

### **3 Functions delegated to staff**

- 3.1 General provisions and limitations
- 3.2 Powers of the Chief Executive
- 3.3 Powers of members of the Senior Leadership Team
- 3.4 Powers of Second Tier Managers
- 3.4A Powers of Third Tier Managers
- 3.5 Functions relating to the Children's Services Directorate
- 3.6 Function relating to the Adult Services and Health Directorate
- 3.7 Functions relating to the Chief Operating Officer Directorate
- 3.8 Functions Relating to the Neighbourhood Directorate
- 3.9 Functions relating to the OneSource group of services
- 3.10 Statutory Officer functions

#### **3.1 General provisions and limitations**

- (a) Staff shall exercise powers under this scheme in compliance with:
  - (i) the rules of procedure set out in Part 4 of this constitution
  - (ii) corporate policies and strategies
  - (iii) any additional conditions imposed either by the Council or by statute or any statutory code of practice.
- (b) The exercise by staff of the powers delegated under this constitution involving the incurring of any expenditure is subject to there being sufficient approved provision within the budget to cover that expenditure.
- (c) A staff member exercising a decision-making power delegated under this constitution may consult with the Leader of the Council, with the relevant individual Cabinet member or with the Chairman of the relevant committee, as appropriate, when the staff member considers such consultation necessary or appropriate in light of the decision required.
- (d) A staff member may refer any matter within a delegation or authorisation to them to the Leader of the Council, the Cabinet, the relevant individual Cabinet member or to an appropriate Council committee or sub-committee for decision provided that the matter is within the delegated powers and duties of whom or to which it is referred
- (e) Where functions of a post are transferred to another post the delegated powers which attach to the transferred function shall also transfer to the other post.

- (f) A member of the Senior Leadership Team (SLT), or a Second Tier Manager may authorise any Third Tier Manager or more junior manager in their line management to exercise any of the powers delegated to them under this constitution in relation to the service which that manager manages, in so far as is legally permissible. Any such authorisation must be:
  - (i) recorded in writing; and
  - (ii) lodged with the Monitoring Officer who will keep a public record of all such delegations.

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

- (g) From time to time the Chief Executive may assign Second Tier Managers to the other members of SLT. Each SLT Director shall have all the powers and duties delegated to the Second Tier Managers assigned to them, so far as legally permissible.
- (h) The Chief Executive or any other SLT member is authorised to discharge the relevant functions of the Council where:
  - (i) the matter is of minor importance, whether urgent or not and/or
  - (ii) as a matter of urgency in other cases, it is necessary that action should be taken before the date of a meeting of a body in whom the power of decision rests
- (i) In the following delegations, “the relevant Cabinet Member” means the Leader of the Council or another Cabinet Member to whom the Leader has assigned a portfolio or otherwise delegated authority to act in relation to that matter.

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

- (a) To exercise authority over all other SLT members and Second Tier Managers including allocating SLT portfolios and from time to time assigning Second Tier Managers to particular SLT members.
- (b) To exercise the powers delegated to any member of staff so far as the law allows.
- (c) 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.
- (d) To undertake those functions assigned under:
  - (i) Part 3, section 4 of this constitution: functions not to be the responsibility of an authority’s Executive

- (ii) Part 3, section 5 of this constitution: local choice functions.
- (iii) Part 3, section 6, of this constitution: Proper Officer functions
- (e) To authorise activities under the Regulation of Investigatory Powers Act 2000
- (f) To exercise the following Local Authority Gold resolution approved on 19 April 2006:
  - (i) This resolution is made in accordance with section 138 Local Government Act 1972, section 101 Local Government Act 1972, section 19 Local Government Act 2000, Regulations 7 and 10 Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and all other enabling powers. The resolution has regard to “Emergency Response and Recovery” the non-statutory Guidance issued pursuant to the Civil Contingencies Act 2004.
  - (ii) As from the date of this resolution the Council’s functions under section 138(1) Local Government Act 1972 (Powers of principal councils with respect to emergencies or disasters) are delegated to the Council which has appointed the Head of Paid Service as defined in paragraph 3 below in the circumstances set out below.
  - (iii) The Head of Paid Service is the person appointed by one of the Councils under section 4 Local Government and Housing Act 1989 who, following the convening of the Strategic Co-ordinating Group (“Gold Command”) to respond to an incident requiring a “Level 2” response (as defined in paragraph 4 below) has agreed to discharge the functions under section 138(1) Local Government Act 1972 (“the functions”) on behalf of the Councils.
  - (iv) An emergency requiring a Level 2 response is a single site or wide-area disruptive challenge which requires a co-ordinated response by relevant agencies.
  - (v) The functions hereby delegated shall not be exercised until resolutions delegating the functions have been made by all the Councils.
  - (vi) The powers hereby delegated to the Council which has appointed the Head of Paid Service shall not include any power to incur expenditure or to make grants or loans to any person unless either:
    - (a) the Head of Paid Service has received confirmation from the Minister that expenditure reasonably incurred by the Head of Paid Service in taking immediate action to safeguard life or property or to prevent suffering or severe inconvenience will be reimbursed by HM Government; or

- (b) the Head of Paid Service has received confirmation on behalf of the Council(s) in whose area(s) the incident has occurred that expenditure reasonably incurred by the Head of Paid Service in taking immediate action to safeguard life or property; to prevent suffering or severe inconvenience and to promote community cohesion and a return to normality, will be met by the Council (or the Councils in proportions to be agreed by them).
- (vii) In discharging the functions, the Head of Paid Service shall, insofar as reasonably practicable, consult with and inform any Council whose area is affected by the emergency regarding any action proposed to be taken in that Council's area
- (g) 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.
- (h) 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.

### **3.3 Powers of Members of the Senior Leadership Team**

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

#### **General powers**

- (a) To take any steps necessary for proper management and administration of allocated portfolios.
- (b) To exercise all the powers delegated to them personally and those powers delegated to Second Tier Managers and other staff members in their directorate where circumstances require and so far as legally permissible. Exercise of such powers should be recorded where appropriate. Where possible, a SLT member should give notice to a relevant staff member that he or she intends to exercise a specified power that is delegated to that staff member.
- (c) To make arrangements to secure continuous improvement in the way the Council's functions are exercised having regard to a combination of economy, efficiency and effectiveness etc as required by external regulatory agencies.
- (d) To monitor the progress within their Directorates of national and other performance indicators against agreed targets.

- (e) To restructure within existing service budgets and/or if budgetary provision is already made in the budget.
- (f) Each member of SLT shall ensure that the rules of procedure set out in Part 4 of this constitution are observed throughout their service.

### **Human resource powers**

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

### **Financial responsibilities**

- (a) To incur expenditure within the revenue and capital budgets for their allocated portfolio as approved by the Council, or as otherwise approved, subject to any variation permitted by the Council's contract and financial procedure rules.
- (b) To oversee the delivery of programmes agreed by Council and Cabinet.
- (c) In consultation with the relevant Cabinet Member to apply for, accept and manage external funding up to a limit of £500,000 per grant in support of any function within their Directorate provided that any financial contributions by the Council are made from within existing budgets.
- (d) 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.

### **Contract powers**

- (a) To approve commencement of a tendering process for all contracts above a total contract value £500,000.
- (b) To award all contracts with a total contract value of between £500,000 and £5,000,000 other than contracts covered by Contract procedure Rule 16.3.
- (c) To sign contracts on behalf of the Council which do not require sealing under paragraph 4 of Article 10 of this constitution.

## **3.4 Powers of Second Tier Managers**

**Second Tier Managers are those managers directly reporting to a SLT Director. Second Tier Managers all have delegated authority to act as follows within the assigned service, subject to the general provisions and limitations set out in section 3.1 above.**

## **General powers**

- (a) To take any steps necessary for proper management and administration for their allocated portfolios.
- (b) To exercise all the powers delegated to relevant staff members where circumstances require, so far as legally permissible. Exercise of such powers should be recorded. Where possible, a Second Tier Manager should give notice to a relevant staff member that he or she intends to exercise a specified power that is delegated to that staff member.
- (c) To manage buildings and facilities under their control including letting, hiring or otherwise permitting the use of such premises and property for occasional purposes and to dispose of obsolete, worn out and surplus stores, equipment and vehicles, ensuring that value for money is obtained on all asset disposals
- (d) To be responsible and accountable for all health and safety matters.
- (e) To monitor the progress within their Service of national and other performance indicators against agreed targets.
- (f) To apply for statutory consent, e.g., planning permission.
- (g) To undertake consultation with the Council's customers and relevant stakeholders, in accordance with the Council's consultation procedures, in order to establish:
  - (i) levels of customer satisfaction with the Council's services
  - (ii) the public and stakeholders' responses to consultation documents, strategies and surveys.

## **Human Resource powers**

To exercise responsibility for all human resource matters within their service, providing that the following requirements are met:

- (a) all decisions must be taken in accordance with human resource policies
- (b) all appointments to permanent posts must be within the approved establishment and be appointments to an identifiable vacant post and all appointments to temporary posts must be within existing service budgetary provision
- (c) the creation of a new post outside of the Council's organisational change process requires the agreement in writing or by e-mail of
  - (i) the relevant Director for a post up to PO7 or

- (ii) the relevant Director and the Chief Executive of the Council for a post above PO7

such agreement to be given or withheld within seven working days of being sought

- (d) suspension and dismissal of employees must be undertaken in accordance with the Council's procedures
- (e) a notice of compulsory redundancy to individual employees where all options for redeployment have been exhausted must be issued in accordance with the Council's procedures
- (f) payment of allowances in accordance with the "Croydon Scheme" to staff injured in the course of their duties must be made in consultation with Head of Shared Services or otherwise in accordance with the oneSource delegations.
- (g) to approve applications for leave for trade union conferences and training courses in consultation with the Head of Shared Services
- (h) to approve payment of claims by employees for loss or damage to property and clothes up to the limit specified from time to time otherwise payment must be made in consultation with the appropriate Director under the oneSource Scheme of Delegations to grant permission for employees to undertake outside work or duties whether paid or unpaid subject to there being no conflict of interest
- (i) to approve honoraria payments in consultation with the Director of HR or otherwise in accordance with the oneSource delegations.

### **Financial responsibilities**

- (a) To incur expenditure within the revenue and capital budgets for the relevant service as approved by the Council, subject to any variation permitted by the Council's contract and financial procedure rules.
- (b) To implement any approved financial programme, including the authorisation of expenditure and procurement of goods and services.
- (c) To implement approved fees, charges, rents etc. and to ensure that proper arrangements exist for their collection.
- (d) In consultation with the relevant Cabinet Member, to apply for, accept and manage external funding up to a limit of £250,000 per grant in support of any function within their service provided that any financial contributions by the Council are made from within existing budgets.

