



# Haverling

LONDON BOROUGH

## GOVERNANCE COMMITTEE

### AGENDA

<b>7.30pm</b>	<b>Wednesday 9 July 2008</b>	<b>Haverling Town Hall Main Road, Romford</b>
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Members 10: Quorum 4

#### COUNCILLORS:

**Conservative Group  
(6)**

Frederick Thompson  
(Chairman)  
Steven Kelly  
(Vice-Chairman)  
Gary Adams  
Eric Munday  
Roger Ramsey  
Michael White

**Residents' Group  
(2)**

Clarence Barrett  
Gillian Ford

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

Jeffrey Tucker

**Labour Group  
(1)**

Keith Darvill

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# NOTES ABOUT THE MEETING

## 1. HEALTH AND SAFETY

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

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

## 2. MOBILE COMMUNICATIONS DEVICES

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

## 3. CONDUCT AT THE MEETING

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

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

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

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

**AGENDA ITEMS**

**1 CHAIRMAN'S ANNOUNCEMENTS**

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

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

**3 DECLARATION OF INTERESTS**

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

**4 MINUTES**

To approve as correct records the minutes of the meeting of the Committee held on 29 May and of the special meeting held on 19 June 2008, and to authorise the Chairman to sign them

**5 APPOINTMENTS TO OTHER ORGANISATIONS, 2008/09 – further report**

**6 AMENDMENTS TO THE CONSTITUTION**

**7 AMENDMENTS TO THE CONSTITUTION – made by Monitoring Officer**

**8 REVISION OF CONTRACT PROCEDURE RULES**

**9 STANDARDS COMMITTEE: APPOINTMENT OF ADDITIONAL INDEPENDENT MEMBER**

10 **URGENT BUSINESS**

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

Cheryl Coppel  
Chief Executive

**MINUTES OF A MEETING OF THE  
GOVERNANCE COMMITTEE  
Havering Town Hall  
29 May 2008 (7.30pm – 8.45pm)**

**Present:**

**COUNCILLORS:**

**Conservative Group** Frederick Thompson (in the Chair), Kevin Gregory, Steven Kelly, Eric Munday, Roger Ramsey and Michael White

**Residents' Group** Clarence Barrett and Gillian Ford

**Rainham & Wennington Independent Residents' Group** Jeffrey Tucker

**Labour Group** -

An apology was received for the absence of Councillor Keith Darvill

Except as indicated, all decisions were taken with no vote against

Councillors Clarence Barrett, Gillian Ford, Steven Kelly, Eric Munday, Roger Ramsey, Frederick Thompson, Jeffrey Tucker and Michael White each declared a personal interest in matters referred to in minute 3.

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

**1 MINUTES**

The Minutes of the meeting of the Committee held on 7 May 2008 were agreed as a correct record and signed by the Chairman.

It was noted that the *ad hoc* Sub-Committee to deal with the nominating of an additional Independent Member of the Standards Committee (established by minute 48 of the previous meeting) would comprise Councillors Gillian Ford, Steven Kelly and Eric Munday.

**2 PARTICIPATORY BUDGETING CONSULTATION**

The Department of Communities and Local Government had issued a consultation paper seeking views on a Participatory Budgeting Strategy, specifically to ascertain whether the proposed Strategy would achieve the government's ambition of participatory budgeting to be used in every local authority by 2012. The report outlined what participatory budgeting was and sought Members' views, both on the concept and in response to specific

consultation questions, to enable officers to respond to the Department.

Members were not convinced that the strategy proposed was sound. The process proposed did not appear to fit with existing budget-setting procedures and did not reflect the impact that government spending decisions on both revenue support and specific grants had on the overall budget, particularly of local authorities such as Havering, which were “floored” in support grant terms. It also appeared that account had not been taken of local authorities’ obligations to fulfil various statutory obligations. Moreover, there was no evidence that the public was remotely interested in the concept – indeed, the Council’s experience of many years of budget presentations to the public at Area Committee meetings was that very few people took any interest in such matters.

It was **AGREED** that the Group Director, Finance & Commerce, in consultation with Councillor Roger Ramsey (as Cabinet Member, Finance & Commerce), be authorised to respond to the Department along the lines generally indicated in this minute.

### **3 APPOINTMENTS TO OTHER ORGANISATIONS, 2008/09**

*Councillors Clarence Barrett, Gillian Ford, Steven Kelly, Eric Munday, Roger Ramsey, Frederick Thompson, Jeffrey Tucker and Michael White each declared a personal interest in matters referred to in this minute as appointees or prospective appointees to one or more of the organisations named.*

Members were invited to make appointments to the various organisations referred to in this report.

#### **RESOLVED:**

- 1 That the various appointments shown in the Appendices to these minutes be approved for the Municipal Year 2008/09 (or to such other date as indicated).
- 2 That, where the constitution of an organisation permits the casting of proxy votes on behalf of an organisation’s representative and the Council’s representative (or any deputy or alternative representative where applicable) is unable to attend a relevant meeting, the representative may mandate the Chair of the meeting to exercise a proxy vote on behalf of the Council.
- 3 (a) That Andy Quinn be appointed as an independent member of the Adoption Panel and as its Chairman; and  
  
(b) That the other members of the Adoption Panel be re-appointed for the coming year (or until those members who are nearing the end of their eligibility to serve reach the point at which they must cease to do so, unless they resign earlier).

**Governance Committee, 29 May 2008**

- 4 That the Council's voting rights at the General Assembly of the Local Government Association be exercised by Councillor Michael White (4 votes) and Councillor Clarence Barrett (1 vote) (or their respective nominees in the event either is unable to vote in person).
  
- 5 (a) That Councillors June Alexander, Wendy Brice-Thompson, Andrew Curtin, Gillian Ford, Linda Hawthorn, Roger Ramsey, Paul Rochford and Geoff Starns be appointed as Councillor Members of the Council of Management, Havering Theatre Trust
  
- (b) That Councillors Andrew Curtin and Roger Ramsey be appointed as Councillor Members of the Havering Theatre Trust Board.

Note: The appointment to the Essex Wildlife Trust was decided by vote. Six Members (Councillors Kevin Gregory, Steven Kelly, Eric Munday, Roger Ramsey, Frederick Thompson and Michael White) voted for Councillor Geoff Starns and three Members (Councillors Clarence Barrett, Gillian Ford and Jeffrey Tucker) voted for Councillor Andrew Mann: Councillor Starns was thus appointed.





**1. APPOINTMENTS MADE BY OFFICE HELD**

<b>ORGANISATION</b>	<b>MEMBER APPOINTED BY OFFICE</b>
Age Concern : Havering (Havering Old People's Welfare Association Council)	Cabinet Member – Social Care & Learning
CEME (Centre for Engineering & Manufacturing Excellence)	& Leader of the Council
Connexions	Cabinet Member – Skills & Young People ((Youth Services Manager) – alternate director)
East London Waste Authority	Deputy Leader of the Council and Cabinet Member – StreetCare & Customer Services
Education Otherwise Than At School Service (EOTAS) Management Advisory Committee	Cabinet Member – Education & Children's Services
Governor Panel	Cabinet Member – Education & Children's Services
Greater London Enterprise Limited	Cabinet Member – Housing, Public Protection & Regeneration
Havering Admissions Forum	Cabinet Member – Education & Children's Services
Havering Arts Council	Cabinet Member – Culture & Communities
Havering Chamber of Commerce and Industry	Leader of the Council

**Governance Committee, 29 May 2008**

Havering Education & Children’s Trust	Cabinet Member - Education & Children’s Services
Havering Community Safety Partnership	Cabinet Member– Community Safety, Standards & Electoral Services (and the Assistant Chief Executive, Legal and Democratic Services)
Havering Joint Forum	Leader of the Council, Deputy Leader of the Council, Cabinet Member – Legal & Democratic Services, Cabinet Member- Finance & Commerce and Leader of the Opposition
Havering Local Strategic Partnership	Leader of the Council, Deputy Leader of the Council and Leader of the Opposition
Havering Sports Council	Cabinet Member - Culture & Communities and Cabinet Member - Housing, Public Protection & Regeneration
Havering Theatre Trust	<u>Councillor Members of the Council of Management</u> Cabinet Member - Culture & Communities, Cabinet Member – Housing, Public Protection & Regeneration and Cabinet Member – Education & Children’s Services  <u>Councillor Members of the Board:</u> Cabinet Member - Culture & Communities
IWMS Contract Liaison Committee	Deputy Leader of the Council
Local Government Association General Assembly	Leader of the Council, Deputy Leader of the Council and Leader of the Opposition
Local Government Association Tourism Forum	Cabinet Member – Culture & Communities
Local Government Association Urban Commission	Cabinet Member - Housing, Public Protection & Regeneration

**Governance Committee, 29 May 2008**

Local Government Information Unit	Cabinet Member - Legal & Democratic Services
London Councils	
Leaders' Committee	Representative: Leader of the Council Deputy: Deputy Leader of the Council
Transport & Environment Committee	Representative: Cabinet Member - StreetCare & Customer Services Deputies: Cabinet Member - Finance & Commerce and Deputy Leader of the Council
Grants Committee	Representative: Cabinet Member - Finance & Commerce
Greater London Employment Forum	Representative: Cabinet Member - Legal & Democratic Services Deputy Representative: Deputy Leader of the Council
Crime and Public Protection Forum	Cabinet Member– Community Safety, Standards & Electoral Services
Children, Young People & Families Forum	Cabinet Member - Education & Children's Services
Culture , Tourism & 2012 Panel	Cabinet Member - Culture & Communities
Economic Development	Leader of the Council
Health and Social Care Panel	Cabinet Member – Social Care & Learning
Housing and Public Protection Forum	Cabinet Member – Housing, Public Protection & Regeneration
London Local Authority Arts Forum	Cabinet Member – Culture & Communities

**Governance Committee, 29 May 2008**

London Riverside Limited	Leader of the Council
London Youth Games Limited	Cabinet Member – Culture & Communities
Romford Town Centre Partnership	Leader of the Council (Cabinet Member - Housing, Public Protection & Regeneration as deputy) and Chief Executive
Standing Advisory Council on Religious Education (SACRE)	Cabinet Member – Education & Children’s Services
Thames Gateway London Partnership	Leader of the Council
Veolia ES Cleanaway Havering Riverside Trust	Cabinet Member – Housing, Public Protection & Regeneration
Veolia ES Cleanaway Havering Riverside Maintenance Trust	Cabinet Member – Housing, Public Protection & Regeneration

## 2. PERSONAL APPOINTMENTS

ORGANISATION	MEMBER APPOINTED BY PERSONAL APPOINTMENT
Age Concern : Havering (Havering Old People's Welfare Association Council)	Councillor June Alexander
Ardleigh House Community Association	Councillors Lynden Thorpe and Michael White
Bretons Community Association	Councillor John Clark
Coopers Company & Coborn Educational Foundation	Councillor Linda van den Hende
Corporate Parenting Panel	Councillors Wendy Brice-Thompson, Christine Fox and Pat Mylod
Cranham Community Association	Councillor June Alexander
Elm Park Community Association	Councillor Barry Oddy
Emerson Park Community Association	Councillor Paul Rochford
Essex Wildlife Trust (Bedfords Park Management Committee)	Councillor Geoff Starns <i>[See note at end of the minute 3 regarding voting on this appointment]</i>
Front Lane Community Association	Councillor June Alexander
Governor Panel	Councillors Gillian Ford and Wendy Brice-Thompson
Harold Hill & District Community Association	Councillors Dennis Bull and Keith Wells

**Governance Committee, 29 May 2008**

Harold Wood Neighbourhood Centre	Councillors Lesley Kelly and Pam Light
Havering Admissions Forum	Councillors Keith Darvill, Gillian Ford, Wendy Brice-Thompson and Fred Osborne
Havering Arts Council	Councillors Gary Adams, Mark Gadd, Linda Hawthorn and Steve Whittaker
Havering Association for People with Disabilities	Councillors Steven Kelly and Pat Mylod
Havering Bands and Majorettes Association - Executive Committee	Councillors Andrew Curtin, Sandra Binion and Pat Mylod
Havering and Barking Relate	Councillors Keith Wells and Pam Light
Havering & Brentwood Bereavement Service	Councillor Dennis Bull
Havering College of Adult Education	Councillors Lesley Kelly, Steven Kelly, John Mylod and Pat Mylod
Havering College of Further & Higher Education	Councillors Paul Rochford and Geoff Starns
Havering Joint Forum	Councillor John Mylod
Havering Sixth Form College - corporation	Councillor Roger Ramsey (until 6.2010)
Havering Sports Council	Councillors Tom Binding, John Mylod and Melvin Wallace
Havering Theatre Trust	<u>Councillor Members of the Council of Management</u> Councillors Wendy Brice-Thompson, Linda Hawthorn, Roger Ramsey, Ray Morgon and Gillian Ford.  <u>Councillor Members of the Board:</u>

**Governance Committee, 29 May 2008**

	Councillor Roger Ramsey
Havering Twinning Educational Association	Georgina Galpin
Havering Youth Inclusion and Support Panel	Councillor Barry Oddy (Member); Councillor Wendy Brice-Thompson (Deputy Member)
Housing ALMO Board	Councillors Andrew Curtin, Robby Misir, Lesley Kelly and Ray Morgon
Local Government Association General Assembly – 4	Councillors Eric Munday
London Accident Prevention Council – 2	Councillors John Clark and John Mylod
London Councils	
Transport & Environment Committee	Deputies: Councillors Andrew Mann and Melvin Wallace
Grants Committee	Deputies: Councillors Clarence Barrett, Jeffrey Tucker and Melvin Wallace
London Caribbean	Councillor Andrew Curtin
London Home and Water Safety Council	Councillor Fred Osborne
London Local Authority Arts Forum	Councillor Linda Hawthorn
Lucas Children’s Play Charity Nominative Trustees	Councillor Linda Hawthorn
Mardyke Youth and Community Centre	Councillors John Clark and Mike Winter
North London Thames Gateway Groundwork Trust	Councillor Michael White

**Governance Committee, 29 May 2008**

North Romford Community Association Rainham and Wennington Community Association	Councillor Sandra Binion Councillor Jeffrey Tucker
Reserve Forces & Cadets Association	Councillor Ted Eden
Romford Carnival Committee	Councillors Andrew Curtin and Sandra Binion
Romford Young Men's Christian Association (YMCA) - Board Of Management	Councillor David Grantham
Rush Green Community Association	Councillors Robert Benham and Fred Osborne
Second Chance - Theatre for the People	Councillor Andrew Curtin
Standing Advisory Council on Religious Education (SACRE)	Councillors Mark Gadd, Wendy Brice-Thompson, Gillian Ford and Jeffrey Tucker
Upminster Windmill Preservation Trust	Councillor Linda Hawthorn



**MINUTES OF A SPECIAL MEETING OF THE  
GOVERNANCE COMMITTEE  
Havering Town Hall  
19 June 2008 (7.30pm – 8.05pm)**

**Present:**

**COUNCILLORS:**

**Conservative Group** Frederick Thompson (in the Chair), +Sandra Binion, Kevin Gregory\*, Steven Kelly, Eric Munday and Michael White

**Residents' Group** Clarence Barrett and Gillian Ford

**Rainham & Wennington -  
Independent Residents'  
Group**

**Labour Group** Keith Darvill\*

**Substitute Member:** Councillor Sandra Binion (for Councillor Roger Ramsey)

\* for part of the meeting

Councillor David Grantham, Chairman of the Audit Committee, was also present

Apologies were received for the absence of Councillors Roger Ramsey and Jeffrey Tucker

The decision was taken with no vote against

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

**4 CORPORATE GOVERNANCE ARRANGEMENTS IN HAVERING**

The Committee received a report concerning the approval of the Annual Governance Statement, required as part of the Council's Annual Accounts submission. It was noted that the Statement (which replaced the former statement on internal control) was needed to ensure the Council's compliance with audit regulation requirements.

The Committee was reminded that the Council had recently adopted a revised Code of Governance and that the Council's compliance with that Code, and other governance issues, was monitored regularly by an officer working group, with regular reports to this Committee.

**Governance Committee, 19 June 2008**

The Statement was now submitted for the Committee's approval, following which it would be considered by the Audit Committee as part of the process of finalising the Council closure of the Council's accounts for 2007/08.

The Statement is appended.

**RESOLVED:**

- 1 That the Annual Governance statement be agreed.
- 2 That the Audit Committee be **RECOMMENDED** to approve the inclusion of the Annual Governance Statement in the annual accounts.
- 3 That the Committee reaffirm their commitment to the promotion good Corporate Governance.

## **ANNUAL GOVERNANCE STATEMENT**

This statement provides assurance to all stakeholders that within the London Borough of Havering processes and systems have been established, which ensure that decisions are properly made and scrutinised, and that public money is being spent economically and effectively to ensure maximum benefit to all citizens of the Borough.

### **Scope of responsibility**

The London Borough of Havering is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively. The London Borough of Havering also has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

In discharging this overall responsibility, The London Borough of Havering is responsible for putting in place proper arrangements for the governance of its affairs, facilitating the effective exercise of its functions, and which includes arrangements for the management of risk.

The London Borough of Havering has approved and adopted a code of corporate governance, which is consistent with the principals of the CIPFA/SOLACE\* Framework *Delivering Good Governance in Local Government*. The code sets out details of how the public and staff can expect the Council to be managed. Accountability, effectiveness, integrity, and openness are among the principles the code is based upon. The code also details how the Council conducts its business and how it relates to the community. This includes service delivery arrangements; structures and procedures; risk management and standards of conduct. The code is available on the Council's website and is within the Constitution of the Council. Other information on governance can also be found on the Council's website by following the link to council and then democracy / corporate governance. A copy of the code can be requested in other formats and languages.

This statement explains how London Borough of Havering has complied with the code and also meets the requirements of regulation 4(2) of the Accounts and Audit Regulations 2003 as amended by the Accounts and Audit (Amendment) (England) Regulations 2006 in relation to the publication of a statement on internal control.

### **The purpose of the governance framework**

The governance framework comprises the systems and processes, and culture and values, by which the authority is directed and controlled and its activities through which it accounts to, engages with and leads the community. It enables the authority to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate, cost effective services.

\* Chartered Institute of Public Finance and Accountancy/Society of Local Authority Chief Executives

The system of internal control is a significant part of that framework and is designed to manage risk to a reasonable level. It cannot eliminate all risk of failure to achieve policies, aims and objectives and can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of London Borough of Havering's policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically.

The governance framework has been in place at London Borough of Havering for the year ended 31 March 2008 and up to the date of approval of the draft statement of accounts.

### **The governance framework**

The key elements of the systems and processes that comprise the Council's governance arrangements are described in more detail below:

### **Vision and purpose**

- 14 'Living Ambition' - aiming for the highest quality of life in London is a 20 year vision for the London Borough of Havering.

The Council will work with partners and the local community to seize opportunities and shape a future for Havering that is bright, bold and rewarding for everyone who lives, visits, or works in the borough. The 'Living Ambition' agenda will be delivered by striving towards five goals:

- Goal for **Environment** : to ensure a clean, safe and green borough;
- Goal for **Learning** : to achieve excellence in education and learning;
- Goal for **Towns and communities** : to provide opportunities for all through economic, social and cultural activity;
- Goal for **Individuals** : to value and enhance the lives of every individual; and a
- Goal for **Value** : to deliver high customer satisfaction and a stable council tax.

Underpinning the Vision are new Values, to which all officers will be expected to work, in order to build a more effective organisation. The Council's Values are:

- 15 **One Council** - By combining our talents and presenting a single face to our customers, we will build our reputation as a unified organisation rather than individual departments.
- 16 **Learning from experience** - We can continuously improve how we do things by learning from each other. If we meet new challenges with innovative thinking we can develop new ways of working and pass on the knowledge.
- 17 **Integrity** - We will earn the respect of others by behaving honestly and openly and delivering on promises.
- 18 **You matter** - We can build better relationships with colleagues, customers and partners if we develop a better understanding of their

needs. We are not a business to business organisation but a people to people one.

- 19 **Can do** - By being positive and accepting change and the risks it entails, we can be more optimistic and positive when faced with problems and create a more decisive but adaptive organisation.
- 20 **Fair to all** - If we value diversity and combat discrimination we will be able to champion and empower all the members of our staff and community and provide an example for all.

## **Performance Management**

The performance management framework has several functions:

- Focussing priority setting around needs along with the priorities of the Council and the public;
- Maximising the effective delivery of the services and the efficient use of resources through the facilitation of joint planning both across Council services and with partner organisations; and
- Ensuring relevant, timely and accurate information is available to measure and monitor performance and on which to base decisions.

Performance management is carried out via a series of meetings individually and at team level across the services. Performance monitoring is undertaken as part of those processes and the information collected feeds into a report to all Members, through the Members Monthly Pack. The Improvement and Delivery Board, comprising both members and officers, meet to review performance on a regular basis. The Overview & Scrutiny Committees also consider the performance reports – along with those that they have independently commissioned – and carry out their own reviews. Heads of Service also produce a quarterly pack which summarises their service performance and progress against objectives.

An annual summary of performance against the statutory and key local performance indicators is published on the website. An annual report is also produced for distribution as hard copy, summarising performance and plans.

The Council's strategy and soon to be produced policy and guidelines on data quality lay down clear guidelines to the effect that all performance measures must be produced to the same robust standard; any performance data that is to be considered for publishing can be subject to either internal or external audit.

The Council's financial management approach is led through its Medium Term Financial Strategy, which is produced in the summer, setting out the approach to financial planning for the subsequent three financial years. A series of Star-Chamber style sessions review performance, define the savings and spending targets for each Service area; these along with the results of market research into public opinion, studies of the needs in the Borough and the requirements of the Council's priorities go to define the objectives in Service Plans, which are linked to the Council's objectives via 'the Golden Thread'.

There are a number of strategies linked directly with the MTFs; this includes the Capital Strategy, the Corporate Asset Management Plan, the Risk Management Strategy, the ICT Strategy and the Workforce Planning Strategy.

## **Council's Constitution**

The constitution sets out the roles and responsibilities of officers and members and provides details of how decisions are made and who can make them. It also contains the rules for managing our finances and resources effectively.

Details of those functions remaining with full Council are set out together with full Cabinet and individual Cabinet Member powers. All the terms and references of the various Committees of the Council are set out. All these provide clear accountability and effective leadership and decision making. There is an extensive Scheme of Delegation to officers enabling them to manage their areas of responsibility on a day to day basis. Where a key decision is to be taken, the Council publishes details in the Forward Plan.

## **Codes of Conduct**

The Council has an Employee Code of Conduct for officers supported by the requirement to make declarations of interest and to declare gifts and hospitality. Interests must be declared by officers above a certain grade or who hold specific decision making and procurement positions. Officers are required to decline gifts and hospitality to ensure that they are not inappropriately influenced. The Code and related policies and procedures are communicated via induction sessions for new staff and are available via the intranet. Periodically awareness campaigns occur to remind officers of their responsibilities. The relevant Corporate Management Team member is tasked with ensuring that appropriate arrangements are in place and the systems are reviewed at least every three years by internal audit. The most recent review was concluded in March 2008.

A Code of Conduct for Council Members was revised by the Government in 2007 and was adopted by the Council on 18<sup>th</sup> July 2007 ahead of the October deadline. Training has been provided to Members on the new Code and all Declarations of Interests have been made under the new Code. As part of the adoption of the new Code, the Council Protocols on Member/Officer Relations and Planning have been reviewed and adopted and a new Protocol on Gifts and Hospitality has been made and this was approved by the relevant Committees and Council.

## **Financial Rules and Regulations**

The Council has Financial and Contract Procedure Rules and Financial and Procurement Frameworks along with other policy and procedural documents in place to guide officers in their every day duties and ensure appropriate process and controls are adhered to. Schemes of delegation are also in place along with authorised signatories lists to detail appropriate levels of responsibility. Compliance with the various financial rules and regulations is monitored by Management and considered during audits of systems and processes. The Financial Procedure Rules were updated and approved in March 2008 and the Financial and Procurement Frameworks are also currently under review. The Contract Procedure Rules are also currently under review and will be approved by Cabinet in July 2008.

## **Effective Audit Committee**

The Audit Committee operates in accordance with the relevant CIPFA guidance. Its effectiveness is reviewed annually and an annual report is produced for the Committee. The Committee's terms of reference, outlined in the Constitution, contain responsibilities relation to internal control, external audit, and internal audit. Eight members sit on the Audit Committee representing the Conservative and Residents Groups of the Borough. The Audit Committee meets five times per year. The Committee has an annual work plan and training programme and reports on its performance to Council annually.

## **Compliance with laws, regulations and internal policies**

The Constitution sets out the legal framework for decision making and the publishing of those decisions. There is a scrutiny system in place to ensure that the work of the Council complies with all appropriate policies, laws and regulations. Overview and Scrutiny has the power to call in and challenge all decisions of Cabinet and individual Cabinet Members and key decisions of staff. Legal, Finance and Human Resources staff clear every Cabinet, Council and Committee report and every Lead Member decision, for compliance with laws, policies and regulations. The Statutory Officers also provide advice to Members at all appropriate times. Statutory appointments have been made for Adults and Children and a Lead Member for Children has been appointed.

Internal policies and procedures exist to guide officers and ensure compliance with legislation and proper practice. Policies and procedures are reviewed at least annually.

## **Counter Fraud and Confidential Reporting**

The Council has a corporate strategy for the prevention and detection of fraud and corruption. The effectiveness of the arrangements in place are reviewed annually and results reported to the Audit Committee. Ad hoc promotion of the strategy takes place throughout the year as part of the fraud strategy action plan. Integral to these arrangements is the Confidential Reporting, also known as Whistleblowing, policy which is communicated to staff via induction, the intranet and ad hoc awareness initiatives. The effectiveness of arrangements are reviewed annually and reported to Audit Committee. The results of fraud investigations are publicised to further promote the arrangements in place, as appropriate.

The Council also participates in the National Fraud Initiative (NFI) a computerised data matching exercise, lead by the Audit Commission, designed to detect fraud perpetrated on public bodies. Havering has been praised on their efforts on this exercise.

## **Complaints**

Customer relationships and complaints handling was identified in 2007 as one of the areas in need of renewed impetus. The Chief Executive has considered such areas during the recent restructure of her Corporate Management Team (CMT). Reports have been considered by the Adjudication and Review Committee, who have overall responsibility for complaints handling. CMT have also spent time considering the

importance of the Customer Services Policy and have agreed to build on currently systems and fully integrate the Council's 'front office' ensuring all contacts receive a prompt response and more importantly resolution. This work has commenced with new service standards and a training programme.

### **Training and Development**

The Council has a commitment that every member of staff has a review and annual appraisal to discuss performance, targets and personal development. It also has a commitment to provide a minimum of three days training per annum and in September 2007 opened a new dedicated training centre in Rainham. The Council provides a range of training opportunities for managers and staff to ensure they can deliver services effectively. These include a Leadership Programme, Leaders' and Managers' toolkit, recruitment and selection, Health and Safety, Project Management and IT training. It also provides training / briefing on procurement procedures, finance for non-financial managers and risk management.

Members have their own development programme to keep them up to date with changes and support their training needs. Training is supplemented by information through briefings, bulletins and it is planned to run a series of mini-conferences. Their training includes Finance and the Code of Conduct, Licensing and secure accommodation review. The high standard of the training was recognised in a positive assessment in April 2008 for the Member Development Charter.

### **Communication and Consultation**

The Council strives to identify and develop new effective mechanisms to communicate and consult with the community. The Corporate Plan takes account of consultation as well as local and national priorities. The Council has adopted and implemented the Equality Standard, achieving level one and aiming to achieve levels two and three by the end of 2008/09. A wide number of forums take place to consult with all members of community, particularly targeting hard to reach groups.

The Council maintains a website to provide information and a point of contact to the residents of the Borough. The publication 'Living' is also issued two weekly communicating information regarding Council activities.

An extensive consultation process is carried out as part of the development of the MTFs and detailed annual budget. Views are sought through various media and the budget itself is subject to scrutiny through Cabinet, Overview & Scrutiny and Area Committees.

### **Partnerships**

There are seven theme areas and champions within the Havering Strategic Partnership (HSP) structure. These are:

- Community Participation;
- Community Safety;
- Environment;



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- Prosperous Community;
- Older People;
- Health and Wellbeing; and
- Children and Young People.

Theme Delivery Champions, for accountability purposes, report to the Programme Board on progress against the Community Strategy Action Plan and any other relevant work for the theme. Delivery Champions relate the aims and progress of the theme area to the Assembly in very general and accessible terms making it accessible for smaller groups and businesses to be involved in local decision making and scrutiny.

Through the HSP structure elected members and other community representatives can engage more fully in the work of the HSP. Each theme will work with Cabinet members to develop and implement the LAA programme.

The HSP is not legally constituted, and the council, as the accountable body, It has to ensure clear and robust financial and performance monitoring arrangements are in place. The council's own performance management arrangements are strong and its performance team works closely with the HSP.

A partnership toolkit has been developed by the Council to log and rank the partnerships to which resources are applied. It is being used to manage partnerships outside of the HSP e.g. major providers. The toolkit will be further developed in 2008/09 to provide additional guidance to the lead officers and promote a consistent approach to partnership working across the organisation.

### **Review of effectiveness**

The London Borough of Havering has responsibility for conducting, at least annually, a review of the effectiveness of its governance framework, including the system of internal control. The review of effectiveness is informed by the work of the Governance Group within the authority who have responsibility for the development and maintenance of the governance environment, the Head of Internal Audit's annual report, and also by comments made by the external auditors and other review agencies and inspectorates.

Outlined below are the arrangements in place to review the effectiveness of the governance framework and the sources of information and assurance on which this statement is based:

### **Constitution**

The Monitoring Officer keeps the Constitution under continual review having delegated powers to make amendments arising from written reports, organisational changes, and legal requirements and to correct errors. Other amendments are considered by Governance Committee and Council. Following a Senior Management Restructuring in May 2008, a substantial part of the Constitution has been reviewed and amended to reflect the new officer structure.

## **Governance Group and Corporate Management Team**

The Council's officer governance group is charged with reviewing the governance arrangements and monitoring any actions designed to improve the framework; close links exist between this group and the Corporate Management Team, who take an active interest in Governance issues. The group have implemented a timetable for the annual review and considered guidance provided by CIPFA; a self assessment against the six principles of good governance has also been completed and an action plan drawn up.

## **Governance and Audit Committees**

The Council's Governance Committee, attended by the Leader of the Council, and other Group Leaders, is charged with overseeing the Council's governance arrangements and received a report outlining the on-going work of the governance group during the financial year in March 2008. The Governance Committee is responsible for approving the code and the Annual Governance Statement and officers from both this and the Audit Committee, being responsible for monitoring the work of Internal Audit, have been integral in the process to produce this statement.

## **Overview and Scrutiny**

The overview and scrutiny function reviews decisions made by members. The focus of their role is to provide a challenge and to support the development of policies. At their meetings they consider performance information; using such things as the quarterly Head of Service packs and monthly Members packs.

## **Internal Audit**

Internal Audit is an independent appraisal function that measures, evaluates and reports upon the effectiveness of the controls in place to manage risks. In doing so Internal Audit supports the Group Director Finance and Commerce in her statutory role as Section 151 officer. Annually a Head of Internal Audit Opinion and annual report provide assurance to officers and members regarding the system of internal control; this assurance has also been considered in the production of this statement.

## **Management**

The responsibility for the system of internal control sits with management therefore each Head of Service is required to complete their own assessment and declaration with regards to the arrangements in place within their respective areas. These declarations have been considered when compiling this statement. The Council has embedded risk management processes and relevant policies and the strategy are reviewed and approved annually by Audit Committee. Service Risk Registers are maintained as part of business planning process and independently reviewed bi-annually, with results reported to the Risk Management Group, who are in turn responsible for periodic review of and updates to the Corporate Risk Register.

## **External Inspectors**

The Council is subject to review and appraisal by a number of external bodies; results of such reviews are considered within the performance management

framework. The work of the Council's External Auditor, currently the Audit Commission, is reported to the Audit Committee. The Audit Commission provided an unqualified opinion for 2006/07 within their Annual Governance Report with regards to Value for Money. The Council's accounts are audited annually by the external auditor. The results of all external reviews have also been considered in the process of compiling this statement.

We have been advised on the implications of the result of the review of the effectiveness of the governance framework by the Corporate Management Team and the Governance Committee, and a plan to address weaknesses and ensure continuous improvement of the system is in place.

### **Significant governance issues**

The issues identified in the 2006/07 Statement on Internal Control have been monitored by management throughout the year with review periodically to challenge actions and progress by both Corporate Management Team and the Audit Committee. Evidence of this review as well as the detail regarding actions can be found within the Audit Committee agendas on the website. Of the eight issues highlighted in the 2006/07 Statement on Internal Control, five had been fully addressed at the end of March 2008, the remaining three were issues with wide reaching implications and although significant progress has been made in each area it is felt that the issues remain open. The three issues are therefore detailed below along with the further planned actions to ensure that focus on these areas is maintained throughout 2008/09.

<b>Significant and action already taken</b>	<b>Issue</b>	<b>Planned action</b>	<b>CMT Lead</b>
1. Complaints Handling. <ul style="list-style-type: none"><li>➤ Review by overview and scrutiny, adjudication and review and CMT.</li><li>➤ Enhancements to technology.</li><li>➤ New approach approved by Cabinet – including a strong commitment to complaint resolution.</li></ul>		Implement and Promote new approach; Monitor and report on performance inc Customer Satisfaction; and Implementation of a new system.	Group Director Culture & Community
2. Partnership working including changes to funding arrangements. <ul style="list-style-type: none"><li>➤ Partnership toolkit rolled out.</li><li>➤ Increased emphasis on partnership working.</li><li>➤ Robust arrangements in place</li></ul>		Re-promote toolkit and ensure it clearly guides lead officers in the councils approach to partnership management; Extend good practice from strategic partnerships throughout organisation; and Audit 2008/09.	Group Director Culture & Community

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regarding strategic partners.		
<p>3. Homes in Havering.</p> <ul style="list-style-type: none"> <li>➤ Close links between organisations.</li> <li>➤ Worked together to prepare for 2007 inspection of ALMO.</li> <li>➤ Performance Management process in place and regular meetings occur.</li> </ul>	<p>Develop relationships and protocols further and have clear shared objectives; implement joint risk management procedures to ensure maximum achievement of objectives. Reduce bureaucracy between the two organisations and prepare for next inspection.</p>	<p>Group Director Culture &amp; Community</p>

In addition to those issues highlighted above the procedures to review and monitor Governance Arrangements in 2007/08 have highlighted the following:

<b>Significant and action already taken</b>	<b>Issue</b>	<b>Planned action</b>	<b>CMT Lead</b>
<p>4. Data Quality – including Partner organisations.</p> <ul style="list-style-type: none"> <li>➤ Development of a data quality strategy; and</li> <li>➤ Implementation of an electronic performance management system that will enable timelier reporting by partners.</li> </ul>		<p>Data quality training, policies and guidance rolled out with Havering Performs – the performance management system; Refresh the strategy – annual review due July 2008; and Internal and External Audits planned 2008/09.</p>	<p>Group Director Finance &amp; Commerce</p>
<p>5. Community Engagement</p> <ul style="list-style-type: none"> <li>➤ Completed governance self assessment to highlight areas of weakness;</li> <li>➤ Senior Managers away day dedicated to equality and diversity and new values launched;</li> <li>➤ Restructure of Senior Management to support the increased impetus and joint working in this area.</li> </ul>		<p>Monitor action plan resulting from self assessment. Implement robust procedures for collection of National Indicators. Internal Audit on Local Area Agreements/Community Strategy 2008/09 plan.</p>	<p>Group Director Culture &amp; Community</p>

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We propose over the coming year to take steps to address the above matters to further enhance our governance arrangements. We are satisfied that these steps will address the need for improvements that were identified in our review of effectiveness and will monitor their implementation and operation as part of our next annual review.

**Signed:**

Leading Member .....

Chief Executive.....

**Governance Committee, 19 June 2008**



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## **REPORT OF THE CHIEF EXECUTIVE**

**SUBJECT: APPOINTMENTS TO OTHER ORGANISATIONS, 2008/09 – further report**

**1 TENANT MANAGEMENT ORGANISATIONS – appointment of Council representatives**

Tenant Management Organisations (TMOs) are autonomous bodies established by the tenants and leaseholders of Council-owned properties on housing estates to manage aspects of their estates on a co-operative basis. There are 3 TMOs in the Borough, together managing 640 units and undertaking functions such as grounds maintenance, caretaking and cleaning, according to their local environment.

Under the agreement between each TMO and the Council, each TMO has a Board or Committee to manage the organisation. Following the establishment of Homes in Havering (HiH), the TMOs are managed and financed by HiH on behalf of the Council.

HiH have advised the Council that to strengthen the relationship between the TMOs and the Council there ought to be Council representation on the Board. It is suggested that the best way to achieve that is to nominate an elected Member, preferably from the Ward where each TMO operates, to sit on each of the Boards/Committees.

The TMOs are:

Barnstaple Estate Tenants' and Residents' Association - BETRA (Gooshays Ward);

Parkhill Estate Tenants' and Residents' Association - PETRA (St Andrews Ward); and

Durham Estate Leaseholders' and Tenants' Association -  
DELTA (Squirrels Heath Ward)

**The Committee is asked:**

- 1 To approve the appointment of a Member to serve on the Board or Committee of each TMO (and any further TMOs established in future).**
- 2 To nominate a Member from each relevant Ward to serve on the appropriate TMO.**

**2 CORPORATE PARENTING PANEL**

As part of the Government's Quality Protects Initiative that commenced in 1998, it was expected that all Councillors would be made aware of their responsibilities as 'corporate parents' to children in care. In particular, the Secretary of State identified to Councillors that 'You can make sure that the interests of the children [in care] come first. You bring a fresh look and common sense. As Councillors you set the strategic direction of your council's service and determine policy and priorities for your local community...'. As a result most Local Authorities created a formally constituted Corporate Parenting Panel to coordinate the Councillors' response to this.

In Havering the Panel has not had formal status. There are three Councillor members – Councillors Pat Mylod, Brice-Thompson and Fox. The current, informal Panel is chaired by the Head of Service for Children's Social Care and the remainder of the membership is drawn from senior officers. This structure is, however, not consistent with national practice and is unlikely to be seen as consistent with the Government's agenda for children in care. That being so, it is proposed that a formally constituted Corporate Parenting Panel should be created with a membership of 6 Councillors, including a Chairman and a Deputy Chairman. The Head of Service for Children's Social Care would be the senior officer in attendance to act as panel advisor, it being anticipated that other officers would attend at the request of Members as relevant to the subject matter for each meeting.

The simplest and most convenient way to formalise the Panel would appear to be to designate the Councillor Members of the Children's Services Overview & Scrutiny Committee as the Panel. Panel meetings would be separate from OSC meetings but the membership would be the same (and any change in membership of the OSC would automatically be reflected in the Panel's membership). The Panel would effectively be a Sub-Committee of the OSC but meeting outside the framework of the Local Government Act 1972.

**The Committee is asked:**



- 1 To approve the establishment of the Corporate Parenting Panel as now proposed.**
- 2 To agree that the Councillor Members of the Children's Services OSC be appointed as the Members of the Panel, with the same Chairman and Vice-Chairman.**
- 3 To agree that the Council be RECOMMENDED to agree these propositions and to authorise the Assistant Chief Executive, Legal & Democratic Services, to amend the Constitution accordingly.**

### **3 CARERS PANEL**

The membership of the Panel is currently as follows:

Alan Johnstone Panel Chair - Independent  
Cllr. John Mylod - Elected Memeber  
Carol Balfe - Social Work Member - Fostering Experience  
Marie Pudney - Health Representative  
Wendy Johnson - Social Work Member - Child Care Experience  
Floyd Powell - Independent Member  
Trevor Sim - Education Representative  
Avril Howe - Independent Member - foster parent  
Dr. Saminathan - Independent Member  
Joyce Adelakun - Independent Member

Councillor John Mylod's period of office is due to end in November. It is understood that Councillor Pat Mylod has indicated a willingness to succeed him.

The Carers Panel has a crucial role in the provision and monitoring of fostering, shared care, private fostering and kinship care for children and young people. The Panel's role and functions are covered in the Fostering Regulations 2002. Its functions relate to approving, reviewing and terminating approvals of carers. The Carers Panel also provides a quality assurance function in relation to the work presented to it.

**The Committee is asked:**

- 1 To confirm the appointment of members of the Corporate Parenting Panel, as listed above; and**
- 2 To approve the appointment of Councillor Pat Mylod, in succession to Councillor John Mylod, with effect from the end of his term of office.**

4 **ROMFORD COMBINED CHARITY**

The Council appoints all four nominative trustees of the Combined Charity, for four year terms. Former Councillor Wilf Mills was appointed a trustee in July 2004 and his term will end on 7 July.

The Committee is requested to nominate a successor.

Currently, the other Council-appointed trustees are Councillors Michael Armstrong and Andrew Curtin, and Mrs Christine Hunnable (a former clerk of the trustees). It is understood that Mr Mills would be willing to continue as a trustee.

**The Committee is asked to nominate a trustee for the term ending 7 July 2011.**

**Cheryl Coppel  
Chief Executive**

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

**Telephone: 01708 432431**

**Background papers:**  
There are no papers



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## REPORT OF THE CHIEF EXECUTIVE

**SUBJECT: AMENDMENTS TO THE CONSTITUTION**

<b>SUMMARY</b>
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1. Part 2 Article 15.02(c) of the Constitution authorises the Monitoring Officer to amend the Constitution to correct errors or to comply with any legal requirement or to reflect organisational changes to the Council's structure, the Monitoring Officer shall have power to amend the Constitution to correct errors or to comply with any legal requirement or to reflect organisational changes to the Council's structure, to insert recommendations made pursuant to a written report agreed by Council, to clarify the Constitution, insert obvious omissions or to comply with any accepted recommendations made by District Audit, the Audit Commission, the Standards Board and/or any other government appointed inspection regime.
2. Power to clarify the Constitution, insert obvious omissions or to comply with accepted recommendations of external bodies shall only be exercised after first giving five working days' notice to Group Leaders.
3. If the Monitoring Officer makes any such amendment to the constitution, he or she must notify the Governance Committee accordingly at the first reasonable opportunity.
4. Other amendments are dealt with under Part 1 Article 4.02 paragraph (a) of the Constitution, which provides that only the Council will exercise the function of adopting and changing the Constitution.
5. Part 3 Section 1 paragraph 1.2 of the Constitution provides that this Committee will

- monitor and review the operation of the Constitution to ensure that the views and principles of the Constitution are given full effect
- make recommendations to the Council about amending the Constitution

## **RECOMMENDATION**

To **RECOMMEND TO THE COUNCIL** that, subject to appointments, dismissals, assimilation and redundancies for Chief Officers being authorised by Appointments Committee, the Head of Human Resources be delegated authority to implement the agreed procedure for any senior management realignment or restructuring including:

1. Achieving any necessary reduction through voluntary redundancy;
2. Considering applications from unaffected chief officers which would create a suitable alternative employment opportunity for an affected Chief Officer;
3. Deciding upon the ring fence arrangements and inviting applications for assimilation; and
4. Arranging advertisements and assessment centres, and, subject to compliance with the Contract Procedure Rules, appointing external recruitment consultants.

## **REPORT DETAIL**

The Appointments Committee considered at a meeting on 20 May 2008 reports relating to the process of making appointments to Chief Officer posts as a consequence of the Senior Management realignment. Among the issues dealt with was a recommendation that the Governance Committee be requested to seek the Council's approval of an amendment to the Constitution to provide for the Head of Human Resources to have the delegated powers necessary to implement the agreed procedure for any future senior management realignment or restructuring. This is in effect:

1. To achieve any necessary reduction through voluntary redundancy
2. To consider applications from unaffected chief officers which would create a suitable alternative employment opportunity for an affected Chief Officer
3. To decide upon the ring fence arrangements and invite applications for assimilation
4. To arrange advertisements, assessment centres and appoint external recruitment consultants, subject to Contract Procedure Rules

subject to appointments, dismissals, assimilation and redundancies for Chief Officers being authorised by Appointments Committee.

This will enable the process to proceed more easily. Currently reports are taken to Appointment Committee on each Senior Management restructuring. It will also enable staff to be fully cognisant of the process at the earliest possible stage.

**Financial Implications and Risks**

There are none

**Equalities and Social Inclusion Implications and Risks**

There are none

**Human Resource Implications and Risks**

These are included in the body of the report.

**Legal Implications and Risks**

This will prevent duplication of reports and enable a process to be readily available at the commencement of any future restructuring. The process itself will need to be transparent and properly applied and that will be a matter for the Head of Human Resources.

**CHERYL COPPELL**  
**Chief Executive**

**Staff Contact: Christine Dooley**  
**Assistant Chief Executive Legal & Democratic Services**  
**Telephone: 01708 432442**

**Background Paper List**

None

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## **REPORT OF THE MONITORING OFFICER**

**SUBJECT: AMENDMENTS TO THE CONSTITUTION – made by Monitoring Officer**

### **SUMMARY**

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

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

### **RECOMMENDATIONS**

That this report be noted.

### **REPORT DETAIL**

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

The latest amendments are:

- Amendment No. 32, dated 30 May 2008.
- Amendment No. 33, dated 16 June 2008.

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

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

**Financial Implications**                      None

**Equalities Implications**                      None

**Environmental Implications**                      None

**Legal Implications**                      None

**CHRISTINE DOOLEY**  
**Monitoring Officer**

**Staff Contact:            Christine Dooley**  
**Telephone: 01708 432484**

**Background Papers**  
Email correspondence



**Notification No. 32**

**Date 30<sup>th</sup> May 2008**

**Notification of amendments to the constitution**

**Amendments made by the Monitoring Officer**

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

In accordance with this authority, the Monitoring Officer gives notice of the following amendments to the constitution effective from the respective dates shown in the attached document headed Transitional Arrangements.

<b>Part and article/ section</b>	<b>Page reference</b>	<b>Substance of amendment / amended wording</b>	<b>Reason for amendment</b>
Part 3 Section 3	83-138	Amendment to Scheme of Delegation in consequence of restructuring	Organisational Change
Part 3 Sections 4,5,6,7	139-176	Amendments to Functions and Responsibilities in consequence of restructuring	Organisational Change

This part sets out which body or individual is responsible for exercising each of the functions assigned to the Council by law. Under the Local Government Act 2000, each of the Council's functions falls into one of the following categories:

- Council functions, which are the responsibility of the full Council and/or its committees and sub-committees
- executive functions, which are the responsibility of the Executive, meaning the Cabinet or individual Cabinet members
- local choice functions, where the Council determines whether the function is the responsibility of the Council or of the Executive.

Both Council functions and executive functions may (with some exceptions) be delegated to staff.

This part sets out responsibility for functions as follows:

**1 Council functions**

- 1.1 Functions exercised by full Council alone
- 1.2 Functions delegated to general council committees
- 1.3 Statutory bodies
- 1.4 Functions delegated to overview and scrutiny committees
- 1.5 Functions delegated to area committees

**2 Executive functions**

- 2.1 Functions exercised by Cabinet alone
- 2.2 Functions delegated to individual Cabinet members
- 2.3 Functions exercised by another authority on behalf of this authority
- 2.4 Functions exercised by joint arrangements with another authority or other authorities

**3 Functions delegated to staff**

- 3.1 General provisions and limitations
- 3.2 Powers of Chief Executive
- 3.3 Powers of Group Directors
- 3.4 Powers of Assistant Chief Executive and Heads of Service
- 3.5 Social Care and Learning

3.6 Culture and Community

3.7 Finance & Commerce

3.8 Chief Executive

**4 Functions not to be the responsibility of an authority's Executive**

**5 Local choice functions**

**6 Proper officer functions**

**7 Appendices**

Appendix A: Names, addresses and wards of individual Cabinet members

Appendix B: Functions delegated to staff: specified sums of expenditure

Appendix C: Enactments enforceable by Head Housing & Public Protection

Appendix D: Enactments enforceable by Head of Housing & Public Protection: licensing and registration of premises and persons

Appendix E: Enactments enforceable by Head of Housing & Public Protection: licensing and registration of premises or persons

Appendix F: Enactments enforceable by Head of Housing & Public Protection and Head of Housing & Public Protection

**Appendix G: Code of practice: disposal of surplus property**

# 1 Council functions

## 1.1 Functions exercised by full Council alone

The functions listed in Article 4.02 of Part 2 are reserved to the full Council. The Council undertakes those functions assigned under Part 3, section 4: functions not to be the responsibility of an authority's Executive (group D, E, F, G and I functions).

## 1.2 Functions delegated to general council committees

The following functions are delegated to the general council committees. Any reference to "the regulations" is a reference to the Local Authorities (Functions and Responsibilities) (England) (Amendment) (No.2) Regulations 2007, as amended. Reference is made to the following functions:

- functions not to be the responsibility of an authority's Executive, set out in Part 3, section 4 (delegated in accordance with schedule 1 of the regulations)
- local choice functions, set out in Part 3, section 5 (delegated in accordance with schedule 2 of the regulations).

Council committee	Membership	Functions
Adjudication and Review	<ul style="list-style-type: none"> <li>• 9 councillors, or the number of councillors determined by Council from time to time, provided that no more than 1 councillor is a Cabinet member</li> <li>• independent persons from the Council's panel to attend appropriate hearing's panels</li> </ul>	<p><b>General</b></p> <p>To determine an appeal against any decision made by or on behalf of the authority, except where statute provides for some other route of appeal (see Part 3, section 4: functions not to be the responsibility of an authority's Executive (group B functions) and Part 3, section 5: local choice functions) or in relation to functions exercised by the Licensing Committee</p> <p><b>Admission and exclusion of pupils</b></p> <ul style="list-style-type: none"> <li>• To make arrangements pursuant to section 94(1) and (4) and schedule 24 of the School Standards and Framework Act 1998 (admission appeals)</li> <li>• To make arrangements pursuant to section 67(1) and schedule 18 of the School Standards and Framework Act 1998 (exclusion appeals)</li> </ul> <p><b>Governing bodies</b></p> <ul style="list-style-type: none"> <li>• To make arrangements pursuant to section 95(2) and schedule 25 of the Social Security Act 1998 (children to whom section 87 applies: appeals by governing bodies)</li> <li>• To hear appeals from teachers about early retirement decisions by governing bodies</li> </ul>

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Council committee	Membership	Functions
		<p><b>Governor removal</b></p> <p>To remove LEA governors from governing bodies where appropriate</p>
Appointments	6 councillors, or the number of councillors determined by Council from time to time, provided that at least 1 councillor is a Cabinet member	<p><b>Appointments and dismissals</b></p> <ul style="list-style-type: none"> <li>• To make recommendations to Council about appointing and dismissing the Head of Paid Service</li> <li>• To appoint and dismiss Group Directors and Heads of Service, in accordance with the procedures set out in the Staff Employment Procedure Rules in Part 4 of this constitution</li> </ul> <p><b>Terms and conditions</b></p> <p>To determine the local terms and conditions, pay and grading arrangements of the Head of Paid Service, Group Directors, Assistant Chief Executive, Assistant Directors and Heads of Service</p> <p>(See Part 3, section 4: functions not to be the responsibility of an authority's Executive (group I functions))</p>
Audit	6 Councillors, or the number of councillors determined by Council from time to time	<p><b>Internal control</b></p> <ul style="list-style-type: none"> <li>• To consider and monitor the adequacy and effectiveness of the authority's risk management and internal control environment and to make recommendations to full Council where necessary</li> </ul> <p><b>External audit</b></p> <ul style="list-style-type: none"> <li>• To monitor the adequacy and effectiveness of the External Audit Service and respond to its findings</li> </ul> <p><b>Internal audit</b></p> <ul style="list-style-type: none"> <li>• To support the Group Director Finance &amp; Commerce with his or her delegated responsibility of ensuring arrangements for the provision of an adequate and effective internal audit</li> <li>• To monitor the adequacy and effectiveness of the internal audit service and to receive and monitor an annual internal audit plan from the audit manager</li> <li>• To receive and approve the Annual Statement of Accounts</li> <li>• To monitor proactive fraud and corruption arrangements</li> </ul> <p>(See Part 3, section 4: functions not to be the responsibility of an authority's Executive (group I functions))</p>

**Governance Committee, 9 July 2008**

<b>Council committee</b>	<b>Membership</b>	<b>Functions</b>
Governance	6 councillors, or the number of councillors determined by Council from time to time, provided that at least 1 councillor is a Cabinet member	<p><b>Monitoring constitution</b></p> <p>In accordance with Part 2, Article 15 of this constitution:</p> <ul style="list-style-type: none"> <li>• To monitor and review operation of the constitution to ensure that the aims and principles of the constitution are given full effect</li> <li>• To make recommendations to the Council about amending the constitution</li> <li>• To monitor and review the Members' Allowance Scheme and make recommendations to Council</li> <li>• To monitor and review the role of Overview and Scrutiny including numbers, operation and responsibility of Overview and Scrutiny Committees and their terms of reference and make recommendations</li> <li>• To monitor and review all aspects of Corporate Governance</li> </ul> <p><b>Staff disciplinary, capability and grievance procedures</b></p> <ul style="list-style-type: none"> <li>• Where necessary, to establish a panel to consider and determine any allegation under the Council's disciplinary or capability procedures against the Head of Paid Service, a Group Director, Assistant Chief Executive, Assistant Director or a Head of Service and, where necessary, to establish a second panel to hear an appeal by the Head of Paid Service, a Group Director, Assistant Chief Executive, Assistant Director or a Head of Service from the decision of the first panel</li> <li>• Where necessary, to establish a panel to hear a grievance submission made by the Head of Paid Service, an Group Director, Assistant Chief Executive, Assistant Director or a Head of Service</li> <li>• Where necessary to establish a panel to consider and determine any appeal against dismissal or final stage grievance lodged by "Havering Grade" staff.</li> </ul> <p><b>Appointments</b></p> <ul style="list-style-type: none"> <li>• To appoint any individual: <ul style="list-style-type: none"> <li>(a) to any office other than an office in which he is employed by the authority</li> <li>(b) to any body other than: <ul style="list-style-type: none"> <li>(i) the authority</li> <li>(ii) a joint committee of two or more authorities, or</li> </ul> </li> <li>(c) to any committee or sub-committee of such a body</li> </ul> </li> </ul>

**Governance Committee, 9 July 2008**

Council committee	Membership	Functions
		<p>and to revoke any such appointment (see Part 3, section 5: local choice functions)</p> <ul style="list-style-type: none"> <li>• To approve delegated arrangements for such appointments</li> <li>• To interview candidates for the independent member positions on the Standards Committee and to make recommendations to Council about the appointment of the independent members</li> </ul> <p><b>Governor placements</b></p> <p>To allocate LEA governor placements where the nominee is a Member or employee of the Council.</p> <p><b>Member support</b></p> <p>To oversee matters related to the facilities available to support members</p> <p><b>Miscellaneous</b></p> <p>To undertake those functions assigned under Part 3, section 4: functions not to be the responsibility of an authority's Executive (group I functions)</p>
Pension <sup>1</sup>	<ul style="list-style-type: none"> <li>• 6 councillors, or the number of councillors determined by Council from time to time</li> <li>• 2 trade union observers without voting rights</li> </ul>	<p><b>Pension fund</b></p> <p>To consider and agree the investment strategy and statement of investment principles for the pension fund and subsequently monitor and review performance (see Part 3, section 4: functions not to be the responsibility of an authority's Executive (group H functions))</p> <p><b>Advisers and investment managers</b></p> <p>Where appropriate and above staff delegation levels to recommend staff to invite tenders and award contracts for actuaries, advisers and fund managers or other related investment matters</p> <p>To appoint and review the performance of advisers and investment managers for Council and pension fund investments</p> <p><b>Terms of reference</b></p> <p>To take decisions on those matters not to be the responsibility of the Cabinet under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 relating to those matters concerning pensions made under Regulations set out in Sections 7, 12 or 24 of the Superannuation Act 1972</p>
Regulatory Services	11 councillors, or the number of councillors	<p><b>Health and safety</b></p> <p>To carry out functions relating to health and safety</p>

<sup>1</sup> - Council recommend that the membership of the Pension Committee remains static for the life of the Council in order that members are fully trained in matters relating to investment, unless exceptional circumstances require a change.

- Each Group nominate named substitutes for their committee in order that they may receive appropriate training.

**Governance Committee, 9 July 2008**

<b>Council committee</b>	<b>Membership</b>	<b>Functions</b>
	<p>determined by Council from time to time, provided that no more than 1 councillor is a Cabinet member</p>	<p>under any “relevant statutory provision” within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council’s capacity as employer</p> <p><b>Highways use and regulation</b></p> <p>To exercise powers relating to the regulation of the use of highways as set out in Part 3, section 4: functions not to be the responsibility of an authority’s Executive and that are not delegated to the area committees (see Part 3, section 1.4) or to staff</p> <p><b>Planning and conservation</b></p> <p>To carry out functions relating to town and country planning and development control as specified in:</p> <ul style="list-style-type: none"> <li>• Part 3, section 4: functions not to be the responsibility of an authority’s Executive</li> <li>• Part 3, section 5: local choice functions that are not delegated to staff</li> </ul> <p><b>Urban Development Corporation</b></p> <p>To form planning views on behalf of the Council in its role as consultee on applications to be decided by the Board of the Urban Development Corporation</p>
Standards	<ul style="list-style-type: none"> <li>• 6 members of the authority, one of whom may be a Cabinet member but who may not be Chairman the committee; the Leader may not be a member</li> <li>• 2 independent members, both with voting rights</li> <li>• The Chairman and Vice Chairman of the Committee are Independent Members.</li> </ul>	<p><b>General</b></p> <ul style="list-style-type: none"> <li>• To promote and maintain high standards of conduct by the members and co-opted members of the authority</li> <li>• To assist members and co-opted members of the authority to observe the authority’s code of conduct</li> <li>• To monitor, advise on, and educate members in matters relating to Council guidelines on conduct and/or probity</li> <li>• To hear, determine and report upon any local matters including the application of relevant and permitted sanctions</li> <li>• To make any report to the Council and to take any appropriate action arising from the terms of reference, legislation and regulations</li> <li>• hearing, determining and reporting upon any matters relating to breach of the Rules regarding the Party Whip set out in Article 13.09 including the application of relevant and permitted sanctions.</li> </ul> <p><b>Members’ code of conduct</b></p> <ul style="list-style-type: none"> <li>• To advise the authority on the adoption or revision of a code of conduct</li> <li>• To monitor the operation of the authority’s code of conduct</li> <li>• To advise, train or arrange to train members</li> </ul>



Council committee	Membership	Functions
		<p>and co-opted members of the authority on matters relating to the authority's code of conduct</p> <p><b>Guidelines for members in dealing with staff</b></p> <ul style="list-style-type: none"> <li>• To advise the authority on the adoption or revision of the Guidelines on members dealing with staff</li> <li>• To monitor the operation of the authority's Guidelines on members dealing with staff</li> <li>• To advise, train or arrange to train members and co-opted members of the authority on matters relating to the authority's Guidelines on members dealing with staff</li> </ul> <p><b>Protocol on probity in planning</b></p> <ul style="list-style-type: none"> <li>• To advise the authority on the adoption or revision of the Protocol on Probity in Planning</li> <li>• To monitor the operation of the authority's Protocol on Probity in Planning</li> <li>• To advise, train or arrange to train members and co-opted members of the authority on matters relating to the authority's Protocol on Probity in Planning</li> </ul> <p><b>Whistleblowing Policy and Procedure</b></p> <ul style="list-style-type: none"> <li>• To monitor and evaluate complaint numbers and general types made in respect of the Council Whistleblowing policy and procedure and to make any recommendations for improvement to staff and/or Cabinet</li> </ul> <p><b>Adjudication</b></p> <ul style="list-style-type: none"> <li>• To consider a notice from a case tribunal or interim case tribunal of the Adjudication Panel for England and prepare a report on the notice as required by the Local Government Act 2000</li> <li>• To prepare a report responding to any recommendations made to the authority by a case tribunal of the Adjudication Panel for England, and to take any appropriate action as a result of those recommendations</li> </ul> <p><b>Standards Board for England</b></p> <ul style="list-style-type: none"> <li>• To consider any matters as may be referred by the Standards Board for England</li> </ul> <p><i>From the date of the coming into force of regulations made by the Secretary of State:</i></p> <ul style="list-style-type: none"> <li>• To consider any report and recommendations made by the monitoring officer to the committee</li> <li>• To take any action prescribed by the regulations, including censuring a member or suspending or partially suspending a person from being a member</li> </ul> <p><b>Register of members' interests</b></p>

**Governance Committee, 9 July 2008**

<b>Council committee</b>	<b>Membership</b>	<b>Functions</b>
		<ul style="list-style-type: none"><li>• To issue guidelines to members about how to make a declaration of interest</li><li>• To grant a dispensation to a member participating in a business which is prohibited under the members' code of conduct, in accordance with any regulations made by the Secretary of State</li></ul>
Licensing	13 Councillors	<p>(1) to exercise the functions required by the Licensing Act 2003 and the Gambling Act 2005.</p> <p>(2) to determine applications for licences and registration under Schedule 1 to the regulations not otherwise dealt with</p>

**Governance Committee, 9 July 2008**

By convention, the Council agrees that the following sub-committees should be exempt from political balance requirements imposed under section 17(1) of the Local Government and Housing Act 1989.

