



**Havering**  
L O N D O N   B O R O U G H

# **COUNCIL CONSTITUTION**

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**LONDON BOROUGH OF HAVERING**

**COUNCIL CONSTITUTION**  
**Version updated 1 April 2025**

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**PART 1                      SUMMARY OF THE CONSTITUTION**

The following definitions are used in this constitution.

<b>1972 Act</b>	the Local Government Act 1972.
<b>Annual Council</b>	the first meeting of Full Council in each municipal year.
<b>Borough</b>	the geographical area known as the London Borough of Havering.
<b>Cabinet</b>	the executive decision making body of the Council comprising the Leader and the Cabinet Members.
<b>Cabinet Member</b>	the individual member of the Cabinet to whom the Leader has assigned a portfolio or otherwise delegated authority to act in relation to that matter.
<b>Chair</b>	the designated chair of any committee or sub-committee of the Council.
<b>Chief Executive</b>	the Chief Executive of the Council (and any reference to the Head of Paid Service within this Scheme or the constitution shall be a reference to the Chief Executive).
<b>Chief Officers</b>	the Chief Executive, the Strategic Directors, the Director of Public Health, the Director of Children's Services, the Director of Adult Social Services and the Monitoring Officer.
<b>Code of Conduct</b>	the code of conduct for Members found at part 5 of this constitution.
<b>Committee</b>	Any committee, sub-committee or board of the Council.
<b>Council</b>	the council of the London Borough of Havering
<b>Councillors</b>	elected councillors of the Council (and a reference to a <b>Member</b> shall be construed as being a reference to a Councillor). Any reference to a member includes a co-opted member (that is a member who is not a member of the Council but who is entitled to attend the committee or sub-committee on which they sit and may have voting rights).
<b>Councillor Calls for Action</b>	As defined in the Overview and Scrutiny Procedure Rules.

<b>CPR</b>	The contract procedure rules as set out in part 4.4 of this constitution.
<b>Deputy Chief Officers</b>	Officers who for all or most of their duties report directly to or are directly accountable to a Chief Officer.
<b>Deputy Leader</b>	the Councillor appointed by the Leader to be his / her deputy.
<b>ELT</b>	the executive leadership team comprising Officers as determined by the Chief Executive from time to time.
<b>Executive</b>	the Leader and Cabinet together.
<b>Forward Plan</b>	A document containing details of the key decisions likely to be made by the Council for the four-month period following publication of the Forward Plan.
<b>Full Council</b>	a meeting of the full membership of the Council.
<b>Governance Committee</b>	the governance committee as appointed by Full Council.
<b>Group Leaders</b>	the nominated leaders of any political grouping within Full Council from time to time.
<b>Honorary Award</b>	the Freedom of the Borough or Alderman / Alderwoman.
<b>Joint Committee</b>	Those committees listed at paragraph 2.8 of Part 3.2 of the constitution.
<b>Leader</b>	the Leader of the Council.
<b>Local Plan</b>	a plan setting out the vision and a framework for the future development of the Borough as prepared by the Council in its role as local planning authority.
<b>Mayor</b>	the first citizen of the Borough as elected by Full Council from year to year.
<b>Monitoring Officer</b>	the designated monitoring officer of the Council.
<b>Nolan Principles</b>	Otherwise known as the Seven Principles of Public Life which are: 1 Selflessness. 2 Integrity. 3 Objectivity. 4 Accountability. 5 Openness. 6 Honesty. 7 Leadership.

<b>Officers</b>	officers / members of staff of the Council (and a reference to <b>Staff</b> shall be construed as being a reference to Officers)
<b>Ombudsman</b>	the relevant ombudsman responsibility for the oversight of specific Council functions, including the Local Government and Social Care Ombudsman and the Housing Ombudsman.
<b>Policy Framework</b>	means the following plans and strategies (which are statutory, except where shown otherwise): <ul style="list-style-type: none"> <li>• Documents that together make up the Development Framework</li> <li>• Licensing and Gambling Authority Policy Statement</li> <li>• Youth Justice Plan</li> <li>• Corporate Plan (non-statutory)</li> <li>• Crime and Disorder Reduction Partnership Strategy</li> <li>• A plan or strategy for the control of the authority's borrowing, investments or capital expenditure</li> </ul>
<b>Proper Officer</b>	The officer appointed by a local authority to carry out certain administrative functions as required by statute the particulars of which are set out in part 3, section 6 of this constitution.
<b>Scheme</b>	the scheme of delegations at Part 3, Section 3 of the constitution.
<b>Strategic Directors</b>	the Strategic Directors of Resources, Place and People collectively (any reference to a Strategic Director should be construed accordingly.)
<b>Statutory Officers</b>	Those posts as detailed in Article 8, 8.01(c).
<b>Town Hall</b>	the main offices of the Council at Town Hall, Main Road, Romford, RM1 3BB

**This document is produced in accordance with the requirements of the Local Government Act 2000 (Constitutions) (England) Direction 2000.**

## **1. The Council's constitution**

- 1.1 The Council has a constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that decisions are properly made and are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others have been decided by the Council itself.
- 1.2 The constitution is divided into 12 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

## **2. What's in the constitution?**

- 2.1 Article 1 of the constitution commits the Council to deliver its priorities under the corporate plan, and to provide clear community leadership in partnership with local people, partners, businesses and others with a stake in the wellbeing of the Borough. The rest deal with:
  - (a) Members of the Council (Article 2)
  - (b) Citizens and the Council (Article 3)
  - (c) The Council and the Mayor (Article 4)
  - (d) The Executive – Leader of the Council and Cabinet (Article 5)
  - (e) Overview and Scrutiny (Article 6)
  - (f) Joint arrangements (Article 7)
  - (g) Officers (Article 8)
  - (h) Decision making (Article 9)
  - (i) Finance, contracts and legal matters (Article 10)
  - (j) Review and revision of the constitution (Article 11)
  - (k) Suspension, interpretation and publication of the constitution (Article 12).

### **3. How the Council operates**

- 3.1 Councillors are democratically accountable to the residents of their electoral ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
- 3.2 Councillors have to comply with the Code of Conduct to ensure high standards in the way they undertake their duties.
- 3.3 All Councillors meet together as the Full Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies, and set the budget each year. The Council elects a Leader, who then appoints a Deputy Leader and between two and eight other members who together with the Leader form the Cabinet. The Leader and Cabinet are responsible for implementing the policies decided by Full Council within the Budget. Functions of the Cabinet and individual Cabinet Members are decided by the Leader. The Council is required by law also to appoint Overview and Scrutiny Committees to assist in policy formulation and to hold the Cabinet / Executive to account for its performance.

### **4 How decisions are made**

- 4.1 The Executive is accountable for most day-to-day decisions of the Council. The Executive is made up of the Leader and the Cabinet. The Leader is elected by Full Council and is responsible for arranging for the exercise of all executive functions. The Leader appoints the Cabinet.
- 4.2 When major decisions are to be discussed or made, these are published in the Forward Plan. If these major decisions are to be taken at a meeting of the Executive, the meeting will be open for the public to attend except where personal or confidential matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the Budget or Policy Framework, this must be referred to the Full Council to decide.
- 4.3 While most decisions are taken by the Executive (i.e. by or on behalf of the Leader, Cabinet or an individual Cabinet Member), some important decisions are also taken by Full Council, or by its committees and sub-committees.

### **5. Overview and Scrutiny**

- 5.1 There are two Overview and Scrutiny Sub-Committees which support the work of the Overview and Scrutiny Board, the Executive and the Council as a whole. They have statutory powers to report and make recommendations

which advise the Executive and the Council as a whole on its policies, budget and service delivery. Overview and Scrutiny Sub-Committees also monitor the decisions of the Executive. The Overview and Scrutiny Board, and the two Sub-Committees, can “call-in” a decision which has been made by the Executive but not yet implemented. This enables it to consider whether the decision is appropriate. It may recommend that the Executive reconsider the decision. It may also be consulted by the Executive or the Full Council on forthcoming decisions and the development of policy.

- 5.2 The Overview and Scrutiny Board, and its sub-committees, also deal with Councillor Calls for Action and have the power to scrutinise a number of partner agencies in relation to matters concerning the National Health Service and crime and disorder.

## **6. Health and Wellbeing Board**

- 6.1 The Council’s Health and Wellbeing Board is a committee that includes NHS representatives as well as Councillors and Officers. The Borough’s local Healthwatch organisation is also represented. The Health and Wellbeing Board works towards ensuring people in the Borough have services of the highest quality which promote their health and wellbeing and to narrow inequalities and improve outcomes for local residents.

## **7. Other Committees**

- 7.1 The Council also appoints a number of other committees to undertake functions on its behalf that cannot be undertaken by the Executive.

## **8. The Council’s Officers**

- 8.1 The Council has Officers to give advice, implement decisions and manage the day-to-day delivery of its services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between Officers and Councillors.

## **9. Citizens’ rights**

- 9.1 Citizens have a number of rights in their dealings with the Council. Some of these are legal rights, while others depend on the Council’s own processes.
- 9.2 Citizens have the right to:
  - (a) vote at local elections if they are registered
  - (b) contact their local Councillor about any matters of concern to them

- (c) obtain a copy of the constitution
- (d) attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed
- (e) petition to request a referendum on a mayoral form of Executive
- (f) find out, from the Forward Plan, what major decisions are to be discussed by the Executive or decided by the Executive or Officers, and when
- (g) attend meetings of the Executive where key decisions are being discussed or decided except where, for example, personal or confidential matters are being discussed
- (h) see reports and background papers except those containing personal or confidential information, and any record of decisions made by the Full Council and Executive
- (i) complain to the Council about any aspect of the Borough's services using the Council's formal complaints systems
- (j) complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should do this only after using the Council's own complaints process
- (k) complain to the Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Code of Conduct, and
- (l) inspect the Council's accounts and make their views known to the external auditor.
- (m) Inspect the Register of Members' Interests

9.3 Where members of the public use specific Council services, for example as a parent of a school pupil or as a Council tenant, they may have additional rights. These are not covered in this constitution.

9.4 The Council welcomes participation by its citizens in its work. A statement of the rights of citizens to inspect agendas and reports and attend meetings is available.



**PART 2                      ARTICLES OF THE CONSTITUTION**

## **Article 1: The constitution**

### **1.1 Purpose of the Constitution**

1.1.1 The purpose of the constitution is to set the framework within which the Council operates and in particular to:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, partners, businesses and other organisations
- (b) support the active involvement of citizens in the process of local authority decision-making
- (c) help Councillors represent their constituents more effectively
- (d) enable decisions to be taken efficiently and effectively
- (e) create a powerful and effective means of holding decision-makers to public account
- (f) ensure that no person will review or scrutinise a decision in which he or she was directly involved
- (g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions
- (h) provide a means of improving the delivery of services to the community.

### **1.2 Interpretation and review of the constitution**

1.2.1 Where the constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

1.2.2 The Council will monitor and evaluate the operation of the constitution as set out in Article 11.

## **Article 2: Members of the Council**

### **2.1 Composition and eligibility**

- 2.1.1 The Council comprises 55 members, otherwise called Councillors. Two or three Councillors are elected by the voters of each electoral ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- 2.1.2 Only those individuals who can satisfy the criteria as set out in s.79 of the 1972 Act are eligible to hold the office of Councillor.
- 2.1.3 The regular election of Councillors is held on the first Thursday in May every fourth year from 2002. The terms of office of Councillors start on the fourth day after being elected and finish on the fourth day after the date of the next regular election.
- 2.1.4 Vacancies in the office of Councillor are filled by a by-election; those elected at a by-election hold office until the fourth day after the date of the next regular election. (Note - if a vacancy occurs in the six months before the date on which that Member would have retired, an election is not to be held, unless more than one third of the Council's seats are vacant.)

### **2.2 Roles and functions of all Councillors**

- 2.2.1 All Councillors will:
  - (a) collectively be the ultimate policy-makers;
  - (b) contribute to the good governance of the Borough and actively encourage community participation and citizen involvement in decision making;
  - (c) participate in the governance and management of the Council
  - (d) effectively represent the interests of their constituents, fairly, impartially and without unlawful discrimination;
  - (e) maintain the highest standards of conduct and ethics.
- 2.2.2 Councillors will have such rights of access to documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

- 2.2.3 Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it.

For these purposes, “confidential” and “exempt” information are defined in the Access to Information Procedure Rules in Part 4 of this constitution.

## **2.3 Champions**

- 2.3.1 The Council has established six positions to act as and be a Champion:

- (a) Champion for the Armed Forces
- (b) Champion for Equalities and Diversity
- (c) Champion for Historic Environment
- (d) Champion for the Over Fifties
- (e) Champion for the Voluntary Sector
- (f) Champion for the Young People

- 2.3.2 Such appointments are made at Annual Council.

- 2.3.3 In relation to the issues for which they are responsible, the Champions shall be required to report annually to Council, shall have the right to report to Council or to Cabinet at any ordinary meeting and may be questioned at an ordinary meeting of the Council by any member.

## **2.4 Conduct**

- 2.4.1 Councillors will at all times observe the Nolan Principles, the Members’ Code of Conduct (which seeks to embody the Nolan Principles), the Protocol on Member/Officers Relations, the Protocol on Probity in Planning matters and the Protocol on Gifts and Hospitality set out in Part 5 of this constitution.

## **2.5 Allowances**

- 2.5.1 Councillors are entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 6 of this constitution.

## **Article 3: Citizens and the Council**

### **3.1 Citizens' rights**

3.1.1 Citizens have the following rights: (Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part 4 of this constitution.)

- (a) Citizens on the electoral roll for the area have the right to vote and to sign a petition to request a referendum for an elected mayor.
- (b) attend meetings of the Council, Cabinet and its Committees except any part where confidential or exempt information is likely to be disclosed<sup>1</sup>
- (c) find out from the Forward Plan what key decisions will be taken by the Executive (or Officers), and when
- (d) see reports and background papers, and any records of decisions made by the Council and the Executive except any part which includes confidential or exempt information
- (e) inspect the Council's accounts and make their views known to the external auditor.
- (f) Citizens have the right to complain to:
  - (i) the Council itself under its complaints scheme
  - (ii) the Ombudsman
  - (iii) the Monitoring Officer if they consider that a Member has acted in breach of the Code of Conduct.

3.1.2 Overview and Scrutiny Sub-Committees and other committees may invite Citizens to:

- (a) contribute to their investigations
- (b) speak at their meetings.

3.1.3 Public rights in respect of participation at the Strategic Planning Committee and the Planning Committee are set out in the Planning Procedure Rules in Part 4 of this Constitution.

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<sup>1</sup> Whilst members of the public are generally allowed to attend Council meetings, the meetings are not public meetings in the strict sense.

## **Article 4: Full Council and the Mayor**

### **4.1 Functions of Full Council**

4.1.1 Only Full Council will exercise the following functions:

- (a) adopting and changing the constitution
- (b) approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of any housing land transfer
- (c) subject to the urgency procedure contained elsewhere in this constitution, making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the Budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget
- (d) appointing the Leader and the Mayor
- (e) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them
- (f) adopting an allowances scheme under Article 2.5
- (g) changing the name of the area of the Borough or conferring an Honorary Award.
- (h) confirming the appointment and dismissal of the Head of Paid Service
- (i) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills
- (j) the decision to introduce or revise a council tax reduction scheme
- (k) agreeing council tax discounts and exemptions
- (l) adoption or amendment of the Code of Conduct
- (m) approving the annual pay policy statement
- (n) resolution to make a change in governance arrangements of the Council (which shall require two thirds majority of those present and voting at the meeting)

- (o) all local choice functions set out in Part 3 of this constitution which Full Council decides should be undertaken by itself rather than the Executive
- (p) all other matters which, by law, must be reserved to Full Council.

## **4.2 Council meetings**

4.2.1 There are four types of Council meeting:

- (a) annual meetings
- (b) ordinary meetings
- (c) council tax and budget setting meetings
- (d) extraordinary meetings

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this constitution.

## **4.3 Role and function of the Mayor**

4.3.1 The Mayor is elected at the Annual Council from among its members. The Mayor is the civic and ceremonial head of the Council. The Mayor appoints the Deputy Mayor.

4.3.2 The Mayor and, in his or her absence, the Deputy Mayor will have the following roles and functions:

- (a) To uphold and promote the purposes of the constitution and, when chairing the Full Council meeting, to interpret the constitution when necessary
- (b) To promote public interest in the Council's activities.
- (c) To attend civic and ceremonial functions
- (d) To represent the Borough as first citizen unless at any event where the Lord Lieutenant or the Monarch is in attendance.

4.3.3 The Mayor, or such other member chosen in accordance with Council Procedure Rule rule 2 (a)), shall have the following roles and functions:

- (a) To preside over meetings of Full Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community.
- (b) As Chair of the meeting, to ensure that the Full Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Cabinet are able to hold the Cabinet to account.

#### **4.4 Committees of the Council**

- 4.4.1 Full Council will appoint Committees and sub-committees, with the membership arrangements shown in the Table appended to this Part 2. The full functions of each are set out in Part 3 of this constitution.
- 4.4.2 Full Council is required – with a few exceptions – to make appointments to Committees in accordance with the principles of political balance. The number of Members' seats on each committee shown in the table may be varied by resolution of Full Council in order to achieve political balance.

#### **4.5 Responsibility for functions**

- 4.5.1 Full Council will maintain the tables in Part 3 of this constitution, which set out the responsibilities for those functions of the Council that are not the responsibility of the Executive



## **Article 5: The Executive – Leader of the Council and Cabinet**

### **5.1 Leader of the Council**

5.1.1 The Leader is responsible for arranging for the exercise of all executive functions.

5.1.2 The Council will elect a Councillor to the position of Leader of the Council. The Leader will hold office for a term of four years from the Annual Council meeting until the day on which the next post-election Annual Council meeting is held or until:

- (a) he or she resigns from the office, or
- (b) he or she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he or she may resume office at the end of the period of suspension), or
- (c) he or she is no longer a Councillor, or
- (d) he or she is removed from office by resolution of Full Council.

### **5.2 Cabinet**

5.2.1 The Leader will appoint a Cabinet, which will consist of between two and nine Councillors, one of whom will be Deputy Leader. If the Leader appoints or removes a member of the Cabinet he or she shall notify the Proper Officer of the appointment or removal

### **5.3 Deputy Leader**

5.3.1 The Leader is required to appoint a Deputy Leader who shall hold office until the end of the term of office of the Leader or until:

- (a) he or she resigns from office
- (b) he or she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he or she may resume office at the end of the period of suspension), or
- (c) he or she is no longer a Councillor, or
- (d) he or she is removed from office by the Leader

5.3.2 Where a vacancy occurs in the office of Deputy Leader the Leader must appoint another person in his place.

5.3.3 The Deputy Leader must act in the Leader's place if at any time the Leader is unable to act or the office of Leader is vacant.

#### **5.4 Other Cabinet members**

5.4.1 Other Cabinet members shall hold office until:

- (a) they resign from office, or
- (b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension), or
- (c) they are no longer Councillors, or
- (d) they are removed from office by the Leader.

5.4.2 If for any reason the Leader or Deputy Leader are unable to act or the office(s) is vacant then the Cabinet Members collectively must act in the Leader's place or must arrange for a member of the Cabinet to act in his / her place.

#### **5.5 Proceedings of the Executive**

5.5.1 Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this constitution.

#### **5.6 Allocation of portfolios and executive functions**

5.6.1 The portfolios and functions of individual Cabinet Members will be allocated by the Leader.

5.6.2 The Leader will give notice in writing to the Proper Officer, and maintain a list, setting out which individual members of the Cabinet, Committees, Officers or joint arrangements are responsible for the exercise of particular executive functions.

## **Article 6: Overview & Scrutiny**

### **6.1 Areas of responsibility**

- 6.1.1 Full Council will appoint an Overview and Scrutiny Board to discharge, together with Overview and Scrutiny Committees (known as subcommittees), the functions conferred by section 21 of the Local Government Act 2000 (or regulations made under section 32 of the Local Government Act 2000), the National Health Service Act 2006, the Police & Criminal Justice Act 2006 and the Local Government & Public Involvement in Health Act 2007 and any other relevant legislation from time to time.

### **6.2 Overview & Scrutiny activities**

- 6.2.1 Section 21 of the Local Government Act 2000 sets out the powers and functions of the Overview and Scrutiny Board and Sub-Committees, which are dealt with more fully in Part 3, section 1.4.
- 6.2.2 Overview and Scrutiny Sub-Committees must report annually to the Overview and Scrutiny Board on their workings and make recommendations for future work programmes and amended working methods if appropriate. The Overview and Scrutiny Board is required to report annually to Full Council.

### **6.3 Proceedings of Overview and Scrutiny Committees**

- 6.3.1 Overview and Scrutiny Sub-Committees and the Overview and Scrutiny Board will conduct their proceedings in accordance with the Committee and Overview & Scrutiny Procedure Rules set out in Part 4 of this constitution.

### **6.4 Joint scrutiny of health service**

- 6.4.1 The Health Overview & Scrutiny Sub-Committee is authorised pursuant to Regulation 28 of the Local Authority (Public Health, Health, Wellbeing and Health Scrutiny) Regulations 2013 to establish together with the Health Overview & Scrutiny Committees or equivalent of one or more other local authorities a Joint Overview & Scrutiny committee.
- 6.4.2 Any such joint overview & scrutiny committee shall have such terms of reference, and shall exist for so long, as the appointing Overview & Scrutiny Committees may agree.

## **Article 7: Joint arrangements**

### **7.1 Joint arrangements for the exercise of functions**

- 7.1.1 The Council may establish joint arrangements with one or more local authorities for the exercise of non-executive functions. Such arrangements may involve the appointment of a joint committee with those other local authorities.
- 7.1.2 The Leader may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- 7.1.3 Except as set out below, the Leader may appoint only Cabinet Members to a joint committee and those Members need not reflect the political composition of the local authority as a whole.
- 7.1.4 The Leader may appoint non-executive Members to a joint committee that has functions for part only of the Borough, provided that the part in question is smaller than two-fifths of the Borough by area or population. In such cases, the Leader may appoint to the joint committee any Councillor who is a member for a ward which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.
- 7.1.5 The Leader may appoint non-executive Members to a joint committee where the joint committee is discharging functions in relation to 5 or more authorities. The political balance requirements do not apply to such appointments.

## **Article 8: Officers**

### **8.1 Management structure**

- 8.1.1 The Council may engage such Officers as it considers necessary to carry out its functions.
- 8.1.2 The Chief Executive shall determine which Officers shall comprise ELT from time to time. As at the date of this document, ELT comprises of the Chief Executive and the Strategic Directors.
- 8.1.3 The Council has designated the following statutory posts to the following roles as at the date of this document

<b>STATUTORY DESIGNATION</b>	<b>HAVERING COUNCIL POST</b>
Head of Paid Service	Chief Executive
Monitoring Officer	Deputy Director for Legal and Governance
Section 151 Officer	Strategic Director of Resources
Director of Adult Social Services	Strategic Director of People
Director of Children's Services	Director of Living Well
Scrutiny Officer	Assistant Director of Insight, Policy and Strategy
Director of Public Health	Director of Public Health

### **8.2 Duty to provide sufficient resources to the Monitoring Officer and the Strategic Director of Resources**

- 8.2.1 The Council will provide the Monitoring Officer and the Strategic Director of Resources with such staff, accommodation and other resources as are in those Officers' opinion sufficient to allow their duties to be performed.

### **8.3 Other Officers**

- 8.3.1 The Chief Executive will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. This description is set out in Part 7 of this constitution.
- 8.3.2 The recruitment, selection and dismissal of Officers will comply with the Staff Employment Procedure Rules set out in Part 4 of this constitution
- 8.3.3 Officers will comply with the Staff Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this constitution

## **Article 9: Decision making**

### **9.1 Responsibility for decision making**

- 9.1 The Council and/or the Leader, as appropriate, will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this constitution.

### **9.2 Principles**

- 9.2.1 All decisions will be made:

- (a) proportionately (meaning that the action must be proportionate to the desired outcome)
- (b) after due consultation and the taking of professional advice
- (c) with respect for human rights as set out in the Human Rights Act 1998 and having regard to the Council's public sector equality duty.
- (d) with the presumption in favour of openness
- (e) with clarity of aims and desired outcomes
- (f) after due consideration for the interests of residents and other stakeholders, and
- (g) in accordance with the Policy Framework.

- 9.2.2 Decisions will be recorded in an appropriate manner. The record of executive decisions will provide an explanation of the options considered in making the decision and will give the reasons for the decision.

### **9.3 Executive Decisions**

- 9.3.1 "Executive decisions" are those that are required to be taken by the Leader or in accordance with delegations agreed by the Leader to Cabinet, to individual members of the Cabinet or to specific Officers.
- 9.3.2 Decisions made by the Health and Wellbeing Board are also Executive Decisions as this is a statutory executive committee.

## **9.4 Non Executive Decisions**

- 9.4.1 Decisions that are not executive decisions shall be taken by Full Council, by a Committee to which Full Council has delegated power to act on its behalf, or by specific Officers to whom powers have been delegated. In reaching such decisions, Officers to whom powers have been delegated may consult the Chair of the relevant Committee where to do so is expedient, and shall do so where an earlier decision so requires.

## **9.5 Referral of decision making to higher authority**

- 9.5.1 An individual or body to whom power to make a decision has been delegated may decline to make that decision and refer it for decision by the relevant Committee, Cabinet Member, the Leader or by Full Council as appropriate.
- 9.5.2 Decisions of the Health and Wellbeing Board cannot be referred to other parts of the Council, i.e. Cabinet, where the statutory decision making power rests solely with the Health and Wellbeing Board.
- 9.5.3 Decisions of the Strategic Planning Committee and the Planning Committee cannot be referred to another body (except Officers).

## **9.6 Decision making**

- 9.6.1 Subject to paragraph 9.7 below
- (a) Full Council meetings will follow the Council Procedure Rules set out in Part 4 of this constitution when considering any matter.
  - (b) the Executive will follow the Executive Procedure Rules set out in Part 4 of this constitution when considering any matter.
  - (c) the Overview and Scrutiny Board and Sub-Committees will follow the Committee and Overview & Scrutiny Procedure Rules set out in Part 4 of this constitution when considering any matter.
  - (d) The Strategic Planning Committee and the Planning Committee will additionally follow the Planning Procedure Rules set out in Part 4 of this constitution.
  - (e) other Council Committees and Sub-Committees will follow those parts of the Committee Procedure Rules set out in Part 4 of this constitution as apply to them.

## **9.7 Decision making by Council bodies acting as tribunals**

- 9.7.1 Quasi-judicial decisions of Full Council, Cabinet, Committee or an Officer shall be taken in accordance with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

## **9.8 Party Whip**

- 9.8.1 There shall be no party whip at meetings of:

- (a) the Strategic Planning Committee and the Planning Committee when determining planning matters;
- (b) Overview & Scrutiny Board and its Sub-Committees;
- (c) Governance Committee when it is conducting an investigation of hearing into the conduct of a Member;
- (d) the Licensing Committee when it is determining licences and conducting hearings; and
- (e) any other Committees where the Committee meets to determine applications, hearings, appointments or acts in any quasi-judicial matter.

- 9.8.2 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 they speak or vote in any particular manner.



## **Article 10: Finance, contracts and legal matters**

### **10.1 Financial management**

10.1.1 The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 4 of this constitution.

### **10.2 Contracts**

10.1.2 Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this constitution.

### **10.3 Legal proceedings**

10.3.1 Any legal proceedings shall be instituted or conducted in accordance with the delegations granted to the Monitoring Officer at Part 3 of this constitution.

### **10.4 Authentication of documents**

10.4.1 Authentication of documents shall be in accordance with the Contracts Procedure Rules set out in Part 4 of this constitution.

10.4.2 The common seal of the Council may be affixed in accordance with the provisions of the Contracts Procedure Rules set out in Part 4 of this constitution.

## **Article 11: Review and revision of the constitution**

### **11.1 Duty to monitor and review the constitution**

11.1.1 The Governance Committee will monitor and review the operation of the constitution to ensure that the aims and principles of the constitution are given full effect.

11.1.2 A key role for the Governance Committee is to be aware of the strengths and weaknesses of the constitution adopted by Full Council, and to make recommendations for ways in which it could be amended in order to better achieve the purposes set out in Article 1. In undertaking this task the Governance Committee may:

- (a) observe meetings of different parts of the Member structure
- (b) undertake an audit trail of a sample of decisions
- (c) record and analyse issues raised by Members, Officers, the public and other relevant stakeholders, and
- (d) compare practices in the Council with those in other comparable authorities, or national examples of best practice.

### **11.2 Changes to the constitution**

11.2.1 Changes to the constitution will be approved by Full Council only after consideration of the proposal by the Governance Committee.

11.2.2 Where the Executive proposes to change the governance model of the Council, the Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

11.2.3 The Monitoring Officer shall have power to:

- (a) amend the Constitution to correct errors or to comply with any legal requirement or to reflect organisational changes to the Council's structure
- (b) insert recommendations made pursuant to a written report agreed by Full Council
- (c) clarify the constitution, make non-contentious amendments, insert obvious omissions or to comply with any accepted recommendations made by any government appointed inspection regime (on giving five

working days' notice to Group Leaders and the Governance Committee).

- 11.2.4 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.

## **Article 12: Suspension, interpretation and publication of the constitution**

### **12.1 Suspension of the constitution**

12.1.1 The articles of this constitution may not be suspended. The rules specified below may be suspended by Full Council to the extent permitted within those rules and the law.

12.1.2 A motion to suspend any rule(s) will not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the constitution set out in Article 1.

12.1.3 The following rules may be suspended:

- (a) all of the Council Procedure Rules set out in Part 4 of this constitution except for those specified therein as not being capable of suspension.
- (b) all of the Committee Meeting Procedure Rules set out in Part 4 of this constitution except for those specified therein as not being capable of suspension.

### **12.2 Interpretation**

12.2.1 The ruling of the Mayor as to the construction or application of this constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this constitution contained in Article 1.

### **12.3 Publication**

12.3.1 The Monitoring Officer will make a printed copy of this constitution available for Members.

12.3.2 The Monitoring Officer will ensure that a copy is available for inspection at the Town Hall, and can be purchased by members of the local press and the public on payment of a reasonable fee.

## Appendix

<b>Committee</b>	<b>Number of members</b>
Appointments Sub-Committee	5 Councillors at least one of whom must be a Cabinet Member.
Audit Committee	6 Councillors together with one independent member recommended to Audit Committee by the Council's Head of Audit.
Governance Committee	12 Councillors, at least one of whom must be a Cabinet Member
Health & Wellbeing Board	<ul style="list-style-type: none"> <li>• Four Councillors</li> <li>• Four Council Officers (Chief Executive, Director of Public Health, Director of Adult Social Services and Director of Children's Services)</li> <li>• Four representatives of Havering Clinical Commissioning Group</li> <li>• One member from Barking, Havering and Redbridge University Hospitals' NHS Trust (BHRUT)</li> <li>• One member from North East London NHS Foundation Trust (NELFT)</li> <li>• One member from NHS England One member from Healthwatch Havering with voting rights</li> </ul>
Joint Health Overview and Scrutiny Sub-Committee	3 Councillors
Licensing Committee	6 Councillors.
Licensing Sub-Committee	6 Councillors.
Local Pension Board	To be determined in accordance with the Local Government Pension Scheme Regulations 2013, not being a body constituted under section 101 of the 1972 Act.
OneSource Joint Committee	3 Councillors.
Overview and Scrutiny Board	12 Councillors
Pensions Committee	6 Councillors, one co-opted Member and two non-voting observers.
People Overview and Scrutiny Sub-Committee <b>(note A)</b>	9 Councillors
Places Overview and Scrutiny Sub-Committee	9 Councillors

Planning Committee <b>(note B)</b>	6 Councillors
Strategic Planning Committee <b>(note C)</b>	6 Councillors.

Notes:

- A                    now incorporates Health Overview and Scrutiny Sub-Committee.
- B&C                in respect of Planning Committee and Strategic Planning Committee.  
Each ward of the Council must have at least one Councillor who is  
neither a member of the Strategic Planning Committee or the Planning  
Committee to ensure that there will always be a Councillor with whom  
residents will be able to discuss planning matters.

**PART 3                      RESPONSIBILITY FOR FUNCTIONS**

**SECTION 1   FULL COUNCIL AND COMMITTEES**

## **1 FULL COUNCIL**

### **1.1 Only Full Council will exercise the following functions:**

- (a) adopting or amending the constitution
- (b) approving, adopting or amending the Policy Framework, the Budget and any application to the secretary of state in respect of any housing land transfer
- (c) subject to the urgency procedure contained elsewhere in this constitution, making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the Budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget
- (d) appointing the Leader and the Mayor
- (e) agreeing and/or amending the terms of reference for any Committee, deciding on their composition and making appointments to them
- (f) adopting an allowances scheme under Article 2.04
- (g) changing the name of the area or conferring an Honorary Award;
- (h) confirming the appointment and dismissal of the Head of Paid Service
- (i) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills
- (j) to introduce or revise a council tax reduction scheme
- (k) agreeing council tax discounts and exemptions
- (l) adoption or amendment of the Code of Conduct
- (m) approving the annual pay policy statement
- (n) making a change to the Council's governance arrangements
- (o) all local choice functions set out in Part 3 of this constitution assigned under Part 3, section 4 which Full Council decides should be undertaken by itself rather than the Executive:
- (p) all other matters which, by law, must be reserved to Full Council.



## **2 FUNCTIONS DELEGATED TO GENERAL COUNCIL COMMITTEES**

2.1 The following functions are delegated to the Committees. Any reference to “the regulations” is a reference to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as subsequently amended.

2.2 Reference is made to the following functions:

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

<b>Council committee</b>	<b>Functions</b>
<u>Audit</u>	<p><u>Internal control</u></p> <ul style="list-style-type: none"><li>• To consider and monitor the adequacy and effectiveness of the Council’s risk management and internal control environment and to make recommendations to Full Council where necessary.</li></ul> <p><u>External audit</u></p> <ul style="list-style-type: none"><li>• To monitor the adequacy and effectiveness of the external audit service and respond to its findings</li><li>• To support Officers with their delegated responsibility of ensuring arrangements for the provision of an adequate and effective internal audit</li><li>• To monitor the adequacy and effectiveness of the internal audit service and to receive and monitor an annual internal audit plan from the audit manager</li><li>• To approve the Annual Statement of Accounts, including the Annual Governance Statement, and to recommend as necessary to the Governance Committee regarding the committee’s responsibilities to monitor corporate governance matters generally.</li><li>• To monitor proactive fraud and corruption arrangements</li></ul> <p><u>Whistleblowing Policy and Procedure</u></p> <ul style="list-style-type: none"><li>• To monitor and evaluate complaint numbers and general types made in respect of the Council Whistleblowing policy and procedure and to make any recommendations for improvement to Officer and/or Cabinet.</li></ul>

	<p><u>Regulatory and investigatory Powers Act 2000</u></p> <ul style="list-style-type: none"> <li>To review the Council's use of the Regulation of Investigatory Powers Act 2000 and the Council's policy at least once every year and to make recommendations for changes to the policy</li> </ul>
<u>Governance</u>	<p><u>Monitoring constitution</u></p> <p>In accordance with Part 2, Article 11 of this constitution:</p> <ul style="list-style-type: none"> <li>To monitor and review operation of the constitution to ensure that the aims and principles of the constitution are given full effect</li> <li>To make recommendations to the Council about amending the constitution</li> <li>To monitor and review the Members' Allowance Scheme and make recommendations to Council</li> <li>To monitor and review the role of Overview and Scrutiny including numbers, operation and responsibility of the Overview and Scrutiny Board and Sub-Committees and their terms of reference and make recommendations</li> </ul> <p><u>Officer disciplinary, capability and grievance procedures</u></p> <ul style="list-style-type: none"> <li>Where necessary, to establish a panel to consider and determine any appeal by the Head of Paid Service, a SLT Director, Monitoring Officer or a Second Tier Manager from the decision of a panel of the Appointments Committee.</li> <li>Where necessary, to establish a panel to hear a grievance submission made by the Head of Paid Service, a SLT Director, Monitoring Officer or a Second Tier Manager</li> <li>Where necessary to establish a panel to consider and determine any appeal against dismissal or final stage grievance lodged by "Havering Grade" Officers.</li> </ul> <p><u>Appointments and dismissals</u></p> <ul style="list-style-type: none"> <li>To make recommendations to Council about appointing and dismissing the Head of Paid Service.</li> <li>To appoint and dismiss SLT Directors, Director of Public Health, the Monitoring Officer and Second Tier Managers, in accordance with the procedures set out in the Staff Employment Procedure Rules in Part 4 of this constitution.</li> <li>Where necessary to establish a panel to consider and determine any allegation under the Council's disciplinary or capability procedures against the Head of Paid service, a</li> </ul>

	<p>SLT Director, Director of Public Health, Monitoring Officer or Second Tier Manager.</p> <ul style="list-style-type: none"> <li>• To appoint (or in the case of appointments to be made by the Executive, to recommend for appointment) any individual: (a) to any office (other than an office in which he is employed by the authority) in the authority's gift (b) as the authority's representative to any body other than the authority or to any committee or sub-committee of such a body and to revoke any such appointment (see Part 3, section 5: local choice functions)</li> <li>• To approve delegated arrangements for such appointments</li> <li>• To interview candidates for independent member positions and to make recommendations to Council about the appointment of independent members</li> </ul> <p><u>Terms and conditions and general employment matters</u></p> <ul style="list-style-type: none"> <li>• To determine matters relating to the Council's responsibilities as an employer, where a member-level decision is required and can be delegated to a committee, including the overall framework of terms and conditions of employment for employees.</li> <li>• To determine the local terms and conditions, pay and grading arrangements of the Head of Paid Services, SLT Directors, the Monitoring Officer and Second Tier Managers.</li> </ul> <p><u>Member Conduct</u></p> <ul style="list-style-type: none"> <li>• To promote and maintain high standards of conduct by the members and co-opted members of the authority</li> <li>• To assist members and co-opted members of the authority to observe the authority's code of conduct</li> <li>• To advise the authority on the adoption or revision of a code of conduct</li> </ul> <p>(An Assessment Panel, will hear, determine and report upon any allegation of breach of code of conduct, including the application of any permitted sanction.)</p> <p><u>Guidelines for Members in dealing with Officers</u></p> <ul style="list-style-type: none"> <li>• To advise the authority on the adoption or revision of the Guidelines on Members dealing with Officers.</li> </ul> <p><u>Protocol on probity in planning</u></p> <ul style="list-style-type: none"> <li>• To advise the authority on the adoption or revision of the Protocol on Probity in Planning.</li> </ul>
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	<p><u>Member support</u></p> <ul style="list-style-type: none"> <li>To oversee matters related to the facilities available to support members</li> </ul> <p><u>Miscellaneous</u></p> <ul style="list-style-type: none"> <li>To undertake those functions assigned under Part 3, section 4: functions not to be the responsibility of an authority's Executive (group EA functions)</li> </ul> <p><u>Appeals and complaints</u></p> <ul style="list-style-type: none"> <li>To determine an appeal against any decision made by or on behalf of the authority, except where statute provides for some other route of appeal (see Part 3, section 4: functions not to be the responsibility of an authority's Executive (group B functions) and Part 3, section 5: local choice functions) – see Hearings Panel</li> </ul> <p><u>Admission and exclusion of pupils</u></p> <ul style="list-style-type: none"> <li>To make arrangements pursuant to Chapter I of Part III of the School Standards and Framework Act 1998 (admission appeals)</li> <li>To make arrangements pursuant to Chapter V of Part II of the School Standards and Framework Act 1998 (exclusion appeals and children to whom section 87 applies: appeals by governing bodies)</li> </ul> <p>Governing bodies</p> <ul style="list-style-type: none"> <li>To hear appeals from teachers about early retirement decisions by governing bodies.</li> </ul> <p>Members' conduct</p> <ul style="list-style-type: none"> <li>To consider allegations of breaches by Members of the Code of Conduct and the appropriate sanctions, if any, to be applied in consequence of a finding that the Code has been breached.</li> </ul>
<u>Pensions</u>	<p><u>Pension fund</u></p> <ul style="list-style-type: none"> <li>To consider and agree the investment strategy and statement of investment principles for the pension fund and subsequently monitor and review performance</li> </ul>

	<p><u>Advisers and investment managers</u></p> <ul style="list-style-type: none"> <li>• Authorise Officers to invite tenders and to award contracts to actuaries, advisers and fund managers and in respect of other related investment matters.</li> <li>• To appoint and review the performance of advisers and investment managers for pension fund investments.</li> </ul> <p><u>Other Non-executive matters</u></p> <ul style="list-style-type: none"> <li>• To take decisions on those matters not to be the responsibility of the Executive under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 relating to those matters concerning the Local Government Pension Scheme.</li> </ul>
<u>Planning</u>	<p><u>Planning</u></p> <ul style="list-style-type: none"> <li>• To determine: (a) Applications for Planning Permission; or (b) Applications for Listed Building Consent; except where they are referable to the Strategic Planning Committee.</li> <li>• To determine any planning matter referred to the Planning Committee by the Head of Planning acting in his or her discretion.</li> </ul> <p><u>Health and safety</u></p> <ul style="list-style-type: none"> <li>• To carry out functions relating to health and safety under any “relevant statutory provision” within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council’s capacity as employer.</li> </ul> <p><u>Highways use and regulation</u></p> <ul style="list-style-type: none"> <li>• To exercise powers relating to the regulation of the use of highways as set out in Part 3, section 4: functions not to be the responsibility of an authority’s or to Officers.</li> </ul>
<u>Strategic Planning</u>	<ul style="list-style-type: none"> <li>• To receive presentations in the pre-application or pre-determination stage.</li> <li>• To determine: (a) Applications for Planning Permission; or (b) Applications for Listed Building Consent; which, in the opinion of the Head of Planning acting in his or her discretion, raise strategic issues and should be determined by the Strategic Planning Committee.</li> </ul>

	<ul style="list-style-type: none"> <li>Any other planning matter which, in the opinion of the Head of Planning acting in his or her discretion, raises strategic issues and should be referred to the Strategic Planning Committee</li> </ul>
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**PART 3                      RESPONSIBILITY FOR FUNCTIONS**

**SECTION 2: EXECUTIVE**

## **1. Executive functions of the Leader**

- 1.1 The Leader is responsible for arranging for the exercise of all executive functions and may by way of written notice delegate Executive functions to:
  - (a) Cabinet
  - (b) a Committee;
  - (c) Cabinet Members
  - (d) Officers
  - (e) Joint Committees
- 1.2 The Leader may exercise any Executive function personally provided notice is given to the Proper Officer.
- 1.3 The Leader will give notice in writing, duly signed and dated, to the Proper Officer as to the exercise of Executive functions and will submit a fresh notice on each occasion that those delegations are amended.
- 1.4 Executive functions may not be exercised by the Leader or individual Cabinet Members until written notice has been received by the Proper Officer. The Proper Officer will maintain a record of Leader delegations
- 1.5 The following general functions are a list of functions which the Leader may delegate to Cabinet. The Leader may upon giving written notice to the Proper Officer add other Executive functions to this list.



## **2. Functions of Cabinet**

### *Policy matters*

- 2.1 To formulate the Council's overall policy objectives and priorities and to recommend them to Full Council for approval where they fall within the budget and/or the Policy Framework.
- 2.2 To determine the Council's strategy and programme in relation to the Policy Framework and/or the Budget set by Full Council.
- 2.3 To determine all substantial policy matters and strategic decisions and those minor matters which are referred by the Leader at the request of a Cabinet Member as being particularly contentious.
- 2.4 To determine the Council's policy, strategy and programme in relation to the area and in respect of all Executive matters.
- 2.5 To co-ordinate the statutory functions and obligations of the Council with respect to equality of opportunity and non-discrimination, including its function as an employer save where these concern non-executive functions
- 2.6 To promote strategic and Council-wide initiatives to improve the quality, efficiency and effectiveness of the Council's services to the public.

### *Other matters*

- 2.7 To allocate and control financial and land and property resources, to determine priorities in the use of these resources, and take any other action necessary to achieve those objectives.
- 2.8 To have overall responsibility for acquisitions and disposal of any interest in land, buildings or the real and leasehold property of the Council and to have responsibility for land and property used for operational purposes. Disposals and acquisitions of land, buildings or other property interest in excess of £1,000,000 shall be reserved to Cabinet.
- 2.9 To exercise control over the Council's revenue and capital budgets (including the housing revenue account).
- 2.10 To oversee and take responsibility for effective joint work with partner agencies.
- 2.11 To approve funding for voluntary organisations.
- 2.12 To affiliate with and appoint representatives to outside bodies, where these are not specifically identified elsewhere in this constitution.
- 2.13 To consider whether the Council should give evidence before a parliamentary select committee, royal commission, Government committee or similar body.

- 2.13 To undertake those functions assigned to the Cabinet under Part 3, section 5: local choice functions.
- 2.14 To award all contracts above a total contract value of £2,000,000 and above.
- 2.15 To be responsible for all executive matters even if not expressly set out in Part 3 of this constitution.

#### *Finance*

- 2.16 To take decisions on all matters relating to the Council's finances including but not exclusively:
  - (a) budgetary control
  - (b) establishing long and short term capital and revenue programmes for all areas of service and allocations of both capital and revenue expenditure to other services
  - (c) financial planning
  - (d) operational management of insurance arrangements
  - (e) budget revisions
  - (f) considering the annual estimates of revenue expenditure and income and the Treasury Policy Statement and make recommendations to the Council on the setting of the council tax
  - (g) virements of £1 million or more on the advice of the Strategic Director of Resources.

#### *Treasury management strategy*

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

#### *Resource management*

- 2.18 To exercise the Council's functions relating to the use of the Council's resources and, where these are not non-executive functions, human resources. Such functions include:
  - (a) corporate human resources policies and procedures
  - (b) corporate communication strategies.

## *Education*

2.19 To exercise the Council's education functions and provision i including the formulation of the Council's future policies for recommendation to Full Council where appropriate and their co-ordination and implementation. Such functions include, but are not limited to, the following:

- (a) proposals for schemes of the fair funding of schools, including special schools.

## *Environment*

2.20 To exercise the Council's functions in relation to environmental matters including the formulation of the Council's policies for referral to Full Council where appropriate and their co-ordination and implementation. Such functions include (but are not limited to) the following except to the extent that they are non-executive functions:

- (a) town planning
- (b) environmental health
- (c) highway engineering
- (d) public health
- (e) building control
- (f) consumer protection and licensing
- (g) traffic management and parking control
- (h) transport planning
- (i) waste and energy management
- (j) cemeteries
- (k) managing the transport fleet.

2.21 To encourage and promote the environmentally sustainable development and regeneration of the Borough and the health of the population through its planning, transport, economic planning, waste and energy management and environmental health policies and programmes.

2.22 To consider proposed planning guidance for the Borough and the development of the Local Plan

## *Housing*

- 2.23 To approve the Council's housing and homelessness strategies including the formulation and co-ordination of policies and implementation. Such functions include, but are not limited to, the following:
- (a) assessing housing need, demand and supply and developing appropriate strategies, including specific strategies for groups in need
  - (b) managing and maintaining all land and property held for the Council's housing functions.
  - (c) assessing and setting rents and other charges
  - (d) setting and varying charges for the use of garages, car parking spaces and other facilities on the Council's housing estates
- 2.24 keeping under review issues affecting non-public housing tenures in accordance with the Council's housing strategy, in pursuance with the Council's duties under current legislation

## *Leisure and cultural services*

- 2.25 Agree the Council's strategy in relation to leisure services, including the formulation and co-ordination of policies and their co-ordination and implementation. Such functions include (but are not limited to) the following:
- (a) library and information services
  - (b) arts and museum services
  - (c) providing and maintaining leisure facilities for children and young persons
  - (d) providing facilities for sports
  - (e) developing tourism opportunities and provision of tourism services
  - (f) taking responsibility for provision and upkeep of the Council's public parks, gardens, open spaces, allotments, cemeteries and burial grounds.
- 2.26 To develop strategic policies for the provision of co-ordinated, accessible and quality leisure services that reflect the multi-ethnic, social and cultural diversity of those who live, work and study within the Borough.
- 2.27 To plan the provision of leisure facilities whether provided by the Council or others.

### *Social care and health*

- 2.28 To exercise the Council's functions in relation to social services including the formulation of the Council's policies and their co-ordination and implementation. Such functions include (but are not limited to) the following:
- (a) all matters within Schedule 1 of the Local Authority Social Services Act 1970 and, in particular, functions in relation to child protection, children in need, community care and mental health provision
  - (b) all matters relating to the National Health Services, including the consideration and review of NHS policies in so far as they affect the borough and in particular to have responsibility for joint care planning and liaison with the appropriate health authorities.
- 2.29 All matters relating to public health and dental health as conferred onto the authority by virtue of the National Health Service Act 2006, the Health and Social Care Act 2012 and any subsequent legislation (but excluding functions that are the statutory responsibility of the Health and Wellbeing Board.)

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

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

- 3.1 To monitor the budgets and the performance of the services allocated by the Leader.
- 3.2 Where there are implications for the Policy Framework or the Budget, to agree Officer responses to consultation papers from:
  - (a) the Government (including White and Green papers)
  - (b) the London Councils, the Greater London Authority, the Local Government Association and all other bodies.
- 3.3 To agree an appropriate response by Officers to issues raised in respect of allocated services.
- 3.4 To determine priorities in conjunction with the relevant Chief Officer (within the Policy Framework and Budget).
- 3.5 To make suggestions for policy initiatives (within the Budget and/or Policy Framework) and for amendments to the Budget and/or the Policy Framework, for agreement by the Cabinet and Full Council.
- 3.6 To recommend to the Cabinet a response to reports from the Overview and Scrutiny Board and relevant Sub-Committees in respect of the allocated services.
- 3.7 To approve an exception to the Contracts Procedure Rules set out in Part 4 of this constitution, in accordance with Rule 14(1) of those Rules.
- 3.8 To approve the commencement of the tender process, to award contracts, agree extensions of contract terms where the value of such matter is between £1,000,000 and £2,000,000 subject to consultation with the Strategic Director of Resources. (Note: Pension Committee has powers to invite tenders and award contracts for investment matters within their terms of reference)
- 3.9 To review customer satisfaction, results of consultation with stakeholders and the efficiency of service provision generally and to agree arrangements for continuous improvements to be made.
- 3.10 To consider and recommend plans in respect of the portfolio allocated.

- 3.11 To consider the needs of the allocated service for particular properties and to make recommendations to the Cabinet as appropriate.
- 3.12 To promote effective relationships and partnerships between the Council and all other bodies and agencies affecting the community.
- 3.13 To consider reports on the exercise of virement, within the Budget Framework Procedure Rules and/or Finance Procedure Rules set out in Part 4 of this constitution.
- 3.14 To consider reports on contract overspends and to report to Cabinet as necessary.
- 3.15 To consult any advisory bodies as directed by the Cabinet
- 3.16 To agree minor matters and urgent or routine policy matters
- 3.17 To consider recommendations relating to highways and traffic schemes and to make decisions relating to them.
- 3.18 To approve the decision of the Council disposing of or acquiring an interest in property or land where the disposal value or acquisition receipt is between £1,000,000 and £2,000,000.
- 3.19 To approve all in year changes to both fees and charges.

#### **4. Portfolios to be assigned to individual Cabinet members**

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

Information & Communication Technology, Procurement, Asset Management, Development Control, Building Control, Finance Procurement, Commissioning, Adult Social Care, Children & Young People's Services, Learning & Achievement, Schools for the Future, Community Engagement, Policy and Partnerships, Communications Culture & Leisure, Customer Services, Housing, Public Protection, Regeneration Strategic Planning, Environment, Highways and traffic schemes, Legal, Governance and Election Services, Community Safety, Public Health

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



## **5. Health and Wellbeing Board**

The Health and Wellbeing Board is by virtue of the provision of the Health and Social Care Act 2012 an executive committee of the Council to exercise those functions prescribed under the Health and Social Care Act 2012. In particular to:

### **5.1 Duty to encourage integrated working**

- (a) To encourage organisations involved in the provision of any health or social care services in the borough to work in an integrated manner.
- (b) To advise, support and encourage (where appropriate) section 75 arrangements under the National Health Service Act 2006 in connection with the provision of health services.
- (c) To encourage all those involved in the provision of health-related services to work with the Board.
- (d) To arrange and encourage any persons involved in the provision of health-related services to work in cooperation with the Health and Wellbeing Board.
- (e) To exercise those functions conferred on the Council by virtue of the Local Government and Public Involvement in Health Act 2007, namely
  - (i) Preparation of a Joint Strategic Needs Assessment, and;
  - (ii) Preparation of a Health and Wellbeing Strategy
- (f) To inform the Council on whether or not the Council is meeting its duties under section 116B of the Local Government and Public Involvement in Health Act 2007 (duty to have regard for strategies).
- (g) If appropriate, to make arrangements for its functions to be discharged jointly with the Board of another authority and/or by joint sub-committees.
- (h) To request, where necessary, information from any organisation represented on the Board that relates to the function of the organisation from which the information is requested and that is for the purpose of enabling or assisting the Board in fulfilling its functions.

### *Health Protection*

- 5.2 To provide assistance and guidance to the Director of Public Health to enable them to fulfil their function with regard to health protection and emergency planning as prescribed in section 12 of the Health and Social Care Act 2012

## **6. Joint working delegations**

Full Council and the Executive have established the following joint arrangements under section 101(5) of the Local Government Act 1972:

- (a) London Councils
- (b) Shared Services Joint Committee (oneSource)

The functions delegated to each of these joint committees are set out below:

### **London Councils Committees**

#### *London Councils Leaders Committee*

- 6.1 This comprises one member from each of the 33 London local authorities.
- 6.2 Its functions are set out in full in Schedule 2 of the Association of London Government Agreement dated 13 December 2001 (as amended). In summary, the Joint Committee is authorised to deal with the following matters:
  - (a) consulting on common interests of London local authorities, discussing local government matters and providing forums for such discussion
  - (b) representing the interests of London local authorities to other bodies, including national and local government, Parliament and the European Union
  - (c) formulating policies for the development of democratic and effectively managed local government
  - (d) appointing representatives or staff to serve on any other body
  - (e) representing the interests of London local authorities as employers
  - (f) disseminating relevant information to London local authorities
  - (g) providing information to the public and other bodies on London Councils policies and local government issues relevant to London
  - (h) acting as the regional body of the Local Government Association.