### **Contract powers**

- (a) To approve commencement of a tendering process for, and to award all contracts below a total contract value of £500,000 but above the EU Threshold for Supplies and Services.
- (b) To sign contracts on behalf of the Council which do not require sealing under paragraph 4 of Article 10 of this constitution.

### **3.4A Powers of Third Tier Managers**

Third Tier Managers are managers who report directly to a Second Tier Manager

- (a) To hear and determine disciplinary hearings of more junior staff including those involving accusations of gross misconduct
- (b) To hear and determine grievance hearings.

### **3.5 Functions relating to the Children's Services Directorate,**

This section covers the following members of staff:

3.5.1 Director of Children's Services

3.5.2 Assistant Director for Children's Social Care

3.5.3 Assistant Director for Education Services

**Each member of staff listed has delegated authority to act as follows, subject to the general provisions and limitations set out in section 3.1 of Part 3 of this constitution. In relation to the Director role these delegations are in addition to the broad delegations of functions pertaining to this portfolio set out in 3.3 above.**

#### **3.5.1 DIRECTOR OF CHILDREN'S SERVICES**

- (a) To act as the Council's Statutory Director of Children's Services
- (b) To exercise the Council's functions regarding the procedures for dealing with complaints and representations relating to Children's Social Services.
- (c) On behalf of the Council, to institute and conduct proceedings under any enactments or any statutory instruments relevant to those enactments in respect of Children and Young People.
- (d) To appoint school governors on behalf of the Council on the recommendation of the Governor Panel.
- (e) To exercise all the Council's powers and duties acting as the local social services authority so far as they relate to children and young people and



the local education authority, except for those matters reserved to other bodies within the constitution.

- (f) To undertake the powers and duties of the Council as an Adoption Agency and to act as “Decision Maker” in that capacity.
- (g) To maintain strategic oversight of the use and development of ICT for Children’s Services
- (h) To make any necessary determinations and to implement, if appropriate, formal guidance and directions or orders given by:
  - (i) the Secretary of State
  - (ii) the Department for Children, Schools and Families
  - (iii) OFSTED
  - (iv) any other regulatory or judicial body as contained in circulars, directives, codes of practice, orders of court or any other tribunal. This includes the collation and provision of information.

### **3.5.2 ASSISTANT DIRECTOR CHILDREN’S SOCIAL CARE**

- (a) To authorise the payment of legal fees for adopters where legal representation is necessary and there is no possibility of legal aid being allowed, and to authorise the payment of medical fees in connection with adoption, in appropriate circumstances.
- (b) To exercise the powers of the Council under the Adoption Act 1976, Adoption and Children Act 2002 and the Children Act 1989, including the approval of adoptive parents and the placement of children for adoption together with any necessary expenditure.
- (c) To supervise and review children in the care of the Council including the giving of any necessary consents.
- (d) To approve the payment of allowances to foster carers and other approved carers.
- (e) To approve care packages formulated to meet the assessed needs of individual children in accordance with the approved care plan.
- (f) To carry out all the powers and duties of the local authority under the Children Act 1989 (including urgent powers and duties) and to act as Receiver of the Court of Protection.
- (g) Where required, to provide consent to applications by foster parents for residence orders made under the Children Act 1989.
- (h) To exercise the powers and duties of the Council in respect of children and young persons in their care including the power to place children and young persons in any accommodation within or outside the borough, to meet their special needs and to appoint independent persons as visitors.

- (i) To arrange investigations to safeguard and promote the welfare of children within the borough who are or may be in need or who are looked after by the Council, including children subject to care, interim or supervision orders and those accommodated under the Children Act 1989.
- (j) On behalf of the Council, to exercise parental responsibility as considered appropriate in respect of any children in care.
- (k) To arrange for statutory visits to the place of accommodation of children looked after by the Council in order to enable parents, guardians, relatives or appointed visitors to visit such children, and to authorise expenditure incurred for the purpose of visiting a child looked after by the Council.
- (l) To authorise the payment of appropriate allowances (in accordance with approved procedures and scales) to foster parents of children in their care, prospective adopters and persons undertaking the long-term care of children.
- (m) To authorise the provision of financial assistance to children and young people in care and leaving care and to approve expenditure of the sums specified under sections 17 and 24 of the Children Act 1989, in each case up to the limit specified from time to time by the Chief Operating Officer
- (n) To make grants and/or loans to children and their relatives, up to the limit specified from time to time by the Chief Operating Officer; otherwise payment must be made in consultation with the Chief Operating Officer. To authorise and administer conditional grants to foster carers in order to provide suitable accommodation standards for foster children up to a maximum sum approved by the Council.
- (o) To give rent guarantees for families in danger of eviction.
- (p) To carry out reviews for the purposes of the Secure Accommodation Regulations 1983.
- (q) To make grants and/or loans to children and their relatives. This function must be exercised in accordance with the maximum limit specified by the Chief Operating Officer from time to time and with agreed procedures.
- (r) To approve the making of payments for the assistance of children in need, or of their families, in accordance with Part III of the Children Act 1989, including where the amount involved exceeds the sum specified by the Chief Operating Officer from time to time in any one case in any period of twelve consecutive calendar months
- (s) To administer arrangements for the care of children and young persons.
- (t) To instruct the Director of Legal and Governance to act on behalf of children in the care of the local authority should they personally be willing and able to accept instructions.

- (u) To take or defend proceedings in any court in connection with children and young persons (after consultation with the Director of Legal and Governance).
- (v) To exercise the Council's powers and duties under the Nationality Immigration and Asylum Act 2002.

### **3.5.3 ASSISTANT DIRECTOR OF EDUCATION SERVICES**

#### **Youth service**

- (i) To arrange for the provision of a youth service including establishing, maintaining and managing youth clubs, youth centres, camps and holiday clubs, playing fields, play centres and other facilities for vocational, recreational, social and physical training and organised leisure time occupation associated with education for persons receiving primary, secondary and further education
- (ii) To prepare a Youth Service plan to submit to the Secretary of State to review and modify the plan as necessary and arrange for the publishing and implementation of the plan.
- (iii) The Assistant Director may also provide support to voluntary bodies providing facilities of a similar character subject to a financial limit of £1,000.
- (iv) To maintain the process whereby proposed educational visits by the Youth service are properly risk assessed at the appropriate level and that training is provided for those assessing such risks. To adequately monitor risk assessments to assure basic standards of performance.

#### **Special Educational needs**

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

- (i) arranging for assessments and reviews to be undertaken by educational psychologists
- (ii) administering all aspects of the process of assessment, the making of statements of special educational needs, maintaining and reviewing the content of the statements, making any necessary amendments or additions or cessation and transfer
- (iii) making any necessary determinations in relation to assessment, statements of special educational needs, reviews or cessation and transfer
- (iv) arranging for the provision of appropriate educational and non-educational services to meet such children's needs

- (v) representing the Council in any proceedings brought against the Council in a Special Educational Needs Tribunal, or nomination of an officer to act on his/her behalf.
- (vi) arranging for the supply of services relating to special educational needs to governing bodies of schools and determining charges for such supply

## **Education**

- (a) To determine, maintain and keep under review a policy on the payment of fees, expenses of board and lodging and any other grants, exhibitions, bursaries and allowances to pupils and other eligible students. To make arrangements for the implementation of such a policy and to make any necessary determinations relating thereto.
- (b) To determine, maintain and keep under review a policy on the provision of clothing to pupils and other eligible students.
- (c) To make arrangements to provide clothing for pupils and other eligible students qualifying for such assistance and to make any necessary determinations in relation thereto.
- (d) To be responsible for organisational development across Children's Services and in conjunction with the Chief Operating Officer, ensure effective arrangements exist within the service for the provision of professional development and information management.
- (e) Provide a Research & Development function across Children's Services to ensure the needs of the Directorate and its partners are met in areas of common concern.
- (f) Making claims for recouping expenditure on educational and other support from other authorities where necessary, agreeing with other authorities the amount that ought to be received, dealing with claims from other authorities including agreement as to the amount of reimbursement and referring (and dealing with) any disputes to the Secretary of State for determination. This function also applies to pupils receiving education in hospital.

## **LEA**

To exercise all the powers and duties of the Council acting as Local Education Authority as they relate to the general matters listed in the functions below -

- (g) To exercise strategic oversight and supervision of Schools' HR Services, and to
  - (i) act in relation to the recruitment, appointment, employment, discipline and termination of employment of teaching and support

staff in schools, including payroll, pensions and nominations of prospective staff, and to advise governing bodies on such matters;

- (ii) nominate specific officers to advise governing bodies.
- (h) To arrange for the provision of or assistance in the conducting of research and to organise, administer and participate in conferences for the consideration of educational issues.
- (i) Maintained Schools
- (i) To make all necessary arrangements for the drafting, making and amendment of Instruments of Government in maintained schools.
  - (ii) To act as follows in relation to the suspension of a delegated budget at a maintained school –
    - (a) making any necessary determinations
    - (b) conducting all relevant consultation and take any other necessary action including the service of notices and the appointment of additional governors to the governing body.
- (p) Governing Bodies
- (i) To make all the necessary arrangements for elections of governors to the governing bodies of schools and of parent governors to the relevant Overview and Scrutiny Sub-Committee.
  - (ii) To oversee the proceedings and conduct of governing bodies of schools and annual parents' meetings including requesting minutes, proffering appropriate advice and giving directions.
  - (iii) To advise governing bodies of schools, issue any reports, notices or directions and make any necessary decisions on or in relation to -
    - (a) any personnel issues, including the selection, recruitment, appointment, discipline, performance or dismissal of head teachers, deputy head teachers, teachers and school support staff;
    - (b) the government of a school.
- (q) To formulate, maintain, review and administer a scheme for paying allowances to governors of schools without delegated budgets.
- (r) To act on matters relating to curriculum, including -
- (i) giving advice

- (ii) taking such action as is necessary to ensure that the curriculum within each maintained school (including religious education) complies with legislative requirements and is effectively delivered.
  - (iii) To act on matters relating to school performance, including -
    - (i) providing advice, issuing notices and directions on performance, school leadership, management and pedagogy.
    - (ii) administering a base line assessment scheme.
    - (iii) using statutory powers of intervention when a school is failing.
- (s) To exercise Local Authority functions so as to secure participation in the daily collective worship required in schools.
- (t) To arrange a complaints procedure for dealing with complaints concerning:
  - (i) the basic curriculum
  - (ii) the national curriculum
  - (iii) religious education
  - (iv) collective worship
  - (v) Standing Advisory Committee on Religious Education (SACRE)
  - (vi) external qualifications or syllabuses
- (u) To formulate, determine, publish, maintain and review a disability statement relating to further education.
- (v) To act as follows in respect of children who are not attending school regularly:
  - (i) arranging for assessments of the education being provided to them
  - (ii) making any necessary determinations in relation to the education of such children
  - (iii) taking any necessary action to promote the attendance of such children at school including designation of premises and notification to the relevant Police authority under section 16 of the Crime and Disorder Act 1998, service of notices and school attendance orders, bringing and conducting applications for education supervision orders in the Family Proceedings Court and bringing and conducting prosecutions against parents.
- (w) To act as follows in respect of children under 16 who intend to or do take part in public performances:
  - (i) administering the process of licensing