Committee establishing sub-committee	Name of sub-committee	Membership	Functions
Adjudication and Review Committee	Hearings Panel	<p>Each meeting of the Hearings Panel is constituted separately according to the category of hearing before the panel:</p> <p><b>Hearings under the Children Act 1989 Representations Procedure (England) Regulations 2006</b> 3 independent persons from the Council's panel.</p> <p><b>Hearings under the Local Authority Social Services Complaints (England) Regulations 2006</b> 2 independent persons from the Council's panel (one as Chairman) and 1 member of the principal committee</p>	<p>In relation to each category of hearing listed below, the Hearings Panel is empowered to make such awards as it considers appropriate in the interests of justice provided that it does not act outside of Council Policy.</p> <p>If the Hearings Panel is of the view that Council Policy is erroneous the Chairman of the Panel shall draw the policy provision to the attention of the relevant Head of Service and Lead Member for consideration and possible review.</p> <p>Hearings under the Children Act 1989 Representations Procedure (England) Regulations 2006 To consider representations by or on behalf of users of children's services in accordance with the Regulations</p> <p>Hearings under the Local Authority Social Services Complaints (England) Regulations 2006 To consider representations by or on behalf of users of adult services in accordance with the Regulations</p>

		<p><b>Secure accommodation hearings</b></p> <p>2 members of the principal committee, 1 independent person who is a childcare professional and 1 representative of the Group Director Social Care and Learning, both with voting rights</p> <p>(Note: this will need amendment)</p>	<ul style="list-style-type: none"> <li>• To consider the case of any tenants' association which is not recommended for recognition by the Council in accordance with the criteria from time to time adopted by the Council for that purpose. (Part IV of the Housing Act 1985)</li> <li>• To consider cases referred where:             <ul style="list-style-type: none"> <li>(a) a suspended order for possession of a dwelling-house on grounds of non-payment of rent has been granted by the court, and</li> <li>(b) the tenant has failed to comply with the terms on which the court suspended that order, and</li> <li>(c) it is considered that, in all the circumstances, it is now appropriate to obtain and execute a warrant for possession of the premises on grounds of continued non-payment of rent and breach of the terms of suspension of the possession order, and</li> <li>(d) the tenant concerned is desirous of being heard by the Hearings Panel before authority is given for the warrant of possession to be executed, so that the panel may have opportunity to consider the circumstances</li> </ul> </li> <li>• To consider and determine representations from tenants made under the following section of the Housing Act 1996:             <ul style="list-style-type: none"> <li>(a) section 164 (applicants' right to request review of decisions in respect of inclusion etc. on the housing register)</li> </ul> </li> </ul>
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			<p>(b) section 202 (review of decisions in respect of people who are homeless)</p> <ul style="list-style-type: none"> <li>• To consider and determine appeals pursuant to the introductory tenancy provisions of the Housing Act 1996</li> <li>• To review decisions made pursuant to the: <ul style="list-style-type: none"> <li>(a) Access to Personal Files (Housing) Regulations 1989</li> <li>(b) Access to Personal Files (Social Services) Regulations 1989</li> </ul> <p>where the applicant is aggrieved</p> <p><b>Secure accommodation hearings</b></p> <p>To carry out reviews for the purposes of the Secure Accommodation Regulations 1991</p> <p><b>Statutory social services hearings</b></p> <ul style="list-style-type: none"> <li>• To hear oral representations by persons aggrieved by decisions of the Council as registration authority under the Registered Homes Act 1984 and the Children Act 1989</li> <li>• To consider and to determine objections pursuant to section 77 of the Children Act 1989</li> <li>• To deal with representations made under the Children Act 1989 and the National Health Service and Community Care Act 1990</li> </ul> </li> </ul>
Licensing	Licensing Sub-Committee	3 members of the principal committee	To carry out functions relating to licensing and registration as set out in Schedule 1 to the regulations

### **1.3 Statutory and non-statutory bodies**

The Council has established (or convenes as necessary) various bodies in accordance with legislative requirement or Government guidelines. These bodies will continue to meet (or be convened) as necessary. The bodies are as follows:

- Adoption Panel
- Admissions Forum

- School Organisation Committee
- Standing Advisory Council on Religious Education (SACRE)

## **1.4 Functions delegated to overview and scrutiny committees**

Functions and membership of overview and scrutiny committees are set out in Part 2, Article 6. Overview and scrutiny committees undertake those functions assigned under Part 3, section 5: local choice functions.

## **1.5 Functions delegated to area committees**

### **Membership**

See Part 2, Article 10 of this constitution.

### **Functions**

- 1 To agree the Area Action Plan identifying local priorities within the overall community strategy.
- 2 To receive reports on local issues and projects and to make recommendations on these, where appropriate, to the Council or the Cabinet.
- 3 To consider local representations and to make, where appropriate, recommendations to the Council or the Cabinet.
- 4 To foster good relations with local people, interest groups and businesses within the community area and promote their increased dialogue with the Council on local issues.
- 5 To monitor local services and quality standards and highlight areas of concern to the Council or the Cabinet.
- 6 To exercise overall responsibility for any specific budgets made available to them.
- 7 To review, when requested to do so by the Cabinet, expenditure on specific services within the community area.
- 8 To review all proposed draft corporate plan expansions for the community area to ensure that the proposal is fully justified, meets identified needs and is the most cost-effective solution possible.
- 9 To consider and advise upon the activities of the Area Youth Forums or any similar bodies constituted by the Council.
- 10 To act pursuant to policies and practices established or set out by the Regulatory Services Committee in the following matters except where the circumstances in paragraph 11 below apply. Where the circumstances in paragraph 11 apply, the decision-making power remains with the Regulatory Services Committee, which must have regard to any comments made by the relevant area committee(s).

(See Part 3, section 4: functions not to be the responsibility of an authority's Executive (group A and I functions).

- (a) prioritising and progressing traffic management, accident prevention and other road safety schemes, including the making, variation and repeal of traffic orders, road closures, pedestrianisation, cycle routes and bus priority measures etc.
- (b) matters relating to creating, closing or diverting footpaths, including the making of orders
- (c) providing, positioning and laying out road signs, and other street furniture issues
- (d) managing highway trees, including determining requests for removal and/or replacement of trees
- (e) excepting roads from the ban on parking on footways and grass verges
- (f) matters relating to highway management
- (g) making, varying and repealing orders relating to parking control in respect of off-street and on-street car and lorry parking (except charges).
- (h) matters relating to road safety education and training.

11 Where any one of the following circumstances apply, the power to make the decisions set out in paragraph 10 above remains with the Regulatory Services Committee, which must have regard to any comments made by the relevant area committee(s):

- where a proposal has implications in more than one area
- where a proposal has implications for borough-wide policy/programmes or proposals
- where proposals relate to borough-wide or London-wide schemes (for example, the London Bus Priority Network).

12 To monitor local services (but not Housing Landlord services)

## **1.6 Working Party**

The Council has established the Rainham Working Party with the membership and terms of reference set out in Part 2, Article 8. The Working Party is not a body for the purpose of the Local Government Act 1972 or the subject of proportionality rules under the Local Government Act 1989.

## **2 Executive functions**

### **2.1 Functions exercised by Cabinet alone**

The following functions are reserved to the full Cabinet.

#### **General functions**

##### **Policy matters**

- 1 To formulate the Council's overall policy objectives and priorities and to recommend them to Council for approval where appropriate.
- 2 To determine the authority's strategy and programme in relation to the policy and budget framework set by the Council. The policy framework means the following plans and strategies:
  - Annual Library Plan
  - Best Value Performance Plan
  - Children's Services Plan
  - Community Care Plan
  - Community Strategy
  - Council's Corporate Plan and Budget
  - Crime and Disorder Reduction Strategy
  - Early Years Development Plan
  - Education Development Plan
  - Local Transport Plan
  - Plans and alterations which together comprise the Development Plan
  - Youth Justice Plan
  - Corporate Development Plan
  - Approve annually the Homes in Havering Delivery Plan
- 3 To determine all substantial policy matters and strategic decisions and those minor matters which are referred by an individual Cabinet Member as being particularly contentious.
- 4 To determine the authority's strategy and programme in relation to the social, environmental and economic needs of the area.
- 5 To agree the community strategy and recommend it to Council.
- 6 To exercise the Council's functions in relation to community safety (including the formulation of the Council's community safety strategy) and their co-ordination and implementation with particular reference to the provisions of relevant legislation.



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- 7 To exercise the Council's functions in relation to community involvement and engagement (including the formulation of Council strategies for communications, consultation, capacity building and active citizenship) and their co-ordination and implementation with particular reference to the provisions of relevant legislation.
- 8 To exercise the Council's functions in relation to the voluntary sector.
- 9 To exercise the Council's functions in relation to regeneration and social inclusion (including the formulation of Council strategies) and their co-ordination and implementation with particular reference to the provisions of relevant legislation.
- 10 To have responsibility for agreeing policies and procedures within the Council to counter harassment or discrimination on the following grounds: race, colour, ethnic group or national origin; gender or marital status; disability; sexuality or sexual orientation; age; employment status; actual or suspected HIV or AIDS; religion and faith; trade union activities; unrelated criminal offences, or ex-offenders (subject to any legal or public interest constraints); responsibilities for children or dependants.
- 11 To monitor the implementation and co-ordination of the statutory functions and obligations of the Council with respect to equality of opportunity and non-discrimination, including its function as an employer.
- 12 To oversee and promote initiatives on best value across the Council.
- 13 To set the strategic direction for the Council's democratic renewal initiatives.
- 14 To consider and promote strategic and Council-wide initiatives to improve the quality, efficiency and effectiveness of the Council's services to the public.

### **Other matters**

- 15 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.
- 16 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 £500,000 with the Cabinet Member for Resources having authority to agree the 'in principle' disposal of land etc., below that sum.
- 17 To be responsible for the Council's revenue and capital budgets (including the housing revenue account), ensuring value for money, within the provisions of the Financial Procedure Rules set out in Part 4 of this constitution.

- 18 To have responsibility for 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 authority's policies and procedures) except for staff appointments and dismissals.
- 19 To oversee and take responsibility for effective joint work with partner agencies.
- 20 To liaise with, and to fund, voluntary organisations.
- 21 To affiliate with and appoint representatives to outside bodies, where these are not specifically identified elsewhere in this constitution.
- 22 To consider whether the Council should give evidence before a parliamentary select committee, royal commission, Government committee or similar body.
- 23 To be responsible for the maintenance of the Council's archives.
- 24 To undertake those functions assigned to the Cabinet under Part 3, section 5: local choice functions.
- 25 To consider any matter relating to pre-tender reports and awards of contracts as defined in the Contracts Procedure Rules set out in Part 4 of this constitution, and in particular to award all contracts above a total contract value of £500,000 except for:
  - contracts where external funding is being made available for a limited period of time and the contract will have continuing financial implications.

(Cabinet may award lesser contract values where appropriate)
- 26 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
- 27 To be responsible for all executive matters even if not expressly set out in Part 3 of this constitution.

## **Corporate functions**

### **Finance**

- 28 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

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- (c) programmes for all areas of service and allocations of both capital and revenue expenditure to other services
- (d) financial planning
- (e) operational management of insurance arrangements
- (f) budget revisions
- (g) 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 base and the council tax
- (h) virements in excess of £1 million
- (i) virements between services over £250,000 and up to and including £999,999

29 To receive reports from the Audit Committee about the long-term strategy for the Internal Audit Services including the Annual Internal Audit Plan.

### **Treasury management strategy**

30 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**

- 31 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 Industrial 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**

32 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 authority 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**

33 To exercise the Council's functions in relation to environmental matters including the formulation of the Council's future 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.

34 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.

35 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.

36 To respond to consultation exercises or notices of intent by external authorities where they relate to strategic issues pertaining to development control.

### **Housing**

37 To exercise the Council's functions in relation to housing and homelessness including the formulation and co-ordination of future 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

### **Leisure and cultural services**

38 To exercise the Council's functions in relation to leisure services, including the formulation and co-ordination of future 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.

38 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.

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

### **Social care and health**

40 To exercise the Council's functions in relation to social services including the formulation of the Council's future 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.

## **2.2 Functions delegated to individual Cabinet members**

### **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 necessarily hold any portfolio. Suggested portfolios are as follows, although the Leader may determine the nature of any portfolio as he or she considers appropriate:

- Partnership & Strategy
- Sustainable Communities
- Housing & Regeneration
- Public Safety
- Public Realm
- Streetcare & Parking

## Governance Committee, 9 July 2008

- Environmental & Technical Services
- Performance & Corporate
- Resources
- Childrens Services

Please see Appendix A for names of individual Cabinet members.

### **Functions of individual Cabinet members**

Each individual Cabinet member has 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 authority, to agree members of staff's responses to consultation papers from:
  - the Government (including White and Green papers)
  - the Association of London Government, 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 authority in respect of allocated services.
- 4 To determine priorities in conjunction with the relevant Group Director, Assistant Chief Executive and Head of Service (within the policy framework and budget).
- 5 To make suggestions for future policy initiatives (within the policy framework and budget) and for amendments to the policy framework, for agreement by the Cabinet and Council.
- 6 To agree the scope of best value reviews and the final report and service improvement plan.
- 7 To consider the implications of best value reviews and reports from other public agencies and to decide a response, making recommendations to the Cabinet where appropriate.
- 8 To recommend to the Cabinet a response to reports from the overview and scrutiny committees in respect of the allocated services.

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- 9 To receive information reports to assist in the individual Cabinet member role.
- 10 To approve staff commencing a tendering process for all contracts between £144,000 and £5,000,000 except for:
  - works contracts in respect of the Council's housing revenue account assets, where the individual Cabinet member is to approve commencement of a tendering process for only those contracts where the total contract value is above £1,000,000 (the individual Cabinet member may approve commencement of a tendering process for lesser contract values where appropriate)
- 11 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.
- 12 To award contracts, agree extensions of contract terms and awards/extensions of Consortia contracts of a value above £144,000 and less than £500,000 and contracts where external funding is guaranteed and there is no longer term financial commitment to the Council save that works contracts in respect of the Council's housing revenue account set out in 10 above can be awarded by Group Directors, Assistant Chief Executive and Heads of Service. *(Note: Pension Committee has powers to invite tenders and award contracts for investment matters within their terms of reference)*
- 13 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.
- 14 To consider and recommend plans in respect of the portfolio allocated.
- 15 To consider the needs of the allocated service for particular properties and to make recommendations to the Cabinet as appropriate.
- 16 To promote effective relationships and partnerships between the authority and all other bodies and agencies affecting the community.
- 17 To consider reports on the exercise of virement, within the Budget Framework Procedure Rules set out in Part 4 of this constitution.
- 18 To consider reports on contract overspends and to report to Cabinet as necessary.
- 19 To consult any advisory bodies as directed by the Cabinet
- 20 To agree the demolition of housing stock in appropriate cases
- 21 To agree minor and routine policy matters.
- 22 The Cabinet Member for Regeneration to approve supplementary planning guidance and policies.



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- 23 The Cabinet Member for Resources 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 £500,000.
- 24 The Cabinet Member for Resources to approve individual virements within a service above £250,000 up to and including £999,999.
- 25 The Cabinet Member for Resources to approve virements within services where resources are available or where they are not but the virement is below the identified threshold.
- 26 The relevant Cabinet Member and Cabinet Member for Resources to approve all virements over £250,000 unless it is a permanent virement between services.
- 27 The Cabinet Member for Resources to approve all in year changes to both fees and charges.
- 28 The Cabinet Member for Resources to approve the write off of irrecoverable debts where the individual debt exceeds £25,000 or where the overall level of service debt exceeds a cumulative £250,000 or 1% of the annual service debt in any financial year whichever is the higher.
- 29 The Cabinet Member for Resources to determine allocations from the contingency.
- 30 The Cabinet Member Resources will consider and agree the setting up of any specific services earmarked reserves along with the arrangements for their use.
- 31 The Cabinet Member for Environment and Technical Services 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.
- 32 The Cabinet Member for Crime and Safety to approve all Community Safety Partnership Strategies arising under the Crime and Disorder Act or other related legislation.

### **2.3 Functions exercised by another authority on behalf of this authority**

No functions are currently exercised by another authority on behalf of this authority.

### **2.4 Functions exercised by joint arrangements with another authority or other authorities**

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:

## Governance Committee, 9 July 2008

- (a) The Association of London Government (a committee)
  - Transport and Environment Committee (an Association of London Government committee)
  - London Housing Unit Committee (an Association of London Government committee)
- (b) The London Boroughs Grants Committee
- (c) The Thames Chase Joint Committee

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

### **The Association of London Government**

The Association of London Government 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. In summary, the 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 ALG policies and local government issues relevant to London
- acting as the regional body of the Local Government Association.

### **Association of Local Government Transport and Environment Committee (ALGTEC)**

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. 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.

### **London Housing Unit Committee**

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. 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

## **Governance Committee, 9 July 2008**

- 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 London Boroughs 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 Association of Local Government 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.

### **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.

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### **3 FUNCTIONS DELEGATED TO STAFF**

#### **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, including the Community Involvement Strategy, the Corporate Environmental Policy, the E-mail and Internet Policy, the Equalities Policy, the Strategy for the Prevention and Detection of Fraud and Corruption and health and safety procedures
  - (iii) any additional conditions imposed either by the Council or by statute or any statutory code of practice.
- 2 Each Group Director shall ensure that the rules of procedure set out in Part 4 of this constitution are observed throughout his or her service.
- 3 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 their budget to cover that expenditure.
- 4 A staff member exercising a decision-making power delegated under this constitution may consult 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.
- 5 A staff member may refer any matter within a delegation or authorisation to him or her to the Cabinet or to an appropriate Council committee or sub-committee provided that the matter is within the delegated powers and duties of the Cabinet or the Council committee or sub-committee to which it is referred.
- 6 A Group Director, Assistant Chief Executive, Assistant Director or Head of Service may further delegate any of the powers delegated to him or her under this constitution, in so far as is legally permissible. Any such delegation must be:
  - (i) recorded in writing
  - (ii) lodged with the Monitoring Officer who will keep a record of all such delegations.

Any such delegation will become valid only when these conditions are complied with.

- 7 From time to time the Chief Executive may assign Assistant Directors and Heads of Service to Group Directors. Each Group Director shall have all the powers and duties delegated to the Assistant Directors and Heads of Service who are assigned to him or her, so far as legally permissible.
- 8 The Chief Executive or any Group Director 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.

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

- 1 To exercise authority over all Group Directors, Assistant Chief Executive, Assistant Directors and Heads of Service including allocating Group Directors' portfolios and assigning Assistant Directors and Heads of Service to particular Group Directors from time to time.
- 2 To exercise the powers delegated to any Group Director or other members 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 (group D and I functions)
  - (ii) Part 3, section 5 of this constitution: local choice 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<sup>th</sup> 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 in paragraphs 4-7 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 GROUP DIRECTORS**

All Group Directors 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 of Part 3 of this constitution.

#### **3.3.1 General powers**

- 1 To take any steps necessary for proper management and administration.
- 2 To exercise all the powers delegated to relevant Assistant Directors and Heads of Service and other staff members where circumstances require, so far as legally permissible. Exercise of such powers should be recorded where appropriate. Where possible, a Group Director 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 invite and accept tenders and to exercise all of the powers of the Council in managing contracts.
- 4 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.
- 5 To be responsible and accountable for all health and safety matters.
- 6 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 as required by the Local Government Act 1999 and to lead the best value process.
- 7 To monitor and review the performance of the best value process and the effect on service delivery and outcomes.
- 8 To consult with the Lead member on Service Plans
- 9 To monitor progress in meeting best value, Audit Commission and other performance indicators against agreed targets.
- 10 To apply for statutory consent including planning permission.
- 11 To apply for grants and other financial assistance on behalf of the Council provided that any financial contributions by the Council are made from within existing budgets.
- 12 To restructure within budget and/or if budgetary provision is already made in the corporate plan

13 To authorise activities under the Regulation of Investigatory Powers Act 2000

### 3.3.2 Human resource powers

1 To exercise overall responsibility for human resource matters, providing that the following requirements are met:

- (i) all decisions must be taken in accordance with relevant human resource policies<sup>1</sup>
- (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 corporate planning process or the appointment to a permanent vacant post requires the agreement in writing or by e-mail of (a) the Cabinet Member for a post up to PO7 (b) the Cabinet Member and the Leader of the Council for a post above PO7 such agreement to be given or withheld within seven working days of being sought (the Cabinet Member for Resources may act in the absence of either the Leader of the Council or of the Cabinet Member)
- (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 and the Group Director Finance & Commerce

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<sup>1</sup> Human resource policies are as follows: Adoption Leave Policy and Procedure; Confidential Reporting Policy; Disciplinary Procedure; Employees Asked to Undertake Additional Responsibilities; Employee Code of Conduct Policy; Exit Interview Policy; Grievance Procedure; Induction Policy; Management Guidelines on the Rehabilitation of Offenders Act and Exemptions; Management Guidelines on the Status of Temporary, Casual and Fixed Term Contracts; Managing Sickness Absence; Return to Work Guidelines; Managing Organisational Change; Managing Poor Work Performance; New Ways of Working Policy; Parental Leave Policy and Procedure; Personal Files Policy; Personal Development and Performance Appraisal; Probation Policy and Procedure; Recruitment Procedures; Salary Scales; Scheduled Leave Policy (Annual, Family and Study); Special Leave Management Guidelines.

Staff should note that these policies may be amended from time to time; an up-to-date list is maintained on the authority's intranet.

- (vii) implementation of decisions and recommendations of recognised national negotiating bodies on staff matters (other than in respect of pay) must be reported to the Cabinet where budgets will be exceeded and a supplementary estimate is required
- (viii) employee grievances up to appeal stage must be dealt with by members
- (ix) approval of applications for leave for trade union conferences and training courses must be undertaken in consultation with the Head of Human Resources
- (x) payment of claims by employees for loss or damage to property and clothes must be within the maximum level specified in Appendix B; otherwise payment must be made in consultation with the Group Director Finance & Commerce
- (xi) approval of all leave within the Council's policies and special leave, subject to unpaid special leave in excess of three months being given in consultation with Head of Human Resources
- (xii) permission for employees to undertake outside work or duties whether paid or unpaid may be granted subject to there being no conflict of interest
- (xiii) approval of applications for car loans being signed by the Group Director Finance & Commerce
- (xiv) approval of applications for car, cycle, auto cycle and telephone allowances being approved in accordance with the current policy
- (xv) approval of honoraria payments must be given in consultation with the service personnel manager.

### **3.3.3 Financial powers**

- 1 To implement any capital programme, subject to the programme and the priorities within it being approved by the Council or the Cabinet, and the Group Director Finance & Commerce being satisfied that adequate capital resources are available.
- 2 To incur relevant expenditure for matters set out in Appendix B in consultation with the Group Director Finance and Commerce and the Assistant Chief Executive Legal & Democratic Services in so far as the first two items of expenditure are concerned.
- 3 To make and authorise virements in consultation with the Group Director Finance & Commerce.

- 4 To incur expenditure, place orders, make purchases, invite and accept tenders and manage contracts.
- 5 To settle ex-gratia payments to the limit specified in Appendix B for such payments in consultation with the Assistant Chief Executive Legal & Democratic Services and the Group Director Finance & Commerce.

### **3.3.4 Contract powers**

- 1 To approve commencement of a tendering process for all contracts below a total contract value of £144,000 except for:
  - (i) works contracts in respect of the Council's housing revenue account assets, where the Group Director may approve commencement of a tendering process for contracts up to a total contract value of £1,000,000
  - (ii) works contracts in respect of all other Council buildings and assets, where the Group Director may approve commencement of a tendering process for contracts up to a total contract value of £500,000.
- 2 To award all contracts below a total contract value of £144,000 except for:
  - (i) works contracts in respect of the Council's housing revenue account assets, where the Group Director may award contracts up to a total contract value of £1,000,000
  - (ii) works contracts in respect of all other Council buildings and assets, where the Group Director may award contracts up to a total contract value of £500,000.
- 3 To sign contracts on behalf of the Council which:
  - (i) do not require sealing under (i) rule 27 of the Council Procedure Rules set out in Part 4 of this constitution
  - (ii) incur financial expenditure of no more than £100,000
  - (iii) are within approved budgets

provided that the requirements set out in the Contracts Procedure Rules set out in Part 4 of this constitution are met.

## **3.4 POWERS OF ASSISTANT CHIEF EXECUTIVE, ASSISTANT DIRECTORS AND HEADS OF SERVICE**

**The Assistant Chief Executive, 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 of Part 3 of this constitution.**

#### 3.4.1 General powers

- 1 To take any steps necessary for proper management and administration.
- 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 Chief Executive, 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 invite and accept tenders and to exercise all of the powers of the Council in managing contracts.
- 4 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.
- 5 To be responsible and accountable for all health and safety matters.
- 6 **To make arrangements to secure the continuous improvement in the way the Council's functions are exercised having regard to a combination of economy, efficiency and effectiveness as required by the Local Government Act 1999 and to lead the best value process.**
- 7 To monitor and review the performance of the best value process and the effect on service delivery and outcomes.
- 8 To apply for statutory consent including planning permission.
- 9 **To apply for grants and other financial assistance on behalf of the Council provided that any financial contributions by the Council are made from within existing budgets.**
- 10 **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, providing that the requirements set out in section 3.3.2 function 1 above are met.
- 2 To employ permanent staff within the approved establishments.
- 3 To make appointments to temporary posts to cover existing job vacancies, provided that the appointments are within existing budgetary provision.

#### **3.4.3 Financial powers**

- 1 To implement any capital programme within the corporate plan and subject to the Group Director Finance & Commerce being satisfied that adequate capital resources are available.
- 2 To incur relevant expenditure for matters set out in Appendix B in consultation with the Group Director Finance & Commerce and the Assistant Chief Executive Legal & Democratic Services in so far as the first two items of expenditure are concerned.
- 3 To make and authorise virements, in consultation with the Group Director Finance & Commerce.
- 4 To incur expenditure, place orders, make purchases, invite and accept tenders and manage contracts.

#### **3.4.4 Contract powers**

- 1 To approve commencement of a tendering process for all contracts below a total contract value of £144,000 except for:
  - (i) works contracts in respect of the Council's housing revenue account assets, where the Assistant Chief Executive, Assistant Director or Head of Service may approve commencement of a tendering process for contracts up to a total contract value of £1,000,000
  - (ii) works contracts in respect of all other Council buildings and assets, where the Assistant Chief Executive, Assistant Director or Head of Service may approve commencement of a tendering process for contracts up to a total contract value of £500,000.
- 2 To award all contracts below a total contract value of £144,000 except for:
  - (i) works contracts in respect of the Council's housing revenue account assets, where the Assistant Chief Executive, Assistant Director or Head of Service may award contracts up to a total contract value of £1,000,000
  - (ii) works contracts in respect of all other Council buildings and assets, where the Assistant Chief Executive, Assistant

Director of Head of Service may award contracts up to a total contract value of £500,000.

- 3 To sign contracts on behalf of the Council which:
  - (i) do not require sealing under rule 27 of the Council Procedure Rules set out in Part 4 of this constitution
  - (ii) incur financial expenditure of no more than £100,000
  - (iii) are within approved budgets

provided that the requirements set out in the Contracts Procedure Rules set out in Part 4 of this constitution are met.

### **3.5 SOCIAL CARE AND LEARNING**

**This section covers the following members of staff:**

- 3.5.1 Group Director Social Care and Learning
- 3.5.2 Assistant Director Commissioning
- 3.5.3 Head of Learning and Achievement
- 3.5.4 Head of Schools for the Future
- 3.5.5 Head of Childrens Social Care
- 3.5.6 Head of Adult Social Care
- 3.5.7 Youth Services Manager

**Each member of staff has delegated authority to act as follows, subject to the general provisions and limitations set out in section 3.1 of Part 3 of this constitution.**

#### **3.5.1 Group Director Social Care and Learning**

- 1 To act as the Council's Statutory Director of Childrens Services and Statutory Director of Adult Social Services.
- 2 To exercise the statutory powers in respect of Adult Social Services as applicable and set out in the Local Authority Social Services Act 1970.
- 3 To exercise the Council's functions regarding the procedures for dealing with complaints and representations relating to Adult and Childrens Social Services.
- 4 To determine grants and contracts with voluntary organisations across the spectrum of health and social care needs.
- 5 To approve travel abroad for vulnerable people in the Council's temporary or permanent care.

- 6 To waive charges for specific community services in cases where hardship would otherwise occur.
- 7 On behalf of the Council, to institute and conduct proceedings under any of the following enactments or any statutory instruments relevant to those enactments:
  - (i) Children & Young Persons' Act 1933
  - (ii) Children & Young Persons' Act 1963
  - (iii) Children & Young Persons' Act 1969
  - (iv) Children Act 1989
  - (v) Adoption and Children Act 2002
- 8 To make arrangements with or contributions to other local authorities or voluntary or private organisations providing accommodation or premises.
- 9 To appoint on behalf of the Council on the recommendation of the Panel LEA-nominated school governors (except where the nominee is a Member or employee of the Council).
- 10 To exercise all the Council's powers and duties acting as the local education authority, except for those matters reserved for Council.
- 11 To discharge the relevant roles and responsibilities of the Council as Administering Authority for the supporting people programme
- 12 To undertake the powers and duties of the Council as an adoption agency under the Adoption Agencies Regulations 1983 as amended (excluding powers of appointment to the Adoption Panel), having regard to the recommendations of the Adoption Panel.

#### **All Heads of Service within the Social Care and Learning Directorate**

- 13 To assess and determine contributions required for services, to reduce or waive such contributions in special circumstances (but not to write off debts) and to institute and conduct proceedings to recover arrears of such contributions (in consultation with the Assistant Chief Executive Legal & Democratic Services).
- 14 To manage the operation of the relevant Contract Service Organisations (CSOs) including marketing the CSOs and consideration of the impact of new legislation on the CSOs, where relevant.

#### **3.5.2 Assistant Director Commissioning**

- 1 To make applications for grants towards expenditure to the Secretary of State, the Department for Education and Skills and any other relevant funding organisation.
- 2 To enter into contracts for the provision of residential and other care services to individuals pursuant to the community care provisions of the



National Assistance Act 1948 as amended by the National Health Service and Community Care Act 1990 (known as a community care contract). Such a contract must be entered into in accordance with existing care standards and service specifications.

- 3 To approve virement of monies provided for community care contracts between particular care groups (in consultation with the Group Director Finance & Commerce).
- 4 To accredit service providers
- 5 To exercise the Council's duties pursuant to the Access to Personal Files (Social Services) Regulations 1989.
- 6 To determine grants and contracts with voluntary organisations across the spectrum of health and social care needs.
- 7 To arrange for assessment of contributions by people receiving domiciliary and non residential community care services under "Fairer Charging" arrangements. **(Informative, this power is also held by the Head of Adult Social Care)**
- 8 To enter into contracts for the provision of residential and other care services to individuals pursuant to the community care provisions of the National Assistance Act 1948 as amended by the National Health Service and Community Care Act 1990 (known as a community care contract). Such a contract must be entered into in accordance with existing care standards and service specifications. **Informative, this power is also held by the Head of Adult Social Care)**
- 9 To determine, maintain and keep under review a policy on the payment of fees, expenses of board and lodging and any other grants, exhibitions, bursaries and allowances to pupils and other eligible students.
- 10 To make arrangements for the implementation of such a policy and to make any necessary determinations relating thereto.
- 11 To determine, maintain and keep under review a policy on the provision of clothing to pupils and other eligible students.
- 12 To make arrangements to provide clothing for pupils and other eligible students qualifying for such assistance and to make any necessary determinations in relation thereto.
- 13 To be responsible for organisational development across Children Services and in conjunction with the Group Director Finance & Commerce and the Head of Human Resources, ensure effective arrangements exist within the service for the provision of professional development, information management and support to the best value process.

- 14 To administer the finances of the Council acting as the local children services including the preparation of all relevant financial statements, analysis and reports and arrangements for pooling.
- 14 Develop the Children's Social Care Commissioning capability and provide advice and guidance to operational services
- 15 To formulate, consult upon, determine, maintain and review a scheme for the allocation of budget shares to each maintained school and for the financing of such schools.
- 16 To make arrangements for the allocation of budget shares to maintained schools and to make any necessary determinations.
- 17 To act as follows in relation to the suspension of a delegated budget at a maintained school:
  - (i) making any necessary determinations
  - (ii) conducting all relevant consultation and take any other necessary action including the service of notices and the appointment of additional governors to the governing body.
- 18 Administer, review and develop Children's Trust arrangements advising the Children's Trust Board on developments designed to enhance its effectiveness.**
- 19 Provide a Research & Development function to ensure the needs of the Children's Trust and its partners in areas of common concern.**
- 20 Maintain strategic oversight of the use and development of ICT for Children's Social Care.**
- 21 Strategic oversights and supervision of Children's HR Services, in collaboration with the Head of Human Resources.**
- 22 Making claims for recouping expenditure on educational and other support from other authorities where necessary, agreeing with other authorities the amount that ought to be received, dealing with claims from other authorities including agreement as to the amount of reimbursement and referring (and dealing with) any disputes to the Secretary of State for determination. This function also applies to pupils receiving education in hospital.**

### **3.5.3 Head of Learning and Achievement**

- 1 To exercise all the powers and duties of the Council acting as Local Education Authority as they relate to the general matters listed in the functions below.
- 2 Within the general areas delegated to each Head of Service to make any necessary determinations and to implement, if appropriate, guidance and directions or orders given by:

- (i) the Secretary of State
- (ii) the Department for Education and Skills
- (iii) OFSTED
- (iv) the Audit Commission
- (v) Government Office for London and its agents, or
- (vi) any other regulatory or judicial body

as contained in circulars, administrative memoranda, directives, advice, letters, codes of practice, orders of court or any other tribunal. This includes the collation and provision of information.

- 3 To control and manage any premises or land held for educational purposes, including taking all necessary action to exclude persons if the circumstances warrant it.
- 4 To make applications for grants towards expenditure to the Secretary of State, the Department for Education and Skills and any other relevant funding organisation.

#### **Conferences and research**

- 5 To arrange for the provision of or assistance in the conducting of research and to organise, administer and participate in conferences for the consideration of educational issues.
- 6 To introduce Instruments of Government in maintained schools, including the drafting, approval and making of the first instrument and any amendments thereto.
- 7 To make all the necessary arrangements for the elections of governors to the governing bodies of schools.
- 8 To oversee the proceedings and conduct of governing bodies of schools and annual parents' meetings including requesting minutes, proffering appropriate advice and giving directions.
- 9 To make all the necessary arrangements for elections of parent governors to the relevant Overview and Scrutiny Committee.
- 10 To advise governing bodies of schools, issue any reports, notices or directions and make any necessary decisions on or in relation to:
  - (i) any personnel issues, including the selection, recruitment, appointment, discipline, performance or dismissal of head teachers, deputy head teachers, teachers and school support staff
  - (ii) the government of a school.
- 11 To formulate, maintain, review and administer a scheme for paying allowances to governors of schools without delegated budgets.

## **Inspection**

12 To act on matters relating to curriculum, including:

- (i) giving advice
- (ii) taking such action as is necessary to ensure that the curriculum within each maintained school (including religious education) complies with legislative requirements and is effectively delivered.

13 To act on matters relating to school performance, including:

- (i) providing advice, issuing notices and directions on performance, school leadership, management and pedagogy
- (ii) administering a base line assessment scheme.

## **Collective worship**

14 To exercise LEA functions so as to secure participation in the daily collective worship required in schools under section 385 of the Education Act 1996.

## **Complaints procedure**

15 To arrange a complaints procedure for dealing with complaints concerning:

- (i) the basic curriculum
- (ii) the national curriculum
- (iii) religious education
- (iv) collective worship
- (v) Standing Advisory Committee on Religious Education (SACRE)
- (vi) external qualifications or syllabuses

## **Disability statements**

16 To formulate, determine, publish, maintain and review a disability statement relating to further education under section 528 of the Education Act 1996

17 To determine appointments of additional LEA Governors to governing bodies from among school governors recommended as suitable for the appointment by the LEA Governor Appointment Panel.

## **School Attendance**

18 To act as follows in respect of children who are not attending school regularly:

- (i) arranging for assessments of the education being provided to them

- (ii) making any necessary determinations in relation to the education of such children
- (iii) taking any necessary action to promote the attendance of such children at school including designation of premises and notification to the relevant Police authority under section 16 of the Crime and Disorder Act 1998, service of notices and school attendance orders, bringing and conducting applications for education supervision orders in the Family Proceedings Court and bringing and conducting prosecutions against parents.

### **Licensing of children under 16 for public performances**

19 To act as follows in respect of children under 16 who intend to or do take part in public performances:

- (i) administering the process of licensing
- (ii) making any necessary determinations relating to the granting of licenses
- (iii) taking any necessary action to enforce the provisions of the relevant legislation including the authorisation of appropriate legal proceedings.

### **Employment of children**

20 To act as follows in respect of school pupils who are employed:

- (i) arranging for assessment and investigation of the suitability of such employment
- (ii) making any relevant determination and taking any necessary action to ensure that such pupils are not employed unsuitably, including serving notices and authorising legal proceedings.

### **School admissions**

21 To act as follows in respect of admission arrangements and admission numbers for schools:

- (i) administering any necessary consultation and the admission process generally
- (ii) making any determination as to the admission arrangements, admission numbers and any reviews, and amendments to any of these matters
- (iii) advising governing bodies
- (iv) objecting to admission arrangements determined by governing bodies
- (v) publicising these arrangements
- (vi) giving relevant notices and directions to admit children to specific schools

- (vii) representing the Council, or nominating an officer to do so, at the Admission Appeals Panel and the Appeals Panel convened under schedule 25 to the School Standards and Framework Act 1998, in relation to directions to admit a “twice excluded” pupil.

### **School exclusions**

22 To act as follows in respect of pupils excluded from schools:

- (i) dealing with generally, including assessing pupils, advising governing bodies and convening reintegration panels to prepare plans for pupils and parents
- (ii) representing the Council at any hearing before a School Disciplinary Committee or an Exclusions Appeal Panel or nominating an officer to do so
- (iii) arranging for the provision of education for such pupils at a pupil referral unit or otherwise.

### **Pupil referral units and home tuition**

23 To make arrangements to provide education to children or young people under 18 who may not receive suitable education at school at pupil referral units, through home tuition or otherwise.

24 To manage all aspects of pupil referral units’ activities including:

- (i) establishing a management committee
- (ii) preparing policies relating to admissions, curriculum, behaviour and a complaints procedure
- (iii) excluding pupils
- (iv) providing careers advice
- (v) making any necessary determinations as to the opening or closing of a pupil referral units.

25 To prepare, review and publicise a behaviour support plan until 1<sup>st</sup> April 2006.

### **School transport**

26 To determine, maintain and keep under review a policy on transport arrangements for school pupils and other eligible students.

27 To make arrangements for the provision of transport or otherwise to facilitate attendance of children, pupils and other eligible students at schools and other education institutions and to make any necessary determinations.

### **School terms, holidays and sessions**

28 To determine and take any other relevant action in relation to the dates of school terms and holidays and to determine who is to be regarded as

a parent of a registered pupil at a school when a governing body takes action to determine the times of school sessions.

### **Travellers and displaced persons**

29 To act as follows in relation to the children of travellers and displaced persons:

- (i) making arrangements to provide education, assistance, advice and counselling
- (ii) providing advice and training for schools and staff.

### **Board and lodging**

30 To determine, maintain and keep under review a policy on the provision of board and lodging to pupils and other eligible students.

31 To make arrangements to provide board and lodging for pupils and other eligible students whose educational needs make this necessary and to make any necessary determinations relating thereto.

### **Cleanliness**

32 To give directions to authorise a medical officer to examine pupils and clothing where necessary and to make any necessary orders as to the cleansing of pupils and their clothing.

33 To issue and serve notices upon parents requiring cleansing of pupils and their clothing.

34 To give directions and make arrangements for a pupil and their clothing to be cleansed.

35 To authorise the institution of a prosecution against the parent for breach of section 525 of the Education Act 1996.

### **Adult Education**

In so far as they relate to adult education;

36 To exercise all the powers and duties of the Council acting as Local Education Authority as they relate to the general matters listed in functions (i) to (vi) below.

37 Within the general areas delegated to each Head of Service to make any necessary determinations and to implement, if appropriate, guidance and directions or orders given by:

- (i) the Secretary of State
- (ii) the Department for Education and Skills
- (iii) OFSTED
- (iv) the Audit Commission
- (v) Government Office for London and its agents, or

- (vi) any other regulatory or judicial body

as contained in circulars, administrative memoranda, directives, advice, letters, codes of practice, orders of court or any other tribunal. This includes the collation and provision of information.

- 38 To control and manage any premises or land held for educational purposes, including taking all necessary action to exclude persons if the circumstances warrant it.

### **Conferences and research**

- 39 To arrange for the provision of or assistance in the conducting of research and to organise, administer and participate in conferences for the consideration of educational issues.

### **Nursery education and early years**

- 40 To arrange for the establishment and maintenance of an early years development partnership.
- 41 To prepare an early years development plan, to review and modify the plan as necessary and to arrange for the publishing and implementation of the plan until 1<sup>st</sup> April 2006.
- 42 To make arrangements for the provision of nursery education.
- 43 To undertake those functions assigned under Part 3, section 4 of this constitution: functions not to be the responsibility of an authority's Executive (group B functions).

### **Personnel**

- 44 To act in relation to the recruitment, appointment, employment, discipline and termination of employment of teaching and support staff in schools This includes payroll, pensions, and nominations of prospective staff, advice to governing bodies and power to nominate specific officers to advise governing bodies.

### **3.5.4 Head of Schools for the Future**

- 1 To be responsible for organisational development across Children Services and in conjunction with the Group Director Finance & Commercial and the Assistant Chief Executive Human Resources, ensure effective arrangements exist within the service for the provision of professional development, information management and support to the best value process.
- 2 To accredit service providers
- 3 To exercise the Council's duties pursuant to the Data Protection Act 1998 in liaison with the Council's Data Controller.

### **Children and Young People's Plan**



- 4 With effect from 1<sup>st</sup> April 2006 to maintain and review the Children and Young People's Plan and supporting operational plans and to take all necessary action to implement this.

### **School organisation plan**

- 5 To maintain and review the school organisation plan and to take all necessary action and make any necessary determinations in relation to the proposals for the establishment, alteration, amalgamation or discontinuance of schools.

### **Premises**

- 6 To maintain and review the asset management plan and to take all necessary action and make any necessary determinations in relation to the proposals for the establishment, alteration, amalgamation or discontinuance of schools.
- 7 To make arrangements for the provision of all necessary services and assistance, including expenditure, in relation to the maintenance of school premises.
- 8 To act as follows in relation to the occupation and use of school premises:
  - i. considering and determining whether any directions are necessary
  - ii. preparing and serving any such directions and taking any other appropriate action.
- 9 To provide relevant advice and assistance and to make arrangements for the payment of the Local Authority's contribution in relation to capital works undertaken on school premises.
- 10 To exercise health and safety functions in relation to schools

### **School meals**

- 11 To arrange for the provision of school meals and milk in schools

### **Catering**

- 12 **To act as the responsible officer for all borough catering by:**

- (i) **determining arrangements for managing in house catering options**
- (ii) **commissioning and advising on specifications for externally provided catering services**
- (iii) **providing expert contract management for externalised services**

### **Educational Visits**

- 13 To maintain the process whereby proposed educational visits by schools are properly risk assessed at the appropriate level and that training is provided for those assessing such risks. To adequately monitor risk assessments to assure basic standards of performance.**

### **3.5.5 Head of Children's Social Care**

- 1 To authorise the payment of legal fees for adopters where legal representation is necessary and there is no possibility of legal aid being allowed, and to authorise the payment of medical fees in connection with adoption, in appropriate circumstances.
- 2 To exercise the powers of the Council under the Adoption Act 1976, Adoption and Children Act 2002 and the Children Act 1989, including the approval of adoptive parents and the placement of children for adoption together with any necessary expenditure.
- 3 To supervise and review children in the care of the Council including the giving of any necessary consents.
- 4 To approve the payment of allowances to foster carers and other approved carers.
- 5 To approve care packages formulated to meet the assessed needs of individual children in accordance with the approved care plan.
- 6 To carry out all the powers and duties of the local authority under the Children Act 1989 (including urgent powers and duties) and to act as Receiver of the Court of Protection.
- 7 Where required, to provide consent to applications by foster parents for residence orders made under the Children Act 1989.
- 8 To exercise the powers and duties of the Council in respect of children and young persons in their care including the power to place children and young persons in any accommodation within or outside the borough, to meet their special needs and to appoint independent persons as visitors.
- 9 To arrange investigations to safeguard and promote the welfare of children within the borough who are or may be in need or who are looked after by the Council, including children subject to care, interim or supervision orders and those accommodated under the Children Act 1989.
- 10 On behalf of the Council, to exercise parental responsibility as he or she considers appropriate in respect of any children in care.
- 11 To arrange for statutory visits to the place of accommodation of children looked after by the Council in order to enable parents, guardians, relatives or appointed visitors to visit such children, and to authorise

expenditure incurred for the purpose of visiting a child looked after by the Council.

- 12 To authorise the payment of appropriate allowances (in accordance with approved procedures and scales) to foster parents of children in their care, prospective adopters and persons undertaking the long-term care of children.
- 13 To authorise the provision of financial assistance to children and young people in care and leaving care and to approve expenditure of the sums specified under sections 17 and 24 of the Children Act 1989.
- 14 To authorise and administer conditional grants to foster carers in order to provide suitable accommodation standards for foster children up to a maximum sum approved by the Council.
- 15 To give rent guarantees for families in danger of eviction.
- 16 To carry out reviews for the purposes of the Secure Accommodation Regulations 1983.
- 17 To make grants and/or loans to children and their relatives. This function must be exercised in accordance with the maximum limit specified in Appendix B and with agreed procedures.
- 18 To approve the making of payments for the assistance of children in need, or of their families, in accordance with Part III of the Children Act 1989, where the amount involved exceeds the sum specified in Appendix B in any one case in any period of twelve consecutive calendar months.
- 19 To administer arrangements for the care of children and young persons.
- 20 To instruct the Assistant Chief Executive Legal & Democratic Services to act on behalf of children in the care of the local authority should that person be willing and able to accept instructions.
- 21 To take or defend proceedings in any court in connection with children and young persons (in consultation with the Assistant Chief Executive Legal & Democratic Services).

### **Youth service**

- 22 To prepare a Youth Service plan, to submit to the Secretary of State to review and modify the plan as necessary and arrange for the publishing and implementation of the plan until 1<sup>st</sup> April 2006.

### **Educational Visits**

- 23 To maintain the process whereby proposed educational visits by the Youth service are properly risk assessed at the appropriate level and

that training is provided for those assessing such risks. To adequately monitor risk assessments to assure basic standards of performance.

24 To act as follows in respect of children who have, or may have, special educational needs:

- (i) arranging for assessments and reviews to be undertaken by educational psychologists
- (ii) administering all aspects of the process of assessment, the making of statements of special educational needs, maintaining and reviewing the content of the statements, making any necessary amendments or additions or cessation and transfer
- (iii) making any necessary determinations in relation to assessment, statements of special educational needs, reviews or cessation and transfer
- (iv) arranging for the provision of appropriate educational and non-educational services to meet such children's needs
- (v) representing the Council in any proceedings brought against the Council in a Special Educational Needs Tribunal, or nomination of an officer to act on his/her behalf.
- (vi) arranging for the supply of services relating to special educational needs to governing bodies of schools and determining charges for such supply

### **3.5.6 Head of Adult Social Care**

- 1 To exercise the powers and duties of the Council in relation to:
  - (i) the powers and duties of the Council under Part II of the Mental Health Act 1983 in relation to the guardianship of persons suffering from mental disorder
  - (ii) decisions on requests for reduced charges for welfare services.
- 2 To administer arrangements made under the following enactments for the provision of services for disabled and older persons:
  - (i) section 29 of the National Assistance Act 1948
  - (ii) section 45 of the Health Services and Public Health Act 1968
  - (iii) section 2 of the Chronically Sick and Disabled Persons Act 1970
- 3 To approve or refuse applications to be registered as physically disabled.
- 4 In special circumstances, to exceed the maximum personal allowance for community care services under the National Health Service and Community Care Act 1990.

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- 5 To take charges against interests in property in accordance with section 22(7) of the Health and Social Services and Social Security Adjudication Act 1983 (in consultation with the Assistant Chief Executive Legal & Democratic Services).
- 6 In exceptional circumstances, to waive assessed contributions for adaptations to homes or provision of equipment, subject to the contribution not exceeding £1,000 or such other sum as may from time to time be fixed by the Council.
- 7 To make application to act, and to act, as receiver of property for persons who, for reasons of mental disorder, are incapable of managing their own affairs.
- 8 To administer arrangements for the care of older people, people with physical disabilities, people with learning difficulties and people with mental health problems.
- 9 To exercise the powers and duties of the Council in relation to section 47 of the National Assistance Act 1948 as amended.
- 10 To decide whether to accept the conditional discharge of a patient detained either in hospital or on a restriction order.
- 11 To approve placements in residential or nursing homes in the statutory or independent sector in accordance with the approved care plan.
- 12 To make arrangements for the burial or cremation of persons in accordance with Part III of the National Assistance Act 1948 where no other arrangements have been made, and to recover funeral expenses from the deceased's estate.
- 13 To exercise the powers of the Council under Part II of the Mental Health Act 1983.
- 14 To appoint approved social workers for the purposes of the Mental Health Act 1983.
- 15 To accept guardianship applications and transfers into guardianship in accordance with sections 7 and 19 of the Mental Health Act 1983 and regulations 5 and 7 of the Mental Health (Hospital Guardianship and Consent to Treatment) Regulations 1983. The Head of Service or Assistant Chief Executive may also accept amendments to the application of the medical recommendation in the event of error in accordance with section 15 of the Mental Health Act 1983 including all decisions whether or not to accept guardianship orders through the courts.
- 16 In exceptional circumstances, to authorise enhanced or additional allowances to persons offering care in accordance with the Council's respite care scheme.

- 17 To exercise the Council's discretion in the assessment of contributions to community care contract costs and in relation to payments under the Community Care (Direct Payments) Act 1996
- 18 To make payments pursuant to the Community Care (Direct Payments) Act 1996
- 19 To make arrangements for the temporary protection of property of persons admitted to hospital or other accommodation
- 20 To assess and determine contributions required for services, to reduce or waive such contributions in special circumstances (but not to write off debts) and to institute and conduct proceedings to recover arrears of such contributions (in consultation with the Assistant Chief Executive Legal & Democratic Services).
- 21 To arrange for the assessment of contributions by people receiving domiciliary and non residential community care services under "Fairer Charging" arrangements. **(Informative, this power is also held by Assistant Director Commissioning).**
- 22 To enter into contracts for the provision of residential and other care services to individuals pursuant to the community care provisions of the National Assistance Act 1948 as amended by the National Health Services and Community Care Act 1990 (known as a community care contract). Such a contract must be entered into in accordance with existing care standards and service specifications. **(Informative, this power is also held by Assistant Director Commissioning).**
- 23 To approve travel abroad for vulnerable people in the Council's temporary or permanent care.
- 24 To waive charges for specific community services in cases where hardship would otherwise occur.
- 25 To arrange for assessment of contributions by people receiving domiciliary care services under "Fairer Charging" arrangements
- 26 To manage the Supporting People Programme, use and application of grants and delivery of the programme in accordance with the grant conditions and strategy.

### **3.5.7 Youth Services Manager**

To act as deputy for the appropriate member of Council as a member of the Board of Connexions and, being mindful of the activities of Connexions, to arrange for the provision of a youth service including establishing, maintaining and managing youth clubs, youth centres, camps and holiday clubs, playing fields, play centres and other facilities for vocational, recreational, social and physical training and organised leisure time occupation associated with education for persons receiving primary, secondary and further education. The Head of Service or Assistant Chief Executive may also provide support to voluntary bodies providing facilities of a similar character subject to a financial limit of £1,000.

## 3.6 CULTURE AND COMMUNITY

**This section covers the following members of staff:**

- 3.6.1 Group Director Culture and Community
- 3.6.2 Assistant Director Customer and Community Engagement
- 3.6.3 Head of Streetcare
- 3.6.4 Head of Culture & Leisure
- 3.6.5 Head of Regeneration
- 3.6.6 Head of Housing & Public Protection
- 3.6.7 Head of Communications
- 3.6.8 Head of Customer Services

Each member of staff has delegated authority to act as follows, subject to the general provisions and limitations set out in section 3.1 of Part 3 of this constitution.

### **3.6.1 Group Director Culture and Community**

- 1 To oversee the Council's relationships with its customers.
- 2 To manage the operation of the relevant Contract Service Organisations (CSOs) including marketing the CSOs and consideration of the impact of new legislation on the CSOs.
- 3 To oversee all functions of the Council relating to the East London Waste Authority.
- 4 To response to Strategic issues within the area of responsibility, including all Government circulars, mayoral strategies and consultations provided there are not policy implications requiring a Lead Member decision.

### **3.6.2 Assistant Director Customer & Community Engagement**

- 1 To publicise decisions of the authority, by means such as advertisements and information leaflets, where the Assistant Director considers a decision is of sufficient public interest to warrant such publicity.
- 2 To foster good relations with organisations and interests inside and outside the borough and with towns and peoples from other countries.
- 3 To lead cross-Council and cross-agency teams to ensure an integrated approach to strategic programmes and projects for economic environmental and community regeneration and community development (Informative this power is also held by the

Head of Regeneration and Strategic Planning. **(Informative, this power is also held by Regeneration and Strategic Planning).**

- 4 To lead and co-ordinate across the Council efforts to secure external funding for regeneration and community projects and community development projects. **(Informative this power is also held by the Head of Regeneration and Strategic Planning. (Informative, this power is also held by Regeneration and Strategic Planning).**
- 5 To decide grants to relevant voluntary organisations. **(Informative, this power is also held by Regeneration and Strategic Planning).**
- 6 To lead cross-Council and cross-agency teams to ensure an integrated approach to strategic programmes and projects for economic environmental and community regeneration and community development **(Informative this power is also held by the Head of Regeneration and Strategic Planning). (Informative, this power is also held by Regeneration and Strategic Planning).**
- 7 To lead and co-ordinate across the Council efforts to secure external funding for regeneration and community projects and community development projects. **(Informative this power is also held by the Head of Regeneration and Strategic Planning). (Informative, this power is also held by Regeneration and Strategic Planning).**

### **3.6.3 Head of Streetcare**

- 1 To exercise the Council's powers and duties arising under the New Roads and Streetworks Act 1991.
- 2 Other than in those matters delegated to an area committee, to exercise all powers and duties in respect of maintaining and improving highways, providing facilities, and interference with highways arising under Parts IV, V, VII and IX of the Highways Act 1980.
- 3 To manage all highway trees and to take appropriate action where necessary
- 4 To determine requests from individuals and voluntary, national and commercial organisations to use the public highway.
- 5 To arrange for the removal and disposal of abandoned vehicles and the prosecution of vehicle owners
- 6 To exercise the Council's powers and duties relating to litter and shopping trolleys arising from the Environmental Protection Act 1990 and the Refuse Disposal (Amenity) Act 1978
- 7 To manage arrangements for collecting and enforcement of domestic, non-domestic and special waste.
- 8 To authorise the issue of any notice or prosecution in relation to waste collection.



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- 9 To exercise the Council's powers in relation to providing public conveniences.
- 10 Other than in respect of those matters delegated to an area committee to exercise all powers related to the creation and dedication of public highways and adoption of highways as maintainable at public expense. **(Informative, this power is also held by the Head of Regeneration and Strategic Planning)**
- 11 To authorise the issue of temporary traffic orders, temporary traffic notices and temporary prohibitions of waiting and loading. **(Informative, this power is also held by the Head of Regeneration and Strategic Planning)**
- 12 To exercise all powers and duties arising under Section 2 and Parts 3, 4, 5 and 6 of the Clean Neighbourhoods and Environmental Act 2005
- 13 To exercise the Council's powers and duties relating to graffiti and flyposting in Part 6 of the Anti-Social Behaviour Act 2003 and in Part 8 Chapter 3 of the Town & Country Planning Act 1990. **(Informative, the power under the Town & Country Planning Act is also held by the Head of Development and Building Control)**
- 14 To exercise the Council's powers and duties relating to builders skips, scaffolding, builders materials and excavations in Part 5 of the Traffic Management Act 2004
- 15 To exercise the Council's powers and duties relating to abandoned vehicles, parking, vehicle crossings removal of deposits on the highway, cleansing, refuse and litter in the various London Local Authorities Acts and the London Local Authorities and Transport of London Act 2003.
- 16 To exercise the Council's powers to require information under s.16 Local Authorities (Miscellaneous Provisions) Act 1976 **(Informative, this power is also held by a number of other Heads of Service)**
- 17 To compile and maintain selective tendering lists for civil engineering matters, highway works, construction services and architectural and building related professional consultants.
- 20 Approve local highway management matters in principle for public consultation in consultation with the Chairman of the Area Committee provided that the scheme only affects on Area Committee.
- 21 Approve final local highway management schemes delegated by the Area Committee in consultation with the Chairman of the Area Committee.
- 22 Approve local highway management matters which affect more than one Area Committee in principle for public consultation in consultation with the Chairman of Regulatory Services.

