

**PART 3.3      SCHEME OF DELEGATIONS**  
**FUNCTIONS DELEGATED TO OFFICERS**

Definitions used in this Part 3.3.

Cabinet	the executive of the Council (and any reference to the Executive shall be construed accordingly.)
Cabinet Member	the individual member of the Cabinet to whom the Leader has assigned a portfolio or otherwise delegated authority to act in relation to that matter.
Chair	the designated chair of any committee or sub-committee of the Council.
Chief Executive	the Chief Executive of the Council (and any reference to the Head of Paid Service within this Scheme or the constitution shall be a reference to the Chief Executive).
Chief Officers	the Chief Executive, the Strategic Directors, the Director of Children's Services, the Director of Adult Social Services and the Monitoring Officer.
Full Council	a meeting of the full membership of the Council.
Leader	the Leader of the Council.
Monitoring Officer	the designated monitoring officer of the Council.
Officers	officers / members of staff of the Council
Scheme	this scheme of delegations.
Strategic Directors	the Strategic Directors of Resources, Place and People collectively (any reference to a Strategic Director should be construed accordingly.)

NB

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

**Scheme 3.3.1**  
**General Provisions**

**1. Power of delegation**

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

**2. Limitations**

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

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

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

#### 4. Transfer of functions

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

#### 5. Sub-delegations

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

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

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

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

#### 6. Conflict of interests

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

**Scheme 3.3.2**  
**Powers of the Chief Executive**

**1. General**

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

**2. Staffing**

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

**3. Emergency**

- 3.1 To carry out the functions of the Council for civil aid and emergency planning and to take any action, including incurring expenditure, in connection with an emergency or a disaster in the borough, and to report back to the Council at the earliest practical opportunity.
- 3.2 In cases of urgency or emergency, to take any decision on behalf of the Council after consultation with the Leader.
- 3.3 To discharge those functions under s.138(1) of the Local Government Act 1972.

**4. Elections**

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

## 5. Other functions

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

## 6. Miscellaneous

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

## 7. Note

- 7.1 The Chief Executive and the Monitoring Officer are designated by the Secretary of State as qualified persons for the purpose of Section 36 of the Freedom of Information Act 2000. The Monitoring Officer is to be the primary qualified person with the Chief Executive carrying out the function in the Monitoring Officer's absence.
- 7.2 For the avoidance of doubt, the Chief Executive is authorised to determine anything which is not covered by this Scheme.
- 7.3 In the absence of the Chief Executive the functions of the Chief Executive (including those of the Head of Paid Service) shall be undertaken by one of the Chief Officers as directed by the Leader.

**Scheme 3.3.3**  
**Powers common to all Strategic Directors**

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

**1. General**

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

**2. Expenditure**

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

**3. Statutory consent / notices**

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

**4. Contracts**

4.1 To approve commencement of a tendering process for all contracts below a total contract value £1,000,000.

4.2 To award all contracts with a total contract value of below £1,000,000 other than contracts covered by Contract Procedure Rule 16.3.

4.3 To sign contracts on behalf of the Council which do not require sealing under paragraph 4 of Article 10 of this constitution.

**5. Grants**

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

5.2 Where any match funding or residual liabilities cannot be met from the existing budget of the directorate, the consent of the Strategic Director of Resources must be obtained but provided that shall only be entitled to authorise such match funding or residual liabilities up to a value of £1,000,000 and further provided that they can be met within the Council's budgetary framework.

- 5.3 Where any match funding or residual liabilities cannot be met from the existing budget of the directorate, any application / acceptance of grant funding where match funding or residual liabilities exceeds £1,000,000, and which is within the Council's budgetary framework, must be approved by Cabinet.

## 6. Consultations

- 6.1 To respond to consultations in relation to any matter affecting their directorate.

## 7. Human Resources (general)

- 7.1 To exercise overall responsibility within their areas for human resource matters including, but not limited to, discipline, suspension, dismissal, retirement, capability, leave entitlement, salary adjustments, honoraria, and increments subject to compliance with all applicable Council policies and procedures.

- 7.2 To restructure their directorates (including the power to create, delete and amend posts) within existing service budgets and/or if budgetary provision is already made in the budget subject to compliance with all applicable Council policies and procedures (including any organisational change process in place from time to time).