### **London Councils have the following other committees:**

#### *Transport and Environment Committee*

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

- 6.4 Its functions are set out in full in Schedule 2 of the Association of London Government Transport and Environment Committee Agreement dated 13 December 2001 (as amended). In summary, the committee is authorised to deal with the following matters:
- (a) undertaking various matters related to parking adjudicators, including making appointments, providing accommodation and administrative staff, determining the places at which adjudicators will sit and making an annual report on adjudicators' discharge of their functions
  - (b) determining penalty charge levels and fees and discounts for early payment
  - (c) publishing and updating the Code of Practice for Parking in London co-ordinating and maintaining vehicle removal and clamping operations
  - (d) establishing and maintaining a communications and control service to deal with vehicle removals
  - (e) overseeing the London lorry ban
  - (f) overseeing the London taxicard scheme.

#### *The London Grants Committee*

- 6.5 This committee comprises one member from each of the 33 London local authorities.
- 6.6 Its functions are:
- (a) To make grants to voluntary organisation benefiting more than one London borough.
  - (b) To consider and review the needs of London in relation to the grants scheme.
  - (c) To recommend an annual budget to the London Councils which, once approved, must be agreed to by a two-thirds majority of the London local authorities before it can be binding on all London local authorities.

#### **OneSource Joint Committee**

- 6.7 This is a committee of this Council and the London Borough of Newham, with a membership of 2 councillors from the executive of Havering and Newham Councils. The committee's functions are to control and co-ordinate the back-office functions of both Councils, in the case of Havering these will be:
- (a) Exchequer Services

- (b) Legal Services
- (c) Democratic Services

## **7. Delegation of Functions to another Local Authority**

7.1 The Council has delegated under Section 101(1) (b) of the Local Government Act 1972, Section 19 of the Local Government Act 2000 and Regulation 7 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000, the following functions to Birmingham City Council:

- (a) Enforcement of Parts III and IV of the Consumer Credit Act 1974, and
- (b) the enforcement functions and powers under Parts XI and XII of the Consumer Credit Act 1974, and
- (c) the power of prosecution under section 222 of the Local Government Act 1972

All in connection with money-lending or the activities of money lenders and/or their agents and associates, and the laundering of the proceeds of illegal money-lending.

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**PART 3                      RESPONSIBILITY FOR FUNCTIONS**

**SECTION 3: FUNCTIONS DELEGATED TO OFFICERS**

Definitions used in this Part 3.3.

Any reference to the s.151 officer or the Chief Operating Officer in this constitution or Scheme shall be reference to the Strategic Director of Resources.



### **Scheme 3.3.1 General Provisions**

#### **1. Power of delegation**

- 1.1 The Council has made the following arrangements for the discharge of executive and non-executive functions by its Officers under the Local Government Act 1972 and the Local Government Act 2000 (or any other legislation as specifically referred to).
- 1.2 The executive powers, duties and functions are exercised on behalf of the Leader.
- 1.3 The absence of any specific delegation from this Part 3.3 shall not be taken as implying an absence of authority. The Chief Officers may exercise all powers within their respective area of responsibility unless specifically reserved to another person or body according to Part 3 of the constitution.

#### **2. Limitations**

- 2.1 Officers shall exercise powers under this Scheme in compliance with:
  - (a) the rules of procedure set out in Part 4 of this constitution;
  - (b) corporate policies and strategies including the budget and the Policy Framework and any governance requirements as specified by the Monitoring Officer;
  - (c) any additional conditions imposed either by the Council or by statute or any statutory code of practice.
- 2.2 The exercise by Officers of the powers delegated under this Scheme involving the incurring of any expenditure is subject to there being sufficient approved provision within the budget to cover that expenditure.

#### **3. Consultation / non-exercise of delegation**

- 3.1 An Officer exercising any delegated power under this Scheme may consult with the Leader, with the relevant Cabinet Member or with the Chair of the relevant committee, as appropriate, when the Officer considers such consultation is necessary or appropriate in light of the decision required.
- 3.2 An Officer may decline to exercise their powers and may refer any matter within a delegation or authorisation to them to the Leader, the Cabinet, the relevant Cabinet Member or to an appropriate Committee for decision

provided that the matter is within the delegated powers and duties of whom or to which it is referred.

#### 4. Transfer of functions

- 4.1 Where the name of a post is changed or the functions of a post are transferred to another post the delegated powers which attach to the old post / function shall also transfer to the other / new post.

#### 5. Sub-delegations

- 5.1 The Chief Officers may delegate any of the powers listed in this part to another Officer, in so far as is legally permissible. Such delegation will specify whether the Officer is permitted to make further sub-delegations. Any such delegation or sub-delegation must be:

- (a) recorded in writing; and
- (b) lodged with the Monitoring Officer who will keep a public record of all such delegations.

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

- 5.2 Notwithstanding any sub-delegation, a Chief Officer may exercise all the powers delegated to them personally and those powers sub-delegated where circumstances require and so far as legally permissible.

#### 6. Conflict of interests

- 6.1 Every Officer shall comply with the provisions as to the management of conflicts of interest as set out in paragraph 5 of the CPR and paragraphs 13 and 16 of the Executive Procedure Rules.
- 6.2 Where a Chief Officer (except for the Monitoring Officer) is unable to act due to a conflict of interest one of the other Chief Officers shall be authorised to exercise the relevant delegation. Where the Monitoring Officer is unable to act due to a conflict of interest the Deputy Monitoring Officer shall be authorised to exercise the relevant delegation.

### **Scheme 3.3.2**

#### **Powers of the Chief Executive**

##### **1. General**

- 1.1 To act as the Council's Head of Paid Service pursuant to s.4 of the Local Government and Housing Act 1989.
- 1.2 To exercise overall corporate management and operational responsibility of the Council (including overall management responsibility for all Officers).

##### **2. Staffing**

- 2.1 The Chief Executive, as Head of Paid Service may, where appropriate, report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.
- 2.2 To have authority over all other Officers of the Council so far as is necessary for the efficient management and execution of the Council's business, functions and services except where Officers are exercising specific responsibilities imposed upon them by statute. This shall include the right to allocate, reallocate and direct all Officers as the Chief Executive shall deem necessary.
- 2.3 To exercise the powers delegated to any Officer pursuant to this Scheme (so far as the law allows).
- 2.4 To exercise the power to enter into agreement with other local authorities for the placing of the services of officers from one local authority, at the disposal of the other in accordance with Section 113, Local Government Act 1972 as amended.

##### **3. Emergency**

- 3.1 To carry out the functions of the Council for civil aid and emergency planning and to take any action, including incurring expenditure, in connection with an emergency or a disaster in the Borough, and to report back to the Council at the earliest practical opportunity.
- 3.2 In cases of urgency or emergency, to take any decision on behalf of the Council after consultation with the Leader.
- 3.3 The use of any emergency powers by the Chief Executive shall be in accordance with any guidance issued pursuant to the Civil Contingencies Act 2004 or similar.

- 3.4 To discharge those functions under s.138(1) of the Local Government Act 1972.

#### 4. Elections

- 4.1 To discharge the functions of the Electoral Registration Officer and be responsible for elections

#### 5. Other functions

- 5.1 To undertake those functions assigned to the Chief Executive (if any) under:
- (a) Part 3, section 4 of this constitution: (functions not to be the responsibility of an authority's Executive).
  - (b) Part 3, section 5 of this constitution: (local choice functions).
  - (c) Part 3, section 6, of this constitution: (Proper Officer functions)

#### 6. Miscellaneous

- 6.1 To exercise the power on behalf of the Council to consent to a dispersal order under the Anti-Social Behaviour Act 2003 and to be a consultee for the purpose of a closure notice under the Anti-Social Behaviour Act 2003.
- 6.2 To be responsible for the Council's responsibilities and obligations under Health and Safety legislation.

#### 7. Note

- 7.1 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.
- 7.2 For the avoidance of doubt, the Chief Executive is authorised to determine anything which is not covered by this Scheme.
- 7.3 In the absence of the Chief Executive the functions of the Chief Executive (including those of the Head of Paid Service) shall be undertaken by one of the Chief Officers as directed by the Chief Executive (or by the Leader where the Chief Executive has not made (or is incapable of making) a direction).

### **Scheme 3.3.3**

#### **Powers common to all Strategic Directors**

NB. These general delegations / powers should only be used (and quoted in executive decision reports) where no more specific power exists below.

#### **1. General**

- 1.1 To take any steps, and take any decisions, necessary for the proper management and administration of their allocated directorate, in accordance with applicable Council policies and procedures.

#### **2. Expenditure**

- 2.1 To incur expenditure for their allocated directorate within the revenue and capital budgets as approved by the Council, or as otherwise approved, subject to any variation permitted by the Council's contract and financial procedure rules.

#### **3. Statutory consent / notices**

- 3.1 To apply for statutory consent (e.g., planning permission) relevant to their directorate and to serve statutory notices except where reserved to the Council, Cabinet or any Committee.

#### **4. Contracts**

- 4.1 To approve commencement of a tendering process for all contracts below a total contract value £1,000,000.
- 4.2 To award all contracts with a total contract value of below £1,000,000 other than contracts covered by Contract Procedure Rule 16.3. This delegation shall include the ability to extend or vary a contract up to and including a value of £1,000,000 (provided that the extension is in line with the existing contractual provisions.)
- 4.3 To sign contracts on behalf of the Council which do not require sealing under paragraph 4 of Article 10 of this constitution.

#### **5. Grants**

- 5.1 To apply for, accept and thereafter spend / allocate any grant funding connected with their directorate provided that any match funding or residual liabilities can be met from the existing budget of the directorate. For the avoidance of doubt this delegation shall allow the acceptance of any grant offered / allocated to the Council without any application.

- 5.2 Where any match funding or residual liabilities cannot be met from the existing budget of the directorate, the consent of the Strategic Director of Resources must be obtained but provided that shall only be entitled to authorise such match funding or residual liabilities up to a value of £1,000,000 and further provided that they can be met within the Council's budgetary framework.
- 5.3 Where any match funding or residual liabilities cannot be met from the existing budget of the directorate, any application / acceptance of grant funding where match funding or residual liabilities exceeds £1,000,000, and which is within the Council's budgetary framework, must be approved by Cabinet.

## 6. Consultations

- 6.1 To respond to consultations in relation to any matter affecting their directorate.
- 6.2 To launch / commission any consultation (statutory or otherwise) in relation to any matter affecting their directorate.

BUT PROVIDED that all consultation (response, initiation, launch, etc) shall be discussed with the relevant Cabinet Member.

## 7. Human Resources (general)

- 7.1 To exercise overall responsibility within their areas for human resource matters including, but not limited to, discipline, suspension, dismissal, retirement, capability, leave entitlement, salary adjustments, honoraria, and increments subject to compliance with all applicable Council policies and procedures.
- 7.2 To restructure their directorates (including the power to create, delete and amend posts) within existing service budgets and/or if budgetary provision is already made in the budget subject to compliance with all applicable Council policies and procedures (including any organisational change process in place from time to time).

## 8. Legal

- 8.1 To instruct the Monitoring Officer / Director of Law & Governance to institute legal proceedings or to serve notice in connection with any matter affecting their Directorate but provided that the Monitoring Officer / Director of Law & Governance shall not be obliged to act in the event that they consider the instruction not to be in the best interests of the Council and / or contrary to law.

### **Scheme 3.3.4**

#### **Specific powers of the Strategic Director of People**

The Strategic Director of People has overall responsibility for the following Services subject to the specific statutory responsibilities set out in Article 2.8 of this constitution and the delegations set out elsewhere in the Scheme (in particular 3.3.4a):

- Adults Social Care,
- Children's Services,
- Safeguarding,
- Health,
- Housing,
- Culture,
- Leisure.

#### **1. Ageing Well**

- 1.1 Not used.
- 1.2 To exercise the powers / functions and to carry out the duties of the Council (except where such powers / functions are reserved to the Director of Adult Social Services) under all relevant adult social services legislation including (but not limited to) The Local Authority Social Services Act 1970, the National Health Services Act 2006, the Care Act 2014, the Mental Health Act 1983, the Mental Health Act 2007, the Nationality Immigration and Asylum Act 2002 and any other applicable legislation as introduced by central government from time to time. This delegation shall include the ability to exercise any general legislative powers (such as are found in the Localism Act 2011) in pursuance of adult social services functions.
- 1.3 The delegation above shall apply to all adult care requirements, including but not limited to, learning disability, physical disability, mental health, community care and deputyship.
- 1.4 To exercise the Council's duties pursuant to the Data Protection Act 1998, Data Protection Act 2000 and associated Regulations as far as they apply to the Caldicott Guardian provisions.
- 1.5 To take charges against interests in property in accordance with the following legislation: section 55 of the Health and Social Care Act 2001 and associated Regulations; section 34 of the Care Act 2014 and associated Regulations. To release charges taken (pursuant to the following legislation: section 22 of the Health and Social Services and Social Security Adjudication Act 1983 and associated Regulations; section 55 of the Health and Social Care Act 2001 and associated Regulations; section 34 of the Care Act 2014 and associated Regulations) against interests in property.

- 1.6 To make any such arrangements for joint working or shared delivery / funding with the NHS as shall be deemed necessary in the interests of the Council or the residents of the borough.

## 2. Living Well

- 2.1 To exercise the powers / functions and to carry out the duties of the Council under all relevant housing legislation including (but not limited to) the Housing Act 1996 and any other applicable legislation as introduced by central government from time to time.
- 2.2 The delegation above shall apply to all housing requirements, including but not limited to, homelessness, adaptations, relocations, temporary accommodation, right to buy, housing allocation and housing strategy. The delegation shall also include the right to grant, accept, extend, surrender or otherwise deal with any leasehold interests.
- 2.3 To waive assessed contributions for adaptations to homes or provision of equipment in exceptional circumstances, subject to the agreed criteria and the contribution not exceeding £1,000 or such other sum as may from time to time be fixed by the Council.
- 2.4 To exercise all the rights and responsibilities of the Council in its role as landlord, such as issuing consents, assessing compensation, etc.

## 3. Starting Well

### *Children's Services*

- 3.1 Not used.
- 3.2 To exercise the powers / functions and to carry out the duties of the Council (except where such powers are reserved to the Director of Children's Services and where such powers may be exercised as a matter of law) under all relevant child care and education legislation including (but not limited to) The Children Act 1989, The Children (Leaving Care) Act 2000, The Special Educational Needs and Disability Act 2001, The Adoption and Children Act 2002, The Nationality Immigration and Asylum Act 2002, The Children Act 2004, , the Education Act 2005, The Education and Skills Act 2008, The Children and Young Persons Act 2008, , The Education Act 2011, and The Children and Families Act 2014 and any other applicable legislation as introduced by central government from time to time.
- 3.3 For the avoidance of doubt the delegation above shall apply to all child care and educational requirements, including but not limited to, children in care,



school governors, care packages, fostering and care leavers, pupil welfare, child employment, school organisation, school funding, staffing & governance, health and safety in schools, student eligibility, collective worship, exclusions, special educational needs, transport and catering.

### *Music*

- 3.4 To manage, supervise and control the Havering Music School.

**Scheme 3.3.4a**  
**Specific powers of the Director of Adult Social Services**

1. To exercise all rights and functions reserved to the Director of Adult Social Services by statute on behalf of the Council.
2. The Director of Adult Social Services shall be entitled to exercise those powers detailed at 3.3.3 above but provided that such functions shall only be exercised in respect of areas directly affecting Adult Social Services.
3. Paragraphs 4.1, 4.2 and 5.2 (of 3.3.3 above) shall be subject to a financial limit of £500,000.

**Scheme 3.3.4b**  
**Specific powers of the Director of Children's Services**

1. To exercise all rights and functions reserved to the Director of Children's Services by statute on behalf of the Council.
2. The Director of Children's Services shall be entitled to exercise those powers detailed at 3.3.3 above but provided that such functions shall only be exercised in respect of areas directly affecting Children's Services.
3. Paragraphs 4.1, 4.2 and 5.2 (of 3.3.3 above) shall be subject to a financial limit of £500,000.

**Scheme 3.3.4c**  
**Specific powers of the Director of Public Health**

1. To exercise all rights and functions reserved to the Director of Public Health by statute on behalf of the Council.
  - (a) To take responsibility for all the Council's public health functions.
  - (b) To oversee all services relating to the public health function.
  - (c) To provide information and advice on public health matters.
  - (d) To provide services and facilities designed to promote healthy living.
  - (e) To provide services and facilities for the prevention of illnesses.
  - (f) The exercise of the local authority function in the National Health Service Act 2006 as amended.
  - (g) To authorise Patient Group Directions on behalf of the Council
2. The Director of Public Health shall be entitled to exercise those powers detailed at 3.3.3 above but provided that such functions shall only be exercised in respect of areas directly affecting Public Health.
3. Paragraphs 4.1, 4.2 and 5.2 (of 3.3.3 above) shall be subject to a financial limit of £500,000.

### **Scheme 3.3.5**

#### **Specific powers of the Strategic Director of Place**

The Strategic Director of Place has overall responsibility for the following Services subject to the specific statutory responsibilities set out in Article 2.8 of this constitution and the delegations set out elsewhere in the Scheme:

- Housing Operations, corporate landlord function
- Regeneration,
- Asset Management,
- Property,
- Planning,
- Protection & Enforcement,
- Environmental Functions.
- Services that shape the physical nature of the borough:
  - o Travel and building planning
  - o Developer engagement and regeneration
  - o Delivery of clear and safe public realm
  - o Housing provision in the borough
  - o Social housing delivery
  - o Regulatory Services
  - o Licensing

#### **1. Environment**

##### *Highways and traffic management*

- 1.1 To exercise the Council's powers and duties arising under the Road Traffic Regulation Act 1984, New Roads and Streetworks Act 1991 and Traffic Management Act 2004.
- 1.2 Other than in those matters delegated to the Leader or Cabinet Member to exercise all powers and duties in respect of maintaining and improving highways, providing facilities, and interference with highways arising under Parts IV, V, VII, IX and XIV of the Highways Act 1980.
- 1.3 To determine requests from individuals and voluntary, national and commercial organisations to use the public highway.
- 1.4 To exercise all powers related to the creation and dedication of public highways and adoption of highways as maintainable at public expense.
- 1.5 To authorise the issue, amendment or suspension of temporary traffic orders, experimental traffic orders, temporary traffic notices and temporary prohibitions of waiting and loading.

- 1.6 To determine the provision, positioning and layout of road signs and other street furniture.
- 1.7 To authorise the making of and consultation on Orders under Section 21 of the Town and Police Clauses Act 1847.
- 1.8 To arrange for the removal and disposal of untaxed, abandoned and other nuisance vehicles and the prosecution of vehicle owners under the Refuse Disposal (Amenity) Act 1978, the Road Traffic Regulation Act 1984, Part 2 of the Clean Neighbourhoods and Environment Act 2005, the Removal and Disposal Regulations 1986, the London Local Authorities Act 1990 (as amended), the Vehicle Excise and Registration Act 1994, the Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1996 and other relevant legislation arising therefrom.
- 1.9 To exercise the Council's powers and duties relating to abandoned vehicles, parking, vehicle crossings removal of deposits on the highway, cleansing, refuse and litter in the various London Local Authorities Acts and the London Local Authorities and Transport for London Act 2003.

#### *Trees and verges*

- 1.10 To manage all highway trees, grass verges, shrub beds and seasonal plantings and to take appropriate action where necessary.
- 1.11 To determine the making of Tree Preservation Orders and applications for the topping, lopping and felling of trees where the trees are covered by a Tree Preservation Order; to confirm or revoke Tree Preservation Orders; to waive the requirements to replace trees where appropriate; to serve Tree Replacement Notices where necessary.
- 1.12 To exercise the Council's functions under the Local Government (Miscellaneous Provisions) Act 1976 in respect of complaints regarding dangerous trees posing an imminent risk to persons or property or causing damage to property. (Informative: powers in (i) & (j) area also held by the Assistant Director Development)

#### *Nuisance and enforcement*

- 1.13 To exercise the Council's powers and duties relating to litter and shopping trolleys arising from the Environmental Protection Act 1990 and the Clean Neighbourhoods and Environmental Protection Act 2005.
- 1.14 To exercise all powers and duties arising under Parts 2, 3, 4, 5 and 6 of the Clean Neighbourhoods and Environmental Act 2005

- 1.15 To exercise the Council's powers and duties relating to graffiti and flyposting in Part 4 of the Clean Neighbourhoods and Environment Act 1990, Part 6 of the Anti-Social Behaviour Act 2003 and Part 8 of the Town & Country Planning Act 1990; and to serve notices related to these offences and issues. (Informative: the powers under Section 117 of the Town & Country Planning Act are also held by the Assistant Director Planning)
- 1.16 To exercise power under Section 78 of the Public Health Act 1936 to clean private courtyards and passages and to recover the costs from the occupiers of any building which fronts or abuts the court or yard in relevant proportions.

### *Waste*

- 1.17 To manage arrangements for collecting and enforcement of domestic, non-domestic and special waste including powers under parts 2, 3 and 4 of the Environmental Protection Act 1990 and parts 3 and 5 of the Clean Neighbourhoods and Environment Act 1990.
- 1.18 To authorise the issue of any notice or prosecution in relation to waste collection and disposal including notices under parts 2, 3 and 4 of the Environmental Protection Act 1990, Part 3 of the Clean Neighbourhoods and Environment Act 2005, Section 6 of the Refuse Disposal (Amenity) Act 1978, section 78 of the Public Health Act 1936, Part 8, Chapter 2 of the Town and Country Planning Act 1990 Section 4 of the Prevention of Damage by Pests Act 1949, section 34 of the Public Health Act 1961, the Environmental Protection (Duty of Care) Regulations 1991, the Environmental Protection (Duty of Care) (England) (Amendment) Regulations 2003, and the Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005 and other relevant legislation arising therefrom.

### *Miscellaneous*

- 1.19 To exercise the Council's powers in relation to providing public conveniences.
- 1.20 To exercise the Council's powers to require information under
- (a) Section 16 Local Authorities (Miscellaneous Provisions) Act 1976.
  - (b) Section 17 GLC (General Powers) Act 1972.
  - (c) Section 26 London Local Authorities Act 2004 (as amended by London Local Authorities Act 2007)
  - (d) Section 71 of the Environmental Protection Act 1990.
  - (e) Section 108 of the Environment Act 1995.

NB: the power at (a) to (c) are also held by a number of other Officers.

1.21 To exercise all of the Council's powers under the Reservoirs Act 1975.

1.22 To undertake those functions assigned under:

(a) Part 3, section 4 of this constitution; functions not to be the responsibility of an authority's Executive.

(b) Part 3, section 5 of this constitution: local choice functions.

## 2. Planning

2.1 To exercise all powers and functions on behalf of the Council and to meet all obligations imposed upon the Council pursuant to any planning legislation, except where such powers, functions and obligations are reserved to the Council or its committees.

## 3. Building Control

3.1 To exercise the powers and duties of the Council including determining applications and serving and enforcing notices and prosecuting offences under the following enactments:

(a) The Building Act 1984 and the Building Regulations 2000 and associated legislation

(b) The Safety at Sports Ground Act 1975

(c) The Fire Safety and Safety of Places of Sports Act 1987

(d) The London Building Acts and building control matters in the Local Government Act 2000.

3.2 To exercise all appointing officer functions under section 10 of the Party Wall Act 1996.

3.3 To exercise the powers contained within Section 29 and 32 of the Local Government (Miscellaneous Provisions) Act 1982 (protection of buildings and power of entry)

## 4. Public Protection

4.1 To enforce the enactments set out in Appendix A of this part of the Constitution and



- 4.2 To undertake those functions assigned under;
- (a) Part 3, Section 4 of this Constitution; functions not to be the responsibility of an authority's Executive.
  - (b) Part 3, Section 5 of this Constitution, local choice functions

## 5. Trading standards

- 5.1 To exercise the powers and duties of the Council on matters relating to trading standards, consumer protection and metrology including:
- (a) making such test purchases of goods and services as may be expedient for effective enforcement.
  - (b) exercising and enforcing appropriate enactments listed in Appendix A of this Part of the Constitution, including any regulation made under those enactments.

NB This function must be exercised subject to the Monitoring Officer authorising the institution and conduct of any legal proceedings except in such circumstances where a potential defendant is being held at a police station and the custody charging the individual. In such exceptional circumstances the power to charge the offender is limited to the [Trading Standards Operations Divisional Manager and Trading Standards Fair Trading Divisional Manager]. This procedure will only be used when dealing with itinerant persons where charging by way of summons would not be effective.

## 6. Licensing

- 6.1 To exercise all functions under the Licensing Act 2003 and Gambling Act 2005 including all administrative functions and determinations of unopposed applications for premises licences, personal licences, club premises certificates, temporary events notices, regulated entertainment and late night refreshments, permits and the setting of fees and charges.
- 6.2 To enforce the enactments set out in Appendices A, Part 3, Section 3 of this Constitution, headed licensing and registration of premises or persons.
- 6.3 To authenticate on the Council's behalf any notice, certificate or other document required to be issued in relation to the enactments in Appendix A of this Part of the constitution, subject to the matter being referred to the Planning Committee where policy or financial considerations are involved and have not previously been determined by the sub-committee.

- 6.4 To license and register those matters/premises and/or persons listed in Appendix A of this Part of the Constitution where applicable.
- 6.5 To determine the grant and renewal of street trading licences and to enforce the terms of these licences.
- 6.6 To determine applications for consents for the use of loudspeakers in streets under the Noise and Statutory Nuisance Act 1993 and to enforce the terms of these consents.

## 7. Parks and environment

- 7.1 To manage and control parks, open spaces and recreation and pleasure grounds including enforcing relevant byelaws; to organise musical festivals, band contests and sports festivals and to make security arrangements. To include determining applications for circuses with performing dogs and horses to take place on Council-owned land in parks or open spaces.

## 8. Property

- 8.1 To be the Council's designated corporate property officer, responsible for the strategic management of the Council's property portfolio, including corporate strategy and asset management, procurement of property and property services, planned and preventative maintenance programmes, property allocation, security and use, reviews, acquisitions and disposals (freehold and leasehold), and commercial estate management.
- 8.2 To exercise powers over the general use and hire of public halls and buildings owned by the Council (except the Town Hall) for the purpose of community use, meetings and other authorised events in accordance with approved fee scales and principles but to be able to waive or reduce scales of fees and charges in suitable cases.
- 8.3 Subject to the availability of finance to be responsible for any alternation or improvement of facilities to the Council Chamber, Committee Rooms and other accommodation for Members.
- 8.4 To conduct preliminary negotiations, negotiate, agree and conclude all property matters including the making and settling of rating appeals on Council property and property valuations for all purposes.
- 8.5 To agree and incur reasonable pre-sale expenses up to a limit of £100,000 per transaction when disposing of property, such expenses to be offset against the capital receipts arising.

- 8.6 To dispose of any property or asset of the Council provided that the value of the property or asset is less than £1,000,000. The delegation is subject to the following requirements:
- (a) complying with the Code of Practice on the Disposal of Surplus Property
  - (b) in cases where the Cabinet has already approved the principle but not the terms of a property disposal without the invitation of competitive bids, the provisionally agreed terms of any disposal exceeding £1,000,000 shall be reported to Cabinet for approval before the transaction is concluded.
  - (c) In cases that have not been the subject of competitive bids but are below £1,000,000 in value, the provisionally agreed terms of disposal shall be reported to the Strategic Director of Resources, before the transaction is concluded.
  - (d) complying with relevant Council policy on property transactions
  - (e) referring a matter for Member decision where it is proposed to recommend other than the best financial bid
- 8.7 concluding valuation and property disputes forming part of a pending or active court or arbitration proceedings, after consultation with either the Monitoring Officer or the S151 Officer, where there is insufficient time or opportunity to obtain a Member decision
- 8.8 Following notification to the relevant ward members, to vary but not extend existing agreements for mobile phones masts at school sites in circumstances where installations are to be upgraded and lower emissions will result to enable Landlord's consent to be granted for the installation.
- 8.9 To exercise all powers relating to Romford Market, including granting and revoking licences and enforcing relevant bylaws.
- 8.10 To name, rename, number and renumber streets and premises
- 8.11 To maintain the register of highways that are maintainable at public expense.
- 8.12 To purchases assets, land and property on behalf of the Council provided that the value of the land, property or asset is less than £1,000,000. Any land, property or asset of £1,000,000 or above shall require the authorisation of Cabinet.

- 8.13 To grant, accept, extend, surrender or otherwise deal with any leasehold interest pursuant to any authority connected with the Housing Revenue Accountconsul including but not limited to the Leasehold Reform, Housing and Urban Development Act 1993 and thereafter to exercise all the rights and responsibilities of the Council in its role as landlord, such as issuing consents, assessing compensation, etc.

### **Scheme 3.3.6**

#### **Specific powers of the Strategic Director of Resources**

The Strategic Director of Resources has within their area of responsibility all functions relating to:

- Finance,
- Customer Services,
- Human Resources and Organisational Development,
- ICT,
- Library Service,
- Registrars and Bereavement Service,
- Public Health and Transactional Services.
- OneSource oversight

#### **1. Finance**

- 1.1 To act as the Council's s.151 officer.
- 1.2 After consulting with the Head of Paid Service and the Monitoring Officer, to report to Full Council or to the Cabinet in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully (this is a statutory function).
- 1.3 To make such arrangements as are necessary to control and regulate the expenditure and income of the Council including the exercise of borrowing powers and treasury management powers (this is a statutory function).
- 1.4 To advise whether decisions of the Executive or Officers are in accordance with the budget framework in consultation with the Head of Paid Service and the Monitoring Officer, where appropriate.
- 1.5 To undertake all other financial matters arising within the Council, subject to the following requirements:
  - (a) Authority to incur expenditure being approved or sanctioned by the Council or the Cabinet.
  - (b) Powers of borrowing being exercised within guidelines agreed by the Council and any current codes of practice.
  - (c) All matters being within accepted accounting practice and standards and within statutory requirements.
  - (d) Any necessary reference to the Council's external Auditors.

- (e) An annual report being presented to the Audit Committee by 30 September in each year on the activities undertaken in respect of treasury management powers in the preceding financial year.
  - (f) Reports of the external Auditors and other relevant Inspectorates upon the audit of the Council's activities being considered.
- 
- 1.6 To manage the Council's loan debt, investments, and temporary investments, pension scheme and pension fund, insurance fund, act as registrar of loan instruments, manage all banking arrangements including numbers and types of accounts and arrange insurance of property and the selecting and accepting of tenders for insurance cover and related services which are considered to offer best value for the Council promoting good risk management practices at all times.
  - 1.7 To set the council tax base and commercial rate yield each year unless it involves matters of policy.
  - 1.8 To approve the Financial Procedure Rules and any amendments to them.
  - 1.9 To implement approved fees, charges, rents etc. and to ensure that proper arrangements exist for their collection.
  - 1.10 To advise on and monitor the revenue and capital budgets of the Council, including the Housing Revenue Account, and the determination of council tax and housing rent levels.
  - 1.11 To instruct the Council's insurers and, upon their advice, to negotiate and settle insurance claims up to maximum of £145,000 for motor insurance, £147,750 for liability insurance and motor vehicles, and £50,000 for property insurance and to review and, if necessary, amend the limits above on an annual basis, following discussion with the Council's insurers.
  - 1.12 To write off sums which are irrecoverable provided that all write-offs are reported to Cabinet.
  - 1.13 To make or enter into leasing arrangements for vehicles, plant and equipment.
  - 1.14 In consultation with the relevant SLT Member, to authorise virements.
  - 1.15 To set future inter-authority and standard charges for residential and day-care accommodation, in accordance with the formula recommended by the Local Government Association.

- 1.16 To advise on, co-ordinate and manage all payroll functions on behalf of the Council.
- 1.17 To exercise the Council's discretionary powers in relation to writing off amounts due for national non-domestic rate or surcharge on grounds of hardship or general rate on grounds of poverty, up to a maximum level of £10,000.
- 1.18 To exercise the Council's discretionary powers in relation to relief for council tax and commercial rates.
- 1.19 To act as statutory officer pursuant to the collection of council tax and commercial rates.

### *Pensions*

- 1.20 To administer the Council's pension fund.
- 1.21 To make direct investments in local infrastructure assets as part of the Pension Fund local infrastructure portfolio in consultation with the Chairman of Pensions.

## 2. Miscellaneous

- 2.1 To undertake the role of appointed person for the Council in all matters relating to the Criminal Records Bureau and / or the Disclosure and Barring Service.
- 2.2 To administer the issuing of concessionary travel permits for elderly people to eligible persons.

## 3. Public Health

- 3.1 To oversee the Council's public health responsibilities in conjunction with the Director of Public Health.

## 4. Human Resources and Organisational Development

- 4.1 To develop and implement the Council's human resources, organisation development, remuneration and occupational health strategies.
- 4.2 To implement any decisions and recommendations of recognised national negotiating bodies in respect of pay. Where a supplementary estimate is required, the cost must be reported to the Cabinet.

- 4.3 To implement decisions and recommendations of recognised national negotiating bodies on all employment matters including terms and conditions of employment. Where there is a cost implication, a report must be made to the Cabinet.
- 4.4 Subject to appointments, dismissals, assimilation and redundancies for Directors and above being authorised by Appointments Committee, or decided in accordance with any delegations made by that committee, to implement the procedure for any senior management realignment or restructuring in accordance with the Council's policies and procedures.
- 4.5 In consultation with the Monitoring Officer to amend HR policies where necessary in consequence of legislation, organisational or other changes that have no adverse effect.
- 4.6 To act on and make decisions as a pensions panel consisting of the Director of Finance, Monitoring Officer and Director of Human Resources & Organisational Development (or their nominated deputies) for the purposes of:
  - (a) Stage 2 appeals within the Internal Dispute Resolution Procedure regulations and exercising other discretions within the Local Government Pension Scheme
  - (b) To grant discretionary payments to retiring employees in accordance with the Council's approved policy.
- 4.7 To implement the Council's early retirement, retirement and redundancy policies in consultation with the Monitoring Officer.
- 4.8 The exercise of the client monitoring function in respect of occupational health and the Council's recruitment advertising contracts, and the power to select and accept tenders for external consultants or contracts in accordance with the Council's standing orders.
- 4.9 To authorise the making of ex gratia payments to individuals where the Ombudsman has recommended that such payment be made in local settlement of a complaint.
- 4.10 To grant gifts for long service up to the limit specified from time to time by the Head of Finance.
- 4.11 To approve the arrangements for members' training and development.
- 4.12 To approve proposals for the payment of allowances in accordance with the Council's Injury Allowances Scheme.



- 4.13 To grant car and season loans to eligible Officers.
- 4.14 To approve payment of allowances in accordance with the “Croydon Scheme” to Officers injured in the course of their duties.

**Scheme 3.3.7**  
**Monitoring Officer (and Deputy Director of Legal Services)**

**1. STATUTORY**

- 1.1 To act as the Monitoring Officer for the Council in accordance with the duties set out in Section 5 of the Local Government Act 1989.

**2. GOVERNANCE**

- 2.1 To prepare, approve and issue or serve all legal documentation (including statutory notices and licences) on behalf of the Council.
- 2.2 To commence, progress and defend (as appropriate) all legal proceedings on behalf of the Council in any court or tribunal.
- 2.3 To sign, serve, advertise and receive notices and documents (including requisitions) on behalf of the Council in relation to any formal or legal procedures.
- 2.4 To certify as a true and correct record any documents in accordance with section 229 of the Local Government Act 1972.
- 2.5 To sign or endorse any documents on behalf of the borough as required from time to time.
- 2.6 To instruct and/or seek the opinion of legal counsel and/or external solicitors in consultation with the Chief Executive or any Strategic Director and to instruct legal counsel or experts to advise or appear on any matter and to agree fees arising.
- 2.7 In consultation with the Strategic Director of Resources to settle claims in proceedings commenced or about to be commenced against the Council in a court or tribunal up to a limit of £100,000. Settlement of claims that exceed £100,000 require the approval of the relevant individual Cabinet Member or of the Cabinet, unless the decision is required to be made immediately before, at, or during a hearing.
- 2.8 To arrange for the administration of all statutory appeals.
- 2.9 To authorise appropriately qualified Officers to represent the Council and to conduct legal proceedings in any Court or Tribunal.
- 2.10 To undertake those functions assigned to the Monitoring officer under:

- (a) Part 3, Section 4 of the Constitution: functions not to be the responsibility of an Authority's Executive
  - (b) Part 3, Section 5 of this Constitution: local choice functions
  - (c) Part 3, Section 6 of this constitution: Proper Officer function
- 2.11 To authorise activities under the Regulation of Investigatory Powers Act 2000 and to monitor proper use of activities under that Act
- 2.12 To develop and implement the Council's information governance policies and protocols.
- 2.13 To approve arrangements for members' training.
- 2.14 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.
- 2.15 To maintain an up-to-date version of the constitution and ensure that it is widely available for consultation by Members, Officers and the public.
- 2.16 To make changes to the Constitution pursuant to Article 11 of the Constitution.
- 2.17 After consulting with the Chief Executive and the Strategic Director of Resources, to report to the full Council or to the Cabinet in relation to any function if:
- (a) he or she considers that any proposal, decision or omission would give rise to unlawfulness, or
  - (b) where a Local Commissioner has conducted an investigation to the proposal, decision or omission concerned, any proposal, decision or omission has given rise to maladministration.

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

- 2.18 To consider any complaint made against a Councillor in accordance with the Code of Conduct for Members and the procedure for dealing with complaints against Members as contained within this Constitution at Section 5.1 and 5.2.

- 2.19 To ensure that executive decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.
- 2.20 To advise whether decisions of the Executive or officers are in accordance with the policy framework in consultation with the Chief Executive and the Strategic Director of Resources, where appropriate.
- 2.21 To give undertakings on behalf of the Council.
- 2.22 To authorise and attest to the Seal of the Council in accordance with Article 10 in Part 2 of Constitution.

### 3. HEAD OF COMMITTEE AND ELECTION SERVICES

- 3.1 To undertake all the administrative procedures for Hearings Panels and any other panels or Sub-Committees required under the terms of reference of the Licensing Committee: including but not limited to the appointment and re-appointment of independent persons for hearings, the selection of members or independent persons to consider specific cases, the arrangement of panels and dates and the appointment of Chairs of panels.
- 3.2 In consultation with the Leader of the Group of which the previous appointee is a Member, to appoint a Member of the Council to fill a casual vacancy in any appointment to another organisation arising during the course of a municipal year.
- 3.3 In consultation with Cabinet Members, Group Leaders and the Chairs of Committees, to determine the schedule of meetings for each municipal year (including dates, times and places of meeting)
- 3.4 To exercise general use and hire of the Council Chamber for the purpose of meetings and other authorised events in accordance with approved fee scales and principles and guidelines agreed by the Governance Committee, but to be able to waive or reduce scales of fees and charges in suitable cases. To exercise general management of the Council Chamber, Committee Rooms and other accommodation for Members, including any audio-visual or other information technology equipment installed therein
- 3.5 Undertake those functions assigned under: (i) Part 3, Section 6 of this constitution: Proper Officer functions

#### *Election Services Manager*

- 3.6 To undertake those functions assigned under Part 3, section 6 of this constitution (Proper Officer function)

#### 4. FUNCTIONS OF THE SCRUTINY OFFICER

- 4.1 To promote the role of the authority's Overview and Scrutiny Board or Sub-Committees;
- 4.2 To provide support to the authority's Overview and Scrutiny Board or Sub-Committees and the members of that committee or those committees;
- 4.3 To provide support and guidance to –
  - (a) members of the authority,
  - (b) members of the executive of the authority, and
  - (c) officers of the authority, in relation to the functions of the authority's Overview and Scrutiny Board or Sub-Committees.

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**Part 3.3**  
**Appendix A**  
**Code of practice: disposal of property**

1. This appendix sets out the code of practice for the disposal of property. The Strategic Director of Place is required to comply with this code when seeking to dispose of property (and where the Strategic Director of Place is recommending to either a Cabinet Member or Cabinet to approve the disposal of property).
2. This code of practice applies to freehold and leasehold disposals.

**Method of disposal**

3. The Strategic Director of Place shall determine the method by which property should be disposed of. This method should require the open invitation of competitive bids, unless the Cabinet has already agreed an alternative method of disposal or the Strategic Director of Place decides, in consultation with the applicable Cabinet Member that an alternative method of disposal would be appropriate. Examples of possible exceptions include:
  - (a) sale to a sitting tenant
  - (b) sale to adjoining owner
  - (c) sale of an access which would enable a purchaser to release development value locked up in backland
  - (d) sale of a part-interest in a property where amalgamation of interests could enable substantial “marriage value” to be realised
  - (e) sale to a party offering other benefits to the Council, such as a housing association.
4. These examples are given on the basis that the Strategic Director of Place 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.
5. Where land is disposed of by auction, it will be subject to a reserve price agreed between the Strategic Director of Place and the auctioneer.
6. Any pre-auction bid shall be accepted only upon the recommendation of the auctioneer.

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

#### Valuation

8. Terms will not be finalised without the benefit of a current valuation. Every valuation by the Strategic Director of Place shall state the date beyond which it is not to be regarded as valid without further certification by him or her.
9. 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 the 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 7.

#### Transactions at less than market value

10. Approval must be obtained from Cabinet to all disposals (freehold or leasehold) 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 Full Council or Cabinet for the type of transaction proposed. When Cabinet is invited to consider the principle or details 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.
11. 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.



**PART 3**  
**RESPONSIBILITY FOR FUNCTIONS**

**SECTION 4:**  
**Functions not to be the responsibility of the Council's Executive**

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

#### **A. FUNCTIONS RELATING TO PLANNING**

<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>	<b>Decision-making body</b>
Functions relating to development plans	Part 2 of the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004	<p>The Strategic Director of Place except where:</p> <ul style="list-style-type: none"> <li>• approval by the Executive is required for consultation on a Local Development Framework Document;</li> <li>• approval by the Executive is required for adoption of a Supplementary Planning Document, the Local Development Scheme, the Statement of Community Involvement or the Authority's Monitoring Report;</li> <li>• approval by Full Council is required for submission or adoption of a Development Plan Document</li> </ul>
Functions relating to control over development (including the assessment of environmental effects)	Part 3 of the Town and Country Planning Act 1990	<p>The Strategic Director of Place, except where:</p> <ul style="list-style-type: none"> <li>• an application for Planning Permission is required to be determined by</li> </ul>

<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>	<b>Decision-making body</b>
		Planning Committee in accordance with the Committee Consideration Criteria in the Planning Committee Procedure Rules
Functions relating to planning enforcement	Part 7 of the Town and Country Planning Act 1990	The Strategic Director of Place
Functions relating to special planning controls (e.g. trees, amenity land and advertisements)	Part 8 of the Town and Country Planning Act 1990	The Strategic Director of Place
Functions relating to highways and planning	Part 10 of the Town and Country Planning Act 1990	The Strategic Director of Place
Functions relating to statutory undertakers and planning	Part 11 of the Town and Country Planning Act 1990	The Strategic Director of Place
Functions relating to Crown land and planning	Part 13 of the Town and Country Planning Act 1990	The Strategic Director of Place
Functions relating to financial provisions for planning	Part 14 of the Town and Country Planning Act 1990	The Strategic Director of Place
Functions relating to miscellaneous and general planning provisions (e.g. rights of entry)	Part 15 of the Town and Country Planning Act 1990	The Strategic Director of Place
Functions relating to listed buildings	Part 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990	<p>The Strategic Director of Place, except where:</p> <ul style="list-style-type: none"> <li>an application for Listed Building Consent is required to be determined by Planning Committee in accordance with the Committee Consideration Criteria in the</li> </ul>

<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>	<b>Decision-making body</b>
		Planning Committee Procedure Rules
Functions relating to conservation areas	Part 2 of the Planning (Listed Buildings and Conservation Areas) Act 1990	The Strategic Director of Place, except where: <ul style="list-style-type: none"> <li>approval of the Executive is required to designate a conservation area</li> </ul>
Functions relating to general matters relating to listed buildings and conservation areas (e.g. Crown land and rights of entry)	Part 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990	The Strategic Director of Place
Functions relating to controls over hazardous substances	Planning (Hazardous Substances) Act 1990	The Strategic Director of Place
Functions relating to Certificates of Appropriate Alternative Development	Part 3 of the Land Compensation Act 1961	The Strategic Director of Place
Functions relating to the control of advertisements, displays etc	Part 3 of the London Local Authorities Act 1995	The Strategic Director of Place
Functions relating to surveillance and covert human intelligence sources	Part II of the Regulation of Investigatory Powers Act 2000	The Strategic Director of Place
Functions relating to the civil recovery of the proceeds etc of unlawful conduct	Part 5 of the Proceeds of Crime Act 2002	The Strategic Director of Place
Functions relating to charging for discretionary services	Part 8 Chapter 1 of the Local Government Act 2003	The Strategic Director of Place
Functions relating to Nationally Significant Infrastructure Projects	Parts 1 to 9 of the Planning Act 2008	The Strategic Director of Place
Functions relating to the Community Infrastructure Levy	Part 11 of the Planning Act 2008	The Strategic Director of Place , except where: <ul style="list-style-type: none"> <li>approval by Full Council is required to submit a draft</li> </ul>

Function	Provision of Act or Statutory Instrument	Decision-making body
		charging schedule for examination, approve a charging schedule or withdraw a charging schedule <ul style="list-style-type: none"> <li>approval by the Executive is required to consult on or adopt a new or amended Regulation 123 List</li> </ul>
Functions relating to Neighbourhood Planning	Part 6 Chapter 3 of the Localism Act 2011	The Strategic Director of Place ,, except where: <ul style="list-style-type: none"> <li>approval by the Executive is required to authorise a Plan to be put to referendum or to agree that a Plan be Made</li> </ul>
Functions relating to self-build and custom house building	Part 1 Chapter 2 of the Housing and Planning Act 2016	The Strategic Director of Place ,

**B. LICENSING AND REGISTRATION FUNCTIONS (IN SO FAR AS NOT COVERED BY ANY OTHER PARAGRAPH OF THIS SCHEDULE).**

1. Power to issue licences authorising the use of land as a caravan site ("site licences")	Section 3(3) of the Caravan Sites and Control of Development Act 1960	The Strategic Director of Place with reference to Licensing Committee where the matter is contested
2. Power to license the use of moveable dwellings and camping sites	Section 269(1) of the Public Health Act 1936	The Strategic Director of Place ,
3. Power to license hackney carriages and private hire vehicles	<p><b>(a)</b> as to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875, and section 15 of the Transport Act 1985; and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976</p> <p><b>(b)</b> as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976</p>	<i>Not applicable</i>
4. Power to license drivers of hackney carriages and private hire vehicles	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976	<i>Not applicable</i>
5. Power to license operators of hackney carriages and private hire vehicles	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976	<i>Not applicable</i>
6. Power to register pool promoters	Schedule 2 to the Betting, Gaming and Lotteries Act 1963 [as saved for certain purposes by article 3(3)(c) of the Gambling Act Order]	<i>Not applicable</i>

Function	Provision of Act or Statutory Instrument	Decision-making body
7. Power to grant track betting licences	Schedule 3 to the Betting, Gaming and Lotteries Act 1963. [as saved for certain purposes by article 3(3)(d) and (4) of the Gambling Act Order.]	The Strategic Director of Place with reference to Licensing Committee where the matter is contested,
8. Power to license inter-track betting schemes	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963 [as saved for certain purposes by article 3(3)(e) of the Gambling Act Order.]	The Strategic Director of Place with reference as above
9. Power to grant permits in respect of premises with amusement machines	Schedule 9 to the Gaming Act 1968 [as saved for certain purposes by article 4(2)(1) and (m) of the Gambling Act Order.]	The Strategic Director of Place with reference as above,
10. Power to register societies wishing to promote lotteries	Schedule 1 to the Lotteries and Amusements Act 1976 [as saved for certain purposes by article 5(2)(a) and (3) of the Gambling Act Order.]	The Strategic Director of Place with reference as above
11. Power to grant permits in respect of premises where amusements with prizes are provided	Schedule 3 to the Lotteries and Amusements Act 1976 [as saved for certain purposes by the article 5(2)(d) and (5) of the Gambling Act Order.]	The Strategic Director of Place with reference as above
12. Power to issue cinema and cinema club licences	Section 1 of the Cinema Act 1985	<i>Not applicable</i>
13. Power to issue theatre licences	Sections 12 to 14 of the Theatres Act 1968	<i>Not applicable</i>
14. Power to issue entertainments licences	Section 12 of the Children and Young Persons Act 1933, section 52 of, and Schedule 12 to, the London Government Act 1963, section 79 of the Licensing Act 1964, sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 and Part 1 of, and Schedules 1 and 2 to, the Local	<i>Not applicable</i>

Function	Provision of Act or Statutory Instrument	Decision-making body
	Government (Miscellaneous Provisions) Act 1982	
14A. All functions relating to licensing under the Licensing Act 2003	Sections 5 to 8 of the Licensing Act 2003	The Strategic Director of Place: Licensing Committee; Council as appropriate,
14AA. Duty to comply with requirement to provide information to Gambling Commission.	Section 29 of the 2005 Act.	The Strategic Director of Place ,
14AB. Functions relating to exchange of information	Section 30 of the 2005 Act	The Strategic Director of Place ,
14AC. Functions relating to occasional use notices	Section 39 of the 2005 Act	The Strategic Director of Place ,
14B. Power to resolve not to issue a casino premises licence	Section 166 of the 2005 Act	Licensing Committee
14C. Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises	Section 304 of the 2005 Act	The Strategic Director of Place ,
14CA Power to make order dis applying section 279 or 282 (1) of the 2005 At in relation to specified premises]	[Section 284 of the 2005 Act	The Strategic Director of Place Licensing Committee if referred by The Strategic Director of Place
14D. Power to institute criminal proceedings	Section 346 of the 2005 Act	The Strategic Director of Place Monitoring Officer as appropriate
14E. Power to exchange information	Section 350 of the 2005 Act	The Strategic Director of Place
14F. Functions relating to the determination of fees for premises licences	The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 (SI 2007/479)	The Strategic Director of Place Licensing Committee if referred by The Strategic Director of Place



Function	Provision of Act or Statutory Instrument	Decision-making body
14G Functions relating to the registration and regulation of small society lotteries	[Part 5 of Schedule 11 to the 2005 Act]	The Strategic Director of Place
15. Power to license sex shops, sex cinemas	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.	, The Strategic Director of Place with reference to Licensing Committee where the matter is contested
16. Power to license performances of hypnotism	The Hypnotism Act 1952	The Strategic Director of Place
17. Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982	, The Strategic Director of Place
18. Power to license pleasure boats and pleasure vessels	Section 94 of the Public Health Acts Amendment Act 1907	The Strategic Director of Place
19. Power to register door staff	Paragraph 1(2) and 9 of Schedule 12 to the London Government Act 1963 and Part V of the London Local Authorities Act 1995	<i>Not applicable</i>
20. Power to license markets and street trading	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982, Part III of the London Local Authorities Act 1990 (c. vii) and section 6 of the London Local Authorities Act 1994 (c.xii)	The Strategic Director of Place, with reference to Licensing Committee where the matter is contested
21. Power to license night cafes and take-away food shops	Section 2 of the Late Night Refreshment Houses Act 1969, Part II of the London Local Authorities Act 1990	<i>Not applicable</i>

Function	Provision of Act or Statutory Instrument	Decision-making body
	and section 5 of the London Local Authorities Act 1994.	
22. Duty to keep list of persons entitled to sell non-medicinal poisons.	Sections 3(1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972	The Strategic Director of Place
23. Power to license dealers in game and the killing and selling of game	Sections 5, 6, 17 18 and 21 to 23 of the Game Act 1831; sections 2 to 16 of the Game Licensing Act 1860, section 4 of the Customs and Inland Revenue Act 1883, sections 12(3) and 27 of the Local Government Act 1874, and section 213 of the Local Government Act 1972.	<i>Not applicable</i>
24. Power of register and license premises for the preparation of food	Section 19 of the Food Safety Act 1990	The Strategic Director of Place
25. Power to license scrap yards	Section 1 of the Scrap Metal Dealers Act 1964	The Strategic Director of Place with reference to Licensing Committee where the matter is contested
26. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds	The Safety of Sports Grounds Act 1975	, The Strategic Director of Place with reference as above
27. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds	Part III of the Fire Safety and Safety of Places of Sport Act 1987	The Strategic Director of Place with reference as above
28. Power to issue fire certificates	Section 5 of the Fire Precautions Act 1971	<i>Not applicable</i>
29. Power to license premises for the breeding of dogs	Section 1 of the Breeding of Dogs Act 1973 and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999	The Strategic Director of Place

Function	Provision of Act or Statutory Instrument	Decision-making body
30. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business	Section 1 of the Pet Animals Act 1951; section 1 of the Animal Boarding Establishment Act 1963; the Riding Establishments Acts 1964 and 1970; section 1 of the Breeding of Dogs Act 1973; and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.	The Strategic Director of Place
31. Power to register animal trainers and exhibitors	Section 1 of the Performing Animals (Regulation) Act 1925	The Strategic Director of Place
32. Power to license zoos	Section 1 of the Zoo Licensing Act 1981	The Strategic Director of Place
33. Power to license dangerous wild animals	Section 1 of the Dangerous Wild Animals Act 1976	The Strategic Director of Place
34. Power to license knackers' yards	Section 4 of the Slaughterhouses Act 1974. See <i>also</i> the Animal By-Products Order 1999 (S.I. 1999/646)	The Strategic Director of Place
35. Power to license the employment of children	Part II of the Children and Young Persons Act 1933, byelaws made under that Part, and Part II of the Children and Young Persons Act 1963	The Strategic Director of People, with reference as above
36. Power to approve premises for the solemnisation of marriages	Section 46A of the Marriage Act 1949 and the Marriages (Approved Premises) Regulations 1995 (S.I. 1995/510)	The Strategic Director of Resources

