

GOVERNANCE COMMITTEE

AGENDA

7.30pm

Thursday
10 February 2005

Havering Town Hall
Main Road, Romford

Members 9: Quorum 3

COUNCILLORS:

Conservative Group (4)

Frederick Thompson
(Chairman)
Michael White (Vice-
Chairman)
Eric Munday
Roger Ramsey

Residents' Group (3)

Ivor Cameron
Barbara Reith
Louise Sinclair

Labour Group (2)

Ray Harris
Wilf Mills

For information about the meeting please contact:
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NOTES ABOUT THE MEETING

1. HEALTH AND SAFETY

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

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

2. MOBILE COMMUNICATIONS DEVICES

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

3. CONDUCT AT THE MEETING

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

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

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

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

AGENDA ITEMS**1 CHAIRMAN'S ANNOUNCEMENTS**

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

2 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS
(if any) - receive.**3 MINUTES**

A. To approve as a correct record the minutes of the meeting of the Committee held on 25 November 2004, and to authorise the Chairman to sign them.

B. By inadvertence, the confirmed minutes of the meeting held on 3 November 2004 omit a qualification to the appointment of Councillor Andrew Curtin as a trustee of the Lucas Playsite Trust. The reference to his appointment should have included the words:

“(and be deemed to have been made on and from 10 October 2003)”

The Committee is asked to agree that those words be inserted in the minutes of that meeting accordingly.

4 AMENDMENTS TO THE CONSTITUTION**5 AMENDMENTS TO THE CONSTITUTION – Monitoring Officer's amendments – notification no. 15****6 APPOINTMENTS TO OTHER ORGANISATIONS, 2004/05 - further report****7 APPOINTMENT OF SCHOOL GOVERNORS**

Governance Committee, 10 February 2005

8 STANDARDS COMMITTEE: ROLE AND NUMBER OF INDEPENDENT MEMBERS

Joint report, also to Standards Committee, whose decisions will be reported to the meeting

9 CORPORATE GOVERNANCE ARRANGEMENTS IN HAVERING

10 AUDIT REPORT – COUNCIL CONSTITUTION

11 COUNCIL AND BUDGET FRAMEWORK PROCEDURE RULES

12 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.

Stephen Evans
Chief Executive

**MINUTES OF A MEETING OF THE
GOVERNANCE COMMITTEE
Havering Town Hall
25 November 2004 (7.30pm - 7.45pm)**

Present:

COUNCILLORS:

Conservative Group Frederick Thompson (in the Chair), + Georgina Galpin, Roger Ramsey and Michael White

Residents' Group + Eileen Cameron, Barbara Reith and + Owen Ware

Labour Group Ray Harris and Wilf Mils

+ Substitute Members: Councillors Eileen Cameron (for Louise Sinclair) and Owen Ware (for Ivor Cameron)

Apologies were received for the absence of Councillors Ivor Cameron and Louise Sinclair

All decisions were taken with no vote against

Councillors Georgina Galpin and Frederick Thompson both declared an interest in an issue referred to in minute 34 following

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

31 MINUTES

The Minutes of the meeting of the Committee held on 3 November 2004 were approved as a correct record and signed by the Chairman.

32 AMENDMENT TO THE CONSTITUTION

Amendments to the Council Tax Report

The Committee considered a proposal that amendments to the Council tax setting report be allowed up to a deadline of midnight on the Monday before the Council

tax setting meeting.

The Council tax setting process was based upon a report arising from a Cabinet meeting customarily held in early February, which was thus published many weeks before the final legal date by which the Council tax should be set, 11th March in any year.

Havering had historically declared the Council tax earlier than many other boroughs, giving adjacent boroughs opportunity to set Council tax lower than Havering and consequently affecting Havering's position in league tables. This could make Havering more vulnerable to the risk of capping if late changes were made by other London Boroughs.

Council tax was set early in order to deliver billing in sufficient time. The Committee noted that consideration was being given to improving the billing in future years (post 2005), allowing Cabinet and Council tax setting meetings to take place later in February or in early March.

Currently the Constitution allowed amendments to motions or reports on eight clear days notice. The only ability to amend after that date was with the consent of the Council or by procedural motion but amendments to reports issued for the first time with the Final Agenda could be submitted as late as midnight on the Monday before the meeting. The Council tax report would most likely be issued with the Revised Council Agenda after the Cabinet meeting.

Allowing all Groups to amend the report on the Monday before the Council tax setting meeting would enable late alterations to be made which might put the Council in a better position when viewed alongside London as a whole.

Group Leaders would be able to consult on a confidential basis with the Section 151 Officer and the Monitoring Officer well in advance of the amendment date to ensure that their proposed amendments were acceptable legally and financially. This was particularly important in the light of the case of *R v Leicester City Council (2004)* where a local authority's decision to cease funding some voluntary organisations was quashed on the ground that the local authority had failed to consult properly with those organisations by failing to explain the criteria to be applied in reaching its decision. In addition the Chief Financial Officer would want to satisfy herself that any proposed amendment would be capable of enabling a robust budget to be set.

RESOLVED:.

That the Committee **RECOMMENDS** to Council that the following amendment be made to the Constitution:

In Part 4 Section 5

4. Notice of amendment to a motion (other than an emergency motion or a motion/report on the annual Council tax setting) must be given to the Chief Executive at least eight clear days before the meeting at which the motion/report proposed for amendment is to be debated. An amendment to an emergency motion may be proposed without notice at any time before the debate on it is concluded. An amendment to a motion/report on the annual Council tax setting must be submitted to the Chief Executive no later than midnight on the Monday before the Council tax setting meeting, and must be such that the amendment would, if passed, enable a robust budget to be set in the view of the Chief Financial Officer*.

[Footnote] *As it is imperative that there is a level playing field, any new information relating to or affecting Council tax that comes to light after the Cabinet has made its Council tax recommendations will be supplied to all Groups by the Section 151 Officer.

33 **AMENDMENTS TO THE CONSTITUTION - made by the Monitoring Officer**

The Constitution provided that this Committee must be notified at the first reasonable opportunity of any amendment made by the Monitoring Officer in exercise of her delegated power. The Committee now noted the amendments made by her and published in Notification 14 (as set out in Appendix 1 to these minutes).

34 **APPOINTMENTS TO OTHER ORGANISATIONS, 2004/05 - further report**

Councillors Georgina Galpin and Frederick Thompson both declared a prejudicial interest as nominees to serve on the PCCG but indicated that they would be treating the interest as personal in the circumstances.

Details were submitted of the need for appointments to be made to two other organisations. The Committee was advised that:

- The Council's representatives on the Havering Police and Community Consultative Group (PCCG) for 2004/05 had been appointed for an initial period that expired on 31 October but ought now to be confirmed for the remainder of the municipal year;
- Councillor Alby Tebbutt had resigned as one of the Council's representatives on the Thames Chase Joint Committee.

RESOLVED:

- (a) That the appointments of Councillors Malvin Brown, Martin Smith, Georgina Galpin, Yve Cornell, Frederick Thompson and Pat Mylod as the Council's representatives on the Havering Police and Community

Consultative Group continue for the remainder of the current municipal year; and

- (b) Councillor Andrew Curtin be appointed to the Thames Chase Joint Committee in succession to Councillor Alby Tebbutt.

**APPENDIX
(Minute 33)****Notification No. 14 5th November 2004****Notification of amendments to the constitution****Amendments made by the Monitoring Officer**

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

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

Part and article/ section	Page reference	Substance of amendment / amended wording	Reason for amendment
Part 3 Section 6	147	To sections 11,18, 20, 21, 22, 24, 29, 31, 36, 40, 42, 43 and 48 delete Proper Officer and insert against no. 11 <u>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.</u> For the remaining sections above insert <u>As above</u>	Legal Requirement
Part 3 Section 6	147	Insert a new heading <u>Public Health (Infectious Diseases) Regulations 1988</u> And insert under that <u>Regulations 6, 8, 9, 10 and Schedule 3 and 4 of the Public Health (Infectious Diseases) Regulations 1988</u> And insert <u>As above</u>	
Part 3 Section 6	147	Insert a new heading <u>Milk and Dairies (General) Regulations 1959</u> And insert under that <u>Regulations 18 to 20</u> And insert <u>As above</u>	

Governance Committee, 25 November 2004

Part and article/ section	Page reference	Substance of amendment / amended wording	Reason for amendment
Part 3 Section 6	144	To section 47 delete the Proper Officer and insert the wording for 11 above	
Part 3 Section 6	144	Add a new sub heading <u>National Assistance (Amendment Act) 1951</u> and insert <u>Section 48</u> and the wording of 11 above	
Part 3 Section Appendix G	7 165 – 167	Replace Code of Practice: disposal of surplus property - Amendments shown underlined and Code attached as Appendix A	Legal Requirement (and Cabinet recommendation)
Part 3 Section 3 Para. 3.11.2.23	126	Insert <u>Licensing sub-committee</u> after School Appeals	Correction
Part 3 Section 3 Para. 3.9.2 New paragraph 6	117	Add paragraph 6: <u>To exercise the Council's powers and duties under the Nationality Immigration and Asylum Act 2002</u>	Legal Requirement
Part 3 Section 3 Paragraphs and 3.4.4	3.3.4 82 and 84	Delete £154,000 and insert £500,000	Correction

APPENDIX A**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 Executive Director Finance & Planning, 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.

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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 29th 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

- Identify the benefit
- Set out the basis of assessment
- Provide sources of comparable evidence
- Can non-market benefits and impacts be evaluated? – If so, identify method of cost/value-benefit applied
- State the monetary value arrived at or detail other assessments of worth relied upon

- 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.

- 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



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	10 February 2005	4

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: AMENDMENTS TO THE CONSTITUTION

SUMMARY

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
6. Consideration of the Constitution has revealed a number of areas where alterations/amendments require review and upon which member decision is needed. For ease, the recommendations have been framed positively but are for Members' consideration as to whether they wish to recommend the proposed amendments to the Constitution to Council.

RECOMMENDATIONS

This Committee recommends Council:

1. To insert a paragraph in the Articles of the Constitution on party whipping as set out in the report and to make the consequential amendment to the Terms of Reference of the Standards Committee
2. To authorise the Principle Officer (Operations) Trading Standards Service to be an authorised officer for the purpose of the Regulation of Investigatory Powers Act 2000
3. To correct inconsistencies in the Constitution noted as part of the Internal Audit inspection and set out in this report.
4. To amend the Scheme of Delegation to enable the Executive Director Environment to accept tenders for gas and electricity supply contracts.
5. To amend the terms of reference of Overview & Scrutiny Committee to exclude scrutiny of decisions in respect of planning and licensing and to add Regulatory Services to the Environment Overview & Scrutiny Committee's area of responsibility.
6. To include further reference and clarification in the Constitution to the procedure for executive decisions by individual Cabinet members and to key decisions by members of staff, as set out in the report.
7. To include reference in the Constitution to the procedures for "Chairman's Decisions" as set out in the report.

REPORT DETAIL

1. Party Whip

The Protocol on Probity in Planning recognises that the use of political 'whips' at group meetings over planning applications is contrary to the Code of Conduct and could amount to maladministration. The Overview & Scrutiny Procedure Rules recognise that the party whip should not be applied to Overview & Scrutiny meetings and the hearing procedures for the Standards Committee also recognises that there shall be no party whip. There is no mention in the Constitution of Licensing or other quasi judicial hearings and it is suggested that a paragraph appears in the Articles of the Constitution which will cover the party whip. It is also suggested that the terms of reference of the Standards Committee is amended to permit the Standards Committee to hear all complaints regarding breaches of the rules on party whips. Currently the terms of reference only enables it to hear matters relating to a breach of rules on party whip on Overview & Scrutiny Committee matters.

The proposed amendment is set out below:

RECOMMENDATION:

Part 2, Article 13

Insert a new paragraph 13.09 in of the Constitution as follows:

13.09 Party Whip

There shall be no Party Whip at meetings of the Regulatory Services Committee when it is determining planning matters; Overview & Scrutiny Committee; the Standards Committee when it is conducting hearings; the Licensing Committee when it is determining licences and conducting hearings and any other committees where the committee meets to determine applications, hearings, appointments or acts in any quasi judicial matter.

The Party Whip is understood to mean any instructions given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote, or the application or threat to apply any sanctions by the group in respect of that Councillor should he or she speak or vote in any particular manner.

The consequential amendment to the Standards Committee's terms of reference will be as follows:

**See: Part 2 Article 8 and
Part 3 Section 1**

The last bullet point under the Standards Committee's terms of reference (General in respect of Part 2, Section 1)

- hearing, determining and reporting upon any matters relating to breach of the ~~Overview and Scrutiny Procedure~~ Rules regarding the Party Whip set out in Article 13.09 including the application of relevant and permitted sanctions

2. Regulation of Investigatory Powers Act 2000

The Principal Officer (Operations) Trading Standards Service is one of the Council's two officers authorised to be a Single Point of Contact (SPOC) for the acquisition of communications data for the purposes of Part 1, Chapter II of the Regulation of Investigatory Powers Act 2000. The officer has had to undergo a period of training. It is recommended that this officer also be appointed to authorise activities under the Regulation of Investigatory Powers Act 2000 as it would make more sense for him to hold both powers of authorisation given that the access to communications data is the more sensitive one.

RECOMMENDATION:

Part 3, Section 3, paragraph 19

Amend as follows:

19. 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.

3. Internal Audit Report

Elsewhere on this agenda it is noted that Internal Audit recently undertook an audit of the Council's Constitution. No recommendations were made arising from the Audit but during the discussions it was noted that there were some inconsistencies which needed correcting. These are as follows:

RECOMMENDATION:

- (i) Article 9.02
Delete the words 'the Mayor' from the first bullet point. The reference here to the Mayor not being permitted to be a member of Standards Committee is reference to an elected Mayor only and should be deleted so as to avoid confusion
- (ii) Part 4, Section 6, paragraph 1(b) should be revised to accord with current practice. Paragraph 1 (b) requires the Leader to present a report to Annual Council on delegations made by him. This

paragraph appears in the DETR model code but relates to Section 15(4) of the 2000 Act and is necessary when all functions are not delegated by Council and the Leader is given power to further delegate functions. In Havering the relevant functions are all delegated to the Executive subject to the Leader determining the portfolios of which he has to give notice.