- 23 Approve final local highway management schemes affecting more than one area in consultation with the Chairman of Regulatory Services Committee and the Chairman of the relevant Area Committee.
- 24 Approve the following in consultation with the Chairman of the Area Committee
- (i) Schemes for the removal of grass verges in favour of footway parking.
  - (ii) Requests for 'At any Time' waiting restrictions at junctions and bends for a distance of up to 15 metres.
  - (iii) Requests for advisory white road markings such as 'Keep Clear' markings and 'T' bar markings.
  - (iv) Requests for changes to all types of parking restrictions in relation to accommodating new vehicle crossover applications.
  - (v) Changes to all types of parking restrictions in relation to temporary and permanent accesses to new developments.
  - (vi) Dispensations from charging for traffic orders required for special events.
- 25 To authorise minor alterations to traffic management orders to enable implementation of approved proposals or continuation of traffic management schemes.
- 26 To amend or suspend any experimental traffic management order. **(Informative, this power is also held by the Head of Regeneration and Strategic Planning)**
- 27 To authorise the creation, amendment and removal of disabled persons' parking bays and footway parking bays. **(Informative, this power is also held by the Head of Regeneration and Strategic Planning)**
- 28 To exercise all powers and duties under the Highways Act 1980 that are not delegated to an area committee or the Head of Streetcare Services.
- 29 To exercise all the Council's powers under the Reservoirs Act 1975.
- 30 To exercise all powers in relation to the issuing of parking tickets, including:
- (i) Collection, administering and writing off fines (the latter in consultation with the Group Director Finance & Commerce).
  - (ii) Clamping and/or removing vehicles.
- 31 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.

### **3.6.4 Head of Culture & Leisure**

- 1 To manage and control parks, open spaces and recreation and pleasure grounds including enforcing relevant byelaws; to organise musical festivals, band contests and sports festivals and to make security arrangements.
- 2 To manage and supervise public swimming pools, sports and leisure facilities.
- 3 To manage the Queen's Theatre building and the Romford Ice Rink.
- 4 To approve externally funded arts projects undertaken by the Council, subject to regular report to the Cabinet.
- 5 To determine all day-to-day matters relating to parks, open spaces and recreation and pleasure grounds.
- 6 To determine applications for uses of parks for carnivals, fetes, exhibitions, sponsored walks, horse shows etc.
- 7 To determine applications for circuses with performing dogs and horses to take place on council-owned land in parks or open spaces.
- 8 To exercise the powers of the Council in relation to:
  - (i) managing, supervising and controlling public museums and art galleries, including acquiring museum exhibits and objects of art
  - (ii) providing, managing, supervising and controlling exhibitions, displays, lectures, concerts and other events to promote the arts.
- 9 To deal with all matter related to allotments.
- 10 To implement the Public Libraries and Museums Act 1964.
- 11 To manage, supervise and control public libraries, library halls and related matters, including the acquisition of sound recordings, pictures, books, bibliographies and other matters.
- 12 To deal with the day-to-day management of the library service.

### **3.6.5 Head of Regeneration & Strategic Planning**

- 1 To deliver, manage and co-ordinate regeneration and community development strategies, programmes and services across the borough.
- 2 To lead cross-Council and cross-agency teams to ensure an integrated approach to strategic programmes and projects for economic environmental and community regeneration and

community development. **(Informative this power is also held by the Assistant Director Customer and Community Engagement)**

- 3 To lead and co-ordinate across the Council efforts to secure external funding for regeneration and community projects and community development projects. **(Informative this power is also held by the Assistant Director Customer and Community Engagement)**
- 4 To promote the regeneration objectives of the Council and to support partnerships and joint working with Government, the Mayor and London-wide bodies, sub-regional organisations, other external agencies, the private sector, the Council's community partners and the local community.
- 5 To exercise all powers related to Romford Market, including granting and revoking licences and enforcing relevant bylaws.
- 6 To comment on the results of any bus route survey or proposal on behalf of the Council.
- 7 To acquire and appropriate land for planning purposes under the Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004).
- 8 To respond to strategic issues within his or her area of responsibility, including all Government circulars, mayoral strategies and consultations on planning policies.
- 9 To prepare and co-ordinate the Council's corporate environmental strategy, and promoting environmental responsibility in the community at large, including developing programmes to involve the local community in preparing a Local Agenda 21 for the borough and reviewing the Council's policies, programmes and activities and identifying ways in which they can be made more sustainable.
- 10 To maintain the definitive map of rights of way.
- 11 To exercise powers in relation to energy management and conservation in respect of the Council's operational and/or performance.
- 12 To amend or suspend any experimental traffic management order. **(Informative, this power is also held by the Head of Streetcare)**
- 13 To authorise the creation, amendment and removal of disabled persons' parking bays and footway parking bays. **(Informative, this power is also held by the Head of Streetcare)**
- 14 Other than in respect of those matters delegated to an area committee to exercise all powers related to the creation and dedication of public highways and adoption of highways as maintainable at public expense. **(Informative, this power is also held by the Head of Streetcare)**
- 15 To authorise the issue of temporary traffic orders, temporary traffic notices and temporary prohibitions of waiting and loading. **(Informative, this power is also held by the Head of Streetcare)**

16 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.

### **3.6.7 Head of Housing & Public Protection**

- 1 To exercise the Council's functions with regard to homeless persons.
- 2 To exercise the Council's functions with regard to the right to buy scheme for council houses and flats and to authorise the sale of additional land to applicants under the right to buy scheme.
- 3 To allocate council accommodation and nominate applicants to housing associations. The Head of Service may also administer the housing register and applications for transfer or exchange of tenancies.
- 4 To declare the "local average rate" for mortgage interest purposes, and appropriate to housing purposes "right to buy" monies sold under the general rate fund at the sale price.
- 5 To do the following:
  - (i) submitting the housing strategy to the Housing Corporation
  - (ii) drawing up schemes in conjunction with registered social landlords
  - (iii) paying social housing grants to registered social landlords on approved development schemes.
- 6 To make house purchase advances including:
  - (i) making of demolition and closing orders, and servicing of repair notices
  - (ii) acting under the Rent Acts or similar legislation protective of tenants' rights
  - (iii) managing and maintaining any council residential caravan site or sites for travellers
  - (iv) providing warden services to elderly people under powers derived from the Health Services and Public Health Act 1968, in respect of appropriate housing schemes.
- 7 To provide to the owners of a dwelling occupied by a physically disabled person all necessary professional and technical services required for the adaptation of premises, in line with Council policy. This includes:
  - (i) engaging contractors in the name of the Council with suitable safeguards, provided that the contractors' services are limited to works necessary to meet the needs of the person concerned or are directly ancillary to those needs

- (ii) carrying out the necessary inspections and authorising payments to the physically disabled owner including the final certificate where a private consultant is engaged by such owner.
- 8 To approve grants or interest-free loans for adapting dwellings for the benefit of disabled people where there is no, or insufficient, entitlement to a disabled facilities grant or to minor works assistance. This sum should not exceed the sum specified in Appendix B or such sum as is specified by Council.
- 9 To waive assessed contributions for adaptations to homes or provision of equipment in exceptional circumstances, subject to the agreed criteria and the contribution not exceeding £1,000 or such other sum as may from time to time be fixed by the Council.
- 10 To exercise the Council's regulatory and enforcement functions in relation to housing in the area, as conferred under any enactment. This includes:
  - (i) taking all steps in connection with the issue of withdrawal of notices, orders or other documents which the Council is authorised or required to serve
  - (ii) selecting the most effective means of enforcement whether by agreement, works in default, prosecution or otherwise.
- 11 To exercise the Council's functions with regard to the private housing sector renewal strategy and to authorise house renovation grants, home insulation grants and other grants for the repair and adaptation and/or installation of amenities in dwellings.
- 12 To waive the repayment of improvement grants in appropriate cases (in consultation with the Group Director Finance & Commercial).
- 13 To deal with applications under Part XVI of the Housing Act 1985 for:
  - (i) repurchase assistance on the grounds that it would be unreasonable to require the applicants to await, or to secure, the carrying out of reinstatement works
  - (ii) grants of 100 percent where there would otherwise be financial hardship.
- 14 To approve the transfer of the tenancy of a dwelling from one person to another, including the transfer of a tenancy to a surviving child or children of a former tenant, subject to such conditions may be reasonable and to the provisions of Part IV of the Housing Act 1985.
- 15 To provide warden services for elderly people (whether or not they are tenants of the Council) in accordance with approved schemes.
- 16 To exercise the Council's discretion not to demand repayment of a house renovation grant upon the sale of an improved dwelling.

- 17 To exercise the Council's functions under section 131 of the Local Government and Housing Act 1989, in relation to minor works assistance.
- 18 To decide on the demolition of Council stock
- 19 To exercise the Council's duties pursuant to the Access to Personal Files (Housing) Regulations 1989.
- 20 To authorise refunds of rent in appropriate cases.
- 21 To assess housing rents in accordance with council policy.
- 22 To review and set miscellaneous charges on an annual basis
- 23 In appropriate cases, to authorise the purchase from a tenant, where the tenant is vacating a council dwelling, of any garage erected by the tenant on the Council's land.
- 24 To approve the payment of reasonable removal expenses incurred by a tenant who moves from one council dwelling to another at the Council's request, any ex-gratia payments towards adapting existing furnishings and any loss consequential from the relocation.
- 25 To consider whether to approve, on behalf of the Council as landlords, improvements included by a council tenant in an application for grant
- 26 To make ex-gratia payments to a tenant for a claim for compensation for consumption of electricity or gas required to dry out or heat a dwelling following such events as breakdowns or floods.
- 27 To agree arrangements with tenant management organisations.
- 28 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 and to enforce those enactments set out in Part 7 Appendices C, D and F

**To supervise the following functions which are carried out by Homes in Havering**

- 29 To undertake management responsibility for the Council's freehold interest where property has been disposed of on a leasehold basis under the right to buy legislation. This includes:
  - (i) enforcing covenants
  - (ii) carrying out repairs
  - (iii) recharging liabilities
  - (iv) consulting with and involving leaseholders and their management organisations as necessary.

- 30 To manage the Council's housing stock and authorise action to obtain possession of council housing accommodation and recover rent arrears, including the service of all necessary notices and action (including applying for injunctions) to enforce or vary the Council's tenancy agreement.
- 31 Where appropriate, to write off former tenants' arrears up to a maximum sum specified by the Council
- 32 To settle claims submitted by council tenants for compensation in recovery of damage caused to tenants' property as a result of occurrences over which the tenants have no control.
- 33 To repair and maintain council housing stock.
- 34 To issue any consents under the tenancy agreement.
- 35 To deal with compensation claims from tenants arising from works carried out by Homes in Havering.
- 36 To deal with applications to carry out internal redecoration at any council dwelling at the Homes in Havering's expense.
- 37 To grant formal recognition to tenants' organisations complying with the Council's criteria for that purpose.
- 38 To grant (subject to conditions) permission to a tenant to park one car or one light van in the front garden of the tenant's dwelling and to grant similar permission to an owner-occupier of a former council house.
- 39 To approve applications to the Council, as landlords, for approval of structural alterations to council dwellings.
- 40 To approve applications for the carrying out at the Homes in Havering's expense of internal decorations at council dwellings occupied by a tenant who is, or whose spouse is, of pensionable age.
- 41 To exempt tenants from responsibility for any of the items of repair specified in the conditions of tenancy where:
  - (i) hardship might otherwise result, or
  - (ii) the nature of the defect or type of dwelling involved is such that to hold the tenant responsible for an item would in the circumstances be unreasonable.
- 42 To make ex-gratia payment to a tenant for moving from one council dwelling to another to facilitate redevelopment or otherwise at the Council's request, where the tenant had, at his or her expense, carried out an improvement to the vacated dwelling or provided a central heating system or similar appliance.
- 43 To approve the adaptation of council dwellings for the benefit of handicapped people.



- 44 To settle claims submitted by a council tenant for compensation in recovery of damages caused to the tenant's property as a result of occurrences over which the tenant had no control.
- 45 To authorise expenditure on aids and equipment for the disabled within the policy laid down by the Council, including the installation of stairlifts and like appliances in houses occupied by registered disabled people where the cost of the appliance and any associated works does not exceed the sum specified in Appendix B or such sum as is specified by the Council.

### **Licensing**

- 46 To exercise all functions under the Licensing Act 2003 and Gambling Act 2005 including all administrative functions and determinations of unopposed applications for premises licences, personal licences, club premises certificates, temporary events notices, regulated entertainment and late night refreshments, permits and the setting of fees and charges.
- 47 In accordance with Part 3, section 3.1, function 6, to authorise staff within the Environmental Health Service to enforce the enactments set out in Appendices C, D and F.
- 48 To authenticate on the Council's behalf of any notice, certificate or other document required to be issued in relation to the enactments in Appendices C, D and F, subject to the matter being referred to the Regulatory Services Sub-Committee where policy or financial considerations are involved and have not previously been determined by the sub-committee.
- 49 To license and register those matters/premises and/or persons listed in Appendices C, D and F where applicable.
- 50 To approve unopposed applications for permits under section 34 of the Gaming Act 1968 in respect of gaming machines.
- 51 Until 24.00 hours, 31<sup>st</sup> August 2007, in relation to night café licences under the London Authorities Act 1990, to approve:
  - (i) unopposed applications for licences
  - (ii) applications for night café licences where objections have been lodged but are considered to be of a similar nature to previous years or to which so little weight can be attached that they could not be used to sustain refusal.
- 52 Until 24.00 hours, 23 November 2005, to enforce and administer Part V of the London Local Authorities Act 1995.
- 53 Until 24.00 hours, 23 November 2005, in relation to annual and occasional entertainment licences:

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- (i) to approve unopposed applications for the grant, renewal, transfer or modification or waiver of conditions
  - (ii) to determine any applications for a refund of fees.
- 54 To determine applications under schedule 1 to the Theatres Act 1968 for:
- (i) exemption from payment of fees, or
  - (ii) payment of only the nominal fees set by the Council.
- 55 Until 24.00 hours, 23 November 2005, to waive, alter or modify the rules approved by the Council that govern applications for renewals, transfer and modifications or waivers of conditions etc. for annual and occasional entertainment licences.
- 56 Until 24.00 hours, 23 November 2005, to determine applications for consents or approvals under the rules of management and technical regulations approved by the Council.
- 57 To determine the grant and renewal of street trading licences and to enforce the terms of these licences.
- 58 To determine applications for consents for the use of loudspeakers in streets under the Noise and Statutory Nuisance Act 1993 and to enforce the terms of these consents.

### **Environmental Health**

- 59 In accordance with Part 3, section 3.1, function 6, to authorise staff within the Environmental Health Service to enforce the enactments set out in Appendices C, D and F and to authenticate on the Council's behalf any notice, certificate or other document required to be issued in relation to the enactments in Appendices C, D and F, subject to the matter being referred to the Regulatory Services Committee where policy or financial considerations are involved and have not previously been determined by the sub-committee.
- 60 To serve statutory notices under the Public Health Acts and environmental health matters in the Building Act 1984.
- 61 To enforce public health matters concerning the control of caravans, water supply, sewage, drainage, and the pollution of rivers.
- 62 To implement pest and rodent control.
- 63 To enforce statutory provisions relating to food, milk and dairies, poisons, factories, control of self-operated laundries and insanitary food premises.
- 64 To exercise power of entry and inspection in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

- 65 To exercise all functions under the Housing Act 2004 relating to private sector housing.
- 66 The Environmental Health Manager to authorise activities under the Regulation of Investigatory Powers Act 2000
- 67 The Environmental Health Manager to be a Single Point of Contact for the acquisition of communications data for the purposes of Part 1, Chapter II of the Regulation of Investigatory Powers Act 2000
- 68 To exercise all functions relating to welfare of animals
- 69 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 (group A, B, and C functions)
  - (ii) Part 3, section 5 of this constitution: local choice functions
- 70 In accordance with Part 3, section 3.1, function 6, to authorise staff within the Trading Standards to enforce the enactments set out in Appendices E and F.

### **Trading standards**

- 71 The Head of Technical Services, the Trading Standards Manager, the Principal Officer (Operations) and the Principal Officer (Fair Trading and Quality)

To exercise the powers and duties of the Council on matters relating to trading standards, consumer protection and metrology including:

- (i) making such test purchases of goods and services as may be expedient for effective enforcement.
- (ii) exercising and enforcing the enactments listed in Appendices E & F, including any regulation made under those enactments.

This function must be exercised subject to the Assistant Chief Executive Legal & Democratic Services or the Legal Manager (Community Services) authorising the institution and conduct of any legal proceedings except in such circumstances where a potential defendant is being held at a police station and the custody charging the individual. In such exceptional circumstances the power to charge the offender be limited to the Trading Standards Manager, the Principal Officer (Operations) and the Principal Officer (Fair Trading and Quality). This procedure will only be used when dealing with itinerant persons where charging by way of summons would not be effective.

- 72 To advise and assist consumers on matters arising from the purchase of goods or services.
- 73 The Trading Standards Manager to authorise activities under the Regulation of Investigatory Powers Act 2000.

74 The Principal Officer (Operations) Trading Standards Service, to authorise activities under the Regulation of Investigatory Powers Act 2000 and to be a Single Point of Contact for the acquisition of communications data for the purposes of Part 1, Chapter II of the Regulation of Investigatory Powers Act 2000.

### **Cemeteries and crematorium**

75 To exercise the powers of the Council to operate and maintain the Council's cemeteries and crematorium.

76 To set fees for occasional and special memorial items at the crematorium and to vary commemoration fees when it has not been possible to meet the agreed service standard.

77 To spend up to 20 percent of the annual income of the Crematorium Improvement from Income Fund, provide that no one project costs more than 5 percent of the annual income.

### **3.6.7 Head of Communications**

- 1 To authorise expenditure on the promotion of the borough and the external profile of the Council.
- 2 To monitor performance and development of policy in relation to public information issues, including relationships with the media and the distribution of council publications.
- 3 To oversee campaigns, consultation exercises and events, and appropriate marketing of the Council's facilities.

### **3.6.8 Head of Customer Services**

- 1 To issue concessionary travel permits for elderly people to eligible persons.
- 2 To exercise the Council's powers and duties under the Nationality Immigration and Asylum Act 2002.
- 3 To exercise the Council's powers and duties under the Registration Service Act 1953 and any regulations made under it.
- 4 To oversee the Council's relationships with its customers
- 5 In respect of the Council's complaints procedure to consider cases of dispute or where there may be advantage in continuing to use the complaints procedure rather than incur potentially costly legal proceedings and to agree that, in exceptional circumstances, a complaint not complying with the limitations on the submission of complaints agreed by the Adjudication & Review Committee shall nevertheless be considered. Such power to be exercise in consultation with the Assistant Chief Executive, Legal & Democratic Services.
- 6 To administer the staff suggestions scheme and the making of recommendations for awards.

## **Civil registration**

- 7 To exercise the council's powers and duties under the Marriage Act 1984 and the Marriages (Approved Premises) Regulations 1995.

## **3.7 FINANCE & COMMERCE**

This section covers the following members of staff:

- 3.7.1 Group Director Finance & Commerce
- 3.7.2 Assistant Director Business Efficiency
- 3.7.3 Head of Finance and Performance
- 3.7.4 Head of Exchequer Services
- 3.7.5 Head of Asset Management
- 3.7.6 Property Strategy Manager
- 3.7.7 Head of Business Systems
- 3.7.8 Head of Development

Each member of staff has delegated authority to act as follows, subject to the general provisions and limitations set out in section 3.1 of Part 3 of this constitution

### **3.7.1 Group Director Finance & Commerce**

- 1 To make such arrangements as are necessary to control and regulate the expenditure and income of the Council including the exercise of borrowing powers and treasury management powers
- 2 To advise on and monitor the revenue and capital budgets of the Council, including the Housing Revenue Account, including the determination of the council tax and housing rent levels.
- 3 To write off sums which are irrecoverable and to settle claims on behalf of the Council.
- 4 To manage the Council's loan debt, investments, and temporary investments, pension scheme and insurance fund, act as registrar of loan instruments, manage all banking arrangements including numbers and types of accounts and arrange insurance of property and the selecting and accepting of tenders for insurance cover and related services which are considered to offer best value for the Council promoting good risk management practices at all times.
- 5 To undertake all other financial matters arising within the Council, subject to the following requirements:
  - (i) authority to incur expenditure being approved or sanctioned by the Council or the Cabinet
  - (ii) powers of borrowing being exercised within guidelines agreed by the Council and any current codes of practice

- (iii) all matters being within accepting accounting practice and standards and within statutory requirements
  - (iv) any necessary reference to District Audit
  - (v) **an annual report being presented to the Audit Committee by 30 September in each year on the activities undertaken in respect of treasury management powers in the preceding financial year**
  - (vi) **reports of the District Auditor and the Best Value Inspectorate upon the audit of the Council's activities being considered.**
- 6 To exercise the Council's discretionary powers in relation to writing off amounts due for national non-domestic rate or surcharge on grounds of hardship or general rate on grounds of poverty, up to a maximum level of £10,000.**
- 7 To implement the Council's early retirement, retirement and redundancy policies in consultation with the Head of Human Resources and the Assistant Chief Executive Legal and Democratic Services.
- 8 To exercise the Council's discretionary powers in relation to relief for Council Tax and commercial rates
- 9 To act as statutory officer pursuant to for the collection of council tax and commercial rates
- 10 To set the Council Tax Base each year unless it involves matters of policy
- 11 To act and make decisions as a pensions panel consisting of the Group Director of Finance and Commerce, Head of Human Resources and Assistant Chief Executive Legal and Democratic Services for the purposes of Stage 2 appeals within the Internal Dispute Resolution Procedure Regulations and exercising other discretions within the Local Government Pension Schemes.
- 12 To develop the Council's information systems, and information technology and e-government strategies.
- 13 To manage the operation of the relevant Contract Service Organisations (CSOs) including marketing the CSOs and consideration of the impact of new legislation on the CSOs.
- 14 To award all gas and electricity supply contracts where offers are made on a short restricted time basis and where there is insufficient time to obtain a Lead Member decision.

### **3.7.2 Assistant Director Business Efficiency**

- 1 To develop and implement the Council's programme and project management strategy and capability.

### **3.7.3 Head of Finance and Performance**

- 1 To instruct the Council's insurers and upon their advice, to negotiate and settle insurance claims up to maximum of £138,000 for motor insurance, £140,000 for liability insurance and motor vehicles, and £50,000 for property insurance. The Head of Financial Services is authorised to amend these limits on an annual basis, following discussion with the Council's insurers.
- 2 To set future inter-authority and standard charges for residential and day-care accommodation, in accordance with the formula recommended by the Local Government Association
- 3 To increase the specified sums set out in Appendix B in accordance with RPI, to approve financial regulations and, in consultation with the relevant Group Director, to authorise virements.
- 4 To grant car loans to eligible staff and to make or enter into leasing arrangements for vehicles, plant and equipment.
- 5 To monitor the implementation of the charging policy including any relevant deadlines. To advise on reviews of fees and charges**
- 6 To authorise activities under the Regulation of Investigatory Powers Act 2000
- 7 To monitor and review the performance of the best value process and the effect on service delivery and outcomes.
- 8 To monitor progress in meeting best value, Audit Commission and other performance indicators against agreed targets.

### **3.7.4 Head of Exchequer Services**

- 1 To advise on, co-ordinate and manage all payroll functions on behalf of the Council.
- 2 To administer the Council's pension fund.
- 3 To be responsible for management of the housing and council tax benefits service.
- 4 To exercise the following functions in relation to housing and council tax benefits:
  - (i) settling matter arising from housing and council tax benefit claims
  - (ii) dealing with first stage representations from claimants
  - (iii) authorising staff to represent the Council on all matters relating to benefits appeals in the appeals service tribunals
  - (iv) exercising the Council's discretionary powers in relation to the administration of housing and council tax benefits and discretionary housing payments

- 5 To authorise staff to represent the Council on all matters involving valuation for rating purposes in Magistrates' Courts, the Local Valuation Court or the Valuation and Community Charge Tribunals
- 6 To serve notices pursuant to schedule 4(A) to the Local Government Finance Act 1988 in relation to the completion of newly erected or altered buildings
- 7 To be responsible for the implementation, management and administration of the Council's prosecution policy in relation to benefits fraud

### **3.7.5 Head of Asset Management**

- 1 To provide a security service for the Council's administration buildings.
- 2 To exercise general use and hire of public halls and buildings owned by the Council (except the Town Hall) for the purpose of community use, meetings and other authorised events in accordance with approved fee scales and principles but to be able to waive or reduce scales of fees and charges in suitable cases.
- 3 Subject to the availability of finance to be responsible for any alteration or improvement of facilities to the Council Chamber, committee rooms and other accommodation for members.
- 4 To exercise all the powers delegated to the Property Strategy Manager so far as legally permissible. Exercise of such powers should be recorded where appropriate. Where possible the Head of Service should give notice to the Property Strategy Manager that he or she intended to exercise a specified power that is delegated to the Property Strategy Manager.
- 5 To manage the operation of the relevant Contract Service Organisations (CSOs) including marketing the CSOs and consideration of the impact of new legislation on the CSOs, where relevant.
- 6 To exercise the powers and duties of the Council in relation to concessionary fares and similar schemes (including the taxicard scheme).
- 7 In relation to the taxicard scheme:
  - (i) to admit to the scheme persons from the waiting list of applicants
  - (ii) to agree a higher trip limit where justified by the degree of disability of the individual
  - (iii) to approve dual holding of a concessionary fares permit and a taxicard where, in view of the individual's condition, it is appropriate to do so.
- 8 To issue permits under the Minibus and Other Section 19 Permit Buses Regulations 1987 to appropriate organisations.



### **3.7.6 Property Strategy Manager**

- 1 To conduct preliminary negotiations, negotiate, agree and conclude all property matters including the making and settling of rating appeals on council property and property valuations for all purposes.
- 2 To undertake marketing of any Council property.
- 3 To instruct external property advisors, surveyors, auctioneers and consultants where necessary on property transactions.
- 4 To procure property and property services to meet the Council's occupation needs including responsibility for space use and allocation together with strategic facilities management. This function must be exercised subject to obtaining members authority for any financial approval not within budget.
- 5 To agree with a potential purchaser of a Council-owned property that the Council should retain an area of land where it is expedient to do so.
- 6 Following notification to the relevant ward members, to vary but not extend existing agreements for mobile phones masts at school sites in circumstances where installations are to be upgraded and lower emissions will result to enable Landlord's consent to be granted for the installation.
- 7 To agree and incur reasonable pre-sale expenses up to a limit of £100,000 per transaction when disposing of property, such expenses to be offset against the capital receipts arising.
- 8 The Property Strategy Manager must exercise the functions delegated to him or her subject to the following requirements:
  - (i) complying with the Code of Practice on the Disposal of Surplus Property, set out in Appendix G
  - (ii) observing a limit of £500,000 where the Council has already approved the principle but not the details of a negotiated property transaction with a single party, subject to a pro-forma notification to the relevant Group Director and the Group Director Finance and Commerce once negotiations have been concluded
  - (iii) obtaining member approval to the head of term for transactions which are not competitively marketed above £500,000
  - (iv) complying with relevant commercial property management policies on tenant mix and selection etc
  - (v) complying with relevant council policy on property transactions such as licence fees, rear access ways and disposal of land within a cartilage etc

- (vi) referring a matter for member decision where it is proposed to recommend other than the best financial bid
- (vii) concluding valuation and property disputes forming part of a pending or active court or arbitration proceedings only after consultation with either the Assistant Chief Executive Legal & Democratic Services or the Group Director Finance and Commerce, where there is insufficient time or opportunity to obtain a member decision
- (viii) Making or settling rating appeals only in the Council's financial interests.

9 To be the Council's designated corporate property officer, responsible for the strategic management of the Council's property portfolio, including corporate strategy and asset management, procurement of property and property services, planned and preventative maintenance programmes, property allocation and use, reviews, acquisitions and disposals, and commercial estate management.

### **3.7.7 Head of Business Systems**

- 1 To develop the Council's e-government strategy.
- 2 To develop the Council's information and communications technology strategies including the supply, withdrawal, data protection and integrity of the systems to staff and members.
- 3 To supply connections and services to public sector partners and other organisations, provided that the integrity of the Council's information systems is maintained.

### **3.7.8 Head of Development & Building Control**

#### **Development control**

- 1 To act in relation to purchase notices and blight notices served on the Council under Part VI of the Town and Country Planning Act 1992.
- 2 To approve any application for development throughout the borough including the Green Belt in accordance with the current development plan and other material legislation and which proposes to:
  - (i) erect extensions, porches and material alterations to the external appearance of a dwelling house or other residential accommodation (including where the depth or height of the extension or porch exceeds the provisions of the development plan but, in the opinion of the Head of Planning, would not cause material harm)
  - (ii) construct garages and other outbuildings within the curtilage of a dwelling house or other residential accommodation

- (iii) erect non residential development and erect extensions or ancillary buildings or materially alter the external appearance of an existing building within the curtilage of any non-residential premises etc., where the new floor space would not exceed 1000m<sup>2</sup>
  - (iv) display advertisements
  - (v) construct shop fronts
  - (vi) erect residential development where the number of dwellings does not exceed two
  - (vii) construct vehicular access to roads
  - (viii) erect fences, walls, gates, other means of enclosure, satellite receivers or floodlights and street furniture.
  - (ix) change use from one class to another involving a building of up to 1000m<sup>2</sup> floor space or sites of up to 1 hectare (2.4 acres)
  - (x) construct buildings to house secondary sub-stations of the type which would, if erected in the open, constitute permitted development
  - (xi) extend a time limit (for a period not exceeding 12 months at any one time) imposed upon a temporary consent, where the situation which was contemplated when the limitation was imposed has not materialised and is, in the opinion of the Head of Planning, unlikely to materialise in the next 12 months
- 3 To refuse any application for development throughout the borough, including the Green Belt, in which is not in accordance with the current development plan and any other material legislation.
- 4 If objections are received within 21 days of the date of deposit of the list of planning applications or the date of notification of a particular application (whichever is the later), members must be notified that objections have been received and given a deadline by which to request that the application be referred to the Regulatory Services Committee for determination. If no such request is received within seven days, the Head of Development and Building Control may approve the application.
- 5 Notification may be by a list of applications sent to each member; the deadline date shown on the list will not be less than seven days after the notification. A request from a member must be made in writing or orally to either the Head of Development and Building Control or the Planning Control Manager personally.
- 6 Where a consent for full planning permission has previously been granted, to determine amending details where an amendment would require planning permission.

- 7 To determine detailed submissions reserved for subsequent approval when outline planning permission is granted. This function cannot be exercised where the Regulatory Services Committee, when granting outline planning permission, specifically reserve to themselves the right to approve details of the development concerned.
- 8 To determine variations of conditions, submissions required by a condition and development required to comply with a condition.
- 9 To determine applications for the renewal of any planning permission where there has been no material change in circumstances.
- 10 To determine any application for advertisement consent, demolition consent, conservation area consent, listed building consent or prior approval determinations.
- 11 To determine any applications for engineering and other operations which consist of groundworks and construction of paths, cycle tracks and roadways and crossovers.
- 12 To determine the making of tree preservation orders and applications for the topping, lopping and felling of trees where the trees are covered by a confirmed tree preservation order, to serve Tree Replacement Notices, to waive the requirement to replace trees where appropriate to determine applications under High Hedges legislation (Anti Social Behaviour Act 2003 [Part 8]) and undertake any related legal or direct action arising from such application, including issuing of Remedial Notices.
- 13 To issue directions and take any necessary action arising from those directions under Part X of the Criminal Justice and Public Order Act 1994, which relates to control of caravan sites.
- 14 In relation to the submission of a planning application, to determine whether an environmental assessment is required to be submitted with that application.
- 15 To issue planning contravention notices and breach of condition notices.
- 16 To issue enforcement notices, stop notices and listed building enforcement notices and to take any action necessary to achieve compliance with a notice, including commencing proceedings for injunctions and demolishing buildings in the following cases:
  - a) In cases of urgency.
  - b) Where planning permission for the unauthorised development has already been refused by the Council, or
  - c) Where the unauthorised development consists of:
    - o Deposit of waste materials

- Extraction of minerals
  - Erection of fixed plant and machinery.
- d) Any case involving a temporary stop notice.

This function must be exercised in consultation with the Assistant Chief Executive Legal & Democratic Services.

- 17 To object on environmental grounds to applications for including particular operating centres on goods vehicles operators' licences.
- 18 To issue notices in accordance with Section 215 of the Town and Country Planning Act 1990.
- 19 To exercise the Council's functions in relation to the issuing of screening and scoping opinions under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.
- 20 To authorise activities under the Regulation of Investigatory Powers Act 2000.
- 21 To determine applications for hazardous substances consent, and related powers.
- 22 Where GPDO rights are removed by condition and erection of plant and machinery required for a temporary period in connection with permitted landfill land reclamation and mineral extraction.
- 23 To issue Certificates of Lawful Development in consultation with the Assistant Chief Executive Legal & Democratic Services.
- 24 In consultation with the Assistant Chief Executive, Legal and Democratic Services to modify as necessary the detailed wording or nature of planning conditions imposed by Regulatory Services Committee before decisions are issued.
- 25 To exercise the Council's functions under the Local Government (Miscellaneous Provisions) Act 1976 in respect of complaints regarding dangerous trees posing an imminent risk to persons or property or causing damage to property.
- 26 To exercise all powers in relation to energy management and energy conservation.
- 27 To undertake those functions assigned:
- (i) Under Part 3, Section 4 of the Constitution: functions not to be the responsibility of an Authority's Executive
  - (ii) Part 3, Section 5 of this Constitution: local choice functions

### **Building control**

- 28 To exercise the powers and duties of the Council including determining applications and serving and enforcing notices and prosecuting offences under the following enactments:
- (i) the Building Act 1984 and the Building Regulations 2000
  - (ii) the Safety at Sports Ground Act 1975
  - (iii) the Fire Safety and Safety of Places of Sports Act 1987
  - (iv) the London Building Acts and building control matters in the Local Government Act 2000.
- 29 To exercise all appointing officer functions under section 10 of the Party Wall Act 1996.
- 30 Authority to exercise powers contained within Section 29 and 32 of the Local Government (Miscellaneous Provisions) Act 1982 (protection of buildings and power of entry)
- 31 To be responsible for all emergency planning matters.

### **3.7.9 Head of Human Resources**

- 1 To develop and implement the Council's human resources, organisation development, remuneration and occupational health strategies.
- 2 To implement any decisions and recommendations of recognised national negotiating bodies in respect of pay. Where a supplementary estimate is required, the cost must be reported to the Cabinet.
- 3 To implement decisions and recommendations on all employment matters including terms and conditions of employment. Where there is a cost implication, a report must be made to the Cabinet.
- 4 The exercise of the client monitoring function in respect of occupational health and the Council's recruitment advertising contracts, and the power to select and accept tenders for external consultants or contracts in accordance with the Council's standing orders.
- 5 To grant discretionary payments to retiring employees in accordance with the Council's approved policy, in conjunction with the Group Director Finance & Commerce and Assistant Chief Executive Legal and Democratic Services.
- 6 To grant gifts for long service to the limit specified in Appendix B.
- 7 To implement the Council's early retirement, retirement and redundancy policies in consultation with the Group Director Finance & Commerce and the Assistant Chief Executive Legal and Democratic Services.
- 8 To approve the arrangements for members' training and development.

- 9 To act and make decisions as a pensions panel consisting of the Group Director of Finance and Commerce, Head of Human Resources and Assistant Chief Executive Legal and Democratic Services for the purposes of Stage 2 appeals within the Internal Dispute Resolution Procedure Regulations and exercising other discretions within the Local Government Pension Schemes.

### **3.8 CHIEF EXECUTIVE**

**This section covers the following members of staff:**

#### 3.8.1 Assistant Chief Executive Legal & Democratic Services

**Each member of staff has delegated authority to act as follows, subject to the general provisions and limitations set out in section 3.1 of Part 3 of this constitution.**

**The Chief Executive and the Monitoring Officer are designated by the Secretary of State as qualified persons for the purpose of Section 36 of the Freedom of Information Act 2000. The Monitoring Officer is to be the primary qualified person with the Chief Executive carrying out the function in the Monitoring Officer's absence.**

#### **3.8.1 Assistant Chief Executive Legal & Democratic Services, all Legal Managers, Principal & Assistant Solicitors (in the name of the Assistant Chief Executive Legal & Democratic Services)**

- 1 To prepare or approve the form and content of all legal documentation on behalf of the Council.
- 2 To lay information, complaints and claims on behalf of the Council for the purpose of any proceedings before the Magistrates' Court, County Court and other courts and tribunals, including all civil and criminal proceedings.
- 3 To defend all legal proceedings brought against the Council and to take any steps that are in his or her opinion expedient to that end.
- 4 To sign, serve, advertise and receive notices and documents on behalf of the Council in relation to any formal or legal procedures.
- 5 To certify as a true and correct record any documents in accordance with section 229 of the Local Government Act 1972.
- 6 To sign or endorse any documents on behalf of the borough where so requested by a citizen.
- 7 To serve requisitions for information and other documents to enable the Council to receive information in the pursuance of legal proceedings.

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- 8 Where the issue of any document, notice or order will be a necessary step in legal proceedings on behalf of the Council, to sign such document unless any enactment otherwise requires or unless the Council has given the necessary authority to some other person for the purposes of such proceedings.
- 9 To authorise, serve or issue all statutory notices, approvals and licences under any enactment other than those specifically delegated to another officer.
- 10 To seek the opinion of legal counsel in consultation with the appropriate Group Director, Assistant Director or Head of Service or Assistant Chief Executive and to instruct legal counsel or experts to advise or appear on any matter and to agree fees arising.
- 11 To instruct and obtain independent legal advice through external solicitors or counsel after obtaining three individual quotations covering price, expertise, quality and deliverability.
- 12 To settle claims in proceedings commenced or about to be commenced against the Council in a court or tribunal up to a limit of £100,000. The Assistant Chief Executive Legal & Democratic Services must consult with the Group Director Finance & Commerce in exercising this authority. Settlement of claims that exceed £100,000 require the approval of the relevant individual Cabinet member or of the Cabinet, unless the decision is required to be made immediately before, at or during a hearing.
- 13 To name, rename, number and renumber streets and premises
- 14 To maintain the register of highways that are maintainable at public expense
- 15 To arrange for the administration of all statutory appeals.
- 16 To allocate information technology facilities to members, including ordinary telephones, mobile telephones and facsimile machines.
- 17 To approve arrangements for members' training.
- 18 To approve the attendance of members at conferences or training events outside the borough but within the United Kingdom, including any travel and accommodation arrangements.
- 19 To implement the Council's early retirement, retirement and redundancy policies in consultation with the Group Director Finance & Commerce and the Head of Human Resources.
- 20 To act and make decisions on behalf of a pensions panel consisting of the Group Director of Finance and Commerce, Head of Human Resources and Assistant Chief Executive Legal and Democratic Services for the purposes of Stage 2 appeals within the Internal Dispute Resolution Procedure Regulations and exercising other discretions within the Local Government Pension Schemes.



- 21 The Chief Executive and the Monitoring Officer are designated by the Secretary of State as qualified persons for the purpose of Section 36 of the Freedom of Information Act 2000. The Monitoring Officer is to be the primary qualified person with the Chief Executive carrying out the function in the Monitoring Officer's absence.
- 22 To be responsible for the strategic development and management of Community Safety within Havering, including the Community Safety Strategy and implementation of the Crime and Disorder Reduction Act 1998.
- 23 To exercise general use and hire of the Town Hall for the purpose of meetings and other authorised events in accordance with approved fee scales and principles but to be able to waive or reduce scales of fees and charges in suitable cases. To exercise general management of the Council Chamber, committee rooms and other accommodation for members, including any audio-visual or other information technology equipment installed therein
- 24 Legal Managers (who are permanent employees of the Council):
- (i) To prepare or approve the form and content of all legal documentation on behalf of the Council.
  - (ii) To lay information, complaints and claims on behalf of the Council for the purpose of any proceedings before the Magistrates' Court, County Court and other courts and tribunals, including all civil and criminal proceedings.
  - (iii) To defend all legal proceedings brought against the Council and to take any steps that are in his or her opinion expedient to that end.
- 25 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 (group A and B functions)
  - (ii) Part 3, section 5 of this constitution: local choice functions

## **RIPA**

- 26 To monitor proper use of activities under the Regulation of Investigatory Powers Act 2000
- 27 To authorise activities under the Regulation of Investigatory Powers Act 2000

## **Health & Safety**

- 28 To develop and implement the Council's Health & Safety Strategy.

## **Electoral Registration Manager**

- 29 To undertake those functions assigned under Part 3, section 4 of this constitution: functions not to be the responsibility of an authority's Executive (group D functions).

**Manager of Committee and Overview & Scrutiny Support**

- 30 To undertake all the administrative procedures for Schools Appeals, Hearings Panels and any other panels required under the terms of reference of the Adjudication and Review Committee including but not limited to the selection of members or independent persons to consider specific cases, the consideration of applications for re-hearing of School Admission Appeals, Licensing sub-committee, the arrangement of panels and dates and the appointment of Chairmen of panels.
- 31 In consultation with the Leader of the Group of which the previous appointee is a Member, to appoint a Member of the Council to fill a casual vacancy in any appointment to another organisation arising during the course of a municipal year.
- 32 In consultation with Cabinet Members, Group Leaders and the Chairmen of Committees, to determine the schedule of meetings for each municipal year (including dates, times and places of meeting), on the basis that, so far as possible and practicable:
- (i) Area Committees shall meet quarterly, in July, October, January and April
  - (ii) The Regulatory Services Committee shall meet every three weeks (except around the Christmas/New Year period)
  - (iii) The Audit, Governance, Pensions and Standards Committees and the Overview & Scrutiny Committees shall generally meet once during each period between ordinary Council meetings
  - (iv) Meetings will only be arranged for Monday or Friday evenings in exceptional circumstances.
- 33 To manage day to day the letting of the Council Chamber and Committee Rooms at the Town hall in accordance with guidelines agreed by the Governance Committee.

**Democratic Services Manager**

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

## **4 Functions not to be the responsibility of an authority's Executive**

The following functions are specified as functions that are not to be the responsibility of an authority's Executive by Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
<b>A. Functions relating to town and country planning and development control</b>		
1. Power to determine application for planning permission	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
2. Power to determine applications to develop land without compliance with conditions previously attached	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
3. Power to grant planning permission for development already carried out	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
4. Power to decline to determine application for planning permission	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
5. Duties relating to the making of determinations of planning applications (Articles 8, 10 to 13, 15 to 22, 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995)	Head of Development & Building Control	
6. Power to determine application for planning permission made by a local authority, alone or jointly with another person	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights	Head of Development & Building Control	
8. Power to enter into agreement regulating development or use of land	Regulatory Services Committee	Councillors
9. Power to issue a certificate of existing or proposed lawful use	Assistant Chief Executive Legal & Democratic Services	
10. Power to issue a certificate of existing or proposed lawful development	<ul style="list-style-type: none"> <li>• Assistant Chief Executive Legal &amp; Democratic Services</li> <li>• Head of Development &amp; Building Control</li> </ul>	

**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
11. Power to serve a completion notice	Regulatory Services Committee	Councillors
12. Power to grant consent for the display of advertisements	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
13. Power to authorise entry onto land	Head of Development & Building Control	
14. Power to require the discontinuance of a use of land	Regulatory Services Committee	Councillors
15. Power to serve a planning contravention notice, breach of condition notice or stop notice	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
16. Power to issue an enforcement notice	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
17. Power to apply for an injunction restraining a breach of planning control	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control, in consultation with Assistant Chief Executive Legal &amp; Democratic Services</li> </ul>	Councillors
18. Power to determine applications for hazardous substances consent, and related powers	Head of Development & Building Control	Councillors
19. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject	Regulatory Services Committee	Councillors
20. Power to require proper maintenance of land	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
21. Power to determine application for listed building consent, and related powers	Regulatory Services Committee	Councillors

**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
22. Power to determine applications for conservation area consent	Regulatory Services Committee	Councillors
23. Duties relating to applications for listed building consent and conservation area consent	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
24. Power to serve a building preservation notice, and related powers	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
25. Power to issue enforcement notice in relation to demolition of unlisted building in conservation area	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
26. Powers to acquire a listed building in need of repair and to serve a repairs notice	Regulatory Services Committee	Councillors
27. Power to apply for an injunction in relation to a listed building	Head of Development & Building Control	
28. Power to execute urgent works	Head of Development & Building Control	
<b>B. Licensing and registration functions (in so far as not covered by any other paragraph of Schedule 1)</b>		
1. Power to issue licences authorising the use of land as a caravan site ("site licences")	Head of Housing & Public Protection, with reference to Adjudication and Review Committee where the matter is contested	
2. Power to license the use of moveable dwellings and camping sites	Head of Housing & Public Protection, with reference as above	
3. Power to license hackney carriages and private hire vehicles	<i>Not applicable</i>	
4. Power to license drivers of hackney carriages and private hire vehicles	<i>Not applicable</i>	
5. Power to license operators of hackney carriages and private hire vehicles	<i>Not applicable</i>	
6. Power to register pool promoters	Head of Housing & Public Protection, with reference as above	
7. Power to grant track betting licences	Head of Housing & Public Protection, with reference as above	
8. Power to license inter-track betting schemes	Head of Housing & Public Protection, with reference as above	

**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
9. Power to grant permits in respect of non-licensed premises with amusement machines	Head of Housing & Public Protection, with reference as above	
10. Power to register societies wishing to promote lotteries	Head of Housing & Public Protection, with reference as above	
11. Power to grant permits in respect of non-licensed premises where amusements with prizes are provided	Head of Housing & Public Protection, with reference as above	
12. Power to issue cinema and cinema club licences ( <i>up to 24.00 hours, 23 November 2005</i> )	Head of Housing & Public Protection, with reference as above	
13. Power to issue theatre licences ( <i>up to 24.00 hours, 23 November 2005</i> )	Head of Housing & Public Protection, with reference as above	
14. Power to issue entertainments licences ( <i>up to 24.00 hours, 23 November 2005</i> )	Head of Housing & Public Protection, with reference as above	
14A. All functions relating to licensing under the Licensing Act 2003	Head of Housing & Public Protection: Licensing Committee; Council as appropriate	
15. Power to license sex shops, sex cinemas and sex establishments	Head of Housing & Public Protection, with reference as above	
16. Power to license performances of hypnotism	Head of Housing & Public Protection, with reference as above	
17. Power to license premises for acupuncture, tattooing, ear-piercing, electrolysis and other special treatments	Head of Housing & Public Protection, with reference as above	
18. Power to license pleasure boats and pleasure vessels	Head of Housing & Public Protection, with reference as above	
19. Power to license markets	Head of Regeneration & Strategic Planning, with reference as above	
20. Power to license night cafes and take-away food shops ( <i>up to 24.00 hours, 23 November 2005</i> )	Head of Housing & Public Protection, with reference as above	
21. Duty to keep list of persons entitled to sell non-medicinal poisons.	Head of Housing & Public Protection, with reference as above	
22. Power to license dealers in game and the killing and selling of game	Head of Housing & Public Protection, with reference as above	
23. Power of register and license premises for the preparation of food	Head of Housing & Public Protection, with reference as above	

**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
24. Power to license scrap metal dealers	Head of Housing & Public Protection, with reference as above	
25. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds	Head of Development & Building Control, with reference as above	
26. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds	Head of Development & Building Control, with reference as above	
27. Power to issue fire certificates	<i>Not applicable</i>	
28. Power to license premises for the breeding of dogs	Head of Housing & Public Protection, with reference as above	
29. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business	Head of Housing & Public Protection, with reference as above	
30. Power to register a person to exhibit or train a performing animal, trainers and exhibitors	Head of Housing & Public Protection, with reference as above	
31. Power to license zoos	Head of Housing & Public Protection, with reference as above	
32. Power to license dangerous wild animals	Head of Housing & Public Protection, with reference as above	
33. Power to license knackers' yards	Head of Housing & Public Protection, with reference as above	
34. Power to license the employment of children	Head of Learning & Achievement Services, with reference as above	
35. Power to approve premises for the solemnisation of marriages	Head of Housing & Public Protection, with reference as above	
36. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to: (a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c. 67) or (b) an order under section 147 of the Inclosure Act 1845 (c. 8 & 9 Vict. c. 118)	Assistant Chief Executive Legal & Democratic Services, with reference as above	
37. Power to register variation of rights of common	Assistant Chief Executive Legal & Democratic Services, with reference as above	
38. Power to license persons to collect	<i>Not applicable</i>	

**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
for charitable and other causes		
39. Power to grant consent for the operation of a loudspeaker	Head of Housing & Public Protection, with reference as above	
40. Power to grant a street works licence	Head of Streetcare, with reference as above	
41. Power to issue licences for the movement of pigs	Head of Housing & Public Protection, with reference as above	
42. Power to license the sale of pigs	Head of Housing & Public Protection, with reference as above	
43. Power to license collecting centres for the movement of pigs	Head of Housing & Public Protection, with reference as above	
44. Power to issue a licence to move cattle from a market	Head of Housing & Public Protection, with reference as above	
45. Power to permit deposit of builder's skip on highway	Head of Streetcare Services, with reference as above	
45A. Power to grant permission for provision etc., of services, amenities, recreation and refreshment facilities on highways and related powers – Section 115E, 115F & 115K of the Highways Act 1980	Head of Streetcare Services, with reference as above	
46. Power to license planting, retention and maintenance of trees etc in part of highway.	Head of Streetcare Services, with reference as above	
46A. Duty to publish notice in respect to a proposal to grant permission under Section 115E of the Highways Act 1980	Head of Streetcare Services, with reference as above	
47 Power to authorise erection of stiles etc on footpaths or bridleways	Head of Development & Building Control, with reference as above	
48. Power to license works in relation to buildings etc. which obstruct the highway	Head of Streetcare Services, with reference as above	
49. Power to consent to temporary deposits or excavations in streets	Head of Streetcare Services, with reference as above	
50. Power to dispense with obligation to erect hoarding or fence	Head of Streetcare Services, with reference as above	
51. Power to restrict the placing of rails, beams etc over highways.	Head of Streetcare Services, with reference as above	
52 Power to consent to construction of	Head of Streetcare	



**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
cellars etc. under street	Services, with reference as above	
53. Power to consent to the making of openings into cellars etc under streets, and pavement lights and ventilators	Head of Streetcare Services, with reference as above	
54. Power to sanction use of parts of buildings for storage of celluloid	Head of Housing & Public Protection, with reference as above	
55. Power to approve meat product premises	Head of Housing & Public Protection, with reference as above	
56. Power to approve premises for the production of minced meat or meat preparations	Head of Housing & Public Protection, with reference as above	
57. Power to approve dairy establishments	Head of Housing & Public Protection, with reference as above	
58. Power to approve egg product establishments	Head of Housing & Public Protection, with reference as above	
59. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods	Head of Housing & Public Protection, with reference as above	
60. Power to approve fish products premises	Head of Housing & Public Protection, with reference as above	
61. Power to approve dispatch or purification centres	Head of Housing & Public Protection, with reference as above	
62. Power to register fishing vessels on board which shrimps or molluscs are cooked	Head of Housing & Public Protection, with reference as above	
63. Power to approve factory vessels and fishery product establishments	Head of Housing & Public Protection, with reference as above	
64. Power to register auction and wholesale markets	Head of Housing & Public Protection, with reference as above	
65. Duty to keep register of food business premises	Head of Housing & Public Protection, with reference as above	
66. Power to register food business premises	Head of Housing & Public Protection, with reference as above	
67. Power to issue near beer licence	Head of Housing & Public Protection, with reference as above	

**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
68. Power to register premises or stalls for the sale of goods by way of competitive bidding	Head of Housing & Public Protection, with reference as above	
69. Power to license animal boarding establishments	Head of Housing & Public Protection, with reference as above	
70. Power to license riding establishments	Head of Housing & Public Protection, with reference as above	
71. Power to license street traders	Head of Housing & Public Protection, with reference as above	
72. Power to license caravan/mobile home sites	Head of Housing & Public Protection, with reference as above	
<b>C. Functions relating to health and safety at work</b>		
Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer	Head of Housing & Public Protection, with reference as above	
<b>D. Functions relating to elections</b>		
1. Duty to appoint an electoral registration officer	Full Council	All councillors
2. Power to assign officers in relation to requisitions of the registration officer	Chief Executive	
3. Functions in relation to parishes and parish councils	<i>Not applicable</i>	
4. Power to dissolve small parish councils	<i>Not applicable</i>	
5. Power to make orders for grouping parishes, dissolving groups and separating parishes from groups	<i>Not applicable</i>	
6. Duty to appoint returning officer for local government elections	Full Council	All councillors
7. Duty to provide assistance at European Parliamentary elections	Chief Executive	
8. Duty to divide constituency into polling districts	Electoral Registration Manager	
9. Power to divide electoral divisions into polling districts at local government elections	Electoral Registration Manager	

**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
10. Powers in respect of holding of elections	Chief Executive	
11. Power to pay expenses properly incurred by electoral registration officers	Chief Executive	
12. Power to fill vacancies in the event of insufficient nominations	Chief Executive	
13. Duty to declare vacancy in office in certain cases	Chief Executive	
14. Duty to give public notice of a casual vacancy	Chief Executive	
15. Power to make temporary appointments to parish councils	<i>Not applicable</i>	
16. Power to determine fees and conditions for supply of copies of, or extracts from, elections documents	Chief Executive	
17. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000	Full Council	All councillors
<b>E. Functions relating to name and status of areas and individuals</b>		
1. Power to change the name of a county, district or London borough	Full Council	All councillors
2. Power to change the name of a parish	<i>Not applicable</i>	
3. Power to confer title of honorary alderman or to admit to be an honorary freeman	Full Council	All councillors
4. Power to petition for a charter to confer borough status	<i>Not applicable</i>	
<b>F. Power to make, amend, revoke or re-enact bylaws</b>		
Power to make, amend, revoke or re-enact bylaws	Full Council	All councillors
<b>G. Power to promote or oppose local or personal Bills</b>		
Power to promote or oppose local or personal Bills	Full Council	All councillors
<b>H. Functions relating to pensions etc</b>		
1. Functions relating to local government pensions, etc	Pension Committee	Councillors and 2 trade union observers

**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
2. Functions under the Fireman's Pension Scheme relating to pensions, etc as respects persons employed as members of fire brigades maintained pursuant to section 4 of the Fire Services Act 1947	<i>Not applicable</i>	
<b>I. Miscellaneous functions</b>		
<i>Part I: functions relating to public rights of way</i>		
1. Power to create footpath or bridleway by agreement	Regulatory Services Committee	Councillors
2. Power to create footpaths and bridleways	Regulatory Services Committee	Councillors
3. Duty to keep register of information with respect to maps, statements and declarations	Head of Steetcare	
4. Power to stop up footpaths and bridleways	Regulatory Services Committee	Councillors
5. Power to determine application for public path extinguishment order	Regulatory Services Committee	Councillors
6. Power to make a rail crossing extinguishment order	Regulatory Services Committee	Councillors
7. Power to make a special extinguishment order	Regulatory Services Committee	Councillors
8. Power to divert footpaths and bridleways	Regulatory Services Committee	Councillors
9. Power to make a public path diversion order	Regulatory Services Committee	Councillors
10. Power to make a rail crossing diversion order	Regulatory Services Committee	Councillors
11. Power to make a special diversion order	Regulatory Services Committee	Councillors
12. Power to require applicant for order to enter into agreement	Regulatory Services Committee	Councillors
13. Power to make an SSSI diversion order	Regulatory Services Committee	Councillors
14. Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980	Head of Development & Building Control	
15. Power to decline to determine certain applications	Regulatory Services Committee	Councillors
16. Duty to assert and protect the rights of the public to use and enjoyment of highways	Head of Development & Building Control	Councillors
17. Duty to serve notice of proposed action in relation to obstruction	Regulatory Services Committee	Councillors
18. Power to apply for variation of order under section 130B of the Highways Act 1980	Regulatory Services Committee	Councillors

**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
19. Power to authorise temporary disturbance of surface of footpath or bridleway	Head of Development & Building Control	
20. Power temporarily to divert footpath or bridleway	Regulatory Services Committee	Councillors
21. Functions relating to the making good of damage and the removal of obstructions	Regulatory Services Committee	Councillors
22. Powers relating to the removal of things so deposited on highways as to be a nuisance	Regulatory Services Committee	Councillors
23. Power to extinguish certain public rights of way	Regulatory Services Committee	Councillors
24. Duty to keep definitive map and statement under review	Regulatory Services Committee	Councillors
25. Power to include modifications in other orders	Regulatory Services Committee	Councillors
26. Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981	Head of Development & Building Control	
27. Duty to reclassify roads used as public paths	Regulatory Services Committee	Councillors
28. Power to prepare map and statement by way of consolidation of definitive map and statement	Regulatory Services Committee	Councillors
29. Power to designate footpath as cycle track	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Area committee</li> </ul>	<ul style="list-style-type: none"> <li>• Councillors</li> <li>• Councillors</li> </ul>
30. Power to extinguish public right of way over land acquired for clearance	Regulatory Services Committee	Councillors
30A. Power to authorise stopping up or diversion of the highway under Section 247 of the Town and Country Planning Act 1990	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> </ul>	Councillors
31. Power to authorise stopping-up or diversion of footpath or bridleway	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Area committee</li> </ul>	<ul style="list-style-type: none"> <li>• Councillors</li> <li>• Councillors</li> </ul>
32. Power to extinguish public rights of way over land held for planning purposes	Regulatory Services Committee	Councillors
33. Power to enter into agreements with respect to means of access	Regulatory Services Committee	Councillors
34. Power to provide access in absence of agreement	Regulatory Services Committee	11 Councillors

**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
<i>Part II: other miscellaneous functions</i>		
35. Functions relating to sea fisheries	<i>Not applicable</i>	
36. Power to make standing orders	Full Council	All councillors
37. Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal)	<ul style="list-style-type: none"> <li>• Full Council (appointment etc of Head of Paid Service)</li> <li>• Appointments Committee (appointment etc of Group Directors and Heads of Service)</li> <li>• Head of Paid Service, or the relevant Group Director or Head of Service or Assistant Chief Executive on his or her behalf (appointment etc of all staff under Head of Service or Assistant Chief Executive)</li> </ul>	<ul style="list-style-type: none"> <li>• All councillors</li> <li>• Councillors</li> </ul>
38. Power to make standing orders as to contracts	Full Council	All councillors
39. Duty to make arrangements for proper administration of financial affairs etc	<ul style="list-style-type: none"> <li>• Appointments Committee (appointment of Chief Finance Officer)</li> <li>• Chief Finance Officer (arrangements for proper administration of financial affairs)</li> </ul>	Councillors
40. Power to appoint officers for particular purposes (appointment of "proper officers")	Full Council	All councillors
41. Power to make limestone pavement order	<i>Not applicable</i>	
42. Duty to designate officer as the head of the authority's paid service, and to provide staff, etc	Full Council	All councillors
43. Duty to designate officer as the monitoring officer, and to provide staff, etc	<ul style="list-style-type: none"> <li>• Appointments Committee (designating Monitoring Officer)</li> <li>• Full Council (providing staff)</li> </ul>	Councillors
44. Duty to approve authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts (as the case may be)	Audit Committee	Councillors
44A. Duty to provide staff, etc. to person	Council	

**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
nominated by the Monitoring Officer – Section 82A (4) and (5) of the Local Government Act 2000		
44B. Power relating to Overview & Scrutiny Committees (voting rights co-opted members). Paragraphs 12 and 14 of the Schedule 1 to the Local Government Act 2000	Council	
45. Powers relating to the protection of important hedgerows	Head of Development & Building Control	
46. Powers relating to the preservation of trees	Head of Development & Building Control	
47. Power to make payments or provide other benefits in cases of maladministration etc	Governance Committee	Councillors
48. Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption	Regulatory Services Committee	Councillors

## **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>	<b>Membership</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	10 councillors
2. Determining an appeal against any decision made by or on behalf of the authority	Adjudication and Review Committee	9 Councillors and 9 independent persons
3. The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools	Adjudication and Review Committee	9 Councillors and 9 independent persons
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	9 Councillors and 9 independent persons
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	9 Councillors and 9 independent persons
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	10 councillors
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 Councillors
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	<ul style="list-style-type: none"> <li>• Head of Housing &amp;</li> </ul>	



**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
Planning Act 1990 about interests in land	<p>Public Protection</p> <ul style="list-style-type: none"> <li>• Head of Regeneration and Strategic Planning</li> <li>• Head of Development and Building Control</li> <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	6 Councillors
17. Making agreements with other local authorities for the placing of staff at the disposal of those other authorities	Cabinet	10 councillors

## 6 Proper officer functions

The Council has approved and adopted the appointment of the following officers as “proper officers” as described in the following specified sections of Acts of Parliament or regulations.