Function	Provision of Act or Statutory Instrument	Decision-making body
37. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to: (a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c. 67) or (b ) an order under section 147 of the Inclosure Act 1845	Regulation 6 of the Commons Registration (New Land) Regulations 1969 (SI 1969/1843)	The Monitoring Officer, with reference as above
38. Power to register variation of rights of common	Regulation 29 of the Commons Registration (General) Regulations 1966 (SI 1966/1471)	,The Monitoring Officer with reference as above
39. Power to license persons to collect for charitable and other causes	Section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939	<i>Not applicable</i>
40. Power to grant consent for the operation of a loudspeaker	Schedule 2 to the Noise and Statutory Nuisance Act 1993	The Strategic Director of Place
41. Power to grant a street works licence	Section 50 of the New Roads and Street Works Act 1991	The Strategic Director of Place
42. Power to license agencies for the supply of nurses	Section 2 of the Nurses Agencies Act 1957	<i>Not applicable</i>
43. Power to issue licences for the movement of pigs	Article 12 of the Pigs (Records, Identification and Movement) Order 1995 (S.I. 1995/11)	, The Strategic Director of Place

<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>	<b>Decision-making body</b>
44. Power to license the sale of pigs	Article 13 of the Pigs (Records, Identification and Movement) Order 1995	, The Strategic Director of Place
45. Power to license collecting centres for the movement of pigs	Article 14 of the Pigs (Records, Identification and Movement) Order 1995	The Strategic Director of Place
46. Power to issue a licence to move cattle from a market	Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998 (S.I. 1998/871).	The Strategic Director of Place
46A. Power to grant permission for provision, etc, of services, amenities, recreation and refreshment facilities on highway, and related powers	Sections 115E, 115F and 115K of the Highways Act 1980	The Strategic Director of Place with reference to Licensing Committee where the matter is contested
47. Power to permit deposit of builder's skip on highway	Section 139 of the Highways Act 1980	, The Strategic Director of Place with reference as above
[47A. Duty to publish notice in respect of proposal to grant permission under section 115E of the Highways Act 1980.	Section 115G of the Highways Act 1980]	The Strategic Director of Place with reference as above
48. Power to license planting, retention and maintenance of trees etc in part of highway.	Section 142 of the Highways Act 1980	The Strategic Director of Place with reference as above
49. Power to authorise erection of stiles etc on footpaths or bridleways	Section 147 of the Highways Act 1980	The Strategic Director of Place with reference as above
50. Power to license works in relation to buildings etc. which obstruct the highway	Section 169 of the Highways Act 1980	The Strategic Director of Place with reference as above

<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>	<b>Decision-making body</b>
51. Power to consent to temporary deposits or excavations in streets	Section 171 of the Highways Act 1980	The Strategic Director of Place with reference as above
52. Power to dispense with obligation to erect hoarding or fence	Section 172 of the Highways Act 1980	The Strategic Director of Place with reference as above
53. Power to restrict the placing of rails, beams etc over highways.	Section 178 of the Highways Act 1980	The Strategic Director of Place with reference as above
54 Power to consent to construction of cellars etc. under street	Section 179 of the Highways Act 1980	The Strategic Director of Place with reference as above
55. Power to consent to the making of openings into cellars etc under streets, and pavement lights and ventilators	Section 180 of the Highways Act 1980	, The Strategic Director of Place with reference as above
56. Power to sanction use of parts of buildings for storage of celluloid	Section 1 of the Celluloid and Cinematograph Film Act 1922	, The Strategic Director of Place with reference as above
57. Power to approve meat product premises	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (S.I. 1994/3082)	, The Strategic Director of Place with reference as above
58. Power to approve premises for the production of minced meat or meat preparations	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205)	, The Strategic Director of Place with reference as above
59. Power to approve dairy establishments	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (S.I. 1995/1086)	, The Strategic Director of Place with reference as above

Function	Provision of Act or Statutory Instrument	Decision-making body
60. Power to approve egg product establishments	Regulation 5 of the Egg Products Regulations 1993 (SI 1993/1520)	, The Strategic Director of Place with reference as above
61. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (SI 1995/1763)	<i>Not applicable</i>
62. Power to approve fish products premises	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish)(Hygiene) Regulations 1998 (SI 1998/994)	The Strategic Director of Place
63. Power to approve dispatch or purification centres	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish)(Hygiene) Regulations 1998	The Strategic Director of Place with reference as above
64. Power to register fishing vessels on board which shrimps or molluscs are cooked	Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998	The Strategic Director of Place with reference as above
65. Power to approve factory vessels and fishery product establishments	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998	, The Strategic Director of Place with reference as above
66. Power to register auction and wholesale markets	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998	The Strategic Director of Place with reference as above
67. Duty to keep register of food business premises	Regulation 5 of the Food Premises (Registration) Regulations 1991 (SI 1991/2828)	, The Strategic Director of Place with reference as above

<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>	<b>Decision-making body</b>
68. Power to register food business premises	Regulation 9 of the Food Premises (Registration) Regulations 1991	, The Strategic Director of Place with reference as above
[69. Power to issue near beer licence	Sections 16 to 19 and 21 of the London Local Authorities Act 1995 (c.x.) and, to the extent that it does not have effect by virtue of regulation 2(3), section (3), section 25 of that Act.	The Strategic Director of Place with reference as above
70. Power to register premises or stalls for the sale of goods by way of competitive bidding	Section 28 of the Greater London Council (General Powers) Act 1984 (c.xxvii)]	The Strategic Director of Place with reference as above
71. Power to register motor salvage operators	Part I of the Vehicles (Crime) Act 2001 (c.3).	The Strategic Director of Place with reference as above
72. Functions relating to the registration of common land and town or village greens	Part 1 of the Commons Act 2006 (c.26) and the Commons Registration (England) Regulations 2008 (S.I. 2008/1961)	The Monitoring Officer
73. Power to grant, vary or renew a scrap metal dealers site licence	Section 2&3 and Sch1 Scrap Metal Dealers Act 2013	; The Strategic Director of Place with reference as above
74. Power to grant or vary a scrap metal collector's licence	Section 2&3 and Sch 2 Scrap Metal Dealers Act 2013	; The Strategic Director of Place with reference as above
75. Power to revoke a scrap metal dealers or collectors licence	Section 4 Scrap Metal Dealers Act 2013	The Strategic Director of Place with reference as above



**C. FUNCTIONS RELATING TO HEALTH AND SAFETY AT WORK**

Functions under any of the “relevant statutory provisions” within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc Act 1974, to the extent that those functions are discharged otherwise than in the authority’s capacity as an employer	Part I of the Health & Safety at Work etc. Act 1974	The Strategic Director of Place with reference to Licensing Committee where the matter is contested
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## D. FUNCTIONS RELATING TO ELECTIONS

Function	Provision of Act or Statutory Instrument	Decision-making body
1. Duty to appoint an electoral registration officer	Section 8(2) of the Representation of the People Act 1983	Full Council
2. Power to assign officers in relation to requisitions of the registration officer	Section 52(4) of the Representation of the People Act 1983	Chief Executive
3. Functions in relation to parishes and parish councils	Part II of the Local Government and Rating Act 1997 and subordinate legislation under that Part.	<i>Not applicable</i>
4. Power to dissolve small parish councils	Section 10 of the Local Government Act 1972	<i>Not applicable</i>
5. Power to make orders for grouping parishes, dissolving groups and separating parishes from groups	Section 11 of the Local Government Act 1972	<i>Not applicable</i>
6. Duty to appoint returning officer for local government elections	Section 35 of the Representation of the People Act 1983	Full Council
7. Duty to provide assistance at European Parliamentary elections	[Section 6(7) and (8) of the European Parliamentary Elections Act 2002]	Chief Executive
8. Duty to divide constituency into polling districts	[Sections 18A and 18E of, and Schedule A1 to,] the Representation of the People Act 1983	Full Council
9. Power to divide electoral divisions into polling districts at local government elections	Section 31 of the Representation of the People Act 1983	Full Council
10. Powers in respect of holding of elections	Section 39(4) of the Representation of the People Act 1983	Chief Executive Returning Officer
11. Power to pay expenses properly incurred by electoral registration officers	Section 54 of the Representation of the People Act 1983	Chief Executive
12. Power to fill vacancies in the event of insufficient nominations	Section 21 of the Representation of the People Act 1985	<i>Not applicable</i>

<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>	<b>Decision-making body</b>
13. Duty to declare vacancy in office in certain cases	Section 86 of the Local Government Act 1972	Chief Executive
14. Duty to give public notice of a casual vacancy	Section 87 of the Local Government Act 1972	Chief Executive
15. Power to make temporary appointments to parish councils	Section 91 of the Local Government Act 1972	<i>Not applicable</i>

<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>	<b>Decision-making body</b>
16. Deleted from legislation		
17. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000	Section 10 of the Representation of the People Act 2000	Full Council
18. Duty to consult on change of scheme for elections.	Sections 22(2), 38(2) and 40(2) of the 2007 Act	Full Council
19. Duties relating to publicity	Sections 35, 41 and 52 of the 2007 Act	Chief Executive
20. Duties relating to notice to Electoral Commission	Sections 36 and 42 of the 2007 Act	Chief Executive
21. Power to alter years of ordinary elections of parish councillors	Section 53 of the 2007 Act	<i>Not applicable</i>
22 Functions relating to change of name of electoral area	Section 59 of the 2007 Act	Full Council

**E. FUNCTIONS RELATING TO NAME AND STATUS OF AREAS AND INDIVIDUALS**

Function	Provision of Act or Statutory Instrument	Decision-making body
1. Power to change the name of a county, district or London borough	Section 74 of the Local Government Act 1972	Full Council
2. Power to change the name of a parish	Section 75 of the Local Government Act 1972	<i>Not applicable</i>
3. Power to confer title of honorary alderman or to admit to be an honorary freeman	Section 249 of the Local Government Act 1972	Full Council
4. Power to petition for a charter to confer borough status	Section 245b of the Local Government Act 1972	<i>Not applicable</i>

**E(a): FUNCTIONS RELATING TO COMMUNITY GOVERNANCE**

Function	Provision of Act or Statutory Instrument	Decision-making body
1. Duties relating to community governance reviews	Section 79 of 2007 Act	Full Council
2. Functions relating to community governance petitions	Section 80, 83 to 85 of the 2007 Act	Governance Committee
3. Functions relating to terms of reference review	Sections 81(4) to (6)	Full Council
4. Power to undertake a community governance review	Section 82 of the 2007 Act	Full Council
5 Functions relating to making recommendations	Sections 87 to 92 of the 2007 Act	Governance Committee
6. Duties when undertaking review	Section 93 to 95 of the 2007 Act	Governance Committee
7. Duty to publicise outcome of review	Section 96 of the 2007 Act	Head of Committee and Election Services
8. Duty to send two copies of the order to Secretary of State and Electoral Commission	Section 98(1) of the 2007 Act	Head of Committee and Election Services
9. Power to make agreements about incidental matters	Section 99 of the 2007 Act	Governance Committee

**F. POWER TO MAKE, AMEND, REVOKE OR RE-ENACT BYLAWS**

Power to make, amend, revoke or re-enact bylaws	Any provision of any enactment (including local Act), whenever passes, and section 14 of the Interpretation Act 1978	Full Council
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**F(a). FUNCTIONS RELATING TO SMOKE-FREE PREMISES ETC.**

1. Duty to enforce Chapter 1 and regulations made under	Section 10(3) of the 2006 Act	The Strategic Director of Place
2. Power to authorise officers	Section 10(5) of, and paragraph 1 of Schedule 2 to the 2006 Act	The Strategic Director of Place
3. Functions relating to fixed penalty notices	Paragraph 13, 15 and 16 of Schedule 1 to the 2006 Act	The Strategic Director of Place
4. Power to transfer enforcement functions to another enforcement authority	Smoke-free (Premises and Enforcement Regulations 2006 (SI 2006.3368).]	The Strategic Director of Place

**G. POWER TO PROMOTE OR OPPOSE LOCAL OR PERSONAL BILLS**

Power to promote or oppose local or personal Bills	Section 239 of the Local Government Act 1972	Full Council
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## H. FUNCTIONS RELATING TO PENSIONS ETC

Function	Provision of Act or Statutory Instrument	Decision-making body
1. Functions relating to local government pensions, etc	Regulations under section 7, 12 or 24 of the Superannuation Act 1972	Pensions Committee
[2. Functions under the Firefighter's Pension Scheme relating to pensions, etc as respects persons employed by fire and rescue authorities pursuant to section 1 of the Fire and Rescue Services Act 2004.]	[Sections 34 and 36 of the Fire and Rescue Services Act 2004	<i>Not applicable</i>

## I. MISCELLANEOUS FUNCTIONS

### *Part I: functions relating to public rights of way*

1. Power to create footpath or bridleway by agreement	Section 25 of the Highways Act 1980	Planning Committee
2. Power to create footpaths and bridleways	Section 26 of the Highways Act 1980	Planning Committee
3. Duty to keep register of information with respect to maps, statements and declarations	Section 31A of the Highways Act 1980	The Strategic Director of Place
4. Power to stop up footpaths and bridleways	Section 118 of the Highways Act 1980	Planning Committee
5. Power to determine application for public path extinguishment order	Sections 118ZA and 118C(2) of the Highways Act 1980	Planning Committee
6. Power to make a rail crossing extinguishment order	Section 118A of the Highways Act 1980	Planning Committee
7. Power to make a special extinguishment order	Section 118B of the Highways Act 1980	Planning Committee
8. Power to divert footpaths and bridleways	Section 119 of the Highways Act 1980	Planning Committee
9. Power to make a public path diversion order	Sections 119ZA and 119C(4) of the Highways Act 1980	Planning Committee
10. Power to make a rail crossing diversion order	Section 119A of the Highways Act 1980	Planning Committee
11. Power to make a special diversion order	Section 119B of the Highways Act 1980	Planning Committee
12. Power to require applicant for order to enter into agreement	Section 119C(3) of the Highways Act 1980	Planning Committee
13. Power to make an SSSI diversion order	Section 119D of the Highways Act 1980	Planning Committee
14. Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980	Section 121B of the Highways Act 1980	The Strategic Director of Place
15. Power to decline to determine certain applications	Section 121C of the Highways Act 1980	Planning Committee
16. Duty to assert and protect the rights of the	Section 130 of the Highways Act 1980	

public to use and enjoyment of highways		The Strategic Director of Place
17. Duty to serve notice of proposed action in relation to obstruction	Section 130A of the Highways Act 1980	Planning Committee
18. Power to apply for variation of order under section 130B of the Highways Act 1980	Section 130B(7) of the Highways Act 1980	Planning Committee
19. Power to authorise temporary disturbance of surface of footpath or bridleway	Section 135 of the Highways Act 1980	The Strategic Director of Place
20. Power temporarily to divert footpath or bridleway	Section 135A of the Highways Act 1980	Planning Committee
21. Functions relating to the making good of damage and the removal of obstructions	Section 135B of the Highways Act 1980	Planning Committee
22. Powers relating to the removal of things so deposited on highways as to be a nuisance	Section 149 of the Highways Act 1980	Planning Committee
23. Power to extinguish certain public rights of way	Section 32 of the Acquisition of Land Act 1981	Planning Committee
24. Duty to keep definitive map and statement under review	Section 53 of the Wildlife and Countryside Act 1981	Planning Committee
25. Power to include modifications in other orders	Section 53A of the Wildlife and Countryside Act 1981	Planning Committee
26. Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981	Section 53B of the Wildlife and Countryside Act 1981	The Strategic Director of Place
27. Duty to reclassify roads used as public paths	Section 54 of the Wildlife and Countryside Act 1981	Planning Committee
28. Power to prepare map and statement by way of consolidation of definitive map and statement	Section 57A of the Wildlife and Countryside Act 1981	Planning Committee
29. Power to designate footpath as cycle track	Section 3 of the Cycle Tracks Act 1984	Planning Committee

30. Power to extinguish public right of way over land acquired for clearance	Section 294 of the Housing Act 1981	Planning Committee
30A. Power to authorise stopping up or diversion of the highway	Section 247 of the Town and Country Planning Act 1990	Planning Committee
31. Power to authorise stopping-up or diversion of footpath or bridleway	Section 257 of the Town and Country Planning Act 1990	Planning Committee
32. Power to extinguish public rights of way over land held for planning purposes	Section 258 of the Town and Country Planning Act 1990	Planning Committee
33. Power to enter into agreements with respect to means of access	Section 35 of the Countryside and Rights of Way Act 2000	Planning Committee
34. Power to provide access in absence of agreement	Section 37 of the Countryside and Rights of Way Act 2000	Planning Committee

**Part II: other miscellaneous functions**

35. Functions relating to sea fisheries	Sections 1, 2, 10 and 19 of the Sea Fisheries Regulations Act 1966	<i>Not applicable</i>
36. Power to make standing orders	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972	Full Council
37. Power to appoint Officers, and to determine the terms and conditions on which they hold office (including procedures for their dismissal)	Section 112 of the Local Government Act 1972	<ul style="list-style-type: none"> <li>• Full Council (appointment etc of Head of Paid Service)</li> <li>• Governance Committee or its Appointments Sub-Committee (appointment etc of Strategic Directors and Statutory Officers).</li> </ul>
38. Power to make standing orders as to contracts	Section 135 of the Local Government Act 1972	Full Council

Function	Provision of Act or Statutory Instrument	Decision-making body
39. Duty to make arrangements for proper administration of financial affairs etc	Section 151 of the Local Government Act 1972	<ul style="list-style-type: none"> <li>• Appointments Committee (appointment of Chief Finance Officer)</li> <li>• Chief Finance Officer (arrangements for proper administration of financial affairs)</li> </ul>
40. Power to appoint officers for particular purposes (appointment of "proper officers")	Section 270(3) of the Local Government Act 1972	Full Council
41. Power to make limestone pavement order	Section 34(2) of the Wildlife and Countryside Act 1981 (c.69)	<i>Not applicable</i>
42. Power to make closing order with respect to take-away food shops	Section 4 of the Local Government (Miscellaneous Provisions) Act 1982	<i>Not applicable</i>
43. Duty to designate officer as the head of the authority's paid service, and to provide staff, etc	Section 4(1) of the Local Government and Housing Act 1989	Full Council
44. Duty to designate officer as the monitoring officer, and to provide staff, etc	Section 5(1) of the Local Government and Housing Act 1989	<ul style="list-style-type: none"> <li>• Appointments Committee (designating Monitoring Officer)</li> <li>• Full Council (providing staff)</li> </ul>
44A. Duty to provide staff, etc. to person nominated by Monitoring Officer.	Section 82A(4) of the Local Government Act 2000	Council
44B. Powers relating to Overview and Scrutiny Sub-Committees (voting rights of co-opted members)	Paragraphs 12 and 14 of Schedule 1 to the Local Government Act 2000.]	Council

<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>	<b>Decision-making body</b>
45. Duty to approve authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts (as the case may be)	The Accounts and Audit Regulations 1996 (SI 1996 No. 590)	Audit Committee
46. Powers relating to the protection of important hedgerows	The Hedgerows Regulations 1997 (SI 1997 No. 1160)	The Strategic Director of Place
47. Powers relating to the preservation of trees	Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999 (SI 1999 No. 1892)	The Strategic Director of Place
47A. Powers relating to complaints about high hedges	Part 8 of the Anti-Social Behaviour Act 2003	The Strategic Director of Place
48. Power to make payments or provide other benefits in cases of maladministration etc	Section 92 of the Local Government Act 2000	Council
49. Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption	Section 13(2) of the Criminal Justice and Police Act 2001.	
50. Power to make or revoke an order designating a locality as an alcohol disorder zone	Section 16 of the Violent Crime Reduction Act 2006	The Strategic Director of Place Licensing Committee if referred by the The Strategic Director of Place
51. Power to apply for an enforcement order against unlawful works on common land	Section 41 of the Commons Act 2006	The Monitoring Officer
52. Power to protect unclaimed registered common land and unclaimed town or village	Section 45(2)(a) of the Commons Act 2006	The Monitoring Officer

Function	Provision of Act or Statutory Instrument	Decision-making body
greens against unlawful interference		
53. Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens	Section 45(2)(b) of the Commons Act 2006	The Monitoring Officer

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**PART 3                      RESPONSIBILITY FOR FUNCTIONS**

**SECTION 5: Local choice functions**

The following functions are specified as local choice functions in schedule 2 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the regulations). Council has decided on how the functions should be exercised as shown

<b>Function</b>	<b>Decision-making body</b>
1. Any function under a local Act other than a function specified or referred to in regulation 2 or schedule 1 of the regulations	Cabinet
2. Determining an appeal against any decision made by or on behalf of the authority	Governance Committee
3. The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools	Governance Committee
4. The making of arrangements pursuant to Sections 94(1), (1A) and (4) of the School Standards and Framework Act 1998 (admissions appeals)	Governance Committee
5. The making of arrangements pursuant to Section 95(2) of the School Standards and Framework Act 1998 (Children to whom Section 87 applies): appeals by governing bodies	Governance Committee
6. Any function relating to contaminated land	Strategic Director of Place
7. Discharging any function relating to the control of pollution or the management of air quality	Strategic Director of Place
8. Serving an abatement notice in respect of a statutory nuisance	Strategic Director of Place
9. Passing a resolution that schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	
10. Inspecting the authority's area to detect any statutory nuisance	Strategic Director of Place
11. Investigating any complaint as to the existence of a statutory nuisance	Strategic Director of Place
12. Obtaining information under section 330 of the Town and	Strategic Director of Place

<b>Function</b>	<b>Decision-making body</b>
Country Planning Act 1990 about interests in land	Director of Legal and Governance
13. Obtaining particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Director of Legal and Governance  Strategic Director of Place
14. Making agreements for the execution of highways works	Director of Legal and Governance  Strategic Director of Place
15. Appointing any individual: (a) to any office other than an office in which he is employed by the authority (b) to any body other than: <ul style="list-style-type: none"> <li>• the authority</li> <li>• a joint committee of two or more authorities, or</li> </ul> (c) to any committee or sub-committee of such a body And the revocation of such appointment	Governance Committee
16. Making agreements with other local authorities for the placing of Officers at the disposal of those other authorities	Cabinet
17. Functions under Sections 106, 110, 111 and 113 of the Local Government & Local Involvement in Health Act relating to local area agreements	Sections 106,110 and 111 - Cabinet  Section 113 - Strategic Director of Resources

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**PART 3                      RESPONSIBILITY FOR FUNCTIONS**

**SECTION 6:**  
**Proper officer functions**

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

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

### **Public Health Act 1936**

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

### **National Assistance Act 1948**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
47	Officer authorised to issue a certificate to enable a local authority to apply for a court order to remove a person from insanitary living conditions	The Council hereby appoints any person for the time being employed by the North

		East London Health Protection Unit as
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Section	Description	Proper officer
		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.

#### National Assistance (Amendment Act) 1951

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

#### Public Health Act 1961

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

		Public Protection Manager. Director of Public Health
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## Local Government Act 1972

Section	Description	Proper officer
83(1)-(4)	Officer to whom persons elected to any of the following offices of the Council shall make declaration of acceptance of office: mayor, deputy mayor, councillor	Chief Executive Deputy Director of Legal and Governance

Section	Description	Proper officer
84	Officer to whom a person elected to any office under the Council may give written notice of resignation	Chief Executive Deputy Director of Legal and Governance
88(1)	Receiving notice of casual vacancy in office of councillor	Chief Executive Deputy Director of Legal and Governance
88(2)	Officer who may convene a meeting of the Council for the election to fill a vacancy	Chief Executive Any Strategic Director
89(1)(b)	Officer who may receive notice in writing of a casual vacancy in the office of councillor from two local government electors	Chief Executive Deputy Director of Legal and Governance
100B(2)	Officer who may think fit to exclude from reports open to inspection parts relating to items during which the meeting is likely not to be open to the public	Head of Committee and Election Services Committee Services Manager
100B(7)(c)	Officer who may think fit to supply to the press additional material supplied to members of the Council in connection with items of business to be discussed	Deputy Director of Legal and Governance Deputy Monitoring Officer
100C(2)	Officer responsible for preparing a written summary of those parts of the committee proceedings which disclose exempt information	Head of Committee and Election Services Committee Services Manager
100D(1)(a) and (5)(a)	Officer responsible for identifying background papers and compiling list of such documents	Head of Committee and Election Services Committee Services Manager
100F(2)	Officer making decision as to documents disclosing exempt information which are	Chief Executive



Section	Description	Proper officer
	not required to be open to inspection by council members	Deputy Director of Legal and Governance
115	Officer to whom all officers shall pay monies received by them and due to the local authority	Strategic Director of Resources / Head of Procurement
146(1)	Officer authorised to produce a statutory declaration specifying securities and verifying name change of authority	Strategic Director of Resources / Head of Procurement

Section	Description	Proper officer
210(6) and (7)	Officer in whom power in respect of a charity will vest as at 1 April 1974	Deputy Director of Legal and Governance Deputy Monitoring Officer
225(1)	Officer with whom documents may be deposited pursuant to law to make notes or endorsements and give acknowledgements or receipts	Deputy Director of Legal and Governance Deputy Monitoring Officer
229(4) and (5)	Officer who shall certify that a document is a photographic copy of a document in the custody of the Council	Deputy Director of Legal and Governance Deputy Monitoring Officer
234(1)	Officer who may authenticate documents	Deputy Director of Legal and Governance Deputy Monitoring Officer
236(9)	Officer responsible for sending certified copies of bylaws to appropriate bodies	Deputy Director of Legal and Governance Deputy Monitoring Officer
238	Officer who shall certify copies of bylaws as true copies	Deputy Director of Legal and Governance Deputy Monitoring Officer
248(2)	Officer who shall keep the roll of freemen of the borough	Chief Executive Deputy Director of Legal and Governance
Para 4(2)(b) of Part I of	Officer who may sign a summons to council meetings	Monitoring Officer

Section	Description	Proper officer
Schedule 12		
Para 4(3) of Part I of Schedule 12	Officer who may receive notice from a member of address to which a summons to a meeting is to be sent	Head of Committee and Election Services Committee Services Manager
Para 25(7) of Part II of Schedule 14	Officer who may certify copies of resolutions passed under the Public Health Acts 1875 to 1925 as true copies for production in legal proceedings	Deputy Director of Legal and Governance Deputy Monitoring Officer

#### **Local Government Act 1974**

Section	Description	Proper officer
30(5)	Officer responsible for arranging publication in newspapers of notice of Local Commissioner's report on investigation of a complaint	Head of Committee and Election Services Committee Services Manager

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

Section	Description	Proper officer
41	Officer responsible for certifying copies of resolutions, minutes and other documents	Head of Committee and Election Services Committee Services Manager

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

Section	Description	Proper officer
Para 13(6) of schedule 3	Certification, for legal proceedings, of copy of any regulations made by the appropriate authority	Director of Legal and Governance Deputy Monitoring Officer

#### **Representation of the People Act 1983**

Section	Description	Proper officer
8	Officer acting as registration officer for registration of parliamentary and local government electors	Chief Executive

		Deputy Director of Legal and Governance
35	Officer acting as returning officer for council elections	Chief Executive Deputy Director of Legal and Governance

### **Building Act 1984**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
78(8)	Officer responsible for taking immediate action in relation to dangerous buildings	Strategic Director of Place

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

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
11	Officer to be informed of a notifiable disease or food poisoning	The Council hereby appoints any person for the time being employed by the North East London Health Protection Unit as Consultant in Communicable diseases (CCDC) or by the North East London Primary Care Trusts (PCTs) as Consultant in Public Health Medicine (CPHM) for the authority's area as proper officer.  Strategic Director of Place
18	Officer responsible for furnishing information with regard to notifiable diseases or food poisoning	As above
20	Officer empowered to prevent someone working in order to stop spread of disease	As above
21	Officer empowered to exclude a child from school if the child is liable to convey a notifiable disease	As above

22	Officer responsible for maintaining a list of day pupils at school having a case of notifiable diseases	As above
24	Officer responsible for ordering that infected articles not be sent to any laundry	As above
29	Officer responsible for letting of house or room after recent case concerning a notifiable disease	As above
31	Officer responsible for ordering disinfection of premises	As above
32	Officer responsible for ordering a person removed from an infected house	As above
36	Officer who may issue certificate stating that a person is believed to carry an organism capable of causing a notifiable disease and that a medical examination is expedient	As above
40	Officer who may apply for a warrant to enter a common lodging-house and examine any person for a notifiable disease	As above

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

## **The Health Protection (Notification) Regulations 2010**

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

## **Housing Act 1985**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
606(1) and (2)	Officer responsible for making reports on unfitness and clearance	Strategic Director of Place

## **Local Elections (Principal Areas) Rules 1986**

<b>Rule</b>	<b>Description</b>	<b>Proper officer</b>
44	Officer [to whom returning officer gives notice] giving public notice of name of successful candidate/s in Council elections	Chief Executive Deputy Director of Legal and Governance
46	Officer to whom, after election, returning officer forwards ballot papers and related documents for safe custody	Chief Executive Deputy Director of Legal and Governance

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
47	Officer whom court may order to produce ballot papers and related documents	Chief Executive Deputy Director of Legal and Governance
48	Officer responsible for retaining ballot papers and related documents for public inspection, prior to destroying the documents after a six month period	Election Services Manager

### **Local Government Finance Act 1988**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
114	Officer responsible for making financial report to the authority	Strategic Director of Resources

### **Local Government & Housing Act 1989**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
2	Officer responsible for receiving deposit of list of politically restricted posts	Strategic Director of Resources

### **Local Government (Committees and Political Groups) Regulations 1990**

<b>Regulation</b>	<b>Description</b>	<b>Proper officer</b>
8(1) and (5)	Officer to whom notice is delivered about the constitution of a political group, or the change or name of a political group	Head of Committee and Election Services Committee Services Manager
9 and 10	Officer to whom notice is delivered about a councillor's membership of, or cessation of membership of, a political group	Head of Committee and Election Services Committee Services Manager
13	Officer to whom the wishes of a political group are expressed	Head of Committee and Election Services Committee Services Manager
14	Officer responsible for notifying a political group about allocations and vacations of seats	Head of Committee and Election Services Committee Services Manager

### **Environmental Protection Act 1990**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
149	Officer for discharging functions for dealing with stray dogs	Strategic Director of Place
	Dogs Act 1871 and Dangerous Dogs Act 1991	Strategic Director of Place
	Guard Dogs Act 1975	Strategic Director of Place

## **Food Safety Act 1990**

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

## **Party Wall etc. Act 1996**

<b>Section</b>	<b>Description</b>	<b>Proper officer</b>
10(8)	Officer responsible for appointing a third surveyor where this becomes necessary	Strategic Director of Place

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

<b>Regulation</b>	<b>Description</b>	<b>Proper officer</b>
3(1)	Officer responsible for producing a written statement of all executive decisions made at a public or private meeting of Cabinet, including the information specified in regulation 3(2)  This officer is the proper officer referred to in rule 18 of the Access to Information Procedure Rules set out in Part 3 of this constitution	Head of Committee and Election Services Committee Services Manager
4(1)	Officer responsible for producing a written statement of all executive decisions made by an individual Cabinet member, including the information specified in regulation 4(2)  This officer is the proper officer referred to in rule 20(c) of the Access to Information Procedure Rules set out in Part 3 of this constitution	Head of Committee and Election Services Committee Services Manager

Regulation	Description	Proper officer
5(1)	<p>Officer responsible for ensuring that a copy of the following documents is available for public inspection:</p> <ul style="list-style-type: none"> <li>the written statement referred to in regulations 3 and 4 above</li> <li>part or all of any report considered by the decision-maker and relevant to the decision made</li> </ul> <p>This officer is the proper officer referred to in rule 6 of the Access to Information Procedure Rules set out in Part 3 of this constitution</p>	<p>Head of Committee and Election Services</p> <p>Committee Services Manager</p>
6	<p>Officer responsible for compiling a list of background papers to the report referred to in regulation 5 above</p> <p>This officer is the proper officer referred to in rule 8 of the Access to Information Procedure Rules set out in Part 3 of this constitution</p>	<p>Head of Committee and Election Services</p> <p>Committee Services Manager</p>
9(2)	<p>Officer responsible for making publicly available any report which an individual Cabinet member or member of staff intends to consider when making a key decision</p>	<p>Head of Committee and Election Services</p> <p>Committee Services Manager</p>
9(4)	<p>Officer responsible for including a list of background papers for the report referred to in regulation 9(2) above and for making available copies of those papers where appropriate</p>	<p>Head of Committee and Election Services</p> <p>Committee Services Manager</p>
11(2)	<p>Officer who may exclude whole or part of any report provided for public inspection under regulation 11(1), where the part excluded relates to a matter for which the proper officer considers a meeting is not likely to be open to the public</p> <p>This officer is the proper officer referred to in rule 11 of the Access to Information Procedure Rules set out in Part 3 of this constitution</p>	<p>Head of Committee and Election Services</p> <p>Committee Services Manager</p>
11(7)(c)	<p>Officer who may supply to a newspaper a copy of any document supplied to Cabinet members, if he or she thinks fit</p>	<p>Head of Committee and Election Services</p> <p>Committee Services Manager</p>



<b>Regulation</b>	<b>Description</b>	<b>Proper officer</b>
12(1)	<p>Officer responsible for publishing the information relating to key decisions specified in regulation 12(1)</p> <p>This officer is the proper officer referred to in rule 14 of the Access to Information Procedure Rules set out in Part 3 of this constitution</p>	Head of Committee and Election Services Committee Services Manager
15(1)	<p>Officer responsible for doing the following where the inclusion of a matter on the forward plan is impracticable and the matter would be a key decision:</p> <ul style="list-style-type: none"> <li>• giving notice to the Chairman of the Overview and Scrutiny Board or relevant Sub-Committee</li> <li>• making that notice available for public inspection</li> </ul> <p>This officer is the proper officer referred to in rule 15 of the Access to Information Procedure Rules set out in Part 3 of this constitution</p>	Head of Committee and Election Services Committee Services Manager
17(3) and (4)	Officer responsible for determining whether compliance with regulations 17(1) or 17(2) would involve the disclosure of either exempt information or advice provided by a political adviser or assistant	Head of Committee and Election Services Committee Services Manager
21(4)(a) and (b)	Officer who may form an opinion as to whether a document contains or is likely to contain information confidential information, exempt information or the advice of a political adviser or assistant	Head of Committee and Election Services Committee Services Manager

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

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

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

Regulation	Description	Proper officer
Paragraphs 5 and 6 of Part II of Schedule 1	<p>Officer for receiving notification of proposed appointment of certain officers, notifying executive members of that proposed appointment and for receiving and notifying of objections to the proposed appointment</p> <p>This officer is the proper officer referred to in rules 9 and 10 of the Staff Employment Procedure Rules set out in Part 4 of this constitution</p>	Chief Executive

Proper officer functions referred to in guidelines issued by the Secretary of State under section 38 of the Local Government Act 2000 and set out in Part 3 of this constitution

Rule	Description	Proper officer
<b><i>Access to Information Procedure Rules</i></b>		
4(c)	Officer who may supply copies of documents supporting reports that are open to public inspection	Head of Committee and Election Services Committee Services Manager
<b><i>Committee Procedure Rules</i></b>		
3(a)	Officer who may summon a special meeting of the committee at any time	Head of Committee and Election Services Committee Services Manager
3(b)	Officer who may summon a special meeting of the committee on the requisition in writing of a quarter of the members of the committee, delivered not less than fourteen days before the date of the next ordinary meeting of the committee, specifying the business to be considered at the special meeting.	Head of Committee and Election Services Committee Services Manager
<b><i>Executive Procedure Rules</i></b>		
4(b)	Officer who will summon all Members of the Cabinet to meetings by sending an agenda and accompanying papers to each Cabinet Member and by publishing the Agenda in accordance with the statutory requirements	Head of Committee and Election Services Committee Services Manager

<b>Rule</b>	<b>Description</b>	<b>Proper officer</b>
5	Officer notified of the portfolio designations by the Leader, setting out what individual members of the Cabinet, committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular Executive functions	Head of Committee and Election Services Committee Services Manager

<b>Rule</b>	<b>Description</b>	<b>Proper officer</b>
6	Officer responsible for contents of Cabinet agendas, including items where full Council resolve that the item be considered by the Cabinet, where relevant Overview and Scrutiny Sub-Committee refer an item for consideration, or at the request of a Champion.	Head of Committee and Election Services Committee Services Manager
14	Officer responsible for publishing the Forward Plan	Head of Committee and Election Services Committee Services Manager
15	Officer responsible for publishing a written statement as soon as reasonably practicable after an individual Executive decision has been made.	Head of Committee and Election Services Committee Services Manager
16	Officer responsible for making available for public inspection as soon as reasonable practicable after the Cabinet Member of Officer receives them	Head of Committee and Election Services Committee Services Manager
<b><i>Overview and Scrutiny Procedure Rules</i></b>		
7	Officer who may call a meeting of the Overview and Scrutiny Board or relevant Sub-Committee meeting if he or she considers it necessary or appropriate.	Head of Committee and Election Services Committee Services Manager
9	Officer who may place an item on the next available agenda of the Overview and Scrutiny Board or Sub-Committee upon receiving notice from any member of the committee	Head of Committee and Election Services Committee Services Manager
11(a)	Officer to whom the Overview and Scrutiny Board or Sub-Committee must submit any report containing recommendations on proposals for policy	Head of Committee and Election Services Committee Services Manager

Rule	Description	Proper officer
	development, if the committee wishes the Cabinet to consider the report	
11(d)	The Council or Cabinet must consider the report of the Overview and Scrutiny Board or Sub-Committee within two months of being submitted to the officer.	Head of Committee and Election Services Committee Services Manager
14(b)	Officer to whom: <ul style="list-style-type: none"> <li>an Overview and Scrutiny Board or Sub-Committee must submit any report relating to a matter for which an individual Cabinet member has delegated decision- making power</li> <li>the individual Cabinet member must provide a copy of his or her written response to the Overview and Scrutiny Board or Sub-Committee's report</li> </ul>	Head of Committee and Election Services Committee Services Manager

### **The Local Democracy, Economic Development and Construction Act 2009**

Section	Description	Proper officer
31	Officer responsible for promoting and providing support and guidance to Overview & Scrutiny Board or Sub-Committees and its Members	Head of Committee and Election Services

### **Notes on the proper officer functions**

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

## Part 4 – Rules of Procedure

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# ACCESS TO INFORMATION PROCEDURE RULES

## 1 **Scope**

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

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

## 2 **Definition of “clear days”**

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

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

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

The Council will post electronic versions of the agenda on its website, the minutes of the previous meeting and any subsequent special meeting(s) (if available) and such reports as are open to the public. A paper copy of these documents will be available for inspection at Havering Town Hall at least five clear days before the meeting.

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

## 4 **Supply of copies**

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

- (a) any agenda and reports which are open to public inspection
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda

- (c) if the proper officer thinks fit, copies of any other documents supplied to councillors in connection with an item

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

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

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

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

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

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

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

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

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

**8 Record of decisions of Cabinet**

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

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

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

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



## 10 Decisions by individual Cabinet members or officers

In order to comply with the legal requirements, the following procedure will be followed for Key Executive Decisions to be taken by individual Cabinet Members and by officers.

- (a) As soon as the need for a Key Decision has been identified, it must be included in the Forward Plan. The Decision must not be taken before the month indicated in the Forward Plan.
- (b) If the Decision relates to exempt information in its entirety, it may be taken at any time during the month indicated in the Forward Plan.
- (c) In all other cases, at least seven working days before the date on which the Decision is due to be taken, the author of the intended Decision must send a copy of it (in both hardcopy for signature and electronically, preferably in PDF format), clearly indicating the date on or after which the Decision may be taken:
  - (i) In the case of a decision to be taken by an individual Cabinet Member, to that Member;
  - (ii) In the case of a decision to be taken by a SLT Director, Second Tier Manager or Senior Manager having delegated authority, to that officer; and
  - (iii) In each case, a copy of the intended Decision must be sent electronically (preferably in PDF format) to the Head of Democratic Services. On receiving the intended Decision, the Head of Democratic Services will arrange for it to be posted to the Council's website.
- (d) Once the five clear day period before which the Decision cannot be taken has expired – or in the case of an exempt decision, on receiving it - the individual Cabinet Member or officer may proceed to make the Decision.
- (e) When the Decision has been made, the signed, original Decision Form will be provided to the Head of Democratic Services for logging and, unless or to the extent that it is not, exempt, publication.

## **11 Overview and Scrutiny- access to documents**

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

Subject to rule 11(b) below, the Overview and Scrutiny Board and Sub-Committees will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relating to

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

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

An Overview and Scrutiny Board or Sub-Committee will not be entitled to:

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

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

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

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

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

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

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

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

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

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

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

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

### **CONFIDENTIAL AND EXEMPT INFORMATION.**

#### **1. Confidential information – requirement to exclude public**

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

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

#### **2. Exempt information – discretion to exclude public**

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

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

Exempt information means information falling within the following categories:

<b>Category</b>	
1	Information relating to any individual
2	Information which is likely to reveal the identity of an individual
3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)
4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6	Information which reveals that the authority proposes: (a) to give under any enactment a notice under or by virtue of

Category	
	which requirements are imposed on a person; or (b) to make an order or direction under any enactment
7	Information relating to any action taken or to be taken in connection with the prevention investigation or prosecution of crime.

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

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

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

Information which—

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of the above paragraphs

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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

### **3. Cabinet:**

The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, as amended, provide for additional requirements in respect of key decisions.

Generally, a meeting must be held in public where a key decision will be made or where there will be discussion of matters relating to a key decision to be made subsequently. Where a meeting is to be held in public there must be advance publication of agendas, reports and background papers for the meeting. Likewise, where key decisions are to be made by individuals the documents relating to these

decisions must be available to the public. In general, the terms of the Regulations are identical to those of the 1972 Act and, in particular, the Regulations use the Act's definitions of exempt information.

# BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

## Contents

Rule	Subject
1	The Framework for Executive Decisions
2	Process for Developing the Framework
3	Decisions Outside the Budget or Policy Framework
4	Urgent Decisions Outside the Budget or Policy Framework
5	Virement
6	In-Year Changes to Policy Framework
7	Call-In of Decisions Outside the Budget or Policy Framework

## 1. THE FRAMEWORK FOR EXECUTIVE DECISIONS

- 1.1 The Council will be responsible for the adoption of its budget and policy framework. Once a budget or a policy framework is in place, it will be the responsibility of the Executive and officers to implement it.
- 1.2 The Budget and Policy Framework provides the financial basis for the implementation of the Council's policy framework and for the development of the Council's budget.
- 1.3 The Budget and Policy Framework covers:
  - (a) Medium Term Financial Strategy
  - (b) Capital Strategy
  - (c) Treasury Management Strategy
- 1.4 The Chief Finance Officer will be primarily responsible for providing advice and guidance on the Budget and Policy Framework and its application, but will consult with the Monitoring Officer where appropriate.

## 2. PROCESS FOR DEVELOPING THE FRAMEWORK

- 2.1 The Executive will provide an initial report on its Medium Term Financial Strategy and Capital Strategy along with initial proposals for the budget and policy framework for consideration by Council. This report will be published by October.
- 2.2 The report will be available to the Overview and Scrutiny Committees and other local stakeholders who wish to express a view.
- 2.3 The Executive in conjunction with the Chief Finance Officer will decided the

detailed local processes, procedures and timescales to consult on the budget proposals.

- 2.4 The Executive in conjunction with the Chief finance officer will decided the detailed local processes, procedures and timescales to consult on the budget proposals. The Executive will issue detailed proposals for consultation having given due consideration to:
  - (a) comments from Overview and Scrutiny Committees and other local stakeholders
  - (b) feedback from the consultation process
  - (c) the Government's financial announcements
  - (d) information from precepting and levying bodies
  - (e) the advice of senior officers.
- 2.5 Having considered responses to the consultation on its initial detailed budget proposals, and any further information on Government funding and precepts/levies, the Executive may amend its proposals before submitting them to Council.
- 2.6 The Executive will also publish a Treasury Management Strategy which will be submitted to Council alongside its final budget proposals.
- 2.7 At any time when a report is submitted to Council on the budget the Council will consider the proposals of the Executive and may adopt them, refer them back to the Executive or substitute its own proposals in their place.
- 2.8 All Councillors and parties are actively encouraged to contribute issues and ideas into the budget process via the Overview and Scrutiny Committees.
- 2.9 If following consideration of the Executive's budget proposals, Council has any objection to them, it must inform the Leader of any objections which it has to the Executive's proposals and must give the Leader instructions requiring the Executive to reconsider, in the light of those objections, those proposals in accordance with Council's requirements.
- 2.10 Where Council gives instructions in accordance with paragraph 2.9, 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 Executive within which the Leader may:
  - 2.10.1 submit a revision of the proposals as amended by the Executive, which have been reconsidered in accordance with Council's requirements, with the Executive's reasons for any amendments made to the proposals, to Council for Council's consideration; or



2.10.2 inform Council of any disagreement that the Executive has with any of Council's objections and the Executive's reasons for any such disagreement.

2.11 When the period specified by Council, as referred to in paragraph 2.10, has expired Council must, when setting the budget, take into account:

2.11.1 any amendments to the proposals that are included in any revised proposals;

2.11.2 the Executive's reasons for those amendments;

2.11.3 any disagreement that the Executive has with any of Council's objections; and

2.11.4 the Cabinet's reasons for that disagreement;  
which the Leader submitted to Council, or informed Council of, within the period specified.

2.12 If the Executive's budget proposals are submitted to Council on or after 8th February in the preceding financial year, rules 2.9 to 2.11 apply subject to the Council's statutory duty to make budget calculations before 11th March in the preceding financial year and the ability to charge council tax from 1st April.

### **3. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

3.1 The Executive, individual members of the Executive, committees of the Executive, and any officers or joint arrangements may only make decisions which are in line with the approved Budget and Policy Framework. A decision that is not relevant to or covered by the budget framework but which is in line with a plan or strategy approved by the Executive is not contrary to the Budget and Policy Framework.

3.2 Subject to section 4 below, if the Executive wish to make a decision which is contrary to the Budget or Policy Framework, then that decision can only be made by the council.

3.3 If the Executive, individual members of the Executive, committees of the Executive, and any officers or joint arrangements want to make a decision which potentially is contrary to or not wholly in accordance with the Budget and Policy Framework, they must take advice from the Chief Finance Officer or Monitoring Officer, as appropriate. If the advice is that the decision is contrary to or not wholly in accordance with the Budget and Policy Framework then the decision must be referred to Council for decision, unless the decision is a matter of urgency, in which case paragraph 4 shall apply (urgent decisions outside the Budget and Policy Framework).

### **4. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

4.1 Having consulted with the Chief Finance Officer or Monitoring Officer, as appropriate, the Executive, individual members of the Executive, committees of the Executive, and any officers or joint arrangements may take a decision

which is contrary to or not wholly in accordance with the Budget and Policy Framework, or where the expenditure falls outside the approved budget, if the decision is a matter of urgency.

4.2 However, the decision may only be taken if:

- (a) it is not practical to convene a quorate meeting of the Council, and
- (b) the Chair (in the absence of the Chair, the Deputy Chair) of a relevant Overview and Scrutiny Committee accepts that the decision is a matter of urgency.

4.3 The reasons why it is not practical to convene a quorate meeting of the Council and the consent of the relevant Chair 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:

- (a) the decision
- (b) the reasons for the decision
- (c) why the decision was treated as a matter of urgency.

## **5. VIREMENT**

5.1 Steps taken by the Executive, individual members of the Executive, a committee of the Executive, or officers, or joint arrangements to implement Council policy shall not exceed those budgets allocated to each relevant budget head. However, such bodies or individuals shall be entitled to vire across budget heads within such limits as shall be laid down in the Financial Procedure Rules. Beyond those limits, approval to any virement across budget heads shall require the approval of the Full Council.

## **6. IN-YEAR CHANGES TO BUDGET AND POLICY FRAMEWORK.**

6.1 Decisions by the Executive, individual members of the Executive, committees of the Executive, and any officers or joint arrangements can discharge only those Executive functions that are within the approved budget. No changes to the approved budget, except within the budget or virements rules set out in the Financial Procedures, can be made unless agreed by the Chief Finance Officer.

## **7. CALL-IN OF DECISIONS OUTSIDE THE BUDGET AND POLICY FRAMEWORK**

7.1 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 and Policy Framework, then it shall seek advice from the Chief Finance Officer or the Monitoring Officer, as

appropriate and the Head of Paid Service.

- 7.2 Where that opinion relates to a decision that has already been taken and implemented, and the Chief Finance Officer considers that the decision is contrary to or not wholly in accordance with the Budget and Policy Framework, the Chief Finance Officer, or the Monitoring Officer as appropriate shall report on the matter to the Cabinet, sending a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the report and report on the matter to the Council.
- 7.3 Where that opinion relates to a decision yet to be made, or that has been made but not yet implemented, and the advice from the Chief Finance Officer or Monitoring Officer, as appropriate, is that the decision is contrary to or not wholly in accordance with the Budget and Policy Framework, the Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter.
- 7.4 At the meeting, the Council will receive a report about the decision or proposals and the advice of the Chief Finance Officer. The Council may:
- (a) endorse a decision or proposal of the Executive as falling within the existing Budget and Policy Framework; or
  - (b) amend the Budget and Policy Framework to encompass the decision or proposal and agree to the decision or proposal with immediate effect; or
  - (c) if it accepts that the decision or proposal is contrary to or not wholly in accordance with the Budget and Policy Framework and does not amend the existing Budget and Policy Framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of the Chief Finance Officer or Monitoring Officer, as appropriate.
- 7.5 The decision of Council shall be recorded in its minutes.

## **8. FEES AND CHARGES**

- 8.1 All fees & charges must be set in accordance with the corporate charging policy.

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# COMMITTEE PROCEDURE RULES

## 1 Ordinary meetings of committees

- (a) An ordinary meeting of a committee shall begin at 7.30pm (or such other time as the Chairman may agree shall be specified in the agenda) on the date specified for that meeting in the schedule of meetings published annually, and shall be held at Havering Town Hall or such other place as may be specified.
- (b) The Chairman of a committee may agree to a variation of the date, time or place of meeting or its cancellation, as appropriate.
- (c) The Head of Democratic Services shall publish a schedule of meetings for each municipal year. Subject to the provisions of this Rule and of Rule 4 following, all meetings shall be convened in accordance with the schedule.

## 2 Conduct of meeting

- (a) The Chairman of a meeting shall have power to exercise the powers conferred on the Mayor in relation to the conduct of meetings of the Council.
- (b) The Chairman may vary the order of the agenda where it is necessary to do so for the proper conduct of the business of the meeting. Where the Chairman is of the opinion that there is insufficient information available to the committee to enable a proper decision to be reached, consideration of the report in question may be deferred to a future meeting.
- (c) The Chairman's ruling in relation to any aspect of the conduct of the meeting shall not be questioned.

## 3 Special meetings of committees

- (a) The Chairman of a committee may direct the Proper Officer to summon a special meeting of the committee at any time.

- (b) A special meeting shall also be summoned on the requisition in writing of a quarter of the members of the committee, delivered to the Proper Officer not less than fourteen days before the date of the next ordinary meeting of the committee, specifying the business to be considered at the special meeting.
- (c) No business other than that specified by the Chairman or in the requisition when the meeting is convened shall be considered at that meeting, which shall be held before the next ordinary meeting of the committee on a date and time, and at a place, to be fixed by the Chairman.

#### 4 **Quorum of committees**

- (a) No business shall be done at any committee meeting unless a quorum is present, or there is authority by law to continue or the Council or, in the case of a Sub-Committee, the parent committee have so ordered.
- (b) Subject to any provision in law, or unless these rules provide, or the Council agree, otherwise in any particular case, the quorum is one third of the whole number of the committee or sub-committee or other body, but must not be less than three members in the case of a committee, nor less than two members in the case of a sub-committee or other body.

#### 5 **Appointment of Chairman and Vice-Chairman of committees**

- (a) The Chairman and Vice-Chairman of committees and sub-committees other than the Health and Wellbeing Board shall be appointed by the Council, and shall hold office until the next annual meeting of the Council
- (b) If the Chairman is unable to preside at a particular meeting of the committee, the Vice-Chairman will preside; if neither Chairman nor Vice-Chairman is able to be present, the committee shall elect another member to preside.
- (c) In the event of the appointed member becoming unable to act, or of a casual vacancy arising, then until either that member is able to resume the appointment, or a successor is appointed by the Council:
  - (i) in the absence of a Chairman, the Vice-Chairman shall act as Chairman
  - (ii) in the absence of both Chairman and Vice-Chairman, the leader of the group of which the Chairman is or was a member shall nominate a member of the Committee to act as Chairman.
- (d) Where two or more Committees meet jointly, the chair shall be taken by whichever of the Chairmen of those Committees is appointed by the Committees so to act.

#### 6 **Voting in committee**

- (a) All questions in committee shall be determined by a majority of members present and entitled to vote. Voting shall be by use of the voting equipment (if available), or by show of hands.

- (b) With the exception of voting at meetings of the Appointments Committee, all votes shall be recorded.



- (c) Where two or more Committees meet jointly:
  - (i) A separate vote shall be taken by each Committee and recorded accordingly
  - (ii) Any Member who is a Member of more than one Committee (whether as an appointed Member or as substitute for an appointed Member) shall be entitled to participate in the voting by each of the Committees of which he is a Member.
- (d) If more than two people are nominated for any position to be filled the votes will be recorded as between those nominated and the Member gaining the greatest number of votes shall be declared the nominee. In the event that there is an equality of votes then the Chairman may exercise a casting vote.

This rule shall not be suspended.

## 7 Attendance at committees

### (a) Mover of motion referred to committee

A member who has moved a motion at a meeting of the Council which has been referred to any committee shall have notice of the meeting at which it is proposed to consider the motion and, if the member attends, shall have an opportunity of introducing it.

### (b) Requisition of Executive Decision to Overview & Scrutiny Board

Members who have signed a requisition of an Executive Decision to the Overview & Scrutiny Board shall have notice of the meeting at which it is proposed to consider the requisition and shall be expected to attend the meeting to explain the reasons for the requisition.

### (c) Member not appointed to Committee

A member of the Council who has not been appointed to a particular committee may nevertheless attend its meetings and, with the agreement of the Chairman, speak. The Chairman's agreement shall not, however, be required in the case of a Group Leader.

This rule shall not apply to meetings of Hearings Panels or the Licensing Sub-Committee, or where the rules of natural justice, human rights and compliance with the Members' Code of Conduct or similar legal principles prevent a Member from attending.