## 8. Legal

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

**Scheme 3.3.4**  
**Specific powers of the Strategic Director of People**

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

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

1. Ageing Well

- 1.1 To act as the Council's Statutory Director of Adult Social Services except where the Council (by way of its Chief Executive or otherwise) has appointed another Officer to act as the Director of Adult Social Services.
- 1.2 To exercise the powers / functions and to carry out the duties of the Council under all relevant adult social services legislation including (but not limited to) The Local Authority Social Services Act 1970, the National Health Services Act 2006, the Care Act 2014, the Mental Health Act 1983, the Mental Health Act 2007, the Nationality Immigration and Asylum Act 2002 and any other applicable legislation as introduced by central government from time to time.
- 1.3 The delegation above shall apply to all adult care requirements, including but not limited to, learning disability, physical disability, mental health, community care and deputyship.
- 1.4 To exercise the Council's duties pursuant to the Data Protection Act 1998, Data Protection Act 2000 and associated Regulations as far as they apply to the Caldicott Guardian provisions.
- 1.5 To take charges against interests in property in accordance with the following legislation: section 55 of the Health and Social Care Act 2001 and associated Regulations; section 34 of the Care Act 2014 and associated Regulations. To release charges taken (pursuant to the following legislation: section 22 of the Health and Social Services and Social Security Adjudication Act 1983 and associated Regulations; section 55 of the Health and Social Care Act 2001 and associated Regulations; section 34 of the Care Act 2014 and associated Regulations) against interests in property.
- 1.6 To make any such arrangements for joint working or shared delivery / funding with the NHS as shall be deemed necessary in the interests of the Council or the residents of the borough.



## 2. Living Well

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

## 3. Starting Well

### *Children's Services*

- 3.1 The Director of Starting Well is appointed to act as the Council's Statutory Director of Children's Services except where the Council (by way of its Chief Executive or otherwise) has appointed another Officer to act as the Director of Children's Services.
- 3.2 To exercise the powers / functions and to carry out the duties of the Council under all relevant child care and education legislation including (but not limited to) The Children Act 1989, The Children (Leaving Care) Act 2000, The Special Educational Needs and Disability Act 2001, The Adoption and Children Act 2002, The Nationality Immigration and Asylum Act 2002, The Children Act 2004, , the Education Act 2005, The Education and Skills Act 2008, The Children and Young Persons Act 2008, , The Education Act 2011, and The Children and Families Act 2014 and any other applicable legislation as introduced by central government from time to time.
- 3.3 For the avoidance of doubt the delegation above shall apply to all child care and educational requirements, including but not limited to, children in care, school governors, care packages, fostering and care leavers, pupil welfare, child employment, school organisation, school funding, staffing & governance, health and safety in schools, student eligibility, collective worship, exclusions, special educational needs, transport and catering.

### *Music*

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

**Scheme 3.3.5**  
**Specific powers of the Strategic Director of Place**

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

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

**1. Environment**

*Highways and traffic management*

- 1.1 To exercise the Council's powers and duties arising under the Road Traffic Regulation Act 1984, New Roads and Streetworks Act 1991 and Traffic Management Act 2004.
- 1.2 Other than in those matters delegated to the Leader or Cabinet Member to exercise all powers and duties in respect of maintaining and improving highways, providing facilities, and interference with highways arising under Parts IV, V, VII, IX and XIV of the Highways Act 1980.
- 1.3 To determine requests from individuals and voluntary, national and commercial organisations to use the public highway.
- 1.4 To exercise all powers related to the creation and dedication of public highways and adoption of highways as maintainable at public expense.
- 1.5 To authorise the issue, amendment or suspension of temporary traffic orders, experimental traffic orders, temporary traffic notices and temporary prohibitions of waiting and loading.
- 1.6 To determine the provision, positioning and layout of road signs and other street furniture.
- 1.7 To authorise the making of and consultation on Orders under Section 21 of the Town and Police Clauses Act 1847.

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

#### *Trees and verges*

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

#### *Nuisance and enforcement*

- 1.13 To exercise the Council's powers and duties relating to litter and shopping trolleys arising from the Environmental Protection Act 1990 and the Clean Neighbourhoods and Environmental Protection Act 2005.
- 1.14 To exercise all powers and duties arising under Parts 2, 3, 4, 5 and 6 of the Clean Neighbourhoods and Environmental Act 2005
- 1.15 To exercise the Council's powers and duties relating to graffiti and flyposting in Part 4 of the Clean Neighbourhoods and Environment Act 1990, Part 6 of the Anti-Social Behaviour Act 2003 and Part 8 of the Town & Country Planning Act 1990; and to serve notices related to these offences and issues. (Informative: the powers under Section 117 of the Town & Country Planning Act are also held by the Assistant Director Planning)
- 1.16 To exercise power under Section 78 of the Public Health Act 1936 to clean private courtyards and passages and to recover the costs from the occupiers of any building which fronts or abuts the court or yard in relevant proportions.

## *Waste*

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

## *Miscellaneous*

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

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

- 1.21 To exercise all of the Council's powers under the Reservoirs Act 1975.
- 1.22 To undertake those functions assigned under:
- (a) Part 3, section 4 of this constitution; functions not to be the responsibility of an authority's Executive.
  - (b) Part 3, section 5 of this constitution: local choice functions.