- (ii) making any necessary determinations relating to the granting of licenses
  - (iii) taking any necessary action to enforce the provisions of the relevant legislation including the authorisation of appropriate legal proceedings.
- (x) To act as follows in respect of school pupils who are employed:
  - (i) arranging for assessment and investigation of the suitability of such employment
  - (ii) making any relevant determination and taking any necessary action to ensure that such pupils are not employed unsuitably, including serving notices and authorising legal proceedings.
- (y) To act as follows in respect of admission arrangements and admission numbers for schools:
  - (i) administering any necessary consultation and the admission process generally
  - (ii) making any determination as to the admission arrangements, admission numbers and any reviews, and amendments to any of these matters
  - (iii) advising governing bodies
  - (iv) objecting to admission arrangements determined by governing bodies
  - (v) publicising these arrangements
  - (vi) giving relevant notices and directions to admit children to specific schools
  - (vii) representing the Council, or nominating an officer to do so, at the Admission Appeals Panel and the Appeals Panel, in relation to directions to admit a “twice excluded” pupil.
- (z) To act as follows in respect of pupils excluded from schools:
  - (i) dealing with generally, including assessing pupils, advising governing bodies and convening reintegration panels to prepare plans for pupils and parents
  - (ii) representing the Council at any hearing before a School Disciplinary Committee or an Exclusions Appeal Panel or nominating an officer to do so
  - (iii) arranging for the provision of education for such pupils at a pupil referral unit or otherwise.
- (aa) To make arrangements to provide education to children or young people under 18 who may not receive suitable education at school at pupil referral units, through home tuition or otherwise.

- (bb) To manage all aspects of pupil referral units' activities including:
  - (i) establishing a management committee
  - (ii) preparing policies relating to admissions, curriculum, behaviour and a complaints procedure
  - (iii) excluding pupils
  - (iv) providing careers advice
  - (v) making any necessary determinations as to the opening or closing of a pupil referral units.
- (cc) To prepare, review and publicise a behaviour support plan in conjunction with the Behaviour and Attendance Partnership.
- (dd) Transport
  - (i) To determine, maintain and keep under review a policy on transport arrangements for school pupils and other eligible students.
  - (ii) To make arrangements for the provision of transport or otherwise to facilitate attendance of children, pupils and other eligible students at schools and other education institutions and to make any necessary determinations.
- (ee) To determine and take any other relevant action in relation to the dates of school terms and holidays and to determine who is to be regarded as a parent of a registered pupil at a school when a governing body takes action to determine the times of school sessions.
- (ff) To act as follows in relation to the children of travellers and displaced persons:
  - (i) making arrangements to provide education, assistance, advice and counselling
  - (ii) providing advice and training for schools and staff.
- (gg) Board and lodging
  - (i) To determine, maintain and keep under review a policy on the provision of board and lodging to pupils and other eligible students.
  - (ii) To make arrangements to provide board and lodging for pupils and other eligible students whose educational needs make this necessary and to make any necessary determinations relating thereto.
- (hh) To authorise the institution of a prosecution against the parent for breach of section 525 of the Education Act 1996.



- (ii) To arrange for the establishment and maintenance of an early years development partnership.
- (jj) To prepare a Childcare Quality and Sufficiency Plan, to review and modify the Plan as necessary and to arrange for the publishing and implementation of the Plan.
- (kk) To make arrangements for the provision of nursery education.
- (ll) To undertake those functions assigned under Part 3, section 4 of this constitution: functions not to be the responsibility of an authority's Executive
- (mm) School organisation, funding and governance
  - (i) Advise on all aspects of school organisation, governance and relationships including Federations and Trusts and arrangements for commissioning.
  - (ii) Respond formally to proposals by schools for organisational or governance change.
  - (iii) Keep under review school organisation, including monitoring demographic and other social changes and to take all necessary action and make any determinations in relation to the proposals for the establishment, alteration, amalgamation or discontinuance of schools.
  - (iv) Maintain and review the asset management plan for schools.
  - (v) Make arrangements for the provision of all necessary services and assistance, including expenditure, in relation to the maintenance of school premises.
  - (vi) To control and manage any premises or land held for educational purposes, including taking all necessary action to exclude persons if the circumstances warrant it.
  - (vii) To act as follows in relation to the occupation and use of school premises:
    - (a) considering and determining whether any directions are necessary
    - (b) preparing and serving any such directions and taking any other appropriate action.
  - (ix) To formulate, consult upon, determine, maintain and review a scheme for the allocation of budget shares to each maintained school and for the financing of such schools.

- (x) To provide relevant advice and assistance and to make arrangements for the payment of the Local Authority's contribution in relation to capital works undertaken on school premises.
  - (xi) Represent the interests of the Council and act as lead Head of Service on the Schools Forum.
- (oo) Catering
- (i) Arrange for the provision of school meals and milk in schools Catering
  - (ii) To act as the responsible officer for all borough catering by:
    - (a) determining arrangements for managing in house catering options
    - (b) commissioning and advising on specifications for externally provided catering services
    - (c) providing expert contract management for externalised services
- (pp) Health and Safety
- (i) Exercise health and safety functions in relation to schools
  - (ii) To maintain the process whereby proposed educational visits by schools are risk assessed at the appropriate level and that training is provided for those assessing such risks and adequately to monitor risk assessments to assure basic standards of performance.

### **3.6 FUNCTIONS DELEGATED TO THE ADULT SERVICES AND HEALTH DIRECTORATE**

This section covers the following members of staff:

3.6.1 Director of Adult Services and Health

3.6.2 Director of Public Health

**Each member of staff listed has delegated authority to act as follows, subject to the general provisions and limitations set out in section 3.1 of Part 3 of this constitution. In relation to the Director role these delegations are in addition to the broad delegations of functions pertaining to this portfolio set out in 3.3 above**

#### **3.6.1 DIRECTOR OF ADULT SERVICES AND HEALTH**

- (a) To act as the Council's Statutory Director of Adult Social Services.

- (b) To exercise the statutory powers in respect of Adult Social Services as applicable and set out in the Local Authority Social Services Act 1970.
- (c) To exercise the Council's functions regarding the procedures for dealing with complaints and representations relating to Adult Social Services.
- (d) To determine grants and contracts with voluntary organisations across the spectrum of health and social care needs.
- (e) To approve travel abroad for vulnerable people in the Council's temporary or permanent care.
- (f) To make arrangements with or contributions to other local authorities or voluntary or private organisations providing accommodation or premises.
- (g) To ensure that all provisions of the Section 75 Agreement (National Health Services Act 2006) for the delivery of Learning Disability services are fully implemented and complied with.
- (h) To ensure that all provisions of the Section 75 Agreement (National Health Services Act 2006) between the Council and North East London Foundation Trust (or any NHS provider offering mental health services) for the delivery of mental health services are fully implemented and complied with.
- (i) To enter into contracts for the provision of residential and other care services to individuals pursuant to the community care provisions of the Care Act 2014. Such a contract must be entered into in accordance with existing care standards and service specifications.
- (j) To accredit service providers
- (k) To manage Adult Social Care grants as appropriate, including the use and application of grants and delivery of the programme in accordance with the grant conditions and strategy.
- (l) To exercise the Council's duties pursuant to the Data Protection Act 1998 and associated Regulations.
- (m) To determine grants and contracts with voluntary organisations across the spectrum of health and social care needs.
- (n) To be responsible for organisational development across Social Care and in conjunction with the Chief Operating Officer, ensure effective arrangements exist within the service for the provision of professional development and information management.
- (o) To prepare all relevant financial statements, analysis, reports and arrangements required for the pooling of expenditure under the NHS Act 2006

- (p) To assess and determine contributions required for services, to reduce or waive such contributions in special circumstances and to take any appropriate steps to recover unpaid charges, including to institute and conduct proceedings to recover arrears of such contributions (after consultation with the Director Legal & Governance)
- (q) To exercise the powers and duties of the Council in relation to the powers and duties of the Council under Part II of the Mental Health Act 1983 (as amended 2007) in relation to the guardianship of persons suffering from mental disorder
- (r) To administer arrangements for the provision of services for disabled and older persons and their carers including placement in residential or nursing homes in the statutory or independent sector, home care, respite care, and any other appropriate care and support, pursuant to the Care Act 2014
- (s) To exercise the functions of Caldicott Guardian to ensure that where confidential personal information is shared it is done properly, legally and ethically.
- (t) To approve or refuse applications to be registered as physically disabled.
- (u) In special circumstances, to exceed the maximum personal allowance for community care services under the Care Act 2014
- (v) 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 Regulation; 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 Regulation; section 55 of the Health and Social Care Act 2001 and associated Regulation; section 34 of the Care Act 2014 and associated Regulations) against interests in property
- (w) In exceptional circumstances, to waive assessed contributions for adaptations to homes or provision of equipment, subject to the contribution not exceeding £1,000 or such other sum as may from time to time be fixed by the Council.
- (x) To make application to act, and to act, as deputy for finance and affairs for person who, for reason of mental disorder, are incapable of managing their own affairs, or to act as appointee for the receipt of DWP benefits
- (y) To decide whether to accept the conditional discharge of a patient detained either in hospital or on a restriction order.
- (z) To make arrangements for the burial or cremation of persons in accordance with the Care Act 2014 where no other arrangements have

been made, and to recover funeral expenses from the deceased's estate.

- (aa) To administer all arrangements including assessments, payments, refusals and termination with respect to the making of direct payments to people eligible to receive care and support including carers.
- (bb) To administer the issuing of concessionary travel permits (freedom passes) for disabled people to eligible persons
- (cc) To exercise the Council's powers and duties under the Nationality Immigration and Asylum Act 2002
- (dd) to make any necessary determinations and to implement, if appropriate, formal guidance and directions or orders given by –
  - (i) the Secretary of State
  - (ii) any other regulatory or judicial body

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

### **3.6.2 DIRECTOR OF PUBLIC HEALTH**

- (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) To provide assistance (including financial assistance) to help individuals to minimise risks to health arising from their accommodation or environment.
- (g) To provide or participate in the provision of training for persons working or seeking to work in the field of health improvement.
- (h) The exercise of the local authority function in the National Health Service Act 2006 as amended.
- (i) The planning for and responding to emergencies involving a risk to public health.
- (j) The liaising with the Commissioner of the Metropolitan Police and the local probation board on assessing and managing the risks posed by sexual and

violent offenders and other offenders who may cause serious harm to the public.