It is therefore suggested that paragraph 1(B) is amended as follows:

1 (b) Delegation by the Leader

~~At the annual meeting of the Council, The Leader will notify the Proper Officer in writing of present to the Council a written record of delegations made by him or her for inclusion in Part 3 of this constitution. The document presented by the Leader will also contain, in so far as is practicable, the following information about executive functions in relation to the coming year:~~

- ~~(i) the names, addresses and wards of the people appointed to the Cabinet by the Council~~
- ~~(ii) the extent of any authority delegated to individual Cabinet members, including details of the limitation on their authority and the allocation of any portfolio~~
- ~~(iii) the nature and extent of any delegation of executive functions to area committees, any other authority or any joint arrangements and the names of those Cabinet members appointed to any joint committee for the coming year~~
- ~~(iv) the nature and extent of any delegation to staff with details of any limitation on that delegation, and the title of the member of staff to whom the delegation is made.~~

~~Where it is not possible for the Leader to present the information listed in (i) to (iv) above at the annual meeting, the information must be presented at the Council meeting immediately subsequent to the annual meeting.~~

4. Gas and Electricity Supply Contracts

The majority of these offers are made on the basis of a 24 hour or less 'take up'. The prices given in a tender are only held for 24 hours or less and in a rising market this has resulted in a number of cases where local authorities could not get agreement to the acceptance of a tender within that timescale, suffering an increase in the final offer price of between 1% and 5%. In order to overcome the market problem

experienced with these types of tender a mechanism needs to be found to review the current procedure for accepting gas and electricity supply tender offers as the current Form A procedure does not allow the speed and flexibility to secure the best price offered.

These contracts vary in length and price but currently there are 5 contracts which are let for 12 or 24 months. Contracts normally range from a 1 to a 5 year period and the choice made at the time depends on a number of influencing factors such as market movement and predictions. The current contracts range from £285,000 to £460,000 per annum. Under the Constitution contracts under £500K are awarded by the Lead Member.

It is therefore recommended that the acceptance of these offers be delegated to the Executive Director Environment, who will then be able to sub delegate to certain of her named staff, to act in her absence.

RECOMMENDATION:

Part 3, Section 3

Insert new paragraph 3.6.1.3

3. 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.

5. Overview & Scrutiny

The area of responsibility for Overview and Scrutiny no longer includes Regulatory Services matters. Previously the Environment Overview and Scrutiny Committee had responsibility but since the organisational restructure it could be argued that it should follow the Directorate portfolio and be within the Corporate Overview and Scrutiny Portfolio. Currently it does not appear in any area of responsibility. It is suggested it would be appropriate to add it to the area of responsibility within Environment.

It is also suggested that it is inappropriate for planning decisions, enforcement matters and licensing decisions to be the subject of individual scrutiny by Overview and Scrutiny committees given their quasi-judicial nature and the fact that there is an ability to appeal or institute an action for judicial review. It is of course considered perfectly in order for Overview and Scrutiny to consider the generality of these matters but not the details of individual applications or decisions.

RECOMMENDATION:

Part 2, Article 6

- (i) Insert under Area of Responsibility for Environmental Overview and Scrutiny Committee, a further bullet point
- Regulatory Services
- (ii) Insert a new sentence at the end of 6.03 (b)(i)

The substance of individual decisions made in respect of planning, enforcement and licensing matters will not be subject to scrutiny.

6. Executive Decisions by Individual Cabinet Members and Key Decisions by Members of Staff

Although there is some reference to decisions by individual Cabinet members in the Constitution, no explicit reference is made to either:

- Form A procedure: Notice of executive decisions by individual Cabinet member or
- Form B procedure: Notice of key decision by member of staff

It is considered that these procedures should be formally documented within the Constitution.

RECOMMENDATION:

Part 4, Section 1

Add a new paragraph 20(d)

20(d) Procedure for individual decision

The record of the decision referred to in paragraph 20(c) above shall be made by completing Form A for a decision by a Cabinet Member and Form B for a key decision by a member of staff and by sending a copy of the signed decision to the Proper Officer. Notification of the decision will be included in Calendar Brief and an electronic copy made available on the Intranet and Internet.

Note to Phil/Ian – Are we confusing matters here? Do we need this at all i.e. why not just rely on Part 3 Section 3.1.8 and if necessary add that the CE/ED may in appropriate cases consult with the Chairman?

7. “Chairman’s Decision”

The Council’s procedure for dealing with “Chairman’s Decisions” has never been formalised within the Constitution although it is still utilised from time to time.

Although described as a “Chairman’s Decision” the Local Government Act 1972 permits delegation of decision making to a committee, sub-committee or an officer. Individual members other than Executive members of the Cabinet do not have decision making powers and accordingly the “Chairman’s Decision” procedure has always been and is described as “a decision taken by an officer following consultation with the Chairman of the relevant Committee”.

Chairman’s decisions have been permitted to deal with:

- Comparatively minor issues that nonetheless require Member level input
- Settling details once the Committee has approved an issue in principle
- Issues of such genuine urgency that there is not sufficient time to convene a meeting of the full committee
- Issues which are within the terms of reference of the Committee concerned

These decisions are not subject to call-in and may be acted upon as soon as they are signed and before they are published in Calendar Brief.

RECOMMENDATION:

Part 4, Section 1

Insert a new paragraph 23.

23 Decisions taken by an officer following consultation with the Chairman of the relevant committee (“Chairman’s Decision”)

An officer may make a non-executive decision after consultation with the Chairman of a Committee to deal with

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

- Issues which are within the terms of reference of the Committee concerned

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

Human Resources Implications and Risks

There are none

Financial Implications and Risks

There are none

Equalities and Social Inclusion Implications and Risks

There are none

Legal Implications and Risks

Constitutional amendments require the approval of Council. The Constitution is very much a 'living' document and approval of amendments enables the document to be kept up to date and ensures that matters identified from time to time are properly addressed.

STEPHEN EVANS
Chief Executive

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

Background Papers

Various e-mail correspondences



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	10 February 2005	5

REPORT OF THE MONITORING OFFICER

SUBJECT: AMENDMENTS TO THE CONSTITUTION

SUMMARY

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

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

RECOMMENDATIONS

That this report be noted.

REPORT DETAIL

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

Governance Committee, 10 February 2005

Amendments to the Constitution were made by the Monitoring Officer on the following dates:-

Amendment No. 1 - 1st May 2002
Amendment No. 2 - 27th May 2002
Amendment No. 3 - 25th June 2002
Amendment No. 4 - 26th June 2002
Amendment No. 5 - 13th November 2002
Amendment No. 6 – 14th February 2003
Amendment No. 7 - 27th May 2003
Amendment No. 8 - 29th August 2003
Amendment No. 9 - 4th February 2004
Amendment No 10 – 12th May 2004
Amendment No 11 – 16th June 2004
Amendment No 12 – 30th June 2004
Amendment No 13 - 13th October 2004
Amendment No. 14 – 5th November 2004
Amendment No. 15 – 7th January 2005

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 amendments made on 7th January 2005 and the committee is requested accordingly to note the amendments made.

Financial Implications None

Equalities Implications None

Environmental Implications None

Human Resource Implications None

CHRISTINE DOOLEY
Monitoring Officer

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

Background Papers
Email correspondence

Notification No. 15

Date 7th January 2005

Notification of amendments to the constitution

Amendments made by the Monitoring Officer

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

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

Part and article/ section	Page reference	Substance of amendment / amended wording	Reason for amendment
Part 2, Article 8	22	Amend number of Councillors on Audit Committee from 5 to <u>6</u>	Correcting Error
Part 2, Article 8.01 Part 3, Article 1.2	24 & 56	Amend existing entry for Licensing Committee Licensing <u>13</u> Councillors <ul style="list-style-type: none">• Until the Licensing Act 2003 is brought into force, to determine applications for licences and registration under Schedule 1 to the regulations not otherwise dealt with• When the Licensing Act 2003 comes into force, (1) to exercise the functions required by the Licensing Act 2003 to be carried out by the Committee and (2) to determine applications for licences and registration under Schedule 1 to the regulations not otherwise dealt with	To comply with Legal requirement
Part 2, Article 8	25	Add at the end of 8.01 <u>Committee membership and functions are set out in greater detail in Part 3, Section 1</u>	Correcting Error
Part 2, Article 8.02	26	Amend existing entry for Hearings Panel by adding an additional bullet point under Purpose <ul style="list-style-type: none">• <u>Complaints made under the Freedom of Information Act 2000 about refusal of access to information</u>	To comply with legal requirement
Part 3, Article 1.2	57	Amend existing entry for Hearings Panel by adding immediately before "Hearings under certain housing legislation"	To comply with legal

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Part and article/ section	Page reference	Substance of amendment / amended wording	Reason for amendment
		<p>3 members of the principal committee <u>Freedom of information hearings</u> <u>Complaints made under the Freedom of Information Act 2000 about refusal of access to information</u></p>	<p>requirement</p>
<p>Part 3, Section 3, section 3.11 and 3.11.2</p>	<p>124 and 127</p>	<p>Insert under 3.11 and as a new paragraph 23 under 3.11.2</p> <p><u>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.</u></p> <p>Renumber paragraph 23 and 24, nos 24 and 25</p>	<p>To comply with Legal requirement</p>
<p>Part 3, Section 4</p>	<p>131</p>	<p>After paragraph 14 insert</p> <p><u>14A</u> <u>Functions relating to Licensing – Sections 5-8 of the Licensing Act 2003</u> <u>Head of Environmental Management and Regulation:</u> <u>Licensing Committee:</u> <u>Council as appropriate</u></p>	<p>To comply with Legal requirement</p>
<p>Part 3, Section 4</p>	<p>133</p>	<p>After paragraph 46 insert</p> <p><u>46A</u> <u>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</u> <u>Head of Streetcare Services with reference as above</u></p>	<p>To comply with Legal requirement</p>
<p>Part 3, Section 4</p>	<p>139</p>	<p>After paragraph 47 insert</p>	<p>To comply with Legal</p>

Governance Committee, 10 February 2005

Part and article/ section	Page reference	Substance of amendment / amended wording	Reason for amendment
		<p><u>47A</u> <u>Duty to publish notice in respect to a proposal to grant permission under Section 115E of the Highways Act 1980</u></p> <p><u>Head of Streetcare Services with reference as above</u></p>	requirement
Part 3, Section 4	139	<p>After paragraph 30 insert</p> <p><u>30A</u> <u>Power to authorise stopping up or diversion of the highway under Section 247 of the Town and Country Planning Act 1990</u> <u>Regulatory Services Committee</u></p>	To comply with Legal requirement
Part 3, Section 4	140	<p>After paragraph 44 insert</p> <p><u>44A</u> <u>Duty to provide staff, etc. to person nominated by the Monitoring Officer – Section 82A (4) and (5) of the Local Government Act 2000</u> <u>Council</u></p> <p><u>44B</u> <u>Power relating to Overview and Scrutiny Committees (voting rights of co-opted members). Paragraphs 12 and 14 of Schedule 1 to the Local Government Act 2000</u> <u>Council</u></p>	To comply with Legal requirement
Part 3, Section 5	141	<p>For the functions in paragraph 3 to 5 substitute the following.</p> <p><u>3. The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools</u></p> <p><u>4. The making of arrangements pursuant to Sections 94(1), (1A) and (4) of the School Standards and Framework Act 1998 (admissions appeals)</u></p> <p><u>5. The making of arrangements pursuant to Section 95(2) of the School Standards and Framework Act</u></p>	To comply with Legal requirement

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Part and article/ section	Page reference	Substance of amendment / amended wording	Reason for amendment
		<u>1998 (Children to whom Section 87 applies): appeals by governing bodies</u>	
Part 3, Section 6	148	Under the heading Local Government and Housing Act 1989 delete Democratic Services Manager and insert <u>Assistant Chief Executive Human Resources</u>	Correcting Error
Part 3, section 7	154	Delete reference to Andrew Curtin from the list of Cabinet Members	Correcting Amendment



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	10 February 2005	6

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: APPOINTMENTS TO OTHER ORGANISATIONS, 2004/05 - further report

1. Local Government Information Unit (LGIU)

- 1.1 Although it was proposed that the Council should cease membership of the LGIU, further discussion has taken place with that organisation, resulting a decision that the Council should renew membership on particularly advantageous terms for the period to 31 December 2007.
- 1.2 It is now appropriate therefore for the Committee to appoint a Member to serve on the LGIU management body. There are three meetings a year, one in London, one in the regions and an AGM which takes place at various venues (the last was in York). If that representative were elected to the Executive Board, the commitment would be greater, approximately 6 meetings in addition to the three already mentioned.

2. Appointmetns no longer required

- 2.1 **Age Concern: Greater London** no longer allows Councillors to be members. Councillor Steven Kelly was appointed to this organisation for 2004/05. This does not affect the Council's appointment of two Members to Age Concern: Havering (Havering Old People's Welfare Association).
- 2.2 In addition, the **Carers' Panel** no longer exists, so it will not be necessary to make any further appointment to it.

RECOMMENDATIONS

- 1 That a Member be appointed to serve on the **LGIU** management body for the remainder of this municipal year.
- 2 That it be noted that no appointments are now required to **Age Concern: Greater London** or to the **Carers' Panel**.

Financial Implications and Risks

None arising directly from this report

Human Resources and Equalities and Social Inclusion Implications and Risks

None. Appointments are made with the Council's Equalities and Social Inclusion policies in mind.

Legal Implications and Risks

None.

STEPHEN EVANS
Chief Executive

Staff Contact: Ian Buckmaster
Manager of Committee and Overview & Scrutiny Support
Telephone: 01708 432442

Background Papers

None.



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	10 FEBRUARY 2005	7

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: APPOINTMENT OF SCHOOL GOVERNORS

At its meeting in April 2003, the Committee approved procedures for the appointment of LEA-nominated school governors. Such appointments require the formal confirmation of this Committee.

The latest recommendations of the Appointments Panel are now submitted for formal approval.

The Governors' Appointments Panel will be meeting shortly before this Committee does and their further recommendations will be tabled at this meeting for approval.

Financial Implications None

Equalities Implications None

Environmental Implications None

RECOMMENDATION

That the persons listed in the Appendix (and the Supplementary Appendix to be tabled) be appointed (or, as the case may be, re-appointed) to the governing bodies of the schools indicated.

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

Telephone: **01708 432431**

Stephen Evans

Governance Committee, 10 February 2005

Chief Executive

Background Papers: None

Governance Committee, 10 February 2005

APPENDIX

Appointment of LEA Governors

Re-appointment

School	Name of Candidate
Engayne	Mrs D. Jenkin
Engayne	Mr D. Jones
Engayne	Mrs K. Watmough

:



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	10 FEBRUARY 2005	7 SUPPLEMENTAR Y

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: APPOINTMENT OF SCHOOL GOVERNORS

As indicated in the main report, the Governors' Appointments Panel met shortly before this meeting and their further recommendations are now submitted for approval.

