be responsible for the adoption of its policy framework.

Once the framework is in place it will be the responsibility of the Leader of the Council to implement it but the Leader may delegate specific responsibilities to the Cabinet, to individual Cabinet Members, to officers, to Area Committees or to joint arrangements discharging executive functions (hereafter referred to collectively as the "Executive").

**2 Process for developing policy framework**

The Executive will make proposals following consultation with stakeholders as determined by statute and any additional stakeholders that they might see fit. The Council will consider the proposals of the Executive and may adopt them or refer them back to the Executive.

**3 Decisions outside the approved policy framework**

- (a) The Executive may only make decisions which are in line with the approved policy framework. A decision that is not relevant to or covered by the policy framework but which is in line with an Executive-approved plan or strategy is not contrary to the policy framework.
- (b) Subject to 4 below, if the Executive wish to make a decision which is contrary to the policy framework, then that decision can only be made by the Council.
- (c) If the Executive want to make a decision which is potentially contrary to, or not wholly in accordance, with the policy framework, they must take advice from the Monitoring Officer. If the advice is that the decision is contrary to, or not wholly in accordance with, the policy framework then the decision must be referred to Council for decision, unless the decision is a matter of urgency, in which case paragraph 4 below shall apply

**4 Urgent decisions outside the policy framework**

- (a) Having consulted with the Monitoring Officer, the Executive may take a decision which is contrary to or not wholly in accordance with the policy framework if the decision is a matter of urgency.

However, the decision may only be taken if:

- (i) it is not practical to convene a quorate meeting of the Council, and
  - (ii) the Chairman (or in his or her absence the Vice Chairman) of a relevant overview and scrutiny committee accepts that the decision is a matter of urgency.
- (b) The reasons why it is not practical to convene a quorate meeting of the Council and the consent of the relevant Chairman (or Vice Chairman) of overview and scrutiny committee must be noted in the record of the decision and reported to the next available Council meeting along with a full report explaining:
    - the decision
    - the reasons for the decision
    - why the decision was treated as a matter of urgency.



**5 Call-in decisions outside the policy framework**

- (a) Where an overview and scrutiny committee is of the opinion that an executive decision is, or if made would be, contrary to or not wholly in accordance with the Council's policy framework, then it shall seek advice from the Monitoring Officer who in appropriate cases will consult with the Head of Paid Service.
- (b) Where that opinion relates to a decision that has already been taken and implemented, and the Monitoring Officer considers that the decision is contrary to or not wholly in accordance with the policy framework, the Monitoring Officer shall report on the matter to the Cabinet, sending a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the report and report on the matter to the Council.
- (c) Where that opinion relates to a decision yet to be made, or that has been made but not yet implemented, and the advice from the Monitoring Officer is that the decision is contrary to or not wholly in accordance with the policy framework, the overview and scrutiny committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter.
- (d) At the meeting, the Council will receive a report about the decision or proposals and the advice of the Monitoring Officer. The Council may:
  - (i) endorse a decision or proposal of the Executive as falling within the existing policy framework; or
  - (ii) amend the policy framework to encompass the decision or proposal and agree to the decision or proposal with immediate effect; or
  - (iii) if it accepts that the decision or proposal is contrary to or not wholly in accordance with the policy framework and does not amend the existing policy framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of the Monitoring Officer.

The decision of Council shall be recorded in its minutes.

**Part 4: Procedure Rules**

**Staff Employment Procedure Rules**

**1 Recruitment and appointment**

**(a) Seeking support for appointment**

(i) The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. This statement shall be included in any recruitment information.

(ii) No councillor will seek support for any person for any appointment with the Council.

**(b) Declarations**

The Council shall ask any candidate for appointment as a member of staff to state in writing whether they are related to an existing councillor or member of council staff; or the partner of such persons. No candidate who declares such a relationship will be appointed without the authority of the Head of Human Resources

**2 Recruitment**

Where the Council proposes to appoint a Head of Paid Service, a Group Director, Assistant Chief Executive, Assistant Director or a Head of Service and it is not proposed that the appointment be made exclusively from among the existing members of staff, the Council's usual recruitment procedures shall apply.

**3 Appointment of Head of Paid Service**

(a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Appointments Committee. The Appointments Committee must include at least one Cabinet member.

(b) The full Council may make or approve the appointment of the Head of Paid Service only where no well-founded objection has been made by any member of the Cabinet (as set out in rule 9 below).

**4 Appointment of Group Directors, Assistant Chief Executive, Assistant Directors and Heads of Service**

(a) The Appointments Committee will appoint Group Directors, Assistant Chief Executive, Assistant Directors and Heads of Service. The committee must include at least one Cabinet member.

(b) An offer of employment as a Group Director, Assistant Chief Executive, Assistant Director or a Head of Service shall be made only where no well-founded objection from any member of the Cabinet has been received (as set out in rule 9 below).

**5 Assistants to political groups**

Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group, and in accordance with statutory regulations.

**6 Disciplinary action**

(a) No disciplinary action in respect of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer, except action described in paragraph (b) below, may be taken other than in accordance with a recommendation in a report made by a

designated independent person under regulation 7 of the Local Authorities (Standing Orders) England) Regulations 2001 (investigation of alleged misconduct).

(b) **Suspension**

The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended by the Council whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and should last no longer than two months. In exceptional circumstances, the decision to suspend may be made by a Group Director in conjunction with the Head of Human Resources; this decision must be notified to all councillors as soon as possible.

(c) **Independent person**

No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.

(d) Councillors will not be involved in the disciplinary action against any officer below Head of Service level except where:

- such involvement is necessary for any investigation or inquiry into alleged misconduct
- the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

**7 Dismissal**

Councillors will not be involved in the dismissal of any officer below Head of Service level except where:

- such involvement is necessary for any investigation or inquiry into alleged misconduct
- the Council's disciplinary, capability and related procedures as adopted from time to time may allow a right of appeal to members in respect of dismissals.

**8 Role of the Cabinet**

Where a committee or a sub-committee of the Council is discharging, on behalf of the authority, the function of the appointment or dismissal of the Head of Paid Service, a Group Director, Assistant Chief Executive Assistant Director or a Head of Service at least one member of the Cabinet must be a member of that committee or sub-committee.

**9 Appointment process**

- (a) In this paragraph, "appointor" means, in relation to the appointment of a person as a member of staff of the Council, the Council or, where a committee, sub-committee or member of staff is discharging the function of appointment on behalf of the Council, that committee, sub-committee or member of staff, as the case may be.
- (b) An offer of an appointment as Head of Paid Service, Group Director, Assistant Chief Executive, Assistant Director or Head of Service must not be made by the appointor until the appropriate notification has been advised to Cabinet, in accordance with regulations and objections have been received and considered.

Such appointments must be in accordance with the appropriate terms and conditions of employment

**10 Dismissal process**

- (a) In this paragraph, "dismissor" means, in relation to the dismissal of an member of staff of the Council, the Council or, where a committee, sub-committee or another member of staff is discharging the function of dismissal on behalf of the Council, that committee, sub-committee or other member of staff, as the case may be.
- (b) Notice of the dismissal of the Head of Paid Service, a Group Director, Assistant Chief Executive, Assistant Director or Head of Service must not be given by the dismissor until the appropriate notification has been advised to Cabinet, in accordance with regulations and objections have been received and considered. Such dismissals must be in accordance with the appropriate terms and conditions of employment.