- (k) The medical inspection and treatment of pupils in attendance at schools maintained by the Council.
- (l) The provision of advice, examination and treatment of persons seeking advice on contraception and the supply of contraceptive substances and appliances.
- (m) To authorise Patient Group Directions on behalf of the Council

### **3.7 Functions relating to the Chief Operating Officer Directorate**

This section covers the following members of staff:

- 3.7.1 Chief Operating Officer
- 3.7.2 Assistant Director Transformation & Customer Services
- 3.7.3 Head of Communications
- 3.7.4 Assistant Director Policy, Performance & Community
- 3.7.5 Head of Joint Commissioning Unit
- 3.7.6 Registrars and Bereavement Services Manager \

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

In relation to the Director role these delegations are in addition to the broad delegations of functions pertaining to this portfolio set out in 3.3 above.

#### **3.7.1 CHIEF OPERATING OFFICER**

- (a) To act as the Section 151 Officer.
- (b) To manage the operation of the relevant Contract Service Organisations (CSOs) including marketing the CSOs
- (c) Develop commissioning capability across the Council and provide advice and guidance to operational services directors.
- (d) To develop Transformation and Programme Management capability across the Council.
- (e) To oversee the reporting of Performance across the Council.
- (f) To ensure the Council has an appropriate and robust approach to Emergency Planning.

### **3.7.2 ASSISTANT DIRECTOR TRANSFORMATION AND CUSTOMER SERVICES**

To client manage the contract for the provision of leisure services across the Borough.

- (a) To manage the Council's responsibilities in relation to the Queen's Theatre.
- (b) To approve externally funded arts projects undertaken by the Council, subject to regular report to the Cabinet.
- (c) To exercise the powers of the Council in relation to:
  - (i) managing, supervising and controlling public museums and art galleries, including acquiring museum exhibits and objects of art;
  - (ii) providing, managing, supervising and controlling exhibitions, displays, lectures, concerts and other events to promote the arts.
- (d) To implement the Public Libraries and Museums Act 1964.
- (e) To manage, supervise and control public libraries, library halls and related matters, including the acquisition of sound recordings, pictures, books, bibliographies and other matters.
- (f) To deal with the day-to-day management of the library service.
- (g) To manage, supervise and control the Havering Music School.
- (h) To administer the issuing of concessionary travel permits for elderly people to eligible persons.
- (i) To oversee the Council's relationships with its customers.

### **3.7.3 HEAD OF COMMUNICATIONS**

- (a) To authorise expenditure on the promotion of the Borough and the external profile of the Council and on internal communications and engagement with Council staff
- (b) To monitor performance and oversee the development of policy in relation to public information issues, including media relations, council publications, e-communications and public affairs.
- (c) To oversee campaigns, consultation exercises and events, and appropriate marketing of the Council's facilities.

- (d) To publicise activities of the Council, by means such as advertisements and information leaflets, where the Head of Communications considers an activity is of sufficient public interest to warrant such publicity.
- (g) To foster good relations with organisations and interests inside and outside the Borough.

### **3.7.4 ASSISTANT DIRECTOR POLICY, PERFORMANCE AND COMMUNITY**

#### **Emergency Planning**

- (a) To be responsible for all emergency planning matters.

### **3.7.5 HEAD OF JOINT COMMISSIONING UNIT**

No additional delegations

### **3.7.6 REGISTRARS AND BEREAVEMENT SERVICES MANAGER**

To exercise the Council's powers and duties under the Registration Service Act 1953 and any regulations made under it.

- (a) To exercise the Council's powers and duties under the Marriage Act 1984 and the Marriages (Approved Premises) Regulations 1995.
- (b) To exercise the powers of the Council to operate and maintain the Council's cemeteries and crematorium.
- (c) To set fees for occasional and special items at the cemeteries and crematorium and to vary fees when it has not been possible to meet the agreed service standard.
- (d) To spend up to 20 percent of the annual income of the Cemeteries and Crematorium Improvement from Income Fund and the Cemeteries and Crematorium Improvement Donation Fund.

## **3.8 Neighbourhoods Directorate**

This section covers the following members of staff:

- 3.8.1 Director of Neighbourhoods
- 3.8.2 Assistant Director, Housing
- 3.8.3 Assistant Director, Environment
- 3.8.4 Assistant Director Planning

**Each member of staff listed has delegated authority to act as follows, subject to the general provisions and limitations set out in section 3.1 of Part 3 of this constitution. In relation to the Director role these delegations are in addition to the broad delegations of functions pertaining to this portfolio set out in 3.3 above.**



### **3.8.1 DIRECTOR OF NEIGHBOURHOODS**

Responsible for services that shape the physical nature of the borough:

- (a) Travel and building planning
- (b) Developer engagement and regeneration
- (c) Delivery of clear and safe public realm
- (d) Housing provision in the borough
- (e) Social housing delivery
- (f) Regulatory Services
- (g) Licensing

### **3.8.2 ASSISTANT DIRECTOR HOUSING**

- (a) To exercise the Council's functions with regard to homeless persons.
- (b) To procure and/or manage temporary accommodation in support of the homeless function.
- (c) To exercise the Council's functions with regard to the right to buy scheme for council houses and flats and to authorise the sale of additional land to applicants under the right to buy scheme.
- (d) To allocate council accommodation and nominate applicants to properties owned by Registered Social Landlords (RSLs) and to administer the housing register and applications for transfer or exchange of tenancies.
- (e) To nominate and monitor RSL new-build within the East London Housing Protocol that has been provided by funding from the Homes & Communities Agency. is this still current
- (f) To determine the policy on the issuing of tenancies that are not secure as defined by the Housing Act 1985 (as amended).
- (g) To declare the "local average rate" for mortgage interest purposes, and appropriate to housing purposes "right to buy" monies sold under the general rate fund at the sale price. (In consultation with the Chief Operating Officer)
- (h) To undertake the following:
  - (i) submit the housing strategy to the Department for Communities & Local Government and /or its successor bodies.
  - (ii) determine levels of housing need, stock condition and market conditions to assist the Council to deliver the Council's Housing Strategy and the London Mayor's Housing Plan.

- (iii) draw up schemes in conjunction with Registered Social Landlords (RSLs).
  - (iv) pay social housing grants to RSLs on approved development schemes.
  - (v) To make house purchase advances:
  - (vi) Make demolition and closing orders, and service of repair notices
  - (vii) act under the Rent Acts or similar legislation protective of tenants' rights
  - (viii) manage and maintain any Council residential caravan site or sites for travellers
  - (ix) provide warden services to elderly people under powers derived from the Health Services and Public Health Act 1968, in respect of appropriate housing schemes.
- (i) To provide to the owners of a dwelling occupied by a physically disabled person all necessary professional and technical services required for the adaptation of premises, in line with Council policy. This includes:
- (i) engaging contractors in the name of the Council with suitable safeguards, provided that the contractors' services are limited to works necessary to meet the needs of the person concerned or are directly ancillary to those needs
  - (ii) carrying out the necessary inspections and authorising payments to the owner including the final certificate where a private consultant is engaged by such owner.
- (j) To approve grants or interest-free loans for adapting dwellings for the benefit of disabled people where there is no, or insufficient, entitlement to a disabled facilities grant or to minor works assistance, up to the limit specified from time to time by the Chief Operating Officer.
- (k) 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.
- (l) To exercise the Council's regulatory and enforcement functions in relation to housing in the area, as conferred under any enactment including Anti-social behaviour under the Crime and Disorder Act and the Anti-Social Behaviour Act. This includes:
- (i) taking all steps in connection with the issue or withdrawal of notices, orders or other documents which the Council is authorised or required to serve
  - (ii) selecting the most effective means of enforcement whether by agreement, works in default, prosecution or otherwise.

- (m) To exercise the Council's functions with regard to private housing sector renewal and to authorise house renovation grants, home insulation grants and other grants for the repair and adaptation and/or installation of amenities in dwellings.
- (n) To waive the repayment of improvement grants in appropriate cases (in consultation with the Chief Operating Officer).
- (o) To exercise all discretionary functions with regard to the repayments of Disabled Facilities Grants (in consultation with the Chief Operating Officer) pursuant to The Housing Grants, Construction and Regeneration Act 1996, The Disabled Facilities Grants (Maximum Amounts and Additional Purposes) (England) Order 2008 (SI 2008/1189 and The Housing Renewal Grants (Amendment) (England) Regulations 2008 (SI 2008/1190).
- (p) To deal with applications under Part XVI of the Housing Act 1985 for:
  - (i) repurchase assistance on the grounds that it would be unreasonable to require the applicants to await, or to secure, the carrying out of reinstatement works
  - (ii) grants of 100 percent where there would otherwise be financial hardship.
- (q) To approve the transfer of the tenancy and/or succession of a dwelling from one person to another, including the transfer of a tenancy to a surviving child or children of a former tenant, subject to such conditions may be reasonable and to the provisions of Part IV of the Housing Act 1985.
- (r) To provide support services for elderly and other vulnerable people (whether or not they are tenants of the Council) in accordance with approved schemes.
- (s) To exercise the Council's functions under the 2002 Regulatory Reform Order, in relation to minor works assistance.
- (t) To decide on the demolition of Council stock that is dangerous.
- (u) To authorise refunds of rent in appropriate cases.
- (v) To assess housing rents in accordance with council policy and Government guidance.
- (w) To review and set miscellaneous charges for non-dwellings on an annual basis
- (x) In appropriate cases, to authorise the purchase from a tenant, where the tenant is vacating a council dwelling, of any garage erected by the tenant on the Council's land.
- (y) To approve the payment of reasonable removal expenses incurred by a tenant who moves from one council dwelling to another dwelling at the

Council's request, any ex-gratia payments towards adapting existing furnishings and any loss consequential from the relocation.