The deputy proper officer is given in brackets 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 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 solicitor employed by the Council.

### National Assistance Act 1948

Section	Description	Proper officer
47	<b>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</b>	<b>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.</b>

### National Assistance (Amendment Act) 1951

Section	Description	Proper officer
48	<b>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.</b>	<b>As above</b>

### Local Government Act 1972

**Governance Committee, 9 July 2008**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
<b>83(1)-(4)</b>	<b>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</b>	<b>Chief Executive (Assistant Chief Executive Legal &amp; Democratic Services)</b>
<b>84</b>	<b>Officer to whom a person elected to any office under the Council may give written notice of resignation</b>	<b>Chief Executive (Assistant Chief Executive Legal &amp; Democratic Services)</b>
<b>88(2)</b>	<b>Officer who may convene a meeting of the Council for the election to fill a vacancy</b>	<b>Chief Executive (Any Group Director)</b>
<b>89(1)(b)</b>	<b>Officer who may receive notice in writing of a casual vacancy in the office of councillor from two local government electors</b>	<b>Chief Executive  Assistant Chief Executive Legal &amp; Democratic Services</b>
<b>100B(2)</b>	<b>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 public</b>	<b>Democratic Services Manager</b>
<b>100B(7)(c)</b>	<b>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</b>	<b>Assistant Chief Executive  Legal &amp; Democratic Services</b>
<b>100C(2)</b>	<b>Officer responsible for preparing a written summary of those parts of the committee proceedings which disclose exempt information</b>	<b>Democratic Services Manager</b>
<b>100D(1)(a) and (5)(a)</b>	<b>Officer responsible for identifying background papers and compiling list of such documents</b>	<b>Democratic Services Manager</b>
<b>100F(2)</b>	<b>Officer making decision as to documents disclosing exempt information which are not required to be open to inspection by council members</b>	<b>Chief Executive  Assistant Chief Executive Legal &amp; Democratic Services</b>
<b>115</b>	<b>Officer to whom all officers shall pay monies received by them and due to the local authority</b>	<b>Group Director Finance and Commerce</b>
<b>146(1)</b>	<b>Officer authorised to produce a statutory declaration specifying securities and verifying name change of authority</b>	<b>Group Director Finance and Commerce</b>
<b>210(6) and (7)</b>	<b>Officer in whom power in respect of a charity will vest as at 1 April 1974</b>	<b>Assistant Chief Executive Legal &amp; Democratic Services</b>
<b>225(1)</b>	<b>Officer with whom documents may be deposited pursuant to law to make notes or endorsements and give acknowledgements</b>	<b>Assistant Chief Executive Legal &amp; Democratic Services</b>

**Governance Committee, 9 July 2008**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
	<b>or receipts</b>	
<b>229(4) and (5)</b>	<b>Officer who shall certify that a document is a photographic copy of a document in the custody of the Council</b>	<b>Assistant Chief Executive Legal &amp; Democratic Services</b>
<b>234(1)</b>	<b>Officer who may authenticate documents</b>	<b>Assistant Chief Executive Legal &amp; Democratic Services</b>
<b>236(9)</b>	<b>Officer responsible for sending certified copies of bylaws to appropriate bodies</b>	<b>Assistant Chief Executive Legal &amp; Democratic Services</b>
<b>238</b>	<b>Officer who shall certify copies of bylaws as true copies</b>	<b>Assistant Chief Executive Legal &amp; Democratic Services</b>
<b>248(2)</b>	<b>Officer who shall keep the roll of freemen of the borough</b>	<b>Chief Executive (Assistant Chief Executive Legal &amp; Democratic Services)</b>
<b>Para 4(2)(b) of Part I of Schedule 12</b>	<b>Officer who may sign a summons to council meetings</b>	<b>Chief Executive (any Group Director)</b>
<b>Para 4(3) of Part I of Schedule 12</b>	<b>Officer who may receive notice from a member of address to which a summons to a meeting is to be sent</b>	<b>Chief Executive (Assistant Chief Executive Legal &amp; Democratic Services)</b>
<b>Para 25(7) of Part II of Schedule 14</b>	<b>Officer who may certify copies of resolutions passed under the Public Health Acts 1875 to 1925 as true copies for production in legal proceedings</b>	<b>Assistant Chief Executive Legal &amp; Democratic Services</b>

**Local Government Act 1974**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
<b>30(5)</b>	<b>Officer responsible for arranging publication in newspapers of notice of Local Commissioner's report on investigation of a complaint</b>	<b>Democratic Services Manager</b>

**Local Government (Miscellaneous Provisions) Act 1976**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
<b>41</b>	<b>Officer responsible for certifying copies of resolutions, minutes and other documents</b>	<b>Democratic Services Manager</b>

**Local Government (Miscellaneous Provisions) Act 1982**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
<b>Para 13(6) of</b>	<b>Certification, for legal proceedings, of copy</b>	<b>Assistant Chief Executive</b>

## Governance Committee, 9 July 2008

<b>schedule 3</b>	<b>of any regulations made by the appropriate authority</b>	<b>Legal &amp; Democratic Services</b>
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### Representation of the People Act 1983

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
<b>8</b>	<b>Officer acting as registration officer for registration of parliamentary and local government electors</b>	<b>Chief Executive (Assistant Chief Executive Legal &amp; Democratic Services)</b>
<b>35</b>	<b>Officer acting as returning officer for council elections</b>	<b>Chief Executive (Assistant Chief Executive Legal &amp; Democratic Services)</b>

### Building Act 1984

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
<b>78(8)</b>	<b>Officer responsible for taking immediate action in relation to dangerous buildings</b>	<b>Building Control Manager</b>

### Public Health (Control of Diseases) Act 1984

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
<b>11</b>	<b>Officer to be informed of a notifiable disease or food poisoning</b>	<b>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.</b>
<b>18</b>	<b>Officer responsible for furnishing information with regard to notifiable diseases or food poisoning</b>	<b>As above</b>
<b>20</b>	<b>Officer empowered to prevent someone working in order to stop spread of disease</b>	<b>As above</b>
<b>21</b>	<b>Officer empowered to exclude a child from school if the child is liable to convey a notifiable disease</b>	<b>As above</b>
<b>22</b>	<b>Officer responsible for maintaining a list of day pupils at school having a case of notifiable</b>	<b>As above</b>

**Governance Committee, 9 July 2008**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
	<b>diseases</b>	
<b>24</b>	<b>Officer responsible for ordering that infected articles not be sent to any laundry</b>	<b>As above</b>
<b>29</b>	<b>Officer responsible for letting of house or room after recent case concerning a notifiable disease</b>	<b>As above</b>
<b>31</b>	<b>Officer responsible for ordering disinfection of premises</b>	<b>As above</b>
<b>32</b>	<b>Officer responsible for ordering a person removed from an infected house</b>	<b>As above</b>
<b>36</b>	<b>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</b>	<b>As above</b>
<b>40</b>	<b>Officer who may apply for a warrant to enter a common lodging-house and examine any person for a notifiable disease</b>	<b>As above</b>
<b>42</b>	<b>Officer who may certify a common lodging-house which has been closed to be free from infection</b>	<b>As above</b>
<b>43</b>	<b>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</b>	<b>As above</b>
<b>48</b>	<b>Officer responsible for ordering removal of body to a mortuary or for immediate burial</b>	<b>As above</b>
<b>59</b>	<b>Officer responsible for authenticating documents</b>	<b>The CCDC as above</b>
<b>60</b>	<b>Officer responsible for serving notices and other documents</b>	<b>The CCDC as above</b>

**Public Health (Infectious Diseases) Regulations 1988**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
<b>Regulations 6, 8, 9 10 and Schedule 3 and 4</b>		<b>As above</b>

**Housing Act 1985**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
<b>606(1) and (2)</b>	<b>Officer responsible for making reports on unfitness and clearance</b>	<b>Environmental Health Manager</b>

**Governance Committee, 9 July 2008**

Local Elections (Principal Areas) Rules 1986

Rule	Description	Proper officer
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	Manager of Electoral Services

Local Government Finance Act 1988

Section	Description	Proper officer
114	Officer responsible for making financial report to the authority	Group Director Finance and Commerce

Local Government & Housing Act 1989

Section	Description	Proper officer
2	Officer responsible for receiving deposit of list of politically restricted posts	Head of Human Resources

Local Government (Committees and Political Groups) Regulations 1990

Regulation	Description	Proper officer
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	Chief Executive
9 and 10	Officer to whom notice is delivered about a councillor's membership of, or cessation of membership of, a political group	Chief Executive
13	Officer to whom the wishes of a political group are expressed	Chief Executive
14	Officer responsible for notifying a political group about allocations and vacations of	Democratic Services Manager

**Governance Committee, 9 July 2008**

Regulation	Description	Proper officer
	<b>seats</b>	

Environmental Protection Act 1990

Section	Description	Proper officer
<b>149</b>	Officer for discharging functions for dealing with stray dogs	<b>Environmental Health Manager</b>

Food Safety Act 1990

Section	Description	Proper officer
<b>49</b>	<b>Officer authorised to sign any document that the Council, as food authority, is authorised or required to make under the Act</b>	<b>Environmental Health Manager</b>

Party Wall etc. Act 1996

Section	Description	Proper officer
<b>10(8)</b>	<b>Officer responsible for appointing a third surveyor where this becomes necessary</b>	<b>Head of Development &amp; Building Control</b>

**The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000**

Regulation	Description	Proper officer
<b>3(1)</b>	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	<b>Monitoring Officer</b>
<b>4(1)</b>	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	<b>Monitoring Officer</b>
<b>5(1)</b>	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</li></ul>	<b>Monitoring Officer</b>



**Governance Committee, 9 July 2008**

Regulation	Description	Proper officer
	<p>made</p> <p>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</p>	
6	<p>Officer responsible for compiling a list of background papers to the report referred to in regulation 5 above</p> <p>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</p>	<b>Monitoring Officer</b>
9(2)	<p>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</p>	<b>Monitoring Officer</b>
9(4)	<p>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</p>	<b>Monitoring Officer</b>
11(2)	<p>Officer who may exclude whole or part of any report provided for public inspection under regulation 11(1), where the part excluded relates to a matter for which the proper officer considers a meeting is not likely to be open to the public</p> <p>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</p>	<b>Democratic Services Manager</b>
11(7)(c)	<p>Officer who may supply to a newspaper a copy of any document supplied to Cabinet members, if he or she thinks fit</p>	<b>Democratic Services Manager</b>
12(1)	<p>Officer responsible for publishing the information relating to key decisions specified in regulation 12(1)</p> <p>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</p>	<b>Democratic Services Manager</b>
15(1)	<p>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:</p>	<b>Democratic Services Manager</b>
	<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> <p>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</p>	
17(3) and (4)	<p>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</p>	<b>Democratic Services Manager</b>

## Governance Committee, 9 July 2008

Regulation	Description	Proper officer
<b>21(4)(a) and (b)</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	<b>Democratic Services Manager</b>

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

Regulation	Description	Proper officer
<b>4(2)</b>	Officer who publishes the number that is equal to 5 per cent of the number of local government electors for the authority's area	<b>Manager of Electoral Services</b>

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

Regulation	Description	Proper officer
<b>Paragraphs 5 and 6 of Part II of Schedule 1</b>	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	<b>Head of Human Resources</b>

### **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**

Rule	Description	Proper officer
<b><i>Access to Information Procedure Rules</i></b>		
<b>17</b>	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	<b>Democratic Services Manager</b>
<b><i>Executive Procedure Rules</i></b>		
<b>2(e)</b>	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	<b>Democratic Services Manager</b>
<b><i>Overview and Scrutiny Committee Procedure Rules</i></b>		
<b>7</b>	Officer who may call a meeting of an overview and scrutiny committee meeting if he or she considers it necessary or appropriate.	<b>Chief Executive (any Group Director)</b>
<b>9</b>	Officer who may place an item on the next available agenda of an overview and scrutiny committee upon receiving notice from any	<b>Democratic Services Manager</b>

**Governance Committee, 9 July 2008**

<b>Rule</b>	<b>Description</b>	<b>Proper officer</b>
	member of the committee	
<b>11(a)</b>	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	<b>Democratic Services Manager</b>
<b>12(b)</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>	<b>Democratic Services Manager</b>
<b>14(b)</b>	Officer responsible for informing a member or member of staff that he or she is required to attend an overview and scrutiny committee, where the Chairman has informed the proper officer that such attendance is required	<b>Democratic Services Manager</b>

**Notes on the proper officer functions**

- The Chief Executive shall be the proper officer in relation to any reference in any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26 October 1972, to the Clerk of a Council or the Town Clerk of a borough.
- Any reference in the minutes of the Council or any committee or sub-committee, in the Council's bylaws, in the Council's standing orders or other similar documents, to the Town Clerk shall be construed as a reference to the Chief Executive.
- 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 scheme.
- In the absence of the Chief Executive, any Group Director shall be empowered to act, where legally permissible.

**References**

Sections 13 and 15 of the Local Government Act 2000

The Local Authorities (Functions and Responsibilities) Regulations  
2000

Appendix A

Names, addresses and wards of individual Cabinet members

This appendix sets out the names, addresses and wards of individual Cabinet members, as required by rule 1(b)(i) of the Executive Procedure Rules set out in Part 4 of this constitution.

Name	Portfolio (if applicable)	Address	Ward
<b>Michael White</b>	<p><b>Leader of the Council - Partnership &amp; Strategy</b></p> <p><b>Leadership of Council Improvement Agenda</b></p> <p><b>Leadership of Strategy, Policy, Partnerships &amp; Cohesion</b></p> <p><b>Leadership of HR, OD &amp; Public Board</b></p> <hr/> <p>Strategic Property &amp; Accommodation Strategy</p> <p>Romford Town Centre Partnership</p> <p>Performance Management (CPA Performance &amp; Best Value, Alternative Service Delivery)</p> <p>Human Resources (Organisational Development, Training and HR)</p> <p>Equalities</p> <p>Chair HSP Assembly</p> <p><b>PROJECT: Programme Manager</b></p>	4 Rosemary Avenue, Romford, RM1 4HB	Squirrels Heath
<b>Steven Kelly</b>	<p><b>Deputy Leader of the Council</b></p> <p><b>Cabinet Member of Social Care and Learning</b></p> <hr/> <p><b>Lead Member for Development Control</b></p> <p><b>Lead Member for Adult Services &amp; Commissioning</b></p> <p><b>Lead Member for Health</b></p> <p>Adult Social Services</p> <p>Commissioning</p> <p>Planning (Building &amp; Planning Control &amp; Enforcement)</p> <p>HSP Strategic Champion – Older Persons</p> <p><b>PROJECT: HH Ambitions</b></p>	69 Links Avenue, Gidea Park RM2 6NH	Emerson Park
<b>Michael Armstrong</b>	<p><b>Cabinet Member of Housing, Public Protection &amp; Regeneration</b></p> <hr/> <p>Housing Services</p>	33 Linden Street Romford RM7 7DP	Pettits

**Governance Committee, 9 July 2008**

Name	Portfolio (if applicable)	Address	Ward
	Supporting People Regeneration Strategic Planning (Local Development Framework) and Strategic Transport Environmental Strategy Technical Services and Maintenance (Surveying, Technical and Building Services) HSP Strategic Champion – Prosperous Community <b>PROJECT: Young People</b>		
<b>Andrew Curtin</b>	<b>Lead Member for Olympics, parks and 3<sup>rd</sup> Sector</b> <hr/> Libraries Culture Leisure 2012 Olympics Parks Department (Urban Parks, inc. Country Parks) HSP Strategic Champion – Environment <b>PROJECT: Hornchurch</b>	32 Meadway, Romford RM2 5NU	Romford Town
<b>Barry Tebbutt</b>	<b>Cabinet Member for Streetcare &amp; Customer Services</b> <hr/> StreetCare (Street Cleansing, Waste and Highways) Parking (Car Parks and Parking Enforcement) Transport (Fleet) Customer Services (PASC, Call Centres, Registrars) <b>PROJECT: Street Improvement &amp; Depot</b>	178 Crow Lane Romford RM7 0ES	Brooklands
<b>Eric Munday</b>	<b>Cabinet Member for Legal &amp; Democratic Services</b> <hr/> <b>Lead Member for Communications</b> Communications (Media, Communications) Facilities Management (Corporate Buildings and Facilities Management) Health and Safety and Emergency Planning  Environmental Services (Trading Standards, Cemeteries and Crematorium) HSP Strategic Champion – Community Participation	25 Pettits Lane, Romford RM1 4HL	Squirrels Heath

**Governance Committee, 9 July 2008**

<b>Name</b>	<b>Portfolio (if applicable)</b>	<b>Address</b>	<b>Ward</b>
	<b>PROJECT: Romford Leisure Complex</b>		
<b>Peter Gardner</b>	Cabinet Member of Community Safety, Standards and Electoral Services Electoral Services Community Safety Road Safety, CCTV Environmental Health (inc. Licensing) HSP Strategic Champion – Community Safety <b>PROJECT: Community Halls</b>	69 Waycross Road Upminster RM14 1PA	Mawneys
<b>Paul Rochford</b>	<b>Cabinet Member for Skills &amp; Young People</b> <hr/> <b>Lead Member 14-19 Learning &amp; Adult Skills</b> Havering College & Sixth Form College Adult Education New 14-19 Diploma's HSP Strategic Champion – Health and Well Being <b>PROJECT: Open Spaces</b>	58 Farnes Drive Gidea Park RM2 6NS	Emerson Park
<b>Roger Ramsey</b>	<b>Cabinet Member for Finance &amp; Commerce</b> <hr/> <b>Lead Member for Asset Management</b> Finance Procurement Business Systems Business Transformation Property & Asset Management <b>PROJECT: Central Library</b>	35 Wakerfield Close Emerson Park Hornchurch RM11 2TH	Emerson Park
<b>Geoff Starns</b>	<b>Cabinet Member for Education &amp; Children's Services</b> <hr/> Children's Social Services Children's Education Youth Services Lead on Every Child Matters Development HSP Strategic Champion – Children's Trust <b>PROJECT: Schools Modernisation</b>	128 Havering Road, Romford RM1 4RD	Havering Park

## Appendix B

### Functions delegated to staff: specified sums of expenditure

This appendix sets out specified sums of expenditure. Any expenditure within the limits of these sums must also be within service budgetary provision. Expenditure must be exercised only for the specified purpose set out in Part 3, section 3 of this constitution and by the specific staff, Group Directors and/or Heads of Service/Assistant Chief Executive having delegated authority within section 3.

<b>Expenditure</b>	<b>Limit</b>
Loss of personal property (including education)	£3,330 in (consultation with the Group Director Finance and Commerce and Assistant Chief Executive Legal and Democratic Services)
Ex gratia payments where action taken by or on behalf of the council in the exercise of their functions amounts to, or may amount to, maladministration, to a person who has been, or may have been, adversely affected by that action (s92 of Local Government Act 2000).	£3,330 (in consultation with the Group Director Finance and Commerce and Assistant Chief Executive Legal and Democratic Services)
Gifts for long service	£190
Costs of adaptation, disabled aids and interest-free loans	£12,760
Assistance to children	£1,770



## Appendix C

### Enactments enforceable by Head of Housing & Public Protection

This appendix sets out those enactments which the Head of Housing & Public Protection has delegated authority to enforce. The Head of Housing & Public Protection may authorise his or her staff to enforce these enactments and to authenticate, on the Council's behalf, any notice, certificate or other document required to be issued in relation to the enactments. See Part 3 of this constitution, section 3.7.4, function 57.

<b>Enactment</b>	<b>Relevant provisions and notes</b>
Agriculture (Miscellaneous Provisions) Act 1968	Part I
Animal Boarding Establishments Act 1963	
Animal Health Act 1981	
Animal Welfare Act 2006	
Betting Gaming & Lotteries Act 1963	
Breeding of Dogs Act 1973	
Building Act 1984	<ul style="list-style-type: none"><li>• sections 59 to 69 (relating to drainage of buildings and to sanitary conveniences)</li><li>• section 70 (food storage accommodation in existing houses)</li><li>• section 76 (relating to defective premises)</li><li>• section 79 (relating to ruinous and dilapidated buildings)</li></ul>
Caravan Sites Act 1968	
Caravan Sites Control & Development Act 1960	
Cinemas Act 1985	
Clean Air Act 1993	
Clean Neighbourhoods & Environment Act 2005	Parts 3, 5, 6 & 7
Control of Pollution Act 1974	section 13 (Part III, sections 60 to 62 and regulations made under section 78 (sulphur content of fuel oil)) and 1990
Dangerous Dog Acts 1871 & 1991	
Dangerous Wild Animals Act 1976	
Environment Act 1995	
Environmental Protection Act 1990	Parts I, II (Sections 33, 34 & 59), IIA, III, IV and VIII (Section 150)
Essex County Council Act 1922	Part IV (Massage and Special Treatment)

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Enactment	Relevant provisions and notes
European Communities Act 1972	<ul style="list-style-type: none"> <li>• Common Agricultural Policy (Wine) Regulations 1973</li> <li>• any other regulations that may be made</li> </ul>
Factories Act 1961	
Fire Safety and Safety of Places or Sport Act 1987	
Food Act 1984	
Food Hygiene (England) Regulations 2006	
Food Safety Act 1990	
Food and Environment Protection Act 1985	Part III
Gambling Act 2005	
Game Act 1831	
Gaming Act 1968	
Greater London Council (General Powers) Act 1967	(registration of hairdressers, etc.)
Greater London Council (General Powers) Act 1973	section 31
Greater London Council (General Powers) Act 1979	(control of brown tail moth)
Greater London Council (General Powers) Act 1984	(registration of certain sleeping accommodation)
Greater London Council (General Powers) Act 1986	
Guard Dogs Act 1975	(licensing of guard dogs' kennelling)
Health Act 2006	Part I, Chapter I (smoke- free premises, places and vehicles)
Health and Safety at Work, Etc. Act 1974	(other than in respect of requirements imposed upon the Council as employers)
Housing Act 1985	
Housing Act 2004	
Housing (Construction and Regeneration) Act 1996	
Hypnotism Act 1952	
Landlord and Tenant Act 1985	
Late Night Refreshment Houses Act 1969	
Licensing Act 1964	sections 78 and 79
Licensing Act 2003	
Local Government and Housing Act 1989	
Local Government (Miscellaneous	<ul style="list-style-type: none"> <li>• section 15 (survey of land for the</li> </ul>

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<b>Enactment</b>	<b>Relevant provisions and notes</b>
Provisions) Act 1976	<p>purposes of compulsory purchase)</p> <ul style="list-style-type: none"> <li>• section 16 (power to serve notices – requisition for information)</li> <li>• section 20 (provision of sanitary conveniences at places at entertainment)</li> <li>• section 35 (power to require the removal of obstructions from private sewers)</li> </ul>
Local Government (Miscellaneous Provisions) Act 1982	<ul style="list-style-type: none"> <li>• sections 14 to 16</li> <li>• section 17 (exercise powers relating to entry in relation to registered premises in the Council's area)</li> <li>• section 29 (exercise powers of entry; each Environment Health Officer authorised to act)</li> <li>• Schedule 3 (sex establishments)</li> </ul>
London Government Act 1963	
London Local Authorities Act 1990	Part III (street trading) (licensing of night cafes)
London Local Authorities Act 1990	
London Local Authorities Act 1991	Part II, Part III and section 23
London Local Authorities Act 1995	
London Local Authorities Act 1996	
London Local Authorities Act 2000	
Medicines Act 1968	(such orders and regulations as the Council may be appointed to enforce)
Mobile Homes Act 1983	
Noise Act 1996	sections 2 to 9
Noise & Statutory Nuisance Act 1993	(loudspeakers in streets)
Offices, Shops and Railway Premises Act 1963	
Official Feed and Food Controls (England) Regulations 2006	
Performing Animals (Reg) Act 1925	
Pet Animals Act 1951	
Poisons Act 1972	
Pollution Prevention & Control Act 1999	
Prevention of Damage by Pests Act 1949	
Private Places of Entertainment (Licensing) Act 1967	
Protection from Eviction Act 1977	
Public Health Act 1936	

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<b>Enactment</b>	<b>Relevant provisions and notes</b>
Public Health Act 1961	
Public Health Control of Disease Act 1984	
Rag Flock and Other Filling Materials Act 1951	
Refreshment Houses Acts 1869 and 1967	
Rent Act 1977	(provisions relating to certificates of disrepair pursuant to section 27 and schedule 6)
Riding Establishments Acts 1964 and 1970	
Shops Act 1950 – 1965	
Sunday Entertainments Act 1932	
Sunday Observance Act 1780	
Sunday Theatre Act 1972	
Sunday Trading Act 1994	
Theatres Act 1968	
Town & Country Planning Act 1990	Sections 215-219 Powers to deal with land adversely affecting amenity of the neighbourhood.
Wildlife and Countryside Act 1981	
Young Persons (Employment) Acts 1938 and 1964	
Zoo Licensing Act 1981	

## **Appendix D**

### **Enactments enforceable by Head of Housing & Public Protection: licensing and registration of premises or persons**

This appendix sets out those enactments under which the Head of Housing & Public Protection has delegated authority to license and register premises or persons for the council's Environmental Health function. The Head of Housing & Public Protection may authorise his or her staff to license or register these premises or persons. See Part 3 of this constitution, section 3.7.4, functions 45, 46, 47 and 57.

<b>Licensing matter</b>	<b>Enactment</b>
Animal boarding establishments	Animal Boarding Establishments Act 1963
Butchers	Food Safety Act 1990
Caravan Sites	Caravan Sites and Control of Development Act 1960
Dangerous wild animals	Dangerous Wild Animals Act 1976
Dog-breeding premises	Breeding of Dogs Act 1973
Establishments for massage and special treatment	London Local Authorities Act 1991
Gambling	Gambling Act 2005
Game dealers	Game Act 1831
Guard dog kennels	Guard Dogs Act 1975
Licensing	Licensing Act 2003
Housing	Housing Act 2004
Night cafes (until 24.00 hours 23 November 2005)	London Local Authorities Act 1990
Pet shops	Pet Animals Act 1961
Public entertainment (until 24.00 hours 23 November 2005)	London Government Act 1963
Riding establishments	Riding Establishments Act 1964
Sex establishments	Local Government Miscellaneous Provisions Act 1982
Street trading	London Local Authorities Act 1990

<b>Registration matter</b>	<b>Enactment</b>
Food premises	Food Safety Act 1990
Hairdressers' and barbers' establishments	Greater London Council (General Powers) Act 1967, section 21

## **Appendix E**

### **Enactments enforceable by Head of Housing & Public Protection: licensing and registration of premises or persons**

This appendix sets out those enactments under which the Head of Housing & Public Protection has delegated authority to licence or register premises or persons for the council's Trading Standards function. The Head of Housing & Public Protection may authorise his or her staff to licence or register these premises or persons. See Part 3 of this constitution, section 3.6.2, function 10.

<b>Licensing matter</b>	<b>Enactment</b>
Storage of Explosives	Health and Safety at Work, Etc. Act 1974 (Manufacture and Storage of Explosives <a href="#">Regulations 2005</a> )

<b>Registration matter</b>	<b>Enactment</b>
Premises for competitive bidding (auctions)	Greater London Council (General Powers) Act 1984 – Part VI
Scrap metal dealers	Scrap Metal Dealers Act 1964
Motor Salvage Operators	Vehicles (Crime) Act 2001
Storage of Explosives	Health and Safety at Work, Etc. Act 1974 (Manufacture and Storage <a href="#">of Explosives Regulations 2005</a> )

## Appendix F

### Enactments enforceable by Head of Housing & Public Protection

This appendix sets out those enactments which the Head of Housing & Public Protection as appropriate and respectively for Environmental Health and Trading Standards has delegated authority to enforce. See Part 3 of this constitution, section 3.6, function 34.

A T indicates that any proceedings contemplated pursuant to this enactment may be undertaken only upon approval of the appropriate individual Cabinet member, except in cases where the Council is specifically empowered to undertake the contemplated proceedings.

	Enactment	Relevant provisions and notes
	Administration of Justice Act 1970	section 40
	Agricultural Act 1970	Part IV
	Agricultural Produce (Grading and Marketing) Acts 1928 and 1931	
	Anti Social Behaviour Act 2003	
	Business Names Act 1986	section 4
	Cancer Act 1939	
	Celluloid and Cinematograph Film Act 1922	
	Children and Young Persons Act 1933	section 7 (sale of tobacco etc., to persons under 16)
	Children and Young Persons (Protection from Tobacco) Act 1991	
	Civil Aviation Act 1982	
	Clean Air Act 1993	sections 30 and 32
	Consumer Credit Act 1974	
	Consumer Protection Act 1987	Parts II and III
	Control of Pollution Act 1974	section 75 (regulations concerning lead content of motor fuel)
T	Copyright, Designs and Patents Act 1988	
T	Crossbows Act 1987	
	Development of Tourism Act 1969	section 18 (relating to price displays)
	Education Reform Act 1988	sections 214 to 217 (provisions relating to unrecognised degrees)
	Energy Act 1976	
	Energy Conservation Act 1981	
	Enterprise Act 2002	

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	<b>Enactment</b>	<b>Relevant provisions and notes</b>
	Estate Agents Act 1979	
	European Communities Act 1972	(Regulations relating to: <ul style="list-style-type: none"> <li>• eggs (marketing standards)</li> <li>• crystal glass (description)</li> <li>• Package Travel, Package Holidays, Package Tours Regulations 1982</li> <li>• textile products (indication of fibre content)</li> <li>• aerosol dispensers (EU requirements)</li> <li>• Non-Automatic Weighing Instruments</li> <li>• any other regulations as may be made from time to time)</li> </ul>
	Explosive Acts 1875 and 1923	
	Explosives (Age of Purchase) Act 1976	
	Fair Trading Act 1973	(orders under section 22)
T	Firearms Act 1968	
	Fireworks Act 2003	
	Food and Environmental Protection Act 1985	Part III
	Food Safety Act 1990	
T	Forgery and Counterfeiting Act 1981	
T	Fraud Act 2006	
	Greater London Council (General Powers) Act 1984	(registration of premises in respect of the sale of goods by competitive bidding)
	Hallmarking Act 1973	
	Health and Safety at Work etc. Act 1974	(other than in respect of requirements imposed upon the Council as employers) (including the Manufacture and Storage of Explosives Regulations 2005)
	Housing Act 2004	Part 5
	Hire Purchase Act 1964	Part III
	Insurance Brokers (Registration) Act 1977	
	Intoxicating Substances Supply Act 1985	
T	Knives Act 1997	
	Licensing Act 2003	
	Medicines Act 1968	orders under sections 62(1)(b) and



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	<b>Enactment</b>	<b>Relevant provisions and notes</b>
		90 (provisions relating to animal feeding stuffs and fertilisers)
	Merchant Shipping Act 1979	
T	Mock Auctions Act 1961	
	Motorcycle Noise Act 1987	
T	National Lotteries etc. Act 1993	
T	Offensive Weapons Act 1996	
	Olympic Symbol etc (Protection) Act 1995	
	Prices Acts 1974 and 1975	
	Property Misdescriptions Act 1991	
	Protection of Children (Tobacco) Act 1986	
T	Restriction of Offensive Weapons Act 1959	
	Road Traffic Acts 1988 & 1991	
	Road Traffic (Foreign Vehicles) Act and Regulations 1972	
	Road Traffic Offenders Act 1988	
	Solicitors Act 1974	section 22
	Telecommunications Act 1984	
T	Theft Acts 1968 and 1978	
	Timeshare Act 1992	
	Trade Descriptions Act 1968	
	Trademarks Act 1994	
	Trading Representations (Disabled Persons) Acts 1958 and 1972	(provisions relating to goods represented as being made by blind or disabled persons)
	Trading Stamps Act 1964	
	Unsolicited Goods and Service Acts 1971 and 1975	(provisions relating to unsolicited goods and directory entries)
	Vehicles (Crime) Act 2001	
	Video Recordings Act 1984 and 1993	
	Weights and Measures Act 1985	Limited to officers with DTS or equivalent

## Appendix G

### **Code of practice: disposal of surplus property**

This appendix sets out the code of practice for the disposal of surplus property. The Property Strategy Manager is required to comply with this code when exercising the functions delegated in Part 3 of this constitution, section 3.7.3, functions 1 to 8.

#### **Member authority**

- 1 Disposal of surplus property will be dealt with through the Cabinet or in accordance with other authorised arrangements for decisions in place at the time.
- 2 Any report requesting a decision will incorporate the views and advice of the Group Director Finance and Commerce, the Assistant Chief Executive Legal & Democratic Services and the Property Strategy Manager.

#### **Method of disposal**

- 3 The Property Strategy Manager shall determine the method by which surplus property should be disposed of. This method should require the open invitation of competitive bids, unless the Property Strategy Manager decides, in consultation with the Leader, that an alternative method of disposal would be appropriate. Examples of possible exceptions are as follows:
  - (i) sale to a sitting tenant
  - (ii) sale to adjoining owner
  - (iii) sale of an access which would enable a purchaser to release development value locked up in his or her backland
  - (iv) sale of a part-interest in a property where amalgamation of interests could enable substantial "marriage value" to be realised
  - (v) sale to a party offering other benefits to the Council, such as a housing association.

These examples are given on the basis that the Property Strategy Manager considers that negotiations with one party would produce a higher figure or other benefits than competition, and that the best interests of the Council would be served by allowing such exceptions.

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- 4 Where land is disposed of by auction, it will be subject to a reserve price agreed between the Property Strategy Manager and the auctioneer.

Any pre-auction bid shall be accepted only upon the recommendation of the auctioneer.

- 5 Where land is disposed of by public binding tender, the Council's standing orders relating to tenders and contracts will be applied as appropriate.

- 6 During any negotiations being conducted in accordance with paragraph 3, any other offer received from a third party or parties before exchange of contracts shall be considered and dealt with on its merits either with a report to members or in accordance with the scheme of delegation. Any offer which, on the evidence available, is considered to be incomplete, insubstantial or in any other way defective, mischievous or frivolous shall be rejected.

Any offer which, on the evidence available, does appear to:

- (i) offer benefits substantially in excess of those currently being negotiated, and
- (ii) be capable of substantiation in a reasonable time scale shall be the subject of further consideration in accordance with this code and the scheme of delegation. If appropriate a report or a protocol shall be made to members. The substance of the offer (which in most cases will be the monetary amount of the offer) shall then be made known to the party with whom the Council is already conducting negotiations, and that action shall be communicated to the party making the late offer.

**Consultation with external valuer**

- 7 At the discretion of the Property Strategy Manager, the District Valuer or other external specialist or external valuer will be consulted whenever required on important matters of principle, or valuation "practice".

**Valuation**

- 8 Terms will not be finalised without the benefit of a current valuation. Every valuation by the Property Strategy Manager shall state the date beyond which it is not to be regarded as valid without further certification by him or her. The general presumption is that all transactions will be in accordance with section 123 of the Local Government Act 1972 and disposal will not be at a consideration less than the best that can reasonably be obtained. The General Disposal Consent 2003 provides a framework for local authorities to agree a

disposal at less than best consideration in certain circumstances. This is dealt with in paragraph 10.

## **Negotiations**

- 9 In concluding negotiations for a land transaction above a capital sum of £500,000, two members of staff should be present, one of whom should be the Property Strategy Manager or his or her representative. Within three working days of the meeting, a file note recording the discussions should be placed on the relevant file. The requirement shall not apply in respect of the ancillary terms of a proposed property transaction, where the price has already been established through competitive marketing.

## **Transactions at less than market value**

- 10 Approval must be obtained from or on behalf of the Cabinet to all disposals or lettings which are proposed to be less than open market value, unless there is already a defined subsidy policy in place which has been agreed by members for the type of transaction proposed. When members are invited to consider the principle or detail of a below market value transaction, the unrestricted value of the property shall be reported so that the level of subsidy is apparent when a decision is taken.

The Council has powers derived from the Housing Act 1985 to dispose of land to Registered Social Landlords at less than open market value. Other cases would be dealt with under the terms of the Local Government Act 1972: General Disposal Consent (England) 2003.

The General Consent 2003 allows authorities to exercise local discretion on proceeding with undervalue property disposals, providing the amount of undervalue is not more than £2 million and the local authority considers disposal is likely to contribute to the achievement of the Local Government Act 2000 objectives and will help secure the promotion or improvement of the economic, social or environmental well-being of its area. A proposed transaction at an undervalue in excess of £2 million will also require ODPM consent.

The Council must be able to substantiate that it has acted reasonably in agreeing an undervalue transaction; that there was an appropriate decision making process and that regard has been had to general fiduciary obligations. Decisions must be robust and defensible and the monetary or benefit assessment of impacts will require detailed individual assessment in every case.

The Council's Cabinet at its meeting of 29<sup>th</sup> September 2004 agreed a decision-making process-chart that should be addressed in all cases. Not all elements will be required in each case but a substantial number will feature in any assessment.

Decision-Making Process Chart for Undervalue Transactions

- Identify Strategic Policy Link – Relate to Well-Being Powers (Community Strategy/Quality of Life Indicators/Other Corporately adopted Plans)
- 

- Identify Aims/Inputs/Outputs/Outcomes

- |   |
|---|
| <ul style="list-style-type: none"><li>• Identify the benefit</li><li>• Set out the basis of assessment</li><li>• Provide sources of comparable evidence</li><li>• Can non-market benefits and impacts be evaluated? – If so, identify method of cost/value-benefit applied</li><li>• State the monetary value arrived at or detail other assessments of worth relied upon</li></ul> |
|---|

- Adopt assessment categories of
  - a) Property Value
  - b) Other Benefits capable of monetary assessment
  - c) Benefits not capable of monetary assessment
- Where appropriate consider a comparison of benefits against the Capital Prioritisation Assessment the Council would apply to its own schemes.
- Provide Valuations – Restricted and unrestricted – (Technical Appendix requirements)
- If property has not been competitively marketed, assess financial position of organisation/person receiving subsidy – what is financial position of purchaser, is subsidy required?
- Is the amount of undervalue proportional to benefit anticipated?
- Are outputs/outcomes proportional to inputs?
- What would be the effect of less subsidy?
- Is Value For Money being achieved?
- Apply the ‘Do Nothing’ test – What would be the effect?
- How can outcomes be secured in practice to justify subsidy (Claw-backs/covenants/grants)
- Consider medium and longer term estate management considerations. Ensure the inclusion, as necessary, of additional terms that protect the Council’s future property use options.

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- Is it possible to have a grant/leasehold arrangement rather than an outright disposal?
- Ensure Legal/Finance review/overview of final case data and business case
- Obtain Member authority to transaction if the undervalue is less than £2m and additionally from ODPM if above £2m

**Notification No. 33  
2008**

**Date 16<sup>th</sup> June**

**Notification of amendments to the constitution**

**Amendments made by the Monitoring Officer**

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

In accordance with this authority, the Monitoring Officer gives notice of the following amendments to the constitution effective from the respective dates shown in the attached document headed Transitional Arrangements.

<b>Part and article/ section</b>	<b>Page reference</b>	<b>Substance of amendment / amended wording</b>	<b>Reason for amendment</b>
Part 2, Article 8 and Part 3 Section 1	24 & 61	<p>Amend to 3 Independent Members and 9 Members</p> <ul style="list-style-type: none"><li>➤ Delete under Standards Board for England legislation 'From the date of coming into force of Regulations, made by the Secretary of State' and add<ul style="list-style-type: none"><li>• <u>To consider any initial complaints against the Assessment Framework</u></li><li>• <u>To review any matters requested</u></li></ul></li><li>➤ Add under Membership<ul style="list-style-type: none"><li>• <u>To sit as an Assessment Sub-Committee, a Review Sub-Committee, a Hearings Panel with at least 1 Independent Member as Chairman and no more than 3 members in total provided that the same members shall not shall not sit to hear a review if they have already been party to the Assessment</u></li></ul></li><li>➤ Add <u>The Chairman and Vice Chairman</u> is an Independent Member</li><li>➤ Add in the second bullet point of Members' Code of Conduct "<u>To monitor the operation and effectiveness of the authority's Code of Conduct</u>"</li><li>➤ Add another bullet point at the end of this section<ul style="list-style-type: none"><li>• <u>To assess and review complaints about Members</u></li><li>• <u>To conduct determination's hearings</u></li><li>• <u>To grant dispensations to Members with prejudicial interests</u></li><li>• <u>To grant exemptions for politically restricted posts</u></li></ul></li></ul>	Council Decision

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<b>Part and article/ section</b>	<b>Page reference</b>	<b>Substance of amendment / amended wording</b>	<b>Reason for amendment</b>
Part 4 Section 5	245 1(ix)	Amend three to <u>four</u>	Error
Part 2 Article 8 Part 3 Section 1	22 58	Add a new bullet point <ul style="list-style-type: none"><li>• <u>To approve the Annual Governance Statement</u></li></ul>	Clarification
Part 1 The Local Code of Corporate Governance	4b	Under paragraph 1 insert <u>reference to the Council's Vision</u>	Clarification





MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	9 July 2008	8

## REPORT OF THE CHIEF EXECUTIVE

**SUBJECT: Revision of Contract Procedure Rules**

### **SUMMARY**

The Council's Contract Procedure Rules (CPR) were last substantially revised in 2006. This small scale revision incorporates comments from users of the current CPR and recommendations from internal audit reports. The revised Rules also incorporate additional provisions for developing forms of procurement. In addition the revised Rules propose alterations in the various financial limits to balance the cost of procurement with the value of the goods or services being procured and to accord with recently revised European procurement financial limits. There are also some changes in responsibilities. For the ease of the committee altered provisions are printed in ***bold italics, underlined*** in the appended Rules.

### **RECOMMENDATIONS**

That this Committee recommend to Council that:

1. The revised Contract Procedure Rules be adopted
2. Part 3, section 2.1, paragraph 25 of the Constitution be amended by deleting "£500,000" in line 4 and substituting it with "£1,000,000"
3. Part 3, section 2.2, paragraph 10 of the Constitution be amended by deleting "£144,000" in line 2 and substituting it with "£139,000"
4. Part 3, Section 2.2, paragraph 12 of the Constitution be amended by deleting "£144,000" in line 2 and substituting it with "£139,000" and by deleting "£500,000" in line 3 and substituting it with "£1,000,000"

## Governance Committee, 9 July 2008

5. Part 3, Section 3.3.4, paragraph 1 of the Constitution be amended by deleting "£144,000" in line 2 and substituting it with "£139,000"
6. Part 3, Section 3.3.4, paragraph 2 of the Constitution be amended by deleting "£144,000" in line 1 and substituting it with "£139,000"
7. Part 3, Section 3.4.4, paragraph 1 of the Constitution be amended by deleting "£144,000" in line 2 and substituting it with "£139,000"
8. Part 3, Section 3.4.4, paragraph 2 of the Constitution be amended by deleting "£144,000" in line 1 and substituting it with "£139,000"

## **REPORT DETAIL**

1. The major revision of the Rules that occurred in 2006 has been successful, the revised format being more accessible and easier to follow. However after 2 years there is a need for minor revisions to reflect experience gained, incorporate audit recommendations, reduce costs and incorporate electronic purchasing methods.
2. While the Rules are intended to strike a proper balance between ensuring probity and due process and enabling contracts to be let, experience has shown that some of the provisions create unnecessary delay and cost for little or no benefit, e.g. requiring most contracts over £144,000 to obtain authorization from full Cabinet before being awarded. Recent research by the Business Development Unit indicated that the cost of compliance with the Rules for contracts between £100,000 and £144,000 was particularly high compared with the value of the contract and a substantial change is proposed to reduce costs.
3. The aim of the proposed changes is still be ensure adequate checks and balances while enabling the speeding up of this process. The main ones are:
  - a. Reduction on the £144,000 limit on full tender process and need for Cabinet Member approval to £139,000 – this change is proposed because the recent revaluation of the European procurement values has resulted in a reduction of the sterling value from £144,459 to £139,893 at which the European procurement requirements take effect. For reasons of simplicity it is recommended that the £139,000 limit is amended accordingly.
  - b. Pre-award authorisations – raise the limit which has to be authorised by Cabinet from £144,000 to £1,000,000 with individual Cabinet Members making the decision instead below £1,000,000.
  - c. Delete the procedure for contracts between £100,000 and £144,000 and use instead the procedure currently just used for contracts between £50,000 and £100,000.

- d. Introduce provisions which clarify the use of e-procurement. The Council is moving towards using electronic ordering and payment to a far greater extent than it currently does and there is a need to incorporate this advance into the Rules.
  - e. The use of Constructionline as the normal source of contractors for building and associated services was a strong recommendation of an audit report. This is incorporated into these proposed Rules with consequent deletion of select lists which were normally for activities covered by Constructionline. This change should also result in reduced procurement costs for affected contracts.
  - f. The need for pre-tender approvals for the purchase of electricity, gas & water supplies for the Council are deleted as the process does not assist the purchase of such fundamental supplies for the Council.
4. The provisions relating to consultants will probably require amendment in the Autumn following completion of a review on the working of procedures for the appointment of consultants

### **Financial Implications and risk**

There is a need for a regular review of all Council processes to ensure that they are concurrent with legislation as well as being compatible with the way the Council operates. This review of the Council's Contract Procedure Rules (CPR) is appropriate as there has been no major review since 2006, and a number of changes have occurred since that time. Given the need to maintain the CPR, it is proposed that an annual review should be instigated. This would be carried out by officers from legal and procurement in consultation with the appropriate senior staff involved in the procurement processes and finance staff.

The main elements of the proposed changes are set out in the body of the report. Officers within Financial Services have been consulted on the changes throughout their development and their comments are reflected in them. The revised Rules are designed to facilitate the way the Council does business and to reflect the changing procurement environment, with an increasing involvement in collaborative purchasing and the use of electronic media.

There are no direct financial implications resulting from the changes, as any expenditure incurred on contracts let in accordance with the Rules will require appropriate budgetary provision as at present. However some of the changes should result in reduced procurement costs for certain contracts, although it is not possible to quantify those savings. The proposed changes will need to be properly communicated to the relevant staff. This will ensure that the risks arising from the implementation of the new Rules are minimised.

### **Legal Implications and risk**

The CPR set the framework for controlling the procurement process. Compliance with them should enable the Council to successfully procure goods and services whilst ensuring probity and compliance with relevant competition legislation.

**Human Resource Implications and risk**

There are no direct implications.

**Equalities and Social Inclusion Implications and risks:**

The Rules are drafted to be neutral in terms of equalities. There are no direct social inclusion implications.

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**CHERYL COPPELL**  
**Chief Executive**

**Background Papers**

Comments from other Council departments on draft revisions

# Contracts Procedure Rules

## 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, 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 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 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 I 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	£139,893
Supplies	£139, 893
Works	£3,497,313

These thresholds will be revised every two years. The next revision will be January 2010.

##### (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 and procurement 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 **£139,000** 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.

## 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 £**139,000** must be reported to (a) the appropriate individual Cabinet member for approval at the pre-tender stage for those contracts over £**139,000** and up to £5,000,000 (b) to Cabinet for those contracts of £5,000,000 and over **unless an exception set out in 7(c) applies**. In addition to using the Council's standard report templates, 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 and Commerce.**

## 8 Tender process

### (a) Invitation to tender

- (i) All tender processes shall be conducted in accordance with the requirements of these Rules, the Financial Procedure Rules, European procurement rules (if applicable), the Procurement Framework.



- (ii) The Invitation to Tender for all contracts over **£50,000** shall include the following information:
- a description of the services, supplies or works sought
  - the procurement timetable
  - rules for submitting tenders
  - pricing mechanism
  - the Council's 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
- (iii) Where the list of potential tenderers exceeds 8 the relevant Head of Service may reduce the number to whom tender documentation is sent to 8 provided that fair, appropriate and consistent evaluation criteria are used to assess which potential tenderers should be excluded and that the process is fully documented

(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 three 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
  - The identity of the winner of the contract

- (iii) For all other contracts with a value in excess of £5,000 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 (or negotiate) document 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 **£50,000** 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 **£50,000**, 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 **£50,000**, the two members of staff must consist of one representative of the relevant Group Director and one representative of the relevant Service.
- (iii) 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
- Surveying Services (construction contracts only)s

## 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 £**139,000** 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 services 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) All contracts with a value of more than £**139,000** and up to £**1,000,000** except for contracts falling within the category set out in **12(b)** below, must be reported to an individual Cabinet Member for approval pre-award after the final evaluation of tenders by the evaluation team for award purposes.

Contracts with a value of more than £**1,000,000** must be reported to Cabinet for approval pre-award.

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**

Where **works** contracts **in respect of the Council's buildings and assets where the total contract value is between £1390,000 and £1,000,000** are awarded by Heads of Service **or more senior staff** (as provided for in the constitution Part 3, Section 3), **the relevant Cabinet Member shall subsequently be notified of the award.**

(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) Unless the Assistant Chief Executive Legal & Democratic Services approves otherwise, all Council contracts with a value in excess of £2,500 shall be on the Council approved standard terms and conditions for that type of contract.
- (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 £**50,000** 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 either:

- (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**

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 Council Procedure Rule 27 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) **Exceptions**

- (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 £100,000. If it will exceed £100,000 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 £50,000	three years after end of the contract
contracts with a value between £50,000 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

### (a) Setting up corporate contracts

Group Directors with the agreement of the Group Director, Finance & Commerce may set up corporate contracts for goods services, supplies or works **across the Council, 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 five 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.

### (e) Constructionline

**The lists of contractors maintained by Constructionline shall be used** for the formation of shortlists of potential tenderers for all construction contracts for buildings and roads maintained by the Council **unless otherwise agree by the relevant Group**

**Director and the AssistantChief Executive, Legal & Democratic Services.**

## 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) are permissible provided that the following points are complied with:

- 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>Column B</b>
<b>ALL of these conditions must be met</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

<b>Column A</b>	<b>Column B</b>
<b>ALL of these conditions must be met</b>	<b>AT LEAST one of these conditions must be met</b>
The extension is for <u>the same</u> <b>or</b> 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 £ <u>1,000,000</u> , there is a report to Cabinet For an extension with a value in excess of £ <u>139,000</u> and under - £ <u>1,000,000</u> 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 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 or, if there are 2 or more suppliers for those goods or services on Framework Contracts, the competition shall be by simple written quotations by those suppliers on the price payable for the goods or services
- (d) Government Framework Contracts (eg **Catalyst contracts**) and **other public sector framework contracts**  
Where the proposed contract is one for which the Office of Government Commerce (OGC) **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 OGC/**framework** tender and is to use the agreed OGC terms and conditions then the tender process shall be as set out in Schedule I

## 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 £139,000 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 I apply may be made only if **all** relevant law is complied with e.g. European procurement and best value legislation and:

#### (i) *Either:*

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.

*Or:*

- (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 – 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**

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**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 £10,000**

a) Advertising – none required

b) Quotes & contract award

<u>Value</u>	<u>Number of quotes</u>	<u>Contract awarded by</u>
Less than £1000	One quote	Council staff member authorised by Head of Service
£1000 to £9999	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 £10,000 and £49,999**

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 £50,000 and £138,999**

- a) Advertising – none required
- 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, Executive 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 £139,000 and £1,000,000 which is **not** subject to European procurement legislation advertising requirements (i.e. Part B services or works less than £3,860,000)**

- a) Pre tender Report – report to the appropriate individual Cabinet member 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 Cabinet Member for approval pre-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 following Cabinet Member approval as appropriate (See Part 3 Section 2) Group Director has authority to award above £144,000 without prior Cabinet member approval in certain circumstances (See Part 3, Section 2 paragraph 19 )
- 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 Council Procedure Rule 27, set out in Part 4 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 £139,000 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 Cabinet member 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 pre-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 following Cabinet Member approval as appropriate (See Part 3 Section 2)
- 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 Council Procedure Rule 27, set out in Part 4 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 above £1,000,000** which is **not** subject to European procurement legislation advertising requirements (i.e. Part B services or works less than £3,860,000)

- a) Pre tender Report – report to Cabinet member (if less than £5,000,000) or Cabinet (if over £5,000,000) 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 pre-award after the final evaluation of tenders by the evaluation team unless an exception applies.
- e) Contract award - contract awarded by Cabinet. (Executive Director has authority to award above £154,000 in certain circumstances (See *Part 3, Section 2 paragraph 19*)
- 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 Council Procedure Rule 27, set out in Part 4 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 above £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 Cabinet member (if less than £5,000,000) or Cabinet (if over £5,000,000) for approval unless an exception applies
- 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 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 Council Procedure Rule 27, set out in Part 4 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 - Government Framework Contracts**

- a) Pre tender Report (if over **£139,000**) – report to the appropriate individual Cabinet member (if less than £5,000,000) or Cabinet (if over £5,000,000) for approval unless an exception applies .
- b) Advertising –it shall be notified to those suppliers accredited by the OGC as having been accepted as part of the 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 **£139,000** contract awarded by Group Director on report from 3rd or 4th tier manager or staff member authorised by Head of Service and financial representative of Group Director Finance & Commercial
    - if between **£139,000** and **£1,000,000** contract awarded by Group Director following Cabinet Member approval as appropriate (See Part 3 Section 2)
    - if above **£1,000,000** contract awarded by 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 Council Procedure Rule 27, set out in Part 4 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 I - Consortia Arrangements (where LBH is not a member)**

- a) Pre-tender Report – report to Cabinet Member or Cabinet (if contract over £5,000,000) 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) A minimum of three consortia must be invited to provide quotations for the goods or services
- c) Award criteria - compliance with the evaluation criteria (primarily specification & price) agreed prior to the dispatch of tender documentation
- d) Pre – award Report – there must be a report to an individual Cabinet Member (if below **£1,000,000**) or to 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 Council Procedure Rule 27, set out in Part 4 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



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MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	9 JULY 2008	<b>9</b>

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## REPORT OF THE CHIEF EXECUTIVE

**SUBJECT: STANDARDS COMMITTEE: APPOINTMENT OF ADDITIONAL INDEPENDENT MEMBER**

### SUMMARY

At its meeting at the beginning of May, the Committee agreed to recommend to Council that (among other things) an additional Independent Member of the Standards Committee should be appointed. An *ad hoc* Sub-Committee (Councillors Gillian Ford, Steven Kelly and Eric Munday) has interviewed four (of eighteen) applicants and now recommends that one of them be appointed to the vacancy.

The report also addresses issues arising from the appointment, including the term of office of the new appointee and adjustments to the terms of the existing Independent Members; and invites the Committee to make appropriate recommendations to the Council.

### RECOMMENDATIONS

1. That the Committee endorse the recommendation of the *ad hoc* Sub-Committee that **Mr Kevin Madden** be appointed as the third Independent Member.
2. That the Committee **RECOMMEND to the Council** that:
  - A **Mr Kevin Madden** be appointed as the third Independent Member of the Standards Committee

- B Consequent upon that appointment, Council authorise implementation of its decision to increase the size of the Standards Committee to 12 Members (3 Independent Members and 9 Councillor Members [5 Conservative: 2 Residents': 1 Rainham & Wennington Independent Residents'; and 1 Labour])
3. That the Committee consider the options for terms of office of the current and new Independent Members and determine what **RECOMMENDATION(S)** to make in that respect to Council.

## **REPORT DETAIL**

### **1 Appointment of additional Independent Member**

- 1.1 The *ad hoc* Sub-Committee established by the Committee to recommend an individual to be appointed as the third Independent Member (IM) of the Standards Committee (Councillors Gillian Ford, Steven Kelly and Eric Munday) met on 27 June to interview four candidates (selected from 18 original applicants). Having considered each candidate's application and performance at interview, the Sub-Committee recommends that **Mr Kevin Madden** be appointed: a brief résumé of his biographical details is appended (as an exempt document as personal details are provided), together with those of the unsuccessful candidates.
- 1.2 Recommendations 1 and 2 of this report seek to give effect the to the Sub-Committee's decision, and also deal with the required consequential enlargement of the Standards Committee's membership (which was authorised by Council at the Annual Meeting but could not be implemented until a third IM had been appointed).

### **2 Term of office of Independent Members**

- 2.1 The current IMs were both appointed in May 2006 for a term of four years ending at the Annual Meeting of the Council that year. That approach conformed to the Council's previous practice regarding the term of office.
- 2.2 The term of office of an IM is, however, set at the discretion of the Council and can be varied by resolution, and in May 2007 it was agreed to reduce their terms of office by one year, with those of the current IM expiring at the Annual Meeting, 2009. A full recruitment exercise will be needed to replace (or re-appoint) those two IMs, beginning towards the end of this year.
- 2.3 Members have previously expressed the view that the appointments should be phased so that one IM retires every year. Members should be aware, however, that if this is done, a fresh recruitment exercise will be needed every year (see section 3 following).

2.4 There are other options that Members may wish to consider. These include:

2.4.1 Reverting to the previous practice of appointing IMs for four year terms (which would mean reversing the Council decision of May 2007). With three IMs, the desired rotation of IMs could then be achieved by restricting an existing IM to, in effect, a two-year term, leaving the other on a four year term and then appointing the third for a six year term, with their respective successors being appointed (or the current IMs being re-appointed) for four years from the end of the current IMs' terms.

2.4.2 Abandoning the notion of rotation and appointing all IMs for the same term, ending on the same date, and then appointing successors (or reappointing incumbents) for a similar future term.

### **3 Recruitment**

3.1 The law obliges the Council only to appoint IMs following the conduct of a formal application process which will involve advertising for applicants (not only using *Living in Havering* but at least one paid-for local newspaper), assessing and short-listing candidates, and interviewing them. The cost of each exercise (excluding officer time) is estimated at around £500-£600, mainly because of the cost of advertising.

3.2 Appointments have to be made by full Council on the recommendation of this Committee.

3.3 Unless decided otherwise, the terms of office of the current IMs will expire next year and a recruitment exercise will need to begin towards the end of this year, since it can take up to four months to go through the process.

3.4 In the recruitment exercise just completed, 18 applications were received, of which 12 met at least a substantial part of the Council's requirements of IMs. A short list of four candidates were invited for interview, from whom Mr Madden was selected for appointment.

### **4 Appointing "shadow" IMs**

4.1 Previously, it has been suggested that the Council should maintain some sort of register of people interested in becoming IMs, especially those who were unsuccessful in a recruitment exercise but were considered to be "runners-up". This is an attractive proposition in many respects but there are drawbacks.

4.2 First, it would not be possible to treat such people as "shadow" IMs. Only those formally appointed as IMs are able to undertake the role; and, of course, every IM appointed affects the membership of the full Standards Committee (it is not possible, for example, to appoint an IM to a Sub-Committee but not to the full Committee). At best, they could be invited to

attend Committee and Sub-Committee meetings open to the public as observers but they would not be able to participate in any part of the meeting and would specifically be excluded from attending those parts of a meeting or hearing not open to the public.

- 4.3 Secondly, it is doubtful whether it would be possible to maintain their level of interest beyond a few months at most – a “shadow” IM would be very much a “non-job”.
- 4.4 Thirdly, it would not be possible to make a “shadow” IM into a full IM other than by resolution of the Council. If the need to do so arose near to a Council meeting, all would be well; but if the need arose some time before the next Council meeting, there would be an inevitable delay until the appointment could be made. It would be possible to convene an extraordinary meeting of the Council for the purpose but that might not always be practicable.
- 4.5 Finally, such an arrangement could operate for only a limited time given the statutory obligation to appoint only on application. While a “shadow” IM would have only been appointed as such following an application, the greater the time that passes from the date of application to the date of appointment, the less relevant that application becomes and the greater would be the risk of challenge to the appointment.
- 4.6 For those reasons, it is not proposed that appointment of “shadow” IMs should be pursued.