(d) **Substitute members**

- (i) Where a council member of a committee is listed as a member of a political group for the purpose of allocation of seats, all other listed eligible members of that group who are not members of that committee are appointed as substitute members with entitlement to attend, speak and vote in the event that the appointed member is absent from the meeting. Only the first eligible substitute so to declare at the meeting may replace an absent member. The identities of the substitute and of the substituted members shall be declared at the outset of the meeting and recorded in the minutes.
- (ii) For the purposes of this rule, a meeting which has commenced on one date and re-convenes following adjournment on a different date shall be treated as two separate meetings so as to allow for the possibility of different attendance on the different dates.

(e) **Members of the public wishing to address the Committee**

The Chairman has discretion to permit one or more members of the public to address the Committee on a matter before it, provided he is satisfied that to do so will assist the Committee in coming to a decision on that matter. In giving such permission, the Chairman may attach such conditions (including as to the time permitted for that address) as he thinks fit.

This rule shall not apply to Hearings Panels, Sub-Committees of the Licensing Committee or where the rules of natural justice, human rights or similar legal principles prevent such an address.

This rule shall not apply where an Overview & Scrutiny Sub-Committee is dealing with a petition presented under the Council's petition scheme.

## 8 Conclusion of meetings

- (a) Meetings of the Appointments Committee when interviewing applicants prior to making an appointment to a post, t, Hearings Panels, and Sub-Committees of the Licensing Committee shall finish at such time as the committee or panel shall agree. The remainder of this rule shall not apply to those meetings.
- (b) As soon as two and a half hours (including any time spent in adjournment) have elapsed from the beginning of any other meeting:
  - (i) the business of the meeting will continue only until the end of the item being considered.
  - (ii) at that point the Chairman will propose a procedural motion to suspend this rule and extend the finishing time of the meeting.
  - (iii) if the procedural motion is lost the Chairman will then call for a vote immediately on any items remaining and votes will then be taken in the usual way on those items without further discussion.
- (c) If it is necessary to adjourn and reconvene in order to complete the business of the meeting, such adjournment shall be to a date, time and place to be fixed by the committee in question, or failing that, by the Chairman.

## 9 Definitions

In these rules, unless the context indicates otherwise, the term “committee” includes any committee, sub-committee, panel or working party of Councillors or predominately of Councillors appointed by the Council (other than the Cabinet and any committee of the Cabinet).

This rule shall not be suspended.

## 10 Suspension of Rules

All of these Rules may be suspended for the duration of a meeting by motion without notice, except where a Rule is noted as not being capable of suspension.

## Rules for specific meetings

- 11. These Rules may not be suspended

Sub-Committees of the Licensing Committee and Hearings Panels:

(a) **Membership**

Membership of Sub-Committees and Hearings Panels is open only to members of the respective Committees. Rule 7

(d) Substitute members shall not apply to such Sub-Committees or to Hearings Panels.

In constituting the membership of a Sub-Committee or Hearings Panel for a particular hearing, regard shall be had to the following principles:

- (i) each hearing shall be Chaired by either the Chairman or a Vice-Chairman of the appointing Committee (unless none of them is available)
- (ii) a Sub-Committee or Panel shall comprise members who neither represent, nor have a connection with, the appellant or complainant, the ward in which the appellant or complainant resides or in which any premises concerned are located
- (iii) so far as practicable, the members shall include one male member and one female member
- (iv) the political balance rules shall not apply to the composition of a Sub-Committee or Hearings Panel.

(b) **Independent persons**

Where an independent person is included in the membership of a Sub-Committee or Hearings Panel, that independent person shall have no connection with the appellant or complainant, the ward in which the complainant or appellant resides or in which any premises concerned are located.

Except where required otherwise by law, the quorum for a meeting shall not include an independent person, and a hearing may proceed even though the independent person is absent.

## 12 **Pensions Committee**

- (a) The bodies that are Scheduled or Admitted Bodies of the Havering Pensions Fund for the purposes of the Local Government Pensions Scheme are entitled between them to nominate a representative who shall be co-opted to serve on the Committee with voting rights.

- (b) The trade unions representing staff who are members of the Council's pension fund may between them appoint two representatives who shall be entitled to attend and speak at meetings of the Pension Committee, but not to vote. The representatives shall be entitled to remain should the public be excluded on the grounds that exempt information is to be considered.

### 13 **Regulatory Services Committee**

- (a) Where one or more objections have been received to an application, the objector(s) shall have an opportunity to address the committee before the application is determined. Any objector wishing to make an address must notify the Assistant Director Development not less than three days before the meeting at which the objection is to be held.
- (b) If there is more than one objector, they shall be invited to agree among themselves before the meeting who shall speak for them all; in the event that no agreement can be reached, the Chairman shall draw lots to determine who shall speak.
- (c) If an objector speaks against an application, the applicant or their designated representative shall be entitled to respond.
- (d) Addresses by both objector and applicant shall not exceed two minutes or such lesser time as the Committee by resolution, either generally or in relation to a specific application, may agree.
- (e) Only a Councillor representing the ward in which the planning application is located, or in exceptional circumstances any member of the Council, may call-in an application before the Regulatory Services Committee. Any such request for call-in must be received by the Assistant Director Development in writing (to include email and facsimile) and must set out detailed reasons for the call in which must be related solely to matters of material planning concern. Any member of the planning committee calling in a matter must take care to express themselves in a manner which would not amount to bias or pre-determination should they intend to take part in the meeting.
- (f) A Councillor calling in a planning matter should attend the Regulatory Services Committee or appoint a substitute to explain the reasons for the call in.

- (g) A Councillor calling in an application or speaking as a Ward Councillor on an item shall be limited to four minutes in addressing the Regulatory Committee.
- (h) Speeches by Ward Councillors should not involve a cross examination of staff but Members of the Committee may seek clarification from staff.

14. **14. Health and Wellbeing Board**

- (a) Quorum for Board meetings shall be nine members:
- (b) The Chairman of the Board will be appointed by the Leader of the Council along with other councillor representatives
- (c) All Board members have equal voting rights.
- (d) In accordance with The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, political proportionality rules do not apply to the Board.
- (e) Members of the public will only be entitled to speak at Board meetings at the discretion of the Chairman.
- (f) Sections 4, 5 and 7(d) of the committee procedure rules do not apply to the Board.

15. **Training and continuity of membership of certain committees**

- (a) In the interests of business continuity, each Group and Group Leader shall ensure that any Member appointed to a place allocated to that Group on the each of the Committees referred to in the following table shall have received, or shall within six months of appointment receive, training appropriate to its membership. If a member does not

undertake the required training within six months of appointment then that member shall not partake in the decision making of the Committee until their training has been completed.

- (b) Each Group and Group Leaders shall strive to avoid making changes to their representation on the Committees referred to in the table for as long as possible and shall accordingly seek to ensure that their members remain on the particular committee for the period indicated:

<b>Committee</b>	<b>Period</b>
Audit	Full four year term
Licensing	At least two years
Pensions	Full four year term

- (c) For the Audit and Pensions, Committees, Groups shall nominate members other than those appointed to the respective Committees to be “designated substitutes”, to attend a meeting in the event that an appointed member is unable to do so. “Designated substitutes” shall participate in the same training opportunities as appointed members. Non-nominated members may not act as substitutes.
- (d) This rule shall operate without prejudice to the ability of the Council to require changes in membership where to do so is appropriate for other reasons, or to comply with statutory requirements.

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# CONTRACTS PROCEDURE RULES

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## **1 INTRODUCTION**

- 1.1 For the purposes of these Contract Procedure Rules (CPR), and instructions and guidance issued, procurement means the ordering, commissioning or entering into a contract (which includes the granting of a Concession) whatever the value or nature with a third party for Supply, provision of Services or the carrying out of building construction Works required by the Council.
- 1.2 These Contract Procedure Rules shall be effective from the date of adoption by the Council and will be reviewed periodically as required but in their entirety once every 3 years.
- 1.3 Nothing in this CPR shall override the Council's duties under UK national legislation and European Law.
- 1.4 If an Officer experiences difficulty in following any process or procedure or understanding the meaning of any part of this CPR please contact the Head of Procurement.
- 1.5 Throughout CPR, where any action is initiated and taken and a decision made by an Officer with authority to act it will be recorded in writing (on e-tendering suite).
- 1.6 Members of SLT are responsible for ensuring that all:
  - 1.6.1 Contracts are awarded in accordance with these Rules
  - 1.6.2 Persons responsible for awarding contracts are familiar with the Council's Procurement Strategy, and attend relevant Council training as appropriate
  - 1.6.3 Contracts over £25,000 are recorded on the Contracts Register maintained by the Strategic Procurement Unit
  - 1.6.4 Contracts over £150,000 shall have a nominated Contract Manager
  - 1.6.5 Contracts over £150,000 shall be signed and sealed by Legal and Democratic Services.
- 1.7 Where possible all spend, collective or individual, must be attained through a present contract or be procured by entering into a new contract.
- 1.8 All Officers of the Council are subject to and will comply with CPR and it is a disciplinary offence if an Officer fails to comply with CPR. All procurement activities carried out by or on behalf of the Council must proceed in accordance with CPR.
- 1.9 CPR will not apply to contracts of employment.
- 1.10 CPR will not apply to contracts relating to any interest in land (such as the purchase of land, sale or grant of a lease or licence) unless the transaction means that the Council will receive the benefit of tangible facilities or other tangible benefits (other than money) the value of which is over the EU

Thresholds for Works (£4,104,394) Services or Supply (£164,176) and which might be considered to be subject to mandatory EU compliant tender requirements, in which case the CPRs will apply.

## **2 E TENDERING**

- 2.1 All procurements exceeding £25,000 will be processed through the Council's selected e-tendering suite for the life of the contract.
- 2.2 Authorised Procurement Officers (APOs) will conduct a procurement online through the e-tendering suite. The procedure, which is substantially no different from a paper tendering exercise, consists of:
  - i. Pre-registration by the applicants/proposed tenderers on the Council's system;
  - ii. Online Pre-Qualification (PQQ) assessments (above threshold only) and drawing up a select list of tenderers where relevant;
  - iii. Access to soft copies of all PQQ documentation (above threshold only);
  - iv. Online clarifications and messaging;
  - v. Availability of all tender documentation online;
  - vi. Electronic tender submissions, including the making of declarations;
  - vii. Online evaluation of tenders;
  - viii. Online E-Auction via an authorised hosted service where relevant;
  - ix. Online award of contracts;
  - x. Electronic storage of all tender material, final contracts and agreements, including changes to a contract during its life.
- 2.3 The Head of Procurement has the overview of all of the Council's procurement systems and processes including training and issuing instructions and directions on their use.
- 2.4 Whilst procurements will be conducted via the e-tendering suite the requirements of the CPR will still apply without exception or reservation.
- 2.5 Final contract agreements will still be entered into in hard format but, unless previously agreed by the Head of Procurement (or authorised deputy), the specification, pricing and other documents where appropriate and practical will be issued in "read only" disk or other soft format.
- 2.6 Copies of all tender and contract documents will be retained and stored on the e-tendering suite.

## **3 AUTHORITY AND DELEGATIONS**

- 3.1 When there is a need to carry out a procurement, Officers must refer to the Council's Scheme of Delegation to ensure they have sufficient delegated authority to proceed with a procurement activity.
- 3.2 No procurement shall proceed unless a budget has been agreed by the relevant Director (or delegated officer) and expenditure has been fully considered. For the avoidance of doubt, no order will be placed or other commitment made (orally or in writing) unless the authority to spend is in place and there are sufficient funds to cover the commitment.
- 3.3 Where procurements are included in the Checkpoint pilot (CPR 8), the Checkpoint Panel will consider proposed procurements and awards prior to

seeking a decision from the Executive, or the Chief Officer Scheme of Delegation where the value exceeds EU thresholds.

## **Authority to Procure**

3.4 Subject to the rest of this CPR 3, authorisation to start a procurement on the Council's behalf is granted on the basis that:

- 3.4.1 Any and all proposed Works, Supply or Services are subject to CPR, regardless of value or complexity;
- 3.4.2 Procurement will benefit and assist the Council in achieving its statutory duties and functions, and/or approved strategies, policies and service objectives;
- 3.4.3 Full consideration has been given (and noted for audit purposes) to the use of any existing corporate and departmental contracts covering the Works, Supply and Services required but, following such assessment, these have been deemed unsuitable to meet the additional requirement imposed by the proposed contract; AND
- 3.4.4 Full consideration has been given (and noted for audit purposes) to those in-house Services whose area of expertise covers the Works, Supply or Services required and, based on an outcomes-based value for money assessment, social value and other business efficiency review, it has been concluded that procurement is the most suitable option for the Council.

3.5 When seeking authority to procure a contract for Works, Supply or Services on the Council's behalf the APO must:

- 3.5.1 Obtain authority to proceed via the Checkpoint Procedure (see CPR 8) where a procurement is:
  - Above the EU Services and Supplies threshold
  - Of a value greater than £500,000 for Works
- 3.5.2 Produce a robust, justifiable and sensible business case, which will be considered under the Checkpoint Procedure and must also be approved in accordance with the Council's Scheme of Delegation before a procurement activity commences.
- 3.5.3 Where the Council has prescribed an approved business process, prior to obtaining such approval, this must be followed and contained in a written endorsement by the Chief Executive.
- 3.5.4 Maintain the necessary audit trails to support the business justification and approval process.

## **Training**

3.6 No Officer is permitted to authorise or undertake a procurement activity without first attending and successfully completing one or all, depending on the procurement, of the Council's recognised procurement training courses, "Passport to Procure" and demonstrating that they have the competence to conduct a procurement on the Council's behalf.

3.7 The Senior Leadership Team (SLT) will ensure that Officers who are authorised by them to conduct procurements have the necessary skills and experience and are properly trained in the tasks they will be expected to carry out. For the purpose of being considered 'trained', Officers designated as 'Tender Managers' must have completed "Passport to Procure" training

modules and, for all EU level tenders, must also have completed training relevant to the creation of specifications and methods of evaluation.

- 3.8 All Officers undertaking procurements over £25,000 or who will manage a contract must have completed “Passport to Procure” training. All contract managers must have also completed the Contract Management Training.
- 3.9 The Head of Procurement will have overall responsibility for Procurement Training and to approve exceptions and waivers of any requirements of this CPR 3.

#### **4 ACCOUNTABILITY, ROLES AND RESPONSIBILITIES**

- 4.1 An APO is accountable for all procurement activities authorised by him/her and carried out or conducted on his/her behalf and has a responsibility to comply with CPR and to follow and implement all requirements contained herein.
- 4.2 In line with the general management scheme of Delegation, responsibilities outlined in the Financial Regulations and subject to other council procedures:
  - 4.2.1 Second Tier Managers can authorise procurements in their service area up to a total contract value of £100,000.
  - 4.2.2 Second Tier Managers can authorised procurements within their service area with a value between £100,000 and £500,000 in consultation with the SLT Member where the contract will be executed. Pre-tender authority, as set out in the Checkpoint Procedure in CPR 8 will be followed first where included in the pilot.
  - 4.2.3 All proposed procurements where the contract value exceeds EU thresholds, and procurements for Works over £500,000 should go through the Checkpoint Procedure at pre-tender stage.
  - 4.2.4 All proposed procurements over £500,000 must be authorised by a Member of SLT.
  - 4.2.5 Irrespective of the value of the procurement, an APO must inform the SLT Member, who will notify the Leader/Lead Member, where a proposed procurement may be controversial or require a ‘key decision’.
- 4.3 SLT Members must ensure that Officers engaged in any procurement activity are familiar and compliant with CPR, Financial Regulations and the Council’s Scheme of Delegation.
- 4.4 On becoming aware of a breach of CPR, an Officer must report this to their line manager and the Head of Procurement. Alternatively, the Officer may choose to follow the guidance contained in the Council’s Whistle Blowing Policy.
- 4.5 In order to determine the level of resources required by the Head of Procurement, each APO will provide, for their service area, an Annual Forward Plan prior to the commencement of the Financial Year. The plan will be agreed by the Head of Procurement no later than the end of January of the previous Financial Year.

## **5 CONFLICT OF INTEREST**

- 5.1 Every Officer must maintain unimpeachable standards of integrity when engaged in a procurement (or any other) activity on the Council's behalf and comply with the anti-fraud and corruption policy.
- 5.2 In accordance with Section 117 of the Local Government Act 1972 all employees of the Council must make a written declaration if they or a family member have a personal or pecuniary interest which may impinge (or might reasonably be deemed by others to impinge) on a contract in which the Council also has an interest. Failure to disclose interests is an offence.
- 5.3 Where an Officer has reason to believe a connection exists between themselves and a participant in a procurement exercise they will inform their line manager and follow the procedure set out in the council's Declaration of Interest Policy and Explanatory Notes.

## **6 PROCUREMENT VALUES**

- 6.1 The APO must produce an auditable estimate of anticipated costs in order to follow the correct procurement route specified in CPR 9. Where EU Public Procurement and national legislation apply, the APO must also ascertain the value of a contract in accordance with those requirements.
- 6.2 Unless otherwise specified, where a value or estimated value is given it must give the aggregate value payable in GBP, exclusive of VAT, over the entire contract period (or as set out in EU and national legislation) including any extensions stated in the contract and any reasonably anticipated level of variation during the life of the contract.
- 6.3 In accordance with EU procurement rules (as transposed into UK law by the Public Contracts Regulations 2015), contracts must not be artificially underestimated, overestimated or sub-divided into two or more separate contracts where the intention or effect is to avoid the application of CPR and/or EU and national legislation.
- 6.4 In the case of mixed contracts where a single contract covers more than one element of works, services or supplies, applicable regulations are determined by the 'main subject matter', based on which of the estimated values is the highest.
- 6.5 In the case of awarding a framework, the value shall be based on all contracts and call-offs over the framework term.
- 6.6 In the case of determining the value of a concession contract, reference should be made to The Concession Contracts Regulations 2016

## **7 EUROPEAN PROCUREMENT LEGISLATION**

- 7.1 Every contract made by, or on behalf of, the Council must comply with the EU Treaty principles for the free movement of Supply, Services, Works and capital and the procurement rules of:
  - i. Non-discrimination on grounds of nationality or locality;
  - ii. Transparency of award procedures and related decisions;
  - iii. Equal treatment of those wishing to be awarded a contract;

- iv. Wider market interest;
  - v. Proportionality;
  - vi. Mutual recognition.
- 7.2 All procurements conducted by the Council together with awards and day to day management shall embody these principles and rules and comply with the Council's own procurement procedures as contained in CPR and the Scheme of Delegation.

### **Procurement Thresholds**

- 7.3 European legislation sets out specific procedure which must be followed for procurements above certain values. Where the estimated value of a proposed contract intended to be let by the Council (or on its behalf) exceeds or is likely to exceed EU procurement, the contract must be procured in accordance with the EU Procurement Directive (2014/24/EU) as included in the Public Contracts Regulations 2015.
- 7.4 The thresholds are set out in Articles 4(a) to 4(d) of the Public Contracts Directive and apply from 1<sup>st</sup> January 2016 to 31<sup>st</sup> December 2017. Thresholds are net of VAT.

<b>Type of contract</b>	<b>Threshold</b>
Supplies	£164,176 (€209,000)
Services	£164,176 (€209,000)
Light Touch	£589,148 (€750,000)
Works	£4,104,394 (€5,225,000)
Concessions Services/ Works	£4,104,394 (€5,225,000)

- 7.5 The Head of Procurement will give written notice of future changes to the threshold figures.

## **8 CHECKPOINT PROCEDURE**

- 8.1 The Checkpoint Procedure has now been adopted by London Borough of Havering for all procurements detailed in 8.2 of these procedure rules.
- 8.2 The Checkpoint procedure should be undertaken for Supply, Services, Concessions and Light Touch contracts over the £164176 threshold and for Works over £500,000.
- 8.3 The Checkpoint Procedure is an Officer-led procedure in three stages:
- i. Stage 1 – Conduct a review of the intended procurement prior to seeking authority from the SLT or, under Chief Officer delegated powers, to invite tenders.
  - ii. Stage 2 – Consider the results of the tender exercise prior to an award being made under the SLT'S executive powers, a specific delegation to an Officer of the Council or under the Chief Officer Scheme of Delegation.
  - iii. Stage 3 – Review the contract post-award, in particular the monitoring arrangements in place for the contract and their effectiveness in terms of quality and cost. It will take place between 6 and 12 month post-award, dependant on the risk, value and length of the contract.
- 8.4 The Head of Procurement or an Officer designated by the Head of Procurement will chair the Checkpoint Panel. The senior board of the Council will determine the Panel membership.
- 8.5 The Checkpoint Panel will consider activities at each Stage and will make recommendations to the senior board of the Council.
- 8.6 The Strategic Procurement Unit will clerk and record the Panel's activities and decisions.
- 8.7 The governance and overall procedures of the Checkpoint Procedure will be maintained by the Executive Director who has responsibility for the Strategic Procurement Unit. All records of proceeding will be kept by the Head of Procurement, in line with CPR 22.8-22.16.

## **9 PROCUREMENT ROUTES**

- 9.1 Except as otherwise provided, contracts must be awarded following the relevant competitive processes set out in CPR.
- 9.2 In accordance with the Council's Financial Regulations, where a third party has agreed to carry out Works, Supply or perform Services, all such contractual arrangements, notwithstanding the terms and conditions to be used, must be in writing and confirmed by the issue of a purchase order via the i-procurement system.
- 9.3 All procurements which have an estimated value of £24,999 or less are subject to CPR for the purpose of seeking offers. These need not be formalised to the extent required by procurements of higher value but a purchase order must be placed via the i-procurement system (and/or other authorised method), with a sufficient description of the Supply, Services or Works and clearly identifying the requirement, the price and terms of trading previously agreed with the Organisation.



- 9.4 All procurement with a financial value equal to or greater than £25,000 will be supported by the Strategic Procurement Unit (SPU) using the Council's preferred e-tendering suite.
- 9.5 For all procurement with a financial value including and exceeding £25,000 a Procurement Initiation Form must be completed.
- 9.6 All contracts of a value equal to or greater than £25,000 will be procured using documents agreed. Contracts awarded will be entered into under terms and conditions approved by the Director of Legal and Governance (or authorised deputy). All tender documents produced for a procurement will be compliant with procurement legislation and CPR, and be compatible with the strategies, policies and service objectives of the Council at any time in force and effect.
- 9.7 Changes to the approved terms and conditions must be agreed by the Director of Legal and Governance (or authorised deputy) in writing.
- 9.8 For a procurement valued between £25,000 and £99,999.99 inclusive, an Officer is required to obtain at least 3 comparable written quotations using the e-tendering suite Request for Quotation procedure.
- 9.9 Unless stated elsewhere in CPR or for reasons of extreme urgency, each procurement with an estimated value of £100,000 or above must be subject to a formal tender exercise in conjunction with SPU.
- 9.10 Where a contract award opportunity is advertised, SPU shall publish information about the opportunity on Contracts Finder, regardless of what other means it uses to advertise the opportunity.

### **E-auctions**

- 9.11 The Head of Procurement will advise on which procurements should be conducted using an E-auction whilst assessing if the agreed exemptions apply.
- 9.12 E-Auctions will be used where the reverse auction can commercially influence market prices and has the potential to greatly reduce the purchase price for the Council or increase the service level for the same cost. Conducting a reverse E-auction will help deliver cashable cost reductions without reducing quality and service levels. All procurements over £75,000 for services and supply of goods, and £500,000 for works will be considered for E-auction unless the following exemptions apply:
- i. Market Intelligence: Where there is clear market intelligence that bidders will not or are unlikely to engage/participate in an E-auction and it is highly likely a sufficient number of quality bids may not be received to demonstrate an acceptable level of competition.
  - ii. Past Experience: Where an identical style E-auction has been conducted in the past for a particular sector or service and the experience was unsatisfactory, alternative mechanisms to secure value will be considered.
- 9.13 Any exemptions require the approval of the Head of Procurement.

## **Small & Medium Sized Enterprises/Local Companies**

- 9.14 Tendering opportunities thought especially suitable for Small and Medium-sized Enterprises (SMEs), Local companies or consortia of both should be flagged by staff during the advertising process. SMEs and local companies are more likely to be used for quotations and these should be sought where possible through the e tendering portal via the SPU.

## **10 PRE-QUALIFICATION**

- 10.1 For procurement with a contract value below the Supplies and Services EU Threshold, the APO must not use a set of questions set out as a separate questionnaire (known as a 'Pre-Qualification Questionnaire (PQQ)'), a separate pre-qualification stage or any other pre-tender selection process to pre-qualify or assess the suitability of economic operators to perform the contract, with the purpose of reducing the number of economic operators to a smaller number to be invited to tender at a later stage of the procurement process.
- 10.2 For procurements with a contract value equal to or above the Supplies and Services EU Threshold, a separate pre-qualification stage or qualitative assessment stage is permitted. The Council may continue to use the industry-standard PAS91 for public contracts for Works.
- 10.3 Where the estimated contract value is above the Supplies and Services EU Threshold and the contract is subject to a Restricted, Competitive Procedure with Negotiation, Competitive Dialogue, Innovation Partnership, a Negotiated procedure without prior tender process, or for the purposes of establishing an approved list of contractors, a Dynamic Purchasing System (where not using a Framework) shall be used as the Council's pre-qualification process to draw up the select list of tenderers.

## **Number of Candidates**

- 10.4 In restricted procedures, competitive procedures with negotiation, competitive dialogue procedures and innovation partnerships, the Council may limit the number of candidates meeting the selection criteria that they will invite to tender or to conduct a dialogue, providing the minimum number of qualified candidates is available.
- 10.5 The contracting authority shall indicate, in the contract notice or in the invitation to confirm interest, the objective and non-discriminatory criteria they intend to apply, the minimum number of candidates they intend to invite and, where appropriate, the maximum number.
- 10.6 For procurements with an estimated value between £100,000 and the EU threshold, and for restricted procedure procurements with an estimated value above the EU threshold, the minimum number of organisations who may be invited to tender is five.
- 10.7 For contracts with an estimated value above the EU threshold and following the competitive procedure with negotiation, the competitive dialogue procedure and the innovation partnership the minimum number of organisations who may be invited to tender is three.

- 10.8 In any event the number of candidates invited shall be sufficient to ensure genuine competition. Where pre-qualification results in fewer than the minimum permitted number of organisations being suitable for pre-selection, the procurement may only proceed to tender if the Head of Procurement is satisfied that there are still sufficient tenderers for genuine competition, and the reasons for continuing are recorded.

## **11 PRE-TENDER REPORT**

- 11.1 All contracts with a value of more than the EU Threshold for Supplies and Services and less than £500,000 must be reported to the appropriate Second Tier Manager, and over £500,000 to the Member of SLT for approval to commence the tendering process. The report must set out:
- i. the likely total cost and budget provision;
  - ii. the appropriate European procurement route;
  - iii. the proposed tendering strategy and timetable;
  - iv. the project team;
  - v. a summary of best value issues and any service improvement requirements;
  - vi. application of TUPE;
  - vii. project risk assessment.
- 11.2 Contracts within the terms of reference of the Pension Committee may be dealt with by that Committee.
- 11.3 Where a contract award for services may result in Council or contractor staff being affected – for example, by possible redundancy, relocation or transfer to the successful tenderer – the advice of the Director of Exchequer & Transactional Services (re pensions), Director of Human Resources/Organisational Development and the Director of Legal and Governance must be obtained before commencement of the tender process. Details must be included in the pre-tender report to the Second Tier Manager or to SLT.

## **12 TENDER PROCESS**

- 12.1 All tender processes shall be conducted in accordance with the requirements of CPR, the Financial Procedure Rules, European procurement rules (if applicable), and the Procurement Strategy.
- 12.2 Where dictated by EU law, tenders must be advertised via the Official Journal of the European Union (OJEU) electronically. This will be done by the SPU on the Council's behalf.
- 12.3 The Invitation to Tender (ITT) for all contracts over £100,000 shall include the following information:
- i. a description of the services, supplies or works sought;
  - ii. the procurement timetable;
  - iii. rules for submitting tenders;
  - iv. pricing mechanism;
  - v. the relevant terms and conditions of contract;
  - vi. the evaluation criteria including weightings;
  - vii. the Council's view on the applicability of TUPE;
  - viii. Any other information necessary to prepare tenders.

## **Award**

- 12.4 The tender or quotation accepted shall be the one which represents the most economically advantageous tender for the Council overall, taking account of whole-life cost, quality of service, risk to the Council and other benefits, as set out in the evaluation criteria chosen for the tender and as described in the Procurement Strategy.
- 12.5 For all contracts above the EU Thresholds all tenderers must be notified of:
- i. The evaluation criteria;
  - ii. Their score using the criteria;
  - iii. The winning score;
  - iv. An explanation as to why the winning tender scored more highly than the tenderer's;
  - v. The identity of the winner of the contract.
- 12.6 For all other contracts with a value in excess of £100,000 all bidders must be notified of:
- i. Their score in the evaluation;
  - ii. The winning score.

## **In-house Award**

- 12.7 An award may be made to an in-house team after competition, provided that:
- i. the in-house team has been evaluated as the most economically advantageous tender in accordance with the requirements set out in the Procurement Strategy;
  - ii. the person making the award can demonstrate that the in-house team represents the best value in terms of quality and price.

## **Early Authorisation**

- 12.8 In the event that there is a need for a contract to commence prior to the completion of the formal contract documentation then a Member of SLT after consultation with the Director of Legal and Governance may authorise the issuing of an Early Authorisation Approval to the contractor.
- 12.9 The Early Authorisation Approval shall include the following information:
- i. Work to be undertaken;
  - ii. Terms & conditions (this can be by reference to other documents);
  - iii. Subject to completion of formal contract.

## **13 CONSTRUCTIONLINE**

- 13.1 Constructionline provides a list of Works suppliers for contracts below EU threshold. APOs will, in all instances and subject to CPR 3.1 to 3.5, draw up their select tender list from Organisations who have been included on Constructionline.

- 13.2 For procurements valued between £100,000 and £499,999 a minimum of five organisations will be selected and invited to tender.
- 13.3 For procurements valued over £500,000 up the EU threshold a minimum of seven organisations will be selected and invited to tender.
- 13.4 Where pre-qualification results in fewer than the minimum permitted number of organisations being suitable for pre-selection, the procurement may only proceed in accordance with CPR 10.8. Where Constructionline does not have sufficient suppliers to form a select list of tenders the Head of Procurement will issue instructions on how to proceed.
- 13.5 Where a tenderer has advised the Council or been involved in the preparation of a procurement procedure the APO must take appropriate measures to ensure that competition is not distorted by the participation of that tenderer. Such measures shall include the communication to the other tenderers of relevant information exchanged in the context of or resulting from the involvement of the tenderer in the preparation of the procurement procedure and the fixing of adequate time limits for the receipt of tenders. The tenderer concerned shall only be excluded from the procedure where there are no other means to ensure compliance with the duty to treat economic operators equally.
- 13.6 Subject to CPR 10.4, where the voluntary withdrawal of a tenderer originally invited to submit a tender is communicated to the APO within a reasonable time period and this represents a risk to genuine competition, the APO may substitute another tenderer who had participated in the pre-selection process but had not been placed on the Selection List prior to the ITT being issued.
- 13.7 The inclusion of a substitute tenderer will always be subject to it not diminishing the quality and standards set for the procurement and that the substitute scored the highest total of the organisations who met the minimum selection criteria but were not selected to tender.

## **14 WAIVERS**

- 14.1 No exception to these Rules shall be permitted except upon approval by an individual Cabinet member using an Executive Decision or by some other provision in this Rule. The report shall set out the background, the rule being waived, the reasons the waiver is required, how value for money will be demonstrated, any legal or financial risks or implications and shall be approved by the Director of Legal and Governance and the Chief Executive.
- 14.2 Authority to waive any provision contained in CPR will only be permissible if it does not infringe EU or National legislation and is subject to the Council's Scheme of Delegation.

### **Exceptions to competitive requirements**

- 14.3 Exceptions to the competition requirements may be made only if all relevant law is complied with and one of the following circumstances applies:
  - i. the contract falls within one of the exceptions listed in this Rule; AND
    - a. the Competition Financial Thresholds Exceptions, is fully and properly completed and signed by the relevant Member of SLT; AND

- b. the person awarding the contract can demonstrate that the contract represents the best value that can be obtained in the circumstances.
- ii. an individual Cabinet member has approved the waiving of the application of these rules, as permitted by Rule (a) above;
- iii. the contract is solely for the employment of Temporary Agency Workers or interim managers (but not consultants);
- iv. joint purchasing with or through another public body provided that the public body awarding the contract can demonstrate that the arrangements comply with European procurement, best value and other applicable legislation.
- v. the instructing of counsel by the Director of Legal and Governance;
- vi. they are allowed by some other specific provision in these Rules.

#### 14.4 The exceptions are:

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

### Emergency Action

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

## 15 PUBLIC SERVICES (SOCIAL VALUE) ACT 2012

- 15.1 The Council has a statutory requirement for above EU Threshold Services procurements to have regard to how a procurement may improve the economic, social and environmental conditions.

- 15.2 For those procurements included in the Checkpoint process consideration will be given in the pre-procurement phase (Checkpoint Stage 1) to the requirements of the Act, however the Council only need consider things which are relevant to what is being procured and proportionate to the circumstances of the matters which are taken into account. The Panel will advise the Head of Procurement at the earliest opportunity of the impact of any of the provisions of the Act on a proposed procurement of Services.
- 15.3 Consideration should be given to the Services being procured on whether it is appropriate to undertake a consultation.
- 15.4 Procurements are exempt under the Act where:
- i. it is impractical or financially not viable;
  - ii. for reasons of real emergency;
  - iii. urgent contractor replacement.

## **16 POST-TENDER REPORTS**

### **Pre-award report**

- 16.1 Contracts with a value between the EU threshold for Supplies and Services and £500,000, except for those subject to CPR 16.3, must be reported to the appropriate Second Tier Manager for approval and award.
- 16.2 Contracts with a value between £500,000 and £5,000,000, except for those subject to CPR 16.3, must be reported to a Member of SLT for approval and award.
- 16.3 Works contracts in respect of the Council's buildings and assets where the total contract value is between the EU threshold for Supplies and Services and the EU threshold for Works are awarded by Second Tier Managers.
- 16.4 Contracts with a value of more than £5,000,000 and up to £10,000,000 must be reported to an individual Cabinet Member for approval and award.
- 16.5 Contracts with a value of more than £10,000,000 must be reported to the Leader or Cabinet for approval and award of contract, depending upon the powers delegated.
- 16.6 The report shall set out the details of all stages of the evaluation process and criteria, risk assessment and risk allocation, the results, and a recommendation as to the proposed award of the contract.

### **Post-award notification**

- 16.7 An EU notice must be placed if the contract was subject to EU advertising requirement.
- 16.8 All contracts with a value equal to or more than £25,000 must be entered on Contracts Finder.

## **17 EXECUTION OF CONTRACTS**

**Contracts over £150,000 to be sealed**

- 17.1 Contracts with a total value of more than £150,000 will be executed under seal in accordance with Article 10.04 of the Constitution unless the Director of Legal and Governance approves otherwise. The Legal Document Execution Form must be duly completed by or on behalf of the relevant Director or more senior staff prior to the contract being submitted for sealing.

### **Contracts under £150,000**

- 17.2 Unless the Director of Legal and Governance approves otherwise, contracts with a total value of less than £150,000 will be executed by the signature of the duly authorised Head of Service or more senior staff as appropriate, in accordance with the functions delegated to staff under the Council's Scheme of Delegation.
- 17.3 Contracts with a total value of less than £150,000 may be executed under seal where the Director or Member of SLT and the Director of Legal and Governance deems this appropriate; for example, where the Council may wish to enforce the contract for more than six years after its end.

### **Care Contracts**

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

### **Consultancy and Specialists Contracts**

- 17.5 All requirements for consultancy or professional services should be sourced via the approved framework (currently NEPRO) and procured in accordance with that policy. In general, external resource may only be used when absolutely necessary and where a business case has been approved by the relevant Director of Service and the Head of Procurement.

## **18 CONTRACT AWARD**

- 18.1 All persons awarding contracts for services shall ensure that they can demonstrate that they have complied with the legislative requirements for best value. The contract award report shall set out:
- i. how the legal duty to challenge, consult, compare and compete has been met;
  - ii. how the contract award will meet the Council's statutory duty of economy, efficiency and effectiveness (i.e. best value);
  - iii. how continuous improvements in service provision will be maintained and monitored and ongoing efficiencies will be achieved.
- 18.2 The award of the contract shall be based on the most economically advantageous tender assessed from the point of view of the contracting authority.
- 18.3 The most economically advantageous tender shall be identified on the basis of the price or cost, using a cost-effectiveness approach, such as life-cycle



costing and may include the best price-quality ratio, which shall be assessed on the basis of criteria, such as qualitative, environmental and/or social aspects, linked to the subject-matter of the public contract in question.

- 18.4 Tenders will be evaluated against pre-determined best price-quality ratio of 70% cost and 30% quality weighting.
- 18.5 A contract can only be awarded other than on 70% cost and 30% quality, if one the following exemptions apply:
- i. FRAMEWORK: Where it is considered that the best procurement route is through an existing framework agreement and that does not allow tender evaluation on a 70/30 basis
  - ii. RINGFENCED GRANT: Where the procurement will be funded from a specific ring fenced grant where any under spend would be lost to the Council and a higher quality threshold would enable the grant to be fully spent i.e. where the Council can afford to purchase higher quality
  - iii. INNOVATION: Where a service is a completely new type to the market and model of delivery not seen elsewhere in the UK (e.g. the recent procurement of the Troubled Families Initiative)
  - iv. PROFESSIONAL ADVICE: Procuring high level specialist advice.

### **Non-commercial Considerations**

- 18.6 Subject to CPR 18.7, no part of the tender process, evaluation, contract award or contract or specification documents shall be based on:
- (a) the terms and conditions and composition of the contractor's workforce
  - (b) whether subcontractors are self-employed
  - (c) the contractor's involvement in irrelevant areas of government policy
  - (d) the contractor or contractor's employees' involvement in industrial disputes
  - (e) the contractor's business locations – for example, to buy local or buy British
  - (f) any political, industrial or sectarian links or interest of the contractors, its directors or owners, or employees
  - (g) the contractor's financial support (or lack of it) to any organisation which the Council does or does not support.
- 18.7 Contracts for services which are subject to best value legislation may base any part of the tender process, evaluation, contract award or contract or specification documents on the:
- (a) terms and conditions and composition of the contractor's workforce; AND/OR
  - (b) conduct of contractors or their workers in industrial disputes between them;  
provided that such matters are included either because:
    - i. TUPE applies; OR
    - ii. it is reasonably necessary or expedient to permit or facilitate compliance with the best value requirements of the Local Government Act 1999.
- 18.8 For all contracts subject to EU Procurement legislation, all tenderers must be notified of:

- i. The evaluation criteria
  - ii. Their score using the criteria
  - iii. The winning score
  - iv. An explanation why the winning tender scored more highly than the tenderer's
  - v. The identity of the winner of the contract
- 18.9 For all other contracts with a value in excess of £100,000 all bidders must be notified of:
  - i. Their score in the evaluation
  - ii. The winning score

## **19 VARIATIONS, EXTENSIONS AND MODIFICATIONS OF CONTRACTS**

- 19.1 Subject to the authority given under the Council's Scheme of Delegation and CPRs 3 and 4, an officer who has responsibility for the day to day management and performance of an awarded contract may (subject to having the authority to do so) approve a variation or modification by way of additional works, services or supplies by the original contractor that have become necessary and were not included in the original procurement provided that one of the following applies:
- i. The modifications have been provided for in the initial procurement documentation
  - ii. A change in contractor cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, or, would cause significant inconvenience or substantial duplication of costs for the Council provided that an increase in price does not exceed 50% of the value of the original contract
  - iii. Where the need for modification has been brought about by circumstances which the Council could not have foreseen, the modification does not alter the overall nature of the contract, any increase does not exceed 50% of the value of the original contract or framework agreement
  - iv. Where a new contractor replaces the one to which the Council had initially awarded the contract as a consequence of universal or partial succession into the position of the initial contractor.
- 19.2 For a variation (or variations) which is near to or exceeds an Executive Director's financial limits as set out in the Chief Officer Scheme of Delegation or a specific delegation of the Executive a report should be prepared initially for Checkpoint with an intention to submit the same to a member of SLT.
- 19.3 A modification is permitted where it is below the relevant EU threshold and is less than 10% of the initial contract value for service and supply contracts, or 50% of the initial contract value for works contracts, and provided that the modification does not alter the overall nature of the contract or framework agreement.
- 19.4 An extension to a contract may be made by a chief officer under the Scheme of Delegation provided that it was contemplated at the time the contract was awarded. For an award for a JEU-compliant procurement, an extension may be approved if the published notice permitted the contract to

continue past the defined period, the extension period does not exceed 50% of the awarded contract value, it will not mean that EU Threshold limits are exceeded by more than 50% and performance by the contractor has been satisfactory.

- 19.5 The extension document will be completed in the same manner as the original contract, except in the case of construction contracts where the extension will be authorised in accordance with the relevant provisions set out in the contract.
- 19.6 If an officer is uncertain whether a variation or extension of the contract period is permitted under this CPR 19, the Strategic Procurement Unit must be contacted to advise.
- 19.7 No variation, extension or modification of a contract period may be made unless there is adequate budgetary provision.
- 19.8 The reasons and authority to vary, modify or extend a contract shall be recorded in writing and loaded onto the Council's preferred e-tendering suite.
- 19.9 For an extension with a value between the EU Threshold for Supplies and Services and £5,000,000, approval of a member of SLT is required. For an extension with a value greater than £5,000,000 Lead Member approval is required.
- 19.10 The following are excluded from CPR and from competition:
- 19.11 Residential placements of adults sought for an individual with a registered care provider of their choice under the Personalisation Agenda of the Care Act 2014;
- 19.12 Contracts that agree a tariff price for a service where the Council has no control over the service from which an individual chooses to receive their care e.g. a contract that is paid on activity levels only in a retrospective manner;
- 19.13 In relation to 19.11 and 19.12 above, the Second Tier Manager must ensure that adequate records are maintained to demonstrate:
  - i. The provider meets the relevant national minimum standards
  - ii. Appropriate mechanisms for price review are in place
  - iii. The reasons for the choice of provider
  - iv. Why these were the best possible terms for the Council in the circumstances.

## **20 CORPORATE AND FRAMEWORK AGREEMENTS**

- 20.1 Members of SLT, with the agreement of the Chief Operating Officer and the Director of Legal and Governance may set up corporate and/or framework contracts for goods services, supplies or works across the Council and other public sector bodies. These shall be advertised and competitively tendered in accordance with the Council's competition and selection procedures set out in these rules and the Procurement Framework.
- 20.2 Where an appropriate corporate contract is in place this shall be used wherever appropriate. The Member of SLT responsible for the corporate

contract shall issue guidance as to its use, after consultation with the Director of Legal and Governance and the SPU.

- 20.3 Any corporate/framework contracts shall be reviewed regularly by the SPU and shall be re-tendered at least once every four years.
- 20.4 Where a framework agreement is operational, all subsequent purchases under the framework shall either not require further competition (if a single supplier) or, if there are two or more suppliers for those goods or services on the framework, follow the express framework provisions for choosing a supplier. If there are no such express provisions a mini-competition should be held amongst the relevant suppliers.
- 20.5 If the Council is setting up the framework, the framework agreement shall be let in accordance with the requirements of the CPR.

## **21 CONTRACT MANAGEMENT AND REVIEW**

- 21.1 The APO shall ensure that there are adequate provisions in a tender and subsequently awarded contract to manage the performance of the contractor during the period of the contract, that all performance targets relevant to the contract are measurable and that there is a robust structure for ensuring compliance.
- 21.2 Wherever possible national performance indicators shall be reinforced by local targets as set out in the Council's specification and/or published policies, aims or targets; for example in its Corporate Plan, Sustainable Community Strategy, and Equality and Diversity policies and other corporate or local initiatives.
- 21.3 The APO shall ensure that there are regular meetings with the contractor.
- 21.4 For contracts of more than 12 months duration the contract shall be reviewed at least annually. Where the results of the review establish that performance targets are not being met or there is a high level of dissatisfaction (which should be documented and advised to the contractor at the earliest opportunity), appropriate measures will be taken to rectify any failure. Where there is a serious problem with the performance of the contractor and enforcement through the terms and conditions of the contract has been exhausted and has not resulted in an acceptable improvement, termination of the contract should be considered. Where the contractor is performing well, due recognition should be given wherever possible.
- 21.5 For contracts with a period of less than 12 months duration, and at the end of a longer term contract, a performance review should be conducted and the finding acted upon for a future procurement for the same or similar Works, Services or Supply. Due recognition should be given for good performance.
- 21.6 All performance reports or contract reviews will be kept on the council's preferred e-tendering suite by the Contract Manager and made available on request to the Managing Director.
- 21.7 For all contracts that have been through the Checkpoint Procedure, a completed Stage 3 report will be required as part of a contract review. This is the contract manager's responsibility and must be completed within 12 months of contract award.

## **22 DOCUMENTATION**

- 22.1 All documents prepared for a procurement exercise will be, as far as possible, unambiguous and transparent in their intentions, compliant with regulatory requirements and the Council's aims and objectives and shall take account of the Council's strategies, policies and service objectives.
- 22.2 All tenders shall include clear instructions to tenderers on the process that is intended to be used including award criteria and weighting, together with the specification pricing schedule (or other descriptive document), conditions of contract, e-Auction procedure and award process and all other documents relevant to the Works, Services or Supplies that are being procured.

### **Contracts**

- 22.3 All contracts with a value over £100,000 shall be on the Council approved standard terms and conditions for that type of contracts unless:
- i. the contract is let under an existing framework agreement which specifies the terms and conditions under which an individual contract can be let;
  - ii. the Council's standard terms and conditions are not appropriate for the particular contract;
  - iii. the Director of Legal and Governance approves otherwise.
- 22.4 All Council contracts where the Council approved standard terms and conditions are not appropriate must be awarded on the basis of a written specification of the Council's requirements on contract terms and conditions approved by the Director of Legal and Governance in advance.
- 22.5 All contract specifications shall include reference to appropriate domestic or European standards and legislation where appropriate.
- 22.6 Contracts above £100,000 shall include details of:
- (a) what is to be provided (description, quality and quantity where relevant) and when;
  - (b) payment provisions (amount and timing); and
  - (c) the Council's standard conditions relating to the following:
    - a. the time scale within which the contract is to be performed;
    - b. the contract review period;
    - c. no sub-contracting or assignment without prior consent;
    - d. sub-contractors to be appointed in accordance with these rules;
    - e. sub-contractors to be paid within 30 days;
    - f. the Council's insurance requirements;
    - g. the Council's health and safety requirements;
    - h. the Council's data protection and Freedom of Information requirements;
    - i. the Council's equalities requirements;
    - j. a right of access to relevant documentation, data and records of the contractor for monitoring and audit purposes;
    - k. a right of termination for the Council;
    - l. a requirement at the discretion of the Council for security for performance – for example, a bond, guarantee or retention sum;

- m. quality assurance requirements and consequences;
- n. implementation;
- o. performance monitoring requirements;
- p. best value requirements;
- q. the Council's standard prevention of corruption clause;
- r. TUPE requirements.

22.7 All Council contracts for construction works with a total value of more than £100,000 shall be awarded on the basis of a written specification of the Council's requirements and the current conditions of:

- (a) the relevant standard form of Joint Contracts Tribunal (JCT); OR
- (b) the standard form of Institute of Civil Engineering (ICE) ; OR
- (c) the standard form of Project Partnering Contracts (PPC) 2000; OR
- (d) the relevant form of New Engineering Contracts (NEC); OR
- (e) the relevant framework agreement;

whichever is appropriate or another standard form of contract approved by the Director of Legal and Governance.

### **Retention of documents**

22.8 The Members of SLT shall be responsible for ensuring that there is a secure system of filing and storing all tender process documentation.

22.9 An APO is required to keep written records of all contracts and the tender processes, including minutes/notes of the tender evaluation panel and other supporting documentation used throughout the procurement process. These will be retained on the Council's preferred e-tendering suite.

22.10 Once executed the Council shall retain one original copy of the complete contract documents and one copy of the complete contract documents shall be provided to the contractor. This includes the:

- (a) contract conditions;
- (b) specification;
- (c) evaluation criteria;
- (d) invitation to tender;
- (e) pricing schedule;
- (f) contractor's tender submission;
- (g) pre-tender correspondence which affects the specification, pricing schedule or contract conditions;
- (h) post tender correspondence;
- (i) award letter; and
- (j) documentation of all variations and extensions of the contract.

22.11 Where the contract is under seal, one original copy of the contract documents shall be sent to/retained by the Director of Legal and Governance for storage in the Council's deeds room and one copy shall be retained by the person awarding the contract, as well as one copy being provided to the contractor.

22.12 All documents of sealed contracts and contracts with a value over £150,000 shall be retained by the Director of Legal and Governance in the Council's deeds room for twelve years from the date the contract has ended.

- 22.13 Contracts not under seal shall be retained for six years from the date the contract has ended..
- 22.14 Unsuccessful quotations and tenders and financial correspondence shall be retained for four years from the contract was awarded.
- 22.15 Service Level Agreements shall be retained for one year after the end of the agreement or the date on which it was superseded.
- 22.16 Where an exception to the Competition Financial Thresholds applies, the following documents shall also be retained:
- (i) the Competition Financial Thresholds Exceptions Approval Form signed by a Member of SLT;
  - (ii) the contract and correspondence with the contractor;
  - (iii) any evidence of how value for money was obtained – for example, alternative written or oral quotes.

## **23 COLLABORATIVE, JOINT COMMERCIAL ENTERPRISES AND PUBLIC SECTOR SPIN OUTS**

- 23.1 Where consideration is being given to collaborative working, whether loosely or by establishing a Special Purpose Vehicle/Economic Entity, the Head of Procurement will be informed at the earliest opportunity and a Checkpoint Stage 1 Report will be prepared to consider any procurement implications and to make recommendations to the Checkpoint Panel.
- 23.2 Where consideration is being given to collaborative working with another local authority (or authorities) and/or public bodies, the Head of Procurement will be informed at the earliest opportunity to determine the legal, governance and procurement implications before proceeding.
- 23.3 Where consideration is being given to establishing an existing in-house service as an economic entity outside of the Council (a public sector spin out) with a primary focus either on providing Services to the authority or offering Services generally, the Directors of Legal & Governance and Finance and the Head of Procurement will be informed at the earliest opportunity to determine the legal, governance, commercial viability and procurement implications before seeking approval from the Executive.
- 23.4 The Officers identified in this CPR 23 will be informed in the same way for any similar types of enterprise before seeking approval of the Executive.
- 23.5 For the vehicles identified in this CPR 23 which involve the making of payments to whatever is created, State Aid implications will be considered.

## **24 BONDS AND GUARANTEES**

- 24.1 A Performance Guarantee Bond and/or Parent Company Guarantee may be required as part of the award of a contract. The final decision to take security will lie with the APO and the form of security to be taken and its terms for reimbursement in the event of default will be determined by the Director of Legal and Governance (or authorised deputy) and the Head of Procurement, with account being taken of market trends.

- 24.2 The APO for a contract with a value between £100,000 and £500,000 will consider whether there is a need to take security against the contractor's performance at Checkpoint Stage 1, taking account of the risks associated with the subject matter of the contract. Where, after an assessment, the risk is judged as low, a bond and/or guarantee need not be taken. Where the risk is judged as medium the Head of Procurement will be consulted as to whether it is desirable to take security. Where the risk is judged as high a bond should be considered.
- 24.3 Where the contract value is above £500,000 the APO shall consult the Head of Procurement whether a bond and/or guarantee should be taken where the risk is judged as low or medium. Where the risk is judged as high a bond should be considered.
- 24.4 Where a tenderer indicates it has a holding/parent company, consideration should be given to obtaining a Parent Company Guarantee regardless of the risks associated with the procurement.
- 24.5 All tender documentation for contracts over £100,000 shall make reference to the provisions of this CPR 24 for taking of security, if required. Where a specification or pricing document includes the taking of security, the drafting should reflect the wording of this CPR 24, and indicative rates be requested subject to the Council decision to require a bond. Where a bond is not thought necessary, premium value will be deducted from the contract sum. Where no sum is identified the amount shall be determined by reference to markets at the time of the procurement.

## **25 GRANT FUNDED EXPENDITURE**

- 25.1 Where the council receives Grant Funding and is named as the accountable body for the expenditure of monies, and where the terms of the grant permits the council to directly carry out Works, or buy Services or Supplies, any procurement will be conducted in line with CPR.
- 25.2 Where the funding received exceeds £500,000 a report will be presented to the SLT for approval to enter into the Grant Agreement (or other funding arrangement) and to record the availability of funding subject to the terms of the grant.
- 25.3 For grants under £500,000 approval will be in accordance with the Scheme of Delegation. Account will be taken in contracts let, in whole or in part, as a result of grant funding, of the terms and conditions and accountability of the Council, and will also have provision to terminate an awarded contract in the event of the grant funding ceasing, in whole or in part.
- 25.4 Where the funding is for use by a third party the obligation to account for the funding contained in the grant terms will be included in the agreement with the third party. Further, the terms of making the grant shall include a clause to competitively tender for Services, Supplies or Works and reflect the Council's strategies, policies and objectives in so much as they apply to, or are compatible with, the funding objectives as set out in the grant terms imposed on the Council and CPR.
- 25.5 Where the Council is making a grant from its own resources the terms as set out in CPR 25.1 will apply, save that accountability conditions will be set by the Council.



- 25.6 Where grant funding is for the employment of staff under a contract of employment (rather than as a consultant or contractor), procurement will not apply and an exemption will be recorded.