**11 Capability process**

The process to be followed must be in accordance with the appropriate terms and conditions of employment for that member of staff and the appropriate Council employment policy/procedure

**12 Grievance process**

The process to be followed for a grievance must be in accordance with the appropriate terms and conditions of employment for that member of staff appropriate Council employment policy/procedure

**13 Bullying and Harassment process**

The process to be followed for a complaint must be in accordance with the appropriate terms and conditions of employment for that member of staff appropriate Council employment policy/procedure

**MEMBERS' QUESTIONS AND ANSWERS**

**1 LONDON CITY AIRPORT EXPANSION: CONSULTATION WITH RESIDENTS**

**To the Cabinet Member for Housing, Regeneration & Public Protection (Councillor Michael Armstrong)**

By Councillor Ray Morgon

Would the Cabinet Member confirm that he supports the Leader of the Council in his support for the Residents' Group's objection to the expansion of City Airport without proper consultation with the residents of Havering?

**Answer:**

I always support the Leader. Quite clearly it is important that all the environmental impacts are taken into consideration with any expansion to City Airport. I also think it is extremely important that all residents affected should be consulted appropriately.

Supplementary question and answer

The Cabinet Member did not agree that there had not been opportunity for residents to express their views on the expansion proposals.

**2 DOG FOULING: PROSECUTIONS**

**To the Cabinet Member for StreetCare & Customer Services (Councillor Barry Tebbutt) - answered in Councillor Tebbutt's absence by Councillor Eric Munday**

By Councillor Coral Jeffery

How many people have had action taken against them, during the past 5 years, for allowing their dogs to foul the footpaths?

**Answer:**

The Dog Control Order was implemented in April 2009, and prior to this date no enforcement powers were available to the Council. To date no offences that would warrant enforcement action have been witnessed. A media campaign was undertaken at the time the Dog Control Order was published, and officers have placed signs across the Borough informing dog owners of the penalties should they allow their animal to foul.

**3 FIRE RISK ASSESSMENT REPORTS KIPLING AND DRYDEN TOWERS HEATON AVENUE**

**To the Cabinet Member for Housing, Regeneration & Public Protection (Councillor Michael Armstrong)**

By Councillor Keith Darvill

The current Fire Risk Assessment Reports were carried out in October 2009 – when were the previous Fire Risk Assessments carried out?

**Answer:**

I am pleased to inform Councillor Darvill that fire risk assessment reports were carried out at Dryden Towers on 14th November 2006 and at Kipling Towers on 21st November 2006, which was shortly after the Regulatory Reform Order (2005) came into force. The Risk Assessments carried out in 2006 were done by Homes in Havering staff; the most recent Fire Risk Assessments were carried out by our specialist consultants Kingfell.

Supplementary question and answer

The Cabinet Member affirmed his understanding that the Council worked within the statutory requirements.

**4 PENALTY CHARGE NOTICES: COUNCIL VEHICLES**

**To the Cabinet Member for StreetCare & Customer Services**  
**(Councillor Barry Tebbutt) - answered in Councillor Tebbutt's absence by Councillor Michael Armstrong**  
**By Councillor Andrew Mann**

Would the Cabinet Member set out how many Penalty Charge Notices have been issued against Council-owned vehicles over each of the last three years (including 2009/10 to date)?

**Answer:**

The number of PCNs issued to Council owned vehicles is:

2007/08 – 48  
2008/09 – 49  
2009/10 – 27 (to 16 March 2010).

**5 COLLECTION OF ABANDONED SHOPPING TROLLEYS: COST**

**To the Cabinet Member for StreetCare & Customer Services**  
**(Councillor Barry Tebbutt) - answered in Councillor Tebbutt's absence by Councillor Steven Kelly**  
**By Councillor Coral Jeffery**

What was the cost to the Council Tax payer for collecting the 15,000 abandoned supermarket trolleys since September last year?

**Answer:**

The only cost to the Council tax-payer is a minimal administrative cost in officer time reporting to the Contractor working on behalf of various stores the location of abandoned trolleys.

**6 20 NEW ROOFS BRIAR ROAD**

**To the Cabinet Member for Housing, Regeneration & Public Protection (Councillor Michael Armstrong)**  
**By Councillor Keith Darvill**

Will the proposed works for new roofs in the Council houses on the Briar Road Estate include the removal of asbestos materials?

**Answer:**

I can report that officers have advised me that the asbestos is being removed from the roofs on the Briar Road estate, in accordance with all Health & Safety requirements. It is a rapid process as the corrugated sheets with asbestos are first removed then almost straightaway the new roofing is installed.

Supplementary question and answer

The Cabinet Member affirmed his understanding that all asbestos would be removed.

**7 COLLECTION OF COMMERCIAL WASTE**

**To the Cabinet Member for StreetCare & Customer Services  
(Councillor Barry Tebbutt) - answered in Councillor Tebbutt's absence by Councillor Andrew Curtin**

By Councillor Clarence Barrett

In respect of the collection of commercial waste, would the Cabinet Member advise:

- a) how much commercial waste (in tonnages) has been collected in 2008/09 and 2009/10 (to date) respectively?
- b) How much of that commercial waste (in tonnages) has been recycled in the respective years?

**Answer:**

Commercial waste (waste collected from businesses with contracts with LBH) is currently collected in the same vehicles as domestic waste. The tonnages are therefore estimated.

In 2008/09 we estimated 5,116 tonnes were collected, and in 2009/10 we project this will have reduced to 4,938 tonnes.

We operate a commercial cardboard recycling service and recycled approximately 78 tonnes in 2008/09. We project a similar amount will be recycled this year.

We do not currently operate a recycling service for other commercial waste; however an element of this is recovered for recycling during the Bio Mrf process. It is not possible to allocate a specific percentage of commercial waste recycled as opposed to domestic waste as they both undergo the same process at the same time.

Supplementary question and answer

The Cabinet Member undertook to respond in writing to the questioner's suggestion that commercial waste be collected separately from domestic waste.

**8 DECREASE IN PHYSICAL ACTIVITY LEVELS**

**To the Cabinet Member for Culture & Communities  
(Councillor Andrew Curtin)**

By Councillor Keith Darvill

Will the Lead Member make a statement about the failure to increase physical activity levels in line with Performance Indicator LAA1 05 – March 2008 to March 2009 and September 2008 to September 2009

**Answer:**

The measurement of physical activity participation nationally, including Havering, is carried out through the Active People Survey commissioned by Sport England. As well as measuring other things, the survey measures the percentage of adults participating in moderate physical activity three times a week, for 30 minutes each time.

Havering's LAA1 target was to increase the percentage of adults (aged 16 and over) participating in physical activity as described by 4%. Whilst that has not been achieved, and indeed there has been an almost standstill position over the period of the target, this has also been reflected nationally.