## **5 Legal implications**

- 5.1 The Council has a statutory obligation to appoint a Standards Committee, and at least 25% of its Membership must be IMs; the Chairman of the Committee and the Chairmen of its Sub-Committees must also be IMs. Thus, for practical purposes, in order to avoid potential conflicts of interest and to cover for unavoidable absence, etc, a minimum of three IMs is needed. The Council has recognised that by agreeing to making the third IM appointment.
- 5.2 Any future change in the Council’s political balance could affect the distribution of seats on the Standards Committee and lead, in turn, to review and, if needed, change in the number of IMs required.

**6 Financial, Equalities and Environmental Implications and Risks**

- 6.1 These appointments are administrative and have no direct financial, equalities or environmental implications. Independent Members are entitled to a payment under the Members' Allowances Scheme for each meeting attended but that is met from existing budget provision, which is expected to be sufficient.

**Cheryl Coppel**  
**Chief Executive**

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

**Telephone:** 01708 432431

**Background Papers**

Applications for appointment (containing exempt information and not available for press or public)

**Governance Committee, 9 July 2008**



**MINUTES OF A MEETING OF THE  
GOVERNANCE COMMITTEE  
Havering Town Hall  
29 May 2008 (7.30pm – 8.45pm)**

**Present:**

**COUNCILLORS:**

**Conservative Group** Frederick Thompson (in the Chair), Kevin Gregory, Steven Kelly, Eric Munday, Roger Ramsey and Michael White

**Residents' Group** Clarence Barrett and Gillian Ford

**Rainham & Wennington Independent Residents' Group** Jeffrey Tucker

**Labour Group** -

An apology was received for the absence of Councillor Keith Darvill

Except as indicated, all decisions were taken with no vote against

Councillors Clarence Barrett, Gillian Ford, Steven Kelly, Eric Munday, Roger Ramsey, Frederick Thompson, Jeffrey Tucker and Michael White each declared a personal interest in matters referred to in minute 3.

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

**1 MINUTES**

The Minutes of the meeting of the Committee held on 7 May 2008 were agreed as a correct record and signed by the Chairman.

It was noted that the *ad hoc* Sub-Committee to deal with the nominating of an additional Independent Member of the Standards Committee (established by minute 48 of the previous meeting) would comprise Councillors Gillian Ford, Steven Kelly and Eric Munday.

**2 PARTICIPATORY BUDGETING CONSULTATION**

The Department of Communities and Local Government had issued a consultation paper seeking views on a Participatory Budgeting Strategy, specifically to ascertain whether the proposed Strategy would achieve the government's ambition of participatory budgeting to be used in every local

authority by 2012. The report outlined what participatory budgeting was and sought Members' views, both on the concept and in response to specific consultation questions, to enable officers to respond to the Department.

Members were not convinced that the strategy proposed was sound. The process proposed did not appear to fit with existing budget-setting procedures and did not reflect the impact that government spending decisions on both revenue support and specific grants had on the overall budget, particularly of local authorities such as Havering, which were "flooded" in support grant terms. It also appeared that account had not been taken of local authorities' obligations to fulfil various statutory obligations. Moreover, there was no evidence that the public was remotely interested in the concept – indeed, the Council's experience of many years of budget presentations to the public at Area Committee meetings was that very few people took any interest in such matters.

It was **AGREED** that the Group Director, Finance & Commerce, in consultation with Councillor Roger Ramsey (as Cabinet Member, Finance & Commerce), be authorised to respond to the Department along the lines generally indicated in this minute.

### **3 APPOINTMENTS TO OTHER ORGANISATIONS, 2008/09**

*Councillors Clarence Barrett, Gillian Ford, Steven Kelly, Eric Munday, Roger Ramsey, Frederick Thompson, Jeffrey Tucker and Michael White each declared a personal interest in matters referred to in this minute as appointees or prospective appointees to one or more of the organisations named.*

Members were invited to make appointments to the various organisations referred to in this report.

#### **RESOLVED:**

- 1 That the various appointments shown in the Appendices to these minutes be approved for the Municipal Year 2008/09 (or to such other date as indicated).
- 2 That, where the constitution of an organisation permits the casting of proxy votes on behalf of an organisation's representative and the Council's representative (or any deputy or alternative representative where applicable) is unable to attend a relevant meeting, the representative may mandate the Chair of the meeting to exercise a proxy vote on behalf of the Council.
- 3 (a) That Andy Quinn be appointed as an independent member of the Adoption Panel and as its Chairman; and  
  
(b) That the other members of the Adoption Panel be re-appointed for the coming year (or until those members who are nearing the end of their eligibility to serve reach the point at which they must cease to do so,

unless they resign earlier).

- 4 That the Council's voting rights at the General Assembly of the Local Government Association be exercised by Councillor Michael White (4 votes) and Councillor Clarence Barrett (1 vote) (or their respective nominees in the event either is unable to vote in person).
- 5 (a) That Councillors June Alexander, Wendy Brice-Thompson, Andrew Curtin, Gillian Ford, Linda Hawthorn, Roger Ramsey, Paul Rochford and Geoff Starns be appointed as Councillor Members of the Council of Management, Havering Theatre Trust  
  
(b) That Councillors Andrew Curtin and Roger Ramsey be appointed as Councillor Members of the Havering Theatre Trust Board.

Note: The appointment to the Essex Wildlife Trust was decided by vote. Six Members (Councillors Kevin Gregory, Steven Kelly, Eric Munday, Roger Ramsey, Frederick Thompson and Michael White) voted for Councillor Geoff Starns and three Members (Councillors Clarence Barrett, Gillian Ford and Jeffrey Tucker) voted for Councillor Andrew Mann: Councillor Starns was thus appointed.



**1. APPOINTMENTS MADE BY OFFICE HELD**

ORGANISATION	MEMBER APPOINTED BY OFFICE
Age Concern : Havering (Havering Old People's Welfare Association Council)	Cabinet Member – Social Care & Learning
CEME (Centre for Engineering & Manufacturing Excellence)	Leader of the Council
Connexions	Cabinet Member – Skills & Young People ((Youth Services Manager) – alternate director)
East London Waste Authority	Deputy Leader of the Council and Cabinet Member – StreetCare & Customer Services
Education Otherwise Than At School Service (EOTAS) Management Advisory Committee	Cabinet Member – Education & Children's Services
Governor Panel	Cabinet Member – Education & Children's Services
Greater London Enterprise Limited	Cabinet Member – Housing, Public Protection & Regeneration
Havering Admissions Forum	Cabinet Member – Education & Children's Services
Havering Arts Council	Cabinet Member – Culture & Communities
Havering Chamber of Commerce and Industry	Leader of the Council

Governance Committee, 29 May 2008

Havering Education & Children's Trust	Cabinet Member - Education & Children's Services
Havering Community Safety Partnership	Cabinet Member– Community Safety, Standards & Electoral Services (and the Assistant Chief Executive, Legal and Democratic Services)
Havering Joint Forum	Leader of the Council, Deputy Leader of the Council, Cabinet Member – Legal & Democratic Services, Cabinet Member- Finance & Commerce and Leader of the Opposition
Havering Local Strategic Partnership	Leader of the Council, Deputy Leader of the Council and Leader of the Opposition
Havering Sports Council	Cabinet Member - Culture & Communities and Cabinet Member - Housing, Public Protection & Regeneration
Havering Theatre Trust	<u>Councillor Members of the Council of Management</u> Cabinet Member - Culture & Communities, Cabinet Member – Housing, Public Protection & Regeneration and Cabinet Member – Education & Children's Services  <u>Councillor Members of the Board:</u> Cabinet Member - Culture & Communities
IWMS Contract Liaison Committee	Deputy Leader of the Council
Local Government Association General Assembly	Leader of the Council, Deputy Leader of the Council and Leader of the Opposition
Local Government Association Tourism Forum	Cabinet Member – Culture & Communities
Local Government Association Urban Commission	Cabinet Member - Housing, Public Protection & Regeneration

Governance Committee, 29 May 2008

Local Government Information Unit

Cabinet Member - Legal & Democratic Services

London Councils

Leaders' Committee

Representative: Leader of the Council

Deputy: Deputy Leader of the Council

Transport & Environment Committee

Representative: Cabinet Member - StreetCare & Customer Services

Deputies: Cabinet Member - Finance & Commerce and Deputy Leader of the Council

Grants Committee

Representative: Cabinet Member - Finance & Commerce

Greater London Employment Forum

Representative: Cabinet Member - Legal & Democratic Services

Deputy Representative: Deputy Leader of the Council

Crime and Public Protection Forum

Cabinet Member – Community Safety, Standards & Electoral Services

Children, Young People & Families  
Forum

Cabinet Member - Education & Children's Services

Culture , Tourism & 2012 Panel

Cabinet Member - Culture & Communities

Economic Development

Leader of the Council

Health and Social Care Panel

Cabinet Member – Social Care & Learning

Housing and Public Protection Forum

Cabinet Member – Housing, Public Protection & Regeneration

**Governance Committee, 29 May 2008**

London Local Authority Arts Forum London Riverside Limited	Cabinet Member – Culture & Communities Leader of the Council
London Youth Games Limited	Cabinet Member – Culture & Communities
Romford Town Centre Partnership	Leader of the Council (Cabinet Member - Housing, Public Protection & Regeneration as deputy) and Chief Executive
Standing Advisory Council on Religious Education (SACRE)	Cabinet Member – Education & Children’s Services
Thames Gateway London Partnership	Leader of the Council
Veolia ES Cleanaway Havering Riverside Trust	Cabinet Member – Housing, Public Protection & Regeneration
Veolia ES Cleanaway Havering Riverside Maintenance Trust	Cabinet Member – Housing, Public Protection & Regeneration



## 2. PERSONAL APPOINTMENTS

ORGANISATION	MEMBER APPOINTED BY PERSONAL APPOINTMENT
Age Concern : Havering (Havering Old People's Welfare Association Council)	Councillor June Alexander
Ardleigh House Community Association	Councillors Lynden Thorpe and Michael White
Bretons Community Association	Councillor John Clark
Coopers Company & Coborn Educational Foundation	Councillor Linda van den Hende
Corporate Parenting Panel	Councillors Wendy Brice-Thompson, Christine Fox and Pat Mylod
Cranham Community Association	Councillor June Alexander
Elm Park Community Association	Councillor Barry Oddy
Emerson Park Community Association	Councillor Paul Rochford
Essex Wildlife Trust (Bedfords Park Management Committee)	Councillor Geoff Starns <i>[See note at end of the minute 3 regarding voting on this appointment]</i>
Front Lane Community Association	Councillor June Alexander
Governor Panel	Councillors Gillian Ford and Wendy Brice-Thompson
Harold Hill & District Community Association	Councillors Dennis Bull and Keith Wells

**Governance Committee, 29 May 2008**

Harold Wood Neighbourhood Centre	Councillors Lesley Kelly and Pam Light
Havering Admissions Forum	Councillors Keith Darvill, Gillian Ford, Wendy Brice-Thompson and Fred Osborne
Havering Arts Council	Councillors Gary Adams, Mark Gadd, Linda Hawthorn and Steve Whittaker
Havering Association for People with Disabilities	Councillors Steven Kelly and Pat Mylod
Havering Bands and Majorettes Association - Executive Committee	Councillors Andrew Curtin, Sandra Binion and Pat Mylod
Havering and Barking Relate	Councillors Keith Wells and Pam Light
Havering & Brentwood Bereavement Service	Councillor Dennis Bull
Havering College of Adult Education	Councillors Lesley Kelly, Steven Kelly, John Mylod and Pat Mylod
Havering College of Further & Higher Education	Councillors Paul Rochford and Geoff Starns
Havering Joint Forum	Councillor John Mylod
Havering Sixth Form College - corporation	Councillor Roger Ramsey (until 6.2010)
Havering Sports Council	Councillors Tom Binding, John Mylod and Melvin Wallace
Havering Theatre Trust	<u>Councillor Members of the Council of Management</u> Councillors Wendy Brice-Thompson, Linda Hawthorn, Roger Ramsey, Ray Morgon and Gillian Ford.

**Governance Committee, 29 May 2008**

Councillor Members of the Board:

Councillor Roger Ramsey

Havering Twinning Educational Association

Georgina Galpin

Havering Youth Inclusion and Support Panel

Councillor Barry Oddy (Member); Councillor Wendy Brice-Thompson (Deputy Member)

Housing ALMO Board

Councillors Andrew Curtin, Robby Misir, Lesley Kelly and Ray Morgon

Local Government Association General  
Assembly – 4

Councillors Eric Munday

London Accident Prevention Council – 2

Councillors John Clark and John Mylod

London Councils

Transport & Environment Committee

Deputies: Councillors Andrew Mann and Melvin Wallace

Grants Committee

Deputies: Councillors Clarence Barrett, Jeffrey Tucker and Melvin Wallace

London Caribbean

Councillor Andrew Curtin

London Home and Water Safety Council

Councillor Fred Osborne

London Local Authority Arts Forum

Councillor Linda Hawthorn

Lucas Children's Play Charity Nominative  
Trustees

Councillor Linda Hawthorn

Mardyke Youth and Community Centre

Councillors John Clark and Mike Winter

**Governance Committee, 29 May 2008**

North London Thames Gateway Groundwork Trust	Councillor Michael White
North Romford Community Association	Councillor Sandra Binion
Rainham and Wennington Community Association	Councillor Jeffrey Tucker
Reserve Forces & Cadets Association	Councillor Ted Eden
Romford Carnival Committee	Councillors Andrew Curtin and Sandra Binion
Romford Young Men's Christian Association (YMCA) - Board Of Management	Councillor David Grantham
Rush Green Community Association	Councillors Robert Benham and Fred Osborne
Second Chance - Theatre for the People	Councillor Andrew Curtin
Standing Advisory Council on Religious Education (SACRE)	Councillors Mark Gadd, Wendy Brice-Thompson, Gillian Ford and Jeffrey Tucker
Upminster Windmill Preservation Trust	Councillor Linda Hawthorn

**MINUTES OF A SPECIAL MEETING OF THE  
GOVERNANCE COMMITTEE  
Havering Town Hall  
19 June 2008 (7.30pm – 8.05pm)**

**Present:**

**COUNCILLORS:**

**Conservative Group** Frederick Thompson (in the Chair), +Sandra Binion, Kevin Gregory\*, Steven Kelly, Eric Munday and Michael White

**Residents' Group** Clarence Barrett and Gillian Ford

**Rainham & Wennington -  
Independent Residents'  
Group**

**Labour Group** Keith Darvill\*

**Substitute Member:** Councillor Sandra Binion (for Councillor Roger Ramsey)

\* for part of the meeting

Councillor David Grantham, Chairman of the Audit Committee, was also present

Apologies were received for the absence of Councillors Roger Ramsey and Jeffrey Tucker

The decision was taken with no vote against

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

**4 CORPORATE GOVERNANCE ARRANGEMENTS IN HAVERING**

The Committee received a report concerning the approval of the Annual Governance Statement, required as part of the Council's Annual Accounts submission. It was noted that the Statement (which replaced the former statement on internal control) was needed to ensure the Council's compliance with audit regulation requirements.

The Committee was reminded that the Council had recently adopted a revised Code of Governance and that the Council's compliance with that Code, and other governance issues, was monitored regularly by an officer working group, with regular reports to this Committee.

The Statement was now submitted for the Committee's approval, following which it would be considered by the Audit Committee as part of the process of finalising the Council closure of the Council's accounts for 2007/08.

The Statement is appended.

**RESOLVED:**

- 1 That the Annual Governance statement be agreed.
- 2 That the Audit Committee be **RECOMMENDED** to approve the inclusion of the Annual Governance Statement in the annual accounts.
- 3 That the Committee reaffirm their commitment to the promotion of good Corporate Governance.

## **ANNUAL GOVERNANCE STATEMENT**

This statement provides assurance to all stakeholders that within the London Borough of Havering processes and systems have been established, which ensure that decisions are properly made and scrutinised, and that public money is being spent economically and effectively to ensure maximum benefit to all citizens of the Borough.

### **Scope of responsibility**

The London Borough of Havering is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively. The London Borough of Havering also has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

In discharging this overall responsibility, The London Borough of Havering is responsible for putting in place proper arrangements for the governance of its affairs, facilitating the effective exercise of its functions, and which includes arrangements for the management of risk.

The London Borough of Havering has approved and adopted a code of corporate governance, which is consistent with the principals of the CIPFA/SOLACE\* Framework *Delivering Good Governance in Local Government*. The code sets out details of how the public and staff can expect the Council to be managed. Accountability, effectiveness, integrity, and openness are among the principles the code is based upon. The code also details how the Council conducts its business and how it relates to the community. This includes service delivery arrangements; structures and procedures; risk management and standards of conduct. The code is available on the Council's website and is within the Constitution of the Council. Other information on governance can also be found on the Council's website by following the link to council and then democracy / corporate governance. A copy of the code can be requested in other formats and languages.

This statement explains how London Borough of Havering has complied with the code and also meets the requirements of regulation 4(2) of the Accounts and Audit Regulations 2003 as amended by the Accounts and Audit (Amendment) (England) Regulations 2006 in relation to the publication of a statement on internal control.

### **The purpose of the governance framework**

The governance framework comprises the systems and processes, and culture and values, by which the authority is directed and controlled and its activities through which it accounts to, engages with and leads the community. It enables the authority to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate, cost effective services.

\* Chartered Institute of Public Finance and Accountancy/Society of Local Authority Chief Executives

The system of internal control is a significant part of that framework and is designed to manage risk to a reasonable level. It cannot eliminate all risk of failure to achieve policies, aims and objectives and can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of London Borough of Havering's policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically.

The governance framework has been in place at London Borough of Havering for the year ended 31 March 2008 and up to the date of approval of the draft statement of accounts.

### **The governance framework**

The key elements of the systems and processes that comprise the Council's governance arrangements are described in more detail below:

### **Vision and purpose**

14 'Living Ambition' - aiming for the highest quality of life in London is a 20 year vision for the London Borough of Havering.

The Council will work with partners and the local community to seize opportunities and shape a future for Havering that is bright, bold and rewarding for everyone who lives, visits, or works in the borough. The 'Living Ambition' agenda will be delivered by striving towards five goals:

- Goal for Environment : to ensure a clean, safe and green borough;
- Goal for Learning : to achieve excellence in education and learning;
- Goal for Towns and communities : to provide opportunities for all through economic, social and cultural activity;
- Goal for Individuals : to value and enhance the lives of every individual; and a
- Goal for Value : to deliver high customer satisfaction and a stable council tax.

Underpinning the Vision are new Values, to which all officers will be expected to work, in order to build a more effective organisation. The Council's Values are:



- 15 **One Council** - By combining our talents and presenting a single face to our customers, we will build our reputation as a unified organisation rather than individual departments.
- 16 **Learning from experience** - We can continuously improve how we do things by learning from each other. If we meet new challenges with innovative thinking we can develop new ways of working and pass on the knowledge.
- 17 **Integrity** - We will earn the respect of others by behaving honestly and openly and delivering on promises.
- 18 **You matter** - We can build better relationships with colleagues, customers and partners if we develop a better understanding of their needs. We are not a business to business organisation but a people to people one.
- 19 **Can do** - By being positive and accepting change and the risks it entails, we can be more optimistic and positive when faced with problems and create a more decisive but adaptive organisation.
- 20 **Fair to all** - If we value diversity and combat discrimination we will be able to champion and empower all the members of our staff and community and provide an example for all.

## **Performance Management**

The performance management framework has several functions:

- Focussing priority setting around needs along with the priorities of the Council and the public;
- Maximising the effective delivery of the services and the efficient use of resources through the facilitation of joint planning both across Council services and with partner organisations; and
- Ensuring relevant, timely and accurate information is available to measure and monitor performance and on which to base decisions.

Performance management is carried out via a series of meetings individually and at team level across the services. Performance monitoring is undertaken as part of those processes and the information collected feeds into a report to all Members, through the Members Monthly Pack. The Improvement and Delivery Board, comprising both members and officers, meet to review performance on a regular basis. The Overview & Scrutiny Committees also consider the performance reports – along with those that they have independently commissioned – and carry out their own reviews. Heads of Service also produce a quarterly pack which summarises their service performance and progress against objectives.

An annual summary of performance against the statutory and key local performance indicators is published on the website. An annual report is also produced for distribution as hard copy, summarising performance and plans.

The Council's strategy and soon to be produced policy and guidelines on data quality lay down clear guidelines to the effect that all performance measures must be produced to the same robust standard; any performance data that is to be considered for publishing can be subject to either internal or external audit.

The Council's financial management approach is led through its Medium Term Financial Strategy, which is produced in the summer, setting out the approach to financial planning for the subsequent three financial years. A series of Star-Chamber style sessions review performance, define the savings and spending targets for each Service area; these along with the results of market research into public opinion, studies of the needs in the Borough and the requirements of the Council's priorities go to define the objectives in Service Plans, which are linked to the Council's objectives via 'the Golden Thread'.

There are a number of strategies linked directly with the MTF; this includes the Capital Strategy, the Corporate Asset Management Plan, the Risk Management Strategy, the ICT Strategy and the Workforce Planning Strategy.

### **Council's Constitution**

The constitution sets out the roles and responsibilities of officers and members and provides details of how decisions are made and who can make them. It also contains the rules for managing our finances and resources effectively.

Details of those functions remaining with full Council are set out together with full Cabinet and individual Cabinet Member powers. All the terms and references of the various Committees of the Council are set out. All these provide clear accountability and effective leadership and decision making. There is an extensive Scheme of Delegation to officers enabling them to manage their areas of responsibility on a day to day basis. Where a key decision is to be taken, the Council publishes details in the Forward Plan.

### **Codes of Conduct**

The Council has an Employee Code of Conduct for officers supported by the requirement to make declarations of interest and to declare gifts and hospitality. Interests must be declared by officers above a certain grade or who hold specific decision making and procurement positions. Officers are required to decline gifts and hospitality to ensure that they are not inappropriately influenced. The Code and related policies and procedures are communicated via induction sessions for new staff and are available via the intranet. Periodically awareness campaigns occur to remind officers of their responsibilities. The relevant Corporate Management Team member is tasked with ensuring that appropriate arrangements are in place and the systems are reviewed at least every three years by internal audit. The most recent review was concluded in March 2008.

A Code of Conduct for Council Members was revised by the Government in 2007 and was adopted by the Council on 18<sup>th</sup> July 2007 ahead of the October deadline. Training has been provided to Members on the new Code and all Declarations of Interests have been made under the new Code. As part of the adoption of the new Code, the Council Protocols on Member/Officer Relations and Planning have been reviewed and adopted and a new Protocol on Gifts and Hospitality has been made and this was approved by the relevant Committees and Council.

### **Financial Rules and Regulations**

The Council has Financial and Contract Procedure Rules and Financial and Procurement Frameworks along with other policy and procedural documents in place to guide officers in their every day duties and ensure appropriate process and controls are adhered to. Schemes of delegation are also in place along with authorised signatories lists to detail appropriate levels of responsibility. Compliance with the various financial rules and regulations is monitored by Management and considered during audits of systems and processes. The Financial Procedure Rules were updated and approved in March 2008 and the Financial and Procurement Frameworks are also currently under review. The Contract Procedure Rules are also currently under review and will be approved by Cabinet in July 2008.

### **Effective Audit Committee**

The Audit Committee operates in accordance with the relevant CIPFA guidance. Its effectiveness is reviewed annually and an annual report is produced for the Committee. The Committee's terms of reference, outlined in the Constitution, contain responsibilities relating to internal control, external audit, and internal audit. Eight members sit on the Audit Committee representing the Conservative and Residents Groups of the Borough. The Audit Committee meets five times per year. The Committee has an annual work plan and training programme and reports on its performance to Council annually.

### **Compliance with laws, regulations and internal policies**

The Constitution sets out the legal framework for decision making and the publishing of those decisions. There is a scrutiny system in place to ensure that the work of the Council complies with all appropriate policies, laws and regulations. Overview and Scrutiny has the power to call in and challenge all decisions of Cabinet and individual Cabinet Members and key decisions of staff. Legal, Finance and Human Resources staff clear every Cabinet, Council and Committee report and every Lead Member decision, for compliance with laws, policies and regulations. The Statutory Officers also provide advice to Members at all appropriate times. Statutory appointments have been made for Adults and Children and a Lead Member for Children has been appointed.

Internal policies and procedures exist to guide officers and ensure compliance with legislation and proper practice. Policies and procedures are reviewed at least annually.

### **Counter Fraud and Confidential Reporting**

The Council has a corporate strategy for the prevention and detection of fraud and corruption. The effectiveness of the arrangements in place are reviewed annually and results reported to the Audit Committee. Ad hoc promotion of the strategy takes place throughout the year as part of the fraud strategy action plan. Integral to these arrangements is the Confidential Reporting, also known as Whistleblowing, policy which is communicated to staff via induction, the intranet and ad hoc awareness initiatives. The effectiveness of arrangements are reviewed annually and reported to Audit Committee. The results of fraud investigations are publicised to further promote the arrangements in place, as appropriate.

The Council also participates in the National Fraud Initiative (NFI) a computerised data matching exercise, lead by the Audit Commission, designed to detect fraud perpetrated

on public bodies. Havering has been praised on their efforts on this exercise.

## **Complaints**

Customer relationships and complaints handling was identified in 2007 as one of the areas in need of renewed impetus. The Chief Executive has considered such areas during the recent restructure of her Corporate Management Team (CMT). Reports have been considered by the Adjudication and Review Committee, who have overall responsibility for complaints handling. CMT have also spent time considering the importance of the Customer Services Policy and have agreed to build on current systems and fully integrate the Council's 'front office' ensuring all contacts receive a prompt response and more importantly resolution. This work has commenced with new service standards and a training programme.

## **Training and Development**

The Council has a commitment that every member of staff has a review and annual appraisal to discuss performance, targets and personal development. It also has a commitment to provide a minimum of three days training per annum and in September 2007 opened a new dedicated training centre in Rainham. The Council provides a range of training opportunities for managers and staff to ensure they can deliver services effectively. These include a Leadership Programme, Leaders' and Managers' toolkit, recruitment and selection, Health and Safety, Project Management and IT training. It also provides training / briefing on procurement procedures, finance for non-financial managers and risk management.

Members have their own development programme to keep them up to date with changes and support their training needs. Training is supplemented by information through briefings, bulletins and it is planned to run a series of mini-conferences. Their training includes Finance and the Code of Conduct, Licensing and secure accommodation review. The high standard of the training was recognised in a positive assessment in April 2008 for the Member Development Charter.

## **Communication and Consultation**

The Council strives to identify and develop new effective mechanisms to communicate and consult with the community. The Corporate Plan takes account of consultation as well as local and national priorities. The Council has adopted and implemented the Equality Standard, achieving level one and aiming to achieve levels two and three by the end of 2008/09. A wide number of forums take place to consult with all members of the community, particularly targeting hard to reach groups.

The Council maintains a website to provide information and a point of contact to the residents of the Borough. The publication 'Living' is also issued two weekly communicating information regarding Council activities.

An extensive consultation process is carried out as part of the development of the MTFs and detailed annual budget. Views are sought through various media and the budget itself is subject to scrutiny through Cabinet, Overview & Scrutiny and Area Committees.

## **Partnerships**

There are seven theme areas and champions within the Havering Strategic Partnership (HSP) structure. These are:

- Community Participation;
- Community Safety;
- Environment;
- Prosperous Community;
- Older People;
- Health and Wellbeing; and
- Children and Young People.

Theme Delivery Champions, for accountability purposes, report to the Programme Board on progress against the Community Strategy Action Plan and any other relevant work for the theme. Delivery Champions relate the aims and progress of the theme area to the Assembly in very general and accessible terms making it accessible for smaller groups and businesses to be involved in local decision making and scrutiny.

Through the HSP structure elected members and other community representatives can engage more fully in the work of the HSP. Each theme champion will work with Cabinet members to develop and implement the LAA programme.

The HSP is not legally constituted, and the Council, as the accountable body, has to ensure clear and robust financial and performance monitoring arrangements are in place. The council's own performance management arrangements are strong and its performance team works closely with the HSP.

A partnership toolkit has been developed by the Council to log and rank the partnerships to which resources are applied. It is being used to manage partnerships outside of the HSP e.g. major providers. The toolkit will be further developed in 2008/09 to provide additional guidance to the lead officers and promote a consistent approach to partnership working across the organisation.

## **Review of effectiveness**

The London Borough of Havering has responsibility for conducting, at least annually, a review of the effectiveness of its governance framework, including the system of internal control. The review of effectiveness is informed by the work of the Governance Group within the authority who have responsibility for the development and maintenance of the governance environment, the Head of Internal Audit's annual report, and also by comments made by the external auditors and other review agencies and inspectorates.

Outlined below are the arrangements in place to review the effectiveness of the governance framework and the sources of information and assurance on which this statement is based:

## **Constitution**

The Monitoring Officer keeps the Constitution under continual review having delegated powers to make amendments arising from written reports, organisational changes, and legal requirements and to correct errors. Other amendments are considered by Governance Committee and Council. Following a Senior Management Restructuring in May 2008, a substantial part of the Constitution has been reviewed and amended to reflect the new officer structure.

### **Governance Group and Corporate Management Team**

The Council's officer governance group is charged with reviewing the governance arrangements and monitoring any actions designed to improve the framework; close links exist between this group and the Corporate Management Team, who take an active interest in Governance issues. The group have implemented a timetable for the annual review and considered guidance provided by CIPFA; a self assessment against the six principles of good governance has also been completed and an action plan drawn up.

### **Governance and Audit Committees**

The Council's Governance Committee, attended by the Leader of the Council, and other Group Leaders, is charged with overseeing the Council's governance arrangements and received a report outlining the on-going work of the governance group during the financial year in March 2008. The Governance Committee is responsible for approving the code and the Annual Governance Statement and members who attend both this and the Audit Committee, are responsible for monitoring the work of Internal Audit regarding internal control. This monitoring is integral in the process to produce to produce a robust Governance Statement.

### **Overview and Scrutiny**

The overview and scrutiny function reviews decisions made by members. The focus of their role is to provide a challenge and to support the development of policies. At their meetings they have the opportunity to consider performance information; using such things as the quarterly Head of Service packs and monthly Members packs.

### **Internal Audit**

Internal Audit is an independent appraisal function that measures, evaluates and reports upon the effectiveness of the controls in place to manage risks. In doing so Internal Audit supports the Group Director Finance and Commerce in her statutory role as Section 151 officer. Annually a Head of Internal Audit Opinion and annual report provide assurance to officers and members regarding the system of internal control; this assurance has also been considered in the production of this statement.

### **Risk Management**

The responsibility for the system of internal control sits with management therefore each Head of Service is required to complete their own assessment and declaration with regards to the arrangements in place within their respective areas. These declarations

have been considered when compiling this statement. The Council has embedded risk management processes and relevant policies and the strategy are reviewed and approved annually by Audit Committee. Service Risk Registers are maintained as part of business planning process and independently reviewed bi-annually, with results reported to the Risk Management Group, who are in turn responsible for periodic review of and updates to the Corporate Risk Register.

### **External Inspectors**

The Council is subject to review and appraisal by a number of external bodies; results of such reviews are considered within the performance management framework. The work of the Council's External Auditor, currently the Audit Commission, is reported to the Audit Committee. The Audit Commission provided an unqualified opinion for 2006/07 within their Annual Governance Report with regards to Value for Money. The Council's accounts are audited annually by the external auditor. The results of all external reviews have also been considered in the process of compiling this statement.

We have been advised on the implications of the result of the review of the effectiveness of the governance framework by the Corporate Management Team and the Governance Committee, and a plan to address weaknesses and ensure continuous improvement of the system is in place.

### **Significant governance issues**

The issues identified in the 2006/07 Statement on Internal Control have been monitored by management throughout the year with review periodically to challenge actions and progress by both Corporate Management Team and the Audit Committee. Evidence of this review as well as the detail regarding actions can be found within the Audit Committee agendas on the website. Of the eight issues highlighted in the 2006/07 Statement on Internal Control, five had been fully addressed at the end of March 2008, the remaining three were issues with wide reaching implications and although significant progress has been made in each area it is felt that the issues remain open. The three issues are therefore detailed below along with the further planned actions to ensure that focus on these areas is maintained throughout 2008/09.

<b>Significant and action already taken</b>	<b>Issue</b>	<b>Planned action</b>	<b>CMT Lead</b>
1. Complaints Handling.  ➤ Review by overview and scrutiny, adjudication and review and CMT.  ➤ Enhancements to technology.  ➤ New approach approved by Cabinet – including a strong commitment to complaint resolution.		Implement and Promote new approach; Monitor and report on performance inc Customer Satisfaction; and Implementation of a new system.	Group Director Culture & Community

**Governance Committee, 19 June 2008**

<p>2. Partnership working including changes to funding arrangements.</p> <ul style="list-style-type: none"> <li>➤ Partnership toolkit rolled out.</li> <li>➤ Increased emphasis on partnership working.</li> <li>➤ Robust arrangements in place regarding strategic partners.</li> </ul>	<p>Re-promote toolkit and ensure it clearly guides lead officers in the Council's approach to partnership management; Extend good practice from strategic partnerships throughout organisation; and Audit 2008/09.</p>	<p>Group Director Culture &amp; Community</p>
<p>3. Homes in Havering.</p> <ul style="list-style-type: none"> <li>➤ Close links between organisations.</li> <li>➤ Worked together to prepare for 2007 inspection of ALMO.</li> <li>➤ Performance Management process in place and regular meetings occur.</li> </ul>	<p>Develop relationships and protocols further and have clear shared objectives; implement joint risk management procedures to ensure maximum achievement of objectives. Reduce bureaucracy between the two organisations and prepare for next inspection.</p>	<p>Group Director Culture &amp; Community</p>

In addition to those issues highlighted above the procedures to review and monitor Governance Arrangements in 2007/08 have highlighted the following:

<b>Significant</b> and action already taken	<b>Issue</b>	<b>Planned action</b>	<b>CMT Lead</b>
<p>4. Data Quality – including Partner organisations.</p> <ul style="list-style-type: none"> <li>➤ Development of a data quality strategy; and</li> <li>➤ Implementation of an electronic performance management system that will enable timelier reporting by partners.</li> </ul>	<p>Data quality training, policies and guidance rolled out with Havering Performs – the performance management system; Refresh the strategy – annual review due July 2008; and Internal and External Audits planned 2008/09.</p>	<p>Group Director Finance &amp; Commerce</p>	
<p>5. Community Engagement</p> <ul style="list-style-type: none"> <li>➤ Completed governance self assessment to highlight areas of weakness;</li> <li>➤ Senior Managers away day dedicated to equality and</li> </ul>	<p>Monitor action plan resulting from self assessment. Implement robust procedures for collection of National Indicators. Internal Audit on Local Area Agreements/Community Strategy 2008/09 plan.</p>	<p>Group Director Culture &amp; Community</p>	



**Governance Committee, 19 June 2008**

diversity and new values launched;  ➤ Restructure of Senior Management to support the increased impetus and joint working in this area.		
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We propose over the coming year to take steps to address the above matters to further enhance our governance arrangements. We are satisfied that these steps will address the need for improvements that were identified in our review of effectiveness and will monitor their implementation and operation as part of our next annual review.

**Signed:**

Lead Member .....

Chief Executive.....

**Governance Committee, 19 June 2008**

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MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	9 JULY 2007	<b>5</b>

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**REPORT OF THE CHIEF EXECUTIVE**

**SUBJECT: APPOINTMENTS TO OTHER ORGANISATIONS, 2008/09 –  
further report**

**1 TENANT MANAGEMENT ORGANISATIONS – appointment of  
Council representatives**

Tenant Management Organisations (TMOs) are autonomous bodies established by the tenants and leaseholders of Council-owned properties on housing estates to manage aspects of their estates on a co-operative basis. There are 3 TMOs in the Borough, together managing 640 units and undertaking functions such as grounds maintenance, caretaking and cleaning, according to their local environment.

Under the agreement between each TMO and the Council, each TMO has a Board or Committee to manage the organisation. Following the establishment of Homes in Havering (HiH), the TMOs are managed and financed by HiH on behalf of the Council.

HiH have advised the Council that to strengthen the relationship between the TMOs and the Council there ought to be Council representation on the Board. It is suggested that the best way to achieve that is to nominate an elected Member, preferably from the Ward where each TMO operates, to sit on each of the Boards/Committees.

The TMOs are:

Barnstaple Estate Tenants' and Residents' Association - BETRA  
(Gooshays Ward);

Parkhill Estate Tenants' and Residents' Association - PETRA (St  
Andrews Ward); and

Durham Estate Leaseholders' and Tenants' Association - DELTA  
(Squirrels Heath Ward)

**The Committee is asked:**

- 1 To approve the appointment of a Member to serve on the Board or Committee of each TMO (and any further TMOs established in future).**
- 2 To nominate a Member from each relevant Ward to serve on the appropriate TMO.**

**2 CORPORATE PARENTING PANEL**

As part of the Government's Quality Protects Initiative that commenced in 1998, it was expected that all Councillors would be made aware of their responsibilities as 'corporate parents' to children in care. In particular, the Secretary of State identified to Councillors that 'You can make sure that the interests of the children [in care] come first. You bring a fresh look and common sense. As Councillors you set the strategic direction of your council's service and determine policy and priorities for your local community...'. As a result most Local Authorities created a formally constituted Corporate Parenting Panel to coordinate the Councillors' response to this.

In Havering the Panel has not had formal status. There are three Councillor members – Councillors Pat Mylod, Brice-Thompson and Fox. The current, informal Panel is chaired by the Head of Service for Children's Social Care and the remainder of the membership is drawn from senior officers. This structure is, however, not consistent with national practice and is unlikely to be seen as consistent with the Government's agenda for children in care. That being so, it is proposed that a formally constituted Corporate Parenting Panel should be created with a membership of 6 Councillors, including a Chairman and a Deputy Chairman. The Head of Service for Children's Social Care would be the senior officer in attendance to act as panel advisor, it being anticipated that other officers would attend at the request of Members as relevant to the subject matter for each meeting.

The simplest and most convenient way to formalise the Panel would appear to be to designate the Councillor Members of the Children's Services Overview & Scrutiny Committee as the Panel. Panel meetings would be separate from OSC meetings but the membership would be the same (and any change in membership of the OSC would automatically be reflected in the Panel's membership). The Panel would effectively be a Sub-Committee of the OSC but meeting outside the framework of the Local Government Act 1972.

**The Committee is asked:**

- 1 To approve the establishment of the Corporate Parenting Panel as now proposed.**
- 2 To agree that the Councillor Members of the Children's Services OSC be appointed as the Members of the Panel, with the same Chairman and Vice-Chairman.**
- 3 To agree that the Council be RECOMMENDED to agree these propositions and to authorise the Assistant Chief Executive, Legal & Democratic Services, to amend the Constitution accordingly.**

**3 CARERS PANEL**

The membership of the Panel is currently as follows:

Alan Johnstone Panel Chair - Independent  
Cllr. John Mylod - Elected Memeber  
Carol Balfe - Social Work Member - Fostering Experience  
Marie Pudney - Health Representative  
Wendy Johnson - Social Work Member - Child Care Experience  
Floyd Powell - Independent Member  
Trevor Sim - Education Representative  
Avril Howe - Independent Member - foster parent  
Dr. Saminathan - Independent Member  
Joyce Adelakun - Independent Member

Councillor John Mylod's period of office is due to end in November. It is understood that Councillor Pat Mylod has indicated a willingness to succeed him.

The Carers Panel has a crucial role in the provision and monitoring of fostering, shared care, private fostering and kinship care for children and young people. The Panel's role and functions are covered in the Fostering Regulations 2002. Its functions relate to approving, reviewing and terminating approvals of carers. The Carers Panel also provides a quality assurance function in relation to the work presented to it.

**The Committee is asked:**

- 1 To confirm the appointment of members of the Corporate Parenting Panel, as listed above; and**

- 2 To approve the appointment of Councillor Pat Mylod, in succession to Councillor John Mylod, with effect from the end of his term of office.**

**4 ROMFORD COMBINED CHARITY**

The Council appoints all four nominative trustees of the Combined Charity, for four year terms. Former Councillor Wilf Mills was appointed a trustee in July 2004 and his term will end on 7 July.

The Committee is requested to nominate a successor.

Currently, the other Council-appointed trustees are Councillors Michael Armstrong and Andrew Curtin, and Mrs Christine Hunnable (a former clerk of the trustees). It is understood that Mr Mills would be willing to continue as a trustee.

**The Committee is asked to nominate a trustee for the term ending 7 July 2011.**

**Cheryl Coppel  
Chief Executive**

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

**Telephone: 01708 432431**

**Background papers:**

There are no papers



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MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	9 July 2008	<b>6</b>

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## REPORT OF THE CHIEF EXECUTIVE

**SUBJECT: AMENDMENTS TO THE CONSTITUTION**

<b>SUMMARY</b>
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1. Part 2 Article 15.02(c) of the Constitution authorises the Monitoring Officer to amend the Constitution to correct errors or to comply with any legal requirement or to reflect organisational changes to the Council's structure, the Monitoring Officer shall have power to amend the Constitution to correct errors or to comply with any legal requirement or to reflect organisational changes to the Council's structure, to insert recommendations made pursuant to a written report agreed by Council, to clarify the Constitution, insert obvious omissions or to comply with any accepted recommendations made by District Audit, the Audit Commission, the Standards Board and/or any other government appointed inspection regime.
2. Power to clarify the Constitution, insert obvious omissions or to comply with accepted recommendations of external bodies shall only be exercised after first giving five working days' notice to Group Leaders.
3. If the Monitoring Officer makes any such amendment to the constitution, he or she must notify the Governance Committee accordingly at the first reasonable opportunity.
4. Other amendments are dealt with under Part 1 Article 4.02 paragraph (a) of the Constitution, which provides that only the Council will exercise the function of adopting and changing the Constitution.
5. Part 3 Section 1 paragraph 1.2 of the Constitution provides that this Committee will



- monitor and review the operation of the Constitution to ensure that the views and principles of the Constitution are given full effect
- make recommendations to the Council about amending the Constitution

## **RECOMMENDATION**

To **RECOMMEND TO THE COUNCIL** that, subject to appointments, dismissals, assimilation and redundancies for Chief Officers being authorised by Appointments Committee, the Head of Human Resources be delegated authority to implement the agreed procedure for any senior management realignment or restructuring including:

1. Achieving any necessary reduction through voluntary redundancy;
2. Considering applications from unaffected chief officers which would create a suitable alternative employment opportunity for an affected Chief Officer;
3. Deciding upon the ring fence arrangements and inviting applications for assimilation; and
4. Arranging advertisements and assessment centres, and, subject to compliance with the Contract Procedure Rules, appointing external recruitment consultants.

## **REPORT DETAIL**

The Appointments Committee considered at a meeting on 20 May 2008 reports relating to the process of making appointments to Chief Officer posts as a consequence of the Senior Management realignment. Among the issues dealt with was a recommendation that the Governance Committee be requested to seek the Council's approval of an amendment to the Constitution to provide for the Head of Human Resources to have the delegated powers necessary to implement the agreed procedure for any future senior management realignment or restructuring. This is in effect:

1. To achieve any necessary reduction through voluntary redundancy
2. To consider applications from unaffected chief officers which would create a suitable alternative employment opportunity for an affected Chief Officer
3. To decide upon the ring fence arrangements and invite applications for assimilation
4. To arrange advertisements, assessment centres and appoint external recruitment consultants, subject to Contract Procedure Rules

subject to appointments, dismissals, assimilation and redundancies for Chief Officers being authorised by Appointments Committee.

This will enable the process to proceed more easily. Currently reports are taken to Appointment Committee on each Senior Management restructuring. It will also enable staff to be fully cognisant of the process at the earliest possible stage.

**Financial Implications and Risks**

There are none

**Equalities and Social Inclusion Implications and Risks**

There are none

**Human Resource Implications and Risks**

These are included in the body of the report.

**Legal Implications and Risks**

This will prevent duplication of reports and enable a process to be readily available at the commencement of any future restructuring. The process itself will need to be transparent and properly applied and that will be a matter for the Head of Human Resources.

**CHERYL COPPELL**  
**Chief Executive**

**Staff Contact: Christine Dooley**  
**Assistant Chief Executive Legal & Democratic Services**  
**Telephone: 01708 432442**

**Background Paper List**

None

**Governance Committee, 9 July 2008**



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MEETING	DATE	ITEM
GOVERNANCE	9 JULY 2008	<b>7</b>

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## **REPORT OF THE MONITORING OFFICER**

**SUBJECT: AMENDMENTS TO THE CONSTITUTION – made by Monitoring Officer**

### **SUMMARY**

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

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

### **RECOMMENDATIONS**

That this report be noted.

### **REPORT DETAIL**

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

The latest amendments are:

- Amendment No. 32, dated 30 May 2008.
- Amendment No. 33, dated 16 June 2008.

**Governance Committee, 9 July 2008**

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

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

**Financial Implications**                      None

**Equalities Implications**                      None

**Environmental Implications**                      None

**Legal Implications**                      None

**CHRISTINE DOOLEY**  
**Monitoring Officer**

**Staff Contact:        Christine Dooley**  
**Telephone: 01708 432484**

**Background Papers**

Email correspondence

**Notification No. 32**

**Date 30<sup>th</sup> May 2008**

**Notification of amendments to the constitution**

**Amendments made by the Monitoring Officer**

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

In accordance with this authority, the Monitoring Officer gives notice of the following amendments to the constitution effective from the respective dates shown in the attached document headed Transitional Arrangements.

<b>Part and article/ section</b>	<b>Page reference</b>	<b>Substance of amendment / amended wording</b>	<b>Reason for amendment</b>
Part 3 Section 3	83-138	Amendment to Scheme of Delegation in consequence of restructuring	Organisational Change
Part 3 Sections 4,5,6,7	139-176	Amendments to Functions and Responsibilities in consequence of restructuring	Organisational Change

This part sets out which body or individual is responsible for exercising each of the functions assigned to the Council by law. Under the Local Government Act 2000, each of the Council's functions falls into one of the following categories:

- Council functions, which are the responsibility of the full Council and/or its committees and sub-committees
- executive functions, which are the responsibility of the Executive, meaning the Cabinet or individual Cabinet members
- local choice functions, where the Council determines whether the function is the responsibility of the Council or of the Executive.

Both Council functions and executive functions may (with some exceptions) be delegated to staff.

This part sets out responsibility for functions as follows:

**1 Council functions**

- 1.1 Functions exercised by full Council alone
- 1.2 Functions delegated to general council committees
- 1.3 Statutory bodies
- 1.4 Functions delegated to overview and scrutiny committees
- 1.5 Functions delegated to area committees

**2 Executive functions**

- 2.1 Functions exercised by Cabinet alone
- 2.2 Functions delegated to individual Cabinet members
- 2.3 Functions exercised by another authority on behalf of this authority
- 2.4 Functions exercised by joint arrangements with another authority or other authorities

**3 Functions delegated to staff**

- 3.1 General provisions and limitations
- 3.2 Powers of Chief Executive
- 3.3 Powers of Group Directors
- 3.4 Powers of Assistant Chief Executive and Heads of Service
- 3.5 Social Care and Learning

3.6 Culture and Community

3.7 Finance & Commerce

3.8 Chief Executive

**4 Functions not to be the responsibility of an authority's Executive**

**5 Local choice functions**

**6 Proper officer functions**

**7 Appendices**

Appendix A: Names, addresses and wards of individual Cabinet members

Appendix B: Functions delegated to staff: specified sums of expenditure

Appendix C: Enactments enforceable by Head Housing & Public Protection

Appendix D: Enactments enforceable by Head of Housing & Public Protection: licensing and registration of premises and persons

Appendix E: Enactments enforceable by Head of Housing & Public Protection: licensing and registration of premises or persons

Appendix F: Enactments enforceable by Head of Housing & Public Protection and Head of Housing & Public Protection

**Appendix G: Code of practice: disposal of surplus property**



# 1 Council functions

## 1.1 Functions exercised by full Council alone

The functions listed in Article 4.02 of Part 2 are reserved to the full Council. The Council undertakes those functions assigned under Part 3, section 4: functions not to be the responsibility of an authority's Executive (group D, E, F, G and I functions).

## 1.2 Functions delegated to general council committees

The following functions are delegated to the general council committees. Any reference to "the regulations" is a reference to the Local Authorities (Functions and Responsibilities) (England) (Amendment) (No.2) Regulations 2007, as amended. Reference is made to the following functions:

- functions not to be the responsibility of an authority's Executive, set out in Part 3, section 4 (delegated in accordance with schedule 1 of the regulations)
- local choice functions, set out in Part 3, section 5 (delegated in accordance with schedule 2 of the regulations).

Council committee	Membership	Functions
Adjudication and Review	<ul style="list-style-type: none"> <li>• 9 councillors, or the number of councillors determined by Council from time to time, provided that no more than 1 councillor is a Cabinet member</li> <li>• independent persons from the Council's panel to attend appropriate hearing's panels</li> </ul>	<p><b>General</b></p> <p>To determine an appeal against any decision made by or on behalf of the authority, except where statute provides for some other route of appeal (see Part 3, section 4: functions not to be the responsibility of an authority's Executive (group B functions) and Part 3, section 5: local choice functions) or in relation to functions exercised by the Licensing Committee</p> <p><b>Admission and exclusion of pupils</b></p> <ul style="list-style-type: none"> <li>• To make arrangements pursuant to section 94(1) and (4) and schedule 24 of the School Standards and Framework Act 1998 (admission appeals)</li> <li>• To make arrangements pursuant to section 67(1) and schedule 18 of the School Standards and Framework Act 1998 (exclusion appeals)</li> </ul> <p><b>Governing bodies</b></p> <ul style="list-style-type: none"> <li>• To make arrangements pursuant to section 95(2) and schedule 25 of the Social Security Act 1998 (children to whom section 87 applies: appeals by governing bodies)</li> <li>• To hear appeals from teachers about early retirement decisions by governing bodies</li> </ul>

<b>Council committee</b>	<b>Membership</b>	<b>Functions</b>
		<p><b>Governor removal</b></p> <p>To remove LEA governors from governing bodies where appropriate</p>
Appointments	6 councillors, or the number of councillors determined by Council from time to time, provided that at least 1 councillor is a Cabinet member	<p><b>Appointments and dismissals</b></p> <ul style="list-style-type: none"> <li>• To make recommendations to Council about appointing and dismissing the Head of Paid Service</li> <li>• To appoint and dismiss Group Directors and Heads of Service, in accordance with the procedures set out in the Staff Employment Procedure Rules in Part 4 of this constitution</li> </ul> <p><b>Terms and conditions</b></p> <p>To determine the local terms and conditions, pay and grading arrangements of the Head of Paid Service, Group Directors, Assistant Chief Executive, Assistant Directors and Heads of Service</p> <p>(See Part 3, section 4: functions not to be the responsibility of an authority's Executive (group 1 functions))</p>
Audit	6 Councillors, or the number of councillors determined by Council from time to time	<p><b>Internal control</b></p> <ul style="list-style-type: none"> <li>• To consider and monitor the adequacy and effectiveness of the authority's risk management and internal control environment and to make recommendations to full Council where necessary</li> </ul> <p><b>External audit</b></p> <ul style="list-style-type: none"> <li>• To monitor the adequacy and effectiveness of the External Audit Service and respond to its findings</li> </ul> <p><b>Internal audit</b></p> <ul style="list-style-type: none"> <li>• To support the Group Director Finance &amp; Commerce with his or her delegated responsibility of ensuring arrangements for the provision of an adequate and effective internal audit</li> <li>• To monitor the adequacy and effectiveness of the internal audit service and to receive and monitor an annual internal audit plan from the audit manager</li> <li>• To receive and approve the Annual Statement of Accounts</li> <li>• To monitor proactive fraud and corruption arrangements</li> </ul> <p>(See Part 3, section 4: functions not to be the responsibility of an authority's Executive (group 1 functions))</p>
Governance	6 councillors, or the	<b>Monitoring constitution</b>

Council committee	Membership	Functions
	<p>number of councillors determined by Council from time to time, provided that at least 1 councillor is a Cabinet member</p>	<p>In accordance with Part 2, Article 15 of this constitution:</p> <ul style="list-style-type: none"> <li>• To monitor and review operation of the constitution to ensure that the aims and principles of the constitution are given full effect</li> <li>• To make recommendations to the Council about amending the constitution</li> <li>• To monitor and review the Members' Allowance Scheme and make recommendations to Council</li> <li>• To monitor and review the role of Overview and Scrutiny including numbers, operation and responsibility of Overview and Scrutiny Committees and their terms of reference and make recommendations</li> <li>• To monitor and review all aspects of Corporate Governance</li> </ul> <p><b>Staff disciplinary, capability and grievance procedures</b></p> <ul style="list-style-type: none"> <li>• Where necessary, to establish a panel to consider and determine any allegation under the Council's disciplinary or capability procedures against the Head of Paid Service, a Group Director, Assistant Chief Executive, Assistant Director or a Head of Service and, where necessary, to establish a second panel to hear an appeal by the Head of Paid Service, a Group Director, Assistant Chief Executive, Assistant Director or a Head of Service from the decision of the first panel</li> <li>• Where necessary, to establish a panel to hear a grievance submission made by the Head of Paid Service, an Group Director, Assistant Chief Executive, Assistant Director or a Head of Service</li> <li>• Where necessary to establish a panel to consider and determine any appeal against dismissal or final stage grievance lodged by "Havering Grade" staff.</li> </ul> <p><b>Appointments</b></p> <ul style="list-style-type: none"> <li>• To appoint any individual: <ul style="list-style-type: none"> <li>(a) to any office other than an office in which he is employed by the authority</li> <li>(b) to any body other than: <ul style="list-style-type: none"> <li>(i) the authority</li> <li>(ii) a joint committee of two or more authorities, or</li> </ul> </li> <li>(c) to any committee or sub-committee of such a body</li> </ul> </li> </ul> <p>and to revoke any such appointment (see Part</p>

<b>Council committee</b>	<b>Membership</b>	<b>Functions</b>
		<p>3, section 5: local choice functions)</p> <ul style="list-style-type: none"> <li>To approve delegated arrangements for such appointments</li> <li>To interview candidates for the independent member positions on the Standards Committee and to make recommendations to Council about the appointment of the independent members</li> </ul> <p><b>Governor placements</b></p> <p>To allocate LEA governor placements where the nominee is a Member or employee of the Council.</p> <p><b>Member support</b></p> <p>To oversee matters related to the facilities available to support members</p> <p><b>Miscellaneous</b></p> <p>To undertake those functions assigned under Part 3, section 4: functions not to be the responsibility of an authority's Executive (group I functions)</p>
Pension <sup>1</sup>	<ul style="list-style-type: none"> <li>6 councillors, or the number of councillors determined by Council from time to time</li> <li>2 trade union observers without voting rights</li> </ul>	<p><b>Pension fund</b></p> <p>To consider and agree the investment strategy and statement of investment principles for the pension fund and subsequently monitor and review performance (see Part 3, section 4: functions not to be the responsibility of an authority's Executive (group H functions))</p> <p><b>Advisers and investment managers</b></p> <p>Where appropriate and above staff delegation levels to recommend staff to invite tenders and award contracts for actuaries, advisers and fund managers or other related investment matters</p> <p>To appoint and review the performance of advisers and investment managers for Council and pension fund investments</p> <p><b>Terms of reference</b></p> <p>To take decisions on those matters not to be the responsibility of the Cabinet under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 relating to those matters concerning pensions made under Regulations set out in Sections 7, 12 or 24 of the Superannuation Act 1972</p>
Regulatory Services	11 councillors, or the number of councillors determined by Council	<p><b>Health and safety</b></p> <p>To carry out functions relating to health and safety under any "relevant statutory provision" within the</p>

<sup>1</sup> - Council recommend that the membership of the Pension Committee remains static for the life of the Council in order that members are fully trained in matters relating to investment, unless exceptional circumstances require a change.

- Each Group nominate named substitutes for their committee in order that they may receive appropriate training.

<b>Council committee</b>	<b>Membership</b>	<b>Functions</b>
	<p>from time to time, provided that no more than 1 councillor is a Cabinet member</p>	<p>meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer</p> <p><b>Highways use and regulation</b></p> <p>To exercise powers relating to the regulation of the use of highways as set out in Part 3, section 4: functions not to be the responsibility of an authority's Executive and that are not delegated to the area committees (see Part 3, section 1.4) or to staff</p> <p><b>Planning and conservation</b></p> <p>To carry out functions relating to town and country planning and development control as specified in:</p> <ul style="list-style-type: none"> <li>• Part 3, section 4: functions not to be the responsibility of an authority's Executive</li> <li>• Part 3, section 5: local choice functions that are not delegated to staff</li> </ul> <p><b>Urban Development Corporation</b></p> <p>To form planning views on behalf of the Council in its role as consultee on applications to be decided by the Board of the Urban Development Corporation</p>
<p>Standards</p>	<ul style="list-style-type: none"> <li>• 6 members of the authority, one of whom may be a Cabinet member but who may not be Chairman the committee; the Leader may not be a member</li> <li>• 2 independent members, both with voting rights</li> <li>• The Chairman and Vice Chairman of the Committee are Independent Members.</li> </ul>	<p><b>General</b></p> <ul style="list-style-type: none"> <li>• To promote and maintain high standards of conduct by the members and co-opted members of the authority</li> <li>• To assist members and co-opted members of the authority to observe the authority's code of conduct</li> <li>• To monitor, advise on, and educate members in matters relating to Council guidelines on conduct and/or probity</li> <li>• To hear, determine and report upon any local matters including the application of relevant and permitted sanctions</li> <li>• To make any report to the Council and to take any appropriate action arising from the terms of reference, legislation and regulations</li> <li>• hearing, determining and reporting upon any matters relating to breach of the Rules regarding the Party Whip set out in Article 13.09 including the application of relevant and permitted sanctions.</li> </ul> <p><b>Members' code of conduct</b></p> <ul style="list-style-type: none"> <li>• To advise the authority on the adoption or revision of a code of conduct</li> <li>• To monitor the operation of the authority's code of conduct</li> <li>• To advise, train or arrange to train members and co-opted members of the authority on matters relating to the authority's code of</li> </ul>

Council committee	Membership	Functions
		<p>conduct</p> <p><b>Guidelines for members in dealing with staff</b></p> <ul style="list-style-type: none"> <li>• To advise the authority on the adoption or revision of the Guidelines on members dealing with staff</li> <li>• To monitor the operation of the authority's Guidelines on members dealing with staff</li> <li>• To advise, train or arrange to train members and co-opted members of the authority on matters relating to the authority's Guidelines on members dealing with staff</li> </ul> <p><b>Protocol on probity in planning</b></p> <ul style="list-style-type: none"> <li>• To advise the authority on the adoption or revision of the Protocol on Probity in Planning</li> <li>• To monitor the operation of the authority's Protocol on Probity in Planning</li> <li>• To advise, train or arrange to train members and co-opted members of the authority on matters relating to the authority's Protocol on Probity in Planning</li> </ul> <p><b>Whistleblowing Policy and Procedure</b></p> <ul style="list-style-type: none"> <li>• To monitor and evaluate complaint numbers and general types made in respect of the Council Whistleblowing policy and procedure and to make any recommendations for improvement to staff and/or Cabinet</li> </ul> <p><b>Adjudication</b></p> <ul style="list-style-type: none"> <li>• To consider a notice from a case tribunal or interim case tribunal of the Adjudication Panel for England and prepare a report on the notice as required by the Local Government Act 2000</li> <li>• To prepare a report responding to any recommendations made to the authority by a case tribunal of the Adjudication Panel for England, and to take any appropriate action as a result of those recommendations</li> </ul> <p><b>Standards Board for England</b></p> <ul style="list-style-type: none"> <li>• To consider any matters as may be referred by the Standards Board for England</li> </ul> <p><i>From the date of the coming into force of regulations made by the Secretary of State:</i></p> <ul style="list-style-type: none"> <li>• To consider any report and recommendations made by the monitoring officer to the committee</li> <li>• To take any action prescribed by the regulations, including censuring a member or suspending or partially suspending a person from being a member</li> </ul> <p><b>Register of members' interests</b></p> <ul style="list-style-type: none"> <li>• To issue guidelines to members about how to make a declaration of interest</li> </ul>

**Governance Committee, 9 July 2008**

<b>Council committee</b>	<b>Membership</b>	<b>Functions</b>
		<ul style="list-style-type: none"><li>• To grant a dispensation to a member participating in a business which is prohibited under the members' code of conduct, in accordance with any regulations made by the Secretary of State</li></ul>
Licensing	13 Councillors	<p>(1) to exercise the functions required by the Licensing Act 2003 and the Gambling Act 2005.</p> <p>(2) to determine applications for licences and registration under Schedule 1 to the regulations not otherwise dealt with</p>

**Governance Committee, 9 July 2008**

By convention, the Council agrees that the following sub-committees should be exempt from political balance requirements imposed under section 17(1) of the Local Government and Housing Act 1989.