## **26 STATE AID**

- 26.1 A grant, or other funding made to a third party (including that to a Direct Service Organisation), either by the Council or from another source, which may be considered as a subsidy will need to be reviewed against the EU “State Aid” rules. To establish whether a grant, or other contribution, (financial or in kind) affects the procurement or other transaction being considered by the Council. Where a third party who is in receipt of a grant, or other contribution, from the Council is included on a select list of tenderers the extent of its value in terms of affecting the Council’s obligations the EU Treaty principles of Equal Treatment, Transparency, Non Discrimination, Proportionality and Mutual Recognition should be considered to establish whether there is any risk of infringement of the “State Aid” Rules.
- 26.2 European “State Aid” may apply where:
- i. It is granted by a Member State or through State resources;
  - ii. It favours certain undertakings or the production of certain Supply;
  - iii. It could distort or threaten to distort competition;
  - iv. It could affect trade between EU Member States.
- 26.3 The Rules themselves have permitted exemptions which may mean the grant or, other contribution would not raise a risk infringement but if all four of the above apply advice should be obtained from the Director of Legal and Governance and any procurement activity should be suspended.
- 26.4 Where State Aid is considered the outcome of any assessment will be recorded and retained with the tender/contract documents.

ANNEX 1: PROCURING SUPPLIES, SERVICES AND WORKS

Value	Process	e-Tendering Suite	Advertise	Checkpoint Stage 01*	Pre-tender Report	Checkpoint Stage 02*	Award Report	Checkpoint Stage 03*
Goods / Services								
£0 - £4,999	One quote	No	No	No	No	No	No	No
£5,000 - £24,999	Two quotes	No	No	No	No	No	No	No
£25,000 - £99,999.99	3 Quotes/Tender if advertised	Yes	No	No	No	No	No	No
£100,000 - EU <sup>1</sup>	Tender	Yes	No	No	No	No	No	No
EU <sup>1</sup> - £499,999.99	Tender	Yes	Yes	Yes	Second Tier Manager	Yes	Member of SLT	Subject to Panel
£500,000 - £999,999.99	Tender	Yes	Yes	Yes	Member of SLT	Yes	Member of SLT	Subject to Panel
£5M - £10M	Tender	Yes	Yes	Yes	Member of SLT	Yes	Lead Member	Yes
£10M +	Tender	Yes	Yes	Yes	Member of SLT	Yes	Cabinet Leader or	Yes
Works								
£0 - £4,999.99	One quote	No	No	No	No	No	No	No
£5,000 - £24,999	Two quotes	No	No	No	No	No	No	No
£25,000 - £99,999.99	3 Quotes/Tender if advertised	Yes	No	No	No	No	No	No

<sup>1</sup> EU Threshold for Supplies and Services

£100,000 - EU <sup>1</sup>	Constructionline tender – 5 minimum	Yes	No	No	No	No	No	No
EU <sup>1</sup> - £499,999.99	Constructionline tender – 5 minimum	Yes	No	No	Second Tier Manager	Yes	Member of SLT	Subject to Panel
£500,000 - EU <sup>2</sup>	Constructionline tender – 7 minimum	Yes	No	Yes	Member of SLT	Yes	Member of SLT	Subject to Panel
EU <sup>2</sup> - £4,999,999	Tender	Yes	Yes	Yes	Member of SLT	Yes	Member of SLT	Yes
£5M - £10M	Tender	Yes	Yes	Yes	Member of SLT	Yes	Lead Member	Yes
£10M +	Tender	Yes	Yes	Yes	Member of SLT	Yes	Cabinet Leader or	Yes

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<sup>1</sup> EU Threshold for Supplies and Services

<sup>2</sup> EU Threshold for Works

## ANNEX 2: GLOSSARY OF TERMS

Term	Definition
<b>Approved List</b>	An eligible list of potential Contractors who have been assessed as to their suitability in terms of financial and economic standing and technical capability to tender for contracts.
<b>Audit Trail</b>	Evidence showing how, why and by whom certain processes and functions were carried out.
<b>Authorised Procurement Officer</b>	An Officer of the Council who has delegated authority (through the general management scheme of delegation) to procure Works, Supplies and Services on the Council's behalf.
<b>Best Practice</b>	The most effective and desirable method of carrying out a function or process derived from experience rather than theory.
<b>Business questionnaire</b>	Also known as a Pre-Qualification Questionnaire (PQQ) A Questionnaire completed by companies that wish to be short listed for procurement activity or placed on an approved list. The purpose is to assess suitability in terms of financial and economic standing and technical capability
<b>SLT</b>	Senior Leadership Team - Havering Council's top level management team comprises the Chief Executive, and 5 Service Directors (Adults, Children, Neighborhoods, the Chief Operating Officer and oneSource Managing Director .
<b>Competitive Tendering</b>	Awarding contracts by the process of seeking competing tenders
<b>Concession Contract</b>	is a <b>contract</b> under which a contracting authority or a utility outsources works or services to a <b>contractor</b> or provider, who then has the right to commercially exploit those works or services in order to recoup its investment and make a return. Light
<b>Contract</b>	A binding agreement made between two or more parties, which is intended to be enforceable at law. This may take the form of a written or verbal agreement
<b>Contract Manager</b>	The officer responsible for ensuring the contract is procured in compliance to these procedure rules.
<b>Contract Award</b>	The issuing of a formal commitment to a supplier, contractor or service provider to Supplies, Services or Works to the Council .

<b>Term</b>	<b>Definition</b>
<b>Contractor</b>	A firm or person who has made a contract to Supply, provide Services or undertake Works
<b>Contracts Finder</b>	The Public Contracts Regulations which came into force on 26th February 2015 require public sector organisations in England (government departments, local authorities, housing associations, armed forces, emergency services, schools, universities, etc.) to publish information on contracts they intend to award following a competitive tender.
<b>Directorate</b>	The staff, Services and functions for which an Officer is responsible.
<b>Emergency</b>	An event or occurrence which could not reasonably have been foreseen and which threatens immediate danger to life, health or property
<b>E- tendering</b>	The system used to cover all procurement activity over £25,000.
<b>Framework Agreement</b>	A "framework agreement" is an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
<b>Invitation to Tender</b>	An invitation to suppliers to formally bid for the provision of Works, Supplies or Services not being the Instructions to Tender.
<b>Letter of Acceptance</b>	A letter, which creates an immediate binding contractual relationship between the Council and the successful tenderer prior to entering into a formal contract
<b>Light Touch</b>	The new <b>light-touch regime</b> (LTR) is a specific set of rules for certain service contracts that tend to be of lower interest to cross-border competition. Those service contracts include certain social, health and education services, <b>defined</b> by Common Procurement Vocabulary (CPV) codes.
<b>Mandatory Standstill Period Notice</b>	A letter or other communication sent following a mandatory OJEU compliant tender exercise which must be sent to an un-successful tenderer to comply with Regulation 86-87 of the Public Contracts Regulations 2015 and CPR 12.5-6 before the final award of a contract.
<b>Most Economically</b>	The tender which will bring the greatest benefit to the

<b>Term</b>	<b>Definition</b>
<b>Advantageous Tender</b>	Council in terms of quality, price, running cost, disposal cost, etc. (MEAT)
<b>Officer</b>	The individual reporting into the service directly responsible for the commissioning activity for that service.
<b>Overview &amp; Scrutiny</b>	Overview and Scrutiny is an essential function which monitors the work of the Leader and Cabinet and provides a route through which the non-executive Members can scrutinise the work of the decision makers and hold them to account. The Overview and Scrutiny Committee monitors performance and draws attention to issues of public concern. In this way, scrutiny drives improvement, sets high standards for the delivery of services and crucially responds to the needs of the borough through maintaining a constant dialogue with residents.
<b>Quotation</b>	Any written offer requested either orally or in writing.
<b>Second Tier Manager</b>	A manager reporting directly to a SLT Director
<b>Select List</b>	A list of suitable prospective suppliers that has been drawn up through a pre-qualification short listing exercise for a particular contract or procurement activity.
<b>Service Area</b>	The staff, Services and functions for which an Officer is responsible .
<b>Specification</b>	A description of what is to be provided under the contract. Depending on the procurement, a specification can be anything from a catalogue or model number to a whole series of documents.
<b>Strategic Procurement Unit (SPU)</b>	Strategic Procurement is based within the Finance Directorate of oneSource and is responsible for overseeing strategic procurement issues, procurement policy, corporate Supply and service contracts.
<b>Tender</b>	A formal, written, sealed response to an invitation by the Council that contains a specification for Works, Services or Supplies required.
<b>Tender Documents</b>	Documents issued to prospective tenderers when they are invited to submit a tender. Such documents would normally include; a business questionnaire or Pre-Qualification Questionnaire (PQQ), except where a Select List or formal Framework Agreement is in place, instructions to tenderers, contract conditions, specification, pricing document, form of tender and tenderers' responses.

<b>Term</b>	<b>Definition</b>
<b>Tender Evaluation</b>	Detailed assessment and comparison of supplier offers
<b>The Authority/Council</b>	The London Borough of Havering of Town Hall, Romford, RM1 3BB.
<b>Urgency</b>	A situation whereby the Council is likely to suffer significantly either financially or operationally or will be in breach of an order of court or statutory function or for health and safety reasons associated with the protection of life and property, if immediate action is not taken.
<b>“VEAT” Notice</b>	A Voluntary Ex-Ante Transparency Notice is a notice announcing an intention to award a contract and which sets out the legal grounds upon which the intended award is to be made.
<b>Voluntary Feedback Communication</b>	A non statutory notification to an un-successful tenderer following a non-mandatory procurement (or an award over EU value threshold and Works) following a “mini-tender” exercise under a Framework Agreement) drawn up and containing information required for a mandatory standstill notice or by way of feedback in line with Section 20 Local Government Act 1988 (requirement if requested to give feedback with 15 days of the reasons for an award decision).

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**COUNCIL PROCEDURE RULES**

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**1. ANNUAL MEETING OF THE COUNCIL**

- 1.1 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 normally take place in May but may, if the Council so agrees, take place in March or April.
- 1.2 Other than in a year when there is an ordinary election of Councillors, an extraordinary meeting of the Council shall be held in accordance with Council Procedure Rule 4.3, commencing at 7:30pm, and the Annual meeting shall commence immediately following the conclusion of that extraordinary meeting. In the year of an election, there shall be no extraordinary meeting by Council Procedure Rule 2(d) shall apply.
- 1.3 The business of the Annual Meeting shall be to:
- (a) choose a Member to preside if the outgoing Mayor is not present and to receive apologies for absence;
  - (b) elect the Mayor of the Borough for the forthcoming municipal year and receive notice of the appointment of the Deputy Mayor;
  - (c) approve the minutes of the last meeting and of any subsequent extraordinary meeting;
  - (d) receive any declarations of interest from members
  - (e) receive any announcements from the Mayor and/or Chief Executive;
  - (f) in a year when there is an ordinary election of Councillors, elect the Leader of the Council, and receive notice of the appointment of the Deputy Leader of the Council and the Members of the Cabinet
  - (g) appoint the Overview and Scrutiny Board or Sub-Committees and any such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions; appoint their Chairmen and Vice Chairmen; and appoint the following seven Champions:
    - (i) for Diversity
    - (ii) for the Historic Environment
    - (iii) for the Over Fifties
    - (iv) for Standards
    - (v) for the Voluntary Sector Compact
    - (vi) for Younger Persons
    - (vii) for Armed Forces veterans

- (h) To receive an annual statement by 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.

1.4 The Initial, Revised and Final Agendas for the Annual Meeting, and any papers or other submissions for consideration at that meeting, shall be delivered in accordance with Timetable 1 appended to these Rules.

## **2. ORDINARY MEETINGS**

Ordinary meetings of the Council will take place in accordance with a programme decided by the Council at the last ordinary meeting of the preceding municipal year. Ordinary meetings will:

- (a) choose a Member to preside if the Mayor is absent and to receive apologies for absence;
- (b) approve the minutes of the last meeting and of any subsequent extraordinary meeting;
- (c) receive any declarations of interest from members;
- (d) at the first ordinary meeting after the Annual Meeting immediately following an ordinary election of Councillors, consider whether to:
  - (i) confer on any former Member who has rendered eminent service to the Council the office of Honorary Alderman;
  - (ii) to present to any other Member a certificate of service; and
  - (iii) confer on any person of distinction or who has rendered eminent service to the borough the Honorary Freedom of the Borough
- (e) receive any announcements from the Mayor, the Leader of the Council and/or the Chief Executive;
- (f) receive any petitions pursuant to rule 14;
- (g) receive and consider the following business, in the order indicated:
  - (i) recommendations from the Cabinet and the Council's committees;
  - (ii) reports of the Chief Executive, Monitoring Officer or Chief Finance Officer;
  - (iii) proposals from the Cabinet in relation to the Council's budget and policy framework;
  - (iv) reports of the Overview and Scrutiny Board and/or the Member Champions;
  - (v) any statutory or other plans submitted for the Council's approval;

- (vi) at the last ordinary meeting in the Municipal year, approve a programme of ordinary meetings of the Council for the following year;
  - (vii) any motions relating to the appointment of Chairmen or Vice-Chairmen of Committees (which shall be submitted in accordance with Rule 11 following);
- (h) receive reports for the previous year from the Chairmen of the Overview and Scrutiny Committees, the Audit Committee and the Pensions Committee:
  - (i) except in the year when there are Borough Elections, at the first ordinary meeting in the Municipal Year; and
  - (ii) in the year when there are Borough Elections, at the last ordinary meeting before those elections;
- (i) at the annual meeting of each Municipal Year, receive reports for the previous year from the Member Champions;
- (j) consider questions from members submitted in accordance with Rule 10;
- (k) debate any petition exceeding the threshold of 3,500 signatories, and reach a decision on it, in accordance with the procedure set out in Rule 14
- (l) consider any motions submitted in accordance with the procedure set out in Rule 11; and
- (m) consider any other business specified in the summons to the meeting.

The Initial, Revised and Final Agendas for an ordinary meeting, and any papers or other submissions for consideration at that meeting, shall be delivered in accordance with Timetable 2 appended to these Rules.

### **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:

- (a) to choose a Member to preside if the Mayor is absent and to receive any other apologies for absence;
- (b) to approve the minutes of the last ordinary meeting of the Council and of any subsequent extraordinary meeting that may have been held;
- (c) to receive any declarations of interest from members;
- (d) to receive any announcements by the Mayor and/or the Leader of the Council;

- (e) to consider proposals from the Cabinet in relation to the Council's budget and any reports of the Overview and Scrutiny Board in respect of those proposals;
- (f) to agree the Council's budget; and
- (g) to set the council tax.

The Initial, Revised and Final Agendas for the Council Tax setting meeting, and any papers or other submissions for consideration at that meeting, shall be delivered in accordance with Timetable 3 appended to these Rules.

#### **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:

- (a) the Council by resolution;
- (b) the Mayor;
- (c) the Monitoring Officer;
- (d) pursuant to statute, 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 Mayor shall, at his absolute discretion, set the date and time for the extraordinary meeting (subject to the statutory right of the Members who have requisitioned a meeting to do so in the event that the Mayor fails to do so) for any time prior to the commencement of the next ordinary meeting of the Council (including the Annual Meeting and the meeting at which the Council Tax is set).

The timetable for extraordinary meetings and rules as to amendments etc., will be set by the Mayor (or by the proper officer, in the event of Members exercising their default right) when the meeting is convened.

##### **4.2 Business**

The extraordinary meeting will:

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

#### **4.3 Conferment of Honorary Freedom**

Immediately before the Annual Meeting of the council in any year other than when there is an ordinary election of Councillors, an extraordinary meeting shall be convened for the purpose of considering an nomination for the conferment of the Honorary Freedom of the Borough in accordance with Council Procedure Rule 23.

#### **5. TIME AND PLACE OF MEETINGS**

Meetings of the Council will be held at Havering Town Hall (or such other place that may be determined either by the Council generally or by the Mayor for a particular meeting) and begin at 7.30pm unless an earlier time is agreed in advance by the Council, or by the Mayor, and the change is notified in the summons.

#### **6. NOTICE OF AND SUMMONS TO MEETINGS**

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 5 clear days before a meeting, the Proper Officer will send a summons by post to every member of the Council or leave it at their usual place of residence; a Member may request the Proper Officer to make the summons, agenda and papers available by e-mail, electronic means (and the sending of which documents by electronic means on request shall be deemed to be due delivery). 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.

The Proper Officer shall also circulate to Members, for their information, an Initial Agenda and a Revised Agenda before the Final Agenda is issued, but neither shall be regarded as defining the agenda for the meeting.

The Proper Officer 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**

- (a) the person presiding at the meeting may exercise any power or duty of the Mayor in relation to the conduct of that meeting;
- (b) the ruling of the Mayor in relation to any aspect of the conduct of the meeting shall not be questioned;
- (c) whenever the Mayor rises during a debate, any member then speaking or standing shall be seated and the Council shall be silent.
- (d) 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 MEETINGS AND THE GUILLOTINE**

### **9.1 Conclusion of ordinary and special meetings**

Every ordinary or special meeting of Full Council shall terminate after 3 hours or no later than 10:30pm (whichever is earlier) and the Mayor shall declare the meeting closed

If there are motions or recommendations on the agenda that have not been dealt with by 10.15 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.

### **9.2 Conclusion of the Annual Meeting and of the Council Tax Setting meeting**

The Annual Meeting and the Council Tax Setting Meeting shall continue until all business has been dealt with, whereupon 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 a question on any matter relating to the business of the Council:

- (a) The Leader of the Council
- (b) A member of the Cabinet
- (c) Any Committee Chairman who is a Member of the Council
- (d) A Champion

In the absence of one of the above listed in (a) to (d), the Chairman shall arrange for another Member to respond on their behalf.

## **10.2 Notice of questions**

- (a) Members may only ask questions under Rule 10.1 if either:
  - (i) They have given 11 clear days' notice in writing to the Proper Officer signed by the Member or by the Group Leader on behalf of that Member.
  - (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.
- (b) The Proper Officer 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, guideline 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.

## **10.3 Order of questions**

The allocation of the total number of questions set by Rule 10.6 shall be as near as possible in accordance with the relative size of the opposition political groupings and number of members not attached to a group. The Chief Executive shall determine the allocation from time to time and shall notify the Governance Committee of the allocations.

Subject to the following provisions, questions shall be dealt with in order of receipt.

Where there are questions from more than one Member of a Group or from Members not attached to a Group, questions shall be dealt with by rounds, such that:

- (a) round one shall comprise the first of the questions asked by any of the Members of each Group or by any unattached Member(s);
- (b) subsequent rounds shall comprise successive questions in such order until a Group or unattached member(s) have used their allocation of questions.
- (c) In the event that a Group does not use its full allocation of questions the remaining allocation shall be available for use by any other Group or unattached Member who has already submitting their agreed allocation of question on a first come, first serve basis.

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.



#### **10.4 Response**

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer shall be provided later to the questioner and included in the minutes of the meeting.

#### **10.5 Supplementary question**

- (a) A member asking a question may ask one supplementary question without notice, of the member to whom the principal question was asked. The supplementary question must arise directly out of the original question or the reply.
- (b) There shall be no discussion or debate on any question. Members must phrase supplementary questions appropriately and not seek to make a statement, introduce new business or initiate a debate on the matter.

#### **10.6 Number of Questions**

A maximum of 15 questions can be submitted for a Council meeting all of which together with any supplementary questions under rule 10.5 will receive an oral reply at the meeting. Any questions in excess of the maximum number that are submitted will be treated as a Member enquiry and receive a written response.

#### **10.7 Time allowed for Questions**

The time set aside for questions shall not exceed 45 minutes. Any questions which have not been put in the time available will be responded to in writing, circulated to all Members and included in the minutes of the meeting.

#### **10.8 Absence of questioner**

Where a member has given notice of a question but is absent from the meeting, the Group Leader (or another Member of the Group nominated by 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 prior to publication of final agenda**

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 minutes of the meeting shall include:

- (a) the text of the question and answer of every question dealt with orally, in the order in which each was dealt with
- (b) a summary of any supplementary question and answer
- (c) the text of the question and answer of every question dealt with by written reply.

#### **10.12 Questions about reports**

A Member may question the Leader of the Council, a Cabinet Member, a Committee Chairman or a Member Champion, as appropriate, about the content of any report before Council. Questions:

- (a) About reports issued with the final agenda shall be submitted to the Proper Officer no later than the Monday before the meeting (but if the Monday is a Bank Holiday, the time limit will be extended to noon on the Tuesday before the meeting).
- (b) About an urgent report may, with the consent of the Mayor, be asked without notice at the time the report is considered by Council.

#### **10.13 Reports to Council and amendments**

Reports of Cabinet, Committees or officers to Council to which an amendment is proposed shall be deemed subject to a motion "that the report be adopted and its recommendations carried into effect", which shall be moved and seconded by members of the Administration or the relevant committee chairman and vice-chairman; and be subject to the rules of debate as set out in Rule 13.4.

In these Rules, "motion" includes a deemed motion in respect of a report. The provisions of Rules 11.1 and 11.2 shall not apply to a deemed motion (except insofar as section 100B(4) of the Local Government Act 1972 applies to that motion).

Amendments to any reports before Council shall be submitted to the Proper Officer as follows:

- (a) To reports issued with the final agenda, no later than the Monday before the meeting (but if the Monday is a Bank Holiday, the time limit will be extended to noon on the Tuesday before the meeting).
- (b) An amendment to an urgent report may be proposed without notice at any time before the debate on it is concluded,

## **11. MOTIONS OF WHICH NOTICE IS GIVEN**

11.1 Subject to Rule 11.2 following and except for motions which can be moved without notice under Rule 12, written notice of every motion, signed either by at least two members or by the Leader or Secretary of a Group, must be delivered to the Proper Officer not later than 10 clear days before the date of the meeting. Notice of such motions will be available for public inspection

11.2 If a member satisfies the Mayor that:

- (a) 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 in Rule 11.1 and
- (b) where applicable, those reasons are sufficient to permit admission of the motion on to the agenda in exercise of the power conferred by section 100B(4) of the Local Government Act 1972

The Mayor shall have power to agree that the motion be moved as an urgent motion at the meeting notwithstanding that due notice has not been given. If possible, the Proper Officer shall include any urgent motion on the Final Agenda for a meeting but if that is not possible, shall issue a Supplementary Agenda including it.

### **11.3 Scope**

- (a) Motions must be relevant to a matter in which the Council has powers or duties or which affects the borough.
- (b) The Monitoring Officer may reject a Motion (or an amendment to a motion) if it:
  - (i) is not about a matter for which the local authority has a responsibility or which affects the borough;
  - (ii) is defamatory, derogatory, vexatious, scurrilous, frivolous or offensive
  - (iii) is substantially the same as a motion which has been put at a meeting of Full Council in the past six months;
  - (iv) requires the disclosure of confidential or exempt information;

- (v) seeks to pursue or further a complaint against a Councillor or an Officer of the Council, where other channels already exist for the determination of complaints
- (c) Where it would assist the proper or efficient conduct of the Council's business, the Mayor may direct that two or more motions relating to the same matter shall be debated together, with a separate vote on each one at the conclusion of the debate.
- (b) The Monitoring 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 prior to the meeting to clarify, correct, or make sense of the particular wording. The Monitoring Officer shall consult the Mayor if agreement on such clarification cannot be reached and the Mayor may direct that the motion or amendment shall not be included in the summons.

#### **11.4 Motion set out in agenda**

Motions of 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 in which the group submitting the motions expresses a preference.

#### **11.5 Amendments to motions**

- (a) Notice of amendment (other than to an urgent motion) must be signed by at least two members or by the Leader or Secretary of a Group and must be delivered to the Proper Officer at least 6 clear days before the date of the meeting.
- (b) An amendment to an urgent motion may be proposed and seconded without notice at any time before the debate on it is concluded.
- (c) 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.
- (d) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words.

provided that the effect of (ii) to (iv) is not to negate the motion.
- (e) If there is any doubt about the effect of the carrying of any amendment upon the original motion, the Mayor may direct that it be read out (or displayed, if projection equipment is available) before accepting any

further amendments, or if there is none, before a vote is taken on the substantive motion.

#### **11.6 Alteration of motion and/or amendment to a motion**

- (a) 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.
- (b) At a meeting, the mover of a motion or amendment, or the Leader of the Group on behalf of which a motion or amendment is proposed or has been moved, must seek the consent of the Council to alter that motion or amendment.
- (c) 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, upon considering such doubts the Mayor may agree that it shall not be accepted. The Mayor's ruling on that matter shall be final.
- (d) The meeting's consent will be signified without discussion and be determined by vote only.
- (e) 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.

#### **11.7 Withdrawal of motion or amendment**

A motion or amendment issued with the final agenda may be withdrawn or amended via a procedural motion (12.1(g)) but only once the meeting has commenced and at any time before the agenda item is called. The withdrawal or amendment of a motion will require the consent of Full Council. No member may speak on the motion or amendment after the mover has withdrawn it.

#### **11.8 Amendments to motions and reports at the Council Tax setting meeting**

- (a) An amendment to a motion/report at the annual Council tax setting must be submitted to the Chief Executive no later than 6 clear days before the Council tax setting meeting, and must be such that the amendment would, if passed, in the view of the Chief Finance Officer enable a robust budget to be set.
- (b) Upon receipt of such amendment, the Chief Finance Officer shall consider whether it meets the "robust budget" test, and:

- (f) If it does meet the test, the Proper Officer shall include it on the agenda for the meeting.
- (g) If it does not meet the test but the Chief Finance Officer considers that, duly altered, it will do so, that officer shall consult the proposers and, if they accept the alteration(s), the Proper Officer shall include it, as altered, on the agenda for the meeting.
- (h) If it does not meet the test and the Chief Finance Officer considers that, whether or not altered, it will not do so, that officer shall refer the amendment to the Proper Officer who shall proceed with it as an improper amendment under Rule 11(3)(b).
- (c) 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 Chief Finance Officer.

#### **11.9 Time allowed**

The total time for consideration of any motions or amendments for ordinary meetings shall not exceed 75 minutes. Any motion or amendment on the agenda that is not reached shall be deemed moved and seconded and/or any debate in progress shall be ceased by the Mayor and be moved to the vote without discussion.

### **12. PROCEDURAL MOTIONS**

#### **12.1 Procedural motions**

The following procedural motions may be moved and seconded at any time during the meeting, where appropriate before the conclusion of the business to which they relate, without notice and shall be voted on without discussion:

- (a) in relation to the accuracy of the minutes
- (b) to change the order of business in the agenda
- (c) to refer something to an appropriate body or individual;
- (d) to appoint a committee or member to a committee arising from an item on the summons for the meeting;
- (e) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- (f) to apply to a motion (including a deemed motion relating to a report the vote only procedure (rule 13.6);

- (g) to withdraw a motion or amendment;
- (h) to clarify a motion or amendment;
- (i) to adjourn a debate to a time specified;
- (j) that the meeting continue beyond 10.30 p.m;
- (k) to suspend a particular council procedure rule in accordance with Rule 20
- (l) to exclude the public and press in accordance with s.100B of the Local Government Act 1972;
- (m) not to hear further a member named or to exclude them from the meeting under Rule 18;

## **12.2 Special procedural motions**

A member who has not previously spoken in the debate may, at the conclusion of a speech of another member, move one of the following special procedural motions:

- (a) “That the question be put”, or
- (b) “That the Council proceed to the next business”, or
- (c) “That the Council adjourn”.

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

- (i) in case (a): the rights of reply given by Rule 13.6 may be exercised. The motion before the meeting shall then be put to the vote, or
- (ii) in case (b): 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
- (iii) in case (c): the meeting shall stand adjourned to a date to be fixed in accordance with Rule 9.1 (c)

## **12.3 PREVIOUS DECISIONS AND MOTIONS**

### **12.3.1 Motion to rescind a previous decision**

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

- (b) A motion to rescind may be included within a motion seeking to alter the previous decision in question and the two motions shall be treated as one matter for debate.

### **12.3.2 Motion similar to one previously rejected**

- (a) A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months shall not 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.
- (b) 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.

## **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. The text of such a motion may be displayed using the audio-visual display system within the Council Chamber.

### **13.3 Length of speeches**

No speech may exceed the following time limits without consent of the Mayor.

- (a) five minutes for a mover of a motion or an amendment
- (b) three minutes for other speeches in any debate

Except that, 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.

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

- (a) The Leader of the Group by which any motion, recommendation or amendment was proposed (if not the Leader of the Council or the Leader of the Opposition), or, if the mover is not a member of a Group, that Member.



(b) Where more than one Group or individual Member has proposed a motion or amendment, each shall be entitled to exercise a right of reply, in the order in which the motion or amendment(s) appears on the agenda.

(c) The Leader of the Council

In each case the appropriate Leader may nominate another member of their Group to reply on their behalf.

#### **13.4 Vote only procedure**

Where this procedure is invoked, the Mayor shall put the matter to a vote without debate. The motion and any amendment shall be deemed to have been moved and seconded, and shall be voted upon as if there are been a full debate of the matter.

#### **13.5 Seconding a motion or amendment**

No motion or amendment shall be debated or voted upon unless it has been seconded by a Member other than its proposer. A Member seconding a motion or amendment shall do so formally, without making a speech.

#### **13.6 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:

- (a) in exercise of a right of reply;
- (b) on a point of order;
- (c) by way of personal explanation;
- (d) by way of clarification; or
- (e) on a point of information.

#### **13.7 Point of order (breach of council rules)**

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 they consider it has been broken. The ruling of the Mayor on the matter will be final.

#### **13.8 Personal explanation (when a member is referred to)**

A member may seek to make a personal explanation at any time during the course of another member's speech if he has been referred to by name or position, either immediately if the member speaking gives way or at the end of

the speech. A personal explanation may only relate to the statement made by the other member in their speech. The ruling of the Mayor on the admissibility of a personal explanation and the time allowed for any personal explanation will be final.

#### **13.9 Clarification (of a member's own statement)**

A member may seek leave from the Mayor to clarify a point made in an earlier speech by that member if it appears from comments made in a subsequent speech that the earlier speech by the member had been misunderstood. The ruling of the Mayor on the admissibility of a clarification and the time allowed for any clarification will be final.

#### **13.10 Point of Information (a question to seek clarification on a factual statement by others)**

A member may seek to 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, and the time allowed for, any point of information will be final.

### **14. PETITIONS**

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 6 clear days before the meeting.

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.

### **15. VOTING**

#### **15.1 Majority**

Subject to any statutory requirement otherwise (notice of which shall appear in the relevant agenda), all matters before Council shall be decided by a simple majority of those members voting and present in the room at the time the question is put.

This rule shall not be suspended.

#### **15.2 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.

### **15.3 Recording of Votes**

All votes shall be recorded.

### **15.4 Voting on appointments**

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

## **16. MINUTES**

### **16.1 Signing the minutes**

- (a) 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 discussion of the minutes shall be as to their accuracy.
- (b) Any other matter arising from the minutes shall be discussed only if a motion relating to the matter is moved and seconded in accordance with Rule 11.

This rule shall not be suspended.

### **16.2 No requirement to sign minutes of previous meeting at extraordinary meeting**

Minutes of previous meetings shall be signed only at ordinary meetings (including the Annual Meeting and the Council Tax Setting Meeting).

This rule shall not be suspended.

### **16.3 Form of minutes**

- (a) Subject to (b) following, Minutes will contain all motions and amendments in the exact form and order the Mayor put them.
- (b) 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.

## **17. EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the provisions of section 100B of the Local Government Act 1972 or Rule 19 (Disturbance by Public).

## **18. MEMBERS' CONDUCT**

### **18.1 Standing to speak**

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, clarification, a point of personal explanation or information.

### **18.2 Defamatory and unparliamentarily language**

- (a) Although Members have qualified privilege in respect of defamation at Council meetings, they must not abuse that privilege so as to make personal attacks on individuals. Officers at Council meetings are not permitted to criticise a member's personal conduct, judgement or ability and Members for their part must not criticise an officer personally at any meeting. The Mayor will take this into account in conducting the meeting.
- (b) The use in debate of unparliamentarily language is prohibited and any use of it will be considered to be offensive under rule 18.3 below.

It is considered that "unparliamentarily language" is language which offends against the conventions of politeness such as insulting or abusive language and accusations of lying, being drunk or misrepresenting another's words.

### **18.3 Member not to be heard further**

- (a) If a Member, disregarding any ruling of the Mayor, behaves in an improper or offensive manner or deliberately obstructs business, any other Member, including the Mayor, may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.
- (b) If the motion is carried, the Member named in it shall immediately be seated and be silent for the remainder of the item then under discussion.

### **18.4 Member to leave the meeting**

If the member continues to behave improperly after a motion under Rule 18.3 is carried, the Mayor may move either that 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.

This rule shall not be suspended.

## **19. DISTURBANCE BY THE PUBLIC**

### **19.1 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.

### **19.2 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.

### **19.3 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.

Rules 19.1 to 19.3 shall not be suspended.

## **20. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

### **20.1 Suspension**

- (a) Except as noted in 20.2 below, all Council Rules of Procedure may be suspended for the duration of a meeting by motion without notice.
- (b) The following Rules may not be suspended:
  - 15.1 – question to determined by majority vote
  - 16.1 - signing of minutes - procedure
  - 16.2 – minutes to be signed only at ordinary meetings
  - 18 - Members' conduct
  - 19 - Disturbance by the public

### **20.2 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. AUDIO-VISUAL AIDS**

A member, or person 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.

The Mayor may, however, direct that, in the circumstances of a particular meeting, such aids may not be used.

## **22. WEBCASTING, BROADCASTING AND RECORDING OF PROCEEDINGS**

### **22.1 Webcasting**

A webcast may be made of any meeting (or part thereof) of the Council (but not so as to permit the webcasting of any confidential or exempt information) but the Mayor is authorised to determine that a particular meeting, or part of a meeting, shall not be webcast.

### **22.2 Audio/ Visual Recording of Meetings**

Anyone is welcome to record meetings of Council and its committees through any audio, visual or written methods they find appropriate providing they do not disturb the conduct of the meeting.

The Chair of the meeting will have the power to rescind this permission should it prove necessary due to the nature of the meeting or if the conduct of the meeting is disturbed, for example through flash photography or intrusive camera equipment.

All those visually recording at the meeting are requested to only focus on recording councillors, officers and the public who are directly involved in the conduct of the meeting.

If a meeting passes a motion to exclude the press and public then, in conjunction with this all rights to record the meeting are removed.

## **23. CONFERMENT OF AWARDS FOR EMINENT SERVICE**

23.1 Other than in a year in which there is an ordinary election of Councillors, Council shall consider at an extraordinary meeting held immediately before the Annual Meeting whether to confer on any person the Honorary Freedom of the borough, in recognition of their distinction or eminent services to the borough.

23.2 In a year in which there is an ordinary election of Councillors, Council shall consider at first ordinary meeting following the Annual Meeting

- (i) whether to confer upon on any person of distinction or who has rendered eminent service to the borough the Honorary Freedom of the Borough
- (ii) whether to confer upon any former Councillor the office of Honorary Alderman, in recognition of their eminent services to the Council; or
- (iii) the presentation to any Member or former Member of a certificate in recognition of service to the Council.

- 23.3 Notwithstanding rules 23.1 and 23.2 above, the Council may by motion consider conferring Honorary Freedom or the office of Honorary Alderman on a qualifying person, or presenting a certificate to a Member, where in the circumstances it is inappropriate to await the next Annual Meeting or the meeting following it, as the case may be.
- 23.4 The mover and/or seconder of a motion to confer the Honorary Freedom or the office of Honorary Alderman shall set out, either in the text of the motion or in the course of speaking in support of it, details of the “eminent service”, or the reason for “distinction” for which the award is to be conferred, and it shall be passed if two thirds of those present and voting at the meeting vote in favour.

## **24. INTERPRETATION**

For the purposes of the Council Procedure Rules:

- (a) the term “clear days” means a normal working day, excluding:
  - (i) the day on which a document is first made available
  - (ii) the day of the meeting
  - (iii) Saturday and Sunday
  - (iv) Public or bank holidays
  - (v) Other days when the Council’s offices are closed
- (b) “Proper Officer” shall include, if the Chief Executive is absent or unable to act, reference to any SLT Director or the Monitoring Officer 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 Member elected to hold that office
- (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:
  - (i) any notice required to be given in writing may validly be given in writing on paper, by fax or by 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.

- (ii) any document required to be served upon the Proper Officer or the Chief Executive may be handed to the Head of Democratic Services or a member of their staff.
- (iii) any document required to be served upon the Mayor may be handed to the Proper Officer, Chief Executive or the Head of Democratic Services or a member of their staff on behalf of the Mayor.
- (iv) any document handed to the Proper Officer, Chief Executive, Head of Democratic Services or staff member under (b) or (c) shall be deemed served upon the person to whom it is addressed.
- (v) where more than one signature is required, each may validly be given by the member(s) in question by notice in writing, by fax or by e-mail from a recognisable e-mail address or one known to be associated with him or her and different Members may use different means of signature.



## APPENDIX

These timetables assume that the meeting of Council is held on a Wednesday. If a meeting is held on another day, the relevant timetable shall be adjusted accordingly.

### 1 Annual Meeting Timetable

		<b>Day, week, and “clear days” before meeting</b>
1	Publication of INITIAL Agenda	Thursday: three weeks before <b>13</b>
2	Last date for receipt of notices of motion relating to the business to be transacted at the Annual Meeting	Tuesday: two weeks before <b>10</b>
3	Last date for receipt of nominations for the conferment of the Honorary Freedom of the borough	Tuesday: two weeks before <b>10</b>
4	Publication of REVISED Agenda	Thursday: two weeks before <b>8</b>
5	Last date for receipt of notice of amendment of any motion relating to business to be transacted at the Annual Meeting or report published with the Initial or Revised Agenda	Monday: one week before <b>6</b>
6	Publication of FINAL AGENDA incorporating all agenda papers	Tuesday: one week before <b>5</b>
7	Last date for receipt of notice of amendment to any report published with the Final Agenda	Monday: same week <b>1</b>

## 2 Ordinary Meeting Timetable

		<b>Day, week, and “clear days” before meeting</b>
1	Publication of INITIAL Agenda	Thursday: three weeks before <b>13</b>
2	Last date for receipt of questions	Monday: two week before <b>11</b>
3	Last date for receipt of notices of motion	Tuesday: two weeks before <b>10</b>
4	Last date for Mayor or Leader of the Council to give notice of arrangements for an address to the Council	Tuesday: two weeks before <b>10</b>
5	Publication of REVISED Agenda	Thursday: two weeks before <b>8</b>
6	Last date for receipt of notice of amendments to motions published in the Revised Agenda	Monday: one week before <b>6</b>
7	Last date for receipt of notice of intention to present a petition	Monday: one week before <b>6</b>
8	Issue of FINAL AGENDA incorporating all agenda papers	Tuesday: one week before <b>5</b>
9	Last date for receipt of notice of amendments to reports issued with the Final Agenda	Monday: same week <b>1</b>

### 3 Council Tax Setting Meeting Timetable

		<b>Day, week, and “clear days” before meeting</b>
1	Publication of INITIAL Agenda	Thursday: three weeks before <b>13</b>
2	<i>Cabinet meeting at which budget recommendations will be determined</i>	<i>Wednesday: two weeks before <b>9</b></i>
3	Publication of REVISED Agenda	Thursday: two weeks before <b>8</b>
4	Issue of FINAL AGENDA incorporating all agenda papers (but Supplementary Agenda(s) will be published)	Tuesday: one week before <b>5</b>
5	Last date for receipt of any amendment to the Council Budget	Monday: one week before <b>6</b>



# **EXECUTIVE PROCEDURE RULES**

## **1. Rules**

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

## **2. Role**

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

## **3. Form and Composition**

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

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

- (a) Meetings of the Cabinet shall be held on such dates and at such times and venues as the Leader shall decide.
- (b) The Proper Officer will summon all Members of the Cabinet to meetings by sending an agenda and accompanying papers to each Cabinet Member and by publishing the Agenda in accordance with any statutory requirements.
- (c) The meeting or part of a meeting must be held in public where the Leader, reasonably believes that one of the following circumstances apply:
  - (i) A decision made will be a key decision; or
  - (ii) A matter that is included in the Forward Plan or is the subject of a notice given under Regulation 18 (exception to inclusion on the forward plan) is likely to be discussed; and
  - (iii) The decision on the matter is likely to be made within 28 days; and
  - (iv) An officer who is not a political assistant will be present at the discussion

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

The Members of the Cabinet shall have the portfolios designated by the Leader. The Leader will maintain a list and notify this list to the Proper Officer setting out

what individual members of the Cabinet, committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular Executive functions.

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

The agenda for each meeting of the Cabinet will comprise:

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

## **7. Quorum**

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

## **8. Chairing**

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

## **9. Attendance and speaking**

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

#### **10. Conduct of Meeting**

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

#### **11. Private meetings of the Cabinet**

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

## 12. **Consultation**

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

## 13. **Conflicts of interest**

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

## 14. **Key decisions**

- (a) A key decision is an Executive decision which is likely
  - (i) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates. For this purpose "significant" is defined as
    - (a) In excess of £500,000
    - (b) In excess of 10% of the gross controllable composite budget at Head of Service level (subject to a minimum value of £250,000)Whether relating to revenue expenditure/savings or capital expenditure
  - (ii) To be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

In determining the meaning of "significant" regard must be had to any guidance issued by the Secretary of State. For the avoidance of doubt "savings" includes expenditure avoided, additional revenue income generated or capital receipts obtained.



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

**15. Forward Plan**

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

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

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

- (a) As soon as reasonably practicable after an individual Executive decision has been made, the Proper Officer shall produce a written statement in respect of that decision which includes:
  - (i) A record of that decision;
  - (ii) A record of the reasons for that decision;

- (iii) Details of any alternative options considered and rejected at the time;
  - (iv) A record of any conflict of interest or of any dispensation granted
- (b) After a private meeting or a public meeting of a decision making body at which an Executive decision has been made, after an individual member has made an Executive decision or after an officer has made a key decision, the Proper Officer shall ensure that:
- (i) Any records prepared in connection with; and
  - (ii) Any report considered

shall be available for inspection by members of the public, as soon as is reasonably practicable, at the offices of the authority.

## **17. Executive decision-making processes**

- (a) Key decisions may be taken only if due notice has been given of them in the Forward Plan unless the procedure for taking decisions without due notice has been followed.
- (b) Key decisions may be taken by Cabinet, by individual members of Cabinet or by officers acting in accordance with powers delegated generally or for specific purposes.
- (c) Executive decisions that are not key decisions may be taken by officers as well as by Cabinet, individual Cabinet members, in accordance with powers delegated generally or for specific purposes.
- (d) A list of all Executive decisions (whether or not key decisions) taken by members and of key decisions taken by officers in the preceding week will normally be published in the weekly Calendar Brief but where circumstances so require a supplementary Calendar Brief may be issued at any time.
- (e) No key decision shall be acted upon until either the deadline for submission of a requisition has passed without one being submitted, or any requisition submitted has been disposed of, unless the urgency provisions under Rule 18 of the Overview and Scrutiny Procedure Rules apply.
- (f) Where an Cabinet Member or Officer receives a report, which they intend to take into consideration when making the key decisions, they must not make that decision until the report has been available for public inspection for at least five clear days.
- (g) The Cabinet Member or Officer must ensure that the Proper Officer makes the report (and a list and copies of Background Papers) available for public inspection as soon as reasonably practicable after the Cabinet Member or Officer receives it.

- (h) Where a report has been submitted to a Cabinet Member or Officer with a view to it being considered when a key decision is made, the person submitting the report must, as soon as reasonably practicable, supply a copy to the Chairman of every relevant Overview and Scrutiny Sub-Committee.
18. **Action where a key decision has not been shown on the Forward Plan**
- (a) A key decision that has not been shown on the Forward Plan shall be made only in exceptional circumstances.
  - (b) Such a key decision shall be made only if the Chairman of the relevant Overview & Scrutiny Sub-Committee signifies in writing that he is satisfied on the report of the member or officer responsible for making the decision that
    - (i) it was reasonable in all the circumstances for notice of need for the decision not to appear in the Forward Plan
    - (ii) there is urgency for the decision to be made that justifies its being dealt with immediately rather than awaiting processing in the normal way
    - (iii) there are no grounds for supposing that the decision would be likely to be called in if processed in the normal way

Where the Chairman so signifies, the decision may be made forthwith and implemented without delay, and shall not be liable to be called in under the procedure provided for in paragraph 17 of the Overview & Scrutiny Procedure Rules in Part 4 of the Constitution.

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# Statement of Finance Policy Principles

## 1. Purpose

This policy (*the Finance Policy*) builds on the requirements of the Financial Regulations of the London Boroughs of Havering and Newham to ensure sound financial management practices are followed.

## 2. Objectives

The objectives of this policy are to:

- (a) ensure that the Councils' financial management is adequate and effective and that there is a sound system of internal control which facilitates the effective exercise of its functions; and
- (b) ensure that public money is safeguarded, properly accounted for, and used effectively.

## 3. Key principles

oneSource will:

- (a) ensure sound financial practices are in place which follow the fundamental principles of probity, accountability and value for money and ensure investment plans are affordable, prudent and sustainable;
- (b) ensure financial information is accurate, up-to-date and auditable; and
- (c) monitor and regularly review its financial practices, to ensure they are up-to-date and reflect current legislation, guidance and best practice.

## 4. Duties

Responsibilities for the Finance Policy are as follows:

- (a) Board/Cabinet, Chief Executive and Senior Leadership Team: endorsing this policy;
- (b) S151 Officer and Director of Finance oneSource: ensuring the finance policy is fit for purpose and complies with relevant statutory obligations and other responsibilities for the proper administration of the Agency's financial affairs;
- (c) Director of Finance oneSource: ensuring this policy is regularly reviewed and updated, and advising staff where necessary, monitoring non-compliance with this policy, ensuring appropriate action is taken on any non-compliance, and reporting this internally and to the S151 officers as appropriate;

- (d) Executive/SLT Directors and other Budget Holders: accountability for all financial matters in their business area including ensuring operational compliance with this policy, the Constitutions (including the Financial Regulations and Procurement Code/Procedure Rules), relevant legislation, guidance, best practice, and other standards, reporting any non-compliance to the Director of Finance oneSource and providing advice and guidance to their teams.
- (e) All staff: understanding and complying with the requirements of this policy, the Constitution (including the Financial Regulations and Procurement Code/Procedure Rules, relevant legislation, guidance and best practice.

## **Financial Regulations** (April 2015)

### **Who is governed by these regulations?**

The regulations apply to all staff including and not limited to temporary staff, those with temporary contracts, sessional staff and contractors, however it is the responsibility of Senior Managers to make sure the regulations are implemented in their service area as appropriate. A failure to comply with the regulations could result in the Council incurring a financial loss and could impact upon the financial standing of the Council. This could be damaging to the reputation of the Council and the individual. It could also result in disciplinary action under the officers Code of Conduct.

### **Executive Summary**

The financial regulations are for managing the Council's financial affairs and to safeguard its financial position. They are designed to protect the Council's assets.

The regulations are part of the Council's Constitution and are approved by Full Council. The regulations provide clarity for every Member and officer of the Authority. Senior Managers and Budget Managers are responsible for ensuring the regulations operate in their service area and that all staff in their area are aware of their own responsibility to implement the regulations.

## **1. Introduction: Reasons for Financial Regulations**

- (a) To conduct its business efficiently, a local authority needs to ensure that it has sound financial management policies in place and that they are strictly adhered to. Part of this process is the establishment of financial regulations that set out the financial policies of the Authority.
- (b) The financial regulations provide clarity about the financial accountabilities of individuals – cabinet members, the Chief Executive, the Monitoring Officer, the Chief Finance Officer, and Senior Managers. Each of the financial regulations sets out the overarching financial responsibilities. Senior Managers refers to Level 1 and 2 officers (Directors and heads of service) in London Borough of Newham (LBN) and to Senior Leadership Team (SLT) members. And Second Tier Managers in London Borough of Havering (LBH). A ‘Senior Manager’ for the purposes of these Regulations means the Head of Paid Service, Corporate Directors, Service Heads and Budget Managers unless otherwise specified in these regulations.
- (c) The Financial Regulations also link to other internal regulatory documents forming part of the Council’s Constitution. For example, Contract Standing Orders, Schemes of Delegation, the role of Overview and Scrutiny Committees and codes of conduct. There are also links to more detailed financial procedures, guidance and instructions.

## **2. Status of Financial Regulations**

- (a) The Financial Regulations provide the framework for managing the Authority’s financial affairs and are part of the Council’s Constitution. They apply to every member and officer of the Authority and anyone acting on its behalf.
- (b) The Regulations identify the financial responsibilities of the Full Council, Executive and the Overview and Scrutiny Committee, the Chief Executive, the Monitoring Officer, the Chief Finance Officer and Senior Managers. Executive members and Senior Managers should maintain a written record where decision making has been delegated to members of their staff, including seconded staff. Where decisions have been delegated or devolved to other responsible officers, such as school governors, references to Senior Managers in the regulations should be read as referring to them.
- (c) All members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised and achieves value for money.



- (d) The Chief Finance Officer is responsible for maintaining a continuous review of the Financial Regulations and submitting any additions or changes necessary to the Full Council for approval. The Chief Finance Officer is also responsible for reporting breaches of the Financial Regulations to the Council and/or to the Executive.
- (e) The Council's **Financial Procedures**, (how the regulations will be implemented) are contained on the Council's intranet pages and appended to these Financial Regulations.
- (f) Senior Managers are responsible for ensuring that all staff in their service area are aware of the existence and content of the Council's Financial Regulations and other internal regulatory documents and that they comply with them.
- (g) The Chief Finance Officer is responsible for issuing advice and guidance to underpin the Financial Regulations that members, officers and others acting on behalf of the Council are required to follow.

## **A: Financial Management**

### **Introduction**

- A1 Financial management covers all financial accountabilities in relation to the running of the Authority, including the policy and budget framework.

### **The Full Council**

- A2 The Full Council is responsible for adopting the Authority's Constitution and Members' Code of Conduct and for approving the budget and the policy framework within which the Executive operates. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The Full Council is also responsible for monitoring compliance with the agreed policy and related executive decisions.
- A3 The Full Council is responsible for approving procedures for recording and reporting decisions taken by the Council and its committees. These delegations and details of who has responsibility for which decisions are set out in the Constitution.

### **The Executive**

- A4 Details of the roles and responsibilities of the executive are located within the constitution

## **Overview and Scrutiny Board / Committee**

- A5 The Overview and Scrutiny Board / Committee is responsible for scrutinising executive decisions before or after they have been taken and for holding the Executive to account. Overview and Scrutiny Board /Committee is also able to analyse and comment on future policy options, general policy and the discharge of executive and non-executive functions of the Council.

## **Audit Board / Committee**

- A6 The Audit Board/Committee is the body charged with scrutinising the financial governance and system of internal controls of the authority. It has right of access to all the information it considers necessary and can consult directly with internal and external Auditors. The Audit Board/Committee is responsible for reviewing the external auditor's reports and the annual audit letter and internal audit's annual report. In LBH, it is responsible for approving the final Statement of Accounts of the authority for submission to the external auditor and scrutinising the treasury management report; in LBN, approval to the accounts rests with the Investment and Accounts Committee.

## **The Statutory Officers**

### **Chief Executive**

- A7 The Chief Executive is responsible for the corporate and overall strategic management of the Authority as a whole. He/she must report to and provide information for the Executive, the Full Council, the Overview and Scrutiny Board / Committee and other committees. He/she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Chief Executive is also responsible for the system of record keeping in relation to all of the Full Council's decisions and is the Head of Paid Service with overall responsibility for ensuring the necessary staffing resources, to carry out the Council's functions, are kept under review.

### **Monitoring Officer**

- A8 The Monitoring Officer is responsible for promoting and maintaining high standards of conduct. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the Full Council and for ensuring that the Constitution is kept up to date and adhered to.
- A9 The Monitoring Officer must ensure that executive decisions and the reasons for them are made public. He/she must also ensure that Council members are aware of decisions made by the Executive and of those made by officers who have delegated executive responsibility.

- A10 The Monitoring Officer is responsible for advising all councillors about the legal implications of any decision and who has authority to take a particular decision.
- A11 The Monitoring Officer (together with the Chief Finance Officer) is responsible for advising the Executive or Full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the Budget and Policy Framework. Actions that may be 'contrary to the Budget' include:
- (a) Initiating a new policy
  - (b) Committing expenditure in future years above the approved budget
  - (c) Incurring inter-service virements above authorised limits as per the scheme of virement
  - (d) Causing the total expenditure financed from Council Tax, grants and corporately held reserves to increase, or to increase by more than a specified amount.

### **Chief Finance Officer**

- A12 The Chief Finance Officer has statutory duties in relation to the financial administration and stewardship of the Authority. This statutory responsibility cannot be overridden. The statutory duties arise from:
- (a) Section 151 of the Local Government Act 1972
  - (b) The Local Government Finance Act 1988
  - (c) The Local Government and Housing Act 1989
  - (d) The Accounts and Audit Regulations 1996
  - (e) The Accounts and Audit Regulations 2003
  - (f) The Local Government Act 2003
  - (g) The Accounts and Audit Regulations 2011
- A13 The Chief Finance Officer is responsible for:
- (a) The proper administration of the Council's financial affairs, including keeping proper accounting records.
  - (b) Setting and monitoring compliance with financial management standards.
  - (c) Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.
  - (d) Providing financial information in conjunction with Senior Managers.

- (e) Ensuring that the annual statement of accounts is prepared in accordance with International Financial Reporting Standards, the Code of Practice on Local Authority Accounting and the Service Reporting Code of Practice within the statutory deadlines.
- (f) Preparing the revenue budget and capital programme relating to the General Fund and the Housing Revenue Account.
- (g) Ensuring that reports requesting decisions of Members include appropriate statements as to the financial and use of resources and risks implications of the matter under consideration.
- (h) Treasury Management.
- (i) Reporting to full Council. Executive and external auditor (under S114 of the Local Government Finance Act 1988) if the authority or one of its officers has made/about to make a decision which involves incurring unlawful expenditure, has taken or about to take an unlawful action which has resulted or would result in a loss or deficiency to the Council or about to make an unlawful entry in the authority's accounts.
- (j) S114 of the 1988 Act requires the Chief Finance Officer to nominate a properly qualified member of staff to deputise should he/she be unable to perform the duties under S114 personally.
- (k) Selecting accounting policies and ensuring that they are applied consistently.
- (l) Determining the accounting procedures and records for the authority.
- (m) Issuing advice and guidance to underpin the Financial Regulations.
- (n) Maintaining a continuous review of the Financial Regulations and submitting any additions or changes necessary to the full Council for approval.
- (o) In conjunction with Senior Managers, reporting breaches of the Financial Regulations to the Audit Committee.
- (p) Preparing reports to Senior Leadership Team/Corporate Leadership Team and the Executive to set the Cabinet Thresholds for reporting specific financial issues to the Executive.