Whilst there has been little change over the 3 year period significant strides have been made in the last two years. When comparing Active People 3 data (October 2008 to October 2009) to Active People 2 data (October 2007 to October 2008), London as a whole saw a 1% increase in levels of participation. In Havering comparing the same data we saw a 2.4% increase in levels of physical activity participation from Active People 2 to Active People 3. This is a bigger increase than any regional increase across the country by 1.4% when comparing the same data.

As a result of adopting the LAA1 target to increase participation in physical activity, Culture and Leisure have been successful, in partnership with NHS Havering and the Community Sport and Physical Activity Network, in being awarded grant monies from Sport England. This grant money has enabled two fixed term posts to be recruited to with the purpose of raising awareness levels about participation in physical activity and the associated benefits. The effect of having these posts is believed to have made a significant contribution to increasing participation by 2.4% from 2007/08 to 2008/09.

The two postholders have developed a range of initiatives throughout the borough ranging from hoola hoop dancing, tai chi to netball/football, aerobics and dance that have been extremely popular. Over 1,000 individuals have registered for these activities alone. This is not to mention others that might have been influenced by the campaigns that have been run through the media to raise the profile of physical activity participation.

The Havering Active brand was launched in 2007, with a stand alone website - [www.haveringactive.co.uk](http://www.haveringactive.co.uk) - to promote all the sporting and physical activities that are available in the borough. Residents and visitors can search the site for opportunities in a wide range of sports and physical activity to find the nearest location for their chosen activity to their home or work place. The website has proved successful with 35,650 'hits' in 2009. The average 'hits' on the website per day in 2009 was 98, this has increased in 2010 so far to an average of 195 'hits' a day.

In summary, there is good progress now being made despite the overall situation that we all hope will see Havering residents reap the associated benefits of improved health and wellbeing through being physically active.

**Supplementary question and answer**

The Cabinet Member confirmed that the provision of green and open spaces remained a priority for the Administration. A number of initiatives and projects were taking place throughout the borough, and in Harold Hill in particular, that were designed to encourage physical activity.

**9 ENGAGEMENTS**

**To the Member Champion for Young People**  
**(Councillor Robert Benham)**

By Councillor Gillian Ford

In his role as Champion for Young People, would the member set out the number and description of engagements he has attended in that capacity over the last 12 months?



**Answer:**

Firstly, I have only been the Champion since the end of May and affectively from June which is 9 months, not the 12 months as incorrectly stated in the question.

Over the past 9 months I have been to, from memory, 14 engagements in the capacity of Champion for Younger People. They include:

- **Havering Council's Young Person Network Event (YPN)**  
The YPN is the Council's staff support group for younger employees, the Young People's Network (YPN) was launched in December 2008 and is the first of its kind in London and amongst, very first Nationally.
- **Young Persons Network - AGM -**
- **Havering New & Young Apprentice Scheme Event**  
I attended this event which was kindly hosted by the Mayor.
- **75th Anniversary of Romford Snooker Club**  
Attended this event to mark the anniversary of this historic club which launched the careers of greats such as Steve Davis, Ronnie O'Sullivan and Mark King.
- **Havering Museum Consultation/Public Road Show Event**  
I attended the Havering Museum Road show, held in the Brewery Romford.
- **London Youth Games Awards - Presentation Night.**  
I attended the Presentation & Awards night held in Whitehall London. I am very pleased once again that Havering Won the overall London Youth Games Championship for a record 16th time.
- **Launch of Junior Snooker Academy at Romford Snooker Club**  
I attended and supported the launch of the Junior Snooker Academy and after school club, making it one of just a few academies in the country recognised by the WPBSA.
- **Opening of Havering Museum**  
I attended the Grand opening of Havering Museum
- **Snooker in the Community Project**  
I've supported and helped setup snooker in the community project. The Romford snooker club opened its doors to local schools, YMCA and other youth groups. They are also running programs for youths that have been excluded from school or have special needs. And I have to say its great to see how a sport can change young peoples lives.
- **Every Vote Matters Conference!**  
I became involved in 'Every Vote Matters' conference/talk. The conference was aimed at targeting young and BME voters, highlighting the importance of voting and what it acutely means.
- **Officer Youth Meetings**

In addition to the above events, I have had several meetings with Youth, support and learning Officers and the Leader of the Council over the past 9 months. Purpose of these meetings where for updates, feedback and future planning of youth services and engagement.

**10 NUMBER OF AFFORDABLE HOMES DELIVERED**

**To the Cabinet Member for Housing, Regeneration & Public Protection (Councillor Michael Armstrong)**

By Councillor Keith Darvill

How many affordable Homes is it anticipated will be delivered for the period December 2009 to March 2010?

**Answer:**

We expect to deliver 43 affordable homes in the period noted. This will bring the total number of affordable homes delivered in 2009/2010 to 103.

Supplementary question and answer

The Cabinet Member affirmed that the number of affordable homes being built in Havering continued to meet, or exceed, externally set targets.

**11 HAVERING SLIP ROAD SCHEME**

**To the Chairman of the North Romford Area Committee (Councillor Sandra Binion)**

By Councillor Andrew Mann

Would the Chairman of the North Romford Area Committee explain when the implementation of the Havering Slip Road scheme, as agreed with councillors and officers in 2007/08, will take place?

**Answer:**

The scheme which was amended in principle by me following a site visit with officers did not proceed. The funds that were provisionally available at the time are no longer available. In the circumstances should the Area Committee look at the matter again they will need officers to bid for 2011/12 Local Implementation Plan funding should the Committee wish that a similar scheme were to go ahead.

Supplementary question and answer

The Chairman undertook to arrange for officers to advise the questioner of details of the decision not to proceed with the scheme.

**12 CAPITAL EXPENDITURE: HAROLD HILL**

**To the Cabinet Member for Finance & Commerce (Councillor Eric Munday)**

By Councillor Barbara Matthews

In respect of Harold Hill, would the Cabinet Member set out how much capital money has been spent in each of the last three years (including 2009/10 to date) broken down over the following categories:

- a) Regeneration
- b) Roads & Pavements
- c) Housing
- d) Leisure
- e) Youth Provision
- f) Schools (including proposed for 2010/11+)

**Answer:**

We do not ordinarily hold details of capital expenditure by geographical area; the primary record of spend is by spend type. While some schemes are specific to a particular geographical area, others cover a larger boundary, and may be borough wide. Therefore, there is an element of estimation in the figures below, and there will be an under, rather than over-estimate, of the level of spend.