<b>Committee establishing sub-committee</b>	<b>Name of sub-committee</b>	<b>Membership</b>	<b>Functions</b>
Adjudication and Review Committee	Hearings Panel	<p>Each meeting of the Hearings Panel is constituted separately according to the category of hearing before the panel:</p> <p><b>Hearings under the Children Act 1989 Representations Procedure (England) Regulations 2006</b> 3 independent persons from the Council's panel.</p> <p><b>Hearings under the Local Authority Social Services Complaints (England) Regulations 2006</b> 2 independent persons from the Council's panel (one as Chairman) and 1 member of the principal committee</p>	<p>In relation to each category of hearing listed below, the Hearings Panel is empowered to make such awards as it considers appropriate in the interests of justice provided that it does not act outside of Council Policy.</p> <p>If the Hearings Panel is of the view that Council Policy is erroneous the Chairman of the Panel shall draw the policy provision to the attention of the relevant Head of Service and Lead Member for consideration and possible review.</p> <p>Hearings under the Children Act 1989 Representations Procedure (England) Regulations 2006 To consider representations by or on behalf of users of children's services in accordance with the Regulations</p> <p>Hearings under the Local Authority Social Services Complaints (England) Regulations 2006 To consider representations by or on behalf of users of adult services in accordance with the Regulations</p>



		<p><b>Secure accommodation hearings</b></p> <p>2 members of the principal committee, 1 independent person who is a childcare professional and 1 representative of the Group Director Social Care and Learning, both with voting rights</p> <p>(Note: this will need amendment)</p>	<ul style="list-style-type: none"><li>• To consider the case of any tenants' association which is not recommended for recognition by the Council in accordance with the criteria from time to time adopted by the Council for that purpose. (Part IV of the Housing Act 1985)</li><li>• To consider cases referred where:<ul style="list-style-type: none"><li>(a) a suspended order for possession of a dwelling-house on grounds of non-payment of rent has been granted by the court, and</li><li>(b) the tenant has failed to comply with the terms on which the court suspended that order, and</li><li>(c) it is considered that, in all the circumstances, it is now appropriate to obtain and execute a warrant for possession of the premises on grounds of continued non-payment of rent and breach of the terms of suspension of the possession order, and</li><li>(d) the tenant concerned is desirous of being heard by the Hearings Panel before authority is given for the warrant of possession to be executed, so that the panel may have opportunity to consider the circumstances</li></ul></li><li>• To consider and determine representations from tenants made under the following section of the Housing Act 1996:<ul style="list-style-type: none"><li>(a) section 164 (applicants' right to request review of decisions in respect of inclusion etc. on the housing register)</li></ul></li></ul>
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			<p>(b) section 202 (review of decisions in respect of people who are homeless)</p> <ul style="list-style-type: none"> <li>• To consider and determine appeals pursuant to the introductory tenancy provisions of the Housing Act 1996</li> <li>• To review decisions made pursuant to the: <ul style="list-style-type: none"> <li>(a) Access to Personal Files (Housing) Regulations 1989</li> <li>(b) Access to Personal Files (Social Services) Regulations 1989</li> </ul> </li> </ul> <p>where the applicant is aggrieved</p> <p><b>Secure accommodation hearings</b></p> <p>To carry out reviews for the purposes of the Secure Accommodation Regulations 1991</p> <p><b>Statutory social services hearings</b></p> <ul style="list-style-type: none"> <li>• To hear oral representations by persons aggrieved by decisions of the Council as registration authority under the Registered Homes Act 1984 and the Children Act 1989</li> <li>• To consider and to determine objections pursuant to section 77 of the Children Act 1989</li> <li>• To deal with representations made under the Children Act 1989 and the National Health Service and Community Care Act 1990</li> </ul>
Licensing	Licensing Sub-Committee	3 members of the principal committee	To carry out functions relating to licensing and registration as set out in Schedule 1 to the regulations

### **1.3 Statutory and non-statutory bodies**

The Council has established (or convenes as necessary) various bodies in accordance with legislative requirement or Government guidelines. These bodies will continue to meet (or be convened) as necessary. The bodies are as follows:

- Adoption Panel
- Admissions Forum

- School Organisation Committee
- Standing Advisory Council on Religious Education (SACRE)

## **1.4 Functions delegated to overview and scrutiny committees**

Functions and membership of overview and scrutiny committees are set out in Part 2, Article 6. Overview and scrutiny committees undertake those functions assigned under Part 3, section 5: local choice functions.

## **1.5 Functions delegated to area committees**

### **Membership**

See Part 2, Article 10 of this constitution.

### **Functions**

- 1 To agree the Area Action Plan identifying local priorities within the overall community strategy.
- 2 To receive reports on local issues and projects and to make recommendations on these, where appropriate, to the Council or the Cabinet.
- 3 To consider local representations and to make, where appropriate, recommendations to the Council or the Cabinet.
- 4 To foster good relations with local people, interest groups and businesses within the community area and promote their increased dialogue with the Council on local issues.
- 5 To monitor local services and quality standards and highlight areas of concern to the Council or the Cabinet.
- 6 To exercise overall responsibility for any specific budgets made available to them.
- 7 To review, when requested to do so by the Cabinet, expenditure on specific services within the community area.
- 8 To review all proposed draft corporate plan expansions for the community area to ensure that the proposal is fully justified, meets identified needs and is the most cost-effective solution possible.
- 9 To consider and advise upon the activities of the Area Youth Forums or any similar bodies constituted by the Council.
- 10 To act pursuant to policies and practices established or set out by the Regulatory Services Committee in the following matters except where the circumstances in paragraph 11 below apply. Where the circumstances in paragraph 11 apply, the decision-making power remains with the Regulatory Services Committee, which must have regard to any comments made by the relevant area committee(s).

(See Part 3, section 4: functions not to be the responsibility of an authority's Executive (group A and I functions).

- (a) prioritising and progressing traffic management, accident prevention and other road safety schemes, including the making, variation and repeal of traffic orders, road closures, pedestrianisation, cycle routes and bus priority measures etc.
- (b) matters relating to creating, closing or diverting footpaths, including the making of orders
- (c) providing, positioning and laying out road signs, and other street furniture issues
- (d) managing highway trees, including determining requests for removal and/or replacement of trees
- (e) excepting roads from the ban on parking on footways and grass verges
- (f) matters relating to highway management
- (g) making, varying and repealing orders relating to parking control in respect of off-street and on-street car and lorry parking (except charges).
- (h) matters relating to road safety education and training.

11 Where any one of the following circumstances apply, the power to make the decisions set out in paragraph 10 above remains with the Regulatory Services Committee, which must have regard to any comments made by the relevant area committee(s):

- where a proposal has implications in more than one area
- where a proposal has implications for borough-wide policy/programmes or proposals
- where proposals relate to borough-wide or London-wide schemes (for example, the London Bus Priority Network).

12 To monitor local services (but not Housing Landlord services)

## **1.6 Working Party**

The Council has established the Rainham Working Party with the membership and terms of reference set out in Part 2, Article 8. The Working Party is not a body for the purpose of the Local Government Act 1972 or the subject of proportionality rules under the Local Government Act 1989.

## **2 Executive functions**

### **2.1 Functions exercised by Cabinet alone**

The following functions are reserved to the full Cabinet.

#### **General functions**

##### **Policy matters**

- 1 To formulate the Council's overall policy objectives and priorities and to recommend them to Council for approval where appropriate.
- 2 To determine the authority's strategy and programme in relation to the policy and budget framework set by the Council. The policy framework means the following plans and strategies:
  - Annual Library Plan
  - Best Value Performance Plan
  - Children's Services Plan
  - Community Care Plan
  - Community Strategy
  - Council's Corporate Plan and Budget
  - Crime and Disorder Reduction Strategy
  - Early Years Development Plan
  - Education Development Plan
  - Local Transport Plan
  - Plans and alterations which together comprise the Development Plan
  - Youth Justice Plan
  - Corporate Development Plan
  - Approve annually the Homes in Havering Delivery Plan
- 3 To determine all substantial policy matters and strategic decisions and those minor matters which are referred by an individual Cabinet Member as being particularly contentious.
- 4 To determine the authority's strategy and programme in relation to the social, environmental and economic needs of the area.
- 5 To agree the community strategy and recommend it to Council.
- 6 To exercise the Council's functions in relation to community safety (including the formulation of the Council's community safety strategy) and their co-ordination and implementation with particular reference to the provisions of relevant legislation.

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- 7 To exercise the Council's functions in relation to community involvement and engagement (including the formulation of Council strategies for communications, consultation, capacity building and active citizenship) and their co-ordination and implementation with particular reference to the provisions of relevant legislation.
- 8 To exercise the Council's functions in relation to the voluntary sector.
- 9 To exercise the Council's functions in relation to regeneration and social inclusion (including the formulation of Council strategies) and their co-ordination and implementation with particular reference to the provisions of relevant legislation.
- 10 To have responsibility for agreeing policies and procedures within the Council to counter harassment or discrimination on the following grounds: race, colour, ethnic group or national origin; gender or marital status; disability; sexuality or sexual orientation; age; employment status; actual or suspected HIV or AIDS; religion and faith; trade union activities; unrelated criminal offences, or ex-offenders (subject to any legal or public interest constraints); responsibilities for children or dependants.
- 11 To monitor the implementation and co-ordination of the statutory functions and obligations of the Council with respect to equality of opportunity and non-discrimination, including its function as an employer.
- 12 To oversee and promote initiatives on best value across the Council.
- 13 To set the strategic direction for the Council's democratic renewal initiatives.
- 14 To consider and promote strategic and Council-wide initiatives to improve the quality, efficiency and effectiveness of the Council's services to the public.

### **Other matters**

- 15 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.
- 16 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 £500,000 with the Cabinet Member for Resources having authority to agree the 'in principle' disposal of land etc., below that sum.
- 17 To be responsible for the Council's revenue and capital budgets (including the housing revenue account), ensuring value for money, within the provisions of the Financial Procedure Rules set out in Part 4 of this constitution.

- 18 To have responsibility for 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 authority's policies and procedures) except for staff appointments and dismissals.
- 19 To oversee and take responsibility for effective joint work with partner agencies.
- 20 To liaise with, and to fund, voluntary organisations.
- 21 To affiliate with and appoint representatives to outside bodies, where these are not specifically identified elsewhere in this constitution.
- 22 To consider whether the Council should give evidence before a parliamentary select committee, royal commission, Government committee or similar body.
- 23 To be responsible for the maintenance of the Council's archives.
- 24 To undertake those functions assigned to the Cabinet under Part 3, section 5: local choice functions.
- 25 To consider any matter relating to pre-tender reports and awards of contracts as defined in the Contracts Procedure Rules set out in Part 4 of this constitution, and in particular to award all contracts above a total contract value of £500,000 except for:
  - contracts where external funding is being made available for a limited period of time and the contract will have continuing financial implications.

(Cabinet may award lesser contract values where appropriate)
- 26 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
- 27 To be responsible for all executive matters even if not expressly set out in Part 3 of this constitution.

## **Corporate functions**

### **Finance**

- 28 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

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- (c) programmes for all areas of service and allocations of both capital and revenue expenditure to other services
- (d) financial planning
- (e) operational management of insurance arrangements
- (f) budget revisions
- (g) 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 base and the council tax
- (h) virements in excess of £1 million
- (i) virements between services over £250,000 and up to and including £999,999

29 To receive reports from the Audit Committee about the long-term strategy for the Internal Audit Services including the Annual Internal Audit Plan.

### **Treasury management strategy**

30 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**

- 31 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 Industrial 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**



32 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 authority 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**

33 To exercise the Council's functions in relation to environmental matters including the formulation of the Council's future 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.

34 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.

35 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.

36 To respond to consultation exercises or notices of intent by external authorities where they relate to strategic issues pertaining to development control.

## **Housing**

37 To exercise the Council's functions in relation to housing and homelessness including the formulation and co-ordination of future 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

## **Leisure and cultural services**

38 To exercise the Council's functions in relation to leisure services, including the formulation and co-ordination of future 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.

38 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.

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

### **Social care and health**

40 To exercise the Council's functions in relation to social services including the formulation of the Council's future 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.

## **2.2 Functions delegated to individual Cabinet members**

### **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 necessarily hold any portfolio. Suggested portfolios are as follows, although the Leader may determine the nature of any portfolio as he or she considers appropriate:

- Partnership & Strategy
- Sustainable Communities
- Housing & Regeneration
- Public Safety
- Public Realm
- Streetcare & Parking

- Environmental & Technical Services
- Performance & Corporate
- Resources
- Childrens Services

Please see Appendix A for names of individual Cabinet members.

### **Functions of individual Cabinet members**

Each individual Cabinet member has 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 authority, to agree members of staff's responses to consultation papers from:
  - the Government (including White and Green papers)
  - the Association of London Government, 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 authority in respect of allocated services.
- 4 To determine priorities in conjunction with the relevant Group Director, Assistant Chief Executive and Head of Service (within the policy framework and budget).
- 5 To make suggestions for future policy initiatives (within the policy framework and budget) and for amendments to the policy framework, for agreement by the Cabinet and Council.
- 6 To agree the scope of best value reviews and the final report and service improvement plan.
- 7 To consider the implications of best value reviews and reports from other public agencies and to decide a response, making recommendations to the Cabinet where appropriate.
- 8 To recommend to the Cabinet a response to reports from the overview and scrutiny committees in respect of the allocated services.

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- 9 To receive information reports to assist in the individual Cabinet member role.
- 10 To approve staff commencing a tendering process for all contracts between £144,000 and £5,000,000 except for:
  - works contracts in respect of the Council's housing revenue account assets, where the individual Cabinet member is to approve commencement of a tendering process for only those contracts where the total contract value is above £1,000,000 (the individual Cabinet member may approve commencement of a tendering process for lesser contract values where appropriate)
- 11 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.
- 12 To award contracts, agree extensions of contract terms and awards/extensions of Consortia contracts of a value above £144,000 and less than £500,000 and contracts where external funding is guaranteed and there is no longer term financial commitment to the Council save that works contracts in respect of the Council's housing revenue account set out in 10 above can be awarded by Group Directors, Assistant Chief Executive and Heads of Service. *(Note: Pension Committee has powers to invite tenders and award contracts for investment matters within their terms of reference)*
- 13 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.
- 14 To consider and recommend plans in respect of the portfolio allocated.
- 15 To consider the needs of the allocated service for particular properties and to make recommendations to the Cabinet as appropriate.
- 16 To promote effective relationships and partnerships between the authority and all other bodies and agencies affecting the community.
- 17 To consider reports on the exercise of virement, within the Budget Framework Procedure Rules set out in Part 4 of this constitution.
- 18 To consider reports on contract overspends and to report to Cabinet as necessary.
- 19 To consult any advisory bodies as directed by the Cabinet
- 20 To agree the demolition of housing stock in appropriate cases
- 21 To agree minor and routine policy matters.
- 22 The Cabinet Member for Regeneration to approve supplementary planning guidance and policies.

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- 23 The Cabinet Member for Resources 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 £500,000.
- 24 The Cabinet Member for Resources to approve individual virements within a service above £250,000 up to and including £999,999.
- 25 The Cabinet Member for Resources to approve virements within services where resources are available or where they are not but the virement is below the identified threshold.
- 26 The relevant Cabinet Member and Cabinet Member for Resources to approve all virements over £250,000 unless it is a permanent virement between services.
- 27 The Cabinet Member for Resources to approve all in year changes to both fees and charges.
- 28 The Cabinet Member for Resources to approve the write off of irrecoverable debts where the individual debt exceeds £25,000 or where the overall level of service debt exceeds a cumulative £250,000 or 1% of the annual service debt in any financial year whichever is the higher.
- 29 The Cabinet Member for Resources to determine allocations from the contingency.
- 30 The Cabinet Member Resources will consider and agree the setting up of any specific services earmarked reserves along with the arrangements for their use.
- 31 The Cabinet Member for Environment and Technical Services 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.
- 32 The Cabinet Member for Crime and Safety to approve all Community Safety Partnership Strategies arising under the Crime and Disorder Act or other related legislation.

### **2.3 Functions exercised by another authority on behalf of this authority**

No functions are currently exercised by another authority on behalf of this authority.

### **2.4 Functions exercised by joint arrangements with another authority or other authorities**

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:

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- (a) The Association of London Government (a committee)
  - Transport and Environment Committee (an Association of London Government committee)
  - London Housing Unit Committee (an Association of London Government committee)
- (b) The London Boroughs Grants Committee
- (c) The Thames Chase Joint Committee

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

### **The Association of London Government**

The Association of London Government 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. In summary, the 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 ALG policies and local government issues relevant to London
- acting as the regional body of the Local Government Association.

### **Association of Local Government Transport and Environment Committee (ALGTEC)**

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. 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.

### **London Housing Unit Committee**

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. 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



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- 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 London Boroughs 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 Association of Local Government 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.

### **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.

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### **3 FUNCTIONS DELEGATED TO STAFF**

#### **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, including the Community Involvement Strategy, the Corporate Environmental Policy, the E-mail and Internet Policy, the Equalities Policy, the Strategy for the Prevention and Detection of Fraud and Corruption and health and safety procedures
  - (iii) any additional conditions imposed either by the Council or by statute or any statutory code of practice.
- 2 Each Group Director shall ensure that the rules of procedure set out in Part 4 of this constitution are observed throughout his or her service.
- 3 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 their budget to cover that expenditure.
- 4 A staff member exercising a decision-making power delegated under this constitution may consult 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.
- 5 A staff member may refer any matter within a delegation or authorisation to him or her to the Cabinet or to an appropriate Council committee or sub-committee provided that the matter is within the delegated powers and duties of the Cabinet or the Council committee or sub-committee to which it is referred.
- 6 A Group Director, Assistant Chief Executive, Assistant Director or Head of Service may further delegate any of the powers delegated to him or her under this constitution, in so far as is legally permissible. Any such delegation must be:
  - (i) recorded in writing
  - (ii) lodged with the Monitoring Officer who will keep a record of all such delegations.

Any such delegation will become valid only when these conditions are complied with.

- 7 From time to time the Chief Executive may assign Assistant Directors and Heads of Service to Group Directors. Each Group Director shall have all the powers and duties delegated to the Assistant Directors and Heads of Service who are assigned to him or her, so far as legally permissible.
- 8 The Chief Executive or any Group Director 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.

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

- 1 To exercise authority over all Group Directors, Assistant Chief Executive, Assistant Directors and Heads of Service including allocating Group Directors' portfolios and assigning Assistant Directors and Heads of Service to particular Group Directors from time to time.
- 2 To exercise the powers delegated to any Group Director or other members 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 (group D and I functions)
  - (ii) Part 3, section 5 of this constitution: local choice 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<sup>th</sup> 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 in paragraphs 4-7 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 GROUP DIRECTORS**

All Group Directors 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 of Part 3 of this constitution.

#### **3.3.1 General powers**

- 1 To take any steps necessary for proper management and administration.
- 2 To exercise all the powers delegated to relevant Assistant Directors and Heads of Service and other staff members where circumstances require, so far as legally permissible. Exercise of such powers should be recorded where appropriate. Where possible, a Group Director 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 invite and accept tenders and to exercise all of the powers of the Council in managing contracts.
- 4 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.
- 5 To be responsible and accountable for all health and safety matters.
- 6 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 as required by the Local Government Act 1999 and to lead the best value process.
- 7 To monitor and review the performance of the best value process and the effect on service delivery and outcomes.
- 8 To consult with the Lead member on Service Plans
- 9 To monitor progress in meeting best value, Audit Commission and other performance indicators against agreed targets.
- 10 To apply for statutory consent including planning permission.
- 11 To apply for grants and other financial assistance on behalf of the Council provided that any financial contributions by the Council are made from within existing budgets.
- 12 To restructure within budget and/or if budgetary provision is already made in the corporate plan

13 To authorise activities under the Regulation of Investigatory Powers Act 2000

### 3.3.2 Human resource powers

- 1 To exercise overall responsibility for human resource matters, providing that the following requirements are met:
  - (i) all decisions must be taken in accordance with relevant human resource policies<sup>1</sup>
  - (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 corporate planning process or the appointment to a permanent vacant post requires the agreement in writing or by e-mail of (a) the Cabinet Member for a post up to PO7 (b) the Cabinet Member and the Leader of the Council for a post above PO7 such agreement to be given or withheld within seven working days of being sought (the Cabinet Member for Resources may act in the absence of either the Leader of the Council or of the Cabinet Member)
  - (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 and the Group Director Finance & Commerce

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<sup>1</sup> Human resource policies are as follows: Adoption Leave Policy and Procedure; Confidential Reporting Policy; Disciplinary Procedure; Employees Asked to Undertake Additional Responsibilities; Employee Code of Conduct Policy; Exit Interview Policy; Grievance Procedure; Induction Policy; Management Guidelines on the Rehabilitation of Offenders Act and Exemptions; Management Guidelines on the Status of Temporary, Casual and Fixed Term Contracts; Managing Sickness Absence; Return to Work Guidelines; Managing Organisational Change; Managing Poor Work Performance; New Ways of Working Policy; Parental Leave Policy and Procedure; Personal Files Policy; Personal Development and Performance Appraisal; Probation Policy and Procedure; Recruitment Procedures; Salary Scales; Scheduled Leave Policy (Annual, Family and Study); Special Leave Management Guidelines.

Staff should note that these policies may be amended from time to time; an up-to-date list is maintained on the authority's intranet.

- (vii) implementation of decisions and recommendations of recognised national negotiating bodies on staff matters (other than in respect of pay) must be reported to the Cabinet where budgets will be exceeded and a supplementary estimate is required
- (viii) employee grievances up to appeal stage must be dealt with by members
- (ix) approval of applications for leave for trade union conferences and training courses must be undertaken in consultation with the Head of Human Resources
- (x) payment of claims by employees for loss or damage to property and clothes must be within the maximum level specified in Appendix B; otherwise payment must be made in consultation with the Group Director Finance & Commerce
- (xi) approval of all leave within the Council's policies and special leave, subject to unpaid special leave in excess of three months being given in consultation with Head of Human Resources
- (xii) permission for employees to undertake outside work or duties whether paid or unpaid may be granted subject to there being no conflict of interest
- (xiii) approval of applications for car loans being signed by the Group Director Finance & Commerce
- (xiv) approval of applications for car, cycle, auto cycle and telephone allowances being approved in accordance with the current policy
- (xv) approval of honoraria payments must be given in consultation with the service personnel manager.

### **3.3.3 Financial powers**

- 1 To implement any capital programme, subject to the programme and the priorities within it being approved by the Council or the Cabinet, and the Group Director Finance & Commerce being satisfied that adequate capital resources are available.
- 2 To incur relevant expenditure for matters set out in Appendix B in consultation with the Group Director Finance and Commerce and the Assistant Chief Executive Legal & Democratic Services in so far as the first two items of expenditure are concerned.
- 3 To make and authorise virements in consultation with the Group Director Finance & Commerce.



- 4 To incur expenditure, place orders, make purchases, invite and accept tenders and manage contracts.
- 5 To settle ex-gratia payments to the limit specified in Appendix B for such payments in consultation with the Assistant Chief Executive Legal & Democratic Services and the Group Director Finance & Commerce.

### **3.3.4 Contract powers**

- 1 To approve commencement of a tendering process for all contracts below a total contract value of £144,000 except for:
  - (i) works contracts in respect of the Council's housing revenue account assets, where the Group Director may approve commencement of a tendering process for contracts up to a total contract value of £1,000,000
  - (ii) works contracts in respect of all other Council buildings and assets, where the Group Director may approve commencement of a tendering process for contracts up to a total contract value of £500,000.
- 2 To award all contracts below a total contract value of £144,000 except for:
  - (i) works contracts in respect of the Council's housing revenue account assets, where the Group Director may award contracts up to a total contract value of £1,000,000
  - (ii) works contracts in respect of all other Council buildings and assets, where the Group Director may award contracts up to a total contract value of £500,000.
- 3 To sign contracts on behalf of the Council which:
  - (i) do not require sealing under rule 27 of the Council Procedure Rules set out in Part 4 of this constitution
  - (ii) incur financial expenditure of no more than £100,000
  - (iii) are within approved budgets

provided that the requirements set out in the Contracts Procedure Rules set out in Part 4 of this constitution are met.

## **3.4 POWERS OF ASSISTANT CHIEF EXECUTIVE, ASSISTANT DIRECTORS AND HEADS OF SERVICE**

**The Assistant Chief Executive, 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 of Part 3 of this constitution.**

### 3.4.1 General powers

- 1 To take any steps necessary for proper management and administration.
- 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 Chief Executive, 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 invite and accept tenders and to exercise all of the powers of the Council in managing contracts.
- 4 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.
- 5 To be responsible and accountable for all health and safety matters.
- 6 To make arrangements to secure the continuous improvement in the way the Council's functions are exercised having regard to a combination of economy, efficiency and effectiveness as required by the Local Government Act 1999 and to lead the best value process.**
- 7 To monitor and review the performance of the best value process and the effect on service delivery and outcomes.
- 8 To apply for statutory consent including planning permission.
- 9 To apply for grants and other financial assistance on behalf of the Council provided that any financial contributions by the Council are made from within existing budgets.**
- 10 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, providing that the requirements set out in section 3.3.2 function 1 above are met.
- 2 To employ permanent staff within the approved establishments.
- 3 To make appointments to temporary posts to cover existing job vacancies, provided that the appointments are within existing budgetary provision.

### **3.4.3 Financial powers**

- 1 To implement any capital programme within the corporate plan and subject to the Group Director Finance & Commerce being satisfied that adequate capital resources are available.
- 2 To incur relevant expenditure for matters set out in Appendix B in consultation with the Group Director Finance & Commerce and the Assistant Chief Executive Legal & Democratic Services in so far as the first two items of expenditure are concerned.
- 3 To make and authorise virements, in consultation with the Group Director Finance & Commerce.
- 4 To incur expenditure, place orders, make purchases, invite and accept tenders and manage contracts.

### **3.4.4 Contract powers**

- 1 To approve commencement of a tendering process for all contracts below a total contract value of £144,000 except for:
  - (i) works contracts in respect of the Council's housing revenue account assets, where the Assistant Chief Executive, Assistant Director or Head of Service may approve commencement of a tendering process for contracts up to a total contract value of £1,000,000
  - (ii) works contracts in respect of all other Council buildings and assets, where the Assistant Chief Executive, Assistant Director or Head of Service may approve commencement of a tendering process for contracts up to a total contract value of £500,000.
- 2 To award all contracts below a total contract value of £144,000 except for:
  - (i) works contracts in respect of the Council's housing revenue account assets, where the Assistant Chief Executive, Assistant Director or Head of Service may award contracts up to a total contract value of £1,000,000
  - (ii) works contracts in respect of all other Council buildings and assets, where the Assistant Chief Executive, Assistant

Director of Head of Service may award contracts up to a total contract value of £500,000.

- 3 To sign contracts on behalf of the Council which:
- (i) do not require sealing under rule 27 of the Council Procedure Rules set out in Part 4 of this constitution
  - (ii) incur financial expenditure of no more than £100,000
  - (iii) are within approved budgets

provided that the requirements set out in the Contracts Procedure Rules set out in Part 4 of this constitution are met.

### **3.5 SOCIAL CARE AND LEARNING**

**This section covers the following members of staff:**

- 3.5.1 Group Director Social Care and Learning
- 3.5.2 Assistant Director Commissioning
- 3.5.3 Head of Learning and Achievement
- 3.5.4 Head of Schools for the Future
- 3.5.5 Head of Childrens Social Care
- 3.5.6 Head of Adult Social Care
- 3.5.7 Youth Services Manager

**Each member of staff has delegated authority to act as follows, subject to the general provisions and limitations set out in section 3.1 of Part 3 of this constitution.**

#### **3.5.1 Group Director Social Care and Learning**

- 1 To act as the Council's Statutory Director of Childrens Services and Statutory Director of Adult Social Services.
- 2 To exercise the statutory powers in respect of Adult Social Services as applicable and set out in the Local Authority Social Services Act 1970.
- 3 To exercise the Council's functions regarding the procedures for dealing with complaints and representations relating to Adult and Childrens Social Services.
- 4 To determine grants and contracts with voluntary organisations across the spectrum of health and social care needs.
- 5 To approve travel abroad for vulnerable people in the Council's temporary or permanent care.

- 6 To waive charges for specific community services in cases where hardship would otherwise occur.
- 7 On behalf of the Council, to institute and conduct proceedings under any of the following enactments or any statutory instruments relevant to those enactments:
  - (i) Children & Young Persons' Act 1933
  - (ii) Children & Young Persons' Act 1963
  - (iii) Children & Young Persons' Act 1969
  - (iv) Children Act 1989
  - (v) Adoption and Children Act 2002
- 8 To make arrangements with or contributions to other local authorities or voluntary or private organisations providing accommodation or premises.
- 9 To appoint on behalf of the Council on the recommendation of the Panel LEA-nominated school governors (except where the nominee is a Member or employee of the Council).
- 10 To exercise all the Council's powers and duties acting as the local education authority, except for those matters reserved for Council.
- 11 To discharge the relevant roles and responsibilities of the Council as Administering Authority for the supporting people programme
- 12 To undertake the powers and duties of the Council as an adoption agency under the Adoption Agencies Regulations 1983 as amended (excluding powers of appointment to the Adoption Panel), having regard to the recommendations of the Adoption Panel.

#### **All Heads of Service within the Social Care and Learning Directorate**

- 13 To assess and determine contributions required for services, to reduce or waive such contributions in special circumstances (but not to write off debts) and to institute and conduct proceedings to recover arrears of such contributions (in consultation with the Assistant Chief Executive Legal & Democratic Services).
- 14 To manage the operation of the relevant Contract Service Organisations (CSOs) including marketing the CSOs and consideration of the impact of new legislation on the CSOs, where relevant.

#### **3.5.2 Assistant Director Commissioning**

- 1 To make applications for grants towards expenditure to the Secretary of State, the Department for Education and Skills and any other relevant funding organisation.
- 2 To enter into contracts for the provision of residential and other care services to individuals pursuant to the community care provisions of the

National Assistance Act 1948 as amended by the National Health Service and Community Care Act 1990 (known as a community care contract). Such a contract must be entered into in accordance with existing care standards and service specifications.

- 3 To approve virement of monies provided for community care contracts between particular care groups (in consultation with the Group Director Finance & Commerce).
- 4 To accredit service providers
- 5 To exercise the Council's duties pursuant to the Access to Personal Files (Social Services) Regulations 1989.
- 6 To determine grants and contracts with voluntary organisations across the spectrum of health and social care needs.
- 7 To arrange for assessment of contributions by people receiving domiciliary and non residential community care services under "Fairer Charging" arrangements. **(Informative, this power is also held by the Head of Adult Social Care)**
- 8 To enter into contracts for the provision of residential and other care services to individuals pursuant to the community care provisions of the National Assistance Act 1948 as amended by the National Health Service and Community Care Act 1990 (known as a community care contract). Such a contract must be entered into in accordance with existing care standards and service specifications. **Informative, this power is also held by the Head of Adult Social Care)**
- 9 To determine, maintain and keep under review a policy on the payment of fees, expenses of board and lodging and any other grants, exhibitions, bursaries and allowances to pupils and other eligible students.
- 10 To make arrangements for the implementation of such a policy and to make any necessary determinations relating thereto.
- 11 To determine, maintain and keep under review a policy on the provision of clothing to pupils and other eligible students.
- 12 To make arrangements to provide clothing for pupils and other eligible students qualifying for such assistance and to make any necessary determinations in relation thereto.
- 13 To be responsible for organisational development across Children Services and in conjunction with the Group Director Finance & Commerce and the Head of Human Resources, ensure effective arrangements exist within the service for the provision of professional development, information management and support to the best value process.

- 14 To administer the finances of the Council acting as the local children services including the preparation of all relevant financial statements, analysis and reports and arrangements for pooling.
- 14 Develop the Children's Social Care Commissioning capability and provide advice and guidance to operational services
- 15 To formulate, consult upon, determine, maintain and review a scheme for the allocation of budget shares to each maintained school and for the financing of such schools.
- 16 To make arrangements for the allocation of budget shares to maintained schools and to make any necessary determinations.
- 17 To act as follows in relation to the suspension of a delegated budget at a maintained school:
  - (i) making any necessary determinations
  - (ii) conducting all relevant consultation and take any other necessary action including the service of notices and the appointment of additional governors to the governing body.
- 18 Administer, review and develop Children's Trust arrangements advising the Children's Trust Board on developments designed to enhance its effectiveness.**
- 19 Provide a Research & Development function to ensure the needs of the Children's Trust and its partners in areas of common concern.**
- 20 Maintain strategic oversight of the use and development of ICT for Children's Social Care.**
- 21 Strategic oversights and supervision of Children's HR Services, in collaboration with the Head of Human Resources.**
- 22 Making claims for recouping expenditure on educational and other support from other authorities where necessary, agreeing with other authorities the amount that ought to be received, dealing with claims from other authorities including agreement as to the amount of reimbursement and referring (and dealing with) any disputes to the Secretary of State for determination. This function also applies to pupils receiving education in hospital.**

### **3.5.3 Head of Learning and Achievement**

- 1 To exercise all the powers and duties of the Council acting as Local Education Authority as they relate to the general matters listed in the functions below.
- 2 Within the general areas delegated to each Head of Service to make any necessary determinations and to implement, if appropriate, guidance and directions or orders given by:

- (i) the Secretary of State
- (ii) the Department for Education and Skills
- (iii) OFSTED
- (iv) the Audit Commission
- (v) Government Office for London and its agents, or
- (vi) any other regulatory or judicial body

as contained in circulars, administrative memoranda, directives, advice, letters, codes of practice, orders of court or any other tribunal. This includes the collation and provision of information.

- 3 To control and manage any premises or land held for educational purposes, including taking all necessary action to exclude persons if the circumstances warrant it.
- 4 To make applications for grants towards expenditure to the Secretary of State, the Department for Education and Skills and any other relevant funding organisation.

#### **Conferences and research**

- 5 To arrange for the provision of or assistance in the conducting of research and to organise, administer and participate in conferences for the consideration of educational issues.
- 6 To introduce Instruments of Government in maintained schools, including the drafting, approval and making of the first instrument and any amendments thereto.
- 7 To make all the necessary arrangements for the elections of governors to the governing bodies of schools.
- 8 To oversee the proceedings and conduct of governing bodies of schools and annual parents' meetings including requesting minutes, proffering appropriate advice and giving directions.
- 9 To make all the necessary arrangements for elections of parent governors to the relevant Overview and Scrutiny Committee.
- 10 To advise governing bodies of schools, issue any reports, notices or directions and make any necessary decisions on or in relation to:
  - (i) any personnel issues, including the selection, recruitment, appointment, discipline, performance or dismissal of head teachers, deputy head teachers, teachers and school support staff
  - (ii) the government of a school.
- 11 To formulate, maintain, review and administer a scheme for paying allowances to governors of schools without delegated budgets.



### **Inspection**

12 To act on matters relating to curriculum, including:

- (i) giving advice
- (ii) taking such action as is necessary to ensure that the curriculum within each maintained school (including religious education) complies with legislative requirements and is effectively delivered.

13 To act on matters relating to school performance, including:

- (i) providing advice, issuing notices and directions on performance, school leadership, management and pedagogy
- (ii) administering a base line assessment scheme.

### **Collective worship**

14 To exercise LEA functions so as to secure participation in the daily collective worship required in schools under section 385 of the Education Act 1996.

### **Complaints procedure**

15 To arrange a complaints procedure for dealing with complaints concerning:

- (i) the basic curriculum
- (ii) the national curriculum
- (iii) religious education
- (iv) collective worship
- (v) Standing Advisory Committee on Religious Education (SACRE)
- (vi) external qualifications or syllabuses

### **Disability statements**

16 To formulate, determine, publish, maintain and review a disability statement relating to further education under section 528 of the Education Act 1996

17 To determine appointments of additional LEA Governors to governing bodies from among school governors recommended as suitable for the appointment by the LEA Governor Appointment Panel.

### **School Attendance**

18 To act as follows in respect of children who are not attending school regularly:

- (i) arranging for assessments of the education being provided to them

- (ii) making any necessary determinations in relation to the education of such children
- (iii) taking any necessary action to promote the attendance of such children at school including designation of premises and notification to the relevant Police authority under section 16 of the Crime and Disorder Act 1998, service of notices and school attendance orders, bringing and conducting applications for education supervision orders in the Family Proceedings Court and bringing and conducting prosecutions against parents.

### **Licensing of children under 16 for public performances**

19 To act as follows in respect of children under 16 who intend to or do take part in public performances:

- (i) administering the process of licensing
- (ii) making any necessary determinations relating to the granting of licenses
- (iii) taking any necessary action to enforce the provisions of the relevant legislation including the authorisation of appropriate legal proceedings.

### **Employment of children**

20 To act as follows in respect of school pupils who are employed:

- (i) arranging for assessment and investigation of the suitability of such employment
- (ii) making any relevant determination and taking any necessary action to ensure that such pupils are not employed unsuitably, including serving notices and authorising legal proceedings.

### **School admissions**

21 To act as follows in respect of admission arrangements and admission numbers for schools:

- (i) administering any necessary consultation and the admission process generally
- (ii) making any determination as to the admission arrangements, admission numbers and any reviews, and amendments to any of these matters
- (iii) advising governing bodies
- (iv) objecting to admission arrangements determined by governing bodies
- (v) publicising these arrangements
- (vi) giving relevant notices and directions to admit children to specific schools

- (vii) representing the Council, or nominating an officer to do so, at the Admission Appeals Panel and the Appeals Panel convened under schedule 25 to the School Standards and Framework Act 1998, in relation to directions to admit a “twice excluded” pupil.

### **School exclusions**

22 To act as follows in respect of pupils excluded from schools:

- (i) dealing with generally, including assessing pupils, advising governing bodies and convening reintegration panels to prepare plans for pupils and parents
- (ii) representing the Council at any hearing before a School Disciplinary Committee or an Exclusions Appeal Panel or nominating an officer to do so
- (iii) arranging for the provision of education for such pupils at a pupil referral unit or otherwise.

### **Pupil referral units and home tuition**

23 To make arrangements to provide education to children or young people under 18 who may not receive suitable education at school at pupil referral units, through home tuition or otherwise.

24 To manage all aspects of pupil referral units’ activities including:

- (i) establishing a management committee
- (ii) preparing policies relating to admissions, curriculum, behaviour and a complaints procedure
- (iii) excluding pupils
- (iv) providing careers advice
- (v) making any necessary determinations as to the opening or closing of a pupil referral units.

25 To prepare, review and publicise a behaviour support plan until 1<sup>st</sup> April 2006.

### **School transport**

26 To determine, maintain and keep under review a policy on transport arrangements for school pupils and other eligible students.

27 To make arrangements for the provision of transport or otherwise to facilitate attendance of children, pupils and other eligible students at schools and other education institutions and to make any necessary determinations.

### **School terms, holidays and sessions**

28 To determine and take any other relevant action in relation to the dates of school terms and holidays and to determine who is to be regarded as

a parent of a registered pupil at a school when a governing body takes action to determine the times of school sessions.

### **Travellers and displaced persons**

29 To act as follows in relation to the children of travellers and displaced persons:

- (i) making arrangements to provide education, assistance, advice and counselling
- (ii) providing advice and training for schools and staff.

### **Board and lodging**

30 To determine, maintain and keep under review a policy on the provision of board and lodging to pupils and other eligible students.

31 To make arrangements to provide board and lodging for pupils and other eligible students whose educational needs make this necessary and to make any necessary determinations relating thereto.

### **Cleanliness**

32 To give directions to authorise a medical officer to examine pupils and clothing where necessary and to make any necessary orders as to the cleansing of pupils and their clothing.

33 To issue and serve notices upon parents requiring cleansing of pupils and their clothing.

34 To give directions and make arrangements for a pupil and their clothing to be cleansed.

35 To authorise the institution of a prosecution against the parent for breach of section 525 of the Education Act 1996.

### **Adult Education**

In so far as they relate to adult education;

36 To exercise all the powers and duties of the Council acting as Local Education Authority as they relate to the general matters listed in functions (i) to (vi) below.

37 Within the general areas delegated to each Head of Service to make any necessary determinations and to implement, if appropriate, guidance and directions or orders given by:

- (i) the Secretary of State
- (ii) the Department for Education and Skills
- (iii) OFSTED
- (iv) the Audit Commission
- (v) Government Office for London and its agents, or

- (vi) any other regulatory or judicial body

as contained in circulars, administrative memoranda, directives, advice, letters, codes of practice, orders of court or any other tribunal. This includes the collation and provision of information.

- 38 To control and manage any premises or land held for educational purposes, including taking all necessary action to exclude persons if the circumstances warrant it.

### **Conferences and research**

- 39 To arrange for the provision of or assistance in the conducting of research and to organise, administer and participate in conferences for the consideration of educational issues.

### **Nursery education and early years**

- 40 To arrange for the establishment and maintenance of an early years development partnership.
- 41 To prepare an early years development plan, to review and modify the plan as necessary and to arrange for the publishing and implementation of the plan until 1<sup>st</sup> April 2006.
- 42 To make arrangements for the provision of nursery education.
- 43 To undertake those functions assigned under Part 3, section 4 of this constitution: functions not to be the responsibility of an authority's Executive (group B functions).

### **Personnel**

- 44 To act in relation to the recruitment, appointment, employment, discipline and termination of employment of teaching and support staff in schools This includes payroll, pensions, and nominations of prospective staff, advice to governing bodies and power to nominate specific officers to advise governing bodies.

### **3.5.4 Head of Schools for the Future**

- 1 To be responsible for organisational development across Children Services and in conjunction with the Group Director Finance & Commercial and the Assistant Chief Executive Human Resources, ensure effective arrangements exist within the service for the provision of professional development, information management and support to the best value process.
- 2 To accredit service providers
- 3 To exercise the Council's duties pursuant to the Data Protection Act 1998 in liaison with the Council's Data Controller.

### **Children and Young People's Plan**

- 4 With effect from 1<sup>st</sup> April 2006 to maintain and review the Children and Young People's Plan and supporting operational plans and to take all necessary action to implement this.

### **School organisation plan**

- 5 To maintain and review the school organisation plan and to take all necessary action and make any necessary determinations in relation to the proposals for the establishment, alteration, amalgamation or discontinuance of schools.

### **Premises**

- 6 To maintain and review the asset management plan and to take all necessary action and make any necessary determinations in relation to the proposals for the establishment, alteration, amalgamation or discontinuance of schools.
- 7 To make arrangements for the provision of all necessary services and assistance, including expenditure, in relation to the maintenance of school premises.
- 8 To act as follows in relation to the occupation and use of school premises:
  - i. considering and determining whether any directions are necessary
  - ii. preparing and serving any such directions and taking any other appropriate action.
- 9 To provide relevant advice and assistance and to make arrangements for the payment of the Local Authority's contribution in relation to capital works undertaken on school premises.
- 10 To exercise health and safety functions in relation to schools

### **School meals**

- 11 To arrange for the provision of school meals and milk in schools

### **Catering**

#### **12 To act as the responsible officer for all borough catering by:**

- (i) determining arrangements for managing in house catering options**
- (ii) commissioning and advising on specifications for externally provided catering services**
- (iii) providing expert contract management for externalised services**

### **Educational Visits**

- 13 To maintain the process whereby proposed educational visits by schools are properly risk assessed at the appropriate level and that training is provided for those assessing such risks. To adequately monitor risk assessments to assure basic standards of performance.**

### **3.5.5 Head of Children's Social Care**

- 1 To authorise the payment of legal fees for adopters where legal representation is necessary and there is no possibility of legal aid being allowed, and to authorise the payment of medical fees in connection with adoption, in appropriate circumstances.
- 2 To exercise the powers of the Council under the Adoption Act 1976, Adoption and Children Act 2002 and the Children Act 1989, including the approval of adoptive parents and the placement of children for adoption together with any necessary expenditure.
- 3 To supervise and review children in the care of the Council including the giving of any necessary consents.
- 4 To approve the payment of allowances to foster carers and other approved carers.
- 5 To approve care packages formulated to meet the assessed needs of individual children in accordance with the approved care plan.
- 6 To carry out all the powers and duties of the local authority under the Children Act 1989 (including urgent powers and duties) and to act as Receiver of the Court of Protection.
- 7 Where required, to provide consent to applications by foster parents for residence orders made under the Children Act 1989.
- 8 To exercise the powers and duties of the Council in respect of children and young persons in their care including the power to place children and young persons in any accommodation within or outside the borough, to meet their special needs and to appoint independent persons as visitors.
- 9 To arrange investigations to safeguard and promote the welfare of children within the borough who are or may be in need or who are looked after by the Council, including children subject to care, interim or supervision orders and those accommodated under the Children Act 1989.
- 10 On behalf of the Council, to exercise parental responsibility as he or she considers appropriate in respect of any children in care.
- 11 To arrange for statutory visits to the place of accommodation of children looked after by the Council in order to enable parents, guardians, relatives or appointed visitors to visit such children, and to authorise

expenditure incurred for the purpose of visiting a child looked after by the Council.

- 12 To authorise the payment of appropriate allowances (in accordance with approved procedures and scales) to foster parents of children in their care, prospective adopters and persons undertaking the long-term care of children.
- 13 To authorise the provision of financial assistance to children and young people in care and leaving care and to approve expenditure of the sums specified under sections 17 and 24 of the Children Act 1989.
- 14 To authorise and administer conditional grants to foster carers in order to provide suitable accommodation standards for foster children up to a maximum sum approved by the Council.
- 15 To give rent guarantees for families in danger of eviction.
- 16 To carry out reviews for the purposes of the Secure Accommodation Regulations 1983.
- 17 To make grants and/or loans to children and their relatives. This function must be exercised in accordance with the maximum limit specified in Appendix B and with agreed procedures.
- 18 To approve the making of payments for the assistance of children in need, or of their families, in accordance with Part III of the Children Act 1989, where the amount involved exceeds the sum specified in Appendix B in any one case in any period of twelve consecutive calendar months.
- 19 To administer arrangements for the care of children and young persons.
- 20 To instruct the Assistant Chief Executive Legal & Democratic Services to act on behalf of children in the care of the local authority should that person be willing and able to accept instructions.
- 21 To take or defend proceedings in any court in connection with children and young persons (in consultation with the Assistant Chief Executive Legal & Democratic Services).

### **Youth service**

- 22 To prepare a Youth Service plan, to submit to the Secretary of State to review and modify the plan as necessary and arrange for the publishing and implementation of the plan until 1<sup>st</sup> April 2006.

### **Educational Visits**

- 23 To maintain the process whereby proposed educational visits by the Youth service are properly risk assessed at the appropriate level and



that training is provided for those assessing such risks. To adequately monitor risk assessments to assure basic standards of performance.

- 24 To act as follows in respect of children who have, or may have, special educational needs:
- (i) arranging for assessments and reviews to be undertaken by educational psychologists
  - (ii) administering all aspects of the process of assessment, the making of statements of special educational needs, maintaining and reviewing the content of the statements, making any necessary amendments or additions or cessation and transfer
  - (iii) making any necessary determinations in relation to assessment, statements of special educational needs, reviews or cessation and transfer
  - (iv) arranging for the provision of appropriate educational and non-educational services to meet such children's needs
  - (v) representing the Council in any proceedings brought against the Council in a Special Educational Needs Tribunal, or nomination of an officer to act on his/her behalf.
  - (vi) arranging for the supply of services relating to special educational needs to governing bodies of schools and determining charges for such supply

### **3.5.6 Head of Adult Social Care**

- 1 To exercise the powers and duties of the Council in relation to:
  - (i) the powers and duties of the Council under Part II of the Mental Health Act 1983 in relation to the guardianship of persons suffering from mental disorder
  - (ii) decisions on requests for reduced charges for welfare services.
- 2 To administer arrangements made under the following enactments for the provision of services for disabled and older persons:
  - (i) section 29 of the National Assistance Act 1948
  - (ii) section 45 of the Health Services and Public Health Act 1968
  - (iii) section 2 of the Chronically Sick and Disabled Persons Act 1970
- 3 To approve or refuse applications to be registered as physically disabled.
- 4 In special circumstances, to exceed the maximum personal allowance for community care services under the National Health Service and Community Care Act 1990.

- 5 To take charges against interests in property in accordance with section 22(7) of the Health and Social Services and Social Security Adjudication Act 1983 (in consultation with the Assistant Chief Executive Legal & Democratic Services).
- 6 In exceptional circumstances, to waive assessed contributions for adaptations to homes or provision of equipment, subject to the contribution not exceeding £1,000 or such other sum as may from time to time be fixed by the Council.
- 7 To make application to act, and to act, as receiver of property for persons who, for reasons of mental disorder, are incapable of managing their own affairs.
- 8 To administer arrangements for the care of older people, people with physical disabilities, people with learning difficulties and people with mental health problems.
- 9 To exercise the powers and duties of the Council in relation to section 47 of the National Assistance Act 1948 as amended.
- 10 To decide whether to accept the conditional discharge of a patient detained either in hospital or on a restriction order.
- 11 To approve placements in residential or nursing homes in the statutory or independent sector in accordance with the approved care plan.
- 12 To make arrangements for the burial or cremation of persons in accordance with Part III of the National Assistance Act 1948 where no other arrangements have been made, and to recover funeral expenses from the deceased's estate.
- 13 To exercise the powers of the Council under Part II of the Mental Health Act 1983.
- 14 To appoint approved social workers for the purposes of the Mental Health Act 1983.
- 15 To accept guardianship applications and transfers into guardianship in accordance with sections 7 and 19 of the Mental Health Act 1983 and regulations 5 and 7 of the Mental Health (Hospital Guardianship and Consent to Treatment) Regulations 1983. The Head of Service or Assistant Chief Executive may also accept amendments to the application of the medical recommendation in the event of error in accordance with section 15 of the Mental Health Act 1983 including all decisions whether or not to accept guardianship orders through the courts.
- 16 In exceptional circumstances, to authorise enhanced or additional allowances to persons offering care in accordance with the Council's respite care scheme.

- 17 To exercise the Council's discretion in the assessment of contributions to community care contract costs and in relation to payments under the Community Care (Direct Payments) Act 1996
- 18 To make payments pursuant to the Community Care (Direct Payments) Act 1996
- 19 To make arrangements for the temporary protection of property of persons admitted to hospital or other accommodation
- 20 To assess and determine contributions required for services, to reduce or waive such contributions in special circumstances (but not to write off debts) and to institute and conduct proceedings to recover arrears of such contributions (in consultation with the Assistant Chief Executive Legal & Democratic Services).
- 21 To arrange for the assessment of contributions by people receiving domiciliary and non residential community care services under "Fairer Charging" arrangements. **(Informative, this power is also held by Assistant Director Commissioning).**
- 22 To enter into contracts for the provision of residential and other care services to individuals pursuant to the community care provisions of the National Assistance Act 1948 as amended by the National Health Services and Community Care Act 1990 (known as a community care contract). Such a contract must be entered into in accordance with existing care standards and service specifications. **(Informative, this power is also held by Assistant Director Commissioning).**
- 23 To approve travel abroad for vulnerable people in the Council's temporary or permanent care.
- 24 To waive charges for specific community services in cases where hardship would otherwise occur.
- 25 To arrange for assessment of contributions by people receiving domiciliary care services under "Fairer Charging" arrangements
- 26 To manage the Supporting People Programme, use and application of grants and delivery of the programme in accordance with the grant conditions and strategy.

### **3.5.7 Youth Services Manager**

To act as deputy for the appropriate member of Council as a member of the Board of Connexions and, being mindful of the activities of Connexions, to arrange for the provision of a youth service including establishing, maintaining and managing youth clubs, youth centres, camps and holiday clubs, playing fields, play centres and other facilities for vocational, recreational, social and physical training and organised leisure time occupation associated with education for persons receiving primary, secondary and further education. The Head of Service or Assistant Chief Executive may also provide support to voluntary bodies providing facilities of a similar character subject to a financial limit of £1,000.

## 3.6 CULTURE AND COMMUNITY

**This section covers the following members of staff:**

- 3.6.1 Group Director Culture and Community
- 3.6.2 Assistant Director Customer and Community Engagement
- 3.6.3 Head of Streetcare
- 3.6.4 Head of Culture & Leisure
- 3.6.5 Head of Regeneration
- 3.6.6 Head of Housing & Public Protection
- 3.6.7 Head of Communications
- 3.6.8 Head of Customer Services

Each member of staff has delegated authority to act as follows, subject to the general provisions and limitations set out in section 3.1 of Part 3 of this constitution.

### **3.6.1 Group Director Culture and Community**

- 1 To oversee the Council's relationships with its customers.
- 2 To manage the operation of the relevant Contract Service Organisations (CSOs) including marketing the CSOs and consideration of the impact of new legislation on the CSOs.
- 3 To oversee all functions of the Council relating to the East London Waste Authority.
- 4 To response to Strategic issues within the area of responsibility, including all Government circulars, mayoral strategies and consultations provided there are not policy implications requiring a Lead Member decision.

### **3.6.2 Assistant Director Customer & Community Engagement**

- 1 To publicise decisions of the authority, by means such as advertisements and information leaflets, where the Assistant Director considers a decision is of sufficient public interest to warrant such publicity.
- 2 To foster good relations with organisations and interests inside and outside the borough and with towns and peoples from other countries.
- 3 To lead cross-Council and cross-agency teams to ensure an integrated approach to strategic programmes and projects for economic environmental and community regeneration and community development (Informative this power is also held by the

Head of Regeneration and Strategic Planning. **(Informative, this power is also held by Regeneration and Strategic Planning).**

- 4 To lead and co-ordinate across the Council efforts to secure external funding for regeneration and community projects and community development projects. **(Informative this power is also held by the Head of Regeneration and Strategic Planning. (Informative, this power is also held by Regeneration and Strategic Planning).**
- 5 To decide grants to relevant voluntary organisations. **(Informative, this power is also held by Regeneration and Strategic Planning).**
- 6 To lead cross-Council and cross-agency teams to ensure an integrated approach to strategic programmes and projects for economic environmental and community regeneration and community development **(Informative this power is also held by the Head of Regeneration and Strategic Planning). (Informative, this power is also held by Regeneration and Strategic Planning).**
- 7 To lead and co-ordinate across the Council efforts to secure external funding for regeneration and community projects and community development projects. **(Informative this power is also held by the Head of Regeneration and Strategic Planning). (Informative, this power is also held by Regeneration and Strategic Planning).**

### **3.6.3 Head of Streetcare**

- 1 To exercise the Council's powers and duties arising under the New Roads and Streetworks Act 1991.
- 2 Other than in those matters delegated to an area committee, to exercise all powers and duties in respect of maintaining and improving highways, providing facilities, and interference with highways arising under Parts IV, V, VII and IX of the Highways Act 1980.
- 3 To manage all highway trees and to take appropriate action where necessary
- 4 To determine requests from individuals and voluntary, national and commercial organisations to use the public highway.
- 5 To arrange for the removal and disposal of abandoned vehicles and the prosecution of vehicle owners
- 6 To exercise the Council's powers and duties relating to litter and shopping trolleys arising from the Environmental Protection Act 1990 and the Refuse Disposal (Amenity) Act 1978
- 7 To manage arrangements for collecting and enforcement of domestic, non-domestic and special waste.
- 8 To authorise the issue of any notice or prosecution in relation to waste collection.

- 9 To exercise the Council's powers in relation to providing public conveniences.
- 10 Other than in respect of those matters delegated to an area committee to exercise all powers related to the creation and dedication of public highways and adoption of highways as maintainable at public expense. **(Informative, this power is also held by the Head of Regeneration and Strategic Planning)**
- 11 To authorise the issue of temporary traffic orders, temporary traffic notices and temporary prohibitions of waiting and loading. **(Informative, this power is also held by the Head of Regeneration and Strategic Planning)**
- 12 To exercise all powers and duties arising under Section 2 and Parts 3, 4, 5 and 6 of the Clean Neighbourhoods and Environmental Act 2005
- 13 To exercise the Council's powers and duties relating to graffiti and flyposting in Part 6 of the Anti-Social Behaviour Act 2003 and in Part 8 Chapter 3 of the Town & Country Planning Act 1990. **(Informative, the power under the Town & Country Planning Act is also held by the Head of Development and Building Control)**
- 14 To exercise the Council's powers and duties relating to builders skips, scaffolding, builders materials and excavations in Part 5 of the Traffic Management Act 2004
- 15 To exercise the Council's powers and duties relating to abandoned vehicles, parking, vehicle crossings removal of deposits on the highway, cleansing, refuse and litter in the various London Local Authorities Acts and the London Local Authorities and Transport of London Act 2003.
- 16 To exercise the Council's powers to require information under s.16 Local Authorities (Miscellaneous Provisions) Act 1976 **(Informative, this power is also held by a number of other Heads of Service)**
- 17 To compile and maintain selective tendering lists for civil engineering matters, highway works, construction services and architectural and building related professional consultants.
- 20 Approve local highway management matters in principle for public consultation in consultation with the Chairman of the Area Committee provided that the scheme only affects on Area Committee.
- 21 Approve final local highway management schemes delegated by the Area Committee in consultation with the Chairman of the Area Committee.
- 22 Approve local highway management matters which affect more than one Area Committee in principle for public consultation in consultation with the Chairman of Regulatory Services.

- 23 Approve final local highway management schemes affecting more than one area in consultation with the Chairman of Regulatory Services Committee and the Chairman of the relevant Area Committee.
- 24 Approve the following in consultation with the Chairman of the Area Committee
- (i) Schemes for the removal of grass verges in favour of footway parking.
  - (ii) Requests for 'At any Time' waiting restrictions at junctions and bends for a distance of up to 15 metres.
  - (iii) Requests for advisory white road markings such as 'Keep Clear' markings and 'T' bar markings.
  - (iv) Requests for changes to all types of parking restrictions in relation to accommodating new vehicle crossover applications.
  - (v) Changes to all types of parking restrictions in relation to temporary and permanent accesses to new developments.
  - (vi) Dispensations from charging for traffic orders required for special events.
- 25 To authorise minor alterations to traffic management orders to enable implementation of approved proposals or continuation of traffic management schemes.
- 26 To amend or suspend any experimental traffic management order. **(Informative, this power is also held by the Head of Regeneration and Strategic Planning)**
- 27 To authorise the creation, amendment and removal of disabled persons' parking bays and footway parking bays. **(Informative, this power is also held by the Head of Regeneration and Strategic Planning)**
- 28 To exercise all powers and duties under the Highways Act 1980 that are not delegated to an area committee or the Head of Streetcare Services.
- 29 To exercise all the Council's powers under the Reservoirs Act 1975.
- 30 To exercise all powers in relation to the issuing of parking tickets, including:
- (i) Collection, administering and writing off fines (the latter in consultation with the Group Director Finance & Commerce).
  - (ii) Clamping and/or removing vehicles.
- 31 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.