A14 Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the Full Council, the Executive and the External Auditor if the Authority or one of its officers:

- (a) Has made, or is about to make, a decision which involves incurring unlawful expenditure.

(b) Has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Authority.

(c) Is about to make an unlawful entry in the Authority's accounts.

A15 The Chief Finance Officer will nominate properly qualified members of staff to deputise for him/her in their absence on all other issues.

### **Senior Managers**

A16 The financial responsibilities of Senior Managers are:

(a) Ensuring that the Executive are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer.

(b) Exercise of budgetary control.

(c) Consulting with the Chief Finance Officer and seeking approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.

(d) Ensuring that matters requiring a decision by Members are drawn to the attention of the Chief Finance Officer before any such decision is taken.

### **Other financial accountabilities**

#### **Virements**

A17 Budget virement is a process of transferring a revenue/capital budget from one budget heading to another. The authorisation limits of budget virements (provided within the budget framework) for both Councils vary and are specified in the financial procedures. If outside the budget framework, approval would be sought from Full Council for both councils.

A18 Senior Managers are responsible for agreeing in-year virements within delegated limits, in accordance with the Budget and Policy Framework and any guidance issued by the Chief Finance Officer.

#### **Treatment of Year-end Balances**

A19 The Chief Finance Officer is responsible for agreeing procedures for carrying forward under and overspendings on budget headings.

#### **Accounting Policies**

A20. The Chief Finance Officer is responsible for selecting accounting policies and ensuring that it is applied consistently.

## **Accounting Records and Returns**

- A21 The Chief Finance Officer is responsible for determining the accounting procedures and records for the Authority.

## **The Annual Statement of Accounts**

- A22 The Chief Finance Officer is responsible for ensuring that the Annual Statement of Accounts is prepared in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: a Statement of Recommended Practice* (CIPFA/LASAAC) and International Financial Reporting Standards (IFRS) where relevant. .

## **B: Financial Planning**

### **Introduction**

- B1 The Full Council is responsible for agreeing the Council's budget and policy framework, which will be proposed by the Executive. In terms of financial planning, the key elements are:
- (a) The Corporate Plan or its equivalent.
  - (b) The Medium Term Budget Strategy.
  - (c) The Treasury Management Strategy.
  - (d) The Investment Strategy.

### **Policy Framework**

- B2 The Full Council is responsible for approving the Budget and Policy Framework. The Policy Framework is made up of specific plans and strategies, these along with the rules governing the Budget and Policy Framework are set out in the constitution
- B3 The Full Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the Policy Framework and for determining the circumstances in which a decision will be deemed to be contrary to the Budget or Policy Framework. Decisions should be referred to the Full Council by the Monitoring Officer and the Chief Finance Officer.
- B4 The Full Council is responsible for setting the level at which the Executive may reallocate budget funds from one service to another in the Virement Scheme. The Executive is responsible for taking key in-year decisions on resources and priorities in order to deliver the Budget and Policy Framework within the financial limits set by the Council.

### **Budgets**

- B5 The process for compilation of the budget will be approved by the Executive on the advice of the Chief Finance Officer.

- B6 The draft revenue and capital budget should include projected net expenditure on services and projects, proposed taxation and rent levels as well as any contingency funds.
- B7 The Chief Finance Officer is responsible for ensuring that an annual revenue budget, an annual capital programme, and a Medium Term Budget Strategy are prepared on a robust basis for consideration by the Executive, before submission to the full Council. The Full Council may amend the Budget or ask the Executive to reconsider it before approving it.
- B8 Senior Managers will ensure the proper administration of the Revenue Budgets and the Capital Programme allocated to them. They will also ensure compliance with guidance and instructions issued by the Chief Finance Officer.

### **Budget Monitoring and Control**

- B9 The Chief Finance Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He/she must monitor and control expenditure against budget allocations and report to the Executive on the overall position on a regular basis.
- B10 It is the responsibility of Senior Managers to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Chief Finance Officer; spending must be contained within approved budgets; He/she should report on variances within their own areas. He/she should also take any action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer to any problems.

### **Guidelines**

- B11 Guidelines on budget preparation are issued to Senior Managers by the Chief Finance Officer.
- B12 It is the responsibility of the Chief Finance Officer to advise the Executive and/or the Full Council on prudent levels of reserves for the Authority.

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

### **Introduction**

- C1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Authority. This should include the proactive participation of all those associated with planning and delivering services.

## **Risk Management**

- C2 The Chief Finance Officer is responsible for the Risk Management Strategy and responsible for ensuring the effectiveness of risk management. The Strategy is reviewed and updated annually by the Audit Board/Committee. The Audit Board/Committee receives regular reports on current and planned risk management activity to enable it to execute its assurance role.
- C3 The Chief Finance Officer is responsible for preparing the Council's Risk Management Strategy and in conjunction with the Member Risk Management Champion/Lead Member is responsible for promoting it throughout the Authority.

## **Internal Control**

- C4 Internal control refers to the systems of control devised by management to help ensure that the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Authority's assets and interests are safeguarded.
- C5 The Chief Finance Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. He/she should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- C6 It is the responsibility of Senior Managers to establish sound arrangements for internal control.

## **Audit Requirements**

- C7 The Accounts and Audit Regulations 2011 require every local authority to maintain an adequate and effective internal audit function.
- C8 The basic duties of the external auditor are to ensure:
- (a) the accounts comply with the requirements of the enactments that apply to them
  - (b) that proper practices have been observed in the preparation of the Statement of Accounts, and that the statement presents a true and fair view and
  - (c) that the authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.
- C9 The Authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue & Customs who have statutory rights of access.



## **Preventing Fraud and Corruption**

- C10 The Chief Finance Officer is responsible for the development and maintenance of an anti-fraud and anti-corruption policy. Senior Managers are responsible for reporting all cases of fraud or suspicions (including money laundering) of fraud, to the Chief Finance Officer or the representative appointed by the Chief Finance Officer. Money laundering is reported directly to the Chief Finance Officer and suspicions of fraud are reported to the Head of Internal Audit.

## **Assets**

- C11 Senior Managers should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

## **Treasury Management**

- C12 The Council has adopted CIPFA's *Treasury Management in the Public Services – Code of Practice for Chief Financial Officers*.
- C13 The Full Council is responsible for approving the Treasury Management Policy Statement setting out the matters detailed in section 6 para 15 of the *Code of Practice*. The Policy Statement is proposed to the Full Council by the Executive. The Chief Finance Officer is responsible for implementing and monitoring the statement.
- C14 All money in the hands of the Authority is controlled by the Officer designated for the purposes of section 151 of the Local Government Act 1972, i.e. the Chief Finance Officer.
- C15 The Chief Finance Officer is responsible for reporting to the Executive a proposed Treasury Management Strategy in advance of the year a mid-year review and annual report by 30<sup>th</sup> September after its close. The Executive will then propose these to the full Council.
- C16 All Executive decisions on borrowing, investment or financing shall be delegated to the Chief Finance Officer, who is required to act in accordance with CIPFA's *Code of Practice for Treasury Management in Local Authorities*.

## **D: Systems and Procedures**

### **Introduction**

- D1 Sound systems and procedures are essential to an effective framework of accountability and control.

### **General**

- D2 The Chief Finance Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by Senior Managers to the existing financial systems or the establishment of new systems must be approved by the Chief Finance Officer to ensure that any data that impacts upon accounting systems is accurate. Senior Managers are responsible for the proper operation of financial processes in their own services including reconciliation to the council's general ledger.
- D3 Any changes to agreed procedures by Senior Managers to meet their own specific service needs should be agreed with the Chief Finance Officer.
- D4 Senior Managers should ensure that their staff are suitably competent to undertake their roles within the context of any guidance issued by the Chief Finance Officer on finance competencies. They should ensure that staff undergo relevant financial training that has been approved by the Chief Finance Officer.
- D5 Senior Managers must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Senior Managers must ensure that staff are aware of their responsibilities under freedom of information legislation.

### **Income and Expenditure**

- D6 It is the responsibility of Senior Managers to ensure that a proper scheme of delegation has been established within their area and is operating effectively. This scheme should identify staff authorised to act on the Senior Managers' behalf, or on behalf of the Executive, in respect of payments, income collection and placing orders, together with the limits of their authority. The Executive is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

### **Payments to Employees and Members**

- D7 The Chief Finance Officer is responsible for all payments to staff and for payment of allowances to members.

### **Taxation (Including Value Added Tax)**

- D8 The Chief Finance Officer is responsible for advising Senior Managers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Authority.
- D9 The Chief Finance Officer is responsible for maintaining the Authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate to HM Revenue and Customs.

## **Alternative Ways of Service Provision**

- D10 It is the responsibility of the Chief Finance Officer to advise on the financial issues in respect of the establishment and operation of alternative ways of service provision, such as trusts, mutuals and joint ventures.

## **Loans to External Organisations**

- D11 While the Council does have powers to give loans to external third parties under the general power of competence pursuant to Section 1 of the Localism Act 2011, before considering loans to such bodies the statutory powers intended to be used to make such loans should be established to the satisfaction of the Director of Finance and Monitoring Officer.

## **E: Joint Arrangements**

### **Introduction**

- E1 The Council provides a distinctive leadership role for the Community and brings together the contributions of its various stakeholders. It also seeks to achieve its Vision, via the promotion or improvement of the economic, social and environmental well-being of its area.

### **Partnerships**

- E2 The Executive is responsible for approving delegations, including frameworks for partnerships. The Executive is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- E3 The Executive can delegate functions, including those relating to partnerships, to officers.
- E4 The Chief Executive represents the Authority on partnership and external bodies, in accordance with the Scheme of Delegation.
- E5 The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct and governance arrangements with regard to financial administration in partnerships that apply throughout the Authority.
- E6 The Chief Finance Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He/she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He/she must ensure that the risks have been fully appraised before agreements are entered into with external bodies. He/she must also consider how these arrangements can demonstrate Value for Money and continuous improvement.

- E7 Senior Managers are responsible for monitoring the partnership arrangements on an on-going basis. Senior Managers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

### **External Funding**

- E8 The Chief Finance Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Authority's accounts.

### **Work for Third Parties**

- E9 The Executive is responsible for approving the contractual arrangements for any work for third parties or external bodies.

# OVERVIEW & SCRUTINY COMMITTEE PROCEDURE RULES

## 1 Membership

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

## 2 General role of OSCs

Within their individual terms of reference, Overview and Scrutiny Sub-Committees may:

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

In doing so the Overview and Scrutiny Sub-Committees may record the views of members on that committee who are not members of the largest political group on the Council

- (c) consider any matter affecting the area or its inhabitants
- (d) exercise the right to call-in for consideration, key decisions made but not yet implemented (irrespective of the decision maker)
- (e) from time to time review previous decisions of Cabinet or of the committee in relation to strategic policy issues as part of the Continuous Improvement process.
- (f) Consider matters referred to them by individual Members using the Councillor Call for Action process (see paragraph 9 following).

## 3 Specific functions of OSCs

### (a) Policy development and review

The Overview and Scrutiny Board or Sub-Committees may:

- (i) assist in the development of the budget and policy framework by in-depth analysis of policy issues

- (ii) conduct research, community and other consultation in the analysis of policy issues and possible options
- (iii) encourage and enhance community participation in the development of policy options
- (iv) inquire of:
  - members of the Cabinet, the Chief Executive, SLT Directors, Director of Legal and Governance and Heads of Service (who may involve other staff as appropriate)
  - appropriate members and/or staff of partner authorities about their views on issues and proposals affecting the area
- (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

(b) **Scrutiny**

Overview and Scrutiny Board or Sub-Committees may:

- (i) review and scrutinise the decisions made by and performance of the Cabinet and/or council staff both in relation to individual decisions and over time. In reviewing decisions made by and the performance of council staff, it is expected that members will direct initial inquiries to the Chief Executive, SLT Directors, Director of Legal and Governance and appropriate Second Tier Managers
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas
- (iii) inquire of members of the Cabinet and/or the Chief Executive, SLT Directors, Director of Legal and Governance and Second Tier Managers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects
- (iv) inquire of relevant partner authorities (as defined in the Local Government & Public Involvement in Health Act 2007) about their decisions and performance in relation to matters:
  - falling within the scope of the National Health Service Act 2006 and any re-enactment thereof
  - relating to the Local Area Agreement

- (v) make recommendations to the Cabinet, Council and/or partner authorities arising from the outcome of the scrutiny process
- (vi) review and scrutinise the performance of partner authorities and other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Board or relevant Sub-Committee and local people about their activities and performance
- (vii) question and gather evidence from any other person (with their consent)
- (viii) Establish Topic Groups

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

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

(c) **Work programme**

The Overview and Scrutiny Board and sub-committees will be responsible for setting their own work programme.

(d) **Annual report**

Overview and Scrutiny Sub-Committees must report annually to the Board and the Board must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

#### 4 **Co-opted members**

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

## **5 Co-opted members and teacher representatives on Children and Learning Overview and Scrutiny Sub-Committee**

- (a) The Children and Learning Overview and Scrutiny Sub-Committee (**Informative: this is the statutory “Education” OSC**) must include in its membership the following co-opted members:
- (i) one Church of England diocese representative
  - (ii) one Roman Catholic diocese representative
  - (iii) three parent governor representatives (elected by all governors in each of the three sectors of education)

Each of these appointees has statutory rights to attend and vote at meetings of the Overview and Scrutiny Sub-Committee at which education matters are discussed.

- (b) The Children and Learning Overview and Scrutiny Sub-Committee may also invite local teacher unions and professional association representatives to nominate, in each municipal year, two non-voting teacher representatives (one primary sector representative and one secondary sector representative).

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

The Crime & Disorder Sub-Committee may co-opt members in accordance with the provisions of Regulation 3 of the Crime and Disorder (Overview and Scrutiny) Regulations 2009 and decide whether they should have voting rights.

## **7 Meetings of the committees**

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

## **8 Quorum**

The quorum for an Overview and Scrutiny Sub-Committee shall be as set out for committees in rule 4 of the Committee Procedure Rules in Part 4 of this constitution.

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



## **9 Councillor Calls for Action**

- (a) Any member –
  - (i) of the Overview and Scrutiny Board or relevant sub-committee may refer to that Committee any matter which is relevant to the functions of that Committee; and
  - (ii) of the Council may refer to the Overview and Scrutiny Board or relevant sub-committee any local government matter which is relevant to the functions of that Committee.
- (b) Any member of the Council who is not a member of the Crime & Disorder Sub-Committee may refer any local crime and disorder matter to that Sub-Committee.

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

## **10 Policy review and development**

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

## **11 Reports to Council and Cabinet**

- (a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Sub-Committees will prepare a formal report and submit it to the Overview and Scrutiny Board who will then submit to the proper officer for consideration by the Council or by the Cabinet as appropriate.

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

## **12 Reports to partner authorities**

Where an Overview and Scrutiny Sub-Committee report relates to a local improvement target which—

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

that Committee shall comply with the relevant statutory requirements.

## **13 Rights of Overview and Scrutiny Board and Sub-Committee members to documents**

- (a) In addition to their rights as councillors, members of Overview and Scrutiny Board and Sub-Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this constitution.
- (b) Nothing in this rule prevents more detailed liaison between the Cabinet and Overview and Scrutiny Board as appropriate depending on the particular matter under consideration.

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

- (a) The Overview and Scrutiny Board or relevant sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any individual Cabinet member, the Chief Executive, an SLT Director, Director of Legal and Governance and Second Tier Manager (who may involve other staff as appropriate) to attend before it to explain, in relation to matters within their remit:
  - (i) any particular decision or series of decisions

(ii) the extent to which the actions taken implement Council policy, and/or

(iii) their performance

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

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

## **15 Attendance by Cabinet Members**

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

## **16 Attendance by others**

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

## 17 **Call-in (“requisition”) procedure**

- (a) All key decisions (irrespective of the decision maker) will be notified weekly to all members, who shall be entitled to requisition that decision. Notification will be by the weekly Calendar Brief (or, where necessary, by supplementary Calendar Brief) to all members, indicating the latest date for submission of a requisition.
- (b) If the Head of Democratic Services is notified of a requisition of a key decision shown on that notification within three working days of the publication in Calendar Brief (or any supplementary Calendar Brief) of a decision, then that decision shall not be acted upon but shall be submitted to the next Overview and Scrutiny Board meeting as soon as possible, either at the next ordinary meeting if due within 15 working days of receipt of the requisition or at a special meeting convened for the purpose (to be held, so far as practicable, within 10 working days of the receipt of the requisition), for determination.
- (c) At a meeting due to consider a requisition submitted under (b) above, the Overview and Scrutiny Board may resolve to initiate either of the specific call-in procedures set out in rule 7 of the Policy Framework Procedure Rules or in rule 5 of the Budget Framework Procedure Rules.
- (d) Any requisition submitted under (b) above must:
  - (i) be in writing and must be signed by at least six members representing between them more than one group,
  - (ii) specify the key decision to which it relates,
  - (iii) relate to a key decision which has not previously been called-in or been the subject of pre-decision scrutiny,
  - (iv) state the grounds or reasons for the requisition,
  - (v) where appropriate, suggest alternative proposals, actions or resolution of the matter, and
  - (vii) not be vexatious, frivolous or repetitive.
- (e) The Monitoring Officer shall decide whether a requisition is valid as assessed against the criteria set out in paragraph (d) above or whether it is otherwise an appropriate use of the call-in process.
- (f) The members submitting a call-in requisition or a group representative must attend the meeting of the Overview & Scrutiny Board where the called-in decision is to be reviewed. The Board may uphold a requisition in its entirety or in part, or may decline to uphold a

requisition (in which case the original decision shall stand and be able to be implemented forthwith).

- (g) Following the consideration of the matter by the Board, if the requisition submitted under (b) above is upheld, the matter shall be referred to either
  - (i) The Council where the Board considers the matter is contrary or not wholly in accordance with the policy or budgetary framework, or otherwise
  - (ii) The Cabinet
- (h) The report of the Board submitted to the Council or Cabinet shall incorporate the Board's views on the requisition and any recommendations it wishes to put forward as to how the requisitioned decision should be reviewed or altered in order to address the points in the requisition that have been upheld.
- (i) The Board's views may be articulated by an officer's report, by a minute of the Board or by a summary of the minute.
- (j) A requisition under (b) above shall be determined at the board meeting by simple majority.
- (k) Any requisition may be withdrawn by the requisitioners at any time prior to it being disposed of.
- (l) For the avoidance of doubt, "notice given in writing" for the purpose of this Rule includes notice given by a requisitioner by fax or by email from an address or number recognised as associated with the member sending it, and shall be regarded as validly signed by any of the other members if either an identical fax or email is received from them or a member clearly associates him or herself with a submission by another member, and different members may use different methods of giving such notices.

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

- (a) The call-in procedure set out above shall not apply where a key decision being taken (irrespective of the decision maker) is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public interests. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in.
- (b) The decision making person or body can only take an urgent decision under (a) above and avoid the call-in procedures after obtaining

agreement from the Chairman of the Board that the decision be treated as urgent.

- (c) In the absence of the Chairman, the Vice Chairman, or if neither is able to act, then the Mayor, or in his/her absence the Deputy Mayor, may give the agreement in (b) above.
- (d) Any agreement obtained under (b) or (c) above shall be evidenced in writing.
- (e) The Leader of the Council will submit quarterly reports to Council on decisions taken by himself, Cabinet or individual Cabinet members, or key decisions made by a member of staff, pursuant to this rule in the preceding three months. The report will include the number of decisions taken and a summary of the matters in respect of which those decisions were taken.
- (f) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council by the proper officer with proposals for review if necessary.

## **19 The Party Whip**

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

## **20 Procedure at Overview and Scrutiny Board or Sub-Committee meetings**

- (a) The Overview and Scrutiny Board and any sub-committees shall consider the following business:
  - (i) minutes of the last meeting
  - (ii) declarations of interest
  - (iii) consideration of any matter referred to the Board only for a decision in relation to call in of a key decision in accordance with the validity criteria stated in paragraph (d) of Rule 17 above
  - (iv) responses of the Leader or Executive to reports of the Overview and Scrutiny Board or Sub-Committees
  - (v) the business otherwise set out on the agenda for the meeting.

- (b) Where the Overview and Scrutiny Board considers a call-in requisition, the member responsible for that requisition or a group representative must attend the meeting.
- (c) Where the Overview and Scrutiny Board or Sub-Committee conducts investigations (for example, with a view to policy development), the committee shall observe the following principles:
  - (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak
  - (ii) that those assisting the committee by giving evidence be treated with respect and courtesy
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (d) Following any investigation or review, the committee shall prepare a report for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

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## **PLANNING COMMITTEE PROCEDURE RULES**

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- Committee Consideration Criteria
- Public Speaking Procedure
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- Committee Agenda
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- Voting Procedures
- Committee Performance

### **1 INTRODUCTION**

- 1.1 These Rules apply to all meetings of the Council's Planning Committees in relation to the determination of planning applications and any other business dealt by the committee.
- 1.2 When the term "Councillor" is used, it means that the text is applicable to all Members of the Council. The term "Planning Committee Councillor" means a Member or a substitute Member of the Council's Strategic Planning Committee or Planning Committee.
- 1.3 The determination of planning applications is a statutory administrative process involving the application of national, strategic, local and neighbourhood level planning policies within a legislative framework. Planning decisions can be appealed by unsuccessful applicants and challenged by way of judicial review by aggrieved parties. Complaints about maladministration and injustice can also be made to the Local Government Ombudsman. To mitigate these risks, it is vital that those involved in the determination of planning applications, and particularly officers and Councillors, act reasonably and fairly to applicants, supporters and objectors.
- 1.4 These Rules are designed to help ensure that this is achieved, but they should not be read in isolation. Councillors need to also have regard to the Planning Code of Good Practice (the Planning Code) within this Constitution. Whilst both these Rules and the Planning Code interpret the Members' Code of Conduct with respect to planning matters, they are subordinate to the Members' Code of Conduct and, in the event of any inconsistencies arising between these Rules and the Members' Code of Conduct, the latter shall prevail.

### **2 COMMITTEE CONSIDERATION CRITERIA**

- 2.1 Part 3 of the Constitution (Responsibilities for functions) sets out what functions are the responsibilities of committees and the functions delegated to staff.
- 2.2 Part 3.1.2 (Functions delegated to general council committees) set out the matters that are within the remit of a Planning Committee.
- 2.3 For Strategic Planning Committee, these are:
  - 1. To receive presentations in the pre-application or pre-determination stage.
  - 2. To determine:

- a. Applications for Planning Permission; or
    - b. Applications for Listed Building Consent; which, in the opinion of the [Head of Planning] acting in his or her discretion, raise strategic issues and should be determined by the Strategic Planning Committee.
  - 3. Any other planning matter which, in the opinion of the [Head of Planning] acting in his or her discretion, raises strategic issues and should be referred to the Strategic Planning Committee.
- 2.4 For Planning Committee, these are:

- 1. To determine:
    - a. Applications for Planning Permission; or
    - b. Applications for Listed Building Consent; except where they are referable to the Strategic Planning Committee.
  - 2. Any planning matter referred to the Planning Committee by the [Head of Planning] acting in his or her discretion.
- 2.5 Part 3.3 (Functions delegated to staff) lists all the planning powers that have been delegated by Council to specific officers and identifies the exceptions where they need to be determined by a Planning Committee in accordance with the Committee Consideration Criteria in these Procedure Rules. These exceptions relate to applications for Planning Permission or Listed Building Consent only. All other planning application types are delegated to officers.

### **COMMITTEE CONSIDERATION CRITERIA**

- 2.6 The Committee Consideration Criteria in relation to planning matters are: Planning Committee to approve Applications for Planning Permission or Applications for Listed Building Consent where at least one of the following applies:
- a) the application is within the categories which must be referred to the Mayor of London under the Town and Country Planning (Mayor of London) Order;
  - b) the application does not accord with the provisions of the Development Plan and, in the opinion of the [Head of Planning] acting in his or her discretion, constitutes a significant departure;
  - c) the application is by or on behalf of the Council and, in the opinion of the [Head of Planning] acting in his or her discretion, it is a significant development;
  - d) Individual Representations have been received, in accordance with these Rules;
  - e) a Petition Representation has been received, in accordance with these Rules; or
  - f) a Representation from a Ward Councillor has been received, in accordance with these Rules.
- 2.7 Any application caught by these Criteria is referred in these Rules collectively as a Planning Committee Matter.

### **GENERAL**

- 2.8 The Rules around Individual Representations, Petition Representations and Ward Councillor Representations (referred in these Rules collectively as Representations) comprise:

**Timescales:** within which all Representations must be with the Planning Service

**General Requirements:** that all Representations must comply with

**Committee Referral Criteria:** that applies to the specific Representation categories

- 2.9 These will be applied in determining whether any Representation received in respect of a Planning Committee Matter would require it to be determined by a Planning Committee.
- 2.10 Any Representation that does not meet the Timescales, General Requirements and Committee Referral Criteria will therefore not be a factor in deciding whether the application will be considered by Committee. However, such Representations will still be considered by the case officer in finalising their report and recommendation, provided he/she receives the Representation before submitting their report for authorisation.
- 2.11 For probity reasons the Timescales, General Requirements and Committee Referral Criteria must be adhered to. The decision of the [Head of Planning] will be final in determining whether the Timescales, General Requirements or Committee Referral Criteria are met.
- 2.12 Nothing in these Rules interferes with the absolute right of the [Head of Planning] to refer a planning application or other matter to Committee as prescribed in the Constitution.

## **TIMESCALES**

### **Statutory notification period**

- 2.13 Applications may be publicised in a variety of different ways: letters to nearby neighbours, emails to Councillors and, in some cases, by the display of one or more site notices or an advertisement in the local paper. However, it does not matter how a person hears of a proposal, anyone is able to submit a Representation to the Planning Service.
- 2.14 The time limit for the public to make a Representation is specified on the Council's standard letter, notice or advert. The statutory period is usually 21 days.
- 2.15 Representations on applications must be made in writing (letter or email) to the Planning Service. They can also be made directly via the "View Planning Application Received" link and the "Enter Comment" button on a live application on the Council's website.
- 2.16 Representations on a planning application should not be sent to any email address other than the one on the notification email or advert ([planning@haverling.gov.uk](mailto:planning@haverling.gov.uk)). This is important because other email addresses (eg, the case officer, team leader or service head) may not be monitored (eg, the officer may be on leave) and the email will therefore not be actioned.
- 2.17 Councillors must ensure that any Representations made directly to them must go through the Planning Service. It is important for probity reasons to ensure that all representations made on an application follow the same process.

### **Amended plans**

- 2.18 Where the Council accepts amended plans on an application and it is considered necessary to republicise them, the Council will notify those people who have responded to the original publicity exercise and anyone considered to be affected by the amendment.
- 2.19 Amended plans are often negotiated in response to Representations. The Council may consider that an amendment it receives has overcome the Representations previously made, so it is therefore important that people consider whether they need to make a further Representation as follows:
- If the amendments do overcome their concerns, a person may write to confirm this, but the General Requirements (in particular paragraph 2.23 below) are designed to take account of such circumstances so people do not have to make a further Representation.
- If someone has already made a Representation and the amendments do not overcome their concerns, they should make a further Representation to that effect.
- If the amendment raises new concerns, such further Representations need to be made.
- 2.20 The time limit for responding to publicity of amendments will generally be at least 14 days.

### **Councillor timescales**

- 2.21 All Councillors receive the weekly list of planning applications across the whole borough, listed by ward.
- 2.22 If a Councillor wishes to make or forward Representations on an application, they must respond by email to [planning@haverling.gov.uk](mailto:planning@haverling.gov.uk) (not to another email address – see paragraph 2.16 above) within the timescale given on that email.

### **GENERAL REQUIREMENTS**

- 2.23 A Representation is a letter, an email or a petition from any party (Councillor, local resident or business, stakeholder etc) that meets all the following requirements:
- It is in response to an application that has been publicised or advertised by the Council;
- It is not anonymous and includes the person's name and postal address;
- It is from, or on behalf of, a person who owns, lives at or operates from an address which is within the London Borough of Havering;
- It is received by the Planning Service within the relevant Timescales set out above;
- It raises objections that are material planning considerations and are related to the application; and
- Any material planning objection raised cannot be overcome by scheme amendment, imposing planning condition(s) or securing planning obligation(s).
- 2.24 Identical or similar pro-forma letters or emails, which also meet the above requirements, will be treated as forming a Petition (ie, each letter potentially being a single signature on a petition) rather than being treated as individual

Representations for the purposes of deciding whether they will trigger consideration by Planning Committee.

- 2.25 We will only notify the person who sends in a petition or a bundle of pro-forma letters about the progress of an application. Where we receive a petition that is not sent in by an individual, we will write to the first person on the petition, if a clear address is included. Pro-forma letters that are received individually will not be notified about the progress of an application. A pro-forma letter is a letter or email that has been produced and distributed for people to just sign and send to the Council.

- 2.26 See below for the Criteria for Petitions.

## **COMMITTEE REFERRAL CRITERIA**

### **Individual Representations**

- 2.27 A Planning Committee Matter may be reported to Committee where Individual Representations have been received that all meet the General Requirements for a Representation and additionally meet the following Criteria:

Any Individual Representation clearly states that they wish the application to be determined by a Committee; and

At least 12 such Representations have been received from individual properties within the London Borough of Havering for each application.

- 2.28 Representations for each application are those that are received from individual properties within the London Borough of Havering, ie not one from each member of a family, a household or a business within a property. If several objections are received from a single property, they will be treated as a single objection.

- 2.29 The Planning Committee Matter will only be reported to Committee under these Criteria where:

the recommendation is for approval; and

the [Head of Planning] (in consultation with the Chairman) agrees to the item being placed on the Planning Committee agenda.

- 2.30 Otherwise the Planning Committee Matter will be determined under delegated powers.

### **Petition Representations**

- 2.31 A Planning Committee Matter may be reported to Committee where one or more Petition Representations (including pro-forma letters – see paragraph 2.24 above) have been received that all meet the General Requirements for a Representation and additionally meet the following Criteria:

Any Petition Representation clearly states that they wish the application to be determined by Committee; and

All such Petitions must total at least 50 signatures with clearly readable names and addresses from persons who own, live at or operate from an address which is within the London Borough of Havering.

- 2.32 Where such petition(s) contain less than 50 such signatories they will individually (in the case of each petition) or collectively (in the case of pro-forma letters) be treated as each forming a single Individual Representation

for the purposes of deciding whether a Planning Committee Matter will be reported to Committee.

- 2.33 The Planning Committee Matter will only be reported to Committee under these Criteria where:

the recommendation is for approval; and  
the [Head of Planning] (in consultation with the Chairman) agrees to the item being placed on the Planning Committee agenda.

- 2.34 Otherwise the Planning Committee Matter will be determined under delegated powers.

### **Ward Councillor Representations**

- 2.35 A Planning Committee Matter may be reported to Committee where a Councillor for the ward within which the application site is situated or adjoins has made a Representation that meets the General Requirements for a Representation and additionally meets all the following Criteria:

The application is within, partly within or adjoining the Councillor's ward;  
It clearly states that the Councillor wishes the application to be determined by Committee;

It gives specific reasons for this that relate solely to matters that are material planning considerations and justify consideration by Planning Committee rather than under delegated powers – just saying that the Councillor considers that the matter should be determined by Planning Committee will not be sufficient;

It states whether the Councillor has been approached by any person concerning the application; and

If so, provides details of that contact, including the identity of the person(s).

- 2.36 A Councillor, who is not a Ward Councillor, may request that a Planning Committee Matter be reported to committee if they consider that there are exceptional circumstances that justify it. The decision as to whether such a matter is reported to committee is for the [Head of Planning], acting in his or her discretion, to make. Generally, only matters that are within the remit of Strategic Planning Committee will be accepted under this provision

- 2.37 The Planning Committee Matter will only be reported to Committee under these Criteria where:

the recommendation is for approval; and  
the [Head of Planning] (in consultation with the Chairman) agrees to the item being placed on the Planning Committee agenda.

- 2.38 Otherwise the Planning Committee Matter will be determined under delegated powers.

## **3 PUBLIC SPEAKING PROCEDURE**

- 3.1 People can only address the committee on items that are on the Applications for Decision part of the agenda. Other items on an agenda (such as Development Presentations) do not attract public speaking rights, except at the discretion of the Chairman.

- 3.2 Ward Members can address the committee on Development Presentations. The procedures for this are set out towards the end of this section.

## **SPEAKING SLOTS**

- 3.3 Subject always to the limitations below, for each planning application on the “Applications for Decision” part of the agenda there the following separate categories of speaking slot, in the following order, allocated to:
1. An objector who has registered a speaking slot (a “Registered Objector”)
  2. The applicant or his/her agent/representative/supporter(s) in response to a Registered Objector (a “Responding Applicant”)
  3. Councillors – maximum of 3 slots (see next section for rules)
  4. Cabinet Member on Strategic Planning Committee only (see subsequent section for rules)

### **Allocation of speaking slots for Councillors**

- 3.4 For Planning Committee, the Councillor slots are for Councillors where the application site is within, partly within or adjoining their ward only, as these applications generally raise local issues, and those Councillors have also clearly indicated that they wish the application to be referred to Committee for consideration in accordance with these rules (Referring Ward Councillors).
- 3.5 Non-Ward Councillors and non-Referring Ward Councillors do not have a right to address the committee.
- 3.6 For Strategic Planning Committee, the three Councillor slots are open to all Councillors, but priority will be in the following order:
1. Referring Ward Councillors
- Referring other Councillors  
Non-Referring Ward Councillors  
Non-referring other Councillors
- 3.7 For both committees. if a Referring Ward Councillor wishes to speak but is unable to attend the Committee, they may nominate a substitute Councillor to address the Committee on their behalf.
- 3.8 In all cases, Councillors should avoid duplication and coordinate their attendance at committee in the interest of efficiency.

### **Allocation of speaking slot for a Cabinet Member**

- 3.9 A Cabinet Member can address Strategic Planning Committee on strategic cases where significant issues for their portfolio area arise. However, where the council is the applicant and the promoting Cabinet Member wishes to address committee, this should be done in the applicant’s slot and not this slot.

### **Length of Speaking Slots**

- 3.10 Each speaking slot for items on Strategic Planning Committee is a maximum of five minutes each. Each speaking slot for items on Planning Committee is a maximum of three minutes each.
- 3.11 If the Chairman, using his discretion, changes the time allocated to any speaker slot, all speaker slots will be offered the same length of time to speak.

## **COMMITTEE NOTIFICATIONS**

- 3.12 Where a planning application is reported on the “Applications for Decision” part of the agenda, all the individuals and organisations (including Councillors)

that made a Representation on the application will be notified (by letter or email) that the application will be considered by Committee.

- 3.13 The Council will only notify the person who sends in a petition or a bundle of pro-forma letters. Where we receive a petition that is not sent in by an individual, we will write to the first person on the petition, if a clear address is included. Pro-forma letters that are received individually will not be notified.
- 3.14 The applicant (or his/her agent) will be sent a similar notification.
- 3.15 The notification will explain the procedures regarding public speaking. Requests to address Committee will not be accepted prior to the publication of the agenda and these notifications.

### **REGISTERING A SPEAKING SLOT**

- 3.16 Any objector who wishes to address Committee must notify the Council by the date specified in the notification to register a speaking slot. Email or telephone should be used for this purpose. This communication should provide the name and contact details (email address and/or phone number) of the intended speaker so that any changes to the arrangements can be communicated.
- 3.17 The Registered Objector speaking slot is allocated on a strictly first come basis. Any further objectors registering to speak will be told that the slot has been taken.
- 3.18 If there is a Registered Objector on an item, the applicant will be contacted by the Council and given the opportunity to register to speak in response to the Registered Objector.
- 3.19 If there are supporters wishing to address the committee, they must liaise with the applicant. However, the slot is for the applicant to decide how to use.
- 3.20 If a public speaker needs special arrangements this must be brought to our attention when registering a speaking slot so that arrangements can be made in good time. Havering Town Hall has facilities for wheelchair users, including level access and toilets. The Chamber is fitted with a hearing loop.

### **REGISTERING ATTENDANCE**

- 3.21 On the night of the Committee meeting:  
Registered Objectors and Responding Applicants who have a registered speaking slot; and  
An eligible Councillor (or his/her nominated substitute – see paragraphs 3.4 to 3.9 above).  
must register their attendance with the Committee Clerk at the meeting at least 15 minutes before the meeting starts.

### **Limitations**

- 3.22 Where an item is on the agenda only because of the level of Representations received and:  
no Registered Objector, Responding Applicant or Referring Councillor has registered a speaking slot; or



a Registered Objector, Responding Applicant or Referring Councillor has registered a speaking slot but nobody has registered their attendance at the Town Hall in accordance with paragraph 3.21 above; the item will be removed from the agenda and reverted to the [Head of Planning] to determine under delegated powers and will not be considered by the committee. In such circumstances, a Responding Applicant would lose their right to address the Committee.

### **SPEAKING**

- 3.23 All those involved in public speaking are restricted to an oral presentation only. The officers' presentation is therefore not available for use by public speakers.
- 3.24 Following the completion of a speaker's address to the Committee, that speaker shall take no further part in the proceedings of the meeting, unless permitted to do so by the Chairman of the Committee.
- 3.25 The distribution of additional material or information to Planning Committee Councillors is not permitted at the meeting. If a speaker, or any other member of the public, wishes to bring material to the Committee's attention they need to either supply it to the Planning Service, if it is written material, by noon on the day of the Committee, to include in the Update Report (see paragraphs 5.7 to 5.11 below for procedures, limitations and deadlines) or otherwise send it direct to Councillors in advance of the meeting. Councillors contact details are available from the Council's website.

### **ADDITIONAL CONSIDERATIONS FOR COUNCILLORS**

- 3.26 When a Councillor addresses the Committee in accordance with these Procedures (either as a Referring Councillor or as a Registered Objector) they must:
  - declare, before making their speech, details of any material contact with the applicant, agent, adviser, neighbour, objector or other interested party and whether the speech is made on behalf of such person(s) or any other interest;
  - sit separately from Planning Committee Councillors, to demonstrate clearly that he/she is not taking part in the discussion, consideration or vote; and not communicate in any way with Planning Committee Councillors or pass papers or documents to them during the meeting.
- 3.27 A Planning Committee Councillor may address the Committee in accordance with these Rules but, where they do so, they cannot take part in the debate or vote on the application they have made Representations on. They may address the Committee in accordance with these procedures provided they do not have a Disclosable Pecuniary Interest in the matter.
- 3.28 Where the Councillor has a Disclosable Pecuniary Interest, the Councillor may only address the Committee on any matter in which they have such an interest if they have been granted a dispensation by the Monitoring Officer for this purpose.

## **DEVELOPMENT PRESENTATIONS**

- 3.29 The Responsibility for Functions (part 3 of the Constitution) enables Strategic Planning Committee to receive presentations in the pre-application or pre-determination stage.
- 3.30 Ward Councillors can address the Committee when it is considering Development Presentations. There are three speaking slots a maximum of five minutes each. Ward Councillors will be notified that the development will be presented to Committee. On the night of the Committee meeting a Ward Councillor (or his/her nominated substitute) must register their attendance with the Committee Clerk in attendance at the meeting at least 15 minutes before the meeting starts.
- 3.31 If more than one Ward Councillor indicates that they wish to speak, Councillors should avoid duplication and coordinate their attendance at committee in the interest of efficiency.
- 3.32 Like all public speaking slots, Ward Councillors are restricted to an oral presentation only and the presentation is therefore not available for their use. The additional considerations for Councillors, set out above, also apply to these speaking slots.
- 3.33 Ward Councillors who elect to address the Planning Committee at a Development Presentation should remember that the purpose of these presentations is for participants (including Councillors) to be constructive and to try to improve schemes so that they can be approved if they are finally submitted as formal planning applications. Any presentation should be confined to commenting on aspects of the development (eg its design, highway impacts, level of affordable housing etc) and not objecting to the principle of the development or the scheme as a whole. If you are unable to do this then you should not register to speak at this stage. The time to address the Planning Committee on your objection will be when any subsequent planning application is reported on the applications for decision part of the agenda.
- 3.34 If you do not follow the advice in the previous paragraph, the Chairman may stop you from speaking.

## **CHAIRMAN'S DISCRETION**

- 3.35 At the discretion of the Chairman, such as in the interests of natural justice or in exceptional circumstances, the public speaking procedures may be varied. The reasons for any such variation shall be recorded in the minutes. The number of objectors or supporters should not, of itself, be a factor.

## **4 PRE-COMMITTEE MATTERS**

- 4.1 The work of Planning Committee mainly comprises the determination of planning applications. Delays in determining applications will jeopardise the Council's ability to meet national performance targets and impact adversely on the interests of residents and affected applicants.
- 4.2 The Council is expected to decide all applications within statutory timescales. Applications that are to be considered by Committee are included on the agenda of the first available Committee after completion of the officer's report

so that a decision can be taken in the shortest possible time. For this reason, Councillors should avoid requests for officers to speed up or delay the determination or assessment of an application for their own personal or political convenience or following lobbying by applicants, agents/advisers, residents or other interested parties.

### **PRE-COMMITTEE BRIEFING**

- 4.3 A further potential cause of delay is the deferral by committee of agenda items for Councillors to undertake site visits or receive further information. To minimise this risk Planning Committee Councillors who consider that they need further information (including a site visit) or who have queries on an application should contact the [Head of Planning] as soon as possible before the meeting at which it will be considered.

### **SITE VISITS**

- 4.4 It is advisable that Planning Committee Councillors are familiar with the sites of the applications on the agenda to enable them to make informed decisions on the planning applications before them and to avoid deferring or adjourning those decisions pending site visits.
- 4.5 The presumption will be that planning Committee Councillors will be sufficiently familiar with the agenda sites and their locations before the meeting. Councillors may already be familiar with them from their local knowledge or will visit one or more of them in advance of the meeting. Advice on site visits by individual Planning Committee Councillors is given below.
- 4.6 In addition, photographs of sites will be presented by officers at committee.

#### **By Planning Committee Councillors**

- 4.7 Where a Planning Committee Councillor visits the site before the meeting, care must be taken to ensure that they comply with the Planning Code of Good Practice in the Constitution. Such visits should be carried out discreetly and the Councillor should avoid making themselves known to the applicant or to neighbours. Accordingly, he/she should not go onto private land, such as the application site or a neighbouring property. The reason for this is that contact between a Planning Committee Councillor and the applicant or a local resident could be misinterpreted as lobbying and may create a suspicion of bias. Where such contact is made, this should be declared in Committee, but it should not prevent that Councillor from taking part in the consideration of that application, if he/she has followed the advice in the Planning Code of Good Practice and acts in accordance with the Members' Code of Conduct.

#### **By the Planning Committee**

- 4.8 Where the Chairman of the Committee considers that a whole committee site visit is necessary because a proposal appears to be particularly complex or it is difficult to visualise from the plans, wherever possible this should be made in advance of the Committee meeting.
- 4.9 If a request for a site visit emerges during the meeting of the committee, this request will be decided by a majority vote and the reasons for it recorded in the minutes.
- 4.10 The procedure for site visits by Committee shall be as follows:

Only the Planning Committee Councillors and officers can attend a site visit. Arrangements for visits will not normally be publicised or made known to applicants, agents or third parties, such as objectors.

Where permission is needed to go onto land, contact will be made with the owner by officers. The owner cannot take any part in the visit, other than to effect access onto the site.

The purpose of a site visit is to enable Planning Committee Councillors to view the site and to better understand the impact of the development. The Committee should not receive representations or debate issues during a site visit. They can ask the Planning Officer present questions of clarification.

The Planning Officer will make a note of the site visit and it will be placed on the planning file.

Where new information emerges from a site visit that needs to be brought to the attention of the Committee, this will be included in the Update Report.

Failure to attend a formal site visit shall not bar a Planning Committee Councillor from voting on an item at the Committee meeting that considers it, provided the Planning Committee Councillor is satisfied that he/she is sufficiently familiar with the site and its location.

## **5 COMMITTEE AGENDA**

- 5.1 The Committee's agenda may contain the following sections for planning reports:

**Development presentations:** to enable the Committee to receive presentations on proposed developments, including when they are at the pre-application stage. These items do not attract public speaking rights, other than Ward Councillors.

**Applications for decision:** these items attract public speaking rights as detailed above.

**Other planning matters:** non-application matters that require Committee consideration. These items do not attract public speaking rights.

**Items for information:** reports that are for information only. These items do not attract public speaking rights.

### **REPORTS**

- 5.2 Each planning application for decision is the subject of a written report with an officer recommendation. Reports will be produced in a standard form provided by the [Head of Planning], and will identify and analyse the material considerations, of which the Committee need to take account when considering the application on its planning merits.
- 5.3 In addition to the written report, illustrative material will usually be presented at the meeting to explain the scheme. The planning files will also be available (via the document management system) at the meeting for inspection by Planning Committee Councillors.

### **RECOMMENDATIONS AND DELEGATIONS**

- 5.4 The recommendations in the reports to Committee do not set out the full wording of planning conditions, reasons for refusal, informatives and planning obligations, but are a summary of them. There are two reasons for this:

1. It communicates the details of the recommended decision more clearly to Planning Committee Councillors than many pages of detailed conditions or grounds; and
  2. There can sometimes be a delay before a decision is issued (such as waiting for the signing of a legal agreement or views from the Mayor of London and/or the National Planning Case Unit) and something may arise which necessitates an amendment, a deletion or an addition.
- 5.5 It is hereby delegated to the [Head of Planning] to communicate the detailed wording of Committee decisions to applicants.
- 5.6 The Functions Delegated to Staff states that where the Committee determines an item on an agenda and either the committee makes changes to the recommendation or it is necessary for officers to subsequently make changes (such as to delete, vary or add conditions, informatives, planning obligations or reasons for the decision or to accept changes to the development), the making of these changes, provided that they are within the substantive nature of the committee decision, is delegated to the [Head of Planning].

### **UPDATE REPORT**

- 5.7 It is common for material (such as late representations) to be received by the Planning Service after the close of the agenda. Such material will be considered and placed on the public planning file along with all the other papers for the application, subject only to any public exclusion restrictions.
- 5.8 Where this material needs to be brought to the attention of the Committee, so that it can be considered, it will be presented in the Update Report. It will comprise a summary of what has been raised, in the same way as representations are summarised in the main Committee report.
- 5.9 The Planning Service will email the Update Report to Planning Committee Councillors and publish it on the Council's website as soon as it is ready, but before the Committee commences.
- 5.10 The practicality of producing such a report means there must be a cut-off point for the receipt of late material by the Planning Service. This is noon on the day of the meeting. Generally, material received after this time will not be reported to the Committee. The [Head of Planning] has an absolute discretion in this regard.
- 5.11 Material must not be distributed to Planning Committee Councillors by members of the public (including public speakers) or other Councillors during the meeting. The distribution of such material should be done in advance of the meeting as explained in paragraph 3.25 above.

## **6 ORDER OF PROCEEDINGS**

- 6.1 Except as otherwise stated on the agenda, generally meetings take place at Havering Town Hall. The time the meeting is expected to begin will be stated on the agenda papers.
- 6.2 At the discretion of the Chairman, the agenda may be re-ordered at the meeting.

### **DEVELOPMENT PRESENTATIONS**

- 6.3 The procedure for considering each item shall be as follows:

The [Head of Planning], or his/her representative, will introduce the main issues;

The developer will present their scheme for no longer than 15 minutes unless the Chairman, exercising his/her discretion, has allowed a longer period;

A Ward Councillor, if registered to speak in accordance with Rule 3 (Public Speaking Procedure), can address the committee for no longer than 5 minutes unless the Chairman, exercising his/her discretion, has allowed a longer period;

Through the Chairman, Planning Committee Councillors may ask questions; and

The [Head of Planning], or his/her representative, will summarise the issues raised by the Committee which will form the minute for the item.

#### **APPLICATIONS FOR DECISION**

- 6.4 The procedure for considering applications where there are public speakers shall be as follows:

The [Head of Planning], or his/her representative, will introduce the development the subject of the application;

Public speaking in accordance with Rule 3 (Public Speaking Procedure) will take place;

The [Head of Planning], or his/her representative, will present the material planning considerations and address, where necessary, any issues raised during public speaking; and

The Committee will consider the item and reach a decision.

- 6.5 The procedure for considering applications where there are no public speakers shall be as follows:

If requested by the Chairman, the [Head of Planning], or his/her representative, will present the main issues; and

The Committee will consider the item and reach a decision.

#### **OTHER PLANNING MATTERS**

- 6.6 The procedure for considering any item shall be as follows:

If requested by the Chairman, the [Head of Planning], or his/her representative, will present the main issues;

Through the Chairman, Planning Committee Councillors may ask questions of clarification; and

The Committee will consider the item and, if required, reach a decision.

#### **OTHER PROCEDURAL ISSUES**

##### **Attendance**

- 6.7 Where a decision is made on an agenda item, to be able to vote a Planning Committee Councillor must be present throughout the whole of the Committee's consideration of that item, including the officer introduction and any public speaking. Any dispute as to whether the Planning Committee Councillor in question should be permitted to vote shall be decided by the Chairman, in consultation with legal and other officers as necessary.
- 6.8 This does not apply to Development Presentations because no decisions are being made as they are part of an informal pre-application process, rather than the formal planning application decision making process.

### **Duration of meetings**

- 6.9 Planning Committee meetings are subject to a guillotine that they should finish within 2½ hours of the time that the meeting was due to start (as listed on the agenda papers). An item started before the guillotine can continue to be considered for a further 30 minutes to enable it to be determined.
- 6.10 Where a report has been placed on a Planning Committee agenda but the meeting either fails to start to consider that item prior to the guillotine, or starts consideration before the guillotine but fails to complete determination of it within the additional 30 minutes, further consideration of the matter will be suspended and it will be delegated to officers to determine in accordance with the recommendation set out in the report.
- 6.11 The meeting can only suspend these provisions if it does so by way of a resolution made prior to the guillotine and agreed on a majority vote. Generally, the committee would only suspend the guillotine for undetermined items with speakers.

### **Minutes**

- 6.12 The minutes of the meeting will record:
- The Councillors and officers present at the meeting;
  - Any disclosures of interest made by Councillors or officers;
  - For each item, the identity of any public speakers and the decision;
  - Where a decision goes against the recommendation, the reason(s) for doing so;
  - Where a decision is deferred, the reason(s) for doing so;
  - Any decision to suspend the guillotine, and the reason(s) for doing so;
  - The use of the Chairman's discretion to depart from these Procedure Rules, and the reason(s) for doing so; and
  - The time the meeting finished.

## **7 DECISION MAKING**

- 7.1 In coming to a decision on a planning application, a Planning Committee Councillor must:
- Come to meetings with an open mind.
  - Comply with these Rules.
  - Not allow anyone (except officers, other Planning Committee Councillors and public speakers when they are addressing the Committee) to communicate with you (orally, electronically, in writing or by any other means) during the Committee's proceedings as this may give the appearance of bias. For the same reason, it is good practice to avoid such contact in the period before the meeting starts and when it ends.
  - Consider the advice that planning, legal or other officers give the Committee in respect of the recommendation, any proposed amendment to it or on any other matter.
  - Comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and always make decisions in accordance with the development plan unless there are good and demonstrable planning reasons to come to a different decision.
  - Come to a decision only after due consideration of all the information reasonably required to base a decision upon. This will include the local

information that Planning Committee Councillors are uniquely placed to access, but always remembering to take decisions on planning grounds alone.

Raise any queries you may have on an application with the [Head of Planning] prior to the meeting.

If you feel that there is insufficient time to digest new information or that there is insufficient information before you, seek an adjournment to allow these concerns to be addressed.

Not vote on a proposal unless you have been present to hear the entire debate, including the officers' introduction and any public speaking. The Chairman should be prepared to consider adjourning briefly to allow any necessary comfort breaks during meetings.

Make sure that if you are proposing, seconding or supporting a decision contrary to the officer's recommendation or the Development Plan, that you clearly identify and understand the planning reasons leading to this conclusion and that you consider any advice planning, legal or other advice officers give you. Your reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

## **8 VOTING PROCEDURES**

- 8.1 The Chairman will bring the Committee to a vote when he/she considers that there has been sufficient debate of an item.
- 8.2 The Committee will vote on the recommendation set out in the report, unless a motion is made and seconded to defer or adjourn consideration of an item (for example for a site visit or further information/advice).
- 8.3 If a Planning Committee Member wishes to amend the recommendation (such as an additional condition or a variation to a condition) they will need to move this and have it seconded prior to any vote on the recommendation.
- 8.4 The committee must consider carefully any advice officers give on the proposed amendment, including legal advice. If the [Head of Planning] (or his/her representative) and the legal representative consider that they are unable to give that advice immediately, further consideration of the matter will be suspended and the agenda item will be adjourned so that the [Head of Planning] can bring a report to the next available committee setting out his/her advice. If legal advice is required, this may need to be on the private business part of the agenda. In such cases, it will be important that the Chairman communicates clearly to the meeting that a decision on the application has not been made and that it will be considered further at a future committee meeting.
- 8.5 For the vote on the recommendation (or an amendment to the recommendation) to be successful there needs to be a majority vote in favour of it. In the event of an equality of votes, the Chairman has an additional casting vote. This can be exercised irrespective of whether the Chairman voted.

## **DECISIONS CONTRARY TO THE RECOMMENDATION**

- 8.6 A motion to go against the recommendation must always be considered after a vote on the recommendation (or an amendment to the recommendation)



has taken place, so that officers are clear that the committee may be minded to go against the recommendation and can prepare their advice accordingly.

- 8.7 When the recommendation is not supported, a new motion to either grant or refuse the application must be moved and seconded. However, before a new motion is proposed, the Committee must first receive advice from the [Head of Planning], or his/her representative, as to what form a new motion could take. That advice will be based upon the material planning considerations that have been discussed by the Committee and whether there are grounds that could be defended in the event of an appeal or legal challenge.
- 8.8 The solicitor advising the Committee may be called upon as necessary to give advice on legal matters, but cannot advise the committee on planning matters.
- 8.9 Once the Committee has received the advice of the [Head of Planning], or his/her representative, they can proceed to a vote. A detailed minute of the Committee's reasons to go against the officer's recommendation, which as a matter of law (Dover District Council v CPRE Kent [2017] in the UK Supreme Court) must be clear and convincing, shall be made and a copy placed on the application file.
- 8.10 If the [Head of Planning] (or his/her representative) and the legal representative consider that they are unable to give that advice immediately, the procedure outlined in paragraph 8.4 above must be followed. In such cases, it will be important that the Chairman communicates clearly to the meeting that a decision on the application has not been made and that it will be considered further at a future meeting of the Committee.