- (z) To consider whether to approve, on behalf of the Council as landlord, improvements included by a council tenant in an application for grant
- (aa) To agree arrangements with tenant management organisations.
- (bb) To provide a 7/24 contact centre for Supported Housing, Care-Line and corporate out-of-hours functions.
- (cc) To undertake those functions assigned under:
  - (i) Appendix A to Part 3, Section 3 of this constitution
  - (ii) Part 3, section 4 of this constitution: functions not to be the responsibility of an authority's Executive
  - (iii) Part 3, section 5 of this constitution: local choice functions
- (dd) To carry out the following functions:
  - (i) To undertake management responsibility for the Council's freehold interest where property has been disposed of on a leasehold basis under the right to buy legislation. This includes:
    - enforcing covenants
    - carrying out repairs
    - recharging liabilities
    - consulting with and involving leaseholders and their management organisations as necessary.
  - (ii) To manage the Council's housing stock and authorise action to obtain possession of council housing accommodation and recover rent arrears, including the service of all necessary notices and action (including applying for injunctions) to enforce or vary the Council's tenancy agreement.
  - (iii) Where appropriate, to write off former tenants' arrears up to a maximum sum specified by the Chief Operating Officer
  - (iv) To settle claims submitted by council tenants for compensation in recovery of damage caused to tenants' property as a result of occurrences over which the tenants have no control.
  - (v) To repair and maintain Council housing stock.
  - (vi) To issue any consents under the tenancy agreement.
  - (vii) To deal with compensation claims from tenants/leaseholders arising from works carried out by or on behalf of the Council.

- (viii) To deal with applications to carry out internal redecoration at any council dwelling at the Council's expense.
- (ix) To grant formal recognition to tenants' organisations complying with the Council's criteria for that purpose.
- (x) To grant (subject to conditions) permission to a tenant to park one car or one light van in the front garden of the tenant's dwelling.
- (xi) To approve applications to the Council, as landlords, for approval of structural alterations to council dwellings.
- (xii) To approve applications for the carrying out at the Council's expense of internal decorations at council dwellings occupied by a tenant who is, or whose spouse is, vulnerable.
- (xiii) To exempt tenants from responsibility for any of the items of repair specified in the conditions of tenancy where:
  - hardship might otherwise result, or
  - the nature of the defect or type of dwelling involved is such that to hold the tenant responsible for an item would in the circumstances be unreasonable.
- (xiv) To settle claims submitted by a council tenant for compensation in recovery of damages caused to the tenant's property as a result of occurrences over which the tenant had no control.
- (xv) To authorise expenditure on aids and equipment for the disabled within the policy laid down by the Council, including the installation of stair lifts and like appliances in houses occupied by registered disabled people where the cost of the appliance and any associated works does not exceed the sum specified by the Chief Operating Officer from time to time.

### **3.8.3 ASSISTANT DIRECTOR OF ENVIRONMENT**

#### **Street care**

- (a) To exercise the Council's powers and duties arising under the New Roads and Streetworks Act 1991 and Traffic Management Act 2004.
- (b) Other than in those matters delegated to the Lead 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.
- (c) To manage all highway trees and to take appropriate action where necessary

- (d) To determine requests from individuals and voluntary, national and commercial organisations to use the public highway.
- (e) 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.
- (f) 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.
- (g) 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.
- (h) 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.
- (i) To exercise the Council's powers in relation to providing public conveniences.
- (j) To exercise all powers related to the creation and dedication of public highways and adoption of highways as maintainable at public expense.
- (k) To authorise the issue of temporary traffic orders, temporary traffic notices and temporary prohibitions of waiting and loading.
- (l) To exercise all powers and duties arising under Parts 2, 3, 4, 5 and 6 of the Clean Neighbourhoods and Environmental Act 2005
- (m) 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)**

- (n) To exercise the Council's powers and duties relating to builders' skips, scaffolding, builder's materials and excavations in Part 5 of the Traffic Management Act 2004 and Part IX Highways Act 1980.
- (o) 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.
- (p) To exercise the Council's powers to require information under
  - (i) Section 16 Local Authorities (Miscellaneous Provisions) Act 1976.
  - (ii) Section 17 GLC (General Powers) Act 1972.
  - (iii) Section 26 London Local Authorities Act 2004 (as amended by London Local Authorities Act 2007)
  - (iv) Section 71 of the Environmental Protection Act 1990.
  - (v) Section 108 of the Environment Act 1995.

**(Informative: the power at (i) to (iii) are also held by a number of others).**
- (q) To compile and maintain selective tendering lists for civil engineering matters, highway works, construction services and architectural and building related professional consultants.
- (r) To approve local highway management schemes in principle for public consultation.
- (s) To authorise minor alterations to traffic management orders to enable implementation of approved proposals or continuation of traffic management schemes.
- (t) To amend or suspend any experimental traffic management order.
- (u) To authorise the creation, amendment and removal of disabled persons' parking bays and footway parking bays and at any time waiting restrictions at bends and road junctions
- (v) To exercise all powers and duties under the Highways Act 1980 that are not delegated to the Leader or Cabinet Member.
- (w) To exercise all powers for the collection of parking fees owed to the Council relating to car parks operated within the Borough and in conjunction with current Traffic Management Orders.

- (x) To exercise all powers in relation to the issuing and pursuance of Penalty Charge Notices (PCNs) in accordance with the Traffic Management Act 2004, including:
  - (i) Collection, administering and writing off PCNs (the latter in consultation with the Chief Operating Officer).
  - (ii) Clamping or removal of vehicles contravening the Traffic Management Act 2004.
- (y) To exercise all of the Council's powers under the Reservoirs Act 1975.
- (z) 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.
- (aa) To manage all highway grass verges, shrub beds and seasonal plantings and take appropriate action where necessary.
- (bb) To manage the highway weed control and take appropriate action where necessary.
- (cc) To manage highway trees including determining requests for removal and/or replacement of trees
- (dd) To determine the provision, positioning and layout of road signs and other street furniture.
- (ee) To undertake those functions assigned under:
  - (i) Part 3, section 4 of this constitution; functions not to be the responsibility of an authority's Executive.
  - (ii) Part 3, section 5 of this constitution: local choice functions.
- (ff) To authorise the making of and consultation on Orders under Section 21 of the Town and Police Clauses Act 1847.
- (gg) To approve or reject for further consideration proposals made to the Council for local highway management schemes in accordance with the criteria agreed from time to time by the Cabinet Member for Environment, provided that the proposal has previously been notified to members via Calendar Brief..
- (hh) 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.



- (ii) 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 (hh) & (ii) area also held by the Assistant Director Development)**

### **Licensing**

- (a) The Assistant Director, Environment, the Public Protection Manager and any of the Public Protection Divisional Managers
  - (i) 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.
  - (ii) To enforce the enactments set out in Appendices A, Part 3, Section 3 of this Constitution, headed licensing and registration of premises or persons.
  - (iii) To authenticate on the Council's behalf of 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.
  - (iv) To license and register those matters/premises and/or persons listed in Appendix A of this Part of the Constitution where applicable.
  - (v) To determine the grant and renewal of street trading licences and to enforce the terms of these licences.
  - (vi) 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.

### **Public Protection**

- (a) The Assistant Director Environment, the Public Protection Manager, and any of the Public Protection Divisional Managers to enforce the enactments set out in Appendix A of this part of the Constitution and
- (b) To undertake those functions assigned under;
  - (i) Part 3, Section 4 of this Constitution; functions not to be the responsibility of an authority's Executive.

- (ii) Part 3, Section 5 of this Constitution, local choice functions

**The Assistant Director Environment** is empowered to approve activities under the Regulation of Investigatory Powers Act 2000 (other officers empowered to authorise activities under RIPA are the Chief Executive, the Director of Legal and Governance and oneSource officers in accordance with the shared service delegations)

Staff approved by the Home Office to be a Single Point of Contact for the acquisition of communications data are empowered to exercise their responsibilities and duties under Part 1, Chapter II of the Regulations of Investigatory Powers Act 2000.

- (c) Staff accredited by the National Crime Agency as Financial Investigators or Senior Appropriate Officers are empowered to exercise their responsibilities and duties under the Proceeds of Crime Act 2002

- (d) Trading standards

- (i) To advise and assist consumers on matters arising from the purchase of goods or services.
- (ii) The Trading Standards Manager is authorised 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.

[This function must be exercised subject to the Director of Legal and Governance, Deputy Director of Legal Service and Governance or the relevant Legal Manager 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.]

### **Parks and environment**

- (a) 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

### **3.8.4 ASSISTANT DIRECTOR PLANNING**

#### **Planning**

1. To deal with planning related matters in the following parts of the Constitution:
  - a. part 3 section 4: functions not to be the responsibility of the Executive;
  - b. part 3, section 5: local choice functions; and
  - c. part 3 section 6: proper officer functions,
2. Except where it is indicated that it is a matter that:
  - a. is required to be determined by SPC/PC in accordance with the Committee Consideration Criteria in the Planning Committee Procedure Rules;
  - b. is an Executive function and is dealt with at Cabinet or by a Cabinet Member delegation; or
  - c. is retained by Council to determine.
3. Planning related matters delegated to the Council by other bodies except where a matter is required to be determined by Planning Committee in accordance with the Committee Consideration Criteria in the Planning Committee Procedure Rules.
4. Where Cabinet or Council determines an item on an agenda:
  - a. in the event of changes being made to an officer recommendation by Cabinet/Council, the task of formalising the wording of those changes, within the substantive nature of the Cabinet/Council decision, is delegated to the Report Author;
  - b. the Report Author has delegated authority to make changes to the wording of the Cabinet/Council decision prior to the decision being actioned, provided that the Report Author is satisfied that any such changes could not reasonably be regarded as deviating from the overall principle of the decision reached by Cabinet/Council nor that such changes could reasonably have led to a different decision having been reached by Cabinet/Council.
5. Where Planning Committee determines an item on an agenda:
  - a. in the event of changes being made to an officer recommendation by the committee, the task of formalising the wording of those changes, within the substantive nature of the committee decision, is delegated to the Head of Planning;

- b. the Head of Planning has delegated authority to make changes to the wording of the committee decision (such as to delete, vary or add conditions, informatives, planning obligations or reasons for the decision) and to accept changes to the application prior to the decision being actioned, provided that the Head of Planning is satisfied that any such changes could not reasonably be regarded as deviating from the overall principle of the decision reached by the committee nor that such changes could reasonably have led to a different decision having been reached by the committee.
6. Any other planning related matter delegated from Council to officers.

### **Building Control**

- (a) To exercise the powers and duties of the Council including determining applications and serving and enforcing notices and prosecuting offences under the following enactments:
  - (i) The Building Act 1984 and the Building Regulations 2000 and associated legislation
  - (ii) The Safety at Sports Ground Act 1975
  - (iii) The Fire Safety and Safety of Places of Sports Act 1987
  - (iv) The London Building Acts and building control matters in the Local Government Act 2000.
- (b) To exercise all appointing officer functions under section 10 of the Party Wall Act 1996.
- (c) 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)

## **3.9 Functions relating to the OneSource Group of Services**

This section covers functions delegated to the Joint Committee with the London Borough of Newham and London Borough of Bexley which in turn has delegated them to the relevant officer in the joint structure.