### **3.6.4 Head of Culture & Leisure**

- 1 To manage and control parks, open spaces and recreation and pleasure grounds including enforcing relevant byelaws; to organise musical festivals, band contests and sports festivals and to make security arrangements.
- 2 To manage and supervise public swimming pools, sports and leisure facilities.
- 3 To manage the Queen's Theatre building and the Romford Ice Rink.
- 4 To approve externally funded arts projects undertaken by the Council, subject to regular report to the Cabinet.
- 5 To determine all day-to-day matters relating to parks, open spaces and recreation and pleasure grounds.
- 6 To determine applications for uses of parks for carnivals, fetes, exhibitions, sponsored walks, horse shows etc.
- 7 To determine applications for circuses with performing dogs and horses to take place on council-owned land in parks or open spaces.
- 8 To exercise the powers of the Council in relation to:
  - (i) managing, supervising and controlling public museums and art galleries, including acquiring museum exhibits and objects of art
  - (ii) providing, managing, supervising and controlling exhibitions, displays, lectures, concerts and other events to promote the arts.
- 9 To deal with all matter related to allotments.
- 10 To implement the Public Libraries and Museums Act 1964.
- 11 To manage, supervise and control public libraries, library halls and related matters, including the acquisition of sound recordings, pictures, books, bibliographies and other matters.
- 12 To deal with the day-to-day management of the library service.

### **3.6.5 Head of Regeneration & Strategic Planning**

- 1 To deliver, manage and co-ordinate regeneration and community development strategies, programmes and services across the borough.
- 2 To lead cross-Council and cross-agency teams to ensure an integrated approach to strategic programmes and projects for economic environmental and community regeneration and community development. **(Informative this power is also held by the Assistant Director Customer and Community Engagement)**



- 3 To lead and co-ordinate across the Council efforts to secure external funding for regeneration and community projects and community development projects. **(Informative this power is also held by the Assistant Director Customer and Community Engagement)**
- 4 To promote the regeneration objectives of the Council and to support partnerships and joint working with Government, the Mayor and London-wide bodies, sub-regional organisations, other external agencies, the private sector, the Council's community partners and the local community.
- 5 To exercise all powers related to Romford Market, including granting and revoking licences and enforcing relevant bylaws.
- 6 To comment on the results of any bus route survey or proposal on behalf of the Council.
- 7 To acquire and appropriate land for planning purposes under the Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004).
- 8 To respond to strategic issues within his or her area of responsibility, including all Government circulars, mayoral strategies and consultations on planning policies.
- 9 To prepare and co-ordinate the Council's corporate environmental strategy, and promoting environmental responsibility in the community at large, including developing programmes to involve the local community in preparing a Local Agenda 21 for the borough and reviewing the Council's policies, programmes and activities and identifying ways in which they can be made more sustainable.
- 10 To maintain the definitive map of rights of way.
- 11 To exercise powers in relation to energy management and conservation in respect of the Council's operational and/or performance.
- 12 To amend or suspend any experimental traffic management order. **(Informative, this power is also held by the Head of Streetcare)**
- 13 To authorise the creation, amendment and removal of disabled persons' parking bays and footway parking bays. **(Informative, this power is also held by the Head of Streetcare)**
- 14 Other than in respect of those matters delegated to an area committee to exercise all powers related to the creation and dedication of public highways and adoption of highways as maintainable at public expense. **(Informative, this power is also held by the Head of Streetcare)**
- 15 To authorise the issue of temporary traffic orders, temporary traffic notices and temporary prohibitions of waiting and loading. **(Informative, this power is also held by the Head of Streetcare)**
- 16 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.

### **3.6.7 Head of Housing & Public Protection**

- 1 To exercise the Council's functions with regard to homeless persons.
- 2 To exercise the Council's functions with regard to the right to buy scheme for council houses and flats and to authorise the sale of additional land to applicants under the right to buy scheme.
- 3 To allocate council accommodation and nominate applicants to housing associations. The Head of Service may also administer the housing register and applications for transfer or exchange of tenancies.
- 4 To declare the "local average rate" for mortgage interest purposes, and appropriate to housing purposes "right to buy" monies sold under the general rate fund at the sale price.
- 5 To do the following:
  - (i) submitting the housing strategy to the Housing Corporation
  - (ii) drawing up schemes in conjunction with registered social landlords
  - (iii) paying social housing grants to registered social landlords on approved development schemes.
- 6 To make house purchase advances including:
  - (i) making of demolition and closing orders, and servicing of repair notices
  - (ii) acting under the Rent Acts or similar legislation protective of tenants' rights
  - (iii) managing and maintaining any council residential caravan site or sites for travellers
  - (iv) providing warden services to elderly people under powers derived from the Health Services and Public Health Act 1968, in respect of appropriate housing schemes.
- 7 To provide to the owners of a dwelling occupied by a physically disabled person all necessary professional and technical services required for the adaptation of premises, in line with Council policy. This includes:
  - (i) engaging contractors in the name of the Council with suitable safeguards, provided that the contractors' services are limited to works necessary to meet the needs of the person concerned or are directly ancillary to those needs
  - (ii) carrying out the necessary inspections and authorising payments to the physically disabled owner including the final

certificate where a private consultant is engaged by such owner.

- 8 To approve grants or interest-free loans for adapting dwellings for the benefit of disabled people where there is no, or insufficient, entitlement to a disabled facilities grant or to minor works assistance. This sum should not exceed the sum specified in Appendix B or such sum as is specified by Council.
- 9 To waive assessed contributions for adaptations to homes or provision of equipment in exceptional circumstances, subject to the agreed criteria and the contribution not exceeding £1,000 or such other sum as may from time to time be fixed by the Council.
- 10 To exercise the Council's regulatory and enforcement functions in relation to housing in the area, as conferred under any enactment. This includes:
  - (i) taking all steps in connection with the issue of withdrawal of notices, orders or other documents which the Council is authorised or required to serve
  - (ii) selecting the most effective means of enforcement whether by agreement, works in default, prosecution or otherwise.
- 11 To exercise the Council's functions with regard to the private housing sector renewal strategy and to authorise house renovation grants, home insulation grants and other grants for the repair and adaptation and/or installation of amenities in dwellings.
- 12 To waive the repayment of improvement grants in appropriate cases (in consultation with the Group Director Finance & Commercial).
- 13 To deal with applications under Part XVI of the Housing Act 1985 for:
  - (i) repurchase assistance on the grounds that it would be unreasonable to require the applicants to await, or to secure, the carrying out of reinstatement works
  - (ii) grants of 100 percent where there would otherwise be financial hardship.
- 14 To approve the transfer of the tenancy of a dwelling from one person to another, including the transfer of a tenancy to a surviving child or children of a former tenant, subject to such conditions may be reasonable and to the provisions of Part IV of the Housing Act 1985.
- 15 To provide warden services for elderly people (whether or not they are tenants of the Council) in accordance with approved schemes.
- 16 To exercise the Council's discretion not to demand repayment of a house renovation grant upon the sale of an improved dwelling.
- 17 To exercise the Council's functions under section 131 of the Local Government and Housing Act 1989, in relation to minor works assistance.

- 18 To decide on the demolition of Council stock
- 19 To exercise the Council's duties pursuant to the Access to Personal Files (Housing) Regulations 1989.
- 20 To authorise refunds of rent in appropriate cases.
- 21 To assess housing rents in accordance with council policy.
- 22 To review and set miscellaneous charges on an annual basis
- 23 In appropriate cases, to authorise the purchase from a tenant, where the tenant is vacating a council dwelling, of any garage erected by the tenant on the Council's land.
- 24 To approve the payment of reasonable removal expenses incurred by a tenant who moves from one council dwelling to another at the Council's request, any ex-gratia payments towards adapting existing furnishings and any loss consequential from the relocation.
- 25 To consider whether to approve, on behalf of the Council as landlords, improvements included by a council tenant in an application for grant
- 26 To make ex-gratia payments to a tenant for a claim for compensation for consumption of electricity or gas required to dry out or heat a dwelling following such events as breakdowns or floods.
- 27 To agree arrangements with tenant management organisations.
- 28 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 and to enforce those enactments set out in Part 7 Appendices C, D and F

**To supervise the following functions which are carried out by Homes in Havering**

- 29 To undertake management responsibility for the Council's freehold interest where property has been disposed of on a leasehold basis under the right to buy legislation. This includes:
  - (i) enforcing covenants
  - (ii) carrying out repairs
  - (iii) recharging liabilities
  - (iv) consulting with and involving leaseholders and their management organisations as necessary.
- 30 To manage the Council's housing stock and authorise action to obtain possession of council housing accommodation and recover rent arrears, including the service of all necessary notices and action

(including applying for injunctions) to enforce or vary the Council's tenancy agreement.

- 31 Where appropriate, to write off former tenants' arrears up to a maximum sum specified by the Council
- 32 To settle claims submitted by council tenants for compensation in recovery of damage caused to tenants' property as a result of occurrences over which the tenants have no control.
- 33 To repair and maintain council housing stock.
- 34 To issue any consents under the tenancy agreement.
- 35 To deal with compensation claims from tenants arising from works carried out by Homes in Havering.
- 36 To deal with applications to carry out internal redecoration at any council dwelling at the Homes in Havering's expense.
- 37 To grant formal recognition to tenants' organisations complying with the Council's criteria for that purpose.
- 38 To grant (subject to conditions) permission to a tenant to park one car or one light van in the front garden of the tenant's dwelling and to grant similar permission to an owner-occupier of a former council house.
- 39 To approve applications to the Council, as landlords, for approval of structural alterations to council dwellings.
- 40 To approve applications for the carrying out at the Homes in Havering's expense of internal decorations at council dwellings occupied by a tenant who is, or whose spouse is, of pensionable age.
- 41 To exempt tenants from responsibility for any of the items of repair specified in the conditions of tenancy where:
  - (i) hardship might otherwise result, or
  - (ii) the nature of the defect or type of dwelling involved is such that to hold the tenant responsible for an item would in the circumstances be unreasonable.
- 42 To make ex-gratia payment to a tenant for moving from one council dwelling to another to facilitate redevelopment or otherwise at the Council's request, where the tenant had, at his or her expense, carried out an improvement to the vacated dwelling or provided a central heating system or similar appliance.
- 43 To approve the adaptation of council dwellings for the benefit of handicapped people.
- 44 To settle claims submitted by a council tenant for compensation in recovery of damages caused to the tenant's property as a result of occurrences over which the tenant had no control.

45 To authorise expenditure on aids and equipment for the disabled within the policy laid down by the Council, including the installation of stairlifts and like appliances in houses occupied by registered disabled people where the cost of the appliance and any associated works does not exceed the sum specified in Appendix B or such sum as is specified by the Council.

### **Licensing**

46 To exercise all functions under the Licensing Act 2003 and Gambling Act 2005 including all administrative functions and determinations of unopposed applications for premises licences, personal licences, club premises certificates, temporary events notices, regulated entertainment and late night refreshments, permits and the setting of fees and charges.

47 In accordance with Part 3, section 3.1, function 6, to authorise staff within the Environmental Health Service to enforce the enactments set out in Appendices C, D and F.

48 To authenticate on the Council's behalf of any notice, certificate or other document required to be issued in relation to the enactments in Appendices C, D and F, subject to the matter being referred to the Regulatory Services Sub-Committee where policy or financial considerations are involved and have not previously been determined by the sub-committee.

49 To license and register those matters/premises and/or persons listed in Appendices C, D and F where applicable.

50 To approve unopposed applications for permits under section 34 of the Gaming Act 1968 in respect of gaming machines.

51 Until 24.00 hours, 31<sup>st</sup> August 2007, in relation to night café licences under the London Authorities Act 1990, to approve:

- (i) unopposed applications for licences
- (ii) applications for night café licences where objections have been lodged but are considered to be of a similar nature to previous years or to which so little weight can be attached that they could not be used to sustain refusal.

52 Until 24.00 hours, 23 November 2005, to enforce and administer Part V of the London Local Authorities Act 1995.

53 Until 24.00 hours, 23 November 2005, in relation to annual and occasional entertainment licences:

- (i) to approve unopposed applications for the grant, renewal, transfer or modification or waiver of conditions
- (ii) to determine any applications for a refund of fees.

- 54 To determine applications under schedule 1 to the Theatres Act 1968 for:
- (i) exemption from payment of fees, or
  - (ii) payment of only the nominal fees set by the Council.
- 55 Until 24.00 hours, 23 November 2005, to waive, alter or modify the rules approved by the Council that govern applications for renewals, transfer and modifications or waivers of conditions etc. for annual and occasional entertainment licences.
- 56 Until 24.00 hours, 23 November 2005, to determine applications for consents or approvals under the rules of management and technical regulations approved by the Council.
- 57 To determine the grant and renewal of street trading licences and to enforce the terms of these licences.
- 58 To determine applications for consents for the use of loudspeakers in streets under the Noise and Statutory Nuisance Act 1993 and to enforce the terms of these consents.

### **Environmental Health**

- 59 In accordance with Part 3, section 3.1, function 6, to authorise staff within the Environmental Health Service to enforce the enactments set out in Appendices C, D and F and to authenticate on the Council's behalf any notice, certificate or other document required to be issued in relation to the enactments in Appendices C, D and F, subject to the matter being referred to the Regulatory Services Committee where policy or financial considerations are involved and have not previously been determined by the sub-committee.
- 60 To serve statutory notices under the Public Health Acts and environmental health matters in the Building Act 1984.
- 61 To enforce public health matters concerning the control of caravans, water supply, sewage, drainage, and the pollution of rivers.
- 62 To implement pest and rodent control.
- 63 To enforce statutory provisions relating to food, milk and dairies, poisons, factories, control of self-operated laundries and insanitary food premises.
- 64 To exercise power of entry and inspection in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).
- 65 To exercise all functions under the Housing Act 2004 relating to private sector housing.

- 66 The Environmental Health Manager to authorise activities under the Regulation of Investigatory Powers Act 2000
- 67 The Environmental Health Manager to be a Single Point of Contact for the acquisition of communications data for the purposes of Part 1, Chapter II of the Regulation of Investigatory Powers Act 2000
- 68 To exercise all functions relating to welfare of animals
- 69 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 (group A, B, and C functions)
  - (ii) Part 3, section 5 of this constitution: local choice functions
- 70 In accordance with Part 3, section 3.1, function 6, to authorise staff within the Trading Standards to enforce the enactments set out in Appendices E and F.

### **Trading standards**

- 71 The Head of Technical Services, the Trading Standards Manager, the Principal Officer (Operations) and the Principal Officer (Fair Trading and Quality)

To exercise the powers and duties of the Council on matters relating to trading standards, consumer protection and metrology including:

- (i) making such test purchases of goods and services as may be expedient for effective enforcement.
- (ii) exercising and enforcing the enactments listed in Appendices E & F, including any regulation made under those enactments.

This function must be exercised subject to the Assistant Chief Executive Legal & Democratic Services or the Legal Manager (Community Services) authorising the institution and conduct of any legal proceedings except in such circumstances where a potential defendant is being held at a police station and the custody charging the individual. In such exceptional circumstances the power to charge the offender be limited to the Trading Standards Manager, the Principal Officer (Operations) and the Principal Officer (Fair Trading and Quality). This procedure will only be used when dealing with itinerant persons where charging by way of summons would not be effective.

- 72 To advise and assist consumers on matters arising from the purchase of goods or services.
- 73 The Trading Standards Manager to authorise activities under the Regulation of Investigatory Powers Act 2000.
- 74 The Principal Officer (Operations) Trading Standards Service, to authorise activities under the Regulation of Investigatory Powers Act



2000 and to be a Single Point of Contact for the acquisition of communications data for the purposes of Part 1, Chapter II of the Regulation of Investigatory Powers Act 2000.

### **Cemeteries and crematorium**

- 75 To exercise the powers of the Council to operate and maintain the Council's cemeteries and crematorium.
- 76 To set fees for occasional and special memorial items at the crematorium and to vary commemoration fees when it has not been possible to meet the agreed service standard.
- 77 To spend up to 20 percent of the annual income of the Crematorium Improvement from Income Fund, provide that no one project costs more than 5 percent of the annual income.

### **3.6.7 Head of Communications**

- 1 To authorise expenditure on the promotion of the borough and the external profile of the Council.
- 2 To monitor performance and development of policy in relation to public information issues, including relationships with the media and the distribution of council publications.
- 3 To oversee campaigns, consultation exercises and events, and appropriate marketing of the Council's facilities.

### **3.6.8 Head of Customer Services**

- 1 To issue concessionary travel permits for elderly people to eligible persons.
- 2 To exercise the Council's powers and duties under the Nationality Immigration and Asylum Act 2002.
- 3 To exercise the Council's powers and duties under the Registration Service Act 1953 and any regulations made under it.
- 4 To oversee the Council's relationships with its customers
- 5 In respect of the Council's complaints procedure to consider cases of dispute or where there may be advantage in continuing to use the complaints procedure rather than incur potentially costly legal proceedings and to agree that, in exceptional circumstances, a complaint not complying with the limitations on the submission of complaints agreed by the Adjudication & Review Committee shall nevertheless be considered. Such power to be exercise in consultation with the Assistant Chief Executive, Legal & Democratic Services.
- 6 To administer the staff suggestions scheme and the making of recommendations for awards.

### **Civil registration**

- 7 To exercise the council's powers and duties under the Marriage Act 1984 and the Marriages (Approved Premises) Regulations 1995.

### **3.7 FINANCE & COMMERCE**

This section covers the following members of staff:

- 3.7.1 Group Director Finance & Commerce
- 3.7.2 Assistant Director Business Efficiency
- 3.7.3 Head of Finance and Performance
- 3.7.4 Head of Exchequer Services
- 3.7.5 Head of Asset Management
- 3.7.6 Property Strategy Manager
- 3.7.7 Head of Business Systems
- 3.7.8 Head of Development

Each member of staff has delegated authority to act as follows, subject to the general provisions and limitations set out in section 3.1 of Part 3 of this constitution

#### **3.7.1 Group Director Finance & Commerce**

- 1 To make such arrangements as are necessary to control and regulate the expenditure and income of the Council including the exercise of borrowing powers and treasury management powers
- 2 To advise on and monitor the revenue and capital budgets of the Council, including the Housing Revenue Account, including the determination of the council tax and housing rent levels.
- 3 To write off sums which are irrecoverable and to settle claims on behalf of the Council.
- 4 To manage the Council's loan debt, investments, and temporary investments, pension scheme and insurance fund, act as registrar of loan instruments, manage all banking arrangements including numbers and types of accounts and arrange insurance of property and the selecting and accepting of tenders for insurance cover and related services which are considered to offer best value for the Council promoting good risk management practices at all times.
- 5 To undertake all other financial matters arising within the Council, subject to the following requirements:
  - (i) authority to incur expenditure being approved or sanctioned by the Council or the Cabinet
  - (ii) powers of borrowing being exercised within guidelines agreed by the Council and any current codes of practice
  - (iii) all matters being within accepting accounting practice and standards and within statutory requirements

- (iv) any necessary reference to District Audit
  - (v) **an annual report being presented to the Audit Committee by 30 September in each year on the activities undertaken in respect of treasury management powers in the preceding financial year**
  - (vi) **reports of the District Auditor and the Best Value Inspectorate upon the audit of the Council's activities being considered.**
- 6 **To exercise the Council's discretionary powers in relation to writing off amounts due for national non-domestic rate or surcharge on grounds of hardship or general rate on grounds of poverty, up to a maximum level of £10,000.**
- 7 To implement the Council's early retirement, retirement and redundancy policies in consultation with the Head of Human Resources and the Assistant Chief Executive Legal and Democratic Services.
- 8 To exercise the Council's discretionary powers in relation to relief for Council Tax and commercial rates
- 9 To act as statutory officer pursuant to for the collection of council tax and commercial rates
- 10 To set the Council Tax Base each year unless it involves matters of policy
- 11 To act and make decisions as a pensions panel consisting of the Group Director of Finance and Commerce, Head of Human Resources and Assistant Chief Executive Legal and Democratic Services for the purposes of Stage 2 appeals within the Internal Dispute Resolution Procedure Regulations and exercising other discretions within the Local Government Pension Schemes.
- 12 To develop the Council's information systems, and information technology and e-government strategies.
- 13 To manage the operation of the relevant Contract Service Organisations (CSOs) including marketing the CSOs and consideration of the impact of new legislation on the CSOs.
- 14 To award all gas and electricity supply contracts where offers are made on a short restricted time basis and where there is insufficient time to obtain a Lead Member decision.

### **3.7.2 Assistant Director Business Efficiency**

- 1 To develop and implement the Council's programme and project management strategy and capability.

### **3.7.3 Head of Finance and Performance**

- 1 To instruct the Council's insurers and upon their advice, to negotiate and settle insurance claims up to maximum of £138,000 for motor insurance, £140,000 for liability insurance and motor vehicles, and £50,000 for property insurance. The Head of Financial Services is authorised to amend these limits on an annual basis, following discussion with the Council's insurers.
- 2 To set future inter-authority and standard charges for residential and day-care accommodation, in accordance with the formula recommended by the Local Government Association
- 3 To increase the specified sums set out in Appendix B in accordance with RPI, to approve financial regulations and, in consultation with the relevant Group Director, to authorise virements.
- 4 To grant car loans to eligible staff and to make or enter into leasing arrangements for vehicles, plant and equipment.
- 5 To monitor the implementation of the charging policy including any relevant deadlines. To advise on reviews of fees and charges**
- 6 To authorise activities under the Regulation of Investigatory Powers Act 2000
- 7 To monitor and review the performance of the best value process and the effect on service delivery and outcomes.
- 8 To monitor progress in meeting best value, Audit Commission and other performance indicators against agreed targets.

#### **3.7.4 Head of Exchequer Services**

- 1 To advise on, co-ordinate and manage all payroll functions on behalf of the Council.
- 2 To administer the Council's pension fund.
- 3 To be responsible for management of the housing and council tax benefits service.
- 4 To exercise the following functions in relation to housing and council tax benefits:
  - (i) settling matter arising from housing and council tax benefit claims
  - (ii) dealing with first stage representations from claimants
  - (iii) authorising staff to represent the Council on all matters relating to benefits appeals in the appeals service tribunals
  - (iv) exercising the Council's discretionary powers in relation to the administration of housing and council tax benefits and discretionary housing payments

- 5 To authorise staff to represent the Council on all matters involving valuation for rating purposes in Magistrates' Courts, the Local Valuation Court or the Valuation and Community Charge Tribunals
- 6 To serve notices pursuant to schedule 4(A) to the Local Government Finance Act 1988 in relation to the completion of newly erected or altered buildings
- 7 To be responsible for the implementation, management and administration of the Council's prosecution policy in relation to benefits fraud

### **3.7.5 Head of Asset Management**

- 1 To provide a security service for the Council's administration buildings.
- 2 To exercise general use and hire of public halls and buildings owned by the Council (except the Town Hall) for the purpose of community use, meetings and other authorised events in accordance with approved fee scales and principles but to be able to waive or reduce scales of fees and charges in suitable cases.
- 3 Subject to the availability of finance to be responsible for any alteration or improvement of facilities to the Council Chamber, committee rooms and other accommodation for members.
- 4 To exercise all the powers delegated to the Property Strategy Manager so far as legally permissible. Exercise of such powers should be recorded where appropriate. Where possible the Head of Service should give notice to the Property Strategy Manager that he or she intended to exercise a specified power that is delegated to the Property Strategy Manager.
- 5 To manage the operation of the relevant Contract Service Organisations (CSOs) including marketing the CSOs and consideration of the impact of new legislation on the CSOs, where relevant.
- 6 To exercise the powers and duties of the Council in relation to concessionary fares and similar schemes (including the taxicard scheme).
- 7 In relation to the taxicard scheme:
  - (i) to admit to the scheme persons from the waiting list of applicants
  - (ii) to agree a higher trip limit where justified by the degree of disability of the individual
  - (iii) to approve dual holding of a concessionary fares permit and a taxicard where, in view of the individual's condition, it is appropriate to do so.
- 8 To issue permits under the Minibus and Other Section 19 Permit Buses Regulations 1987 to appropriate organisations.

### **3.7.6 Property Strategy Manager**

- 1 To conduct preliminary negotiations, negotiate, agree and conclude all property matters including the making and settling of rating appeals on council property and property valuations for all purposes.
- 2 To undertake marketing of any Council property.
- 3 To instruct external property advisors, surveyors, auctioneers and consultants where necessary on property transactions.
- 4 To procure property and property services to meet the Council's occupation needs including responsibility for space use and allocation together with strategic facilities management. This function must be exercised subject to obtaining members authority for any financial approval not within budget.
- 5 To agree with a potential purchaser of a Council-owned property that the Council should retain an area of land where it is expedient to do so.
- 6 Following notification to the relevant ward members, to vary but not extend existing agreements for mobile phones masts at school sites in circumstances where installations are to be upgraded and lower emissions will result to enable Landlord's consent to be granted for the installation.
- 7 To agree and incur reasonable pre-sale expenses up to a limit of £100,000 per transaction when disposing of property, such expenses to be offset against the capital receipts arising.
- 8 The Property Strategy Manager must exercise the functions delegated to him or her subject to the following requirements:
  - (i) complying with the Code of Practice on the Disposal of Surplus Property, set out in Appendix G
  - (ii) observing a limit of £500,000 where the Council has already approved the principle but not the details of a negotiated property transaction with a single party, subject to a pro-forma notification to the relevant Group Director and the Group Director Finance and Commerce once negotiations have been concluded
  - (iii) obtaining member approval to the head of term for transactions which are not competitively marketed above £500,000
  - (iv) complying with relevant commercial property management policies on tenant mix and selection etc
  - (v) complying with relevant council policy on property transactions such as licence fees, rear access ways and disposal of land within a cartilage etc

- (vi) referring a matter for member decision where it is proposed to recommend other than the best financial bid
  - (vii) concluding valuation and property disputes forming part of a pending or active court or arbitration proceedings only after consultation with either the Assistant Chief Executive Legal & Democratic Services or the Group Director Finance and Commerce, where there is insufficient time or opportunity to obtain a member decision
  - (viii) Making or settling rating appeals only in the Council's financial interests.
- 9 To be the Council's designated corporate property officer, responsible for the strategic management of the Council's property portfolio, including corporate strategy and asset management, procurement of property and property services, planned and preventative maintenance programmes, property allocation and use, reviews, acquisitions and disposals, and commercial estate management.

### **3.7.7 Head of Business Systems**

- 1 To develop the Council's e-government strategy.
- 2 To develop the Council's information and communications technology strategies including the supply, withdrawal, data protection and integrity of the systems to staff and members.
- 3 To supply connections and services to public sector partners and other organisations, provided that the integrity of the Council's information systems is maintained.

### **3.7.8 Head of Development & Building Control**

#### **Development control**

- 1 To act in relation to purchase notices and blight notices served on the Council under Part VI of the Town and Country Planning Act 1992.
- 2 To approve any application for development throughout the borough including the Green Belt in accordance with the current development plan and other material legislation and which proposes to:
  - (i) erect extensions, porches and material alterations to the external appearance of a dwelling house or other residential accommodation (including where the depth or height of the extension or porch exceeds the provisions of the development plan but, in the opinion of the Head of Planning, would not cause material harm)
  - (ii) construct garages and other outbuildings within the curtilage of a dwelling house or other residential accommodation

- (iii) erect non residential development and erect extensions or ancillary buildings or materially alter the external appearance of an existing building within the curtilage of any non-residential premises etc., where the new floor space would not exceed 1000m<sup>2</sup>
  - (iv) display advertisements
  - (v) construct shop fronts
  - (vi) erect residential development where the number of dwellings does not exceed two
  - (vii) construct vehicular access to roads
  - (viii) erect fences, walls, gates, other means of enclosure, satellite receivers or floodlights and street furniture.
  - (ix) change use from one class to another involving a building of up to 1000m<sup>2</sup> floor space or sites of up to 1 hectare (2.4 acres)
  - (x) construct buildings to house secondary sub-stations of the type which would, if erected in the open, constitute permitted development
  - (xi) extend a time limit (for a period not exceeding 12 months at any one time) imposed upon a temporary consent, where the situation which was contemplated when the limitation was imposed has not materialised and is, in the opinion of the Head of Planning, unlikely to materialise in the next 12 months
- 3 To refuse any application for development throughout the borough, including the Green Belt, in which is not in accordance with the current development plan and any other material legislation.
- 4 If objections are received within 21 days of the date of deposit of the list of planning applications or the date of notification of a particular application (whichever is the later), members must be notified that objections have been received and given a deadline by which to request that the application be referred to the Regulatory Services Committee for determination. If no such request is received within seven days, the Head of Development and Building Control may approve the application.
- 5 Notification may be by a list of applications sent to each member; the deadline date shown on the list will not be less than seven days after the notification. A request from a member must be made in writing or orally to either the Head of Development and Building Control or the Planning Control Manager personally.
- 6 Where a consent for full planning permission has previously been granted, to determine amending details where an amendment would require planning permission.



- 7 To determine detailed submissions reserved for subsequent approval when outline planning permission is granted. This function cannot be exercised where the Regulatory Services Committee, when granting outline planning permission, specifically reserve to themselves the right to approve details of the development concerned.
- 8 To determine variations of conditions, submissions required by a condition and development required to comply with a condition.
- 9 To determine applications for the renewal of any planning permission where there has been no material change in circumstances.
- 10 To determine any application for advertisement consent, demolition consent, conservation area consent, listed building consent or prior approval determinations.
- 11 To determine any applications for engineering and other operations which consist of groundworks and construction of paths, cycle tracks and roadways and crossovers.
- 12 To determine the making of tree preservation orders and applications for the topping, lopping and felling of trees where the trees are covered by a confirmed tree preservation order, to serve Tree Replacement Notices, to waive the requirement to replace trees where appropriate to determine applications under High Hedges legislation (Anti Social Behaviour Act 2003 [Part 8]) and undertake any related legal or direct action arising from such application, including issuing of Remedial Notices.
- 13 To issue directions and take any necessary action arising from those directions under Part X of the Criminal Justice and Public Order Act 1994, which relates to control of caravan sites.
- 14 In relation to the submission of a planning application, to determine whether an environmental assessment is required to be submitted with that application.
- 15 To issue planning contravention notices and breach of condition notices.
- 16 To issue enforcement notices, stop notices and listed building enforcement notices and to take any action necessary to achieve compliance with a notice, including commencing proceedings for injunctions and demolishing buildings in the following cases:
  - a) In cases of urgency.
  - b) Where planning permission for the unauthorised development has already been refused by the Council, or
  - c) Where the unauthorised development consists of:
    - o Deposit of waste materials

- Extraction of minerals
  - Erection of fixed plant and machinery.
- d) Any case involving a temporary stop notice.

This function must be exercised in consultation with the Assistant Chief Executive Legal & Democratic Services.

- 17 To object on environmental grounds to applications for including particular operating centres on goods vehicles operators' licences.
- 18 To issue notices in accordance with Section 215 of the Town and Country Planning Act 1990.
- 19 To exercise the Council's functions in relation to the issuing of screening and scoping opinions under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.
- 20 To authorise activities under the Regulation of Investigatory Powers Act 2000.
- 21 To determine applications for hazardous substances consent, and related powers.
- 22 Where GPDO rights are removed by condition and erection of plant and machinery required for a temporary period in connection with permitted landfill land reclamation and mineral extraction.
- 23 To issue Certificates of Lawful Development in consultation with the Assistant Chief Executive Legal & Democratic Services.
- 24 In consultation with the Assistant Chief Executive, Legal and Democratic Services to modify as necessary the detailed wording or nature of planning conditions imposed by Regulatory Services Committee before decisions are issued.
- 25 To exercise the Council's functions under the Local Government (Miscellaneous Provisions) Act 1976 in respect of complaints regarding dangerous trees posing an imminent risk to persons or property or causing damage to property.
- 26 To exercise all powers in relation to energy management and energy conservation.
- 27 To undertake those functions assigned:
- (i) Under Part 3, Section 4 of the Constitution: functions not to be the responsibility of an Authority's Executive
  - (ii) Part 3, Section 5 of this Constitution: local choice functions

### **Building control**

- 28 To exercise the powers and duties of the Council including determining applications and serving and enforcing notices and prosecuting offences under the following enactments:
  - (i) the Building Act 1984 and the Building Regulations 2000
  - (ii) the Safety at Sports Ground Act 1975
  - (iii) the Fire Safety and Safety of Places of Sports Act 1987
  - (iv) the London Building Acts and building control matters in the Local Government Act 2000.
- 29 To exercise all appointing officer functions under section 10 of the Party Wall Act 1996.
- 30 Authority to exercise powers contained within Section 29 and 32 of the Local Government (Miscellaneous Provisions) Act 1982 (protection of buildings and power of entry)
- 31 To be responsible for all emergency planning matters.

### **3.7.9 Head of Human Resources**

- 1 To develop and implement the Council's human resources, organisation development, remuneration and occupational health strategies.
- 2 To implement any decisions and recommendations of recognised national negotiating bodies in respect of pay. Where a supplementary estimate is required, the cost must be reported to the Cabinet.
- 3 To implement decisions and recommendations on all employment matters including terms and conditions of employment. Where there is a cost implication, a report must be made to the Cabinet.
- 4 The exercise of the client monitoring function in respect of occupational health and the Council's recruitment advertising contracts, and the power to select and accept tenders for external consultants or contracts in accordance with the Council's standing orders.
- 5 To grant discretionary payments to retiring employees in accordance with the Council's approved policy, in conjunction with the Group Director Finance & Commerce and Assistant Chief Executive Legal and Democratic Services.
- 6 To grant gifts for long service to the limit specified in Appendix B.
- 7 To implement the Council's early retirement, retirement and redundancy policies in consultation with the Group Director Finance & Commerce and the Assistant Chief Executive Legal and Democratic Services.
- 8 To approve the arrangements for members' training and development.

- 9 To act and make decisions as a pensions panel consisting of the Group Director of Finance and Commerce, Head of Human Resources and Assistant Chief Executive Legal and Democratic Services for the purposes of Stage 2 appeals within the Internal Dispute Resolution Procedure Regulations and exercising other discretions within the Local Government Pension Schemes.

### **3.8 CHIEF EXECUTIVE**

**This section covers the following members of staff:**

#### 3.8.1 Assistant Chief Executive Legal & Democratic Services

**Each member of staff has delegated authority to act as follows, subject to the general provisions and limitations set out in section 3.1 of Part 3 of this constitution.**

**The Chief Executive and the Monitoring Officer are designated by the Secretary of State as qualified persons for the purpose of Section 36 of the Freedom of Information Act 2000. The Monitoring Officer is to be the primary qualified person with the Chief Executive carrying out the function in the Monitoring Officer's absence.**

#### **3.8.1 Assistant Chief Executive Legal & Democratic Services, all Legal Managers, Principal & Assistant Solicitors (in the name of the Assistant Chief Executive Legal & Democratic Services)**

- 1 To prepare or approve the form and content of all legal documentation on behalf of the Council.
- 2 To lay information, complaints and claims on behalf of the Council for the purpose of any proceedings before the Magistrates' Court, County Court and other courts and tribunals, including all civil and criminal proceedings.
- 3 To defend all legal proceedings brought against the Council and to take any steps that are in his or her opinion expedient to that end.
- 4 To sign, serve, advertise and receive notices and documents on behalf of the Council in relation to any formal or legal procedures.
- 5 To certify as a true and correct record any documents in accordance with section 229 of the Local Government Act 1972.
- 6 To sign or endorse any documents on behalf of the borough where so requested by a citizen.
- 7 To serve requisitions for information and other documents to enable the Council to receive information in the pursuance of legal proceedings.

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- 8 Where the issue of any document, notice or order will be a necessary step in legal proceedings on behalf of the Council, to sign such document unless any enactment otherwise requires or unless the Council has given the necessary authority to some other person for the purposes of such proceedings.
- 9 To authorise, serve or issue all statutory notices, approvals and licences under any enactment other than those specifically delegated to another officer.
- 10 To seek the opinion of legal counsel in consultation with the appropriate Group Director, Assistant Director or Head of Service or Assistant Chief Executive and to instruct legal counsel or experts to advise or appear on any matter and to agree fees arising.
- 11 To instruct and obtain independent legal advice through external solicitors or counsel after obtaining three individual quotations covering price, expertise, quality and deliverability.
- 12 To settle claims in proceedings commenced or about to be commenced against the Council in a court or tribunal up to a limit of £100,000. The Assistant Chief Executive Legal & Democratic Services must consult with the Group Director Finance & Commerce in exercising this authority. Settlement of claims that exceed £100,000 require the approval of the relevant individual Cabinet member or of the Cabinet, unless the decision is required to be made immediately before, at or during a hearing.
- 13 To name, rename, number and renumber streets and premises
- 14 To maintain the register of highways that are maintainable at public expense
- 15 To arrange for the administration of all statutory appeals.
- 16 To allocate information technology facilities to members, including ordinary telephones, mobile telephones and facsimile machines.
- 17 To approve arrangements for members' training.
- 18 To approve the attendance of members at conferences or training events outside the borough but within the United Kingdom, including any travel and accommodation arrangements.
- 19 To implement the Council's early retirement, retirement and redundancy policies in consultation with the Group Director Finance & Commerce and the Head of Human Resources.
- 20 To act and make decisions on behalf of a pensions panel consisting of the Group Director of Finance and Commerce, Head of Human Resources and Assistant Chief Executive Legal and Democratic Services for the purposes of Stage 2 appeals within the Internal Dispute Resolution Procedure Regulations and exercising other discretions within the Local Government Pension Schemes.

- 21 The Chief Executive and the Monitoring Officer are designated by the Secretary of State as qualified persons for the purpose of Section 36 of the Freedom of Information Act 2000. The Monitoring Officer is to be the primary qualified person with the Chief Executive carrying out the function in the Monitoring Officer's absence.
- 22 To be responsible for the strategic development and management of Community Safety within Havering, including the Community Safety Strategy and implementation of the Crime and Disorder Reduction Act 1998.
- 23 To exercise general use and hire of the Town Hall for the purpose of meetings and other authorised events in accordance with approved fee scales and principles but to be able to waive or reduce scales of fees and charges in suitable cases. To exercise general management of the Council Chamber, committee rooms and other accommodation for members, including any audio-visual or other information technology equipment installed therein
- 24 Legal Managers (who are permanent employees of the Council):
- (i) To prepare or approve the form and content of all legal documentation on behalf of the Council.
  - (ii) To lay information, complaints and claims on behalf of the Council for the purpose of any proceedings before the Magistrates' Court, County Court and other courts and tribunals, including all civil and criminal proceedings.
  - (iii) To defend all legal proceedings brought against the Council and to take any steps that are in his or her opinion expedient to that end.
- 25 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 (group A and B functions)
  - (ii) Part 3, section 5 of this constitution: local choice functions

## **RIPA**

- 26 To monitor proper use of activities under the Regulation of Investigatory Powers Act 2000
- 27 To authorise activities under the Regulation of Investigatory Powers Act 2000

## **Health & Safety**

- 28 To develop and implement the Council's Health & Safety Strategy.

## **Electoral Registration Manager**

- 29 To undertake those functions assigned under Part 3, section 4 of this constitution: functions not to be the responsibility of an authority's Executive (group D functions).

**Manager of Committee and Overview & Scrutiny Support**

- 30 To undertake all the administrative procedures for Schools Appeals, Hearings Panels and any other panels required under the terms of reference of the Adjudication and Review Committee including but not limited to the selection of members or independent persons to consider specific cases, the consideration of applications for re-hearing of School Admission Appeals, Licensing sub-committee, the arrangement of panels and dates and the appointment of Chairmen of panels.
- 31 In consultation with the Leader of the Group of which the previous appointee is a Member, to appoint a Member of the Council to fill a casual vacancy in any appointment to another organisation arising during the course of a municipal year.
- 32 In consultation with Cabinet Members, Group Leaders and the Chairmen of Committees, to determine the schedule of meetings for each municipal year (including dates, times and places of meeting), on the basis that, so far as possible and practicable:
- (i) Area Committees shall meet quarterly, in July, October, January and April
  - (ii) The Regulatory Services Committee shall meet every three weeks (except around the Christmas/New Year period)
  - (iii) The Audit, Governance, Pensions and Standards Committees and the Overview & Scrutiny Committees shall generally meet once during each period between ordinary Council meetings
  - (iv) Meetings will only be arranged for Monday or Friday evenings in exceptional circumstances.
- 33 To manage day to day the letting of the Council Chamber and Committee Rooms at the Town hall in accordance with guidelines agreed by the Governance Committee.

**Democratic Services Manager**

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

## **4 Functions not to be the responsibility of an authority's Executive**

The following functions are specified as functions that are not to be the responsibility of an authority's Executive by Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
<b>A. Functions relating to town and country planning and development control</b>		
1. Power to determine application for planning permission	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
2. Power to determine applications to develop land without compliance with conditions previously attached	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
3. Power to grant planning permission for development already carried out	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
4. Power to decline to determine application for planning permission	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
5. Duties relating to the making of determinations of planning applications (Articles 8, 10 to 13, 15 to 22, 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995)	Head of Development & Building Control	
6. Power to determine application for planning permission made by a local authority, alone or jointly with another person	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights	Head of Development & Building Control	
8. Power to enter into agreement regulating development or use of land	Regulatory Services Committee	Councillors
9. Power to issue a certificate of existing or proposed lawful use	Assistant Chief Executive Legal & Democratic Services	
10. Power to issue a certificate of existing or proposed lawful development	<ul style="list-style-type: none"> <li>• Assistant Chief Executive Legal &amp; Democratic Services</li> <li>• Head of Development &amp; Building Control</li> </ul>	
11. Power to serve a completion notice	Regulatory Services	Councillors



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Function	Decision-making body	Membership
	Committee	
12. Power to grant consent for the display of advertisements	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
13. Power to authorise entry onto land	Head of Development & Building Control	
14. Power to require the discontinuance of a use of land	Regulatory Services Committee	Councillors
15. Power to serve a planning contravention notice, breach of condition notice or stop notice	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
16. Power to issue an enforcement notice	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
17. Power to apply for an injunction restraining a breach of planning control	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control, in consultation with Assistant Chief Executive Legal &amp; Democratic Services</li> </ul>	Councillors
18. Power to determine applications for hazardous substances consent, and related powers	Head of Development & Building Control	Councillors
19. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject	Regulatory Services Committee	Councillors
20. Power to require proper maintenance of land	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
21. Power to determine application for listed building consent, and related powers	Regulatory Services Committee	Councillors
22. Power to determine applications for	Regulatory Services	Councillors

**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
conservation area consent	Committee	
23. Duties relating to applications for listed building consent and conservation area consent	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
24. Power to serve a building preservation notice, and related powers	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
25. Power to issue enforcement notice in relation to demolition of unlisted building in conservation area	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Head of Development &amp; Building Control</li> </ul>	Councillors
26. Powers to acquire a listed building in need of repair and to serve a repairs notice	Regulatory Services Committee	Councillors
27. Power to apply for an injunction in relation to a listed building	Head of Development & Building Control	
28. Power to execute urgent works	Head of Development & Building Control	
<b>B. Licensing and registration functions (in so far as not covered by any other paragraph of Schedule 1)</b>		
1. Power to issue licences authorising the use of land as a caravan site ("site licences")	Head of Housing & Public Protection, with reference to Adjudication and Review Committee where the matter is contested	
2. Power to license the use of moveable dwellings and camping sites	Head of Housing & Public Protection, with reference as above	
3. Power to license hackney carriages and private hire vehicles	<i>Not applicable</i>	
4. Power to license drivers of hackney carriages and private hire vehicles	<i>Not applicable</i>	
5. Power to license operators of hackney carriages and private hire vehicles	<i>Not applicable</i>	
6. Power to register pool promoters	Head of Housing & Public Protection, with reference as above	
7. Power to grant track betting licences	Head of Housing & Public Protection, with reference as above	
8. Power to license inter-track betting schemes	Head of Housing & Public Protection, with reference as above	
9. Power to grant permits in respect of non-licensed premises with amusement	Head of Housing & Public Protection, with reference	

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<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
machines	as above	
10. Power to register societies wishing to promote lotteries	Head of Housing & Public Protection, with reference as above	
11. Power to grant permits in respect of non-licensed premises where amusements with prizes are provided	Head of Housing & Public Protection, with reference as above	
12. Power to issue cinema and cinema club licences ( <i>up to 24.00 hours, 23 November 2005</i> )	Head of Housing & Public Protection, with reference as above	
13. Power to issue theatre licences ( <i>up to 24.00 hours, 23 November 2005</i> )	Head of Housing & Public Protection, with reference as above	
14. Power to issue entertainments licences ( <i>up to 24.00 hours, 23 November 2005</i> )	Head of Housing & Public Protection, with reference as above	
14A. All functions relating to licensing under the Licensing Act 2003	Head of Housing & Public Protection: Licensing Committee; Council as appropriate	
15. Power to license sex shops, sex cinemas and sex establishments	Head of Housing & Public Protection, with reference as above	
16. Power to license performances of hypnotism	Head of Housing & Public Protection, with reference as above	
17. Power to license premises for acupuncture, tattooing, ear-piercing, electrolysis and other special treatments	Head of Housing & Public Protection, with reference as above	
18. Power to license pleasure boats and pleasure vessels	Head of Housing & Public Protection, with reference as above	
19. Power to license markets	Head of Regeneration & Strategic Planning, with reference as above	
20. Power to license night cafes and take-away food shops ( <i>up to 24.00 hours, 23 November 2005</i> )	Head of Housing & Public Protection, with reference as above	
21. Duty to keep list of persons entitled to sell non-medicinal poisons.	Head of Housing & Public Protection, with reference as above	
22. Power to license dealers in game and the killing and selling of game	Head of Housing & Public Protection, with reference as above	
23. Power of register and license premises for the preparation of food	Head of Housing & Public Protection, with reference as above	
24. Power to license scrap metal	Head of Housing & Public Protection, with reference	

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<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
dealers	as above	
25. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds	Head of Development & Building Control, with reference as above	
26. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds	Head of Development & Building Control, with reference as above	
27. Power to issue fire certificates	<i>Not applicable</i>	
28. Power to license premises for the breeding of dogs	Head of Housing & Public Protection, with reference as above	
29. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business	Head of Housing & Public Protection, with reference as above	
30. Power to register a person to exhibit or train a performing animal, trainers and exhibitors	Head of Housing & Public Protection, with reference as above	
31. Power to license zoos	Head of Housing & Public Protection, with reference as above	
32. Power to license dangerous wild animals	Head of Housing & Public Protection, with reference as above	
33. Power to license knackers' yards	Head of Housing & Public Protection, with reference as above	
34. Power to license the employment of children	Head of Learning & Achievement Services, with reference as above	
35. Power to approve premises for the solemnisation of marriages	Head of Housing & Public Protection, with reference as above	
36. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to: (a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c. 67) or (b) an order under section 147 of the Inclosure Act 1845 (c. 8 & 9 Vict. c. 118)	Assistant Chief Executive Legal & Democratic Services, with reference as above	
37. Power to register variation of rights of common	Assistant Chief Executive Legal & Democratic Services, with reference as above	
38. Power to license persons to collect for charitable and other causes	<i>Not applicable</i>	

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<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
39. Power to grant consent for the operation of a loudspeaker	Head of Housing & Public Protection, with reference as above	
40. Power to grant a street works licence	Head of Streetcare, with reference as above	
41. Power to issue licences for the movement of pigs	Head of Housing & Public Protection, with reference as above	
42. Power to license the sale of pigs	Head of Housing & Public Protection, with reference as above	
43. Power to license collecting centres for the movement of pigs	Head of Housing & Public Protection, with reference as above	
44. Power to issue a licence to move cattle from a market	Head of Housing & Public Protection, with reference as above	
45. Power to permit deposit of builder's skip on highway	Head of Streetcare Services, with reference as above	
45A. Power to grant permission for provision etc., of services, amenities, recreation and refreshment facilities on highways and related powers – Section 115E, 115F & 115K of the Highways Act 1980	Head of Streetcare Services, with reference as above	
46. Power to license planting, retention and maintenance of trees etc in part of highway.	Head of Streetcare Services, with reference as above	
46A. Duty to publish notice in respect to a proposal to grant permission under Section 115E of the Highways Act 1980	Head of Streetcare Services, with reference as above	
47 Power to authorise erection of stiles etc on footpaths or bridleways	Head of Development & Building Control, with reference as above	
48. Power to license works in relation to buildings etc. which obstruct the highway	Head of Streetcare Services, with reference as above	
49. Power to consent to temporary deposits or excavations in streets	Head of Streetcare Services, with reference as above	
50. Power to dispense with obligation to erect hoarding or fence	Head of Streetcare Services, with reference as above	
51. Power to restrict the placing of rails, beams etc over highways.	Head of Streetcare Services, with reference as above	
52 Power to consent to construction of cellars etc. under street	Head of Streetcare Services, with reference as	

**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
	above	
53. Power to consent to the making of openings into cellars etc under streets, and pavement lights and ventilators	Head of Streetcare Services, with reference as above	
54. Power to sanction use of parts of buildings for storage of celluloid	Head of Housing & Public Protection, with reference as above	
55. Power to approve meat product premises	Head of Housing & Public Protection, with reference as above	
56. Power to approve premises for the production of minced meat or meat preparations	Head of Housing & Public Protection, with reference as above	
57. Power to approve dairy establishments	Head of Housing & Public Protection, with reference as above	
58. Power to approve egg product establishments	Head of Housing & Public Protection, with reference as above	
59. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods	Head of Housing & Public Protection, with reference as above	
60. Power to approve fish products premises	Head of Housing & Public Protection, with reference as above	
61. Power to approve dispatch or purification centres	Head of Housing & Public Protection, with reference as above	
62. Power to register fishing vessels on board which shrimps or molluscs are cooked	Head of Housing & Public Protection, with reference as above	
63. Power to approve factory vessels and fishery product establishments	Head of Housing & Public Protection, with reference as above	
64. Power to register auction and wholesale markets	Head of Housing & Public Protection, with reference as above	
65. Duty to keep register of food business premises	Head of Housing & Public Protection, with reference as above	
66. Power to register food business premises	Head of Housing & Public Protection, with reference as above	
67. Power to issue near beer licence	Head of Housing & Public Protection, with reference as above	
68. Power to register premises or stalls for the sale of goods by way of	Head of Housing & Public Protection, with reference	

**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
competitive bidding	as above	
69. Power to license animal boarding establishments	Head of Housing & Public Protection, with reference as above	
70. Power to license riding establishments	Head of Housing & Public Protection, with reference as above	
71. Power to license street traders	Head of Housing & Public Protection, with reference as above	
72. Power to license caravan/mobile home sites	Head of Housing & Public Protection, with reference as above	
<b>C. Functions relating to health and safety at work</b>		
Functions under any of the “relevant statutory provisions” within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc Act 1974, to the extent that those functions are discharged otherwise than in the authority’s capacity as an employer	Head of Housing & Public Protection, with reference as above	
<b>D. Functions relating to elections</b>		
1. Duty to appoint an electoral registration officer	Full Council	All councillors
2. Power to assign officers in relation to requisitions of the registration officer	Chief Executive	
3. Functions in relation to parishes and parish councils	<i>Not applicable</i>	
4. Power to dissolve small parish councils	<i>Not applicable</i>	
5. Power to make orders for grouping parishes, dissolving groups and separating parishes from groups	<i>Not applicable</i>	
6. Duty to appoint returning officer for local government elections	Full Council	All councillors
7. Duty to provide assistance at European Parliamentary elections	Chief Executive	
8. Duty to divide constituency into polling districts	Electoral Registration Manager	
9. Power to divide electoral divisions into polling districts at local government elections	Electoral Registration Manager	
10. Powers in respect of holding of elections	Chief Executive	

**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
11. Power to pay expenses properly incurred by electoral registration officers	Chief Executive	
12. Power to fill vacancies in the event of insufficient nominations	Chief Executive	
13. Duty to declare vacancy in office in certain cases	Chief Executive	
14. Duty to give public notice of a casual vacancy	Chief Executive	
15. Power to make temporary appointments to parish councils	<i>Not applicable</i>	
16. Power to determine fees and conditions for supply of copies of, or extracts from, elections documents	Chief Executive	
17. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000	Full Council	All councillors
<b>E. Functions relating to name and status of areas and individuals</b>		
1. Power to change the name of a county, district or London borough	Full Council	All councillors
2. Power to change the name of a parish	<i>Not applicable</i>	
3. Power to confer title of honorary alderman or to admit to be an honorary freeman	Full Council	All councillors
4. Power to petition for a charter to confer borough status	<i>Not applicable</i>	
<b>F. Power to make, amend, revoke or re-enact bylaws</b>		
Power to make, amend, revoke or re-enact bylaws	Full Council	All councillors
<b>G. Power to promote or oppose local or personal Bills</b>		
Power to promote or oppose local or personal Bills	Full Council	All councillors
<b>H. Functions relating to pensions etc</b>		
1. Functions relating to local government pensions, etc	Pension Committee	Councillors and 2 trade union observers
2. Functions under the Fireman's Pension Scheme relating to pensions, etc as respects persons employed as	<i>Not applicable</i>	



**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
members of fire brigades maintained pursuant to section 4 of the Fire Services Act 1947		
<b>I. Miscellaneous functions</b>		
<i>Part I: functions relating to public rights of way</i>		
1. Power to create footpath or bridleway by agreement	Regulatory Services Committee	Councillors
2. Power to create footpaths and bridleways	Regulatory Services Committee	Councillors
3. Duty to keep register of information with respect to maps, statements and declarations	Head of Steetcare	
4. Power to stop up footpaths and bridleways	Regulatory Services Committee	Councillors
5. Power to determine application for public path extinguishment order	Regulatory Services Committee	Councillors
6. Power to make a rail crossing extinguishment order	Regulatory Services Committee	Councillors
7. Power to make a special extinguishment order	Regulatory Services Committee	Councillors
8. Power to divert footpaths and bridleways	Regulatory Services Committee	Councillors
9. Power to make a public path diversion order	Regulatory Services Committee	Councillors
10. Power to make a rail crossing diversion order	Regulatory Services Committee	Councillors
11. Power to make a special diversion order	Regulatory Services Committee	Councillors
12. Power to require applicant for order to enter into agreement	Regulatory Services Committee	Councillors
13. Power to make an SSSI diversion order	Regulatory Services Committee	Councillors
14. Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980	Head of Development & Building Control	
15. Power to decline to determine certain applications	Regulatory Services Committee	Councillors
16. Duty to assert and protect the rights of the public to use and enjoyment of highways	Head of Development & Building Control	Councillors
17. Duty to serve notice of proposed action in relation to obstruction	Regulatory Services Committee	Councillors
18. Power to apply for variation of order under section 130B of the Highways Act 1980	Regulatory Services Committee	Councillors
19. Power to authorise temporary disturbance of surface of footpath or bridleway	Head of Development & Building Control	

**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
20. Power temporarily to divert footpath or bridleway	Regulatory Services Committee	Councillors
21. Functions relating to the making good of damage and the removal of obstructions	Regulatory Services Committee	Councillors
22. Powers relating to the removal of things so deposited on highways as to be a nuisance	Regulatory Services Committee	Councillors
23. Power to extinguish certain public rights of way	Regulatory Services Committee	Councillors
24. Duty to keep definitive map and statement under review	Regulatory Services Committee	Councillors
25. Power to include modifications in other orders	Regulatory Services Committee	Councillors
26. Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981	Head of Development & Building Control	
27. Duty to reclassify roads used as public paths	Regulatory Services Committee	Councillors
28. Power to prepare map and statement by way of consolidation of definitive map and statement	Regulatory Services Committee	Councillors
29. Power to designate footpath as cycle track	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Area committee</li> </ul>	<ul style="list-style-type: none"> <li>• Councillors</li> <li>• Councillors</li> </ul>
30. Power to extinguish public right of way over land acquired for clearance	Regulatory Services Committee	Councillors
30A. Power to authorise stopping up or diversion of the highway under Section 247 of the Town and Country Planning Act 1990	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> </ul>	Councillors
31. Power to authorise stopping-up or diversion of footpath or bridleway	<ul style="list-style-type: none"> <li>• Regulatory Services Committee</li> <li>• Area committee</li> </ul>	<ul style="list-style-type: none"> <li>• Councillors</li> <li>• Councillors</li> </ul>
32. Power to extinguish public rights of way over land held for planning purposes	Regulatory Services Committee	Councillors
33. Power to enter into agreements with respect to means of access	Regulatory Services Committee	Councillors
34. Power to provide access in absence of agreement	Regulatory Services Committee	11 Councillors
<i>Part II: other miscellaneous functions</i>		
35. Functions relating to sea fisheries	<i>Not applicable</i>	

**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
36. Power to make standing orders	Full Council	All councillors
37. Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal)	<ul style="list-style-type: none"> <li>• Full Council (appointment etc of Head of Paid Service)</li> <li>• Appointments Committee (appointment etc of Group Directors and Heads of Service)</li> <li>• Head of Paid Service, or the relevant Group Director or Head of Service or Assistant Chief Executive on his or her behalf (appointment etc of all staff under Head of Service or Assistant Chief Executive)</li> </ul>	<ul style="list-style-type: none"> <li>• All councillors</li> <li>• Councillors</li> </ul>
38. Power to make standing orders as to contracts	Full Council	All councillors
39. Duty to make arrangements for proper administration of financial affairs etc	<ul style="list-style-type: none"> <li>• Appointments Committee (appointment of Chief Finance Officer)</li> <li>• Chief Finance Officer (arrangements for proper administration of financial affairs)</li> </ul>	Councillors
40. Power to appoint officers for particular purposes (appointment of "proper officers")	Full Council	All councillors
41. Power to make limestone pavement order	<i>Not applicable</i>	
42. Duty to designate officer as the head of the authority's paid service, and to provide staff, etc	Full Council	All councillors
43. Duty to designate officer as the monitoring officer, and to provide staff, etc	<ul style="list-style-type: none"> <li>• Appointments Committee (designating Monitoring Officer)</li> <li>• Full Council (providing staff)</li> </ul>	Councillors
44. Duty to approve authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts (as the case may be)	Audit Committee	Councillors
44A. Duty to provide staff, etc. to person nominated by the Monitoring Officer – Section 82A (4) and (5) of the Local Government Act 2000	Council	

**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
44B. Power relating to Overview & Scrutiny Committees (voting rights co-opted members). Paragraphs 12 and 14 of the Schedule 1 to the Local Government Act 2000	Council	
45. Powers relating to the protection of important hedgerows	Head of Development & Building Control	
46. Powers relating to the preservation of trees	Head of Development & Building Control	
47. Power to make payments or provide other benefits in cases of maladministration etc	Governance Committee	Councillors
48. Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption	Regulatory Services Committee	Councillors

## 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>	<b>Membership</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	10 councillors
2. Determining an appeal against any decision made by or on behalf of the authority	Adjudication and Review Committee	9 Councillors and 9 independent persons
3. The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools	Adjudication and Review Committee	9 Councillors and 9 independent persons
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	9 Councillors and 9 independent persons
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	9 Councillors and 9 independent persons
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	10 councillors
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 Councillors
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	<ul style="list-style-type: none"> <li>Head of Housing &amp;</li> </ul>	

**Governance Committee, 9 July 2008**

<b>Function</b>	<b>Decision-making body</b>	<b>Membership</b>
Planning Act 1990 about interests in land	<p>Public Protection</p> <ul style="list-style-type: none"> <li>• Head of Regeneration and Strategic Planning</li> <li>• Head of Development and Building Control</li> <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	6 Councillors
17. Making agreements with other local authorities for the placing of staff at the disposal of those other authorities	Cabinet	10 councillors

## 6 Proper officer functions

The Council has approved and adopted the appointment of the following officers as “proper officers” as described in the following specified sections of Acts of Parliament or regulations.