Financial Implications None

Equalities Implications None

Environmental Implications None

RECOMMENDATION

That the persons listed in the Supplementary Appendix be appointed (or, as the case may be, re-appointed) to the governing bodies of the schools indicated.

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

Telephone: **01708 432431**

Stephen Evans
Chief Executive

Background Papers: None

Governance Committee, 10 February 2005

SUPPLEMENTARY APPENDIX
Appointment of LEA Governors

Reappointments

School	Name of Candidate
Scargill Infant	Mrs J. Mitchell
Towers Infant	Mr S. Robinson
St Ursula's Infant	Mr R. Thompson
Newtons Primary	Ms E. Maclean
Newtons Primary	Mrs R. Blackburn
Towers Infant	Mr P. Cockling

The proposed re-appointment of Mrs K Watmough to Engayne School is not now required.

Applications

School	Name of Candidate
Dunningford Primary	Mrs M. Breeding
Parsonage Farm Primary	Mr S. Chiddicks



MEETING	DATE	ITEM
STANDARDS COMMITTEE GOVERNANCE COMMITTEE	4 February 2005 10 February 2005	8

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: Standards Committee: Role and number of Independent Members

SUMMARY

It has been suggested by members of the Committee that they consider whether the number of Independent Members on the Standards Committee should be increased.

Now that the full Standards Committee has heard two matters regarding a breach of the Protocol on Probity in Planning and given the difficulties incurred in arranging adjourned meetings of the full committee, it is suggested that the Standards Committee considers reviewing its arrangements.

RECOMMENDATION

1. That the Standards Committee considers whether to recommend to the Governance Committee and to Council that it be re-formed from Annual Council with a membership of 1:1:1 and 4 Independent Members with Independent Members as Chairman and Vice Chairman.
2. That subject to the views of the Governance Committee on the number of members a recruitment campaign takes place to recruit Independent Members to the Standards Committee for an initial term of four years and that Independent Members be permitted to apply for a further term.
3. The Standards Committee considers whether it would favour appointing a Sub-Committee to hear and determine matters or whether it would prefer to hear matters as the full committee.

REPORT DETAIL

1. Regulations provide that at least 25% of members of the Standards Committee should be Independent Members. Two members of the Council should be appointed to the Standards Committee. Only one Cabinet Member may be appointed to the Standards Committee and may not chair the committee. The Leader cannot be a member.
2. Members of the Committee at the meeting held on 21st December indicated that they might be interested in altering the balance of members of the committee in favour of Independent Members. Independent Members of the Standards Committee have full voting rights. The Standards Board now recommends that the balance is in favour of Independent Members and that the Council Members should be members who are held in high regard and able to champion standards matters within the authority. The Standards Board also recommend that an Independent Member should chair the Committee.
3. The Regulations referred to above state that where a Standards Committee has more than three members at least 25% must be Independent Members. There is no limit to the number of Independent Members on the Standards Committee but as set out above two Members of the Council should be appointed. Currently the Committee consists of 6 members (3:2:1) and two Independent Members. The Relevant Authorities (Standards Committee) Regulations 2001 enables a Standards Committee to appoint a sub-committee. The 2000 Act provides that a Sub-committee may be appointed for the purpose of discharging any of the committee's functions, whether or not to the exclusion of the Committee. A Sub-committee shall be appointed from among the members of the Standards Committee by which it is appointed. In practice therefore it is possible for a sub-committee to be comprised entirely of Independent Members for hearing complaints. The view of the Standards Board however is that the local knowledge of members is important. To a certain extent, having Independents only undertaking hearings could be viewed as the authority abrogating its responsibilities. A meeting of the Standards Committee or Sub-committee is not quorate unless at least three members (including at least one independent member) of that committee are present for its duration. Any Sub-committee must therefore be of at least three members including at least one independent. Any main Committee must have two Council Members and 25% Independents.
4. Independent Members may not be appointed unless the appointment is:
 - a. approved by Council
 - b. advertised in one or more newspapers circulating in the area of the authority
 - c. of a person who has submitted on application to the authority

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- d. of a person who has not within a period of five years immediately preceding the date of the appointment been a member or officer of the authority
 - e. of a person who is not a relative or a close friend of a member or officer of the authority
5. Members consider whether they wish to recruit additional Independent Members, subject to the views of Governance Committee and if so the number of Independent members and the number of Council members which is acceptable to them. The Council members do not have to be politically balanced although given the circumstances appertaining in Havering the Committee may form a view that a balance of 1:1:1 with either three or four Independents might be reasonable without the Committee becoming too large. The Committee might also have views about the term of the appointment of the Independent Members to be recommended to Council. Currently Annual Council has re-appointed yearly although the appointments were envisaged to be the length of this Council. There is no bar to re-appointment but ideally Independent Members should be appointed for a fixed term – perhaps 3 or 4 years. Standards Board Guidance suggests that Authorities may wish to consider during the appointment process, whether long service as an Independent Members at a single authority may affect their impartiality, or the public perception of their impartiality. This has to be balanced obviously with the need for stability and the potential that recruitment might prove difficult. It is therefore suggested that the Independent Chairman and Vice Chairman be invited to reapply so the appointment can last a further four years from Annual Council. Recruiting an additional two Independent Members would then able those Members to learn from the experience of the current Independent Members and would also ensure that the Committee was not jeopardised by the number of Independent Members falling too low.
6. Standards Board guidance has been issued which states that matters referred from the Board must be determined or in cases of referrals under the recent Regulations, investigated by the Monitoring Officer and determined by the Committee within three months of the date of referral. Local procedures for breaches of the Protocol on Probity in Planning and the Protocol on Member/Officer Relations also suggest that the Committee should determine complaints in relation to these matters within three months. It was accepted however that there would be a delay in the first cases pending the adoption of the procedure and the training of committee members by District Audit.
7. The reason that the delay occurred in conducting the hearing on Maylands Field and Essex Road was the difficulty in arranging the meeting due to the availability of members given the amount of diarised meetings those members are involved in.
8. With currently only two Independent Members there could be issues for the Standards Committee if one were to resign as 25% of Independent Members is a requirement. It should be noted that the Standards Committee does not

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have to reflect political balance albeit this Council has chosen to date to politically balance members on the Standards Committee.

9. An advertisement has been placed for additional Independent Persons for hearings generally and the opportunity has been taken to include reference to Standards Committee Independent Members within that advertisement.

Financial Implications and risks:

Independent Members receive an allowance of £100 per meeting assessed on the basis of six meetings per annum. Any increase in Independent Members will increase the expenditure. No alteration will be needed to the Members' Allowance Scheme which provides for a standard rate of allowance for statutory co-optees of £100 per meeting and reimbursement of all travel costs.

Legal Implications and risks:

The Regulations set out how Independent Members must be recruited and appointed. The Appointment must ultimately be approved by full Council.

The Committee may appoint a Sub-Committee under the 1972 Act and the Regulations.

Human Resources Implications and risks:

Human Resources will be consulted and involved in any recruitment process for Independent Members

Equalities and Social Inclusion implications:

The recruitment and appointment process will ensure that all equalities implications are met.

Staff Contact Christine Dooley
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STEPHEN EVANS
Chief Executive

Background Papers List

None



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	10 FEBRUARY 2005	8

SUPPLEMENTARY

S U P P L E M E N T A R Y
REPORT OF THE CHIEF EXECUTIVE

SUBJECT: Standards Committee: Role and number of Independent Members

At its meeting on 4 February, the Standards Committee agreed:

- 1 To recommend to this Committee and to Council that the Standards Committee be re-formed from Annual Council with a membership of 1:1:1 and 4 Independent Members, with Independent Members as Chairman and Vice-Chairman.
- 2 That subject to the views of this Committee on the number of members, a recruitment campaign takes place to recruit Independent Members to the Standards Committee for an initial term of two years for two Members and four years for two Members so that all appointments would not cease together and that all the Independent Members be permitted to apply for a further term of four years upon expiry of a term.

If recommendation 2 is accepted, the intention would be to appoint two Independent Members for an initial two year term of office, and another two for a four year term. At the end of the two year period, those appointed would be eligible to be appointed to a new, four year, term. Thus, all Independent Members would eventually be serving for four years at a time but with appointments staggered, two every two years.

Stephen Evans

Chief Executive



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	10 February 2005	9

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: CORPORATE GOVERNANCE ARRANGEMENTS IN HAVERING

SUMMARY

This report sets out the progress made to date on the Improvement Plan for Corporate Governance.

RECOMMENDATION

1. That the progress on the local Code of Corporate Governance Improvement Plan be noted.

REPORT DETAIL

1. This Committee agreed a Code of Corporate Governance in June (Appendix A) and the report included an Improvement Plan.
2. In the report, Members were advised that the plan for improvement would be monitored by the Strategic Management Team on a regular basis and progress reported to this Committee on at least a six monthly basis. This represents the first progress report to this Committee.
3. The Improvement Plan was formulated on the basis of an assessment against a framework issued by CIPFA/SOLACE. The current position is set out in Appendix B.
4. Publicity of the Code has taken place by publication of articles in Inside Havering and Living in Havering as well as by writing to all Stakeholders. The final element is to request views from the public at the Area Committees. These will all be used to form judgement on the effectiveness of the arrangements and processes in

place so as to ensure the process covers qualitative as well as quantitative data. In addition, views are being sought from:

- Staff
- Senior Managers
- Councillors

5. The feedback so far has been limited but positive.
6. Once the additional publicity is complete and views sought, the Code will be revised and presented to the Committee for approval.

Financial Implications and Risks:

There are none arising directly. The improvement plan is being delivered through prioritisation and management of existing resources. The risk of taking this forward is an increased expectation from stakeholders that is not delivered through the actions of the Council. However, this risk is unlikely as the Council is committed to openness and transparency. The risks of not taking this forward is the Council not being viewed as open and transparent and the Audit Commission assessing Corporate Governance adversely in the CPA.

Legal Implications and Risks:

The risk of non compliance with the Regulations regarding the conduct of Members is complaints concerning the breach of the Members Code of Conduct to the Standards Board for England and in some instances the possibility of claims for judicial review against the Council.

Human Resource Implications and Risks:

Implementation of these measures will lead to improved development and performance.

Equalities and Social Inclusion Implications and Risks:

The code should ensure that the Council is shown as an inclusive Authority.

Staff Contact: Rita Greenwood **Title:** Executive Director
Finance and Planning

Telephone: 01708 432218

STEPHEN EVANS
Chief Executive

Background Papers

Corporate Governance – Improvement and Trust in Local Public Services – Audit Commission.

Corporate Governance in Local Government – Guidance Note

**THE LOCAL CODE OF CORPORATE GOVERNANCE
IN HAVERING**

1. Community Focus

- Publish on a timely basis an annual report presenting an objective, understandable account of the authority's activities and achievements and its financial position and performance.
- Publish on a timely basis a performance plan presenting an objective, balanced and understandable account and assessment of the authority's current performance in service delivery and its plans to maintain and improve service quality.
- Put in place proper arrangements for the independent review of the financial and operational reporting processes.
- Put in place proper arrangements designed to encourage individuals and groups from all sections of the community to engage with, contribute to and participate in the work of the authority and put in place appropriate monitoring processes to ensure that they continue to work in practice.
- Make an explicit commitment to openness in all of their dealings, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so.
- Establish clear channels of communication with all sections of their community and other stakeholders, and put in place proper monitoring arrangements to ensure that they operate effectively.
- Ensure that a vision for their local communities and their strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated.

2. Service Delivery Arrangements

- Set standards and targets for performance in the delivery of services on a sustainable basis and with reference to equality policies.
- Put in place sound systems for providing management information for performance measurement purposes.
- Monitor and report performance against agreed standards and targets and develop comprehensive and understandable performance plans.

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- Put in place arrangements to allocate resources according to priorities.
- Foster effective relationships and partnerships with other public sector agencies and the private and voluntary sectors, and consider outsourcing where it is efficient and effective to do so, in delivering services to meet the needs of the local community, and put in place processes to ensure that they operate effectively.
- Respond positively to the findings and recommendations of external auditors and statutory inspectors and put in place arrangements for the effective implementation of agreed actions.
- Be committed to diversity, acknowledging the diversity of the population and reflecting this in service delivery.

3. Structures and Processes

Balance of Power and Authority

- Put in place clearly documented protocols governing relationships between members and officers.
- Ensure that the relative roles and responsibilities of executive and other members, members generally and senior officers are clearly defined.
- Put in place appropriate Committees, including Audit, Governance and Overview & Scrutiny Committees.

Roles and Responsibilities – Members

- Meet on a formal basis regularly to set the strategic direction of the authority and to monitor service delivery.
- Develop and maintain a scheme of delegated or reserved powers, which should include a formal schedule of those matters specifically reserved for the collective decision of the authority.
- Put in place clearly documented and understood management processes for policy development, implementation and review and for decision-making, monitoring and control, and reporting; and formal procedural and financial regulations to govern the conduct of the authority's business.
- Put in place arrangements to ensure that members are properly trained for their roles and have access to all relevant information, advice and resources necessary to enable them to carry out their roles effectively.
- Define formally in writing the role of the executive member(s) of the authority, to include responsibility for providing effective strategic leadership to the authority and for ensuring that the authority successfully discharges its overall responsibilities for the activities of the organisation as a whole.

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- Define clearly in writing the roles and responsibilities of all members of the local authority, together with the terms of their remuneration and its review.

Roles and Responsibilities – Officers

- Make a Chief Executive or equivalent responsible to the authority for all aspects of operational management.
- Make a senior officer responsible to the authority for ensuring that appropriate advice is given to it on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control.
- Make a senior officer responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes, regulations and other relevant statements of good practice are complied with.
- Define clearly in writing the roles and responsibilities of all senior officers, together with the terms of their remuneration and its review.
- Adopt clear protocols and codes of conduct to ensure that the implications for supporting community political leadership for the whole council are acknowledged and resolved.

4. Risk Management and Internal Control

- Develop and maintain robust systems for identifying and evaluating all significant risks which involve the proactive participation of all those associated with planning and delivering services.
- Put in place effective risk management systems, including systems of internal control and an internal audit function. These arrangements need to ensure compliance with all applicable statutes, regulations and relevant statements of best practice and need to ensure that public funds are properly safeguarded and are used economically, efficiently and effectively, and in accordance with the statutory and other authorities that govern their use.
- Ensure that services are delivered by trained and experienced people.
- Put in place effective arrangements for an objective review of the effectiveness of risk management and internal control, including internal audit.
- Maintain an objective and professional relationship with their external auditors and statutory inspectors.
- Publish on a timely basis, within the annual report, an objective, balanced and understandable statement and assessment of the authority's risk management and internal control mechanisms and their effectiveness in practice.