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

### **3.9.1 FINANCIAL FUNCTIONS**

- (a) 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.
- (b) To write off sums which are irrecoverable and to settle claims on behalf of the Council.

- (c) To implement the Council's early retirement, retirement and redundancy policies in consultation with the Head of Human Resources and the Director of Legal and Governance.
- (d) To award all gas and electricity supply contracts where offers are made on a short restricted time basis and where there is insufficient time to obtain a Cabinet Member decision.
- (e) 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.
- (f) To review and, if necessary, amend the limits in (e) above on an annual basis, following discussion with the Council's insurers.
- (g) 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.
- (h) To increase the specified sums set out in delegations to staff in accordance with Retail Prices Index (RPI).
- (i) In consultation with the relevant SLT Member, to authorise virements.
- (j) To make or enter into leasing arrangements for vehicles, plant and equipment.
- (k) To monitor the implementation of the charging policy including any relevant deadlines. To advise on reviews of fees and charges.
- (l) To act on decisions of a pensions panel consisting of Director of Finance, Director of Legal and Governance and Director Human Resources (or their nominated deputies) for the purposes of:
  - (i) Stage 2 appeals within the Internal Dispute Resolution Procedure regulations and exercising other discretions within the Local Government Pension Schemes.
  - (ii) To grant discretionary payments to retiring employees in accordance with the Council's approved policy.
  - (iii) To implement the Council's early retirement, retirement and redundancy policies.

### **3.9.2 TRANSACTIONAL FUNCTIONS**

- (a) To advise on, co-ordinate and manage all payroll functions on behalf of the Council.
- (b) To administer the Council's pension fund.
- (c) 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.

- (d) To grant gifts for long service up to the limit specified from time to time by the Head of Finance.
- (e) To approve the arrangements for members' training and development.
- (f) To approve proposals for the payment of allowances in accordance with the "Croydon Scheme" to staff injured in the course of their duties.
- (g) To undertake the role of appointed person for the Council in all matters relating to the Criminal Records Bureau.
- (h) To grant car and season loans to eligible staff.
- (i) 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.
- (j) To exercise the Council's discretionary powers in relation to relief for Council Tax and commercial rates.
- (k) To act as statutory officer pursuant to the collection of council tax and commercial rates.
- (l) To manage the operation of the relevant Contract Service Organisations (CSOs) including marketing the CSOs and consideration of the impact of new legislation on the CSOs.

### **3.9.3 ASSET MANAGEMENT FUNCTIONS**

- (a) To provide a security service for the Council's administrative buildings.
- (b) To exercise general use and hire of public halls and buildings owned by the Council (except the Town Hall) for the purpose of community use, meetings and other authorised events in accordance with approved fee scales and principles but to be able to waive or reduce scales of fees and charges in suitable cases.
- (c) 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.
- (d) To exercise all the powers delegated to the Property Strategy Manager so far as legally permissible.
- (e) To manage the operation of the relevant Contract Service Organisations (CSOs) including marketing the CSOs and consideration of the impact of new legislation on the CSOs, where relevant.
- (f) To exercise the powers and duties of the Council in relation to concessionary fares and similar schemes (including the taxicard scheme).

- (g) In relation to the taxicard scheme:
  - (i) to admit to the scheme persons from the waiting list of applicants
  - (ii) to agree a higher trip limit where justified by the degree of disability of the individual
  - (iii) to approve dual holding of a concessionary fares permit and a taxicard where, in view of the individual's condition, it is appropriate to do so.
- (h) To issue permits under the Minibus and Other Section 19 Permit Buses Regulations 1987 to appropriate organisations.
- (i) **Property Strategy Functions**
  - (i) 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.
  - (ii) To undertake marketing of any Council property.
  - (iii) To instruct external property advisors, surveyors, auctioneers and consultants where necessary on property transactions.
  - (iv) To procure property and property services to meet the Council's occupation needs including responsibility for space use and allocation together with strategic facilities management. This function must be exercised subject to obtaining members authority for any financial approval not within budget.
  - (v) To agree with a potential purchaser of a Council-owned property that the Council should retain an area of land where it is expedient to do so.
  - (vi) 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.
  - (vii) 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.
  - (viii) The Property Strategy Manager must exercise the functions delegated to them subject to the following requirements:
    - (a) complying with the Code of Practice on the Disposal of Surplus Property, set out in Appendix B

- (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 Chief Operating Officer, 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
- (f) concluding valuation and property disputes forming part of a pending or active court or arbitration proceedings, after consultation with either the Director of Legal and Governance or the S151 Officer, where there is insufficient time or opportunity to obtain a Member decision
- (g) Making or settling rating appeals only in the Council's financial interests.
- (ix) To be the Council's designated corporate property officer, responsible for the strategic management of the Council's property portfolio, including corporate strategy and asset management, procurement of property and property services, planned and preventative maintenance programmes, property allocation and use, reviews, acquisitions and disposals, and commercial estate management.
- (x) To exercise all powers relating to Romford Market, including granting and revoking licences and enforcing relevant bylaws.

### **3.9.5 ICT/ BUSINESS SYSTEMS FUNCTIONS**

- (a) To develop the Council's e-government and t-government strategies.
- (b) To develop the Council's information systems, and information technology and e-government strategies.
- (c) To develop the Council's information and communications technology strategies including the supply, withdrawal, data protection, security and integrity of the systems to staff and members.



- (d) To supply connections and services to public sector partners and other organisations, provided that the integrity of the Council's information systems is maintained.

### **3.9.6 STRATEGIC HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT FUNCTIONS**

- (a) To develop and implement the Council's human resources, organisation development, remuneration and occupational health strategies.
- (b) 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.
- (c) 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.
- (d) Subject to appointments, dismissals, assimilation and redundancies for Second Tier Managers 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 re-alignment or restructuring including;
  - (i) Achieving any necessary reduction through voluntary redundancy;
  - (ii) Considering applications from unaffected Second Tier Managers or above which would create a suitable alternative employment opportunity for an affected Second Tier Manager or above;
  - (iii) Deciding upon the ring fence arrangements and inviting applications for assimilation; and
  - (iv) Arranging advertisements and assessment centres, and, subject to compliance with Contract Procedure Rules, appointing external recruitment consultants.
- (e) In consultation with the Director of Legal and Governance to amend HR policies where necessary in consequence of legislation, organisational or other changes that have no adverse effect.
- (f) To act on and make decisions as a pensions panel consisting of the Director of Finance, Director of Legal and Governance and Director of Human Resources (or their nominated deputies) for the purposes of:
  - (i) Stage 2 appeals within the Internal Dispute Resolution Procedure regulations and exercising other discretions within the Local Government Pension Scheme

- (ii) To grant discretionary payments to retiring employees in accordance with the Council's approved policy.
- (iii) To implement the Council's early retirement, retirement and redundancy policies.

### **3.9.7 GOVERNANCE**

- (a) To prepare, approve and issue or serve all legal documentation on behalf of the Council.
- (b) To lay information, complaints and claims on behalf of the Council for the purpose of any proceedings before the Magistrates' Court, County Court and other courts and tribunals, including all civil and criminal proceedings.
- (c) To defend all legal proceedings brought against the Council and to take any steps that are in their opinion expedient to that end.
- (d) To sign, serve, advertise and receive notices and documents on behalf of the Council in relation to any formal or legal procedures.
- (e) To certify as a true and correct record any documents in accordance with section 229 of the Local Government Act 1972.
- (f) To sign or endorse any documents on behalf of the borough where so requested by a citizen.
- (g) To serve requisitions for information and other documents to enable the Council to receive information in the pursuance of legal proceedings.
- (h) Where the issue of any document, notice or order will be a necessary step in legal proceedings on behalf of the Council, to sign such document unless any enactment otherwise requires or unless the Council has given the necessary authority to some other person for the purposes of such proceedings.
- (i) To authorise, serve or issue all statutory notices, approvals and licences under any enactment other than those specifically delegated to another officer.
- (j) To instruct and/or seek the opinion of legal counsel and/or external solicitors in consultation with the Chief Executive or appropriate SLT Director, or Second Tier Manager and to instruct legal counsel or experts to advise or appear on any matter and to agree fees arising.
- (k) In consultation with the Director of Finance 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.

- (l) To name, rename, number and renumber streets and premises
- (m) To maintain the register of highways that are maintainable at public expense
- (n) To arrange for the administration of all statutory appeals.
- (o) To allocate information technology facilities to members, including ordinary telephones, mobile telephones and facsimile machines.
- (p) To implement the Council's early retirement, retirement and redundancy policies in consultation with the Director of Finance and the Director of Human Resources.
- (q) To alter the financial amounts in Contract Procedure Rules specifically relating to EU contracts and occurring either due to exchange rate changes or EU directed amendments.
- (r) To authorise Council staff to represent the Council and Newham London Borough Council in proceedings in the County Court and the Magistrates Court
- (s) To take any necessary action to address any conflicts of interest arising in the Havering Local Pension Board.
- (t) **Solicitors (in the name of the Director of Legal and Governance):**
  - (i) To prepare, approve and issue or serve the form and content of all legal documentation on behalf of the Council.
  - (ii) To lay information, complaints and claims on behalf of the Council for the purpose of any proceedings before the Magistrates' Court, County Court and other courts and tribunals, including all civil and criminal proceedings.
  - (iii) To defend all legal proceedings brought against the Council and to take any steps that are in his or her opinion expedient to that end.
  - (iv) To serve requisitions for information and other documents to enable the Council to receive information in the pursuance of legal proceedings.
  - (v) Where the issue of any document, notice or order will be a necessary step in legal proceedings on behalf of the Council, to sign such document unless any enactment otherwise requires or unless the Council has given the necessary authority to some other person for the purposes of such proceedings.