<b>Spend Harold Hill</b>				
	<b>2007/08</b>	<b>2008/09</b>	<b>2009/10 to date</b>	<b>2010/11 projection</b>
<b>Regeneration</b>			1,155,115	} not requested
<b>Roads &amp; Pavements</b>	202,420	450,301	831,683	
<b>Housing GF</b>	180,860	175,043	275,072	
<b>Housing HRA</b>	tbc	tbc	5,092,130	
<b>Leisure</b>	37,895	64,007	495,936	
<b>Parks</b>	50,000	88,000	152,500	
<b>Youth Provision</b>		59,364	474,754	
<b>Schools</b>	566,877	175,463	624,892	4,285,000
<b>TOTAL</b>	1,038,052	1,012,178	9,102,082	4,285,000

**13 CAPITAL EXPENDITURE: RAINHAM**

**To the Cabinet Member for Finance & Commerce  
(Councillor Eric Munday)**

By Councillor Barbara Matthews

In respect of Rainham, would the Cabinet Member set out how much capital money has been spent in each of the last three years (including 2009/10 to date) broken down over the following categories:

- Regeneration
- Roads & Pavements
- Housing
- Leisure
- Youth Provision
- Schools (including proposed for 2010/11+)

**Answer:**

We do not ordinarily hold details of capital expenditure by geographical area; the primary record of spend is by spend type. While some schemes are specific to a particular geographical area, others cover a larger boundary, and may be borough wide. Therefore, there is an element of estimation in the figures below, and there will be an under, rather than over-estimate, of the level of spend.

<b>Spend Rainham</b>				
	<b>2007/08</b>	<b>2008/09</b>	<b>2009/10 to date</b>	<b>2010/11 projection</b>
<b>Regeneration</b>	2,143,695	2,668,478	927,882	} not requested
<b>Roads &amp; Pavements</b>	465,408	515,411	623,373	
<b>Housing GF</b>	101,867	105,183	56,070	
<b>Housing HRA</b>	tbc	tbc	1,272,970	
<b>Leisure</b>	4,002	868,917	296,899	
<b>Parks</b>	24,000	1,138,500	495,000	
<b>Youth Provision</b>				
<b>Schools</b>	35,987	272,256	199,467	3,000,000
<b>TOTAL</b>	2,774,959	5,568,745	3,871,661	3,000,000

14      **CAPITAL EXPENDITURE: CENTRAL LIBRARY**

**To the Cabinet Member for Culture & Communities**

**(Councillor Andrew Curtin)**

By Councillor Clarence Barrett

In respect of the Central Library capital project, would the Cabinet Member provide a further update as follows:

- a)      Projected final expenditure against original budget of £4.087m?
- b)      How will any projected overspend be funded?

**Answer:**

- a)      The projected **final** expenditure has not yet been established. The project is on-going and a number of issues which will impact on the projected final expenditure are still in the process of being resolved.

The projected final expenditure for the whole building renovation, as opposed to the library itself, will be higher than £4.087m, as the office space specification was amended as part of the Property Strategy to help meet the significant reduction in annual revenue costs associated with the planned move from Scimitar House. The Council invested from its property capital budget in order to facilitate this. Some additional costs on both the library and the office accommodation have been incurred due to higher levels of asbestos both within the structure and in the surrounding ground, which had not been anticipated. It is not possible to completely quantify these additional sums at present as some buried asbestos became an issue relatively recently when new power cables were being installed and the final cost of this, including any delays caused by the electricity suppliers is still being finalised.

- b)      Any projected overspends on the library element of the project will be funded from the 2010/11 "Culture, Leisure and Cemeteries" capital programme. As has been indicated above, costs on the accommodation element are being met from the Council's corporate property budget.

**Supplementary question and answer**

As a result of the unexpected additional expenditure incurred, it was not yet possible to project the final costs.

15      **VALUE OF FIXED PENALTY NOTICES**

**To the Cabinet Member for StreetCare & Customer Services**

**(Councillor Barry Tebbutt) - answered in Councillor Tebbutt's absence by Councillor Michael White**

By Councillor Andrew Mann

Would the Cabinet Member state the value (£) of Fixed Penalty Notices relating to traffic and parking offences which have been issued for each of the last 4 years (including 2009/10 to date)?

**Answer:**

PCN income (net of refunds) is as follows:

- 2006/07 = £1,164k
- 2007/08 = £2,035k
- 2008/09 = £1,651k
- 2009/10 to date = £1,703k

Supplementary question and answer

The Leader of the Council undertook to arrange for officer provide to the questioner the gross income.

16 **HIGHER PAID STAFF**

**To the Leader of the Council**  
**(Councillor Michael White)**  
**By Councillor Andrew Mann**

Would the Leader provide a breakdown of the number of staff which fall into the following salary categories and periods?

	2006/07	2007/08	2008/09	2009/10
• £50k to £65k				
• £66k to £80k				
• £81k to £95k				
• £96k to £110k				
• £111k+				

**Answer:**

The pay bands requested do not equate directly to the Council's salary scales and grades. Therefore the closest equivalent grades have been chosen for the figures provided.

	Grade	As at 1 April 2007	As at 1 April 2008	As at 1 April 2009
£50k to £65k	PO8a - PO8i	66	65	65
£66k to £80k	Heads of Service	18	18	15
£81k to £95k	ACE/AD	3	3	4
£111k+	CE and Group Directors	5	4	4
	<b>Total</b>	<b>92</b>	<b>90</b>	<b>88</b>

Supplementary question and answer

The Leader of the Council undertook to provide to the questioner details of the pay bands represented by the grades indicated in the answer.

**VOTING RECORD**

<u>DIVISION NUMBER:</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>
<b>The Mayor [Cllr. Roger Ramsey]</b>	✓	X	✓	X
The Deputy Mayor [Cllr. Melvin Wallace]	✓	X	✓	X
<b><u>CONSERVATIVE GROUP</u></b>				
Cllr. Michael White	✓	X	✓	X
Cllr. Gary Adams	A	A	A	A
Cllr. Michael Armstrong	✓	X	✓	X
Cllr. Robert Benham	✓	X	✓	X
Cllr. Sandra Binion	✓	X	✓	X
Cllr. Jeff Brace	✓	X	✓	X
Cllr. Wendy Brice-Thompson	✓	X	✓	X
Cllr. Dennis Bull	✓	X	✓	X
Cllr. John Clark	✓	X	✓	X
Cllr. Andrew Curtin	✓	X	✓	X
Cllr. Ted Eden	✓	X	✓	X
Cllr. Roger Evans	✓	X	✓	X
Cllr. Christine Fox	✓	X	✓	X
Cllr. Mark Gadd	✓	X	✓	X
Cllr. Georgina Galpin	✓	X	✓	X
Cllr. Peter Gardner	✓	X	✓	X
Cllr. Lesley Kelly	✓	X	✓	X
Cllr. Steven Kelly	✓	X	✓	X
Cllr. Pam Light	✓	X	✓	X
Cllr. Robby Misir	✓	X	✓	X
Cllr. Eric Munday	✓	X	✓	X
Cllr. Barry Oddy	✓	X	✓	X
Cllr. Frederick Osborne	✓	X	✓	X
Cllr. Paul Rochford	✓	X	✓	X
Cllr. Geoffrey Starns	✓	X	✓	X
Cllr. Barry Tebbutt	✓	A	A	A
Cllr. Frederick Thompson	✓	X	✓	X
Cllr. Lynden Thorpe	✓	X	✓	X
Cllr. Keith Wells	✓	X	✓	X
Cllr. Steve Whittaker	✓	X	✓	X
<b><u>RESIDENTS' GROUP</u></b>				
Cllr. Clarence Barrett	✓	✓	X	O
Cllr. June Alexander	✓	✓	X	O
Cllr. Gillian Ford	✓	✓	X	O
Cllr. Linda Hawthorn	✓	✓	X	O
Cllr. Andrew Mann	✓	✓	X	O
Cllr. Barbara Matthews	✓	✓	X	O
Cllr. Raymond Morgon	✓	✓	X	O
Cllr. John Mylod	✓	✓	X	✓
Cllr. Patricia Mylod	A	A	A	A
Cllr. Linda van den Hende	✓	✓	X	O
Cllr. Mike Winter	✓	✓	X	✓
Cllr. John Wood	✓	✓	X	✓
<b><u>INDEPENDENT LOCAL RESIDENTS' GROUP</u></b>				
Cllr. Jeffery Tucker	✓	✓	X	O
Cllr. Michael Deon Burton	A	A	A	A
<b><u>LABOUR GROUP</u></b>				
Cllr. Keith Darvill	✓	✓	X	✓
Cllr. Tom Binding	A	A	A	A
<b><u>RAINHAM RESIDENTS' GROUP</u></b>				
Cllr. Mark Stewart	✓	✓	X	✓
Cllr. Coral Jeffrey	✓	✓	X	O
<b><u>Liberal Democrat Member</u></b>				
Cllr. Jonathan Coles	✓	✓	X	✓
<b><u>British National Party Member</u></b>				
Cllr. Mark Logan	A	A	A	A
<b><u>Independent Member</u></b>				
Cllr. Kevin Gregory	A	A	A	A
<b><u>TOTALS</u></b>				
<b>YES</b>	47	16	30	6
<b>NO</b>	0	30	16	30
<b>ABSTAIN/NO VOTE</b>	0	0	0	10
<b>DECLARATION OF INTEREST/NO VOTE</b>	0	0	0	0
<b>ABSENT FROM MEETING</b>	6	7	7	7
	53	53	53	53
<b>One seat vacant</b>				