5. Standards of Conduct

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- Develop and adopt formal codes of conduct defining the standards of personal behaviour to which individual members, officers and agents of the authority are required to subscribe and put in place appropriate systems and processes to ensure that they are complied with.
- Put in place arrangements to ensure that members and employees of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice.
- Put in place arrangements to ensure that their procedures and operations are designed in conformity with appropriate ethical standards, and to monitor their continuing compliance in practice.
- Put in place arrangements for whistle blowing to which staff and all those contracting with the council have access.

**CORPORATE GOVERNANCE ASSESSMENT
ACTION PLAN – Position as at End December 2004**

Action	Outcome Expected	Responsibility	Time	Progress / Evidence completed and timing of further reviews
All 2003/04 documents to be reviewed to ensure corporate governance issues included	Review of CDP, MTFS, Performance Plan, plus Council Tax leaflet to ensure objective and understandable account of the authority's performance.	Jonathan Owen Christine Dooley Rita Greenwood	Complete	CDP/MTFS agreed at Council on 14 th July. Group established to plan Council Tax Leaflet.
2004/05 BVPP/CDP to ensure forward looking and ensure demonstrating clearly how service quality will improve	Objective and understandable account of current and future performance.	Jonathan Owen	Complete	BVPP/CDP agreed. Easily read version on website. Details sent by SE to HSP.
Review process for Scrutiny review of inspectorate reports	Regular, independent Member review of such reports and findings.	Christine Dooley	Completed	All Executive Directors are responsible for ensuring inspectorate reports are presented to the relevant O&S Committee.
Review process for Audit Committee reports	Regular, independent Member review of such reports and findings.	Rita Greenwood	Completed	Audit Committee receive summaries of all final reports for review and monitor the implementation of recommendations. Annual letters presented to Cabinet and each O&S and then monitored by Audit Committee.
Complete review of Area Committees	Arrangements which encourage engagement and ensure clear channels of communication of all groups of the community and the monitoring of these.	Mark Gaynor/ Christine Dooley	Before 31 st December 2004	The review is being undertaken by a joint member/officer working party approved by Council on 14 th July
Review Consultation activity and Citizens Panel	Arrangements which encourage engagement and ensure clear channels of communication of all groups of the community and the monitoring of these.	Jonathan Owen	Draft to SMT	Cross-departmental workshops held, facilitated by Institute of Consultation. Draft strategy received. Report to SMT in January 2004. Further work taking place.
Initiate and complete a Best Value Review of Community Leadership and Engagement	Arrangements which encourage engagement and ensure clear channels of communication of all groups of the community and the monitoring of these.	Heather Bonfield	Final draft to SMT February 2005	All consultation now completed and critical friend comments taken on board. Final draft to be completed by end January 2005.

Action	Outcome Expected	Responsibility	Time	Progress / Evidence completed and timing of further reviews
Reviewing delegation to individual Members	Ensure decision making is shown to be open and transparent wherever possible and this is reflected in actions and communications	Christine Dooley	Completed	Delegation reviewed Spring 2004. Will be reviewed further from time to time. Decision making is transparent. Decisions are published and are subject to requisition (call in)
Confirm Constitution makes an explicit commitment to openness and transparency	Ensure decision making is shown to be open and transparent wherever possible and this is reflected in actions and communications	Christine Dooley	Completed	The Constitution makes a number of references to openness and transparency. See Part 1, Part 2 Articles 1, 2 & 3
Review if current process for review of Constitution is sufficient and appropriate	Ensure decision making is shown to be open and transparent wherever possible and this is reflected in actions and communications	Christine Dooley	December 2004	Constitution is continually being reviewed and updated. Decision making is open and transparent and all key decisions are subject to requisition (call in). Member Working Party formed summer 2004.
Corporate IIP accreditation target October 2004	Clear channels of communication confirmed.	David Ede	Oct 2004	A positive Corporate assessment took place in October 04. this will be ratified when the 2 remaining Directorates achieve by March 05.
Partnership/ASD progressed	Effective relationships with other public sector agencies and private/voluntary sector.	Christine Dooley	July 2004	BV Review completed December 2003. Recommendations and Strategy adopted by Cabinet July 2004. Improvement Plan being monitored by SPSG.
MTFS Partnership Project progressed	Four projects completed, examining: <ul style="list-style-type: none"> • Grants/Business Case/Performance • Grant Success • Voluntary Sector • Maximising Resources 	Rita Greenwood/ Mark Gaynor	Progressing	Minutes.
Communications Action Plan (to include monitoring that communication channels are operating effectively)	Effective channels of communication and that these are operating.	Jonathan Owen	Ongoing	Action Plan being implemented. Internal communications enhanced – Talking Point, etc. Living in Havering updated. Web site being ‘made over’.
Development of MTFS	Embedded MTFS which is regularly	Rita Greenwood	Ongoing	2005/06 MTFS in place, along with

Action	Outcome Expected	Responsibility	Time	Progress / Evidence completed and timing of further reviews
	reviewed.	Jonathan Owen		detailed approach.
Amended Approval – Member/Officer Protocol prepared July	Relationships and roles are clear.	Christine Dooley	Completed	Member Officer Protocol approved by Council 14 th July 2004 to replace previous guidelines.
Review of Member/Cabinet decisions	Ensure that the relative roles and responsibilities of all Members and Senior Officers are clearly defined.	Christine Dooley	Completed	Reviewed in Spring 2004 and set out within the Scheme of Delegation for officers and the functions for individual members within the Constitution.
Review of Record Keeping of Decisions and levels of delegation via audit review	Ensure that the relative roles and responsibilities of all Members and Senior Officers are clearly defined.	Christine Dooley	In progress	Audit review completed and reported to Governance on 10 th February 2005.
Performance system being automated	Regular information to monitor service delivery.	Jonathan Owen	In progress	Material now available on Intranet. Automated system being discussed with potential suppliers. Options discussed at Project Board January 2005 who agreed not to implement at this stage, but to continue improvements to Intranet.
Regular review of Standards and Regulations	Update Financial Standards and Regulations.	Rita Greenwood	Ongoing	Financial Standards set and Regulations/Framework being reviewed with log maintained.
Review of Members induction scheme	Induction programme in place for next election.	SMT (Lead – David Ede)	Dec 2005	
Complete Member Development Programme	Members fully trained with access to information/advice.	David Ede Jonathan Owen	Ongoing	Successful bid for ODPM Capacity Grant. Implementation Plan being developed. Programme to commence in February 05.
Profiles for Members prepared implementation	Clearly defined roles and responsibilities.	Stephen Evans	In progress	Job profiles prepared for all members. Being progressed with Group Leaders and intended for Governance on 10 th February 2005.
Complete Risk Management Action Plan	Risk Management part of the	Rita Greenwood	Per Action Plan	Outstanding elements are Integration

Action	Outcome Expected	Responsibility	Time	Progress / Evidence completed and timing of further reviews
	organisational culture and regularly reviewed.			with Health and Safety.
Embed Internal Control Statements	Risk Management part of the organisational culture and regularly reviewed. Internal Control Statements which evaluate risks.	Rita Greenwood	Ongoing	Internal Control Statements in place for 2003/04 closedown.
Review role of Scrutiny	Scrutiny proactively involved in planning services.	Christine Dooley	December 2004	Initial discussions with members and paper prepared for consideration Spring 2004. Working party of Governance invoked.
Review Fraud and Corruption Strategy	Authority actively promotes the identification of fraud and corruption.	Rita Greenwood	Completed	Agreed by Audit Committee
Management Development programme	Assurance that services are delivered by trained and experienced people.	David Ede	Ongoing	Leadership programme for 3 rd & 4 th tiers now in second year. Programme for 1 st and 2 nd tiers due to launch in February 2005.
Finalise Audit Protocol	Objective/professional relationship with external auditors.	Rita Greenwood	July 2004	Agreed and in place.
Review annual reporting arrangements	Assurance that we publish an objective balanced statement of control/risks.	Jonathan Owen	Ongoing	Incorporate in CDP/BVPP and annual planning process.
Introduce Corporate Monitoring of all complaints	Assurance that processes are complied with.	Cynthia Griffin	Ongoing	Revised proposals for roll out of ICT system being considered.
Ensure reviews of hospitality and registers for declarations of interest in place with regular reminders	Review that all are not influenced by prejudice, bias or conflict of interest.	SMT	Ongoing annual review	Review of Members Register of Interest takes place quarterly. Members hospitality reviewed on registration. SMT review own areas.
Introduce Officer Code of Conduct when issued by ODPM	Assurance that all expected to act without prejudice, bias or conflict of interest.	David Ede Christine Dooley	2005	Consultation paper issued. Response submitted.
Ensure Human Rights Compliance	Assurance of ethical standards.	Christine Dooley	Completed and ongoing	Human Rights compliance assessed on all report clearance, on

Action	Outcome Expected	Responsibility	Time	Progress / Evidence completed and timing of further reviews
				instructions received and on all legal advice given
Whistle Blowing policy to be updated, including ensuring contacts clear and training arrangements	Staff and public have access to up to date policy.	David Ede		The Council has a confidential reporting policy which details how to raise a concern and who to contact. Staff have received a personal letter from the CE and HR ran briefing sessions for 4 th tier and above when the policy was implemented.
Publicise Corporate Governance to public partners, Members and staff and ensure made available	Public, partners, Members and staff are aware of the Code.	Christine Dooley Rita Greenwood Jonathan Owen David Ede	Ongoing	Articles in 'Inside Havering' and "Living in Havering" and make available on Intranet. Area Committees receiving a report and all partners written to.
Monitor frameworks with regular reports, including discussions with staff, senior Managers, Councillors and the community, in order to inform self assessment	Annual self assessment and regular report to Governance.	Christine Dooley Rita Greenwood Jonathan Owen David Ede	Ongoing	Standards and Governance Committees to receive regular reports
Awareness/Training	Increased awareness of Corporate Governance.	Christine Dooley Rita Greenwood Jonathan Owen David Ede	Ongoing	Standards Committee to consider training for itself and other members on ethical governance issues on 4 th February 2005. See publicising above.
Ensure all new legislation is considered in a formal and structured way	Legislation is reviewed systematically, assessed for outcomes and considered strategically.	Christine Dooley Rita Greenwood Jonathan Owen David Ede	Ongoing	Legislation disseminated by Strategy & Communications on a regular basis



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	10 th February 2005	10

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: AUDIT REPORT – COUNCIL CONSTITUTION

SUMMARY

Internal Audit have recently completed an audit of the Council's Constitution and the result of the audit, which did not reveal any significant issues, is reported to this committee for information.

RECOMMENDATION

That the audit report be noted.

REPORT DETAIL

Internal Audit concluded an audit of the Council's Constitution in December 2004.

The Audit of the Constitution did not reveal any significant issues and no recommendations were made arising from the audit.

A few inconsistencies in the Constitution were brought to the attention of the Assistant Chief Executive Legal & Democratic Services and proposals to resolve these are referred to elsewhere on this Agenda.

The Audit report Management Summary is attached as an Appendix for members' information

Governance Committee, 10 February 2005

Financial Implications and risk There are none

Legal Implications and risk There are none

Human Resource Implications and risk There are none

Equalities and Social Inclusion implications There are none

STEPHEN EVANS
Chief Executive

Contact: Christine Dooley
Telephone: 01708 432484

Background Papers

E-mail correspondence

1. Management Summary

1.1 Introduction

- 1.1.1 The London Borough of Havering Borough Council adopted a new constitution in May 2002. The constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that decisions are efficient, transparent and accountable to the local community.
- 1.1.2 The constitution is divided into articles, which set out the basic rules, and procedures and codes of practice, which are provided in separate rules and protocols. The constitution complies with the provisions of the Local Government Act 2000.
- 1.1.3 The audit has concentrated on examining the implementation of the controls and procedures within Legal & Democratic Services to ensure that the constitution is being enacted as prescribed.

1.2 Significant Issues

- 1.2.1 The audit of the Constitution did not reveal any significant issues. A few inconsistencies in the constitution were brought to the attention of the Assistant Chief Executive Legal & Democratic Services and formal amendments will be made in due course.

1.3 Recommendations

- 1.3.1 There were no recommendations arising from the audit of the constitution.

1.4 Audit Opinion

- 1.4.1 An unqualified audit opinion can be given as Audit is satisfied that a strong control environment is operating in Legal & Democratic Services with regard to the administration of the council's constitution.



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	10 th February 2005	

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: COUNCIL AND BUDGET FRAMEWORK PROCEDURE RULES

SUMMARY

The Constitution was drafted in the Spring of 2002 and at the time it was recognised that there was insufficient time to re-draft all the current Council rules and protocols. Accordingly some of these were inserted within the Constitution as currently drafted.

Over the last two years gradually those rules and protocols are being replaced and this report deals with new Council Procedure Rules which have been updated and are intended to replace the current rules.

Since 2002 Consideration has been given to the construction of the Budget Framework Procedure Rules and it is felt that these are unduly restrictive and accordingly fresh rules have been drafted to replace those within the Constitution.

RECOMMENDATIONS

1. That the attached Council Procedure Rules be agreed and recommended to Council for approval as a replacement within the Constitution for the Council Procedure Rules.
2. That the attached Budget Framework Procedure Rules be agreed and recommended to Council for approval as a replacement within the Constitution for the Budget Framework Procedure Rules

REPORT DETAIL

3. During the preparation of the Constitution in 2002 some of the current rules and protocols were inserted in the Constitution, it being recognised that these would need to be replaced over a period of time.
4. This report deals with the new Council and Budget Framework Procedure Rules recommending replacement of the existing rules.
5. At the Constitution Working Party one member suggested that the timescale for motions and amendments within the Council Procedure Rules should be 10 clear days and 3 clear days respectively rather than 13 clear days and 8 clear days as currently. If the Committee is minded to agree to this alteration the attached draft Council Procedure Rules require amendment.

Financial Implications and risk

There are none related to the report.

Legal Implications and risk

The Rules need to be formally recommended by this Committee to Council for incorporation within the Council's Constitution. The Council Procedure Rules is an old document which needs updating. The Budget Framework Rules is a replacement to the current rules within the Constitution.

Human Resource Implications and risk

There are none relevant to the report.