#### **DECISIONS CONTRARY TO THE DEVELOPMENT PLAN**

- 8.11 The law requires that where the Development Plan is relevant, decisions must be taken in accordance with it unless there are good planning reasons to do otherwise. If a Committee intends to approve an application which does not accord with the provisions of the Development Plan, the material considerations must be clearly identified and the justification for overriding the Development Plan clearly demonstrated. The application must be advertised in accordance with Article 15 of the Town and Country Planning (Development Management Procedure) Order 2015 and, depending upon the type of development proposed, may also have to be referred to the Secretary of State for Communities and Local Government (National Planning Case Unit).
- 8.12 If the recommendation in the officer report would not accord with the provisions of the Development Plan, the justification will be included in that report and the necessary advertisement would have been undertaken.
- 8.13 If the Committee is minded to make a decision which would be contrary to the officer recommendation (whether for approval or refusal) and that decision would not accord with the provisions of the Development Plan, such a motion may only contain the Committee's initial view and must be subject to a further report detailing the planning issues raised by such a decision. Further consideration of the matter will be suspended to a future meeting of the Committee when officers will present a report setting out the proposed new position and explaining the implications of the decision. If legal advice is required, this may need to be on the private business part of the agenda. Any

necessary advertisement of the application will also be undertaken. In such cases, it will be important that the Chairman communicates clearly to the meeting that a decision on the application has not been made and that it will be considered further at a future meeting of the Committee.

- 8.14 If, having considered the report, the Committee decides to determine the application contrary to the provisions of the Development Plan, a detailed minute of the Committee's reasons, which as a matter of law (*Dover District Council v CPRE Kent* [2017] in the UK Supreme Court) must be clear and convincing, shall be made and a copy placed on the application file.

## **9 COMMITTEE PERFORMANCE**

- 9.1 Planning Committee carries out the Council's statutory planning application determination function and, like all local planning authorities, are expected to do so properly and lawfully. Decisions "must be made in accordance with the [development] plan unless material considerations indicate otherwise" (s38(6) of the Planning and Compulsory Purchase Act 2004). Government have a range of planning performance monitoring regimes and have taken powers from Parliament to take action where performance is under specified levels. Both speed and quality of decisions are measured.
- 9.2 It is therefore important that the performance of Planning Committee is monitored like other parts of the planning service. The following indicators will be used to monitor performance:
- The percentage of officer recommendations that are overturned  
The percentage of agenda items that are deferred
- 9.3 Such performance management reports shall be reported at least annually, to Planning Committee in the first instance and then to Council.
- 9.4 Where an application is determined against the recommendation and it goes to appeal, particular consideration will be given to those cases where:
- The appeal was allowed;  
The appeal was dismissed, but not all grounds were supported; or  
Costs were awarded against the Council.
- 9.5 Such matters shall be considered as they arise and reported to Planning Committee in the first instance and then to Council. A summary of these matters shall be included in the annual performance management report.



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# **STAFF EMPLOYMENT PROCEDURE RULES**

## **1 PURPOSE**

### **1.1 These rules:**

- 1.1.1 set out the general principles and requirements in relation to the appointment and dismissal of, and taking disciplinary action against, officers;
- 1.1.2 define the role of the Leader, Members, officers and others in the employment of Council officers; and
- 1.1.3 incorporate the mandatory standing orders relating to the employment of officers that apply to all local authorities and are set out in the Local Authorities (Standing Orders) Regulations 1993 (as amended) and the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).

### **1.2 These rules are supplemented by, or should be read in conjunction with:**

- 1.2.1 the oneSource Inter-Authority Agreement between the London Boroughs of Havering and Newham dated 1 September 2014 as varied from time to time; and
- 1.2.2 operational guidance and/or HR policies and procedures issued by the Chief Executive and/or the Director of Human Resources and Organisational Development from time to time.

### **1.3 Any changes to these rules will be approved by Full Council but the Chief Executive is authorised to make minor changes to ensure that the rules remain accurate, relevant and up to date. For example, the Chief Executive may update job titles or grades to reflect the management structure of the Council current at the time.**

## **2 RECRUITMENT AND APPOINTMENT**

### **Declarations**

- 2.1 The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.

- 2.2 No candidate so related to a councillor or an officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by him/her.

#### **Seeking support for appointment**

- 2.3 The Council will disqualify any applicant who directly or indirectly seeks the support of any Member for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- 2.4 No Member will seek support for any person for any appointment with the Council.

#### **Recruitment of Chief Executive and Chief Officers**

- 2.5 Where the Council proposes to appoint the Chief Executive or a Chief Officer and it is not proposed that the appointment be made exclusively from existing officers, the Council will:
- 2.5.1 draw up a statement specifying the duties of the officer concerned and any qualifications or qualities to be sought in the person to be appointed;
  - 2.5.2 make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
  - 2.5.3 make arrangements for a copy of the statement mentioned in sub-paragraph 2.5.1 to be sent to any person on request; and
  - 2.5.4 make arrangements for at least a shortlist of qualifying applicants to be interviewed.

#### **Appointment of Chief Executive**

- 2.6 Full Council will approve the appointment of the Chief Executive (as the Head of Paid Service) following the recommendation of such an appointment by the Committee.
- 2.7 The Director of Human Resources and Organisational Development will be responsible for the functions set out at 2.5 for the appointment of the Chief Executive following consultation with the relevant Cabinet Member(s).

#### **Appointment of Chief Officers and Deputy Chief Officers**

- 2.8 The Chief Executive will be responsible for the functions set out at paragraph 2.5 following consultation with the relevant Cabinet Member(s).

- 2.9 Subject to paragraph 2.10, the Committee will be responsible for the appointment of the following posts:
- 2.9.1 Chief Officers; and
  - 2.9.2 Deputy Chief Officers graded G11 and above.
- 2.10 Paragraph 2.9 does not apply to posts where, in the event of a restructure, an officer is assessed as having direct non-competitive assimilation to a post.
- 2.11 The Chief Executive will be responsible for the appointment of all other Deputy Chief Officer posts (or other posts subject to the 2001 Regulations).
- 2.12 An offer of employment as a Chief Officer or a Deputy Chief Officer will only be made if:
- 2.12.1 the procedure set out in **Appendix 1** is followed; and
  - 2.12.2 no well-founded objection has been made by the Leader or any Cabinet Member.
- 2.13 An offer of employment as the Director of Public Health will be made in accordance with the additional statutory requirements that apply to this post. In particular, the appointment will be made jointly with the Secretary of State for Health and Social Care.

#### **Other appointments**

- 2.14 The Chief Executive is responsible for the appointment of all other Council employees.
- 2.15 Prior to making an appointment to a Deputy Chief Officer post graded G10 and below, the Chief Executive will follow the procedure set out in **Appendix 1**.
- 2.16 The appointment of an assistant to a political group will be made in accordance with the wishes of that political group and other requirements prescribed by law.

#### **Interim, temporary or fixed term appointments**

- 2.17 Decisions to appoint a Chief Officer or a Deputy Chief Officer graded G11 and above on an interim, temporary or fixed term contract will be made by the Chief Executive but limited to one year (including any contract extensions). Following such appointment, the Chief Executive will notify the Committee in writing setting out the timescales for a permanent appointment.

- 2.18 Prior to extending the appointment of a Chief Officer or a Deputy Chief Officer graded G11 and above on an interim, temporary or fixed term contract beyond one year, the approval of the Committee shall be obtained.
- 2.19 The appointment of a Chief Executive on an interim, temporary or fixed term basis will be recommended by the Committee for approval by Full Council.

### **3 DISCIPLINARY ACTION**

#### **General**

- 3.1 Subject to paragraph 3.5, any proposal in relation to the dismissal or the taking of disciplinary action against the Chief Executive or a Chief Officer will be considered by the Committee.
- 3.2 Any proposal in relation to the dismissal or the taking of disciplinary action against other officers will be the responsibility of the Chief Executive or the relevant officer under the Council's Scheme of Delegation.
- 3.3 Members will not be involved in the taking of disciplinary action against or the dismissal of any officer below Chief Officer level except where such involvement is necessary as part of an investigation.

#### **Chief Executive, Monitoring Officer and Chief Finance Officer**

- 3.4 The Committee may suspend the Chief Executive, the Monitoring Officer or the Chief Finance Officer whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and will be reviewed if it lasts longer than two months.
- 3.5 A proposal to dismiss the Chief Executive, Monitoring Officer or Chief Finance Officer, as a result of 'disciplinary action' (as defined by regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001) will be approved at a meeting of Full Council before notice of dismissal is given. Before the taking of a vote at any such meeting, Full Council will take into account, in particular:
- (i) any advice, views or recommendations of an Independent Panel, comprising of at least two Independent Persons, appointed by Full Council for the purposes of advising the Council;
  - (ii) the conclusions of any investigation into the proposed dismissal; and



(iii) any representations from the officer concerned.

- 3.6 The Independent Panel referred to in paragraph 3.5(i) will be appointed at least 20 working days before the relevant Full Council meeting.

### **Chief Executive, Chief Officers and Deputy Chief Officers**

- 3.7 Before notice is given of the dismissal of the Chief Executive, a Chief Officer or a Deputy Chief Officer, the notification and objection procedure set out in **Appendix 1** will be followed as if references to the appointment of an officer (e.g. 'make an offer', 'appointment', 'appointing officer' etc.) are to the dismissal of an officer (e.g. 'dismiss', 'dismissal', 'notice of dismissal' etc.) as appropriate.

### **Director of Public Health**

- 3.8 The Secretary of State for Health and Social Care will be consulted before terminating the appointment of the Director of Public Health.

## **4 DEFINITIONS**

**Chief Executive** = the Head of Paid Service designated under section 4(1) of the Local Government and Housing Act 1989. Where reference is made to the exercise of a function by the Chief Executive, it includes his/her nominee.

**Chief Finance Officer** = the officer having responsibility for the purposes of section 151 of the Local Government Act 1972.

**Chief Officer** = an officer for which the Chief Executive is directly responsible or an officer who reports directly to or is directly accountable to the Chief Executive (but not if their duties are solely secretarial or clerical or are otherwise in the nature of support services); an officer who reports directly or is directly accountable to the Council (or a Council committee or sub-committee); the Monitoring Officer or the Director of Public Health.

**Committee** = the Appointments Sub-Committee or, in the case of oneSource roles, the oneSource Joint Committee, or any other Council committee, sub-committee or panel responsible for exercising the Council's employment functions. Any such committee must always include at least one Cabinet Member.

**Deputy Chief Officer** as defined by section 2 of the Local Government and Housing Act 1989.

**Independent Persons** = any appointment under section 28(7) of the Localism Act 2011.

**Monitoring Officer** = the officer designated under section 5(1) of the Local Government and Housing Act 1989.

**Political assistant(s)** = any appointment under section 9 of the Local Government and Housing Act 1989.

## Appendix 1: Cabinet Objection Procedure

- 1 This procedure will apply to the appointment of the following posts:
  - 1.1 Chief Executive;
  - 1.2 Chief Officers;
  - 1.3 Deputy Chief Officers;
  - 1.4 Any other post identified by the 2001 Regulations.
- 2 If the Committee or an officer agrees on a candidate suitable for appointment to a post, they will submit their recommendation of an offer of employment to the Chief Executive as soon as practicable in writing.
- 3 Where the Chief Executive is the appointing officer, they will simply take the steps at 4 onwards.
- 4 The Chief Executive will then notify each Cabinet Member of:
  - 4.1 the name of the person the Committee or officer wish to make an offer;
  - 4.2 any other particulars relevant to the appointment;
  - 4.3 the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet, (or a shorter period which will be determined by the Chief Executive in cases of urgency).
- 5 The notification will be by e-mail and **the period of objection will be 2 working days** but a Cabinet Member may provide a response within a shorter period. If the period of objection is to be shortened, then notification will be by telephone and e-mail.
- 6 Cabinet Members may indicate they have no objection verbally (which will be recorded by the Chief Executive) or in writing (including email). Any objections including the grounds on which it is considered to be well founded must be submitted to the Leader by a Cabinet Member in writing including by email.
- 7 If:
  - 7.1 the Leader notifies the Chief Executive that neither s/he or any other Cabinet Member has an objection to the making of the offer; or
  - 7.2 the Chief Executive notifies the Committee, that no objection has been received from the Leader within the objection period;

an offer of employment may be made to the candidate without the need for the Committee to re-convene.

- 8 If an objection is received from the Leader, the Committee or officer, as appropriate, will re-convene to consider the objection and, if satisfied that any objection received from the Leader is not material or is not well founded, will confirm its decision and a formal offer will be made. In making this decision, legal and human resources advice must be taken.
- 9 If an objection is considered to be well founded, the Committee, Sub Committee or officer must take legal and human resources advice on the action to be taken but the appointment may not be made at this time.

## Part 5 – Codes and Protocols

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# MEMBERS' CODE OF CONDUCT

Members or co-opted members of the Council of the London Borough of Havering have a responsibility to represent the community and work constructively with the Council's staff and partner organisations to secure better social, economic and environmental outcomes for all.

## Principles of conduct in public office

In accordance with the provisions of the Localism Act 2011, when acting in the capacity of a Member, they are committed to behaving in a manner that is consistent with the following principles to achieve best value for the Borough's residents and to maintain public confidence in the Council.

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

## Personal conduct

Accordingly, Members must act solely in the public interest and:

- Never improperly confer an advantage or a disadvantage or seek financial or other material benefits for family members, friends or close associates
- Never place themselves under a financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties
- Make all decisions on merit alone
- Are accountable to the public for their decisions and must co-operate fully with whatever scrutiny is appropriate to their office
- Be open as possible about their decisions and actions, and those of the Council, be prepared to explain the reasons for those decisions and actions
- Disclose any private interests, pecuniary or non-pecuniary, that relate to their public duties and take steps to resolve any conflicts of interest that arise, including registering and declaring interests in accordance with the Council's agreed procedures
- Ensure that they do not use, nor authorise the use by others of, facilities provided by the Council for any purpose that would be improper, including for party political purposes, and must have regard to any Local Authority Code of Publicity made under the Local Government Act 1986
- Promote and support high standards of conduct when serving in their public post, in particular as characterised by the requirements of this Code, by leadership and by example

As a Member of the Council, each Member will in particular address the statutory principles of the code of conduct by:

- Championing the needs of all residents and putting those interests first.
- Dealing with representations or enquiries from residents, members of local communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including their own financial interests or those of others connected to them, to deter them from pursuing constituents' casework, the interests of the Borough or the good governance of the Council in a proper manner.
- Exercising independent judgement and not compromising their position by placing themselves under obligations to outside individuals or organisations



who might seek to influence the way they perform their duties as members/co-opted members of the Council.

- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for their decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making the Council's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all the Council's legal obligations, alongside any requirements contained within its policies, protocols and procedures, including on the use of the Council's resources.
- Valuing colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between Members and staff that is essential to good local government.
- Always treating people with respect, including the organisations and public they engage with and those they work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within the Council.

Members will be expected to comply with the Council's policies on Equality in Employment, Equality in Service Provision and Harassment and Bullying at Work.

## **Interests**

### **<sup>1</sup>Disclosable pecuniary interests**

This section explains the requirements of the Localism Act 2011 (Ss 29-34) and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, in relation to disclosable pecuniary interests.

These provisions are enforced by criminal sanction.

#### **1. Notification of disclosable pecuniary interests**

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<sup>1</sup> The provisions concerning DPIs have been moved to the start of the interests section as these are the statutory provisions and have potential criminal consequences and it is important that they are at the front of member's minds when considering their interests.

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'. You must within 28 days of becoming aware of any new disclosable pecuniary interest or a change to a disclosable pecuniary interest which is not included in the council's Register of Interests notify the Monitoring Officer.

A 'disclosable pecuniary interest' is an interest of yourself or an interest of which you are aware of your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions:

(In the extracts from the Regulations below, 'M' means you and 'relevant person' means you and your partner, as above)

<b>Subject</b>	<b>Prescribed description</b>
<i>Employment, office, trade, profession or vacation</i>	<i>Any employment, office, trade, profession or vocation carried on for profit or gain.</i>
<i>Sponsorship</i>	<i>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</i>
<i>Contracts</i>	<i>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.</i>
<i>Land</i>	<i>Any beneficial interest in land which is within the area of the relevant authority.</i>
<i>Licences</i>	<i>Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.</i>
<i>Corporate tenancies</i>	<i>Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.</i>

<b>Subject</b>	<b>Prescribed description</b>
Securities	<p><i>Any beneficial interest in securities of a body where—</i></p> <p><i>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</i></p> <p><i>(b) either—</i></p> <p><i>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</i></p> <p><i>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</i></p>

These descriptions on interests are subject to the following definitions;

*“the Act” means the Localism Act 2011;*

*“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;*

*“director” includes a member of the committee of management of an industrial and provident society;*

*“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;*

*“M” means a member of a relevant authority;*

*“member” includes a co-opted member;*

*“relevant authority” means the authority of which M is a member;*

*“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;*

*“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;*

*“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.*

## **2 Register of interests**

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection and will be published on the authority's website.

## **3 Sensitive interests**

Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2).

## **4 Non participation in case of disclosable pecuniary interest**

- A) If you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,
  - 1. You may not participate in any discussion of the matter at the meeting.
  - 2. You may not participate in any vote taken on the matter at the meeting.
  - 3. If the interest is not registered, you must disclose the interest to the meeting.
  - 4. If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

You must leave the room where the meeting is held while any discussion or voting takes place.

- B) Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the executive member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

## 5 Dispensations

The authority may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest. Such applications should be made to the Monitoring Officer.

## 6 Offences

It is a criminal offence to

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

### **Other types of Interest that must be disclosed and may be registered**

**Note:** the provisions in respect of Disclosable Pecuniary Interests above take precedence over the provisions below about other interests.

## 7 Personal Interests

- (1) You have a personal interest in any business of your authority where you do not have a disclosable personal interest and
  - (a) it relates to or is likely to affect—
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
    - (ii) any body—

- (aa) exercising functions of a public nature;
  - (bb) directed to charitable purposes; or
  - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- (iii) any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- (2) You must, within 28 days of becoming a member or co-opted member, or becoming aware of any new personal interest or change to any personal interest registered under this paragraph notify the Monitoring Officer of the details of that new interest or change.

## 8 Disclosure of personal interests

- (1) Subject to sub-paragraphs (2) to (5), where you have a personal interest described in paragraph 7(1) above or as set out in paragraph (2A) below in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) (A) You have a personal interest in any business of your authority
- (i) where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a *relevant person* to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision, or
- (B) In sub-paragraph (2)(A), a *relevant person* is—
- (i) a member of your family or any person with whom you have a close association; or
  - (ii) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - (iii) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - (iv) any body of a type described in paragraph 7(1)(a)(i) or (ii).

- (3) Where you have a personal interest but, by virtue of paragraph 3, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (4) Where you have a personal interest that is not a disclosable pecuniary interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

## **9 Non participation in case of pecuniary interest**

- (1) Where you have a personal interest in any business of your authority you also have a pecuniary interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business—
  - (a) affects your financial position or the financial position of a person or body described in paragraphs 7(1) or 8(2) ;or
  - (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph.
- (2) Subject to paragraph (3) and (4), where you have a pecuniary interest in any business of your authority—
  - (a) You may not participate in any discussion of the matter at the meeting.
  - (b) You may not participate in any vote taken on the matter at the meeting.
  - (c) If the interest is not registered, you must disclose the interest to the meeting.
  - (d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

You must leave the room where the meeting is held while any discussion or voting takes place.

- (3) Where you have a pecuniary interest in any business of your authority, and it is not a disclosable pecuniary interest, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and

you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

- (4) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that is not a disclosable pecuniary interest that relates to the functions of your authority in respect of—
- (a) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - (b) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (d) an allowance, payment or indemnity given to members;
  - (e) any ceremonial honour given to members; and
  - (f) setting council tax or a precept under the Local Government Finance Act 1992.
- (5) Where, as an executive member, you may discharge a function alone, and you become aware of a pecuniary interest that is not a disclosable pecuniary interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

## **10 Interests arising in relation to the Overview and Scrutiny Board or Sub-Committees**

In any business before the Overview and Scrutiny Board or relevant Sub-Committee of your authority (or of a sub-committee of such a committee) where—

- (a) that business relates to a decision made (whether implemented or not) or action taken by the executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

You may only attend a meeting of the Overview and Scrutiny Board or relevant Sub-Committee for the purpose of answering questions or giving evidence relating to the



business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

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# **Arrangements for dealing with allegations that a Member or a Co-opted member of the London Borough of Havering has failed to comply with the Members' Code of Conduct**

## **1. Introduction**

- 1.1 These arrangements set out how an allegation may be made that an elected Member or Co-opted Member of the London Borough Havering has failed to comply with the Members' Code of Conduct and how the Council will deal with such allegations.
- 1.2 Under Section 28 of the Localism Act 2011 the Council must have arrangements in place whereby allegations can be investigated and decisions upon them can be made. In addition the arrangements must provide for the Council to appoint at least one Independent Person whose views must be sought and taken into account by the Council before it makes a decision and who may be consulted by the Council at other stages in the process or by the Member/Co-opted Member against whom an allegation has been made. The arrangements fulfil the Council's statutory obligations.
- 1.3 In these arrangements a number of terms are used which have the following meanings.

<b>Member</b>	<b>An elected Councillor</b>
Co-opted Member	A person who is not an elected Member of the Council but has been appointed to a committee or sub-committee of the Council
Monitoring Officer	An officer of the Council designated under Section 5 of the Local Government and Housing Act 1989 to undertake the statutory duties prescribed which include ensuring that the Council and its Members and Officers act lawfully at all times. Under Section 29 of the Localism Act 2011 the Monitoring Officer must establish and maintain a Register of Interests of Members and Co-opted Members.
Investigating Officer	An appropriate person appointed by the Monitoring Officer to conduct an investigation into an allegation.
Independent Person	A person appointed by the Council pursuant to Section 28 of the Localism Act 2011 whose views are sought and taken into account before decisions upon allegations against Members/Co-opted Members are taken and who may be consulted by a Member/Co-opted Member who is

<b>Member</b>	<b>An elected Councillor</b>
	the subject of allegations or by the Council generally.
Assessment Panel	An ad hoc Panel of three Members taken from the membership of the Governance Committee established to decide whether allegations against Members/Co-opted Members are worthy of investigation.
Hearing Panel	An ad hoc Panel of three Members taken from the membership of the Governance Committee established to conduct Hearings into allegations of breaches by Members/Co-opted Members of the Members' Code of Conduct

## **2. The Members' Code of Conduct**

- 2.1 The Council has adopted a members' Code of Conduct which is available on the Council's website and on request from the Monitoring Officer.

<https://www.havering.gov.uk/Pages/Category/Councillors.aspx?11=90001>

## **3. Making an allegation**

- 3.1 Allegations concerning possible breaches of the Code of conduct should be made in writing to:

Monitoring Officer  
London Borough of Havering  
Town Hall,  
Main Road,  
Romford RM1 3BD  
Tel: 01708 432484

Or by email to [monitoringofficer@havering.gov.uk](mailto:monitoringofficer@havering.gov.uk) marked for the attention of the Monitoring Officer.

- 3.2 It is preferable that allegations are made on the form available on the Council's website:
- 3.3 It is important that a person making an allegation provides his/her name and a contact address or email address so that the Monitoring Officer can acknowledge receipt of the allegation and keep the person informed of its progress.
- 3.4 The person must indicate if he/she wants to keep his/her name and address confidential and the Monitoring Officer will consider any such requests. The Monitoring Officer has to balance the rights of the

Member/Co-opted Member to understand who is making an allegation against them, against the rights of the person making the allegation who will have to provide reasons why their name and/or address ought to remain confidential

- 3.5 If the Monitoring Officer accepts the reasons for maintaining anonymity and the name and/or address of the person making the allegation will not be disclosed to the Member/Co-opted Member without prior consent.
- 3.6 If the Monitoring Office does not consider those reasons justify anonymity, the person making the allegation will be given the opportunity to withdraw the allegation if they do not wish to proceed without anonymity.
- 3.7 Even where anonymity is agreed at the outset it may not always be possible to maintain that anonymity throughout the entirety of the process. For example, the person making the allegation may be requested to give evidence at a Hearing. If anonymity cannot be maintained the Monitoring Officer will liaise with the person making the allegation to establish whether the person wishes to continue with the allegation or withdraw it.
- 3.8 The Council does not normally investigate anonymous allegations unless there is a clear public interest in so doing.
- 3.9 The Monitoring Officer will acknowledge receipt of an allegation within five clear working days of receiving it and will keep the person making the allegation informed of progress.
- 3.10 The Monitoring Officer will inform the Member/Co-opted Member against whom an allegation has been made and will give details of the allegation and the remedy sought by the person making the allegation. In exceptional circumstances the Monitoring Office has discretion not to inform the Member/Co-opted Member if in his/her opinion to do so would risk an investigation being frustrated or prejudiced in some way.

#### **4. Assessment of allegation**

- 4.1 The Monitoring Officer will review every allegation received and may consult the Independent Person before taking a decision as to whether or not the allegation merits reference to an Assessment Panel.
- 4.2 If the Monitoring Officer requires additional information in order to reach a decision, he/she may revert to the person making the allegation for such information and may request information from the Member/Co-opted Member against whom the allegation is directed. If the person making the allegation fails to provide the additional information requested, the allegation may be dismissed by the Monitoring Officer pursuant to Paragraph 4.4(a), below.

- 4.3 The Monitoring Officer will use a number of criteria for assessing allegations and may consult the Independent Person and if necessary the appropriate political Group Leaders. The decision whether to submit the allegation to an Assessment Panel will be a proportionate response to the issues raised and likely outcomes.
- 4.4 The Monitoring Officer may determine that an allegation does not merit any further action where:
- (a) There is insufficient information upon which to base a decision and/or the person making the allegation has failed to co-operate with the Monitoring Officer to specify the allegation sufficiently; or
  - (b) The allegation is about someone who is no longer a Member/Co-opted Member of the Council; or
  - (c) The allegation does not demonstrate a breach of the Members' Code of Conduct; for example the allegation relates to matters whilst the Member/Co-opted Member was not acting in his/her official capacity but rather relates to their private life to which the Code does not apply or it is about dissatisfaction with a Council decision or service; or
  - (d) The same or a similar allegation has been investigated and determined; or
  - (e) It is an anonymous allegation which does not include sufficient documentary evidence to indicate a significant breach of the Members' Code of Conduct; or
  - (f) The allegation is considered to be frivolous or vexatious; or
  - (g) The matters to which the allegation refers took place longer than three months before the date of receipt of the allegation and there are no exceptional circumstances which merit the investigation of matters outside that timescale, nor is it otherwise appropriate to investigate the allegation; or
  - (h) The Member/Co-opted Member about whom the allegation is made has admitted making an error and/or has apologised and the matter would not warrant a more serious sanction; or
  - (i) The Monitoring Office facilitates an informal resolution. This may involve the Member/Co-opted Member accepting that his/her conduct was inappropriate or otherwise unacceptable and offering an apology and/or taking other remedial action. If the Monitoring Officer considers an offer of informal resolution is reasonable but the person making the allegation is not willing to accept it, the allegation will be referred to the Assessment Panel for consideration.

- (j) In the opinion of the Monitoring Officer the complaint is not sufficiently serious to warrant referral to the Assessment panel for further consideration.
- 4.5 If the allegation is dealt with under Paragraph 4.4 above, the Monitoring Officer shall reject the complaint and notify the person making the allegation and the Member/Co-opted Member of the outcome giving reasons for the decision. Normally such notification shall be given within 20 clear working days of receipt of the allegation. The complainant shall be informed that there is no right of appeal, but that the complaint may be re-submitted for consideration if accompanied by additional evidence for the Monitoring Officer to consider, in which case it will be treated as a fresh complaint.
- 4.6 Subject to Paragraph 4.4 above, where the Monitoring Officer deems it appropriate, allegations may be referred to an Assessment Panel for consideration which normally shall meet within 20 clear working days from receipt of the allegation.
- 4.7 Where the Monitoring Officer refers an allegation to an Assessment Panel for consideration, the Panel shall determine whether the allegation:
  - (a) Merits no further investigation and is dismissed; or
  - (b) Merits further investigation
- 4.8 An Assessment Panel may determine that an allegation merits no further investigation for whatever reasons it thinks fit, but it may have regard to the criteria set out in Paragraph 4.4 above and to the following additional criteria:
  - (a) The allegation is not considered sufficiently serious to warrant investigation; or
  - (b) The allegation appears to be motivated by malice or is “tit-for-tat”; or
  - (c) The allegation appears to be politically motivated
- 4.9 Where an Assessment Panel considers that an allegation merits further investigation, the Monitoring Officer shall undertake such investigation. The meeting of the Panel shall adjourn and reconvene when the Investigation Report is available.
- 4.10 The Monitoring Officer will inform the person making the allegation and the Member/Co-opted Member of an Assessment Panel’s decision and if the allegation is to be investigated will provide an indication of the timescale for the investigation. The Monitoring Officer will keep the

person making the allegation and the Member/Co-opted Member informed if the initial timetable changes substantially.

## **5. The Investigation**

- 5.1 The Monitoring Officer may conduct the investigation personally or may appoint an Investigating Officer who may be another senior officer of the Council, an officer of another Authority, or an external investigator.
- 5.2 The Monitoring Officer/Investigating Officer will decide if he/she needs to meet or speak to the person making the allegation to understand the nature of the allegation and so that the person can explain his/her understanding of events and identify what documents he/she considers the Monitoring Officer/Investigating Officer needs to see and who he/she considers the Monitoring Officer/Investigating Officer needs to interview.
- 5.3 The Monitoring Officer/Investigating Officer will normally write to the Member/Co-opted Member against whom the allegation is made and provide him/her with a copy of the allegation and ask the Member to provide his/her explanation of events and to identify what documents he/she considers the Monitoring Officer/Investigating Officer needs to see and who he/she considers the Monitoring Officer/Investigating Officer needs to interview.
- 5.4 Where it is appropriate to keep confidential the identity of the person making the allegation the Monitoring Officer/Investigating Officer will delete the person's name and address from the pages given to the Member/Co-opted Member. Where disclosure of details of the allegation to the Member/Co-opted Member might prejudice the investigation, the Monitoring Officer/Investigating Officer may delay notifying the Member/Co-opted Member until the investigation has progressed sufficiently.
- 5.5 The Monitoring Officer/Investigating Officer has absolute discretion about which are the appropriate witnesses to interview and documents to consider but will follow best practice in conducting investigations. Having considered all relevant documentation identified and having interviewed all relevant witnesses, at the end of the investigation the Monitoring Officer/Investigating Officer shall produce as appropriate a draft report and may where appropriate send copies of that draft report, in confidence, to the person making the allegation and to the Member/Co-opted Member concerned to give them an opportunity to identify any matter in that report with which there is disagreement or which is considered to require more consideration.
- 5.6 Where an Investigating Officer has been appointed, having received and taken account of any comments which the person making the allegation and/or Member/Co-opted member have made on the draft report, the Investigating Officer will send his/her final report (The Investigation Report) to the Monitoring Officer. If the Monitoring Officer is not satisfied



that the investigation has been conducted properly he/she may ask the Investigating Officer to reconsider the report or may appoint a new Investigating Officer.

- 5.7 Where the Monitoring Officer is satisfied with the Investigation Report, and where the conclusion in the Investigation Report is that there is evidence of failure to comply with the Members' Code of Conduct by the Member/Co-opted Member, where appropriate he/she may seek to achieve an informal resolution. The Monitoring Officer will consult the Independent Person and the person making the allegation and seek to agree what the person making the allegation considers to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member/Co-opted Member accepting that his/her conduct was inappropriate or otherwise unacceptable and offering an apology and/or taking other remedial action. If the Member/Co-opted Member complies with the suggested resolution, the Monitoring Officer will report the matter to an Assessment Panel which will note the outcome and formally resolve that the allegation is determined by way of informal resolution, the details of which will be published.
- 5.8 Where the Monitoring Officer has undertaken the investigation personally, having received and taken account of any comments which the person making the allegation and/or the Member/Co-opted Member has made on the draft report and, where appropriate having sought to achieve an informal resolution pursuant to Paragraph 5.7 above, the Monitoring Officer shall produce the Investigation Report.

## **6. Consideration of the Investigation Report**

- 6.1 When the Monitoring Officer is satisfied with the Investigation Report and an informal resolution is either inappropriate or incapable of achievement, the Monitoring Officer will refer the Investigation Report to an Assessment Panel and the Independent Person. Normally this will be within 30 clear working days of an Assessment Panel having determined that the allegation merits further investigation.
- 6.2 Where the conclusion of the Investigation Report is that there is no evidence of failure to comply with the Members' Code of Conduct by the Member/Co-opted Member, an Assessment Panel may:
- (a) Accept the conclusion, resolve that no further action is required and dismiss the allegation; or
  - (b) Remit the report to the Monitoring Officer for further consideration; or
  - (c) Remit the allegation to a Hearing Panel to conduct a Hearing for the consideration of the allegation and the Investigation Report and to determine the allegation.

- 6.3 Prior to making a determination under Paragraph 6.2(a) above an Assessment panel shall seek and take into account the views of the Independent Person.
- 6.4 Where the conclusion of the Investigation Report is that there is evidence of failure to comply with the Members' Code of Conduct by the Member/Co-opted Member and where an informal resolution pursuant to Paragraph 5.7 above is either inappropriate or incapable of achievement, an Assessment Panel may:
- (a) Remit the report to the Monitoring Officer for further consideration; or
  - (b) Remit the allegation to a Hearing Panel to conduct a Hearing for the consideration of the allegation and the Investigation Report and to determine the allegation.
- 6.5 Where the Assessment Panel remits the Investigation Report to the Monitoring Officer for further consideration under Paragraph 6.2(b) or 6.4(a) the meeting of the Panel shall adjourn and reconvene when the Monitoring Officer has reconsidered.

## **7. The pre-hearing process**

- 7.1 The Monitoring Officer (and/or his/her nominees) shall:
- (a) Agree a date for the hearing with all relevant parties
  - (b) Provide a timetable for the person making the allegation, the Member/Co-opted Member (hereinafter called 'the parties') to provide details about whether they wish to give evidence (and whether orally or in writing) at the Hearing and any witnesses they intend to call and additional papers they may wish to provide in time for inclusion in the Committee papers;
  - (c) Establish whether the parties will be represented or accompanied at the Hearing;
  - (d) Establish whether the parties wish any part of the Investigation Report to be kept confidential or the Hearing itself to be held in private and the reasons for this.
  - (e) Provide information about the procedure to be used at the Hearing.
  - (f) Establish whether the parties disagree with any of the findings of fact in the Investigation Report.
  - (g) Establish whether the Investigating Officer intends to call any witnesses.

- 7.2 Normally Hearings conducted by a Hearing Panel shall take place within 20 clear working days of the referral by the Governance Committee to the Hearing Panel.

## **8. The hearing**

- 8.1 A hearing shall take place in public unless a resolution is passed to exclude the public and the press due to exempt material which may be disclosed in the course of the proceedings.
- 8.2 Where a resolution to exclude the public and the press has been passed, the following persons only may remain in attendance:
- (a) Members of the Panel
  - (b) Officers supporting/advising the Panel
  - (c) The Independent Person
  - (d) The Monitoring Officer and/or The Investigating Officer
  - (e) The Member/Co-opted Member against whom the allegation is made together with a single representative, if any
  - (f) The person making the allegation together with a single representative, if any.
  - (g) Witnesses to be called by any party
  - (h) Members of the Council who are not Members of the Panel
- 8.3 When the Panel reaches the point of deliberation upon the allegation or the sanction/penalty, the following persons only may remain in attendance:
- (a) Members of the Panel
  - (b) Officers supporting/advising the Panel
  - (c) The Independent Person
  - (d) The Monitoring Officer but only where the Monitoring Officer is present to support/advise the Panel and not where the Monitoring Officer has presented the Investigation Report.

The Chairman shall invite all other persons present to withdraw to enable the Panel to deliberate upon the allegation, and any such persons shall withdraw.

- 8.4 Normally a Hearing Panel will conduct the Hearing in an inquisitorial manner.
- 8.5 The Monitoring Officer/Investigating Officer will make an opening statement with reference to the Investigation Report. The parties will then make opening statements in relation to the allegation and to the Investigation Report. Each party may have a single representative who may participate on behalf of the relevant party. Participation may be by the party or the party's representative but not by both.
- 8.6 Following the opening statements, the Hearing Panel may ask questions of the Monitoring Officer/Investigating Officer and/or the parties by way of inquiry into the matters the subject of the allegation and/or the Investigation Report.
- 8.7 The Monitoring Officer/Investigating Officer and the parties will be afforded the opportunity to make closing statements.
- 8.8 If the Member/Co-opted Member fails to attend the Hearing, a Hearing Panel may decide to proceed in the Member's/Co-opted Member's absence and make a determination, or to adjourn the Hearing to a later date.
- 8.9 Full details of the process to be undertaken at the Hearing are contained in the Hearings Procedure note comprising Appendix A to these arrangements.
- 8.10 A Hearings Panel having sought and taken into account the views of the Independent Person may conclude:
- (a) That the Member/Co-opted Member did not fail to comply with the Members' Code of Conduct and dismiss the allegation; or
  - (b) That the Member/Co-opted Member did fail to comply with the Members' Code of Conduct.
- 8.11 In the event of a finding under Paragraph 8.7(b) above, the Chairman will inform the Member/Co-opted Member of this finding and a Hearing Panel will then consider what action, if any, it should take as a result of the Member's/Co-opted Member's failure to comply with the Members' Code of Conduct.
- 8.12 A Hearing Panel will give the Member/Co-opted Member an opportunity to make representations to the Panel as to whether any action should be taken and what form any action should take.
- 8.13 A Hearing Panel will seek and take into account the views of the Independent Person, following which it will decide what action, if any, to take in respect of the matter.

## **9. Action which may be taken when a member/co-opted member has failed to comply with the Members' Code of Conduct**

- 9.1 Having determined that the Member/Co-opted Member has failed to comply with the Members Code of Conduct, a Hearing Panel may:
- (a) Publish its findings in respect of the Member's/Co-opted Member's conduct.
  - (b) Reports its findings to Council for information;
  - (c) Issue the Member/Co-opted Member with a formal censure or reprimand, a report of which may be submitted to Council.
  - (d) Recommend to the Member's Group Leader (or in the case of ungrouped Members/Co-opted Members recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-committees of the Council;
  - (e) Recommend to the Council that the Member/Co-opted Member be replaced as Chairman or Vice-Chairman of any Committee.
  - (f) Recommend to the Leader of the Council that the Member be removed from the Cabinet or removed from particular portfolio responsibilities;
  - (g) Instruct the Monitoring Officer to arrange training for the Member/Co-opted Member.
  - (h) Recommend the Council or Cabinet, as appropriate, that the Member be removed from outside appointments to which he/she has been appointed or nominated by the Council/Cabinet.
  - (i) Withdraw facilities provided to the Member/Co-opted Member by the Council such as a computer, website and/or email and internet access;
  - (j) Exclude the Member/Co-opted Member from Council offices or other premises with the exception of meeting rooms as necessary for attending Council, Cabinet, Committee and Sub-committee meetings;
  - (k) Take no further action;
  - (l) Any other appropriate sanction which may be available to a Hearing Panel;

- 9.2 A Hearing Panel has no power to suspend or disqualify a Member or to withdraw Members' or special responsibility allowances;
- 9.3 At the end of the Hearing the Chairman shall state the decision of the Hearing Panel as to whether the Member/Co-opted Member failed to comply with the Members' Code of Conduct and as to any action which the Panel has resolved to take.
- 9.4 Within 10 working days following the Hearing, the Monitoring Officer shall prepare a formal decision notice, after consultation with the Chairman of the Hearing Panel and send a copy to the person making the allegation and to the Member/Co-opted Member concerned. The Monitoring Officer shall make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

## **10. Appeals**

- 10.1 There is no right of appeal for either the person making the allegation or for the Member/Co-opted Member against whom the allegation is made against a decision of the Monitoring Officer, an Assessment Panel or a Hearing Panel.

## **HEARING PROCEDURE**

The model procedure which follows comprises good and equitable practice and should be followed closely wherever possible. There may be occasions when circumstances require variations and subject to the maintenance of the principles of natural justice these may be affected at the discretion of the Hearing Panel and advised to the Parties.

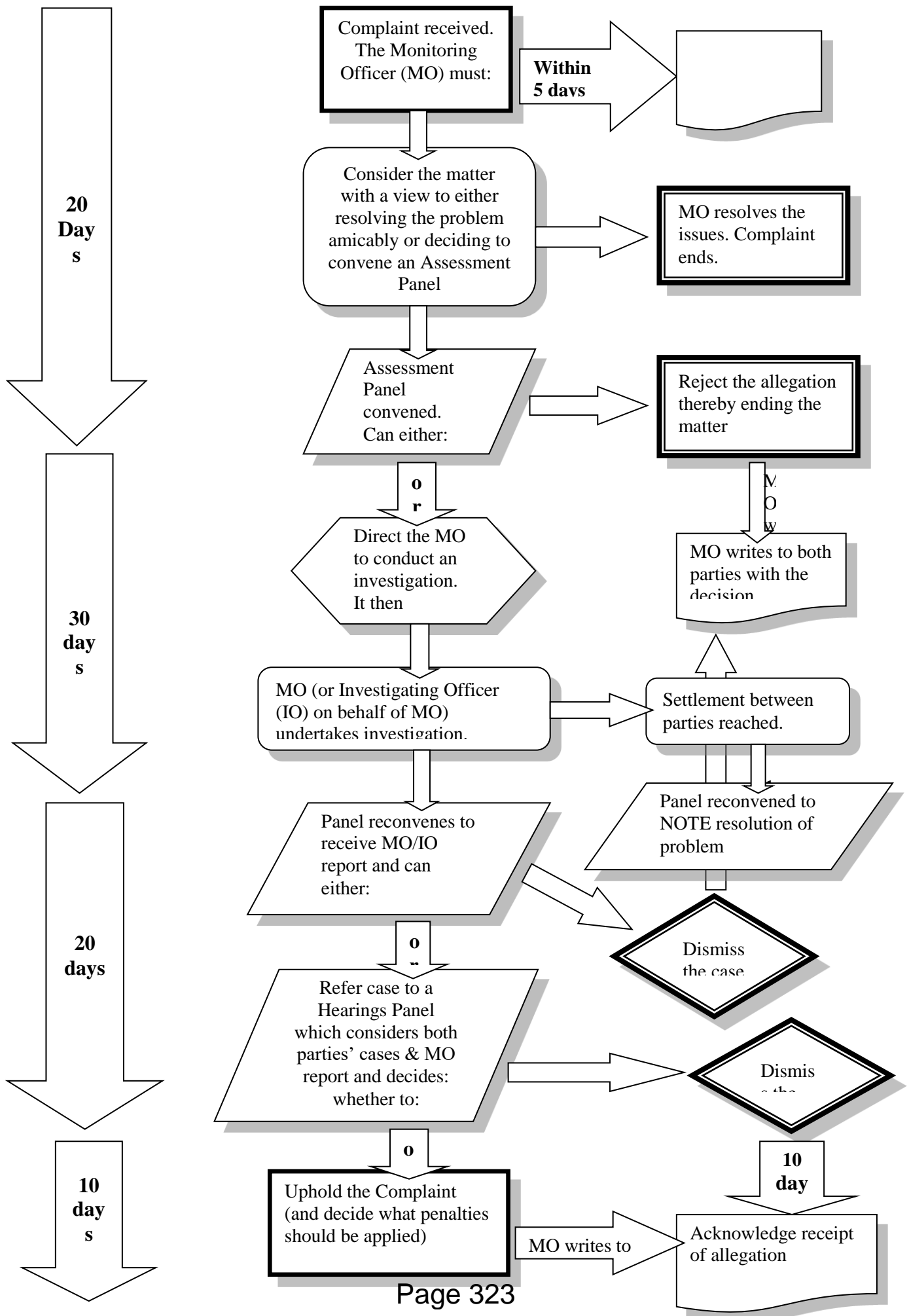
1. The Chairman shall facilitate introductions and explain the procedure for the Hearing.
2. The Monitoring Officer/Investigating Officer shall be invited to make an opening statement with reference to the Investigation Report.
3. The person making the allegation and the Member/Co-opted Member or their representatives (hereinafter called 'the Parties') shall be invited to make opening statements with reference to the allegation and/or the Investigation Report.
4. Members of the Hearing Panel may question the Monitoring Officer/Investigation Officer upon the content of the Investigation Report.
5. Members of the Hearing Panel may question the Parties upon the allegation and/or with reference to the Investigation Report.
6. The Monitoring Officer/Investigating Officer may make a closing statement.
7. The Parties or their representatives may make closing statement.
8. The Chairman shall invite the persons who may not be present during the Panel's deliberation upon the allegation to withdraw to enable the Panel to deliberate upon the allegation. Prior to reaching a determination the Panel shall seek and take into account the views of the Independent Person.
9. The Monitoring Officer/Investigating Officer and the Parties shall be invited to return and the Chairman shall announce the Panel's decision in the following terms:
  - (a) The Panel has determined that the Member/Co-opted member has failed to comply with the Members' Code of Conduct; or
  - (b) The Panel has determined that the Member/Co-opted Member has not failed to comply with the Members' Code of Conduct and the allegation is dismissed.

The Panel will give reasons for its decision. If the Panel has determined that the Member/Co-opted Member has failed to comply with the Members' Code of Conduct it shall consider any representations from the

Member/Co-opted Member or his/her representative as to whether any action should be taken and what form any action should take.

10. The Chairman shall invite the persons who may not be present during the Panel's deliberation upon the allegation to withdraw to enable the Panel to deliberate upon what action, if any, should be taken. Prior to reaching a determination the Panel shall seek and take into account the views of the Independent Person.
11. In addition to any action upon the current matter, the Panel shall consider whether in consequence it should make recommendations to the Council with a view to promoting high standards of conduct amongst Members/Co-opted Members.
12. The Monitoring Officer/Investigating Officer and the Parties shall be invited to return and the Chairman shall announce the Panel's decision.
13. A full written decision shall be issued to the person making the allegation and the Member/Co-opted Member within 10 clear working days following the Hearing and shall be published.







# PROTOCOL ON GIFTS AND HOSPITALITY

## 1. Meaning of gifts and hospitality

1.1 The expressions 'gifts' and 'hospitality' have wide meanings and no conclusive definition is possible. Gifts and hospitality include:

- (a) The gift of any goods or services;
- (b) The opportunity to acquire any goods or services freely or at a discount or at terms not available to the general public;
- (c) The offer of food, drink, accommodation or entertainment or the opportunity to attend any cultural or sporting event on terms not available to the general public.

1.2 Common gifts include pens, diaries, calendars and other business stationery, key rings, articles of clothing, books, flowers, bouquets and promotional items.

1.3 Common hospitality includes lunches, dinners or refreshments.

## 2. General Caution

2.1 The fundamental principle must always be that any offer of a gift or hospitality should be treated with great care. Your prime duty as a Member is to ensure that there is no conflict of interest in the performance of your duties. Treat with caution any gift or hospitality that is made to you personally. Your personal reputation and that of the Council can be seriously jeopardised by the inappropriate acceptance by you of a gift or hospitality.

2.2 You should consider carefully all the circumstances surrounding the offer of a gift or hospitality. The scale, amount of the offer and the potential frequency and source are relevant factors as are personal relationships with those making the offer. Also be sensitive to the timing of the offer in relation to decisions which the Council may be taking, affecting those making the offer.

2.3 You should avoid hospitality in situations where you would be the sole guest.

2.4 You may have to estimate the value of the gift or hospitality.

2.5 The decision for you in every case is whether or not it is appropriate to accept any gift or hospitality that might be offered to you, having regard to how it might be perceived by an ordinary member of the public. No hard and fast rules can be laid down to cover every circumstance as to what is appropriate or inappropriate. In any case of doubt, advice should be sought from the Monitoring Officer.

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

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

### **3. Code of Conduct requirements**

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

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

- 4.1 The registration requirement in the Code is limited to gifts or hospitality worth £25 or more. If you receive a series of gifts or hospitality from the same source that add up to £25 or more, then this must be registered on your Register of Personal Interests as an accumulation. You may have to estimate the value of the gifts or hospitality. Occasionally there are frequent offers of hospitality from the same source e.g. Queens Theatre. This should be registered if tickets exceed the limit and are accepted and should be registered cumulatively if more than one offer is received. Any donation to the Queens Theatre in lieu of the ticket price or part thereof should be deducted from the hospitality.

#### **5. What to avoid**

- 5.1 In deciding whether it is appropriate to accept any gift or hospitality, you must apply the following principles:

- (a) do not accept a gift or hospitality as an inducement or reward for anything you do as a Member. If you have any suspicion that the motive behind the gift or hospitality is an inducement or reward, you must decline it. 'Reward' includes remuneration, reimbursement and fee.
- (b) do not accept a gift or hospitality of significant value or whose value is excessive in the circumstances.
- (c) do not accept a gift or hospitality if you believe it will put you under any obligation to the provider as a consequence.
- (d) do not solicit any gift or hospitality and avoid giving any perception of doing so.
- (e) do not accept a gift or hospitality, if acceptance might be open to misinterpretation. Such circumstances will include gifts and hospitality:
  - (i) from parties involved with the Council in a competitive tendering or other procurement process.
  - (ii) from applicants for planning permission and other applications for licences, consents and approvals.
  - (iii) from applicants for grants, including voluntary bodies and other organisations applying for public funding.
  - (iv) from applicants for benefits, claims and dispensations.
  - (v) from parties in legal proceedings with the Council.

- 5.2 It is a criminal offence corruptly to solicit or receive any gift, reward or advantage as an inducement to doing or forbearing to do anything in respect of any transaction involving the Council. The onus would be on you to disprove

corruption in relation to the receipt of a gift or hospitality from a person holding or seeking to obtain a contract from the Council.

5.3 Cash or monetary gifts should always be refused without exception and the refusal notified to the Monitoring Officer.

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

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

## **6. Gifts and hospitality which need not be registered**

- 6.1 There are some circumstances where you may accept gifts and hospitality without the need to register the gift or hospitality. Some situations will require the exercise of your personal judgement. You should always be cautious, when additional services, privileges or advantages are offered, which might be related to your position as a Member. Remember - always register a gift or hospitality if it could be perceived as something given to you because of your position.
- (a) Official hospitality such as a civic reception or a working/business lunch in Council owned premises or hosted elsewhere, by a partner organisation of the Council.
  - (b) Civic hospitality provided by another public authority.
  - (c) Refreshment in connection with any meeting in the course of your work as a member e.g. tea, coffee and other normal beverages and refreshments.
  - (d) Meals or refreshments funded by other public sector partners, as part of joint working/collaboration.
  - (e) Meals or refreshments provided as part of a ceremony or event to promote/or launch a project or initiative.
  - (f) Meals or refreshments provided at design/progress meetings, by a consultant, contractor or advisor who is already appointed by the Council for that project, scheme or initiative.

- (g) Drinks or other refreshment in the normal course of socialising arising consequentially from Council business e.g. inclusion in a round of drinks after a meeting.
- (h) Small low value gifts, such as pens, calendars, diaries, flowers and other mementos and tokens.
- (i) Gifts and hospitality arranged and paid for wholly by your own political party.
- (j) Gifts and hospitality not related or connected with your membership of the Council i.e. received by you outside the performance of your functions as a Member.
- (k) Gifts and hospitality you may receive from family and friends e.g. birthday presents that are not related to your position as a Member.
- (l) Gifts given to the Council that you accept formally on the Council's behalf and are retained by the Council and not by you personally e.g. a commemorative goblet for display in the Mayor's parlour.
- (m) Gifts given as prizes at exhibitions, conferences, seminars etc. as part of a free raffle or draw.
- (n) Gifts and hospitality which you do not accept (refer to the guidance in paragraph 7 of this Protocol).
- (o) Gifts which you donate to the Mayor's charity, subject to you indicating this intention to the donor of the gift.
- (p) Gifts known to be available to all members of the Council e.g. badges and ties bearing the Council's coat of arms.
- (q) Souvenirs and gifts from other public bodies intended as personal gifts e.g. arising from town-twinning and other civic events.
- (r) Hospitality known to be available to all members of the Council e.g. Annual Meeting/Mayor making refreshments
- (s) Hospitality ancillary to the Council business being conducted, such as an overnight stay for an 'away – day with a partner organisation of the Council'.
- (t) Hospitality ancillary to attendance at conferences, seminars and courses where the hospitality is corporate, rather than personal.
- (u) Hospitality ancillary to attendance at functions where you represent the Council (opening ceremonies, public speaking events, conferences).
- (v) Hospitality ancillary to attendance as Mayor or Deputy Mayor, at charity events, garden parties, fetes, schools, concerts etc.
- (w) Trips in the UK or abroad which are paid for by the Council or which involve reciprocity of payment with other local authorities, government bodies/ departments or outside bodies/organisations, together with any hospitality associated with such visits and available to all participants.

**7. Gifts and hospitality declined**

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

**8. Reporting of inappropriate gifts and hospitality offered**

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

**9. Overseeing this Protocol**

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



# PROTOCOL ON MEMBER/OFFICER RELATIONS

## Introduction

1. Given the variety and complexity of Member and Officer relations, this Protocol does not seek to cover everything or be prescriptive in its application. General guidance is offered on some of the issues that most commonly arise or cause concern.
2. This Protocol seeks to encourage best practice and to promote greater clarity and certainty between the various relationships. If any Member is unsure about any matter, they should contact the Monitoring Officer for appropriate advice and assistance. If any Officer is unsure about any matter, they should contact the relevant SLT Director or the Managing Director of oneSource and/or the Monitoring Officer.
3. The Governance Committee and the Monitoring Officer may issue general guidance on the Code of Conduct for Members, this Protocol on Member/Officer relations and the Protocol on Probity in Planning. Where appropriate, the Monitoring Officer will also consult the Chief Financial Officer and the Chief Executive on any further general guidance.