IN FAVOUR ✓

AGAINST X

NOT VOTING O

ABSENT A

INTEREST DECLARED ID



**ANNUAL COUNCIL, 26 MAY 2010**

**9**

**REPORT OF THE MONITORING OFFICER**

**SUBJECT: ESTABLISHING THE COMMITTEES OF THE COUNCIL**

**Note: this report incorporates and supersedes the initial reports 9A and 9B that accompanied the Initial and Revised Agendas**

In accordance with the Constitution Annual Council, among other things, appoints its Committees.

This report deals with the numbers, sizes and composition of Committees, and makes recommendations for appointments consistent with previous decisions.

There are no additional financial implications or risks arising from this report. Any allowances payable to Members resulting from the proposed appointments will be in accordance with the Members' Allowances Scheme and will be contained within the relevant budgetary provision.

There are no legal, human resources or equalities and social inclusion implications or risks attached to this report.

**RECOMMENDATIONS**

- (1) That, so far as necessary to enable any changes proposed and agreed during this meeting to be carried in to effect, Council Procedure Rule 20.2 (proposals to amend the Constitution to be referred to Governance Committee without discussion) be suspended.
- (2) That, subject to the Council's consideration of any motion or amendment before the meeting relating to changes in the Committee structure, the Committees listed in Appendix 1 be appointed for the 2010/11 Municipal Year and that:
  - (a) As required by statute, two voting co-optees representing the Church of England and the Roman Catholic Church and three parent governor co-optees selected in accordance with the appropriate Regulations, be appointed to the Children's Services Overview and Scrutiny Committee.

**Annual Council, 26 May 2010**

- (b) The other non-elected member “appointments” and invitations to attend shown in the Appendix (and particularly its annexes) be confirmed.
- (3) That, subject to any adjustments required in consequence of decisions made at meeting, the number of seats on each Committee appointed by Council be as shown in Appendix 2 and that:
  - (a) The sizes and seat allocations of each of the individual Overview & Scrutiny Committees, be agreed on the basis of the allocations proposed in Appendix 2 (as amended at the meeting).
  - (b) That the suggested political balance of those Committees (in accordance with the principles detailed in Appendix 3), be noted and accepted, and seats allocated to Groups accordingly.

**Staff Contact:** Ian Buckmaster, Committee Administration Manager  
01708 432431  
[ian.buckmaster@havering.gov.uk](mailto:ian.buckmaster@havering.gov.uk)

**Christine Dooley  
Monitoring Officer**

**Background Papers List**

None



**APPOINTMENT OF COMMITTEES AND SUB-COMMITTEES**

<b>Name of Committee</b>	<b>Notes</b>
Adjudication and Review Committee	<i>See annex 1</i>
Appointments Committee	
Audit Committee	
Governance Committee	
Licensing Committee	
Pensions Committee	<i>See annex 2</i>
Regulatory Services Committee	
Adult Services Overview and Scrutiny Committee	
Children's Services Overview and Scrutiny Committee	<i>See annex 3</i>
Corporate Overview and Scrutiny Committee	
Crime and Disorder Committee	
Culture and Regeneration Overview & Scrutiny Committee	
Environment Overview and Scrutiny Committee	
Health Overview and Scrutiny Committee	
Housing Overview and Scrutiny Committee	
Elm Park and Hylands Area Committee	(Ward members only)
Emerson Park and Harold Wood Area Committee	(Ward members only)
Gidea Park Area Committee	(Ward members only)
Harold Hill Area Committee	(Ward members only)
Hornchurch Area Committee	(Ward members only)
North Romford Area Committee	(Ward members only)
Romford Area Committee	(Ward members only)

## Annual Council, 26 May 2010

South Hornchurch and Rainham Area Committee (Ward members only)

Upminster Area Committee (Ward members only)

Annex 1

### **Adjudication and Review Committee**

The major part of the work of this Committee is carried out through Hearings Panels. The composition of Hearings Panels varies according to the nature of the issue adjudicated – as indicated in the following table:

<b>Type of hearing</b>	<b>Membership of Panel</b>
Corporate complaints	Three Members and a non-voting independent person
Children Act complaints	Two Members and an independent person as chairman, with voting rights
Community Care Act complaints	Two Members and an independent person as chairman, with voting rights
Housing tenancy appeals	Three Members

The independent persons used for such hearings are taken from a pool of such people appointed on behalf the Adjudication & Review Committee, managed by Democratic Services, who have received training appropriate to that role.

Annex 2

### **Pensions Committee**

The Pensions Committee is responsible for the management of the Council's Pension Fund investment portfolio.

In addition to the Members of the Committee, there is a non-voting co-opted member representing the organisations that have scheduled or admitted status within the Council's pension scheme (public and private sector bodies, some of whose employees are members of the pension scheme, mainly because they are former employees whose employment has transferred to another organisation).

Although not strictly Members of the Committee, in accordance with the Constitution, two representatives of the staff are appointed by the unions to attend and contribute to meetings of the Committee. These appointees have no voting rights but are entitled to participate in the discussion of exempt or confidential material.

**Children's Services Overview & Scrutiny Committee**

The law requires that the Council co-opt to this Overview & Scrutiny Committee one representative of each of the Anglican and Roman Catholic Churches, and three members representing governors of schools in the three sectors of education, primary, secondary and special. All co-opted Members have the same rights as elected Members, including the right to vote, may attend when issues relating to Education are being discussed and have the right to participate in such discussions.