STEPHEN EVANS
Chief Executive

Contact: Christine Dooley
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Background Papers

None

COUNCIL PROCEDURE RULES

Rule	CONTENTS
1.	Annual meeting of the Council
2.	Ordinary meetings
3.	Council Tax setting meeting
4.	Extraordinary meetings
5.	Time and place of meetings
6.	Notice of and summons to meetings
7.	Chairman of meeting
8.	Quorum
9.	Duration of meeting
10.	Questions by members
11.	Motions on notice
12.	Motions without notice
13.	Rules of debate
14.	State of the area debate
15.	Previous decision and motions
16.	Voting
17.	Minutes
18.	Exclusion of public
19.	Members' conduct
20.	Disturbance by the public
21.	Suspension and amendment of Council Procedure Rules
22.	Audio-Visual aids
23.	Recording of proceedings
24.	Petitions
25.	Sealing documents
26.	Inspection of lands and premises
27.	Interpretation

1. ANNUAL MEETING OF THE COUNCIL

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:

- (i) choose a person to preside if the Mayor is not present and to receive apologies for absence;
- (ii) elect the Mayor of the Council and receive notice of the appointment of the Deputy Mayor;
- (iii) approve the minutes of the last meeting and of any extraordinary meeting;
- (iv) receive any announcements from the Mayor and/or Chief Executive;
- (v) elect the Leader of the Council;
- (vi) elect the Deputy Leader of the Council;
- (vii) elect a Cabinet of up to nine members;
- (viii) appoint the overview and scrutiny committees, the area committees, a Standards Committee and any other such committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions; appoint (other than for area committees) their Chairmen and Vice Chairmen and; appoint three Champions, one for Elderly Persons, one for Younger Persons and one for Diversity.
- (ix) receive any statement by (or on behalf of) the Leader of the Council relating to any aspect of the Council policy or in respect of any issue affecting the Council or the borough;
- (x) deal with any consequential or other amendments to Rules, delegations or powers and duties, financial regulations, or the scheme for the payment of allowances to members that may only be determined by the Council;
- (xi) consider any business set out in the notice convening the meeting relating to policy or budgetary matters.

2. ORDINARY MEETINGS

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

- (i) choose a person to preside if the Mayor is absent and to receive apologies for absence;
- (ii) approve the minutes of the last meeting and of any extraordinary meeting;

- (iii) receive any declarations of interest from members;
- (iv) receive any announcements from the Mayor or the Leader of the Council (or the Chief Executive);
- (v) receive any petitions pursuant to rule 24
- (vi) receive recommendations from the Cabinet and the Council's committees;
- (vii) receive any reports of the Chief Executive, Monitoring Officer or Chief Finance Officer;
- (viii) consider proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the overview and scrutiny committees and the Champions for debate;
- (ix) consider any statutory or other plans submitted for the Council's approval;
- (x) consider questions from members submitted in accordance with Rule 10;
- (xi) consider motions submitted in accordance with the procedure set out in Rule 11;
- (xii) consider any other business specified in the summons to the meeting;
- (xiii) at the first ordinary meeting in the Municipal year the Council will receive reports for the previous year from the Overview and Scrutiny Committee Chairmen and from the Champions
- (xiv) at the last ordinary meeting in the Municipal year to approve a programme of ordinary meetings of the Council for the year;

3. COUNCIL TAX SETTING MEETING

At the meeting at which the Council Tax for any year is to be set, the order of business shall be:

- (i) to choose a person to preside if the Mayor is absent and to receive any other apologies for absence
- (ii) to approve the minutes of the last ordinary meeting of the Council and of any subsequent extraordinary meeting that may have been held
- (iii) to receive any announcements by the Mayor or the Leader of the Council
- (iv) to consider proposals from the Cabinet in relation to the Council's budget and any reports of the overview and scrutiny committees in respect of those proposals
- (v) to agree the Council's budget

- (vi) to set the council tax.

4. EXTRAORDINARY MEETINGS

4.1 Calling extraordinary meetings

Those listed below may request the Proper Officer to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Mayor;
- (iii) the Monitoring Officer;
- (iv) pursuant to legislation, any five members of the Council if they have signed a requisition presented to the Mayor and he has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

The timetable for extraordinary meetings and rules as to amendments etc., will be set by the Mayor when the meeting is convened.

4.2 Business

The extraordinary meeting will :

- (i) choose a person to preside if the Mayor is absent and receive any other apologies for absence; and
- (ii) consider the business specified in the summons for the meeting.

5. TIME AND PLACE OF MEETINGS

Meetings of the Council will be held at the Town Hall and begin at 7.30 p.m. unless the Mayor has determined otherwise and the change is notified in the summons.

6. NOTICE OF AND SUMMONS TO MEETINGS

- (i) The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Proper Officer will send a summons signed by the Client Executive by post to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.
- (ii) The Proper Officer shall publish:
 - (a) not fewer than 13 clear days before a meeting (other than an extraordinary meeting), an initial agenda for the meeting summoning members to attend it, giving notice of such business as seems likely to be before the Council and providing a

timetable for the submission of motions and amendments and the proposal of any other business

- (b) not fewer than 9 clear days before a meeting (other than an extraordinary meeting), a revised agenda for the meeting, amending the initial agenda to take account of business becoming available following the publication of the initial agenda
 - (c) not fewer than 6 clear days before a meeting (including an extraordinary meeting), a final agenda incorporating the initial and revised agendas and any further business accepted on to the agenda.
- (iii) Subject to the provisions of Part VA (Access to Meetings and Documents etc) of the Local Government Act 1972, the Chief Executive may publish one or more supplementary agenda(s) after publication of the final agenda, where to do so is necessary in the interests of the proper conduct of the meeting.

7. CHAIRMAN OF MEETING

- (i) the person presiding at the meeting may exercise any power or duty of the Mayor in relation to the conduct of that meeting;
- (ii) the ruling of the Mayor in relation to any aspect of the conduct of the meeting shall not be questioned;
- (iii) whenever the Mayor rises during a debate, any member then speaking or standing shall be seated and the Council shall be silent.
- (iv) the Mayor shall in addition to statutory and common law powers and any other powers herein, have power to govern the meeting, curtail any debate, keep order, alter the order of business, amalgamate debates and in general organise the business of the meeting.

8. QUORUM

The quorum of a meeting will be one quarter of the whole number of members. During any meeting if the Mayor counts the number of members present and declares there is not a quorum present, then the meeting will be adjourned immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he does not fix a date, the remaining business will be considered at the next ordinary meeting.

9. DURATION OF THE MEETING

9.1 Conclusion of meeting

- (i) if at any time between 10.00 p.m. and 10.30 p.m. the Mayor believes that an item could not properly be considered in the time available, the Mayor has discretion not to take an item, or to modify the length of speeches and general debate in respect of any item. In the case of an item already being debated, the Mayor has discretion to modify the length of speeches or reduce the number of speakers.

- (ii) the business of the meeting will continue at 10.30 p.m. until the end of the debate then in progress. At that point the Mayor will call for the vote immediately on the items remaining. The vote will then be taken in the usual way on the remaining items without any further discussion unless a procedural motion is passed to suspend standing orders to extend the time of the meeting prior to the Mayor calling for vote only.
- (iii) in the event of an adjournment of any meeting of the Council being necessary such an adjournment shall be to a date to be fixed by the Council, and in the event of no date being fixed then on a date to be fixed by the Mayor.

9.2 Motions and recommendations not dealt with

Subject to 9.1 above if there are other motions or recommendations on the agenda that have not been dealt with by 10.30 p.m. they are deemed formally moved and seconded (together with any amendments). No speeches will be allowed on these items and the vote will be taken in the usual way.

9.3 Motions which may be moved

During the process set out in Rules 9.1 – 9.2 above, the only other motions which may be moved are that a matter be withdrawn or that a matter be delegated or referred to an appropriate body or individual for decision or report.

9.4 Close of the meeting

When all motions and recommendations have been dealt with, the Mayor will declare the meeting closed.

10. QUESTIONS BY MEMBERS

10.1 Questions on notice at full Council

Subject to Rule 10.2, a member of the Council may ask:

- (i) The Leader
- (ii) A member of the Cabinet
- (iii) Any Chairman in receipt of a Special Responsibility Allowance
- (iv) A Champion

a question on any matter relating to the business of the Council

10.2 Notice of questions

Members may only ask questions under Rule 10.1 if either:

- (i) they have given at least 8 clear days notice in writing of the question to the Proper Officer signed by the member or by the Group Leader on behalf of the member; or

- (ii) the question relates to an urgent matter of which prior notice could not, in the circumstances have been given and the Mayor accepts the question before the start of the meeting.

10.3 The Chief Executive shall refer to the Mayor any question that appears improper. If the Mayor agrees that the question is vexatious, scurrilous, frivolous or derogatory, is contrary to any provision of any Code, protocol or convention of the Council, does not relate to the business of the Council, or is otherwise improper or inappropriate it shall not be asked and the Chief Executive shall inform the questioner accordingly.

10.4 Where appropriate in the public interest or to facilitate the business of the meeting, the Mayor may give priority to answering one or more questions.

10.5 **Response**

An answer may take the form of:

- (i) a direct oral answer;
- (ii) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (iii) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

10.6 **Supplementary question**

A member asking a question may ask one supplementary question without notice, of the member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply. If that member does not wish to ask a supplementary question then one other member only may do so. There shall be no discussion or debate on any question. Members must phrase questions appropriately and not seek to make a statement.

10.7 **Time for questions**

- (i) No more than 30 minutes ordinarily shall be allowed for questions at a Council meeting. At the end of that period, the question being dealt with shall be answered (including any supplementary questions and answers, if the Mayor so wishes) and the Council will pass to the next business. Any question then remaining to be asked shall be dealt with as if it had been put for written answer.
- (ii) The Mayor may extend this period if the Mayor thinks fit.

10.8 **Absence of questioner**

Where a member has given notice of a question but is absent from the meeting, the Group Leader may ask the question on the Member's behalf, otherwise the question shall be dealt with as if it had been put for written answer.

10.9 **Alteration of question**

A member asking a question, or the Leader of the Group on behalf of that member, may at any time prior to the publication of that question in the final agenda for the meeting require the Chief Executive to alter the wording of that question in order to correct factual or typographical error. No alteration shall affect the sense of any such question, and where the Chief Executive doubts the propriety of such an alteration, the Mayor may agree that it shall not be accepted. The Mayor's ruling on the matter shall not be questioned.

10.10 **Withdrawal of question**

A question may be withdrawn at any time by the person who submitted the question or by the Leader of a member's Group (with that member's consent).

10.11 **List of Questions**

The agenda for each meeting shall include a list of the questions (indicating those for written answer) to be answered at that meeting. The text of each question and the reply to it shall be included in the minutes of that meeting, indicating whether or not it was answered orally in the time allowed or dealt with by written reply.

Questions shall be listed in the order in which they are received and subject to that in the order for which the group submitting the questions express a preference.

11. **MOTIONS ON NOTICE**

11.1 **Notice**

Except for motions which can be moved without notice under Rule 12, written notice of every motion, signed by at least two members or by the Leader or Secretary of a Group, must be delivered to the Proper Officer not later than 13 clear days before the date of the meeting. These motions will be available for public inspection.

11.2 If a member satisfies the Mayor that:

- (i) there are special circumstances of sufficient urgency to require debate by the Council but due notice could not be included on the final agenda for the meeting as the issue in question arose after the deadline provided for the above
- (ii) those reasons are sufficient to permit admission of the motion onto the agenda in exercise of the power conferred by section 100B(4) of the Local Government Act 1972

the motion may be moved as an emergency motion at the meeting notwithstanding that due notice may not have been given.

11.3 **Motion set out in agenda**

Motions for which notice has been given will be listed on the agenda in the order in which notice was received and subject to that in the order for which the group submitting the motions express a preference.

11.4 **Scope**

- (i) Motions must be about matters for which the Council has a responsibility or which affect the area
- (ii) The Proper Officer shall refer to the Mayor any notice of motion or amendment which appears either improper, vexatious, frivolous, derogatory, contrary to any code, protocol, guidelines, convention or which does not relate to the business of the Council or which is otherwise improper or inappropriate. If the Mayor agrees, it shall not be included in the summons and the Proper Officer shall inform the mover accordingly.
- (iii) The Proper Officer shall be entitled to clarify the wording of motions and amendments with the proposer before committing the motion or amendment to the agenda and shall be entitled to amend the wording of a motion or amendment in consultation with the proposer, the Mayor and Monitoring Officer prior to the meeting to clarify, correct, or make sense of the particular wording. If the Proper Officer exercises this power then notice of the motion/amendment with wording as amended shall be given to all members.
- (iv) Where it would assist the proper or efficient conduct of the Council's business, the Mayor may direct that two or more motions or two or more amendments shall be debated together, with a separate vote on each one at the conclusion of the debate.

12. **MOTIONS WITHOUT NOTICE**

12.1 The following motions may be moved without notice:

- (i) in relation to the accuracy of the minutes
- (ii) to change the order of business in the agenda
- (iii) to refer something to an appropriate body or individual;
- (iv) to appoint a committee or member to a committee arising from an item on the summons for the meeting;
- (v) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- (vi) to withdraw a motion;
- (vii) to amend or alter a motion/or amendment ;
- (viii) to proceed to the next business;
- (ix) that the question be now put;

- (x) to adjourn a debate;
- (xi) to adjourn a meeting;
- (xii) that the meeting continue beyond 10.30 p.m.
- (xiii) to suspend a particular council procedure rule;
- (xiv) to exclude the public and press in accordance with the Access to Information Rules;
- (xv) to not hear further a member named or to exclude them from the meeting under or that a member remain under Rule 19;
- (xvi) to give the consent of the Council where its consent is required by this Constitution.
- (xvii) that the time limit for speeches or addresses be extended

12.2 Any procedural motion shall be moved, seconded and voted upon without debate.

12.3 A member who has not previously spoken in the debate may, at the conclusion of a speech of another member, move:

- (i) "That the question be put", or
- (ii) "That the debate be adjourned", or
- (iii) "That the Council proceed to the next business", or
- (iv) "That the Council adjourn".

If the procedural motion is seconded, it shall be put to the vote forthwith and, if it is carried, then:

- in case (i): the rights of reply given by Rule 13.12 may be exercised. The motion before the meeting shall then be put to the vote, or
- in case (ii): the debate in progress shall stand adjourned until the next ordinary meeting of the Council, or
- in case (iii): the motion then before the Council shall be regarded as lost and the Council shall proceed to the next item on the agenda (if any), or
- in case (iv): the meeting shall stand adjourned to a date to be fixed in accordance with Rule 9.1 (iii)

13. RULES OF DEBATE

13.1 No speeches until motion seconded

No speeches may be made after the mover has moved a proposal until the motion has been seconded.