- (vi) To authorise, serve or issue all statutory notices, approvals and licences under any enactment other than those specifically delegated to another officer.
  - (vii) To instruct and/or seek the opinion of legal counsel and/or external solicitors in consultation with the Chief Executive or appropriate SLT Director, or Second Tier Manager and to instruct legal counsel or experts to advise or appear on any matter and to agree fees arising.
- (u) To undertake those functions assigned under:
    - (i) Part 3, Section 4 of the Constitution: functions not to be the responsibility of an Authority's Executive
    - (ii) Part 3, Section 5 of this Constitution: local choice functions
    - (iii) Part 3, Section 6 of this constitution: Proper Officer function
  - (v) To authorise activities under the Regulation of Investigatory Powers Act 2000 and to monitor proper use of activities under that Act
  - (w) To develop and implement the Council's Health & Safety Strategy.
  - (x) To develop and implement the Council's information governance policies and protocols.
  - (y) To approve arrangements for members' training.
  - (z) To approve the attendance of members at conferences or training events outside the borough but within the United Kingdom, including any travel and accommodation arrangements.
- (aa) **Head of Democratic Services**
    - (i) 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,s, the arrangement of panels and dates and the appointment of Chairmen of panels.
    - (ii) 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.
    - (iii) In consultation with Cabinet Members, Group Leaders and the Chairmen of Committees, to determine the schedule of meetings for each municipal year (including dates, times and places of meeting), on the basis that, so far as possible and practicable:

- (a) The Planning and Strategic Planning Committees shall generally meet every month (except around the Christmas/New Year period)
  - (b) The Audit, Governance, Pensions, Committees, Overview and Scrutiny Board and the Overview & Scrutiny Sub-Committees shall generally meet once during each period between ordinary Council meetings
  - (c) Meetings will only be arranged for Monday or Friday evenings in exceptional circumstances.
  - (iv) To exercise general use and hire of the Town Hall for the purpose of meetings and other authorised events in accordance with approved fee scales and principles 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
- (bb) Undertake those functions assigned under:
- (i) Part 3, Section 6 of this constitution: Proper Officer functions
- (cc) **Electoral Services Manager**
- To undertake those functions assigned under Part 3, section 6 of this constitution (Proper Officer function)

### 3.10 Statutory Officer Functions

- The Monitoring Officer cannot be the Head of Paid Service or the Chief Finance Officer.
- 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.
- The Monitoring Officer and Chief Finance Officer are each responsible for designating the post of the member of staff who will serve as his or her deputy office.

#### 3.10.1 Functions of the Head of Paid Service

- (a) The Head of Paid Service may, where appropriate, report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of staff required for the discharge of functions and the organisation of staff.
- (b) The Head of Paid Service may not be the Monitoring Officer but

may be the Chief Finance Officer if a qualified accountant.

- (c) Where he or she is consulted by the Monitoring Officer or Chief Officer, the Head of Paid Service will provide that officer with an opinion as to whether decisions of the Executive or staff are in accordance with the budget and/or policy frameworks.

### **3.10.2 Functions of the Monitoring Officer**

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

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

- (c) To conduct investigations as directed by the Adjudication & Review Sub-Committee (or its Hearing Panel) into alleged breaches by members of the code of conduct and to report upon them to the Sub-Committee. This function will also be carried out by Deputy Monitoring Officers.
- (d) To ensure that executive decisions, together with the reasons for those decisions and relevant staff reports and background papers are made publicly available as soon as possible.
- (e) To advise whether decisions of the Executive or staff are in accordance with the policy framework in consultation with the Head of Paid Service and the Chief Finance Officer, where appropriate.
- (f) To provide advice on the scope of powers and authority to take decisions, maladministration (where first investigated by a Local Commissioner), financial impropriety, probity and budget and policy framework issues.

### **3.10.3 S151 Officer Functions**

- (e) After consulting with the Head of Paid Service and the Monitoring Officer, to report to the full Council or to the Cabinet in relation to an executive

function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully (this is a statutory function).

- (f) 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).
- (g) To provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget framework issues to all councillors and will support and advise councillors and staff in their respective roles.
- (h) To advise whether decisions of the Executive or staff are in accordance with the budget framework in consultation with the Head of Paid Service and the Monitoring Officer, where appropriate.
- (i) To contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (j) 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.
- (k) To undertake all other financial matters arising within the Council, subject to the following requirements:
  - (i) Authority to incur expenditure being approved or sanctioned by the Council or the Cabinet.
  - (ii) Powers of borrowing being exercised within guidelines agreed by the Council and any current codes of practice.
  - (iii) All matters being within accepted accounting practice and standards and within statutory requirements.
  - (iv) Any necessary reference to the Council's external Auditors.
  - (v) An annual report being presented to the Audit Committee by 30 September in each year on the activities undertaken in respect of treasury management powers in the preceding financial year.

- (vi) Reports of the external Auditors and other relevant Inspectorates upon the audit of the Council's activities being considered.
- (vii) To make direct investments in local infrastructure assets as part of the Pension Fund local infrastructure portfolio in consultation with the Chairman of Pensions.
- (l) To set the Council Tax Base and Commercial Rate yield each year unless it involves matters of policy.
- (m) To accept grants and the terms and conditions thereof for and on behalf of the Council.
- (n) To approve the Financial Framework and any amendments to it.

#### **3.10.4 Functions of Scrutiny Officer**

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



## Appendix A

### Enactments enforceable by Assistant Director Environment , the Public Protection Manager, and any of the Public Protection Divisional Managers

This appendix sets out enactments which the Assistant Director Environment has delegated authority to enforce. The Assistant Director of Environment, the Public Protection Manager and any of the Public Protection Divisional Managers may authorise their staff to enforce these enactments and to authenticate, on the Council's behalf, any notice, certificate or other document required to be issued in relation to the enactments.

#### Environmental Health

Enactment	Relevant provisions and notes
Agriculture (Miscellaneous Provisions) Act 1968	Part I
Animal Boarding Establishments Act 1963	
Animal Health Act 1981	
Animal Welfare Act 2006	
Anti-social Behaviour, Crime and Policing Act 2014	
Breeding of Dogs Act 1973	
Building Act 1984	<ul style="list-style-type: none"> <li>• sections 59 to 69 (relating to drainage of buildings and to sanitary conveniences)</li> <li>• section 70 (food storage accommodation in existing houses)</li> <li>• section 76 (relating to defective premises)</li> <li>• section 79 (relating to ruinous and dilapidated buildings)</li> </ul>
Caravan Sites Act 1968	
Caravan Sites Control & Development Act 1960	
Clean Air Act 1993	
Clean Neighbourhoods & Environment Act 2005	Parts 3, 5, 6 & 7
Control of Pollution Act 1974	section 13 (Part III, sections 60 to 62 and regulations made under section 78 (sulphur content of fuel oil)) and 1990
Criminal Justice and Police Act 2001	Sections 19 to 27 (closure of unlicensed premises)
Dangerous Dog Acts 1871 & 1991	
Dangerous Wild Animals Act 1976	
Environment Act 1995	

<b>Enactment</b>	<b>Relevant provisions and notes</b>
Environment Act 2021	Parts 1 and 4
Environmental Protection Act 1990	<b>Parts I, II</b> (Sections 33, 34 & 59), <b>IIA, III, IV</b> and <b>VIII</b> (Section 150)
Environmental Permitting (England and Wales) Regulations 2016	
Essex Act 1987	<b>Part IV (Massage and Special Treatment)</b>
European Communities Act 1972	<ul style="list-style-type: none"> <li>• <b>Common Agricultural Policy (Wine) Regulations 1973</b></li> <li>• <b>any other regulations that may be made</b></li> </ul>
Factories Act 1961	
Fire Safety and Safety of Places or Sport Act 1987	
Food Act 1984	
Food Hygiene (England) Regulations 2006	
Food Safety Act 1990	
Food and Environment Protection Act 1985	<b>Part III</b>
Gambling Act 2005	
Guard Dogs Act 1975	
Greater London Council (General Powers) Act 1967	<b>(Registration of hairdressers, etc.)</b>
Greater London Council (General Powers) Act 1973	<b>section 31</b>
Greater London Council (General Powers) Act 1979	<b>(control of brown tail moth)</b>
Greater London Council (General Powers) Act 1984	<b>(registration of certain sleeping accommodation)</b>
Greater London Council (General Powers) Act 1986	
Health Act 2006	<b>Part I, Chapter I (smoke- free premises, places and vehicles)</b>
Health and Safety at Work, Etc. Act 1974	<b>(other than in respect of requirements imposed upon the Council as employers)</b>
Highway Act 1980	<b>Part IX</b>
Housing Act 1985	
Housing Act 2004	
Housing & Planning Act 2016	
Housing (Construction and Regeneration) Act 1996	
Hypnotism Act 1952	
Landlord and Tenant Act 1985	
Licensing Act 1964	<b>sections 78 and 79</b>

Enactment	Relevant provisions and notes
Licensing Act 2003	
Local Government and Housing Act 1989	
Local Government (Miscellaneous Provisions) Act 1976	<ul style="list-style-type: none"> <li>• <b>section 15</b> (survey of land for the purposes of compulsory purchase)</li> <li>• <b>section 16</b> (power to serve notices – requisition for information)</li> <li>• <b>section 20</b> (provision of sanitary conveniences at places at entertainment)</li> <li>• <b>section 35</b> (power to require the removal of obstructions from private sewers)</li> </ul>
Local Government (Miscellaneous Provisions) Act 1982	<ul style="list-style-type: none"> <li>• <b>sections 14 to 16</b></li> <li>• <b>section 17</b> (exercise powers relating to entry in relation to registered premises in the Council's area)</li> <li>• <b>section 29 and 30</b> (powers of entry)</li> <li>• <b>section 32</b> (recovery of costs)</li> <li>• <b>Schedule 3</b> (sex establishments)</li> </ul>
London Government Act 1963	
London Local Authorities Act 1990	<b>Part II (Night Café licensing)</b> <b>Part III (street trading)</b>
London Local Authorities Act 1990	
London Local Authorities Act 1991	<b>Part II, Part III and section 23</b>
London Local Authorities Act 1995	
London Local Authorities Act 1996	
London Local Authorities Act 2000	
Medicines Act 1968	<b>(such orders and regulations as the Council may be appointed to enforce)</b>
Mobile Homes Act 1983	
Noise Act 1996	<b>sections 2 to 9</b>
Noise & Statutory Nuisance Act 1993	<b>(loudspeakers in streets)</b>
Offices, Shops and Railway Premises Act 1963	
Official Feed and Food Controls (England) Regulations 2006	
Performing Animals (Reg) Act 1925	
Pet Animals Act 1951	
Poisons Act 1972	
Pollution Prevention & Control Act 1999	
Prevention of Damage by Pests Act 1949	

<b>Enactment</b>	<b>Relevant provisions and notes</b>
Protection from Eviction Act 1977	
Psychoactive Substances Act 2016	
Public Health Act 1936	
Public Health Act 1961	
Public Health Control of Disease Act 1984	
Rag Flock and Other Filling Materials Act 1951	
Rent Act 1977	(provisions relating to certificates of disrepair pursuant to section 27 and schedule 6)
Riding Establishments Acts 1964 and 1970	
Scrap Metal Dealers Act 2013	
Shops Act 1950 – 1965	
Slaughter of Poultry Act 1967	Sections 4 and 6
Sunday Trading Act 1994	
The Smoke and Carbon Monoxide Alarm (England) Regulations 2015	
Town & Country Planning Act 1990	Sections 215-219 Powers to deal with land adversely affecting amenity of the neighbourhood.
Vehicle (Crime) Act 2001	
Water Industry Act 1991	Sections 77 - 85
Wildlife and Countryside Act 1981	
Young Persons (Employment) Acts 1938 and 1964	
Zoo Licensing Act 1981	