**It should be noted that this statutory requirement applies to any Overview & Scrutiny Committee that scrutinises education matters.**

In addition, the Council's Constitution provides for three non-voting representatives of local teacher unions and professional associations to attend meetings of the Committee and participate in the discussion of matters relating to education.

## **RECOMMENDED SEAT ALLOCATION**

Having regard to the principles of political balance and of seat allocation referred to in Appendix 1, the table overleaf proposes an allocation of seats that is a “reasonably practicable” allocation of seats and can therefore be considered the default position.

This results in a larger number of Committee seats for allocation than provided for in the Constitution, but the relative sizes of the Groups following the election has made that inevitable.

The Constitution provides that each Overview & Scrutiny Committee should have the same number of seats, distributed evenly. In the new circumstances, that is no longer possible if the statutory requirement for political balance is to be achieved. The sizes and suggested allocation of seats to specific Committees is, therefore, somewhat arbitrary (although regard has been had in devising the table to relative workloads etc).

Given the understanding that the Conservative Group intend to propose changes in the OSC structure, the names of individual OSCs are replaced in the table by numbers. It is for the Council to agree the size of each of the individual OSCs. This should be done by the proposing of amendments to this report.

The permutations are not perfect but follow, as nearly as practicable, the considerations and principles discussed in the report and Appendix 1:

In accordance with the provisions of the Council’s Constitution:

- All Groups are represented on the Adjudication & Review, Audit, Governance, Licensing, Regulatory Services and Standards Committees
- The total number of Committee seats is allocated as “reasonably practicable” as possible
- Each Committee is balanced as “reasonably practicable” as possible, taking account of the political balance principles

On this occasion, and assuming that the recommended distribution of seats as set out in the Table to Appendix 2 (or any amendments as set out in notes to the Final or Supplementary agendas) are agreed, it has been possible to allocate to each Group its exact entitlement of seats.

**Annual Council, 26 May 2010**

		<b>CONSERVATIVE</b>		<b>RESIDENTS</b>		<b>LABOUR</b>		<b>INDEPENDENT RES.</b>	
<b>Licensing</b>	<b>11</b>	6.72	<b>7</b>	2.44	<b>2</b>	1.02	<b>1</b>	0.81	<b>1</b>
<b>Regulatory Services</b>	<b>11</b>	6.72	<b>7</b>	2.44	<b>2</b>	1.02	<b>1</b>	0.81	<b>1</b>
<b>Governance</b>	<b>11</b>	6.72	<b>7</b>	2.44	<b>2</b>	1.02	<b>1</b>	0.81	<b>1</b>
<b>Adjudication &amp; Review</b>	<b>10</b>	6.11	<b>6</b>	2.22	<b>2</b>	0.93	<b>1</b>	0.74	<b>1</b>
<b>Standards</b>	<b>9</b>	5.50	<b>5</b>	2.00	<b>2</b>	0.83	<b>1</b>	0.67	<b>1</b>
<b>Audit</b>	<b>8</b>	4.89	<b>5</b>	1.78	<b>1</b>	0.74	<b>1</b>	0.59	<b>1</b>
<b>Pensions</b>	<b>7</b>	4.28	<b>4</b>	1.56	<b>1</b>	0.65	<b>1</b>	0.52	<b>1</b>
<b>Highways</b>	<b>7</b>	4.28	<b>4</b>	1.56	<b>2</b>	0.65	<b>1</b>	0.52	<b>0</b>
<b>Appointments</b>	<b>6</b>	3.67	<b>4</b>	1.33	<b>1</b>	0.56	<b>1</b>	0.44	<b>0</b>
<b>OSC 1</b>	<b>8</b>	4.89	<b>5</b>	1.78	<b>2</b>	0.74	<b>1</b>	0.59	<b>0</b>
<b>OSC 2</b>	<b>7</b>	4.28	<b>4</b>	1.56	<b>2</b>	0.65	<b>1</b>	0.52	<b>0</b>
<b>OSC 3</b>	<b>7</b>	4.28	<b>4</b>	1.56	<b>2</b>	0.65	<b>1</b>	0.52	<b>0</b>
<b>OSC 4</b>	<b>7</b>	4.28	<b>5</b>	1.56	<b>1</b>	0.65	<b>1</b>	0.52	<b>0</b>
<b>OSC 5</b>	<b>7</b>	4.28	<b>4</b>	1.56	<b>2</b>	0.65	<b>0</b>	0.52	<b>1</b>
<b>OSC 6</b>	<b>7</b>	4.28	<b>4</b>	1.56	<b>2</b>	0.65	<b>0</b>	0.52	<b>1</b>
<b>OSC 7</b>	<b>7</b>	4.28	<b>4</b>	1.56	<b>2</b>	0.65	<b>0</b>	0.52	<b>1</b>
<b>OSC 8</b>	<b>6</b>	3.67	<b>4</b>	1.33	<b>2</b>	0.56	<b>0</b>	0.44	<b>0</b>
<b>Seats allocated</b>	<b>136.00</b>		<b>83.00</b>		<b>30.00</b>		<b>13.00</b>		<b>10.00</b>
<b>Seats entitled to</b>		83.11	<b>83</b>	30.22	<b>30</b>	12.59	<b>13</b>	10.07	<b>10</b>

## **POLITICAL BALANCE PRINCIPLES**

The Council has a duty to make only such decisions as give effect, **so far as reasonably practicable**, to certain principles set out in the relevant legislation. The relevant principles are, in order of priority:

1. Not all of the seats on any Committee may be allocated to only one Group (note - the Cabinet is not a Committee).
2. The majority of seats on each Committee must be allocated to the Group having a majority of Members of the Council.
3. The total share of all the seats available for all Committees allocated to each political Group and to Members not in a Group must be proportionate to that Group's/Members' share of the total Council membership.
4. So far as can be done without conflicting with the other principles, the total number of seats on each Committee allocated to a political Group or to Members not in a Group must be proportionate to that Group's/those Members' share of total Council membership.

**In practice, Committees are balanced against the overall total of Committee places and then, so far as that overall total allows, each Committee is balanced on its own.** With the distribution of seats on the Council that results from the election, it is inevitable (a) Groups/Members will not all be able to be represented on every Committee and (b) that one Group's representation on some Committees will be at the expense of another's.

The Council may make arrangements different from those prescribed **provided that no Member of the Council votes against** those different arrangements.

To make such a decision each member of the Council must at least be sent an agenda indicating that the approval of alternative arrangements is to be considered. The agenda for this Annual Council meeting meets this requirement. To accommodate this requirement this report should be treated as giving due notice so that there is no impediment to such a proposal being made.

Once the allocation of seats to Groups in accordance with the statutory procedure is undertaken, the Council is under a duty to make appointments to the Committee so as to give effect to the wishes expressed by that Group about who is to be appointed to their allocated seats.

## Annual Council, 26 May 2010

The “wishes of the Group” may be communicated to the Proper Officer and will be implemented forthwith. Changes may be effected at any time by notice to the Proper Officer and will be notified to all Members in the next available edition of the weekly Calendar Brief.