13.2 Right to require motion in writing

Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to him before it is discussed and may require it to be made available to all members.

13.3 Secunder's speech

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

13.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order or a point of information. No speech may exceed the time limits below without consent of the Mayor.

- (i) ten minutes for a mover of a motion or an amendment
- (ii) eight minutes for a seconder of a motion or amendment
- (iii) five minutes for other speeches in any debate
- (iv) at the meeting setting the council tax under rule 3, the speeches of any Group Leader (or of a member nominated to speak on behalf of a Group Leader) on any motion or amendment relating to the council tax shall not exceed twenty minutes.

13.5 When a member may speak again

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (i) in exercise of a right of reply;
- (ii) on a point of order;
- (iii) by way of personal explanation.

13.6 Amendments to motions

Notice of amendment to a motion (other than an emergency motion) must be signed by at least two members or by the Leader or Secretary of the Group and must be delivered to the Proper Officer at least 8 clear days before the date of the meeting. An amendment to an emergency motion may be proposed without notice at any time before the debate on it is concluded.

13.7 An amendment shall not be debated unless it has been moved and seconded. The mover or seconder of an amendment may not move or second any other amendment on the same motion without the consent of the Mayor.

- 13.8 (i) An amendment to a motion must be relevant to the motion and will either be:
- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (b) to leave out words;
 - (c) to leave out words and insert or add others; or
 - (d) to insert or add words.

As long as the effect of (b) to (d) is not to negate the motion.

- (ii) Only one amendment may be moved and discussed at any one time and they shall be moved in the order in which they were received. No further amendment may be moved until the amendment under discussion has been disposed of.
- (iii) If an amendment is not carried, other amendments to the original motion may be moved.
- (iv) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion upon which any further amendments are moved.
- (v) After an amendment has been carried, the Mayor may read out or require the amended motion to be read out before accepting any further amendments, or if there is none, put it to the vote.
- (vi) Any amendment proposed at the meeting to set the council tax and budget must be specified in sufficient detail to show the service, financial and staffing effects of any proposals in order that staff may report to the Council on the likely effect of the amendment, upon the budget.

13.9 Amendments to any reports before Council shall be submitted to the Proper Officer within the following deadlines:

- (i) reports issued with the initial and revised agenda, within 6 clear days of the date of the revised agenda;
 - (a) reports issued with the final agenda and not on the Initial or revised agenda, by midnight on the Monday before the meeting.
 - (b) If the Monday is a Bank Holiday the time limit will be extended to noon on the Tuesday before the meeting.
- (ii) Notice of amendment to a motion (other than an emergency motion or a motion/report on the annual Council tax setting) must be given to the Chief Executive at least eight clear days before the meeting at which the motion/report proposed for amendment is to be debated. An amendment to an emergency motion may be proposed without notice at any time before the debate on it is concluded. An amendment to a motion/report on the annual Council tax setting must be submitted to the Chief

Executive no later than midnight on the Monday before the Council tax setting meeting, and must be such that the amendment would, if passed, enable a robust budget to be set in the view of the Chief Financial Officer¹.

13.10 Alteration of motion and/or amendment

- (i) The mover of a motion or amendment, or the Leader of the Group on behalf of which a motion or amendment is proposed, may at any time prior to the publication of that motion or amendment in the final agenda for the meeting require the Proper Officer to alter the wording of that motion or amendment in order to correct factual or typographical error or to improve clarity;
- (ii) A member may alter a motion or amendment of which he has given notice with the consent of the meeting. The meeting's consent will be signified without discussion;
- (iii) A member may alter a motion or amendment which he has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion;
- (iv) Only alterations which could be made as an amendment may be made;
- (v) No alteration under this rule shall affect the sense of any such motion or amendment, and where the Proper Officer doubts the propriety of such an alteration, the Mayor may agree that it shall not be accepted. The Mayor's ruling on that matter shall be final.
- (iv) The Mayor may accept at the request of the relevant Group Leaders and the original proposers of the motion and amendment either prior to the meeting or at the meeting, an agreed composite motion which unites the motion and amendment into one and which is capable of being placed before the meeting as an agreed composite motion.

13.11 Withdrawal of motion

A member may withdraw a motion or amendment which he has moved. No member may speak on the motion or amendment after the mover has withdrawn it.

13.12 Right of reply

At the close of each debate upon a motion, or after a motion "That the question be put" has been carried, rights of reply may be exercised in the following order:

- (i) the Leader of the Group by which the motion was proposed (if not the Leader of the Council or the Leader of the Opposition)
- (ii) the Leader of the Opposition

¹ As it is imperative that there is a level playing field, any new base information relating to or affecting Council tax that comes to light after the Cabinet has made its Council tax recommendations will be supplied to all Groups at the same time by the Section 151 Officer.

- (iii) the Leader of the Council.

In each case, the appropriate Leader may nominate another member to reply on his behalf.

13.13 Motions which may be moved during debate

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (i) to withdraw a motion;
- (ii) to amend or alter a motion;
- (iii) to proceed to the next business;
- (iv) that the question be now put;
- (v) to adjourn a debate;
- (vi) to adjourn a meeting;
- (vii) that the meeting continue beyond 10.30 p.m.;
- (viii) to exclude the public and press in accordance with the Access to Information Rules;
- (ix) to not hear further a member named or to exclude them from the meeting under Rule 19.

13.14 Point of order

A member may raise a point of order at any time. The Mayor will hear this immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he considers it has been broken. The ruling of the Mayor on the matter will be final.

13.15 Personal explanation

A member may make a personal explanation at any time during the course of a speech if he has been referred to by name but may not pursue it if the member speaking declines to give way. A personal explanation may only relate to some material part of an earlier speech by the member, which may appear to have been misunderstood in the present debate. The ruling of the Mayor on the admissibility of a personal explanation and time allowed for any personal explanation will be final.

13.16 Point of Information

A member may make a point of information at any time but may not pursue it if the member speaking declines to give way. It shall be a simple question to clarify factual statements made during the course of a speech. It may not be a

long or rhetorical question or become a cross-examination of the speaker. The ruling of the Mayor on the admissibility of a point of information will be final.

14. STATE OF THE AREA DEBATE

14.1 Calling of debate

The Leader may call a state of the area debate once in any year on a date and in a form to be agreed by the Governance Committee.

14.2 Form of debate

The form of the debate and the rules of Procedure will be as agreed by Governance Committee and will be with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the state of the area debate.

14.3 Chairing of debate

The debate will be chaired by the Mayor.

14.4 Results of debate

The results of the debate will be:

- (i) disseminated as widely as possible within the community and to agencies and organisation in the area; and
- (ii) considered by the Leader in proposing the budget and policy framework to the Council for the coming year.

15. PREVIOUS DECISIONS AND MOTIONS

15.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 25 per cent of the members.

15.2 Motion similar to one previously rejected

- (i) A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 25 percent of members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.
- (ii) This rule shall not apply to motions moved in respect of a report or recommendation of a committee but shall apply to amendments to such a recommendation.

16. VOTING

16.1 Majority

Any matter will be decided by a simple majority of those members voting and present in the room at the time the question is put. All votes taken in consequence of a division shall be recorded. This rule shall not be suspended.

16.2 Chairman's casting vote

If there are equal numbers of votes for and against, the Mayor will have a second or casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote.

16.3 Right to require individual vote to be recorded

At Council all votes are recorded. In so far as these rules apply to Committees of the Council, where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

16.4 Voting on appointments

If there are more than two people nominated for any position to be filled the votes will be recorded as between those nominated. In the event that there is an equality of votes then the Mayor shall exercise a casting vote.

17. MINUTES

17.1 Signing the minutes

The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy. This rule shall not be suspended

17.2 No requirement to sign minutes of previous meeting at extraordinary meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 of the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes. This rule shall not be suspended.

17.3 Form of minutes

Minutes will contain all motions and amendments in the exact form and order the Mayor put them.

17.4 For the purpose of ensuring the accuracy of minutes, the Proper Officer is authorised to adjust the text of the substantive motion as finally carried to reflect the sense of the meeting where, in consequence of more than one amendment being carried, the meaning is not otherwise clear.

18. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Act and the Rules set out in Part 4 Section 1 of this Constitution or Rule 20. (Disturbance by Public).

19. MEMBERS' CONDUCT

19.1 Standing to speak

- (i) When a member speaks at full Council they must stand (unless prevented from doing so by illness or disability) and address the meeting through the Mayor. If more than one member stands, the Mayor will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation or information.
- (ii) A member shall confine a speech to the matter under discussion or to an explanation or to a point of order or upon a point of information.
- (iii) Members have qualified privilege in respect of defamation at Council meetings. They should not abuse their privilege to make personal attacks on individuals. Officers at Council meetings are not expected to criticise a member's personal conduct, judgement or ability. Members for their part should not criticise an officer personally at such a meeting. The Mayor and other members at the meeting would be expected to take this into account in conducting the meeting.

19.2 Member not to be heard further

- (i) If the Member persistently disregards the ruling of the Mayor by behaving improperly or offensively or deliberately obstructs business, the Mayor or any other member may move that the member be not heard further. If seconded, the motion will be voted on without discussion.
- (ii) If the motion is carried, the member named shall immediately be seated and be silent.

19.3 Member to leave the meeting

If the member continues to behave improperly after such a motion is carried, the Mayor may move that either the member leaves the meeting and/or that the meeting be adjourned for a specified period. If seconded, the motion will be voted on without discussion.

19.4 Rule 19.2 and 19.3 shall not be suspended.

20. DISTURBANCE BY THE PUBLIC

20.1 Removal of member of the public

If a member of the public interrupts proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room.

20.2 Clearance of part of meeting room

If there is a disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared.

20.3 General disturbance

If there is a general disturbance making orderly business impossible, the Mayor may issue a warning and if the disturbance continues adjourn the meeting for as long as he thinks necessary. Such action shall be at the Mayor's discretion and may be taken without putting the matter to the vote.

20.4 Rules 20.1 to 20.3 shall not be suspended.

21. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

21.1 Suspension

All of these Council Rules of Procedure except those rules noted as not being capable of suspension may be suspended by motion without notice. Suspension can only be for the duration of the meeting.

21.2 Amendment

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the Governance Committee.

21.3 Participation by invited speakers

- (a) At an ordinary meeting (other than the annual meeting or the meeting at which the council tax is set) the Mayor or Leader of the Council may arrange for one or more persons to address the Council. Notice of the arrangement shall be given at least fourteen clear days in advance to the Chief Executive so that reference to the address and its subject may appear on the agenda.
- (b) The address shall appear on the agenda as an item to be taken immediately before any report or motion to which it relates or, if unrelated to any particular item at an ordinary meeting, shall be taken immediately after questions have been answered.
- (c) No address under these paragraphs shall exceed twenty minutes (or such other period as may be agreed by procedural motion at the meeting). While it is being given, the person concerned shall be entitled to speak without interruption.
- (d) Where an address relates to a matter which is the subject of a motion before the Council, it may be given before the motion is moved and seconded.
- (e) Unless otherwise agreed by the Council for the specific occasion, no question shall be asked of a person addressing the Council and no discussion shall be entered into with that person.

22. AUDIO-VISUAL AIDS

- 22.1 A member, or staff invited to address the Council may request the use of any audio-visual aids available within the Council Chamber (or other meeting place). Reasonable notice shall be given to the Chief Executive of the intended use of such facilities in order to ensure their availability when required and the availability of appropriate staff to prepare, or assist in the preparation of, such aids.
- 22.2 The Mayor may, however, direct that, in the circumstances of a particular meeting, such aids may not be used.

23. RECORDING OF PROCEEDINGS

- 23.1 The Mayor may consent to an outside organisation making an audio-visual record (including a radio or television broadcast) of any particular meeting (but not so as to permit the recording or broadcast of any confidential or exempt information).
- 23.2 An audio-visual record will ordinarily be made of each meeting of the Council.

24. PETITIONS

- 24.1 Petitions may be presented to the Mayor by members of the Council during an ordinary Council meeting as referred to in Rule 2, subject to notice being given to the Proper Officer of the intention to present a petition at least 8 clear days before the meeting.
- 24.2 There will be no debate on any petition under this rule but the member presenting the petition may make a brief statement on the content of the petitions.
- 24.3 Any petitions received by the Mayor at Council or at any other time will be referred to the appropriate Head of Service for action or report through the appropriate decision-making machinery of the Council.

25. SEALING DOCUMENTS

25.1 Authority to seal

The common seal of the Council may be affixed to any document on the authority of any two individuals, one drawn from each of the list A and list B set out below.

The seal shall be attested by those two individuals and an entry of every sealing of a document shall be made and consecutively numbered in a book to be provided for the purpose and shall be signed by a person who has attested the seal.

List A	List B
Mayor	Chief Executive
Deputy Mayor	An Executive Director
	Assistant Chief Executive

	Legal & Democratic Services
	A Legal Manager

25.2 Urgent attestations

Where necessary in cases of urgency and where neither of the holders of the offices shown in list A is available, a document may be attested by any two of the members of staff specified in list B. In each such case, the circumstances shall be reported to the Council at its next meeting.

25.3 Signing documents

Where any document will be a necessary step in legal proceedings on behalf of the Council then, unless any enactment otherwise requires or authorises or the Council shall have given the necessary authority to some other person for the purpose of such proceedings, it must be signed by the Chief Executive (or on behalf of the Chief Executive by another of the signatories shown in list B above).

26. INSPECTION OF LANDS AND PREMISES

- 26.1 No member may enter upon or inspect any land or premises that the Council has a right or duty to inspect, without prior authority from the Council.
- 26.2 No member shall issue an order in respect of works being carried by, or on behalf of, the Council.