## Trading Standards

<b>Enactment</b>	<b>Relevant provisions and notes</b>
Administration of Justice Act 1970	section 40
Agricultural Act 1970	Part IV
Agricultural Produce (Grading and Marketing) Acts 1928 and 1931	
Air Quality (Domestic Solid Fuels Standards) (England) Regulations 2020	
Anti-Social Behaviour Act 2003	
Anti-social Behaviour, Crime and Policing Act 2014	

Enactment	Relevant provisions and notes
Building Act 1984	Insofar as it relates to energy performance for public buildings
Business Names Act 1986	section 4
Cancer Act 1939	
Celluloid and Cinematograph Film Act 1922	
Children and Young Persons Act 1933	section 7 (sale of tobacco etc., to persons under 16)
Children and Young Persons (Protection from Tobacco) Act 1991	
Children and Families Act 2014	tobacco, nicotine products and smoking provisions only
Civil Aviation Act 1982	
Clean Air Act 1993	sections 30 and 32
Consumer Credit Act 1974	
Consumer Protection Act 1987	Parts II and III
Consumer Rights Act 1985	
Control of Pollution Act 1974	section 75 (regulations concerning lead content of motor fuel)
Copyright, Designs and Patents Act 1988	
Crossbows Act 1987	
Development of Tourism Act 1969	section 18 (relating to price displays)
Education Reform Act 1988	sections 214 to 217 (provisions relating to unrecognised degrees)
Energy Act 1976	
Energy Conservation Act 1981	
Enterprise Act 2002	
Estate Agents Act 1979	
European Communities Act 1972	<p>(Regulations relating to:</p> <ul style="list-style-type: none"> <li>• eggs (marketing standards)</li> <li>• crystal glass (description)</li> <li>• Package Travel, Package Holidays, Package Tours Regulations 1982</li> <li>• textile products (indication of fibre content)</li> <li>• aerosol dispensers (EU requirements)</li> <li>• Non-Automatic Weighing Instruments</li> <li>• Consumer Protection from Unfair Trading Regulations 2008</li> <li>• Business Protection from Misleading Marketing Regulations 2008</li> <li>• any other regulations as may be made from time to time)</li> </ul>

<b>Enactment</b>	<b>Relevant provisions and notes</b>
<b>Explosive Acts 1875 and 1923</b>	
<b>Explosives (Age of Purchase) Act 1976</b>	
<b>Fair Trading Act 1973</b>	(orders under section 22)
<b>Firearms Act 1968</b>	
<b>Fireworks Act 2003</b>	
<b>Food and Environmental Protection Act 1985</b>	Part III
<b>Food Safety Act 1990</b>	
<b>Forgery and Counterfeiting Act 1981</b>	
<b>Fraud Act 2006</b>	
<b>Greater London Council (General Powers) Act 1984</b>	(registration of premises in respect of the sale of goods by competitive bidding)
<b>Hallmarking Act 1973</b>	
<b>Health Act 2009</b>	provisions relating to tobacco only
<b>Health and Safety at Work etc. Act 1974</b>	(other than in respect of requirements imposed upon the Council as employers) (including the Manufacture and Storage of Explosives Regulations 2005)
<b>Housing Act 2004</b>	Part 5
<b>Hire Purchase Act 1964</b>	Part III

<b>Enactment</b>	<b>Relevant provisions and notes</b>
<b>Insurance Brokers (Registration) Act 1977</b>	
<b>Intoxicating Substances Supply Act 1985</b>	
Knives Act 1997	
Licensing Act 2003	
Medicines Act 1968	orders under sections 62(1)(b) and 90 (provisions relating to animal feeding stuffs and fertilisers)
Merchant Shipping Act 1979	
Mock Auctions Act 1961	
Motorcycle Noise Act 1987	
National Lotteries etc. Act 1993	
Offensive Weapons Act 1996	
Olympic Symbol etc (Protection) Act 1995	
Prices Acts 1974 and 1975	
Proceeds of Crime Act 2002	
Property Misdescriptions Act 1991	
Protection of Children (Tobacco) Act 1986	
Psychoactive Substances Act 2016	

Restriction of Offensive Weapons Act 1959	
Road Traffic Acts 1988 & 1991	
Road Traffic (Foreign Vehicles) Act and Regulations 1972	
Road Traffic Offenders Act 1988	
Solicitors Act 1974	section 22
<b>Sunbeds (Regulation) Act 2010</b>	
<b>Telecommunications Act 1984</b>	
Theft Acts 1968 and 1978	
The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014	
Timeshare Act 1992	
Trade Descriptions Act 1968	
Trademarks Act 1994	
Trading Representations (Disabled Persons) Acts 1958 and 1972	(provisions relating to goods represented as being made by blind or disabled persons)
Trading Stamps Act 1964	
Unsolicited Goods and Service Acts 1971 and 1975	(provisions relating to unsolicited goods and directory entries)
Video Recordings Act 1984 and 1993	
Weights and Measures Act 1985	<b>Limited to officers with DTS or equivalent</b>

## Licensing and registration of premises or persons

Licensing matter	Enactment
Animal boarding establishments	Animal Boarding Establishments Act 1963
Caravan Sites	Caravan Sites and Control of Development Act 1960
Dangerous wild animals	Dangerous Wild Animals Act 1976
Dog-breeding premises	Breeding of Dogs Act 1991
Establishments for massage and special treatment	London Local Authorities Act 1991
Gambling	Gambling Act 2005
Licensing	Licensing Act 2003
Housing	Housing Act 2004
Pet shops	Pet Animals Act 1961
Riding establishments	Riding Establishments Act 1964

<b>Sex establishments</b>	<b>Local Government Miscellaneous Provisions Act 1982</b>
<b>Storage of Explosives</b>	<b>Health and Safety at Work, Etc. Act 1974</b> <b>(<a href="#">Manufacture and Storage of Explosives Regulations 2005</a>)</b>
<b>Street trading</b>	<b>London Local Authorities Act 1990</b>

<b>Registration matter</b>	<b>Enactment</b>
<b>Food premises</b>	<b>EC Regulation 852/2004, Article 6(2)</b>
<b>Hairdressers' and barbers' establishments</b>	<b>Greater London Council (General Powers) Act 1967, section 21</b>
<b>Premises for competitive bidding (auctions)</b>	<b>Greater London Council (General Powers) Act 1984 – Part VI</b>
<b>Scrap metal dealers</b>	<b>Scrap Metal Dealers Act 1964</b>
<b>Motor Salvage Operators</b>	<b>Vehicles (Crime) Act 2001</b>
<b>Storage of Explosives</b>	<b>Health and Safety at Work, Etc. Act 1974</b> <b>(<a href="#">Manufacture and Storage of Explosives Regulations 2005</a>)</b>



## Appendix B

### Code of practice: disposal of surplus property

This appendix sets out the code of practice for the disposal of surplus property. The Property Strategy Manager is required to comply with this code when exercising the functions delegated in Part 3 of this constitution, section 3.7.5(i).

#### Member authority

Disposal of surplus property will be dealt with through the Cabinet or in accordance with other authorised arrangements for decisions in place at the time.

Any report requesting a decision will incorporate the views and advice of the Chief Operating Officer, the Director of Legal and Governance and the Property Strategy Manager.

#### Method of disposal

The Property Strategy Manager shall determine the method by which surplus property should be disposed of. This method should require the open invitation of competitive bids, unless the Cabinet has already agreed an alternative method of disposal or the Property Strategy Manager decides, in consultation with Lead Member Finance and Commerce 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.

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

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

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

2. Where land is disposed of by public tender, the Council's standing orders relating to tenders and contracts will be applied as appropriate.
3. During any negotiations being conducted in accordance with paragraph 3, any other offer received from a third party or parties before exchange of contracts shall be considered and dealt with on its merits either with a report to members or in accordance with the scheme of delegation. Any offer which, on the evidence available, is considered to be incomplete, insubstantial or in any other way defective, mischievous or frivolous shall be rejected.

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

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

### **Consultation with external valuer**

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

### **Valuation**

5. Terms will not be finalised without the benefit of a current valuation. Every valuation by the Property Strategy Manager shall state the date beyond which it is not to be regarded as valid without further certification by him or her. The general presumption is that all transactions will be in accordance with section 123 of the Local Government Act 1972 and disposal will not be at 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.

### **Negotiations**

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

## Transactions at less than market value

7. Approval must be obtained from or on behalf of the Cabinet to all disposals or lettings which are proposed to be less than open market value, unless there is already a defined subsidy policy in place which has been agreed by members for the type of transaction proposed. When members are invited to consider the principle or 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.

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

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

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

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

### Decision-Making Process Chart for Undervalue Transactions

- Identify Strategic Policy Link – Relate to Well-Being Powers (Community Strategy/ Quality of Life Indicators/ Other Corporately adopted Plans)
- Identify Aims/ Inputs/ Outputs/ Outcomes
- Identify the benefit
- Set out the basis of assessment
- Provide sources of comparable evidence

- Can non-market benefits and impacts be evaluated? – if so, identify method of cost/ value-benefit applied
- State the monetary value arrived at or detail other assessments of worth relied upon
- Adopt assessment categories of
  - (n) Property Value
  - (o) Other Benefits capable of monetary assessment
  - (p) Benefits not capable of monetary assessment
- Where appropriate consider a comparison of benefits against the Capital Prioritisation Assessment the Council would apply to its own schemes.
- Provide Valuations – Restricted and unrestricted – (Technical Appendix requirements)
- If property has not been competitively marketed, assess financial position of organisation/ person receiving subsidy – what is financial position of purchaser, is subsidy required?
- Is the amount of undervalue proportional to benefit anticipated?
- Are outputs/ outcomes proportional to inputs?
- What would be the effect of less subsidy?
- Is Value for Money being achieved?
- Apply the 'Do Nothing' test – What would be the effect?
- How can outcomes be secured in practice to justify subsidy (Claw-backs/ covenants/ grants)
- Consider medium and longer term estate management considerations. Ensure the inclusion, as necessary, of additional terms that protect the Council's future property use options.
- Is it possible to have a grant/ leasehold arrangement rather than an outright disposal?
- Ensure Legal/ Finance review/ overview of final case data and business case
- Obtain Member authority to transaction of the undervalue is less than £2m and additionally from ODPM if above £2m.