It should be noted that the Constitution provides that the Chairmen and Vice-Chairmen of Committees (other than the Area Committees) are appointed by Council and any change in membership affecting a Chairman or Vice-Chairman will therefore require consideration by Council.

### **PRINCIPLES FOR ALLOCATION OF SEATS ON COMMITTEES**

The principles of seat allocation follow the requirements of the political balance principles, using a formula that takes account of the respective sizes of the Groups and the number of seats on Committees available for distribution among the Groups.

#### **Basic allocation of seats**

The seat entitlements of the Groups are agreed by a formula using the percentage of the membership of the Council represented by each Group (or Member(s) not in a Group), operating through a sequence of stages as follows:

**First**, the percentage of each Group’s membership of the Council (and of any Members not within a Group) is calculated to two decimal places.

**Next**, that percentage is applied to the number of seats available on each Committee to agree each Group’s potential entitlement to seats on that Committee. Where the resulting figure is not a whole number, generally it is rounded to the nearest whole number following the mathematical convention that numbers below .5 are rounded down, and those .5 or more are rounded up.

In some cases, a Group may be entitled to a seat even though, rounded down, its potential entitlement appears nil, as there is a specific number of seats available on each Committee and no other Group may have more seats on any Committee than its entitlement.

The table at the top of the next page shows the basic allocation on the basis of these principles to Committee sizes ranging from 3 Members to 15:

**Table**

	<b>CONSERVATIVE</b>		<b>RESIDENTS</b>		<b>LABOUR</b>		<b>INDEPENDENT RESIDENTS</b>	
	<b>33</b>		<b>12</b>		<b>5</b>		<b>4</b>	
	<b>61.1%</b>		<b>22.2%</b>		<b>9.26%</b>		<b>7.41%</b>	
<b>Size of body</b>	<b>Entitlement</b>	<b>Allocation</b>	<b>Entitlement</b>	<b>Allocation</b>	<b>Entitlement</b>	<b>Allocation</b>	<b>Entitlement</b>	<b>Allocation</b>
<b>6</b>	3.67	<b>4</b>	1.33	<b>1</b>	0.56	<b>1</b>	0.44	<b>0</b>
<b>7</b>	4.28	<b>4</b>	1.56	<b>1</b>	0.65	<b>1</b>	0.52	<b>1</b>
<b>8</b>	4.89	<b>5</b>	1.78	<b>1</b>	0.74	<b>1</b>	0.59	<b>1</b>
<b>9</b>	5.50	<b>5</b>	2.00	<b>2</b>	0.83	<b>1</b>	0.67	<b>1</b>
<b>10</b>	6.11	<b>6</b>	2.22	<b>2</b>	0.93	<b>1</b>	0.74	<b>1</b>
<b>11</b>	6.72	<b>7</b>	2.44	<b>2</b>	1.02	<b>1</b>	0.81	<b>1</b>
<b>12</b>	7.33	<b>7</b>	2.67	<b>3</b>	1.11	<b>1</b>	0.89	<b>1</b>
<b>13</b>	7.94	<b>8</b>	2.89	<b>3</b>	1.20	<b>1</b>	0.96	<b>1</b>
<b>14</b>	8.56	<b>9</b>	3.11	<b>3</b>	1.30	<b>1</b>	1.04	<b>1</b>
<b>15</b>	9.17	<b>9</b>	3.33	<b>3</b>	1.39	<b>2</b>	1.11	<b>1</b>

Those figures are then applied to the total number of seats available on each Committee, the seats being allocated in order, highest entitlement first, until all seats have been allocated.

**Finally**, fine adjustment is required to ensure that, so far as reasonably practicable, the seats allocated reflect the overall proportion of Council membership held by each Group and the numerical strength of its entitlement to seats on particular Committees. For that purpose, at this stage the seat allocation of particular Committees will be adjusted from the ideally-balanced number reached in earlier stages of the process.

### **Specific allocations**

For the allocation of seats on specific Committees, several permutations are possible. Although the Council's Constitution does specify particular numbers of seats to each Committee, it is expressed as being "or such other number as the Council may agree", so there is discretion as to Committee sizes.

Once the number of seats available on each Committee has been agreed, the allocation of seats to the individual Groups would then need to be adjusted between the Groups to achieve, so far as possible and practicable, an allocation that gives each Group its proportionate share of seats overall while ensuring that each Committee is proportionately balanced. In practice, it will be impossible to achieve both aims without enlarging Committee memberships to an unworkable size, so a degree of compromise is required.





ANNUAL COUNCIL, 26 MAY 2010

# 10

**S U P P L E M E N T A R Y**  
**REPORT OF THE MONITORING OFFICER**

**SUBJECT: ESTABLISHING THE COMMITTEES OF THE COUNCIL:  
CONSERVATIVE GROUP PROPOSALS FOR CHANGES IN  
COMMITTEE STRUCTURE**

**Note: this report supplements the report on establishing Committees, and provides background information and advice relating to the Conservative Group proposals for changes in the Committee structure.**

1 Highways matters

Hitherto, decisions on highways and traffic schemes have generally been taken by Area Committees (with the Regulatory Services Committee having a role where more than one Area Committee is involved – for example because a particular road is partly in one Area and partly in another). This arrangement has not always worked satisfactorily.

The Conservative Group is proposing that functions relating to highways and traffic schemes be transferred from the Area Committees and the Regulatory Services Committee and redistributed within the Executive.

In order to maintain the involvement of a wider group of Councillors in highway matters that are often of significant local interest it is proposed to establish an Advisory Committee to advise the Leader or Cabinet on the exercise of executive functions and it is therefore intended to establish a Highways Advisory Committee. This Committee would consider highways and traffic schemes and then make recommendations to the Cabinet Member for Community Empowerment for final decision.

A detailed procedure for dealing with highways and traffic schemes will need to be drawn up and agreed by the Highways Advisory Committee but, broadly, the process for dealing with schemes is envisaged to be as follows:

- (i) an initial report about a scheme will be considered by the Committee
- (ii) if the scheme is accepted, it will be subject to statutory consultation in the usual way

- (iii) if there are no objections, the scheme will be approved by officers using delegated authority
- (iv) if there are objections, the scheme will be referred to the Committee for consideration. The Committee will meet monthly (unless there is no business for it to consider) and objectors will have an opportunity to make their views known before the Committee decides what to recommend
- (v) the Cabinet Member will consider the Committee's recommendations and make a decision.

Appendix 1 to this report identifies where changes to delegations are required to give effect to these proposals.

## 2 Overview & Scrutiny Committees (OSCs)

The Conservative Group propose that, other than the statutory Crime & Disorder and Health OSCs, the OSC structure be re-aligned. Five OSCs will match the Council's five Goals:

- **Environment** : to ensure a clean, safe and green borough;
- **Learning** : to achieve excellence in education and learning;
- **Towns and communities** : to provide opportunities for all through economic, social and cultural activity;
- **Individuals** : to value and enhance the lives of every individual; and a
- **Value** : to deliver high customer satisfaction and a stable council tax.

and a sixth, **Partnerships**, will scrutinise the Council's relationship with its various partner bodies, including the formal structures of the LAA.