27. INTERPRETATION

For the purposes of the Council Procedure Rules:

- (a) the term “clear days” excludes from the period the day on which notice is to be given and the day of the meeting and it refers to working days only
- (b) “Proper Officer” shall include, if the Chief Executive is absent or unable to act, reference to any Executive Director or the Assistant Chief Executive Legal & Democratic Services who may from time to time be authorised to deputise for the Chief Executive for the purposes of these procedure rules
- (c) “Group” means any Group of members constituted under the statutory rules for political balance
- (d) “Group Leader” means the member notified to the Proper Officer as leader of a Group
- (e) “Deputy Group Leader” means “the other authorised representative” of the group
- (f) “Group Secretary” means the member notified to the Proper Officer as holding that office within the Group
- (g) “Leader of the Council” means the Leader of the administration

- (h) “Leader of the Opposition” means the Leader of the largest group not forming, or forming part of, the administration.
- (i) For the avoidance of doubt, it is declared that:
 - (a) any notice required be given in writing may validly be given by paper, fax or e-mail provided that the e-mail is from an address recognisably that of the person giving notice or known to be associated with him or her.
 - (b) any document required to be served upon the Chief Executive may be handed to the Democratic Services Manager or a member of his staff
 - (c) any document required to be served upon the Mayor may be handed to the Chief Executive or the Democratic Services Manager or a member of his staff on behalf of the Mayor.
 - (d) Any document handed to the Chief Executive, Democratic Services Manager or staff member under (b) or (c) shall be deemed served upon the person to whom it is addressed.
 - (e) Where more than one signature is required, then e-mails conforming to (i) (a) above from any member from a recognisable e-mail address or one known to be associated with him or her shall be accepted.

Budget Framework Procedure Rules

1. (a) Framework for executive decisions

The Council will be responsible for the adoption of its budget. Following approval of the budget, it will be the responsibility of the Cabinet to implement it

(b) Definition of budget

For the purpose of rules 4 – 8 the budget shall not include non specific earmarked reserves and balances

2. Process for developing and approving budget framework

The process for developing and approving the budget framework is:

- (a) By no later than 31 July, the Cabinet will publish its initial prospects in respect of the budget for the forthcoming year and intended strategy for the following two years.

A timetable for Council approving the council tax for the forthcoming year is set out in Appendix A to these rules.

The Cabinet's strategy shall be referred to the Corporate Overview and Scrutiny committee for advice and consideration, alongside the Corporate Development Plan.

- (b) Having considered the comments from the Corporate Overview and Scrutiny committee the Cabinet, if it considers it appropriate, may amend its strategy before submitting it to Council by October. The Cabinet will also report on how it has taken into account any recommendations from the Corporate Overview and Scrutiny committee.
- (c) After liaising with Senior Officers, the Cabinet will consider and recommend budget proposals for consultation in accordance with the timescales set out in Appendix A. The Cabinet's proposals shall be referred to the Overview and Scrutiny Committees and Area Committees for advice and consideration.
- (d) The Cabinet will then consider the proposals before making recommendations to Council. The Cabinet will also report on how it has taken into account any recommendations from the overview and scrutiny committees, area committees and local stakeholders.
- (e) The Council will consider the proposals of the Cabinet and may adopt them, refer them back to the Cabinet or substitute its own proposals in their place, provided always that where Council wishes to substitute its own proposals it follows the procedure set out in rule 3(a) to (c) below where that procedure applies.

3 **Process for approving the Budget**

- (a) Subject to rule 3(e), where, before 8 February in any financial year, the Cabinet submits to the Council for its consideration in relation to the following financial year:
- (i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49 of the Local Government Finance Act 1992
 - (ii) estimates of other amounts to be used for the purposes of such a calculation
 - (iii) estimates of such a calculation, or
 - (iv) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in rule 3(b).

- (b) Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in rule 3(a)(i), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Cabinet's estimates or amounts and must give to him or her instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
- (c) Where the Council gives instructions in accordance with rule 3(b), it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:
- (i) submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration, or
 - (ii) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- (d) When the period specified by the Council, referred to in rule 3(c), has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in rule 3(a)(i), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:

- (i) any amendments to the estimates or amounts that are included in any revised estimates or amounts
- (ii) the Cabinet's reasons for those amendments
- (iii) any disagreement that the Cabinet has with any of the Council's objections
- (iv) the Cabinet's reasons for that disagreement

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

- (e) Rules 3(a) to (d) shall not apply in relation to:
 - (i) calculations or substitute calculations which a Council is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992
 - (ii) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

4 Decisions outside the approved budget

- (a) Subject to the virement provisions, the Cabinet, staff, area committees or joint arrangements discharging executive functions may make decisions resulting in expenditure commitments only where they are within the approved budget.
- (b) Subject to 4 or 5 below, if the Cabinet, staff, area committees or joint arrangements discharging executive functions wish to make a decision which results in expenditure commitments outside the approved budget, then that decision can only be made by the Council.
- (c) If the Cabinet, staff or area committees want to make a decision which potentially is contrary to or not wholly in accordance with the approved budget, they must take advice from the Chief Finance Officer. If the advice from this officer is that the decision is contrary to or not wholly in accordance with the approved budget then the decision must be referred to Council for decision, unless the decision is a matter of urgency, in which case paragraph 5 shall apply (urgent decisions outside the budget).

5 Urgent decisions outside the budget

- (a) Having consulted with the Chief Finance Officer, the Cabinet and authorised members of staff may take a decision which is contrary to or not wholly in accordance with the budget if the decision is a matter of urgency.

However, the decision may only be taken if:

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

6 Virement

Detailed procedures for the exercise of virement are set out below and refer to permanent virements. The key relating points are:

- (a) There are no delegated powers to members to change budgets.
- (b) No member of staff has the authority to enter into expenditure commitments above the approved budget.
- (c) If, at any stage, there appears to be a significant (above £25,000) difference between anticipated actual expenditure or income and the budget, virement should be exercised within the service to resolve the issue.
- (d) Where the apparent overspend cannot be resolved within the service, the Head of Financial Services must be consulted immediately in order to consider what actions are necessary.

Revenue Virements

- (e) Individual virements within a Directorate will be permissible over £250,000 and up to and including £999,999 subject to the written confirmation of the relevant Executive Director, the Executive Director Finance & Planning and the Lead Member Finance and the appropriate Lead Member
- (f) Virements between Directorates over £250,000 and up to and including £999,999 will require a Cabinet decision
- (g) Any virement in excess of £1 million will require a Cabinet decision and will be a key decision requiring notification in the Forward Plan

- (h) All other virements within and between Directorates will be undertaken by staff and those in excess of £100,000 and up to £250,000 will be the reported in the Revenue Monitoring Report to Members.
- (i) Virements within and between Directorates under £100,000 require compliance with the Financial Framework and Financial Procedure Rules and the approval of the Executive Director Finance & Planning
- (j) Virements cannot be used for releasing any money out of the revenue contingency fund.

Capital virements

- (k) Individual virements between capital schemes are permitted as long as there are no policy issues involved in accordance with the procedures as set out in the Financial Framework and Financial Procedural Rules. Where funding can be found within a services own resources but there are policy issues involved then the virement is subject to the written confirmation of the Executive Director Finance & Planning and relevant Lead member
- (l) Where virements cannot be identified within the Service and the sum required is below 10% of the overall scheme value or £100,000 whichever is the higher the Executive Director Finance & Planning be authorised to approve the sum subject to the capital resources being identified and her being satisfied that there are no alternatives. In addition, the relevant Lead Member can by Lead Member Protocol authorise the virement if there are any policy issues involved.
- (m) Where virements cannot be identified within the Service and the sum required is above 10% of the overall scheme value or £100,000 whichever is the higher, the approval of Cabinet is required.

(NOTE: This requires a consequential amendment to paragraph 28 Part 3 Section 2

Both Capital and Revenue virements

- (n) The cumulative value of virements for the year should be considered when deciding whether the various thresholds have been reached. The Executive Director Finance & Planning will take the final decision as to whether a number of smaller virements need to be grouped together for threshold calculation purposes.

7 **(a) In year changes to budget**

Decisions by the Cabinet, staff, area committees or joint arrangements exercising executive functions can discharge only those executive functions that are within the approved budget. No changes to the approved budget, except within the scheme of virement set out at 6 above, can be made unless approved by the Council.

(b) Use of contingency funds

- (i) The Executive Director Finance & Planning may set up a central revenue contingency fund. There will only be one such fund for the entire Council.
- (ii) The Executive Director Finance & Planning is authorised to release sums from the contingency if
 - the amounts are not greater than £25,000 and the item is deemed by her as unforeseen and a relevant use of the contingency
 - where an item of expenditure has been approved by members subject to confirmation of the amounts involved
 - if the item is urgent (e.g. an emergency or threat to life) and there is insufficient time to consult with the Lead Member Finance
- (iii) The Lead Member Finance on a Lead Member Protocol can release all other sums from the contingency if
 - the item is deemed by the Executive Director Finance & Planning as unforeseen and a relevant use of the contingency
 - in consultation with the Executive Director Finance & Planning if the item is urgent (e.g. an emergency or threat to life)
- (iii) The Chief Executive has power to incur expenditure from the Contingency fund without any further approval in exercise of his powers under paragraph 3.2 of part 3 of the Constitution to incur expenditure in connection with an emergency or disaster within the borough.
- (iv) The Executive Director Finance and Planning will also provide for a level of contingency for capital projects and sums will be released in accordance with the capital virement rules.

(c) Future year's commitments to budget

- (i) Cabinet has delegated authority to make individual future years' commitments not provided for within the budget up to a total of £500,000 per financial year subject:
 - to information being included within the first available monthly Member Information pack following the decision which will show a cumulative review of decisions on future spending commitments made by Cabinet and Council respectively.
 - to a report to Council each year as part of the budget process setting out the individual sums
- (ii) Once the limit specified in (i) above is reached each and every item relating to commitments for future years needs the approval of Council

- (iii) Additional commitments that have been individually approved by the Council do not count towards the £500,000 limit for future year commitments but will be included in the yearly report referred to in (i) above.

(d) **Closedown of Accounts**

- (i) The Executive Director Finance and Planning will make arrangements to close the accounts in accordance with legislative arrangements, the overall strategy and her duties/powers as Chief Financial Officer
- (ii) The Lead Member Resources will consider and agree the setting up of any specific services earmarked reserves along with the arrangements for their use. **(NOTE: This requires a consequential amendment to Part 3, Section 2)**

8 Call-in decisions outside the budget framework

- (a) Where an overview and scrutiny committee is of the opinion that an executive decision is, or if made would be, contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Chief Finance Officer who in appropriate cases will consult with the Head of Paid Service and the Monitoring Officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the Chief Finance Officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the report and to prepare a report to Council in the event that the Chief Finance Officer concludes that the decision was a departure, and to the overview and scrutiny committee if the Chief Finance Officer concludes that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Chief Finance Officer is that the decision is contrary to or not wholly in accordance with the budget, the overview and scrutiny committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. At the meeting, the Council will receive a report of the decision or proposals and the advice of the Chief Finance Officer. The Council may either:
 - (i) endorse a decision or proposal of the executive decision taken as falling within the existing budget. In this case no further action is required, save that the decision of the Council must be minuted and circulated to all members in the normal way, or
 - (ii) amend the Council's budget to encompass the decision or proposal and agree to the decision or proposal with immediate effect. In this case, no further action is required save that the decision of the Council must be minuted and circulated to all members in the normal way, or

- (iii) where the Council accepts that the decision or proposal is contrary to or not wholly in accordance with the budget, and does not amend the existing budget to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of the Chief Finance Officer who in appropriate cases will consult with the Head of Paid Service and the Monitoring Officer.

9 Advice to Group Leaders in Budget preparation

- (a) During preparation of the budget or alternative budgets prepared by the opposition leading to the Council Tax Setting meeting, the Council's Executive Director Finance & Planning and/or relevant finance staff designated by her will give group leaders and/or their nominated Members such advice and assistance as the Executive Director Finance & Planning deems appropriate in connection with the preparation of the budget or alternative budget.
- (b) This information will be given in strictest confidence and staff will not copy other Members into the information. Members shall not share the paperwork or information provided outside the political group or outside the organisation.
- (c) The advice will specifically cover whether the proposals would allow the Chief Finance Officer to consider the budget to be balanced and the impact any proposals would have on Council balances in subsequent years.
- (d) The information will be treated as provided in the preparation of alternative budgets if provided with effect from 1st February up to and including the date of the Council Tax Setting Meeting, in any given year.

Appendix A

Financial framework: timetable for approving budget

- **November/early December**

The Cabinet will publish for advice and consideration with overview and scrutiny committees, area committees and local stakeholders as considered appropriate, detailed budget proposals.

- **January**

The overview and scrutiny committees, area committees and local stakeholders will respond to the Cabinet's proposals.

- **February**

In the light of comments from overview and scrutiny committees, area committees and local stakeholders and taking account of final Government announcements in respect of grant and borrowing allocations, the Cabinet will publish their recommended budget. The Cabinet's recommendations will include a scheme of virement to be exercised during the financial year in question.

- **By the statutory deadline**

Formal approval of the Council's budget, medium term financial plan and council tax, taking account of the notification of levies and receipts.



MEETING

DATE

ITEM

GOVERNANCE COMMITTEE

10 FEBRUARY 2005

12A

This report is submitted with the agreement of the Chairman as an urgent matter, pursuant to Section 100B(4) of the Local Government Act 1972

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: NINTH LONDON LOCAL AUTHORITIES BILL – second resolution

SUMMARY

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

RECOMMENDATION

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

RESOLVED

that the Resolution of this Council passed at a Meeting of the Council held on 13 October 2004 to promote a Bill in the present Session of

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Parliament, pursuant to which the Bills intituled "A Bill to confer further powers upon local authorities in London; and for related purposes"; "A Bill to confer further powers upon local authorities in London and upon Transport for London; and for related purposes" and "A Bill to provide for the prohibition of smoking in places of work in Greater London" have been deposited in Parliament, be and the same is hereby confirmed

REPORT DETAIL

1. At its meeting on 13 October Council adopted a resolution supporting the promotion of the Ninth Local Authorities Bill. A copy of the report considered by Council is attached. The resolution in the report was agreed by Council.
2. The Association of London Government (ALG) Leaders' Committee agreed to proceed with the Bill at a meeting in November 2004 and the Parliamentary procedures now require the London Boroughs to confirm their support for the Bill.
3. Further advice from the Parliamentary Agents has been adopted by the ALG and, accordingly, the Ninth Bill has been split into three. The transport proposals also affecting the powers of Transport for London are now to be promoted jointly by the Boroughs and TfL in a separate Bill. The provisions relating to the Prohibition of Smoking in Places of Work have also been extracted from the overall Bill and now been made the subject of a separate Bill. The provisions which are not in those two Bills and have not otherwise been subsequently removed from the list are now in the London Local Authorities Bill.
4. The **financial implications and risks, legal implications and risks, human resource implications and risks, and equalities and social inclusions implications and risks** remain as set out in the report to Council.

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STEPHEN EVANS
Chief Executive

Background Paper

Email from R. Kahn, ALG, dated 22.12.05.