The deputy proper officer is given in brackets 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 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 solicitor employed by the Council.

### National Assistance Act 1948

Section	Description	Proper officer
47	<b>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</b>	<b>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.</b>

### National Assistance (Amendment Act) 1951

Section	Description	Proper officer
48	<b>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.</b>	<b>As above</b>

### Local Government Act 1972

**Governance Committee, 9 July 2008**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
<b>83(1)-(4)</b>	<b>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</b>	<b>Chief Executive (Assistant Chief Executive Legal &amp; Democratic Services)</b>
<b>84</b>	<b>Officer to whom a person elected to any office under the Council may give written notice of resignation</b>	<b>Chief Executive (Assistant Chief Executive Legal &amp; Democratic Services)</b>
<b>88(2)</b>	<b>Officer who may convene a meeting of the Council for the election to fill a vacancy</b>	<b>Chief Executive (Any Group Director)</b>
<b>89(1)(b)</b>	<b>Officer who may receive notice in writing of a casual vacancy in the office of councillor from two local government electors</b>	<b>Chief Executive  Assistant Chief Executive Legal &amp; Democratic Services</b>
<b>100B(2)</b>	<b>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 public</b>	<b>Democratic Services Manager</b>
<b>100B(7)(c)</b>	<b>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</b>	<b>Assistant Chief Executive Legal &amp; Democratic Services</b>
<b>100C(2)</b>	<b>Officer responsible for preparing a written summary of those parts of the committee proceedings which disclose exempt information</b>	<b>Democratic Services Manager</b>
<b>100D(1)(a) and (5)(a)</b>	<b>Officer responsible for identifying background papers and compiling list of such documents</b>	<b>Democratic Services Manager</b>
<b>100F(2)</b>	<b>Officer making decision as to documents disclosing exempt information which are not required to be open to inspection by council members</b>	<b>Chief Executive Assistant Chief Executive Legal &amp; Democratic Services</b>
<b>115</b>	<b>Officer to whom all officers shall pay monies received by them and due to the local authority</b>	<b>Group Director Finance and Commerce</b>
<b>146(1)</b>	<b>Officer authorised to produce a statutory declaration specifying securities and verifying name change of authority</b>	<b>Group Director Finance and Commerce</b>
<b>210(6) and (7)</b>	<b>Officer in whom power in respect of a charity will vest as at 1 April 1974</b>	<b>Assistant Chief Executive Legal &amp; Democratic Services</b>
<b>225(1)</b>	<b>Officer with whom documents may be deposited pursuant to law to make notes or endorsements and give acknowledgements</b>	<b>Assistant Chief Executive Legal &amp; Democratic Services</b>



**Governance Committee, 9 July 2008**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
	or receipts	
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
234(1)	Officer who may authenticate documents	Assistant Chief Executive Legal & Democratic Services
236(9)	Officer responsible for sending certified copies of bylaws to appropriate bodies	Assistant Chief Executive Legal & Democratic Services
238	Officer who shall certify copies of bylaws as true copies	Assistant Chief Executive Legal & Democratic 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 Part I of Schedule 12	Officer who may sign a summons to council meetings	Chief Executive (any Group Director)
Para 4(3) of Part I of Schedule 12	Officer who may receive notice from a member of address to which a summons to a meeting is to be sent	Chief Executive (Assistant Chief Executive Legal & Democratic Services)
Para 25(7) of Part II 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

Local Government Act 1974

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
30(5)	Officer responsible for arranging publication in newspapers of notice of Local Commissioner's report on investigation of a complaint	Democratic Services Manager

Local Government (Miscellaneous Provisions) Act 1976

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
41	Officer responsible for certifying copies of resolutions, minutes and other documents	Democratic Services Manager

Local Government (Miscellaneous Provisions) Act 1982

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
Para 13(6) of	Certification, for legal proceedings, of copy	Assistant Chief Executive

**Governance Committee, 9 July 2008**

<b>schedule 3</b>	<b>of any regulations made by the appropriate authority</b>	<b>Legal &amp; Democratic Services</b>
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**Representation of the People Act 1983**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
<b>8</b>	<b>Officer acting as registration officer for registration of parliamentary and local government electors</b>	<b>Chief Executive (Assistant Chief Executive Legal &amp; Democratic Services)</b>
<b>35</b>	<b>Officer acting as returning officer for council elections</b>	<b>Chief Executive (Assistant Chief Executive Legal &amp; Democratic Services)</b>

**Building Act 1984**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
<b>78(8)</b>	<b>Officer responsible for taking immediate action in relation to dangerous buildings</b>	<b>Building Control Manager</b>

**Public Health (Control of Diseases) Act 1984**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
<b>11</b>	<b>Officer to be informed of a notifiable disease or food poisoning</b>	<b>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.</b>
<b>18</b>	<b>Officer responsible for furnishing information with regard to notifiable diseases or food poisoning</b>	<b>As above</b>
<b>20</b>	<b>Officer empowered to prevent someone working in order to stop spread of disease</b>	<b>As above</b>
<b>21</b>	<b>Officer empowered to exclude a child from school if the child is liable to convey a notifiable disease</b>	<b>As above</b>
<b>22</b>	<b>Officer responsible for maintaining a list of day pupils at school having a case of notifiable</b>	<b>As above</b>

**Governance Committee, 9 July 2008**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
	<b>diseases</b>	
<b>24</b>	<b>Officer responsible for ordering that infected articles not be sent to any laundry</b>	<b>As above</b>
<b>29</b>	<b>Officer responsible for letting of house or room after recent case concerning a notifiable disease</b>	<b>As above</b>
<b>31</b>	<b>Officer responsible for ordering disinfection of premises</b>	<b>As above</b>
<b>32</b>	<b>Officer responsible for ordering a person removed from an infected house</b>	<b>As above</b>
<b>36</b>	<b>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</b>	<b>As above</b>
<b>40</b>	<b>Officer who may apply for a warrant to enter a common lodging-house and examine any person for a notifiable disease</b>	<b>As above</b>
<b>42</b>	<b>Officer who may certify a common lodging-house which has been closed to be free from infection</b>	<b>As above</b>
<b>43</b>	<b>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</b>	<b>As above</b>
<b>48</b>	<b>Officer responsible for ordering removal of body to a mortuary or for immediate burial</b>	<b>As above</b>
<b>59</b>	<b>Officer responsible for authenticating documents</b>	<b>The CCDC as above</b>
<b>60</b>	<b>Officer responsible for serving notices and other documents</b>	<b>The CCDC as above</b>

**Public Health (Infectious Diseases) Regulations 1988**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
<b>Regulations 6, 8, 9 10 and Schedule 3 and 4</b>		<b>As above</b>

**Housing Act 1985**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
<b>606(1) and (2)</b>	<b>Officer responsible for making reports on unfitness and clearance</b>	<b>Environmental Health Manager</b>

Local Elections (Principal Areas) Rules 1986

Rule	Description	Proper officer
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	Manager of Electoral Services

Local Government Finance Act 1988

Section	Description	Proper officer
114	Officer responsible for making financial report to the authority	Group Director Finance and Commerce

Local Government & Housing Act 1989

Section	Description	Proper officer
2	Officer responsible for receiving deposit of list of politically restricted posts	Head of Human Resources

Local Government (Committees and Political Groups) Regulations 1990

Regulation	Description	Proper officer
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	Chief Executive
9 and 10	Officer to whom notice is delivered about a councillor's membership of, or cessation of membership of, a political group	Chief Executive
13	Officer to whom the wishes of a political group are expressed	Chief Executive
14	Officer responsible for notifying a political group about allocations and vacations of	Democratic Services Manager

**Governance Committee, 9 July 2008**

Regulation	Description	Proper officer
	<b>seats</b>	

Environmental Protection Act 1990

Section	Description	Proper officer
<b>149</b>	Officer for discharging functions for dealing with stray dogs	<b>Environmental Health Manager</b>

Food Safety Act 1990

Section	Description	Proper officer
<b>49</b>	<b>Officer authorised to sign any document that the Council, as food authority, is authorised or required to make under the Act</b>	<b>Environmental Health Manager</b>

Party Wall etc. Act 1996

Section	Description	Proper officer
<b>10(8)</b>	<b>Officer responsible for appointing a third surveyor where this becomes necessary</b>	<b>Head of Development &amp; Building Control</b>

**The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000**

Regulation	Description	Proper officer
<b>3(1)</b>	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	<b>Monitoring Officer</b>
<b>4(1)</b>	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	<b>Monitoring Officer</b>
<b>5(1)</b>	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</li></ul>	<b>Monitoring Officer</b>

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Regulation	Description	Proper officer
	made 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	
<b>6</b>	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	<b>Monitoring Officer</b>
<b>9(2)</b>	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	<b>Monitoring Officer</b>
<b>9(4)</b>	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	<b>Monitoring Officer</b>
<b>11(2)</b>	Officer who may exclude whole or part of any report provided for public inspection under regulation 11(1), where the part excluded relates 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	<b>Democratic Services Manager</b>
<b>11(7)(c)</b>	Officer who may supply to a newspaper a copy of any document supplied to Cabinet members, if he or she thinks fit	<b>Democratic Services Manager</b>
<b>12(1)</b>	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	<b>Democratic Services Manager</b>
<b>15(1)</b>	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:	<b>Democratic Services Manager</b>
	<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> <p>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</p>	
<b>17(3) and (4)</b>	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	<b>Democratic Services Manager</b>

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Regulation	Description	Proper officer
<b>21(4)(a) and (b)</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	<b>Democratic Services Manager</b>

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

Regulation	Description	Proper officer
<b>4(2)</b>	Officer who publishes the number that is equal to 5 per cent of the number of local government electors for the authority's area	<b>Manager of Electoral Services</b>

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

Regulation	Description	Proper officer
<b>Paragraphs 5 and 6 of Part II of Schedule 1</b>	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	<b>Head of Human Resources</b>

**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**

Rule	Description	Proper officer
<b><i>Access to Information Procedure Rules</i></b>		
<b>17</b>	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	<b>Democratic Services Manager</b>
<b><i>Executive Procedure Rules</i></b>		
<b>2(e)</b>	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	<b>Democratic Services Manager</b>
<b><i>Overview and Scrutiny Committee Procedure Rules</i></b>		
<b>7</b>	Officer who may call a meeting of an overview and scrutiny committee meeting if he or she considers it necessary or appropriate.	<b>Chief Executive (any Group Director)</b>
<b>9</b>	Officer who may place an item on the next available agenda of an overview and scrutiny committee upon receiving notice from any	<b>Democratic Services Manager</b>

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<b>Rule</b>	<b>Description</b>	<b>Proper officer</b>
	member of the committee	
<b>11(a)</b>	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	<b>Democratic Services Manager</b>
<b>12(b)</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>	<b>Democratic Services Manager</b>
<b>14(b)</b>	Officer responsible for informing a member or member of staff that he or she is required to attend an overview and scrutiny committee, where the Chairman has informed the proper officer that such attendance is required	<b>Democratic Services Manager</b>

**Notes on the proper officer functions**

- The Chief Executive shall be the proper officer in relation to any reference in any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26 October 1972, to the Clerk of a Council or the Town Clerk of a borough.
- Any reference in the minutes of the Council or any committee or sub-committee, in the Council's bylaws, in the Council's standing orders or other similar documents, to the Town Clerk shall be construed as a reference to the Chief Executive.
- 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 scheme.
- In the absence of the Chief Executive, any Group Director shall be empowered to act, where legally permissible.



**References**

Sections 13 and 15 of the Local Government Act 2000

The Local Authorities (Functions and Responsibilities) Regulations  
2000

Appendix A

Names, addresses and wards of individual Cabinet members

This appendix sets out the names, addresses and wards of individual Cabinet members, as required by rule 1(b)(i) of the Executive Procedure Rules set out in Part 4 of this constitution.

Name	Portfolio (if applicable)	Address	Ward
<b>Michael White</b>	<p><b>Leader of the Council - Partnership &amp; Strategy</b></p> <p><b>Leadership of Council Improvement Agenda</b></p> <p><b>Leadership of Strategy, Policy, Partnerships &amp; Cohesion</b></p> <p><b>Leadership of HR, OD &amp; Public Board</b></p> <hr/> <p>Strategic Property &amp; Accommodation Strategy</p> <p>Romford Town Centre Partnership</p> <p>Performance Management (CPA Performance &amp; Best Value, Alternative Service Delivery)</p> <p>Human Resources (Organisational Development, Training and HR)</p> <p>Equalities</p> <p>Chair HSP Assembly</p> <p><b>PROJECT: Programme Manager</b></p>	4 Rosemary Avenue, Romford, RM1 4HB	Squirrels Heath
<b>Steven Kelly</b>	<p><b>Deputy Leader of the Council</b></p> <p><b>Cabinet Member of Social Care and Learning</b></p> <hr/> <p><b>Lead Member for Development Control</b></p> <p><b>Lead Member for Adult Services &amp; Commissioning</b></p> <p><b>Lead Member for Health</b></p> <p>Adult Social Services</p> <p>Commissioning</p> <p>Planning (Building &amp; Planning Control &amp; Enforcement)</p> <p>HSP Strategic Champion – Older Persons</p> <p><b>PROJECT: HH Ambitions</b></p>	69 Links Avenue, Gidea Park RM2 6NH	Emerson Park
<b>Michael Armstrong</b>	<p><b>Cabinet Member of Housing, Public Protection &amp; Regeneration</b></p> <hr/> <p>Housing Services</p>	33 Linden Street Romford RM7 7DP	Pettits

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Name	Portfolio (if applicable)	Address	Ward
	Supporting People Regeneration Strategic Planning (Local Development Framework) and Strategic Transport Environmental Strategy Technical Services and Maintenance (Surveying, Technical and Building Services) HSP Strategic Champion – Prosperous Community <b>PROJECT: Young People</b>		
<b>Andrew Curtin</b>	<b>Lead Member for Olympics, parks and 3<sup>rd</sup> Sector</b> <hr/> Libraries Culture Leisure 2012 Olympics Parks Department (Urban Parks, inc. Country Parks) HSP Strategic Champion – Environment <b>PROJECT: Hornchurch</b>	32 Meadway, Romford RM2 5NU	Romford Town
<b>Barry Tebbutt</b>	<b>Cabinet Member for Streetcare &amp; Customer Services</b> <hr/> StreetCare (Street Cleansing, Waste and Highways) Parking (Car Parks and Parking Enforcement) Transport (Fleet) Customer Services (PASC, Call Centres, Registrars) <b>PROJECT: Street Improvement &amp; Depot</b>	178 Crow Lane Romford RM7 0ES	Brooklands
<b>Eric Munday</b>	<b>Cabinet Member for Legal &amp; Democratic Services</b> <hr/> <b>Lead Member for Communications</b> Communications (Media, Communications) Facilities Management (Corporate Buildings and Facilities Management) Health and Safety and Emergency Planning  Environmental Services (Trading Standards, Cemeteries and Crematorium) HSP Strategic Champion – Community Participation	25 Pettits Lane, Romford RM1 4HL	Squirrels Heath

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Name	Portfolio (if applicable)	Address	Ward
	<b>PROJECT: Romford Leisure Complex</b>		
<b>Peter Gardner</b>	Cabinet Member of Community Safety, Standards and Electoral Services Electoral Services Community Safety Road Safety, CCTV Environmental Health (inc. Licensing) HSP Strategic Champion – Community Safety <b>PROJECT: Community Halls</b>	69 Waycross Road Upminster RM14 1PA	Mawneys
<b>Paul Rochford</b>	<b>Cabinet Member for Skills &amp; Young            People</b> <hr/> <b>Lead Member 14-19 Learning &amp; Adult            Skills</b> Havering College & Sixth Form College Adult Education New 14-19 Diploma's HSP Strategic Champion – Health and Well Being <b>PROJECT: Open Spaces</b>	58 Farnes Drive Gidea Park RM2 6NS	Emerson Park
<b>Roger Ramsey</b>	<b>Cabinet Member for Finance &amp;            Commerce</b> <hr/> <b>Lead Member for Asset Management</b> Finance Procurement Business Systems Business Transformation Property & Asset Management <b>PROJECT: Central Library</b>	35 Wakerfield Close Emerson Park Hornchurch RM11 2TH	Emerson Park
<b>Geoff Starns</b>	<b>Cabinet Member for Education &amp;            Children's Services</b> <hr/> Children's Social Services Children's Education Youth Services Lead on Every Child Matters Development HSP Strategic Champion – Children's Trust <b>PROJECT: Schools Modernisation</b>	128 Havering Road, Romford RM1 4RD	Havering Park

## Appendix B

### Functions delegated to staff: specified sums of expenditure

This appendix sets out specified sums of expenditure. Any expenditure within the limits of these sums must also be within service budgetary provision. Expenditure must be exercised only for the specified purpose set out in Part 3, section 3 of this constitution and by the specific staff, Group Directors and/or Heads of Service/Assistant Chief Executive having delegated authority within section 3.

<b>Expenditure</b>	<b>Limit</b>
Loss of personal property (including education)	£3,330 in (consultation with the Group Director Finance and Commerce and Assistant Chief Executive Legal and Democratic Services)
Ex gratia payments where action taken by or on behalf of the council in the exercise of their functions amounts to, or may amount to, maladministration, to a person who has been, or may have been, adversely affected by that action (s92 of Local Government Act 2000).	£3,330 (in consultation with the Group Director Finance and Commerce and Assistant Chief Executive Legal and Democratic Services)
Gifts for long service	£190
Costs of adaptation, disabled aids and interest-free loans	£12,760
Assistance to children	£1,770

## Appendix C

### Enactments enforceable by Head of Housing & Public Protection

This appendix sets out those enactments which the Head of Housing & Public Protection has delegated authority to enforce. The Head of Housing & Public Protection may authorise his or her staff to enforce these enactments and to authenticate, on the Council's behalf, any notice, certificate or other document required to be issued in relation to the enactments. See Part 3 of this constitution, section 3.7.4, function 57.

<b>Enactment</b>	<b>Relevant provisions and notes</b>
Agriculture (Miscellaneous Provisions) Act 1968	Part I
Animal Boarding Establishments Act 1963	
Animal Health Act 1981	
Animal Welfare Act 2006	
Betting Gaming & Lotteries Act 1963	
Breeding of Dogs Act 1973	
Building Act 1984	<ul style="list-style-type: none"><li>• sections 59 to 69 (relating to drainage of buildings and to sanitary conveniences)</li><li>• section 70 (food storage accommodation in existing houses)</li><li>• section 76 (relating to defective premises)</li><li>• section 79 (relating to ruinous and dilapidated buildings)</li></ul>
Caravan Sites Act 1968	
Caravan Sites Control & Development Act 1960	
Cinemas Act 1985	
Clean Air Act 1993	
Clean Neighbourhoods & Environment Act 2005	Parts 3, 5, 6 & 7
Control of Pollution Act 1974	section 13 (Part III, sections 60 to 62 and regulations made under section 78 (sulphur content of fuel oil)) and 1990
Dangerous Dog Acts 1871 & 1991	
Dangerous Wild Animals Act 1976	
Environment Act 1995	
Environmental Protection Act 1990	Parts I, II (Sections 33, 34 & 59), IIA, III, IV and VIII (Section 150)
Essex County Council Act 1922	Part IV (Massage and Special Treatment)

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<b>Enactment</b>	<b>Relevant provisions and notes</b>
European Communities Act 1972	<ul style="list-style-type: none"><li>• Common Agricultural Policy (Wine) Regulations 1973</li><li>• any other regulations that may be made</li></ul>
Factories Act 1961	
Fire Safety and Safety of Places or Sport Act 1987	
Food Act 1984	
Food Hygiene (England) Regulations 2006	
Food Safety Act 1990	
Food and Environment Protection Act 1985	Part III
Gambling Act 2005	
Game Act 1831	
Gaming Act 1968	
Greater London Council (General Powers) Act 1967	(registration of hairdressers, etc.)
Greater London Council (General Powers) Act 1973	section 31
Greater London Council (General Powers) Act 1979	(control of brown tail moth)
Greater London Council (General Powers) Act 1984	(registration of certain sleeping accommodation)
Greater London Council (General Powers) Act 1986	
Guard Dogs Act 1975	(licensing of guard dogs' kennelling)
Health Act 2006	Part I, Chapter I (smoke- free premises, places and vehicles)
Health and Safety at Work, Etc. Act 1974	(other than in respect of requirements imposed upon the Council as employers)
Housing Act 1985	
Housing Act 2004	
Housing (Construction and Regeneration) Act 1996	
Hypnotism Act 1952	
Landlord and Tenant Act 1985	
Late Night Refreshment Houses Act 1969	
Licensing Act 1964	sections 78 and 79
Licensing Act 2003	
Local Government and Housing Act 1989	
Local Government (Miscellaneous	<ul style="list-style-type: none"><li>• section 15 (survey of land for the</li></ul>

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Enactment	Relevant provisions and notes
Provisions) Act 1976	<p>purposes of compulsory purchase)</p> <ul style="list-style-type: none"> <li>• section 16 (power to serve notices – requisition for information)</li> <li>• section 20 (provision of sanitary conveniences at places at entertainment)</li> <li>• section 35 (power to require the removal of obstructions from private sewers)</li> </ul>
Local Government (Miscellaneous Provisions) Act 1982	<ul style="list-style-type: none"> <li>• sections 14 to 16</li> <li>• section 17 (exercise powers relating to entry in relation to registered premises in the Council's area)</li> <li>• section 29 (exercise powers of entry; each Environment Health Officer authorised to act)</li> <li>• Schedule 3 (sex establishments)</li> </ul>
London Government Act 1963	
London Local Authorities Act 1990	Part III (street trading) (licensing of night cafes)
London Local Authorities Act 1990	
London Local Authorities Act 1991	Part II, Part III and section 23
London Local Authorities Act 1995	
London Local Authorities Act 1996	
London Local Authorities Act 2000	
Medicines Act 1968	(such orders and regulations as the Council may be appointed to enforce)
Mobile Homes Act 1983	
Noise Act 1996	sections 2 to 9
Noise & Statutory Nuisance Act 1993	(loudspeakers in streets)
Offices, Shops and Railway Premises Act 1963	
Official Feed and Food Controls (England) Regulations 2006	
Performing Animals (Reg) Act 1925	
Pet Animals Act 1951	
Poisons Act 1972	
Pollution Prevention & Control Act 1999	
Prevention of Damage by Pests Act 1949	
Private Places of Entertainment (Licensing) Act 1967	
Protection from Eviction Act 1977	
Public Health Act 1936	



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<b>Enactment</b>	<b>Relevant provisions and notes</b>
Public Health Act 1961	
Public Health Control of Disease Act 1984	
Rag Flock and Other Filling Materials Act 1951	
Refreshment Houses Acts 1869 and 1967	
Rent Act 1977	(provisions relating to certificates of disrepair pursuant to section 27 and schedule 6)
Riding Establishments Acts 1964 and 1970	
Shops Act 1950 – 1965	
Sunday Entertainments Act 1932	
Sunday Observance Act 1780	
Sunday Theatre Act 1972	
Sunday Trading Act 1994	
Theatres Act 1968	
Town & Country Planning Act 1990	Sections 215-219 Powers to deal with land adversely affecting amenity of the neighbourhood.
Wildlife and Countryside Act 1981	
Young Persons (Employment) Acts 1938 and 1964	
Zoo Licensing Act 1981	

## **Appendix D**

### **Enactments enforceable by Head of Housing & Public Protection: licensing and registration of premises or persons**

This appendix sets out those enactments under which the Head of Housing & Public Protection has delegated authority to license and register premises or persons for the council's Environmental Health function. The Head of Housing & Public Protection may authorise his or her staff to license or register these premises or persons. See Part 3 of this constitution, section 3.7.4, functions 45, 46, 47 and 57.

<b>Licensing matter</b>	<b>Enactment</b>
Animal boarding establishments	Animal Boarding Establishments Act 1963
Butchers	Food Safety Act 1990
Caravan Sites	Caravan Sites and Control of Development Act 1960
Dangerous wild animals	Dangerous Wild Animals Act 1976
Dog-breeding premises	Breeding of Dogs Act 1973
Establishments for massage and special treatment	London Local Authorities Act 1991
Gambling	Gambling Act 2005
Game dealers	Game Act 1831
Guard dog kennels	Guard Dogs Act 1975
Licensing	Licensing Act 2003
Housing	Housing Act 2004
Night cafes (until 24.00 hours 23 November 2005)	London Local Authorities Act 1990
Pet shops	Pet Animals Act 1961
Public entertainment (until 24.00 hours 23 November 2005)	London Government Act 1963
Riding establishments	Riding Establishments Act 1964
Sex establishments	Local Government Miscellaneous Provisions Act 1982
Street trading	London Local Authorities Act 1990

<b>Registration matter</b>	<b>Enactment</b>
Food premises	Food Safety Act 1990
Hairdressers' and barbers' establishments	Greater London Council (General Powers) Act 1967, section 21

## Appendix E

### Enactments enforceable by Head of Housing & Public Protection: licensing and registration of premises or persons

This appendix sets out those enactments under which the Head of Housing & Public Protection has delegated authority to licence or register premises or persons for the council's Trading Standards function. The Head of Housing & Public Protection may authorise his or her staff to licence or register these premises or persons. See Part 3 of this constitution, section 3.6.2, function 10.

Licensing matter	Enactment
Storage of Explosives	Health and Safety at Work, Etc. Act 1974 (Manufacture and Storage of Explosives <a href="#">Regulations 2005</a> )

Registration matter	Enactment
Premises for competitive bidding (auctions)	Greater London Council (General Powers) Act 1984 – Part VI
Scrap metal dealers	Scrap Metal Dealers Act 1964
Motor Salvage Operators	Vehicles (Crime) Act 2001
Storage of Explosives	Health and Safety at Work, Etc. Act 1974 (Manufacture and Storage of Explosives <a href="#">Regulations 2005</a> )

## Appendix F

### Enactments enforceable by Head of Housing & Public Protection

This appendix sets out those enactments which the Head of Housing & Public Protection as appropriate and respectively for Environmental Health and Trading Standards has delegated authority to enforce. See Part 3 of this constitution, section 3.6, function 34.

A T indicates that any proceedings contemplated pursuant to this enactment may be undertaken only upon approval of the appropriate individual Cabinet member, except in cases where the Council is specifically empowered to undertake the contemplated proceedings.

Enactment	Relevant provisions and notes
Administration of Justice Act 1970	section 40
Agricultural Act 1970	Part IV
Agricultural Produce (Grading and Marketing) Acts 1928 and 1931	
Anti Social Behaviour Act 2003	
Business Names Act 1986	section 4
Cancer Act 1939	
Celluloid and Cinematograph Film Act 1922	
Children and Young Persons Act 1933	section 7 (sale of tobacco etc., to persons under 16)
Children and Young Persons (Protection from Tobacco) Act 1991	
Civil Aviation Act 1982	
Clean Air Act 1993	sections 30 and 32
Consumer Credit Act 1974	
Consumer Protection Act 1987	Parts II and III
Control of Pollution Act 1974	section 75 (regulations concerning lead content of motor fuel)
T Copyright, Designs and Patents Act 1988	
T Crossbows Act 1987	
Development of Tourism Act 1969	section 18 (relating to price displays)
Education Reform Act 1988	sections 214 to 217 (provisions relating to unrecognised degrees)
Energy Act 1976	
Energy Conservation Act 1981	
Enterprise Act 2002	

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Enactment	Relevant provisions and notes
Estate Agents Act 1979	
European Communities Act 1972	(Regulations relating to: <ul style="list-style-type: none"> <li>• eggs (marketing standards)</li> <li>• crystal glass (description)</li> <li>• Package Travel, Package Holidays, Package Tours Regulations 1982</li> <li>• textile products (indication of fibre content)</li> <li>• aerosol dispensers (EU requirements)</li> <li>• Non-Automatic Weighing Instruments</li> <li>• any other regulations as may be made from time to time)</li> </ul>
Explosive Acts 1875 and 1923	
Explosives (Age of Purchase) Act 1976	
Fair Trading Act 1973	(orders under section 22)
T Firearms Act 1968	
Fireworks Act 2003	
Food and Environmental Protection Act 1985	Part III
Food Safety Act 1990	
T Forgery and Counterfeiting Act 1981	
T Fraud Act 2006	
Greater London Council (General Powers) Act 1984	(registration of premises in respect of the sale of goods by competitive bidding)
Hallmarking Act 1973	
Health and Safety at Work etc. Act 1974	(other than in respect of requirements imposed upon the Council as employers) (including the Manufacture and Storage of Explosives Regulations 2005)
Housing Act 2004	Part 5
Hire Purchase Act 1964	Part III
Insurance Brokers (Registration) Act 1977	
Intoxicating Substances Supply Act 1985	
T Knives Act 1997	
Licensing Act 2003	
Medicines Act 1968	orders under sections 62(1)(b) and

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<b>Enactment</b>		<b>Relevant provisions and notes</b>
		90 (provisions relating to animal feeding stuffs and fertilisers)
	Merchant Shipping Act 1979	
T	Mock Auctions Act 1961	
	Motorcycle Noise Act 1987	
T	National Lotteries etc. Act 1993	
T	Offensive Weapons Act 1996	
	Olympic Symbol etc (Protection) Act 1995	
	Prices Acts 1974 and 1975	
	Property Misdescriptions Act 1991	
	Protection of Children (Tobacco) Act 1986	
T	Restriction of Offensive Weapons Act 1959	
	Road Traffic Acts 1988 & 1991	
	Road Traffic (Foreign Vehicles) Act and Regulations 1972	
	Road Traffic Offenders Act 1988	
	Solicitors Act 1974	section 22
	Telecommunications Act 1984	
T	Theft Acts 1968 and 1978	
	Timeshare Act 1992	
	Trade Descriptions Act 1968	
	Trademarks Act 1994	
	Trading Representations (Disabled Persons) Acts 1958 and 1972	(provisions relating to goods represented as being made by blind or disabled persons)
	Trading Stamps Act 1964	
	Unsolicited Goods and Service Acts 1971 and 1975	(provisions relating to unsolicited goods and directory entries)
	Vehicles (Crime) Act 2001	
	Video Recordings Act 1984 and 1993	
	Weights and Measures Act 1985	Limited to officers with DTS or equivalent

## Appendix G

### **Code of practice: disposal of surplus property**

This appendix sets out the code of practice for the disposal of surplus property. The Property Strategy Manager is required to comply with this code when exercising the functions delegated in Part 3 of this constitution, section 3.7.3, functions 1 to 8.

#### **Member authority**

- 1 Disposal of surplus property will be dealt with through the Cabinet or in accordance with other authorised arrangements for decisions in place at the time.
- 2 Any report requesting a decision will incorporate the views and advice of the Group Director Finance and Commerce, the Assistant Chief Executive Legal & Democratic Services and the Property Strategy Manager.

#### **Method of disposal**

- 3 The Property Strategy Manager shall determine the method by which surplus property should be disposed of. This method should require the open invitation of competitive bids, unless the Property Strategy Manager decides, in consultation with the Leader, that an alternative method of disposal would be appropriate. Examples of possible exceptions are as follows:
  - (i) sale to a sitting tenant
  - (ii) sale to adjoining owner
  - (iii) sale of an access which would enable a purchaser to release development value locked up in his or her backland
  - (iv) sale of a part-interest in a property where amalgamation of interests could enable substantial "marriage value" to be realised
  - (v) sale to a party offering other benefits to the Council, such as a housing association.

These examples are given on the basis that the Property Strategy Manager considers that negotiations with one party would produce a higher figure or other benefits than competition, and that the best interests of the Council would be served by allowing such exceptions.

- 4 Where land is disposed of by auction, it will be subject to a reserve price agreed between the Property Strategy Manager and the auctioneer.

Any pre-auction bid shall be accepted only upon the recommendation of the auctioneer.

- 5 Where land is disposed of by public binding tender, the Council's standing orders relating to tenders and contracts will be applied as appropriate.

- 6 During any negotiations being conducted in accordance with paragraph 3, any other offer received from a third party or parties before exchange of contracts shall be considered and dealt with on its merits either with a report to members or in accordance with the scheme of delegation. Any offer which, on the evidence available, is considered to be incomplete, insubstantial or in any other way defective, mischievous or frivolous shall be rejected.

Any offer which, on the evidence available, does appear to:

- (i) offer benefits substantially in excess of those currently being negotiated, and
- (ii) be capable of substantiation in a reasonable time scale shall be the subject of further consideration in accordance with this code and the scheme of delegation. If appropriate a report or a protocol shall be made to members. The substance of the offer (which in most cases will be the monetary amount of the offer) shall then be made known to the party with whom the Council is already conducting negotiations, and that action shall be communicated to the party making the late offer.

### **Consultation with external valuer**

- 7 At the discretion of the Property Strategy Manager, the District Valuer or other external specialist or external valuer will be consulted whenever required on important matters of principle, or valuation "practice".

### **Valuation**

- 8 Terms will not be finalised without the benefit of a current valuation. Every valuation by the Property Strategy Manager shall state the date beyond which it is not to be regarded as valid without further certification by him or her. The general presumption is that all transactions will be in accordance with section 123 of the Local Government Act 1972 and disposal will not be at a consideration less than the best that can reasonably be obtained. The General Disposal Consent 2003 provides a framework for local authorities to agree a



disposal at less than best consideration in certain circumstances. This is dealt with in paragraph 10.

## **Negotiations**

- 9 In concluding negotiations for a land transaction above a capital sum of £500,000, two members of staff should be present, one of whom should be the Property Strategy Manager or his or her representative. Within three working days of the meeting, a file note recording the discussions should be placed on the relevant file. The requirement shall not apply in respect of the ancillary terms of a proposed property transaction, where the price has already been established through competitive marketing.

## **Transactions at less than market value**

- 10 Approval must be obtained from or on behalf of the Cabinet to all disposals or lettings which are proposed to be less than open market value, unless there is already a defined subsidy policy in place which has been agreed by members for the type of transaction proposed. When members are invited to consider the principle or detail of a below market value transaction, the unrestricted value of the property shall be reported so that the level of subsidy is apparent when a decision is taken.

The Council has powers derived from the Housing Act 1985 to dispose of land to Registered Social Landlords at less than open market value. Other cases would be dealt with under the terms of the Local Government Act 1972: General Disposal Consent (England) 2003.

The General Consent 2003 allows authorities to exercise local discretion on proceeding with undervalue property disposals, providing the amount of undervalue is not more than £2 million and the local authority considers disposal is likely to contribute to the achievement of the Local Government Act 2000 objectives and will help secure the promotion or improvement of the economic, social or environmental well-being of its area. A proposed transaction at an undervalue in excess of £2 million will also require ODPM consent.

The Council must be able to substantiate that it has acted reasonably in agreeing an undervalue transaction; that there was an appropriate decision making process and that regard has been had to general fiduciary obligations. Decisions must be robust and defensible and the monetary or benefit assessment of impacts will require detailed individual assessment in every case.

The Council's Cabinet at its meeting of 29<sup>th</sup> September 2004 agreed a decision-making process-chart that should be addressed in all cases. Not all elements will be required in each case but a substantial number will feature in any assessment.

## Decision-Making Process Chart for Undervalue Transactions

- Identify Strategic Policy Link – Relate to Well-Being Powers (Community Strategy/Quality of Life Indicators/Other Corporately adopted Plans)
- 

- Identify Aims/Inputs/Outputs/Outcomes

- |   |
|---|
| <ul style="list-style-type: none"><li>• Identify the benefit</li><li>• Set out the basis of assessment</li><li>• Provide sources of comparable evidence</li><li>• Can non-market benefits and impacts be evaluated? – If so, identify method of cost/value-benefit applied</li><li>• State the monetary value arrived at or detail other assessments of worth relied upon</li></ul> |
|---|

- Adopt assessment categories of
  - a) Property Value
  - b) Other Benefits capable of monetary assessment
  - c) Benefits not capable of monetary assessment
- Where appropriate consider a comparison of benefits against the Capital Prioritisation Assessment the Council would apply to its own schemes.
- Provide Valuations – Restricted and unrestricted – (Technical Appendix requirements)
- If property has not been competitively marketed, assess financial position of organisation/person receiving subsidy – what is financial position of purchaser, is subsidy required?
- Is the amount of undervalue proportional to benefit anticipated?
- Are outputs/outcomes proportional to inputs?
- What would be the effect of less subsidy?
- Is Value For Money being achieved?
- Apply the 'Do Nothing' test – What would be the effect?
- How can outcomes be secured in practice to justify subsidy (Claw-backs/covenants/grants)
- Consider medium and longer term estate management considerations. Ensure the inclusion, as necessary, of additional terms that protect the Council's future property use options.

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- Is it possible to have a grant/leasehold arrangement rather than an outright disposal?
- Ensure Legal/Finance review/overview of final case data and business case
- Obtain Member authority to transaction if the undervalue is less than £2m and additionally from ODPM if above £2m

**Notification No. 33  
2008**

**Date 16<sup>th</sup> June**

**Notification of amendments to the constitution**

**Amendments made by the Monitoring Officer**

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

In accordance with this authority, the Monitoring Officer gives notice of the following amendments to the constitution effective from the respective dates shown in the attached document headed Transitional Arrangements.

Part and article/ section	Page reference	Substance of amendment / amended wording	Reason for amendment
Part 2, Article 8 and Part 3 Section 1	24 & 61	<p>Amend to 3 Independent Members and 9 Members</p> <ul style="list-style-type: none"> <li>➤ Delete under Standards Board for England legislation 'From the date of coming into force of Regulations, made by the Secretary of State' and add                             <ul style="list-style-type: none"> <li>• <u>To consider any initial complaints against the Assessment Framework</u></li> <li>• <u>To review any matters requested</u></li> </ul> </li> <li>➤ Add under Membership                             <ul style="list-style-type: none"> <li>• <u>To sit as an Assessment Sub-Committee, a Review Sub-Committee, a Hearings Panel with at least 1 Independent Member as Chairman and no more than 3 members in total provided that the same members shall not sit to hear a review if they have already been party to the Assessment</u></li> </ul> </li> <li>➤ Add <u>The Chairman and Vice Chairman</u> is an Independent Member</li> <li>➤ Add in the second bullet point of Members' Code of Conduct "<u>To monitor the operation and effectiveness of the authority's Code of Conduct</u>"</li> <li>➤ Add another bullet point at the end of this section                             <ul style="list-style-type: none"> <li>• <u>To assess and review complaints about Members</u></li> <li>• <u>To conduct determination's hearings</u></li> <li>• <u>To grant dispensations to Members with prejudicial interests</u></li> <li>• <u>To grant exemptions for politically restricted posts</u></li> </ul> </li> </ul>	Council Decision

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<b>Part and article/ section</b>	<b>Page reference</b>	<b>Substance of amendment / amended wording</b>	<b>Reason for amendment</b>
Part 4 Section 5	245 1(ix)	Amend three to <u>four</u>	Error
Part 2 Article 8 Part 3 Section 1	22 58	Add a new bullet point <ul style="list-style-type: none"><li>• <u>To approve the Annual Governance Statement</u></li></ul>	Clarification
Part 1 The Local Code of Corporate Governance	4b	Under paragraph 1 insert <u>reference to the Council's Vision</u>	Clarification

MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	9 July 2008	<b>8</b>

## REPORT OF THE CHIEF EXECUTIVE

**SUBJECT: Revision of Contract Procedure Rules**

### **SUMMARY**

The Council's Contract Procedure Rules (CPR) were last substantially revised in 2006. This small scale revision incorporates comments from users of the current CPR and recommendations from internal audit reports. The revised Rules also incorporate additional provisions for developing forms of procurement. In addition the revised Rules propose alterations in the various financial limits to balance the cost of procurement with the value of the goods or services being procured and to accord with recently revised European procurement financial limits. There are also some changes in responsibilities. For the ease of the committee altered provisions are printed in ***bold italics, underlined*** in the appended Rules.

### **RECOMMENDATIONS**

That this Committee recommend to Council that:

1. The revised Contract Procedure Rules be adopted
2. Part 3, section 2.1, paragraph 25 of the Constitution be amended by deleting "£500,000" in line 4 and substituting it with "£1,000,000"
3. Part 3, section 2.2, paragraph 10 of the Constitution be amended by deleting "£144,000" in line 2 and substituting it with "£139,000"
4. Part 3, Section 2.2, paragraph 12 of the Constitution be amended by deleting "£144,000" in line 2 and substituting it with "£139,000" and by deleting "£500,000" in line 3 and substituting it with "£1,000,000"

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5. Part 3, Section 3.3.4, paragraph 1 of the Constitution be amended by deleting “£144,000” in line 2 and substituting it with “£139,000”
6. Part 3, Section 3.3.4, paragraph 2 of the Constitution be amended by deleting “£144,000” in line 1 and substituting it with “£139,000”
7. Part 3, Section 3.4.4, paragraph 1 of the Constitution be amended by deleting “£144,000” in line 2 and substituting it with “£139,000”
8. Part 3, Section 3.4.4, paragraph 2 of the Constitution be amended by deleting “£144,000” in line 1 and substituting it with “£139,000”

## **REPORT DETAIL**

1. The major revision of the Rules that occurred in 2006 has been successful, the revised format being more accessible and easier to follow. However after 2 years there is a need for minor revisions to reflect experience gained, incorporate audit recommendations, reduce costs and incorporate electronic purchasing methods.
2. While the Rules are intended to strike a proper balance between ensuring probity and due process and enabling contracts to be let, experience has shown that some of the provisions create unnecessary delay and cost for little or no benefit, e.g. requiring most contracts over £144,000 to obtain authorization from full Cabinet before being awarded. Recent research by the Business Development Unit indicated that the cost of compliance with the Rules for contracts between £100,000 and £144,000 was particularly high compared with the value of the contract and a substantial change is proposed to reduce costs.
3. The aim of the proposed changes is still be ensure adequate checks and balances while enabling the speeding up of this process. The main ones are:
  - a. Reduction on the £144,000 limit on full tender process and need for Cabinet Member approval to £139,000 – this change is proposed because the recent revaluation of the European procurement values has resulted in a reduction of the sterling value from £144,459 to £139,893 at which the European procurement requirements take effect. For reasons of simplicity it is recommended that the £139,000 limit is amended accordingly.
  - b. Pre-award authorisations – raise the limit which has to be authorised by Cabinet from £144,000 to £1,000,000 with individual Cabinet Members making the decision instead below £1,000,000.
  - c. Delete the procedure for contracts between £100,000 and £144,000 and use instead the procedure currently just used for contracts between £50,000 and £100,000.

- d. Introduce provisions which clarify the use of e-procurement. The Council is moving towards using electronic ordering and payment to a far greater extent than it currently does and there is a need to incorporate this advance into the Rules.
  - e. The use of Constructionline as the normal source of contractors for building and associated services was a strong recommendation of an audit report. This is incorporated into these proposed Rules with consequent deletion of select lists which were normally for activities covered by Constructionline. This change should also result in reduced procurement costs for affected contracts.
  - f. The need for pre-tender approvals for the purchase of electricity, gas & water supplies for the Council are deleted as the process does not assist the purchase of such fundamental supplies for the Council.
4. The provisions relating to consultants will probably require amendment in the Autumn following completion of a review on the working of procedures for the appointment of consultants

### **Financial Implications and risk**

There is a need for a regular review of all Council processes to ensure that they are concurrent with legislation as well as being compatible with the way the Council operates. This review of the Council's Contract Procedure Rules (CPR) is appropriate as there has been no major review since 2006, and a number of changes have occurred since that time. Given the need to maintain the CPR, it is proposed that an annual review should be instigated. This would be carried out by officers from legal and procurement in consultation with the appropriate senior staff involved in the procurement processes and finance staff.

The main elements of the proposed changes are set out in the body of the report. Officers within Financial Services have been consulted on the changes throughout their development and their comments are reflected in them. The revised Rules are designed to facilitate the way the Council does business and to reflect the changing procurement environment, with an increasing involvement in collaborative purchasing and the use of electronic media.

There are no direct financial implications resulting from the changes, as any expenditure incurred on contracts let in accordance with the Rules will require appropriate budgetary provision as at present. However some of the changes should result in reduced procurement costs for certain contracts, although it is not possible to quantify those savings. The proposed changes will need to be properly communicated to the relevant staff. This will ensure that the risks arising from the implementation of the new Rules are minimised.

### **Legal Implications and risk**

The CPR set the framework for controlling the procurement process. Compliance with them should enable the Council to successfully procure goods and services whilst ensuring probity and compliance with relevant competition legislation.



**Human Resource Implications and risk**

There are no direct implications.

**Equalities and Social Inclusion Implications and risks:**

The Rules are drafted to be neutral in terms of equalities. There are no direct social inclusion implications.

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**CHERYL COPPELL**  
**Chief Executive**

**Background Papers**

Comments from other Council departments on draft revisions

# Contracts Procedure Rules

## 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, 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 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 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 I 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	£139,893
Supplies	£139, 893
Works	£3,497,313

These thresholds will be revised every two years. The next revision will be January 2010.

##### (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 and procurement 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 **£139,000** 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.

## 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 £**139,000** must be reported to (a) the appropriate individual Cabinet member for approval at the pre-tender stage for those contracts over £**139,000** and up to £5,000,000 (b) to Cabinet for those contracts of £5,000,000 and over **unless an exception set out in 7(c) applies**. In addition to using the Council's standard report templates, 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 and Commerce.**

## 8 Tender process

### (a) Invitation to tender

(i) All tender processes shall be conducted in accordance with the requirements of these Rules, the Financial Procedure

Rules, European procurement rules (if applicable), the Procurement Framework.

- (ii) The Invitation to Tender for all contracts over **£50,000** shall include the following information:
- a description of the services, supplies or works sought
  - the procurement timetable
  - rules for submitting tenders
  - pricing mechanism
  - the Council's 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
- (iii) Where the list of potential tenderers exceeds 8 the relevant Head of Service may reduce the number to whom tender documentation is sent to 8 provided that fair, appropriate and consistent evaluation criteria are used to assess which potential tenderers should be excluded and that the process is fully documented

**(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 three 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

- The identity of the winner of the contract
- (iii) For all other contracts with a value in excess of £5,000 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 (or negotiate) document 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 **£50,000** 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 **£50,000**, 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 **£50,000**, the two members of staff must consist of one representative of the relevant Group Director and one representative of the relevant Service.
- (iii) 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
- Surveying Services (construction contracts only)s

## 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 £**139,000** 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 services 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) All contracts with a value of more than **£139,000** and up to **£1,000,000** except for contracts falling within the category set out in **12(b)** below, must be reported to an individual Cabinet Member for approval pre-award after the final evaluation of tenders by the evaluation team for award purposes.

Contracts with a value of more than **£1,000,000** must be reported to Cabinet for approval pre-award.

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**

Where **works** contracts **in respect of the Council's buildings and assets where the total contract value is between £1390,000 and £1,000,000** are awarded by Heads of Service **or more senior staff** (as provided for in the constitution Part 3, Section 3), **the relevant Cabinet Member shall subsequently be notified of the award.**

(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) Unless the Assistant Chief Executive Legal & Democratic Services approves otherwise, all Council contracts with a value in excess of £2,500 shall be on the Council approved standard terms and conditions for that type of contract.
- (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 **£50,000** 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 either:

- (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***

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

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 Council Procedure Rule 27 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) Exceptions

- (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 £100,000. If it will exceed £100,000 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 £50,000	three years after end of the contract
contracts with a value between £50,000 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**

(a) **Setting up corporate contracts**

Group Directors with the agreement of the Group Director, Finance & Commerce may set up corporate contracts for goods services, supplies or works **across the Council, 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 five 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.

(e) **Constructionline**

**The lists of contractors maintained by Constructionline shall be used** for the formation of shortlists of potential tenderers for all construction contracts for buildings and roads maintained by the Council **unless otherwise agree by the relevant Group Director and the Assistant Chief Executive, Legal & Democratic Services.**

## 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) are permissible provided that the following points are complied with:

- The variation must be in writing and the document will be completed (e 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:

Column A	Column B
ALL of these conditions must be met	AT LEAST one of these conditions must be met
Value for money can be	One of the exceptions set out in rule



<b>Column A</b>	<b>Column B</b>
<b>ALL of these conditions must be met</b>	<b>AT LEAST one of these conditions must be met</b>
demonstrated	27 below applies
The extension is for <b><i>the same or</i></b> 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 £ <b><i>1,000,000</i></b> , there is a report to Cabinet  For an extension with a value in excess of £ <b><i>139,000</i></b> and under - £ <b><i>1,000,000</i></b> 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 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 or, if there are 2 or more suppliers for those goods or services on Framework Contracts, the competition shall be by simple written quotations by those suppliers on the price payable for the goods or services
- (d) Government Framework Contracts (eg **Catalyst contracts**) and **other public sector framework contracts**  
Where the proposed contract is one for which the Office of Government Commerce (OGC) **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 OGC **framework** tender and is to use the agreed OGC terms and conditions then the tender process shall be as set out in Schedule I

## 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 £139,000 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 I apply may be made only if **all** relevant law is complied with e.g. European procurement and best value legislation and:

**(i) *Either:***

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.

*Or:*

**(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 – 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 £10,000**

- a) Advertising – none required
- b) Quotes & contract award

<u>Value</u>	<u>Number of quotes</u>	<u>Contract awarded by</u>
Less than £1000	One quote	Council staff member authorised by Head of Service
£1000 to £9999	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 £10,000 and £49,999**

- 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 £50,000 and £ 138,999**

- a) Advertising – none required
- 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, Executive 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 £ 139,000 and £ 1,000,000 which is **not** subject to European procurement legislation advertising requirements (i.e. Part B services or works less than £3,860,000)**

- a) Pre tender Report – report to the appropriate individual Cabinet member 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 Cabinet Member for approval pre-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 following Cabinet Member approval as appropriate (See Part 3 Section 2) Group Director has authority to award above £144,000 without prior Cabinet member approval in certain circumstances (See Part 3, Section 2 paragraph 19 )
- 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 Council Procedure Rule 27, set out in Part 4 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 £139,000 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 Cabinet member 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 pre-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 following Cabinet Member approval as appropriate (See Part 3 Section 2)
- 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 Council Procedure Rule 27, set out in Part 4 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 above £ 1,000,000** which is **not** subject to European procurement legislation advertising requirements (i.e. Part B services or works less than £3,860,000)

- a) Pre tender Report – report to Cabinet member (if less than £5,000,000) or Cabinet (if over £5,000,000) 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 pre-award after the final evaluation of tenders by the evaluation team unless an exception applies.
- e) Contract award - contract awarded by Cabinet. (Executive Director has authority to award above £154,000 in certain circumstances (See *Part 3, Section 2 paragraph 19*)
- 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 Council Procedure Rule 27, set out in Part 4 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 above £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 Cabinet member (if less than £5,000,000) or Cabinet (if over £5,000,000) for approval unless an exception applies
- 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 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 Council Procedure Rule 27, set out in Part 4 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 - Government Framework Contracts**

- a) Pre tender Report (if over £ **139,000**) – report to the appropriate individual Cabinet member (if less than £5,000,000) or Cabinet (if over £5,000,000) for approval unless an exception applies .
- b) Advertising –it shall be notified to those suppliers accredited by the OGC as having been accepted as part of the 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 £ **139,000** contract awarded by Group Director on report from 3rd or 4th tier manager or staff member authorised by Head of Service and financial representative of Group Director Finance & Commercial
    - if between £ **139,000** and £ **1,000,000** contract awarded by Group Director following Cabinet Member approval as appropriate (See Part 3 Section 2)
    - if above £ **1,000,000** contract awarded by 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 Council Procedure Rule 27, set out in Part 4 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 I - Consortia Arrangements (where LBH is not a member)**

- a) Pre-tender Report – report to Cabinet Member or Cabinet (if contract over £5,000,000) 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) A minimum of three consortia must be invited to provide quotations for the goods or services
- c) Award criteria - compliance with the evaluation criteria (primarily specification & price) agreed prior to the dispatch of tender documentation
- d) Pre – award Report – there must be a report to an individual Cabinet Member (if below £1,000,000) or to 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 Council Procedure Rule 27, set out in Part 4 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

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MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	9 JULY 2008	<b>9</b>

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**REPORT OF THE CHIEF EXECUTIVE**

**SUBJECT: STANDARDS COMMITTEE: APPOINTMENT OF ADDITIONAL INDEPENDENT MEMBER**

**SUMMARY**

At its meeting at the beginning of May, the Committee agreed to recommend to Council that (among other things) an additional Independent Member of the Standards Committee should be appointed. An *ad hoc* Sub-Committee (Councillors Gillian Ford, Steven Kelly and Eric Munday) has interviewed four (of eighteen) applicants and now recommends that one of them be appointed to the vacancy.

The report also addresses issues arising from the appointment, including the term of office of the new appointee and adjustments to the terms of the existing Independent Members; and invites the Committee to make appropriate recommendations to the Council.

**RECOMMENDATIONS**

1. That the Committee endorse the recommendation of the *ad hoc* Sub-Committee that **Mr Kevin Madden** be appointed as the third Independent Member.
2. That the Committee **RECOMMEND to the Council** that:

- A **Mr Kevin Madden** be appointed as the third Independent Member of the Standards Committee
  - B Consequent upon that appointment, Council authorise implementation of its decision to increase the size of the Standards Committee to 12 Members (3 Independent Members and 9 Councillor Members [5 Conservative: 2 Residents': 1 Rainham & Wennington Independent Residents'; and 1 Labour])
3. That the Committee consider the options for terms of office of the current and new Independent Members and determine what **RECOMMENDATION(S)** to make in that respect to Council.

## REPORT DETAIL

### 1 Appointment of additional Independent Member

- 1.1 The *ad hoc* Sub-Committee established by the Committee to recommend an individual to be appointed as the third Independent Member (IM) of the Standards Committee (Councillors Gillian Ford, Steven Kelly and Eric Munday) met on 27 June to interview four candidates (selected from 18 original applicants). Having considered each candidate's application and performance at interview, the Sub-Committee recommends that **Mr Kevin Madden** be appointed: a brief résumé of his biographical details is appended (as an exempt document as personal details are provided), together with those of the unsuccessful candidates.
- 1.2 Recommendations 1 and 2 of this report seek to give effect the to the Sub-Committee's decision, and also deal with the required consequential enlargement of the Standards Committee's membership (which was authorised by Council at the Annual Meeting but could not be implemented until a third IM had been appointed).

### 2 Term of office of Independent Members

- 2.1 The current IMs were both appointed in May 2006 for a term of four years ending at the Annual Meeting of the Council that year. That approach conformed to the Council's previous practice regarding the term of office.
- 2.2 The term of office of an IM is, however, set at the discretion of the Council and can be varied by resolution, and in May 2007 it was agreed to reduce their terms of office by one year, with those of the current IM expiring at the Annual Meeting, 2009. A full recruitment exercise will be needed to replace (or re-appoint) those two IMs, beginning towards the end of this year.



- 2.3 Members have previously expressed the view that the appointments should be phased so that one IM retires every year. Members should be aware, however, that if this is done, a fresh recruitment exercise will be needed every year (see section 3 following).
- 2.4 There are other options that Members may wish to consider. These include:
- 2.4.1 Reverting to the previous practice of appointing IMs for four year terms (which would mean reversing the Council decision of May 2007). With three IMs, the desired rotation of IMs could then be achieved by restricting an existing IM to, in effect, a two-year term, leaving the other on a four year term and then appointing the third for a six year term, with their respective successors being appointed (or the current IMs being re-appointed) for four years from the end of the current IMs' terms.
- 2.4.2 Abandoning the notion of rotation and appointing all IMs for the same term, ending on the same date, and then appointing successors (or reappointing incumbents) for a similar future term.

### **3 Recruitment**

- 3.1 The law obliges the Council only to appoint IMs following the conduct of a formal application process which will involve advertising for applicants (not only using *Living in Havering* but at least one paid-for local newspaper), assessing and short-listing candidates, and interviewing them. The cost of each exercise (excluding officer time) is estimated at around £500-£600, mainly because of the cost of advertising.
- 3.2 Appointments have to be made by full Council on the recommendation of this Committee.
- 3.3 Unless decided otherwise, the terms of office of the current IMs will expire next year and a recruitment exercise will need to begin towards the end of this year, since it can take up to four months to go through the process.
- 3.4 In the recruitment exercise just completed, 18 applications were received, of which 12 met at least a substantial part of the Council's requirements of IMs. A short list of four candidates were invited for interview, from whom Mr Madden was selected for appointment.

### **4 Appointing "shadow" IMs**

- 4.1 Previously, it has been suggested that the Council should maintain some sort of register of people interested in becoming IMs, especially those who were unsuccessful in a recruitment exercise but were considered to be "runners-up". This is an attractive proposition in many respects but there are drawbacks.

- 4.2 First, it would not be possible to treat such people as “shadow” IMs. Only those formally appointed as IMs are able to undertake the role; and, of course, every IM appointed affects the membership of the full Standards Committee (it is not possible, for example, to appoint an IM to a Sub-Committee but not to the full Committee). At best, they could be invited to attend Committee and Sub-Committee meetings open to the public as observers but they would not be able to participate in any part of the meeting and would specifically be excluded from attending those parts of a meeting or hearing not open to the public.
- 4.3 Secondly, it is doubtful whether it would be possible to maintain their level of interest beyond a few months at most – a “shadow” IM would be very much a “non-job”.
- 4.4 Thirdly, it would not be possible to make a “shadow” IM into a full IM other than by resolution of the Council. If the need to do so arose near to a Council meeting, all would be well; but if the need arose some time before the next Council meeting, there would be an inevitable delay until the appointment could be made. It would be possible to convene an extraordinary meeting of the Council for the purpose but that might not always be practicable.
- 4.5 Finally, such an arrangement could operate for only a limited time given the statutory obligation to appoint only on application. While a “shadow” IM would have only been appointed as such following an application, the greater the time that passes from the date of application to the date of appointment, the less relevant that application becomes and the greater would be the risk of challenge to the appointment.
- 4.6 For those reasons, it is not proposed that appointment of “shadow” IMs should be pursued.

## **5 Legal implications**

- 5.1 The Council has a statutory obligation to appoint a Standards Committee, and at least 25% of its Membership must be IMs; the Chairman of the Committee and the Chairmen of its Sub-Committees must also be IMs. Thus, for practical purposes, in order to avoid potential conflicts of interest and to cover for unavoidable absence, etc, a minimum of three IMs is needed. The Council has recognised that by agreeing to making the third IM appointment.
- 5.2 Any future change in the Council's political balance could affect the distribution of seats on the Standards Committee and lead, in turn, to review and, if needed, change in the number of IMs required.

**6 Financial, Equalities and Environmental Implications and Risks**

- 6.1 These appointments are administrative and have no direct financial, equalities or environmental implications. Independent Members are entitled to a payment under the Members' Allowances Scheme for each meeting attended but that is met from existing budget provision, which is expected to be sufficient.

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**Background Papers**

Applications for appointment (containing exempt information and not available for press or public)

**Governance Committee, 9 July 2008**