It is therefore proposed that the existing OSCs be replaced by new OSCs as follows

**Environment**

**Children's & Learning**

**Individuals**

**Towns and Communities**

**Partnerships**

**Value**

The report at agenda item 9 contains proposals for politically-balanced sizes for these new OSCs. **Council is requested to decide which OSC shall have what size.**

Appendix 2 to this report sets out the proposed functions of each of the new OSCs. It will be noted that each of the OSCs listed is shown as having Social inclusion, Scrutiny of relevant aspects of the LAA and Councillor Call for Action

## **RECOMMENDATIONS**

**That, if the Conservative Group proposals are agreed:**

- 1 The changes in delegated functions etc relating to the Highways Advisory Committee and Cabinet Member delegation outlined in Appendix 1 to this report be approved.
- 2 The changes in the Overview & Scrutiny Committee structure and, consequently, in the functions of those Committees outlined in Appendix 2 to this report, be approved.
- 3 That the Monitoring Officer be authorised to make the consequential changes to the Council's Constitution.

**Staff Contact:** Ian Buckmaster, Committee Administration Manager  
01708 432431  
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**Christine Dooley  
Monitoring Officer**

### **Background Papers List**

None

**PROPOSED ADJUSTMENTS IN RESPONSIBILITY FOR FUNCTIONS RELATING TO HIGHWAYS MATTERS**

In Part 3 of the Constitution:

**Highways Advisory Committee**

Section 1.2 (page 37):

Insert between the entries for Governance and Pensions:

Highways Advisory	<ul style="list-style-type: none"><li>• To advise the Council's Executive on local highway and traffic management schemes</li><li>• To consult objectors, and consider objections made, to schemes</li><li>• To make recommendations to the Cabinet Member for Community Engagement for the implementation of schemes</li></ul>
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**Area Committees and Regulatory Services Committee**

Section 1.2 (page 37):

Delete from the entry relating to the Regulatory Services Committee the words "and that are not delegated to the area committees (see Part 3, section 1.5)"

Section 1.5 (on pages 44/5):

- 1 Delete paragraph 2 of the functions of the Area Committees (and renumber paragraph 3 accordingly)
- 2 Delete the "Process for approving highway schemes" (**Note: A new Process will be devised in due course to reflect the new arrangements**)

**Executive functions**

Section 2.5 (on page 54):

Add in the list of functions that may be delegated, after (r) –

- (s) to consider recommendations of the Highways Advisory Committee relating to highways and traffic schemes and to make decisions relating to them.

and renumber subsequent entries accordingly.

Section 2.6 (on page 54/55):

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Add in the list of portfolios, after (x) –

(y) Highways and traffic schemes

and renumber subsequent entries accordingly.

Section 3.6.3 (on page 82/3)

In paragraph (j), delete “area committees” and insert “Highways Advisory Committee”

In paragraph (r), delete the whole text and insert “*This section is being revised in the light of the establishment of the Highways Advisory Committee and a new procedure will be added when agreed by that Committee*”

In paragraph (v) delete “ an Area Committee or the Head of StreetCare” and insert “to the Leader or a Cabinet member”

Amend paragraph (cc) to (ee) and insert:

“(cc) To manage highway trees including determining requests for removal and/or replacement of trees

(dd) To determine the provision, positioning and layout of road signs and other street furniture”

**ADJUSTMENTS TO THE OVERVIEW AND SCRUTINY COMMITTEE STRUCTURE**

**In Part 2 of the Constitution:**

Section 5.4, Paragraph 5 (on page 30)

In the heading, delete "Services" after "Children's" , and add "& Learning"

**In Part 3 of the Constitution:**

Section 1.4 (on page 43)

Delete all entries from the table indicating Area of responsibility, except the entries relating to Health and Crime and Disorder; and insert the following (before "Health"):

<p><b>Children's &amp; Learning</b></p>	<ul style="list-style-type: none"> <li>• School improvement (BSF)</li> <li>• Pupil and Student Services (including the youth service)</li> <li>• Children's Social Care</li> <li>• Safeguarding Children</li> <li>• Adult education</li> <li>• 14-19 Diploma</li> <li>• Social Inclusion</li> <li>• Scrutiny of relevant aspects of the LAA</li> <li>• Councillor Call for Action</li> </ul>
<p><b>Environment</b></p>	<ul style="list-style-type: none"> <li>• Environment</li> <li>• Transport</li> <li>• Environmental Strategy</li> <li>• Community safety</li> <li>• StreetCare</li> <li>• Parking</li> <li>• Social Inclusion</li> <li>• Scrutiny of relevant aspects of the LAA</li> <li>• Councillor Call for Action</li> </ul>
<p><b>Individuals</b></p>	<ul style="list-style-type: none"> <li>• Personalised services agenda</li> <li>• Adult Social Care</li> <li>• Diversity</li> <li>• Social Inclusion</li> <li>• Scrutiny of relevant aspects of the LAA</li> <li>• Councillor Call for Action</li> </ul>
<p><b>Partnerships</b></p>	<ul style="list-style-type: none"> <li>• Scrutiny of the LAA as a whole</li> <li>• Partnership with the ALMO</li> <li>• Strategy and commissioning</li> <li>• Local Development Framework and Strategic Transport</li> <li>• Local Strategic Partnership</li> <li>• 3rd Sector Compact</li> <li>• Partnerships with Business</li> <li>• Community Engagement</li> <li>• Cohesion</li> <li>• Local Development Framework</li> <li>• Transport for London</li> <li>• Social Inclusion</li> <li>• Councillor Call for Action</li> </ul>

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<b>Towns &amp; Communities</b>	<ul style="list-style-type: none"><li>• Regulatory Services</li><li>• Planning &amp; Building Control</li><li>• Town centre strategy</li><li>• Licensing</li><li>• Leisure, art, culture</li><li>• Housing Retained Services</li><li>• Community safety</li><li>• Social and economic regeneration</li><li>• Parks</li><li>• Social inclusion</li><li>• Scrutiny of relevant aspects of the LAA</li><li>• Councillor Call for Action</li></ul>
<b>Value</b>	<ul style="list-style-type: none"><li>• Customer access</li><li>• E-government and ICT</li><li>• Finance (although each committee is responsible for budget processes that affect its area of oversight)</li><li>• Human resources</li><li>• Asset Management</li><li>• Property resources</li><li>• Facilities Management</li><li>• Communications</li><li>• Democratic Services</li><li>• Social inclusion</li><li>• Scrutiny of relevant aspects of the LAA</li><li>• Councillor Call for Action</li></ul>

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# **ANNUAL COUNCIL**

## **26 May 2010**

<p><b>SECOND SUPPLEMENTARY AGENDA</b></p>
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**10 CHANGES TO THE COMMITTEE STRUCTURE**

**10C Amendment on behalf of the Residents' Group**

That the terms of reference in respect of the Highways Advisory Committee be referred to Governance Committee for full consideration and agreement.

**11 AREA COMMITTEES**

**11B Amendment on behalf of the Residents' Group**

That the terms of reference in respect of the Area Committees be referred to Governance Committee for full consideration and agreement.

**Philip Heady**  
**Democratic Services Manager**