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ANNEX



GOVERNANCE COMMITTEE

15 SEPTEMBER 2004

REPORT TO COUNCIL

NINTH LONDON LOCAL AUTHORITIES BILL

The ALG (through Westminster City Council) is promoting general powers legislation on behalf of London Boroughs following consultation with the Boroughs. This is similar to action that has been taken on eight occasions since 1986. Boroughs have been formally asked whether they wish to participate in the proposed legislation for the 2004/05 parliamentary session. If a Borough does not participate in the promotion of the Bill, it will not be included in the schedule listing participating Boroughs and, should the Bill become law, would not be able to use any of the provisions. The Bill is known as the London Authorities Bill.

It has been indicated that each participating Borough would need to make provision in the region of £12,000 to cover the ALG costs in promoting the Bill. This would be spread over several years.

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

- a) Be passed by a majority of a whole number of the members of the Council at a meeting of the Council held after 30 clear days notice of the meeting and its purpose has been given by advertisement in one or more local newspapers circulating in the areas of the Borough(s), such notice being given in addition to other ordinary notice required to be given for the convening of such a meeting of the Council. Due notice was placed by the ALG on 9 August in the London Evening Standard.

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

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

The Bill should be deposited by the end of November 2004. Consequently the first Council meeting mentioned in (a) above must be that of 13 October 2004. All London Boroughs have been included in the public notice in anticipation of their participation.

A list of the proposals for inclusion in the list is appended. The list includes several proposals (marked *) proposed on behalf of this Council.

Experience of previous Bills has shown that suggestions are likely to be made as the promotion deadline approaches, that some of the proposals will be controversial (and therefore difficult to enact) and others will not be suitable for private legislation. The ALG Leader's Committee would be able to come to a final view on which proposals to proceed with at its meetings in October and/or November 2004. The list has yet to be analysed by Parliamentary Agents, and their advice will be taken if a Bill proceeds on each item's suitability.

Financial Implications and risks:

The suggested costs, £12,000, would be met from the contingency. There is a risk that the Bill, or provisions that Havering supports, would not eventually pass onto law: expended funds would be irrecoverable.

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

Legal Implications and risks:

It is possible that the Bill will never pass onto law – but the first eight have reached the statute book, albeit without every one of the provisions originally listed.

Human Resources Implications and risks:

None direct associated with the promotion of the Bill.

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Equalities and Social Inclusion Implications and risks:

The ALG reports that any proposals in a new Bill would have to be carefully considered to ensure that they were in conformity with the statutory equalities duties applicable to the Association and member authorities. There are no equalities and Social Inclusion Implications associated with the promotion of the Bill.

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

“RESOLVED -

“That the Council approves the inclusion in the Bill being promoted by Westminster City under the name or short title of “London Local Authorities” of provisions effecting all or some of the following purposes -

- “(a) to make provision in respect of the control of portable advertisements; providing better powers to deal with fly posting and graffiti including powers of seizure and stronger penalties; making further provision about unauthorised advertisement hoardings; to provide for telephone call barring for numbers mentioned in unauthorised advertisements including those placed in telephone kiosks; strengthening Councils’ powers as regards the control of waste and the use of street litter control notices; prescribing how recyclable waste should be separated, enabling the making of standard regulations about the use of waste receptacles; charging for additional household waste collections; providing further powers to deal with waste on private land; strengthening and extending the law relating to litter including powers to deal with litter and waste in aquatic environments and dealing with littering from vehicles; controlling the use of civic amenity sites; dealing with waste transfer notes and licences; strengthening enforcement against fly-tipping; strengthening powers to deal with abandoned vehicles and providing powers to remove and dispose of nuisance and other vehicles; updating the law on intruder alarms; dealing with construction noise from underground stations; dealing with control of noise nuisance from street works; providing stronger powers to deal with noise nuisance; strengthening enforcement against illegal “near beer” premises; dealing with the display or possession for supply of R18 videos in unlicensed sex shops; allowing conditions relating to waste and litter to be attached to premises licences under the Licensing Act 2003; dealing with fees for premises and personal licences in London under that Act; increasing the number of members who can sit on licensing committees under that Act; enabling the provision of cleaning up conditions at licensed special events; dealing with charitable collections on the highway and public places; amending the law relating to street trading including dealing with

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shop forecourts, bridges over the Thames and the South Bank; introducing the licensing of proprietary clubs; altering the law relating to the licensing of special treatment premises, to include dealing with nail art, mobile premises, and premises under the Registered Homes Act; dealing with bicycle rickshaws or pedicabs; amending and extending the law relating to parking and parking enforcement including dealing with repeat offenders, and with motorcycles on the footway; dealing with cycling on the pavement; dealing with abandoned bicycles and other bicycles left in public places; dealing with filming on the highway and in open spaces and making further provision about filming in London; dealing with chairs and tables and other things placed on the highway including the making of additional charges; altering the law relating to overhanging vegetation on the highway; providing exemptions from traffic restrictions for waste collection and road sweeping vehicles; making further provision about vehicle crossovers and driving off the carriageway; removal of articles attached to street furniture and other objects on or abutting the highway; removal of disused telephone kiosks and other disused apparatus and street furniture; the decriminalisation of low emission zone enforcement; stopping vehicles for emissions testing; enabling Councils to provide "wi-fi" technology; providing for the registration of second-hand dealers; providing for the control or prohibition of smoking in public places or the work place; the provision of consumer advice; altering the concessionary fares scheme; the registration of businesses who provide mail forwarding services; enabling Councils to obtain the names and addresses of people whose telephone numbers are publicised in connection with unlawful activity, including unlawful street trading of vehicles; further decriminalisation of offences prosecuted by local authorities and the introduction of a penalty charge notice regime akin to parking; extending Councils' powers to serve fixed penalty notices to include offences not currently covered; delegating the issuing of fixed penalty notices and further flexibility in relation to fixed penalty notices procedures, including provision for early payment and service of notices on those aged 16 and above; sharing of information to combat benefit fraud and for other purposes; co-operation on pension fund management; altering the London Boroughs Grant Scheme; altering the planning cycle on schools admission; amending the law relating to pipe subways; extending Councils' powers to charge for services; enabling zoning powers within which higher fines can be imposed in relation to certain offences; the change of use of residential property under Town and Country Planning law; enabling schemes of information to be provided; authorising the disturbance of human remains to enable existing graves to be used for further interments; implementing security arrangements in housing estates; strengthening the law relating to short-term letting; providing for the registration of persons able to accept service of notices on behalf of landlords; (in the case of the London Borough of Camden) removing restrictions on the placing of temporary structures in Lincoln's Inn Fields; the regulation of bonfires; the further regulation of use of fireworks; the control of storage

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or use of acetylene cylinders; further powers to deal with abandoned shopping trolleys and luggage trolleys; allowing charging for discretionary services; relaxing VAT partial exemption restrictions on Councils; removing certain existing capital finance restrictions on Councils; enabling Councils to provide services to a wider market; relaxing requirements relating to tramlines in the road; dealing with overgrown vegetation and other unsightly material on private premises; strengthening the law relating to spitting in public places; further regulating the location of telecommunications masts and base stations to ensure telecommunications operators share sites; and to strengthen planning law relating to the siting of masts; mandatory consultation by water companies with Councils about mains water pressure; enabling charging for the reinspection of premises under certain statutory regimes; making minor amendments to the London Local Authorities and Transport for London Act 2003 and other local legislation; removing the requirement to provide signs indicating the overnight parking ban for commercial vehicles; extending Councils' powers to make byelaws; enabling Councils to impose a local levy on plastic bags, takeaway food packaging, chewing gum and cigarette packet wrappers; to alter powers of entry of Council officers, particularly those of trading standards officers; to enable Courts to make orders to disqualify persons from holding company directorships if repeatedly found guilty of certain offences relating to the degradation of the amenity of an area or the unlawful sale of products to underage persons; enabling councils to gate off nuisance alleyways and passages and enabling Councils to collaborate further in the provision of services;

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

Appendix 1**Extract of possible provisions as listed in a report to the ALG Leaders' Committee 15.7.04**

(Note - the proposals are IN DRAFT ONLY and subject to further analysis and consideration; those proposed by Havering are marked *)

Proposal	Initial Comments
Abandoned vehicles	Further powers to deal with abandoned vehicles
Provision of enforcement control in respect of rickshaws	Due to safety and other concerns
"Near beer" bars	Powers to close so-called "hostess bars"
Enforcement control of hand held advertisements	Eg Golf Sale, Turn Left, Rug Sale, Turn Right.
Trade refuse	Decriminalisation of trade refuse littering offences and apply a regime similar to the parking regime
Parking enforcement	Power to clamp vehicles (especially motorcycles) not displaying or with covered/removed index plates; powers to enforce against illegal parking on footways
Sex shops	Amend the Video Recordings Act 1984 to make it an offence to display R18 videos in unlicensed sex shops (currently limited to "supply" and "offers for supply")
Registration of business addresses with the local authority	Many businesses "hide" behind PO box numbers making regulatory enforcement/tracing difficult
Further decriminalisation measures	Further decriminalisation of offences and moving to fixed penalties; especially in the traffic / environmental spheres
Fly-posting	Powers to seize posters and equipment used in commission of fly-posting (possibly based on current London street trading legislation); increase penalties; removal of further loopholes such boroughs not having the power to ask to see 'arrangements for waste disposal'; tightening up of legal defences, closing the loophole in the current legislation that allows the

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companies responsible to simply cover previous posters with new posters, which causes a build up of posters and a worsening problem rather than a remedy. Further powers to take action against the company advertised, rather than just the “displaying” company.

Graffiti	Amend section 12 of the LLA 1995 to reduce notice period for removal of graffiti from 14 days to 5-7 days. Further enacting an indemnity regime to protect councils from resulting legal action.
Waste	A provision to stop commercial premises from using private forecourts to deposit waste as this is detrimental to the street environment; removal of some traffic restrictions on street cleansing and refuse collection; powers to allow camera technology to be used
Fly-tipping	Powers to seize vehicles used in commission of fly-tipping (possibly based on current London street trading legislation); Amendment of s.59 of the Environmental Protection Act 1990 to close the loophole in Section 3a which, states that “the court shall quash the requirement if it is satisfied that the appellant neither deposited nor knowingly caused nor knowingly permitted the deposit of the waste” a clause easily exploited.
* Fraud	Further powers for local authorities to share information to combat fraud
Construction noise from underground stations	Further powers for authorities to require reasonable remedial action in respect of underground station construction/works noise - often carried out late at night
* Pension Funds	Powers to co-operate on pension fund management
* Concessionary fares	Greater freedom to implement the scheme upon notice
* London Boroughs Grants	Greater freedom for the scheme
* Planning cycle on schools admissions	Changes and greater flexibility
Banning smoking in	Likely to be controversial

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enclosed public places	
Controls on second hand dealers	Based on the Nottingham City Council Act 2003 precedent
Recycling facilities in multiple occupation accommodation	Eg mansion blocks and the like. Powers to prescribe to residents how waste is to be separated for collection and re-cycling and place Managing Agents under an obligation to provide separate receptacles for different kinds of waste
Bicycles	Further powers of removal of bicycles chained to railings, lamp posts etc. Indemnity to boroughs against claims for damages to chains.
Waste collection	Optional powers for authorities to carry out removal of excessive amounts of household waste by extra weekly collections and the ability to charge for such an additional service.
Amendments to the GLA Act to allow the budget to be amended by simple majority of the London Assembly	Government almost certain to block.
Pipe subways	Various changes to the pipe subways charging regime.
Further powers to re-charge for a borough's service.	For example, in the case of where a Street Litter Cleansing Notice is issued to a business, but action is not forthcoming, then the borough should have the ability to undertake the necessary work to clean up the environment, but then they must have the ability to be reimbursed for undertaking the responsibility.
Further powers to inspect waste transfer licences	Boroughs to be given commensurate powers to the Environment Agency; powers for boroughs to set standard regulations controlling waste storage and collection facilities; further fixed penalty offences
Zoning powers for enforcement action	The flexibility to allow higher environmental fines and penalties to be set in particularly sensitive or affected areas e.g. children playgrounds. Local authorities would have to be careful to avoid confusing the public and would need to use zones only in a clearly defined area,

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have a clear strategic justification, be properly consulted and publicised.

Extension of descriptions of land in the Street Litter Control Notices Order 1991

It is felt that the definitions need to be extended and clarified to cover more types of premises. An option proposed is for no definition, allowing the boroughs to issue SLCN where it deems appropriate, provided the authority can demonstrate there is a regular problem caused by a specific situation. SLCNs should cover more land types and not just be applied against businesses e.g. householders with continuous accumulated waste. Reduction of the time limit to 21 days from 42; powers for Licensing Cttes to consult on litter-related issues

Further powers to delegate the issue of fixed penalty notices to contractors

Mirrors and extends proposals in the current Bill.

Further flexibility on the use of proceeds for fixed penalty notices

Introduction, e.g. of early payment options.

Noise

Make provisions that occupiers of residencies with burglar alarms must register with the local police.

Change of use

In the case of a person changing the use of land on residential property must seek planning permission before doing.

Information

That the London Boroughs have powers for a Scheme of Information.

Allocation of graves

Proposed by the Corporation of London for applicability in the City

Change the legal framework for filming etc in London to the advantage of both boroughs and film companies

Based on joint work between boroughs and Film London

Street trading

Consequential amendments to the 2004 Act. Further

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	amendments to the regime around former shop premises being used for unlawful trading; re-definition of licensing exemptions for news vendors and changes to conditions; further powers to deal with bridges
Prostitutes' cards	Further powers to deal with this
Consumer advice	Provision for provision of consumer advice within trading standards
Cycling on the footway	Powers for boroughs to enforce via fixed penalty notices
Security on housing estates	Powers for authorities to implement security arrangements
Al Fresco chairs and tables	Amendments to the charging scheme under the Highways Act 1990
Removal of overhanging vegetation	Powers to remove where this obscures road signs
Increased enforcement powers in respect of property agents letting "short term lets".	
Register of persons able to accept service of notices on behalf of landlords.	

Appendix 2**Indicative Timetable**

The proposed timetable for progressing the Bill is as follows:

2004**July – November**

Consultation with Government departments and other interested bodies

August

Publication of an advert in the Evening Standard giving notice of the date of the Council meetings at which participation in the Bill will be discussed

September/October/November

ALG authorities consider resolutions in full council to agree to participate in promoting the Bill

October- November

The draft Bill is circulated to ALG authorities for comments

9 November 2004

Leaders' Committee gives final approval to the Bill's contents

27 November 2004

The Bill is deposited in Parliament

December - January

ALG authorities consider the second resolution to confirm participation in the Bill