## General Member/Officer Issues

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

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

### **Legal and Audit Commission Considerations**

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

### **Standards Issues**

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

### **Public Relations Issues**

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

### **Specific Points on Member/Officer Relations**

9. The relationship between Members and Officers generally is characterised by mutual trust, respect and courtesy. These are essential for good local government and serve to enhance local democracy.
10. Close personal familiarity between individual Members and Officers can damage professional relationships and can prove embarrassing to other Members and Officers. Situations should be avoided, therefore, that could give rise to suspicion and/or appearance of improper conduct or behaviour.

### **Employer/Employee Issues**

11. Members should recognise and pay due regard to their role as an employer in their dealings with Officers, as Officers could use inappropriate behaviour and conduct of Members in bringing employment cases against the Council.
12. Members must guard against putting inappropriate pressure, in particular, on junior officers and must ensure that all communication between them (including written communication) does not bring the Council into disrepute or cause any embarrassment to them.
13. In seeking advice and support, Members should have due regard to the seniority of the Officer with whom they are dealing and recognise that, whilst those Officers owe an overriding duty to the Council as a whole, such duties are first expressed to their respective line managers and the Chief Executive and not to any individual Member. For this reason, Members should not give direct instructions to staff, and where possible should ensure their communications are with staff at an appropriate managerial level within the Council.

### **Equality Issues**

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

### **Officer Conduct or Capability Issues**

15. Members should not raise matters relating to the conduct or capability of an Officer (or of Officers, collectively) at meetings held in public or before the

Press, as Officers have no means of responding to the same in public. Neither should members display any inappropriate behaviour or language to Officers at such meetings nor at any other meetings to which they are invited or are represented. Inappropriate behaviour or language is considered to be as described in paragraph 26. If any Member feels that they has not been treated with the proper mutual trust, respect or courtesy or has any concern about the conduct or capability of an Officer, they should raise the matter, in private, with the SLT Director of the directorate concerned. Any concerns with regard to a SLT Director should be discussed, in private, with the Chief Executive and/or the Leader of the relevant Political Group. Whispering campaigns against Members and Officers do not project a healthy environment for engendering mutual trust, openness, honesty, fairness, transparency, respect or courtesy and should be avoided.

16. It is legitimate for Members to appropriately challenge Officers' advice but there is a potential breach of the Code of Conduct for Members if they require any Officer to:
  - (a) change their professional advice; or
  - (b) take any action which the Officer considers to be unlawful or illegal or which could amount to maladministration or breach any relevant Codes of Conduct (including professional codes of conduct).

Havering's Code of Conduct states that a Member must not bully any person which would include staff

### **Monitoring Officer/Chief Financial Officer Consultations**

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

### **Political Impartiality**

18. Members shall, at all times, respect the political impartiality of Officers and must not expect or encourage Officers to give a political view on any matter.
19. For the avoidance of doubt, it must be recognised by all that, in discharging their duties, Officers serve the Council, as a whole, and not exclusively any Political Group, combination of groups, or any individual Members.
20. Officers may properly be called upon to support and contribute to the deliberations of Political Groups but they must, at all times, maintain political neutrality. This applies, in particular, to Politically Restricted Officers, who are governed by the Local Government and Housing Act 1989. All Officers must,

in their dealings with Political Groups and individual Members, treat them in a fair and even handed manner.

21. Any request for advice given to a Political Group or Member will be treated with the strictest of confidence by the Officers concerned and will not be accessible to any other Political Group(s). Factual information upon which any advice is based will, if requested, be available to all Political Groups.
22. When attendance is requested for Political Group meetings:
  - (a) The request to attend a Political Group meeting must normally be made through the relevant SLT Director;
  - (b) Such a request can only be made in relation to Council business; and
  - (c) Officers will:-
    - (i) provide relevant factual advice and assistance;
    - (ii) leave during the deliberations of the Political Group on the issue;
    - (iii) respect the confidentiality of any Political Group decision at which they are present; and
    - (iv) not champion, defend, action or spend any resources of the Council, or be held responsible for actioning in any way whatsoever the decisions of the Political Group(s), unless and until such decisions have become the formal decisions of the Council.

### **Specific Points on Overview and Scrutiny Arrangements**

23. The Council's Overview and Scrutiny Board and Sub- Committees will seek the advice of:-
  - (a) The Monitoring Officer, where they consider there is doubt about the legality of any Executive decision(s); or
  - (b) The Monitoring Officer, Chief Financial Officer and other relevant SLT Directors, where they consider a decision (or decisions) of the Executive might be contrary to the Council's Budget Framework Procedure Rules and Policy Framework Procedure Rules.
24. When asking Officers to give evidence before any Overview and Scrutiny Committee, questions should be confined, so far as is possible, to questions of fact and explanation of any professional opinion relating to policies and decisions. Officers must respond to questions from Members in an open, constructive and helpful manner. Officers must not mislead or be economical with the truth.
25. Where they consider it appropriate, the Chairman of the relevant Overview and Scrutiny Sub-Committee or the Overview and Scrutiny Board may ask SLT Directors to explain any advice given by them to Members of the

Executive and explain any decision(s) the SLT Director may have taken under the Scheme of Delegations to Officers. For the avoidance of doubt, this will not apply to any private or confidential matters.

### **Unacceptable or Inappropriate Behaviour**

26. The relevant Chairman of the Overview and Scrutiny Board or Sub-Committee shall ensure that Members of the Executive and Officers who appear before it are not questioned by Members of the Board of Sub-Committee (whether through the nature, tone or language used), in such a manner as could be considered by a reasonable person to be hostile, offensive, derogatory, harassing, bullying, victimising, discriminatory or otherwise unacceptable or inappropriate.
27. Any allegation of unacceptable or inappropriate behaviour by a Member will be reported to the Leader of the relevant Political Group for consideration and/or the Monitoring Officer, if there has been a breach of the Code of Conduct for Members. The relevant Leader may also refer the matter to the Monitoring Officer for consideration, guidance or sanction, if the matter is a breach of other Protocols.

### **Use of Local Authority Resources**

28. The only basis on which the Council can lawfully provide support services to Members (e.g. computers, telephone, mobile phones, blackberries, stationery, typing, printing, photo-copying, transport etc.) is to assist them in the effective and efficient discharge of their duties and role as Members of the Council. Such support services must, therefore (as set out in the Code of Conduct for Members), be only used for Council business save for under the Council's IT Protocol, limited personal use of telephones only is permissible upon payment of the bill relating to personal use. In all other circumstances the same should never be used for or in connection with Political, Party Political or campaigning activities or for private purposes.

## **Access to Information – ‘Need To Know’**

### **Statutory provisions**

29. The Local Government (Access to Information) Act 1985 (which is Section 100F of the Local Government Act 1972) was introduced to give additional rights to Elected Members. The Act was at pains to stress that these rights were in addition to those at common law.
30. Section 100F makes it clear that any document which is in the possession or under the control of the Council and contains material relating to any business to be transacted at a meeting of the Council, or a committee or a sub-committee of the Council will be open to inspection by a Member of the Council, unless it contains confidential/exempt information as defined within the section. A non-committee member's right to information is therefore

enhanced by Section 100F subject to the Proper Officer withholding confidential/exempt information within those paragraphs.

31. Section 100F does not, however, go as far as the common law, vis-à-vis, the Committee Member. For non-Committee Members, their position is enhanced by section 100F. In both cases, however, if there appears to be confidential/exempt information, by virtue of the other parts of the Act, there is still the discretion for the relevant Proper Officer to withhold the confidential/exempt information.
32. It is also a matter of fact as to whether or not the information is 'in the possession or under the control of the Council'. The key issue to be determined is whether or not the information belongs to the Council or to another person. If it belongs to another person, Officers will only release any confidential information after an appropriate consent to release such information has been obtained from the relevant person. Officers will not, therefore, "hand over" their files to a Member, without the Officer being clear about the reasonableness of the request and the Officer's ability to share confidential information with a Member. If any Officer is unsure about a request for information, they must discuss the same with their line manager and/or the Monitoring Officer.
33. Under the Local Government Act 2000 Executive arrangements and subject to important exceptions (see paragraph 35 below), any relevant document which:
  - (a) is in the possession, or under the control, of the Executive; and
  - (b) contains material relating to any business to be transacted at a public meeting of the Council, will be available for inspection by Members of the Council.
34. The exceptions, to the above general requirement of paragraph 34, are that exempt information in respect of Schedule 12A of the Local Government Act 1972 (see paragraph 36 below) would be disclosed
35. In addition to the above and subject to important exceptions (see paragraph 37 below), the Overview and Scrutiny Board or relevant Sub-Committee Member will be entitled to a copy of the relevant document which:
  - (a) is in the possession or under the control of the Executive;
  - (b) contains material relating to:-
    - (i) any business carried out at a private or public meeting of the Council;
    - (ii) any decision taken by a relevant Cabinet Member; or
    - (iii) any key decision of the Cabinet.

36. The exceptions to the above general requirements of paragraph 36 are that such a document (or part of it) contains exempt or confidential information, unless it is relevant to any action or decision being reviewed or scrutinised under the overview and scrutiny arrangements
37. For the purposes of completeness, Appendix A provides an extract of the statutory exempt information paragraphs, which permit reports to be considered in private. As a guiding principle and in keeping with good open government, Executive Members, Chairmen of relevant Committees and Officers will ensure that, so far as is possible and permitted by law, reports are considered in public. If any Member or Officer has any concerns over whether a private report ought to be (or should have been) considered in public, they should raise the matter, at the earliest opportunity, with the relevant SLT Director, Chairman of the Committee or the Monitoring Officer for a decision.

### **Common law principles**

38. In addition to the statutory provisions, the common law right of Members to access information is based on the principle that any Member has a *prima facie* right to inspect Council documents *so far as their access to the documents is reasonably necessary to enable the Member properly to perform their duties as a Member of the Council*. This principle is commonly referred to as the “need to know” principle.
39. This principle applies equally to leaders of the Political Groups and, under common law principles; the courts have not determined that any leader has an ‘automatic’ right to information. Accordingly, for the purpose of legal considerations, leaders fall to be considered as ordinary Members, if they wish to see Council documents; although they will, in most situations, be able to readily satisfy the ‘need to know’ requirements on the submission of reasonable information or by reasonable implication to substantiate the same. Leaders of Political Groups will, therefore, still have to demonstrate that their request is a proper and reasonable one and give adequate reasons for requiring the information.
40. In addition, it should be remembered that the access to information right will vary from Member to Member, will arise at different times and, as such, a Member's ‘need to know’ will be considered on a case by case basis and will not last indefinitely. The Monitoring Officer has the power to decide on a case by case basis a Member’s common law right to access documents. There is a right of appeal to the Chief Executive in instances where the request is denied.
41. The above statements on the common law position are subject to additional safeguards to protect Council information; namely, if the motive of a Member requesting to see documents is indirect, improper or ulterior, this may be raised by the Council as a bar to the Member’s entitlement to inspect documents that are addressed to the Council. The entitlement of a relevant Committee Member to inspect documents of the Committee is a strong one



and certainly stronger than that of a non-Member of the Committee. However, as indicated earlier, the rights of the former are not absolute, as it would still be open to the Committee/ Council to raise a bar to the exercise of such a right on the grounds of the Member's motives being improper, indirect or ulterior.

42. Furthermore, the law does not entitle a Councillor to go on a “roving or a fishing expedition” or to receive every working document that Officers have access to or may have had access to in the past. As a Councillor, they will only be entitled to see those documents that are relevant background papers mentioned in any report received by the (Sub-) Committee or other reasonable requests for relevant papers in order to comply with their 'right to know'. Clearly, any confidentiality attached to the same remains and the same must be kept confidential and not released to any other person. This includes, of course, members of the press. A breach of confidence by a Member is actionable by way of a complaint to the Council's Monitoring Officer. If the breach is serious enough, the person whose confidence has been betrayed may also bring a civil action against the Member (and/or the Council) for damages.
43. By equal token, any unreasonable requests for information can and will be declined. A balance has therefore to be struck between a Member's right to know and an individual's/ business'/ organisation's need for confidentiality, especially where the individual/ business/ organisation has requested confidentiality of the information provided to Council Officers.
44. If any confidential information is contained in public documents then it will, of course, lose its confidentiality. Equally, draft-working documents are subject to change and it is reasonable for those documents to be withheld until the matter is formally reported to the relevant committee / decision-maker.

### **Election Period and Special Responsibility Posts**

45. During the election period, special rules apply with regard to local authority publicity and these can be found in “The Code of Recommended Practice on Local Authority Publicity”,.
46. In terms of any serving Councillor who may be standing for re-election, it is imperative that they maintain a clear distinction between their private wish to stand for re-election and their official duties as a serving Councillor. They should, therefore, be particularly careful to guard against giving any impression that Council resources are being or could have been used for their re-election and/or private purposes. To do so could amount, in serious cases, to a breach of the Code of Conduct for Members and a written complaint could be made to the Council's Monitoring Officer.
47. The fact that the Councillor is a serving Councillor can, of course, be stated on any elections material. However, the Council address and/or their Council e-

mail address facilities should not be used or allowed to be used on any elections material produced by him/her or produced on their behalf by another person.

48. Members are provided with officer support to assist them with the discharge of their duties for the Council. Such staff should never be asked or used to carry out Party political purposes or private purposes.

#### **Sanctions for Breach of the Code of Conduct for Members and this General Guidance**

49. Complaints against any breach of the Code of Conduct for Members must be referred to the Council's Monitoring Officer. Complaints against any breach of this Protocol by a Member may be referred to the Monitoring Officer. Complaints against any breach of this Protocol by an Officer may be referred to the relevant SLT Director, the Chief Executive or the Monitoring Officer.

**CONFIDENTIAL AND EXEMPT INFORMATION.****1. Confidential information – requirement to exclude public**

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

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

**2. Exempt information – discretion to exclude public**

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

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

Exempt information means information falling within the following categories:

<b>Category</b>	
1	Information relating to any individual
2	Information which is likely to reveal the identity of an individual
3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)
4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6	Information which reveals that the authority proposes: (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment
7	Information relating to any action taken or to be taken in connection with the prevention investigation or prosecution of crime.

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

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

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

Information which—

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

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

### **3. Cabinet:**

The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, as amended, provide for additional requirements in respect of key decisions.

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

## **PLANNING CODE OF GOOD PRACTICE**

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### **1 INTRODUCTION**

- 1.1 This Code has been prepared using advice in the Local Government Association's revised guidance note on good planning practice for Councillors and officers dealing with planning matters – Probity in Planning for Councillors and Officers (November 2013).

#### **KEY PURPOSE OF PLANNING**

- 1.2 Planning has a positive and proactive role to play at the heart of local government. It helps Councils to stimulate growth whilst looking after important environmental areas. It can help to translate goals into action. It balances social, economic and environmental needs to achieve sustainable development.
- 1.3 The planning system works best when Councillors and officers involved in planning understand their roles and responsibilities and the context and constraints in which they operate.
- 1.4 Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework. In doing this, decision-makers need an ethos of decision-making in the wider public interest on what can be controversial proposals.

### **2 AIM OF THE CODE**

- 2.1 In today's place-shaping context, early Councillor engagement is encouraged to ensure that proposals for sustainable development can be harnessed to produce the places that communities need. This guidance is intended to reinforce Councillors' community engagement role whilst maintaining good standards of probity that minimizes the risk of legal challenge.
- 2.2 Planning decisions can be controversial. The risk of controversy and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the development plan and

decision notices. Nevertheless, it is important that the decision-making process is open and transparent.

- 2.3 One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. Opposing views are often strongly held by those involved. Whilst Councillors must take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they may appear to be doing so. It is important, therefore, that the Council makes planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons.
- 2.4 The process should leave no grounds for suggesting that those participating in the decision were biased or that the decision itself was unlawful, irrational or procedurally improper.

### **WHEN THE CODE APPLIES**

- 2.5 This code applies to Councillors when they are involved in the planning process. This includes, where applicable, when part of decision making meetings of the Council, in exercising the functions of the planning authority or when involved on less formal occasions, such as meetings with officers or consultative meetings. It applies as equally to planning enforcement matters or site-specific policy issues as it does to planning applications. If you have any doubts about the application of this Code to your own circumstances you should seek advice early from the Monitoring Officer, and preferably well before any meeting takes place.
- 2.6 This Code applies to all meetings of the Council's Planning Committees in relation to the determination of planning applications and any other business dealt with at these committees. When the term "Councillor" is used, it means that the text is applicable to all Members of the Council. The term "Planning Committee Councillor" means a Member or a substitute Member of the Council's Strategic Planning Committee or Planning Committee.

### **RELATIONSHIP TO THE MEMBERS' CODE OF CONDUCT**

- 2.7 Councillors are reminded that this Code is designed primarily for Planning Committee Councillors and Councillors who, for whatever reason, find themselves involved in the planning process. It should not be read in isolation. Whilst this Code interprets the Members' Code of Conduct with respect to planning matters, it is subordinate to the Members' Code of Conduct and, in the event of any inconsistencies arising between this Code and the Members' Code of Conduct, the latter shall prevail.

## **3 ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS**

### **GENERAL ROLES OF COUNCILLORS AND OFFICERS**

- 3.1 Councillors and officers have different but complementary roles. Both serve the public. Officers are responsible to the Council as a whole, whilst Councillors are responsible to the electorate.

- 3.2 Officers are not appointed to serve any political group and therefore advise all Councillors. Officers carry out the daily functions of the Council's business in accordance with Council or Committee decisions or under powers delegated to them pursuant to the Constitution. Officers are governed by the Officers Code of Conduct contained in the Constitution. In addition, planning officers, who are Members of the Royal Town Planning Institute (RTPI), are subject to a professional code of conduct and breaches may be subject to disciplinary action by the RTPI. Similarly, officers who are solicitors are subject to regulation by The Solicitors Regulation Authority. Officers in other professions will have corresponding codes.
- 3.3 The Localism Act 2011 sets out a duty for each local authority to promote and maintain high standards of conduct by Councillors and to adopt a code of conduct. The Members Code of Conduct in the Constitution is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. It embraces the standards central to the preservation of an ethical approach to Council business, including the need to register and disclose interests, as well as appropriate relationships with other Councillors, staff and the public. The Council's constitution set down rules and orders which govern the conduct of Council business.

#### **RELATIONSHIP BETWEEN COUNCILLORS AND OFFICERS**

- 3.4 Mutual trust, respect and understanding between Councillors and officers are the keys to achieving effective local government. A successful relationship can only be based upon mutual trust and understanding of each other's positions. This relationship, and the trust that underpins it, must never be abused or compromised.
- 3.5 Planning officers' views, opinions and recommendations will be presented based on their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Councillors.
- 3.6 Councillors must not put pressure on officers to put forward a particular recommendation or deal with a planning matter in a particular way. This does not prevent a Councillor from asking questions or submitting views to an officer. These views must be received in written form and be placed on the planning file, so that they can be considered together with other material planning considerations.

#### **4 INTERESTS: REGISTRATION AND DISCLOSURE**

- 4.1 A Councillor should refer to the Members' Code of Conduct for assistance in identifying Disclosable Pecuniary Interests or any Other Interests or seek advice from the Monitoring Officer prior to attending a meeting. A failure to properly register a Disclosable Pecuniary Interest or to participate in discussion or voting in a meeting on a matter in which a Councillor has a Disclosable Pecuniary Interest, are criminal offences. Ultimately, responsibility for fulfilling the requirements rests with each Councillor.
- 4.2 The provisions of the 2011 Act seek to separate interests arising from the personal and private interests of the Councillor from those arising from the Councillor's wider public life. Councillors should think about how a reasonable

Member of the public, with full knowledge of all the relevant facts, would view the matter when considering whether the Councillor's involvement would be appropriate.

### **REGISTRATION OF INTERESTS**

- 4.3 A Councillor must provide the Monitoring Officer with written details of relevant interests within 28 days of their election or appointment to office. Any changes to those interests must similarly be notified within 28 days of the Councillor becoming aware of such changes.

### **DISCLOSURE OF INTERESTS**

- 4.4 It is always best to identify a potential interest early on. If a Councillor thinks that they may have an interest in a matter to be discussed at a Planning Committee, he or she should raise this with the Monitoring Officer as soon as possible.

### **Personal and Pecuniary Interests**

- 4.5 The Council's Members' Code includes provisions for declaration of interests that are wider than Disclosable Pecuniary Interests under the Localism Act 2011. Some personal interests may amount to pecuniary interests that impact on members' ability to participate and vote on that item.

### **Disclosable Pecuniary Interests**

- 4.6 Where a Councillor has a Disclosable Pecuniary Interest relating to an item under discussion, the Councillor may not participate (or participate further) in any discussion of the matter at the meeting or participate in any vote (or further vote) on the matter. The Councillor should also withdraw from the Chamber. This means that a Councillor with a Disclosable Pecuniary Interest is precluded from making representations orally to the committee or from making representations on behalf of a party to the hearing.
- 4.7 A Councillor with a Disclosable Pecuniary Interest can still present their views to the committee through other means. For example, the Councillor can:
- make written representations in their private capacity in accordance with the Committee Consideration Criteria as set out in the Planning Committee Procedure Rules – the existence and nature of the interest should be disclosed in such representations and the Councillor should not seek preferential consideration for their representations – such written representations should be addressed to officers rather than to other Councillors;
  - use a professional representative to make a representation on the Councillor's behalf in circumstances where the Councillor's planning application is under consideration; or
  - arrange for another Councillor (eg, a fellow ward Councillor) to represent the views of the Councillor's constituents on matters in which the Councillor has a Disclosable Pecuniary Interest.
- 4.8 Although a Disclosable Pecuniary Interest relating to an item under discussion requires the withdrawal of the Councillor from the committee, in certain circumstances, a dispensation can be sought from the Monitoring Officer to be present for that item of business.



- 4.9 Members should also have regard to the requirements regarding personal and pecuniary interests under the Code since these may also require a declaration of interest and may impact on members' ability to participate in an item.

## **5 BIAS: PREDETERMINATION/PREDISPOSITION**

- 5.1 In addition to being aware and taking appropriate action in relation to interests, Planning Committee Councillors need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application, on planning policies or on other planning matters, such as enforcement. Avoidance of bias or predetermination or the appearance of bias or predetermination is a principle of natural justice that the decision maker is expected to adhere to.
- 5.2 The courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a "closed mind" and likely to leave the committee's decision susceptible to challenge by Judicial Review. The latter is the perfectly normal process of someone making up their mind.
- 5.3 Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a Councillor makes it clear that, although they have an initial view, they are willing to listen to all the material considerations presented at the committee and keep an open mind before deciding on how to exercise their vote (predisposition). The latter is acceptable; the former is not and may result in a Court quashing such a planning decision.
- 5.4 Section 25 of the 2011 Act provides that a Councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. This enacted the common-law position that a Councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and potentially changing their mind in the light of information presented at the meeting. Nevertheless, a Councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the Councillor was biased.
- 5.5 For example, a Councillor who states, "Windfarms are blots on the landscape and I will oppose each and every windfarm application that comes before the committee" will be perceived very differently from a Councillor who states, "Many people find windfarms ugly and noisy and I will need a lot of persuading that any more windfarms should be allowed in our area". The former has a closed mind and is predetermined, whereas the latter is predisposed but is maintaining an open mind.
- 5.6 This distinction is particularly important in the context of the Council's practice of facilitating presentations to Strategic Planning Committee by developers of schemes at the pre-application stage. After these presentations, Planning Committee Councillors question details of the development so that they can input into the design development of these strategic developments. They will therefore express views on aspects of the development (such as its external appearance, impact on neighbours or transport network implications) which

will display predisposition around these elements. What a Planning Committee Councillor should not do at this pre-application stage is to express a firm view on the development as a whole, as this could amount to predetermination. Such a view should only be formed at the end of the process, when all the material considerations are available to the Planning Committee Councillors to consider and weigh up before finalising their view.

### **DEALING WITH LOBBYING**

- 5.7 A Planning Committee Councillor who has been lobbied and wishes to support their constituents or is a Ward Councillor and wishes to campaign for or against a proposal, will need to consider whether this is likely to be regarded as amounting to bias and going against the fair determination of the planning application. If they have predetermined their position or have given that impression, they should avoid being part of the decision-making body for that application. A Planning Committee Councillor could speak at a Planning Committee (in accordance with the Council's public speaking procedures) on behalf of their constituents, having declared their pre-determined position but could not take part in the planning decision.
- 5.8 Participation as a Planning Committee Councillor where a Councillor is or may be perceived to be biased, in addition to the risk of a complaint against the individual Councillor, also places the decision of the Committee at risk from legal challenge. As such, if a Planning Committee Councillor considers that they are or have given the impression that they are biased or predetermined they must carefully consider whether it is appropriate for them to participate in the matter.

## **6 APPLICATIONS SUBMITTED BY THE COUNCIL, COUNCILLORS OR OFFICERS**

### **APPLICATIONS SUBMITTED BY THE COUNCIL**

- 6.1 Proposals for a Council's own development can give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted to and determined by the Council. Proposals for a Council's own development will be treated no differently from any other application.
- 6.2 Certain Councillors may, through their other roles outside of a Planning Committee (eg a Cabinet Member), have been heavily committed to or involved in a Council's own development proposal. In such circumstances, when an item comes to be considered at Planning Committee, the Councillor concerned, if they sit on the Committee, must consider whether they have an interest or degree of involvement with the proposals that could give the impression of bias. If in doubt, they are encouraged to seek advice from the Monitoring Officer. The most appropriate course of action, if that is the case, is that the Councillor concerned may address the Committee in the applicant's speaking slot (see the Planning Committee Procedure Rules) but does not take part in its consideration and determination. It is important that the Councillor should restrict their address to the Committee to relevant planning considerations rather than wider non-planning issues that are not material to the determination of the application.

## **APPLICATIONS SUBMITTED BY COUNCILLORS OR OFFICERS**

- 6.3 It is perfectly legitimate for planning applications to be submitted by Councillors and members of staff. However, it is vital to ensure that they are handled in a way that gives no grounds for accusations of bias or pre-determination.
- 6.4 If a Councillor or an officer submits their own proposal to the Council which they serve, they should take no part in its processing. A Councillor who acts as an agent or representative for someone pursuing a planning matter with the authority should also take no part in its processing.
- 6.5 The 1APP planning application form requires an applicant to indicate whether they are a member of staff or a Councillor or a partner/spouse of a member of staff or a Councillor. Decisions relating to applications where members of staff or Councillors are the applicant should be reported to Committee where they relate to the following:
- Councillors
  - Senior officers of the Council (Service Head and above)
  - Officers of the Local Planning Authority.
- 6.6 The term “Officers of the Local Planning Authority” means officers within the Council who, in the opinion of the [Head of Planning], are closely involved in the day-to-day work of the Council’s planning function.
- 6.7 The procedures to be followed in Committee in such circumstances are as follows:
- The consideration in Committee of an application from a Councillor may be considered a Disclosable Pecuniary Interest for that Councillor and he/she will need to be mindful of their obligations in relation to Disclosable Pecuniary Interests as set out in the Members’ Code of Conduct.
  - If such a Councillor does not have a Disclosable Pecuniary Interest, they may address the Committee as the applicant in accordance with the Council’s public speaking procedures. If, however, such a Councillor has a Disclosable Pecuniary Interest they may not participate in the consideration of the matter and may therefore not speak on the matter. They would need to have a representative speak on their behalf.
  - The Planning Committee Councillors must consider whether the nature of any relationship means that they have a Disclosable Pecuniary Interest in relation to the matter and if so, they may not participate in the consideration of that matter.
- 6.8 The principle in the final bullet point also applies to an application submitted by a member of staff when it is considered in Committee.

## **7 LOBBYING OF AND BY COUNCILLORS**

- 7.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their Ward Councillor or to a Planning Committee Councillor.

- 7.2 As the Nolan Committee's 1997 report stated: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the Councillors themselves".
- 7.3 Lobbying, however, can lead to the impartiality and integrity of a Councillor being called into question, unless care and common sense are exercised by all the parties involved.

### **LOBBYING OF COUNCILLORS**

- 7.4 A Planning Committee Councillor should explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said, it may prejudice their impartiality and ability to participate in the Committee's decision making if they are asked to express either an intention to vote one way or another or such a firm point of view that it amounts to the same thing. Planning Committee Councillors should ensure that it is made clear to any lobbyists that they will only be able to reach a final decision on any planning matter after they have heard all the relevant arguments and looked at the relevant information during the sitting of the determining Committee.
- 7.5 Planning Committee Councillors should therefore:
- suggest to lobbyists that they write to the Planning Service in order that their views can be included in the officer report prepared for determination under delegated powers or by Committee;
  - pass on any lobbying correspondence received (including plans, data, correspondence etc in respect of an application) to the Planning Service ([planning@haverling.gov.uk](mailto:planning@haverling.gov.uk)) as soon as practicably possible so that it can be considered and included in the report on the application;
  - refer the matter to another ward member;
  - remember that their overriding duty is to the whole community not just to the residents and businesses within their ward and that they have a duty to make decisions impartially and should not improperly favour, or appear to improperly favour, any person, company, group or locality;
  - not accept gifts or hospitality from any person involved in or affected by a planning proposal, but if a degree of hospitality is unavoidable (eg, refreshments at a meeting), ensure that they comply with the provisions in the Members' Code of Conduct on gifts and hospitality; and
  - inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up where necessary.
- 7.6 Planning Committee Councillors should note that, subject to the requirements to ensure that they comply with the Members' Code of Conduct and the rules regarding bias and pre-determination and ensure that they take appropriate action in relation to Disclosable Pecuniary Interests, they are not precluded from:
- listening or receiving viewpoints from residents or other interested parties;
  - making comments to residents, interested parties, other Councillors or appropriate officers, provided they do not consist of or amount to predetermination and they make clear they are keeping an open mind;

- seeking information through appropriate channels; or
  - being a vehicle for the expression of opinion or speaking at the meeting as a Ward Councillor, provided they explain their actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, they have not committed themselves to vote in accordance with those views and will make up their own mind having heard all the facts and listened to the debate.
- 7.7 In the interest of openness, Planning Committee Councillors should declare any lobbying to which they have been subject.
- 7.8 It is very difficult to convey every nuance of these situations and to get the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, the responsibility of the individual Councillor.

### **LOBBYING BY COUNCILLORS**

- 7.9 Planning Committee Councillors should not become a Member of, lead or represent a national or local organisation whose primary purpose is to lobby to promote or oppose planning proposals. If a Councillor does, he/she may appear to be biased. Whilst they may be able to address the Committee as a Ward Councillor or an objector, they are not able to participate or vote on any matter in respect of which they have such an interest, unless they have received a dispensation for this purpose from the Monitoring Officer.
- 7.10 Planning Committee Councillors can join general groups which reflect their areas of interest and which concentrate on issues beyond particular planning proposals, but they should disclose a personal interest and consider whether that also amounts to a pecuniary interest where that organisation has made representations on a particular proposal. Where a Planning Committee Councillor is able to participate they should make it clear to that organisation and the Committee that they have reserved judgement and the independence to make up their own mind on each separate proposal.
- 7.11 Councillors should not excessively lobby Planning Committee Councillors regarding their concerns or views on a planning application, nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- 7.12 Councillors should not put pressure on officers for a particular recommendation or decision, and should not do anything which compromises, is likely to compromise, or could be seen as compromising the officers' impartiality or professional integrity. Nor should they request officers to speed up or delay the determination or assessment of an application for their own personal or political convenience or following lobbying by applicants, agents/advisers, local residents or other interested parties.
- 7.13 Call-in requests, whereby in certain circumstances a Ward Councillor can require a proposal that would normally be determined under officers' delegated authority, to be determined by Committee, require the reasons for call-in to be recorded in writing and to refer solely to material planning

considerations. The Councillor must additionally commit to attending the Planning Committee at which the application is to be determined, to explain their concerns. A Councillor who fails to do so on two or more occasions within a year may be excluded from exercising these rights. The procedures for this are set out in the Planning Committee Procedure Rules.

- 7.14 Planning Committee Councillors should not decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Planning Committee Councillor to do so.
- 7.15 As previously outlined, Councillors must always be mindful of their responsibilities and duties under their Code of Conduct. These responsibilities and duties apply equally to matters of lobbying as they do to the other issues of probity explored elsewhere in this Code.

## **8 PRE-APPLICATION DISCUSSIONS**

- 8.1 Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit to both parties and are encouraged by the National Planning Policy Framework. However, it would be easy for such discussions to become, or to be seen by objectors to become, part of a lobbying process on the part of the potential applicant. For this reason, the Council have developed a pre-application process that enables engagement at the pre-application stage.
- 8.2 For major strategic applications, the Council offers a service to potential applicants, which includes presenting their schemes to the Council's Planning Committee. Details of this are set out in the Planning Committee Procedure Rules. This is the way in which Planning Committee Councillors engage with these schemes and there should therefore be no need to attend any other meeting with potential applicants or their agents/representatives.
- 8.3 In other cases, potential applicants may seek to meet Planning Committee Councillors. For minor or household applications, these can be treated as a form of lobbying and Councillors, including Planning Committee Councillors, should follow the advice set out above in section 7.
- 8.4 Where the application is more substantial, but not subject to pre-application committee presentations, these meetings will be subject to the following procedures:
- No meeting involving Planning Committee Councillors shall be convened without the presence of a Council planning officer for the entire duration of the meeting.
  - Understand that such meetings will attract a fee and make sure the applicant understands this.
  - Both this Code and the Members' Code of Conduct will apply when attending such meetings.
  - Any Planning Committee Councillor involved in such a meeting, who sits on the Committee that subsequently considers any resulting application, should declare their attendance at the meeting in the same way as lobbying would be declared.

- Officers (and any Councillor, if present) should make it clear from the outset that the discussion will not bind the Council to making a particular decision and that any views expressed are personal and provisional.
  - Any advice given should be consistent and in accordance with the Development Plan and officers should agree, prior to any meeting, on a consistent interpretation of Development Plan policies as applied to the particular proposal.
  - Councillors should not become drawn into any negotiations, which should be done by officers to ensure that the authority's position is co-ordinated.
  - A contemporaneous note of the meeting should be prepared by the planning officer attending and a copy sent to all parties for their agreement.
  - The final version of the note of the meeting will be placed on the planning file and should a planning application subsequently be received, it will thereby be open to public inspection.
- 8.5 Councillors should not seek to arrange meetings that would circumvent the Council's normal pre-application procedures, including the need to charge applicants for such meetings.
- 8.6 Planning Committee Councillors should not attend pre-application meetings that are not organised through officers.

## **9 POST-SUBMISSION DISCUSSIONS**

- 9.1 A Planning Committee Councillor should not usually be involved in discussions with a developer or agent when a planning application has been submitted and remains to be determined. Potentially, these discussions could be interpreted, particularly by objectors to a proposal, as an indicator of predetermination or bias.
- 9.2 There are limited circumstances when Planning Committee Councillors may legitimately engage in post-submission discussions. An example would be in the case of a large-scale development, where it is desirable for there to be a full understanding of the Council's planning and economic objectives. Such meetings will be organised by officers and run under the same procedural rules as pre-application discussions.
- 9.3 If a Planning Committee Councillor is contacted by the applicant, their agent or objectors, they should follow the rules on lobbying and consider whether it would be prudent in the circumstances to make notes when contacted. A Councillor should report to the [Head of Planning] any significant contact with the applicant or other parties, explaining the nature and purpose of the contact and their involvement, so that it can be recorded on the planning file.
- 9.4 Planning Committee Councillors should not attend post-submission meetings that are not organised through officers.

## **10 PLANNING APPEALS**

- 10.1 Appeals against the planning decisions of the Council are heard by a Planning Inspector appointed by the Secretary of State. Any hearing or inquiry will be open to the public and Councillors are able to attend. Councillors are encouraged to attend such hearings, as they can be a good learning

experience. This part of the Code is concerned with Councillors who wish to actively participate in these appeals.

- 10.2 If a Councillor wishes to attend a public inquiry or informal hearing as a Ward Councillor or as a member of the public, they are free to do so. It is strongly recommended that they discuss their participation with the [Head of Planning] to ensure that they are aware of the process and that they do not act in a manner which compromises their position as a Councillor, brings the Council into disrepute or puts the decision made at risk of challenge.
- 10.3 A Planning Committee Councillor cannot attend an appeal on behalf of the Council's Planning Committee, even if they sat on the Committee that made the decision, unless this is as part of the Council's case as decided by the [Head of Planning]. The decision of the Committee will be documented in the minute and set out in the decision notice. The planning officer will present the Council's case on its planning merits, in accordance with the Committee's decision. The inspector is required to determine the appeal on its planning merits and therefore all representations should be so directed.
- 10.4 Where the appealed decision was contrary to the officer's recommendation, officers are generally able to present the Council's case in a satisfactory manner. Where this may not be possible, the case will be presented by a planning consultant employed by the Council.

## **11 PLANNING ENFORCEMENT**

- 11.1 It is perfectly legitimate for Councillors to bring to the attention of the Planning Service suspected breaches of planning control so that they may be investigated to see whether any action is possible or necessary. They should bring these to the attention of the [Head of Planning].
- 11.2 The Council's planning enforcement service operates to a priority system so that those breaches that cause the most harm are dealt with first. This priority system is designed to produce a fair and responsive enforcement service. Councillors must not seek to have matters that they have raised given preferential treatment merely because they are a Councillor.

## **12 COUNCILLOR TRAINING**

- 12.1 Councillors may not participate in decision making at meetings of the Council's Planning Committee unless they have attended mandatory training. This will be provided by the Council's planning and legal services and will cover the principles of planning and probity in planning.
- 12.2 Whilst all new Planning Committee Councillors (and new substitutes) must attend this compulsory training before they can participate in the Council's Planning Committees, all other Planning Committee Councillors (and substitutes) are also encouraged to attend so that they can ensure that they keep up-to-date on these matters. All Planning Committee Councillors (and substitutes) must attend this training at least every two years, or as recommended individually or collectively by the Monitoring Officer.
- 12.3 All Planning Committee Councillors should endeavour to attend any other specialised training sessions provided, since these will be designed to extend

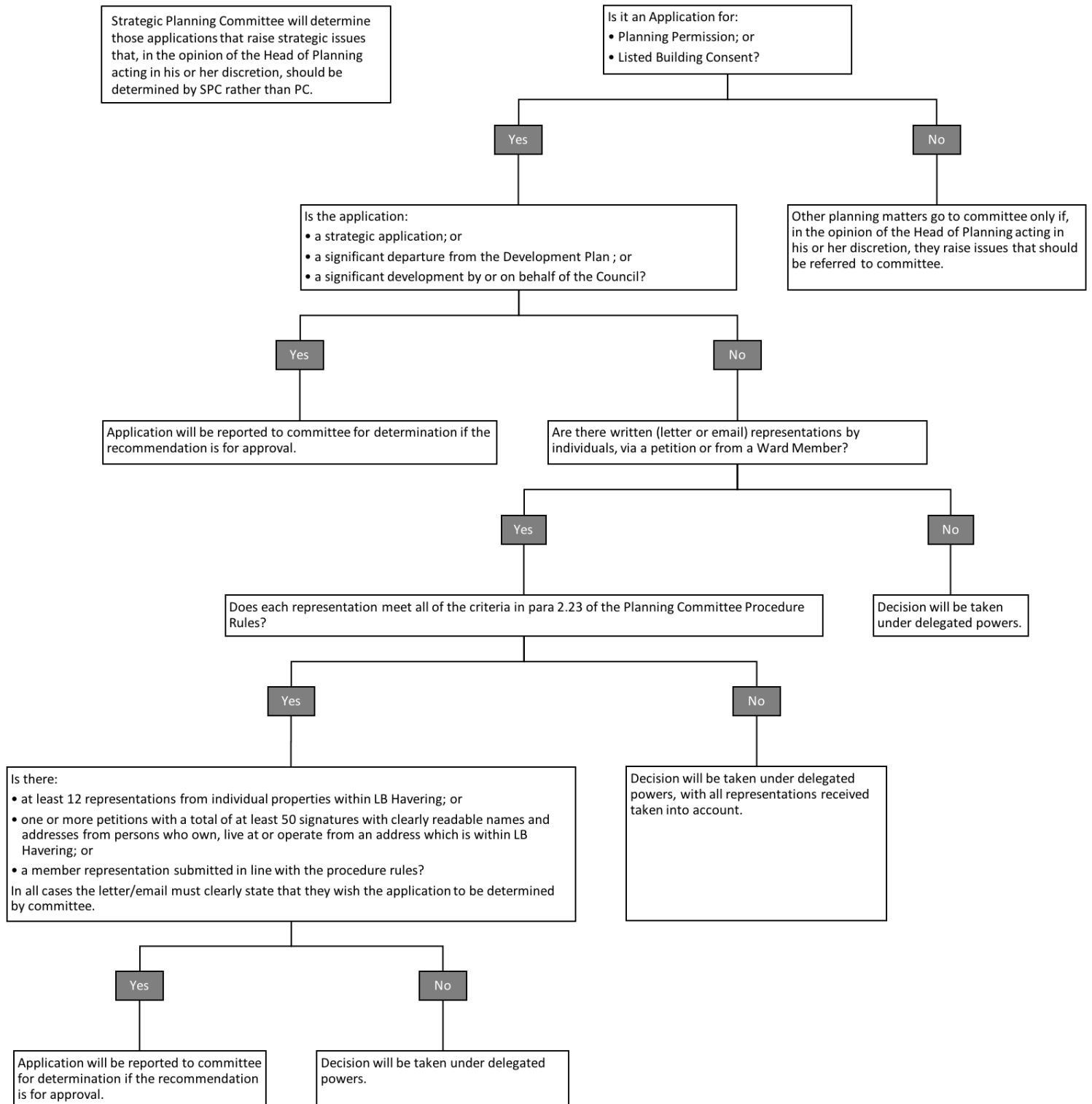


their knowledge of planning law, policy, procedures, and good practice, which will assist them in carrying out their role.

- 12.4 Training provided on planning related matters, whilst aimed at Planning Committee Councillors, is open to any Councillor with an interest to attend.

## APPENDIX H DELEGATION PROCESS FLOW CHART

This flow chart relates to planning applications only and whether they are determined by Committee or under delegated powers. It does not cover pre-application presentations or other non-application planning matters, nor does it deal with speaking rights at either committee.



## **STAFF CODE OF CONDUCT**

The Secretary of State is expected to issue a code as regards the conduct which is expected of qualifying employees of the authority under section 82 of the Local Government Act 2000. Once the code is made, it will be deemed to be incorporated in the terms of appointment or conditions of employment of every qualifying employee. The code will be set out in the constitution at such time as it is made by the Secretary of State.

For further information about the staff code of conduct, please contact the Director of Legal & Governance on extension 2442

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## Part 6: Members' Allowances

# MEMBERS' ALLOWANCES SCHEME

*Agreed at the meeting of the Council on 1 March 2023:*

***The new Scheme is agreed with effect from 1<sup>st</sup> April 2023 and the revocation of the Members' Allowance Scheme (2022) is effective from 31<sup>st</sup> March 2023.***

The Council of the London Borough of Havering in exercise of the powers conferred by the Local Authorities (Members Allowances) (England) Regulations 2003 hereby makes the following scheme:

- 1 This scheme may be cited as the Havering London Borough Council Members' Allowance Scheme. The new scheme shall have effect from 1<sup>st</sup> April 2023.
- 2 In this scheme, "councillor" means a councillor of the London Borough of Havering and "year" means the period ending on 31<sup>st</sup> March 2023 and any period of 12 months ending on 31<sup>st</sup> March in any year after 2023.

## **3 Basic allowance (Schedule 1)**

Subject to paragraphs 7 and 11, for each year a basic allowance of £10,412 shall be paid to each councillor.

## **4 Special responsibility allowance (Schedule 1)**

- (a) For each year a special responsibility allowance shall be paid to those councillors who hold the special responsibilities in relation to the Council that are specified in schedule 1 to this scheme.
- (b) Subject to paragraph 7, the amount of each such allowance shall be the amount specified against that special responsibility in that schedule.
- (c) When a councillor would otherwise be entitled under the scheme to more than one special responsibility allowance, then the entitlement shall instead be only to one of them, being the one attracting the higher rate.
- (d) Where a Member is also a member of another authority, that Member may not receive allowances from more than one authority in respect of the same duties.

## **5 Child and dependent care allowance**

These expenses are expected to be met from the Basic Allowance.

## **6 Renunciation & Inflationary rate increase**

A Councillor may, by notice in writing given to the Chief Finance Officer, elect to forego any part of his/her entitlement to an allowance under this scheme.

## **7 Part-year entitlements**

- (a) The provisions of this paragraph shall have effect to regulate the entitlements of a councillor to basic and special responsibility where, in the course of a year, this scheme is amended or that a councillor becomes, or ceases to be, a councillor, or accepts or relinquishes a

special responsibility in respect of which a special responsibility allowance is payable.

- (b) If an amendment to this scheme changes the amount to which a councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods:
  - (i) beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
  - (ii) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year.

The entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.

- (c) Where the term of office of a councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that councillor to a basic allowance shall be to the payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which his/her terms of office subsists bears to the number of days in that year.
- (d) Where this scheme is amended as mentioned in paragraph 7(b), and the term of office of a councillor does not subsist throughout the period mentioned in paragraph 7(b)(i), the entitlement of any such councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that paragraph) as bears to the whole the same proportion as the number of days during which his/her term of office as a councillor subsists bears to the number of days in that period.
- (e) Where a councillor has, during part of, but not throughout, a year such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he or she has such special responsibilities bears to the number of days in that year.
- (f) Where this scheme is amended, as mentioned in paragraph 7(b), and a councillor has, during part, but does not have throughout, the whole of any period mentioned in paragraph 7(b)(i) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

## **8 Travelling and Subsistence (Schedule 2)**

- (a) Members can claim travelling expenses for travelling outside of the Borough on official Council business as set out in Schedule 2.
- (b) Members can claim subsistence expenses on official Council business when outside of the Borough as set out in schedule 2.

## **9 Claims and payments**

- (a) Payments shall be made in respect of basic and special responsibility allowances, subject to paragraph 8(b), in instalments of one-twelfth of the amount specified in this scheme on the last working day of each month.
- (b) Where a payment of one-twelfth of the amount specified in this scheme in respect of a basic allowance or a special responsibility allowance would result in the councillor receiving more than the amount to which, by virtue of paragraph 7, he or she is entitled, then payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.
- (c) Payments in respect of Travel and Subsistence shall be made to the councillor on receipt of a claim form with supporting receipts/vouchers. Claims must be made within three months of the claim arising.

## **10 Pension Scheme**

No Member in the scheme is entitled to apply for inclusion in the Pension Scheme.

## **11 Financial Limits**

The Chief Finance Officer will arrange for the budget for members allowances to be monitored to ensure that budgetary issues are reported to Members.

- (a) Increases in Allowances

Basic Allowances as quoted will be updated for 2020/21 by any 2020/21 increases as agreed under the annual Local Government Pay Settlement of the Joint Negotiating Committee for Chief Officers of Local Authorities or its replacement under the local pay agreement. The amounts so calculated are to be rounded up to be divisible for payment purposes.

The amended basic allowance will be found on the Internet once any annual % uplifts have been agreed.

The Travelling and Subsistence allowances will be increased in line with the increase in officer rates.

- (b) Suspension of Basic and Special Responsibility Allowance



Where a Member is suspended, or partially suspended, from his/her responsibilities or duties as a Member of the Authority in accordance with Part III of the Local Government Act 2000, or Regulations made under that part, the part of Basic and Special Responsibility allowance payable to him/her in respect of the period for which he is suspended or partially suspended will be withheld by the Authority..

## 12 **Mayor and Deputy**

The Mayor and Deputy Mayor's allowance covers the cost of all Mayoral activities such as clothing, personal expenses and sundry expenses –including items such as raffle tickets, sponsorship and donations.

The Mayor and Deputy Mayor will be responsible for all such payments via the SRA, which will be taxed. The Council will meet the cost of:

- Havering Civic receptions, award pins and certificates at the civic award ceremony;
- Medals, certificates and frames in the event of there being any ceremony associated with Honorary Alderman/Freeman of the Borough awards;
- Gifts given on behalf of the Council in reciprocation or gifts initiated by the Council for promotional purposes;
- Postage costs and all costs associated with the Mayoral transport, robes etc.

## 13 **Co-Optees and Independent Persons' Allowances**

The standard rate of allowance for statutory co-optees is £119 per meeting attended.

The Independent Person for standards of Members' Conduct will be paid an annual allowance of £1,000, in monthly instalments.

*Co-optees and Independent Persons* will be reimbursed for all travel costs in accordance with the above, whether the travel is within or outside the Borough, but will not be paid subsistence.

## 14 **Note**

- (a) The Council is required to keep a record of the payments made by it in accordance with this scheme.
- (b) The record is required to be available for inspection at all reasonable times free of charge by any local government elector for the borough who may make a copy of any part of it.
- (c) The Council is also required to arrange publication of the total sums paid in each year to each member in respect of basic and special responsibility allowances.
- (d) The Council is required to arrange publication of the Scheme when approved.

Category of Allowance	Amount Per Member £
<b>Basic Allowance</b>	10,412
<b>Special Responsibility Allowances:</b>	
Leader of the Council	40,000
Deputy Leader of the Administration	27,000
Cabinet Members	25,000
Leader of Principal Opposition	12,000
Leader of Minority Opposition Groups	2,500
Mayor	12,000
Deputy Mayor	6,000
Overview and Scrutiny Board Chairman	10,000
Overview and Scrutiny Sub-Committee Chairmen	7,500
Licensing and Strategic Planning Committee Chairmen	7,500
Audit, Governance, Pensions and Planning Committees Chairmen	5,000

**NOTES:** The basic allowance can be uplifted each year in accordance with paragraph 11.

## Schedule 2: Travel and Subsistence

Travelling expenses can only be claimed for travel outside of the borough on official Council business. The rules and entitlements for reimbursement of travel outside the Borough are the same as those for officers.

Subsistence allowances are only payable for official Council business outside the borough where the duties entail an overnight stay or working outside 'normal office hours'. Members will be reimbursed actual expenditure incurred up to the maximum of the rates set for officers.

Allowances are payable on the basis of expenditure incurred and receipts must be submitted to support claims for subsistence allowances and travel costs.

Travel and subsistence arrangements for key events will be set in line with the above. Taking account of the practicalities of arrangements however, these will be set out and documented by the Chief Finance Officer, prior to each event and be agreed with the Cabinet Member for Finance and Property.

# The Senior and Corporate Leadership Team



**Andrew Blake-Herbert**  
Chief Executive

Tel: 01708 432201  
andrew.blake-herbert@havering.gov.uk



- Click on a director's photo below to see their team
- When on the team pages – hover over each face to see their job descriptions
- Then click on the Havering logo to return here

- Click on oneSource logo to go to their team's page



**Mark Ansell**  
Director of Public Health

Tel: 01708 431818  
mark.ansell@havering.gov.uk

- Health Protection, Disease Prevention & Health Promotion
- Reduction of Health Inequalities
- Population Health Intelligence
- Advice to NHS on Clinical Commissioning
- Sexual Health
- Drugs & Alcohol
- Public Mental Health
- Children's Public Health Services



**Barry Francis**  
Director of Neighbourhoods

Tel: 01708 433198  
barry.francis@havering.gov.uk

- Planning Development Control
- Building Control
- Transport Planning
- Bereavement & Registration
- Business Services
- Waste & Public Realm
- Highways, Parking & Traffic
- Enforcement & Safety
- Public Protection & Licensing
- Air Quality



**Sandy Hamberger**  
Director of Policy, Strategy and Transformation

Tel: 01708 434506  
sandy.hamberger@oneSource.co.uk

- Corporate Policy, Vision & Corporate Plan
- Transformation
- Business Insight, Performance & PMO
- Corporate Employment & Skills and Havering Works
- Community Development
- Community Resilience (includes Emergency Planning, HVC & CAS)
- Equalities & Diversity
- Corporate Projects
- Climate Change Programme
- Overview & Scrutiny Statutory Officer
- Executive Support



**Dave McNamara**  
Statutory Section 151 and Chief Financial Officer

Tel: 0203 373 7645  
dave.mcnamara@oneSource.co.uk

- Lead Officer for one source services:
- Asset Management
- Exchequer & Transactional Finance
- HR & Organisational Development
- Legal & Governance
- Procurement
- Technology & Innovation
- Section 151 Officer
- Business Partnering
- Financial Strategy
- Pensions & Treasury
- Corporate Business Systems
- Risk Management & Insurance
- Financial Controls
- Internal Audit & Counter Fraud



**Barbara Nicholls**  
Director of Adult Services

Tel: 01708 433069  
barbara.nicholls@havering.gov.uk

- Adult Services
- Older People
- Learning Difficulties
- Mental Health
- Physical Difficulties
- Personalisation of Adult Social Care
- Prevention & Reablement
- Safeguarding



**Gareth Nicholson**  
Director of Partnerships and Organisational Development

Tel: 01708 431375  
gareth.nicholson@havering.gov.uk

- Chair of Safety Advisory Group
- Corporate Leadership Team Development
- Staff Surveys People Strategy
- Culture, Customer and Communications



**Patrick Odling-Smee**  
Director of Housing Services

Tel: 01708 434607  
patrick.odling-smee@havering.gov.uk

- Housing Operations & Estates
- Housing Property Services
- Housing Demand including homelessness
- Supported Housing including telecare
- Housing Strategy, Policy & IT



**Robert South**  
Director of Children's Services

Tel: 01708 434 412  
robert.south@havering.gov.uk

- Early Help & Children's Centres
- Safeguarding Children
- Children in Care
- Fostering & Adoption
- Principal Social Worker & Social Care Academy
- Quality Assurance & LADO
- Schools, Education & Early Years
- Education Inclusion & Support
- Education, Quality & Effectiveness
- Education Traded Services
- Integrated Adolescent Safeguarding
- Youth Offending Service
- Youth Services



**Neil Stubbings**  
Director of Regeneration

Tel: 01708 432970  
neil.stubbings@havering.gov.uk

- Regeneration
- Business Retention & Growth
- Inward Investment
- 3 Joint Venture Partnership
- Mercury Land Holdings

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