## 2. Planning

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

## 3. Building Control

- 3.1 To exercise the powers and duties of the Council including determining applications and serving and enforcing notices and prosecuting offences under the following enactments:
- (a) The Building Act 1984 and the Building Regulations 2000 and associated legislation
  - (b) The Safety at Sports Ground Act 1975
  - (c) The Fire Safety and Safety of Places of Sports Act 1987
  - (d) The London Building Acts and building control matters in the Local Government Act 2000.
- 3.2 To exercise all appointing officer functions under section 10 of the Party Wall Act 1996.
- 3.3 To exercise the powers contained within Section 29 and 32 of the Local Government (Miscellaneous Provisions) Act 1982 (protection of buildings and power of entry)

## 4. Public Protection

- 4.1 To enforce the enactments set out in Appendix A of this part of the Constitution and
- 4.2 To undertake those functions assigned under;
- (a) Part 3, Section 4 of this Constitution; functions not to be the responsibility of an authority's Executive.
  - (b) Part 3, Section 5 of this Constitution, local choice functions

## 5. Trading standards

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

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

## 6. Licensing

- 6.1 To exercise all functions under the Licensing Act 2003 and Gambling Act 2005 including all administrative functions and determinations of unopposed applications for premises licences, personal licences, club premises certificates, temporary events notices, regulated entertainment and late night refreshments, permits and the setting of fees and charges.
- 6.2 To enforce the enactments set out in Appendices A, Part 3, Section 3 of this Constitution, headed licensing and registration of premises or persons.
- 6.3 To authenticate on the Council's behalf any notice, certificate or other document required to be issued in relation to the enactments in Appendix A of this Part of the constitution, subject to the matter being referred to the Planning Committee where policy or financial considerations are involved and have not previously been determined by the sub-committee.
- 6.4 To license and register those matters/premises and/or persons listed in Appendix A of this Part of the Constitution where applicable.
- 6.5 To determine the grant and renewal of street trading licences and to enforce the terms of these licences.
- 6.6 To determine applications for consents for the use of loudspeakers in streets under the Noise and Statutory Nuisance Act 1993 and to enforce the terms of these consents.

## 7. Parks and environment

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

## 8. Property

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

- 8.2 To exercise powers over the general use and hire of public halls and buildings owned by the Council (except the Town Hall) for the purpose of community use, meetings and other authorised events in accordance with approved fee scales and principles but to be able to waive or reduce scales of fees and charges in suitable cases.
- 8.3 Subject to the availability of finance to be responsible for any alternation or improvement of facilities to the Council Chamber, Committee Rooms and other accommodation for Members.
- 8.4 To conduct preliminary negotiations, negotiate, agree and conclude all property matters including the making and settling of rating appeals on council property and property valuations for all purposes.
- 8.5 To agree and incur reasonable pre-sale expenses up to a limit of £100,000 per transaction when disposing of property, such expenses to be offset against the capital receipts arising.
- 8.6 To dispose of any property or asset of the Council provided that the value of the property or asset is less than £1,000,000. The delegation is subject to the following requirements:
- (a) complying with the Code of Practice on the Disposal of Surplus Property
  - (b) in cases where the Cabinet has already approved the principle but not the terms of a property disposal without the invitation of competitive bids, the provisionally agreed terms of any disposal exceeding £1,000,000 shall be reported to Cabinet for approval before the transaction is concluded.
  - (c) In cases that have not been the subject of competitive bids but are below £1,000,000 in value, the provisionally agreed terms of disposal shall be reported to the Strategic Director of Resources, before the transaction is concluded.
  - (d) complying with relevant Council policy on property transactions
  - (e) referring a matter for Member decision where it is proposed to recommend other than the best financial bid
- 8.7 concluding valuation and property disputes forming part of a pending or active court or arbitration proceedings, after consultation with either the Monitoring Officer or the S151 Officer, where there is insufficient time or opportunity to obtain a Member decision
- 8.8 Following notification to the relevant ward members, to vary but not extend existing agreements for mobile phones masts at school sites in circumstances where installations are to be upgraded and lower emissions will result to enable Landlord's consent to be granted for the installation.
- 8.9 To exercise all powers relating to Romford Market, including granting and revoking licences and enforcing relevant bylaws.

- 8.10 To name, rename, number and renumber streets and premises
- 8.11 To maintain the register of highways that are maintainable at public expense.
- 8.12 To purchases assets, land and property on behalf of the Council provided that the value of the land, property or asset is less than £1,000,000. Any land, property or asset of £1,000,000 or above shall require the authorisation of Cabinet.



**Scheme 3.3.6**  
**Specific powers of the Strategic Director of Resources**

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

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

1. Finance

- 1.1 To act as the Council's s.151 officer.
- 1.2 After consulting with the Head of Paid Service and the Monitoring Officer, to report to 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).
- 1.3 To make such arrangements as are necessary to control and regulate the expenditure and income of the Council including the exercise of borrowing powers and treasury management powers (this is a statutory function).
- 1.4 To advise whether decisions of the Executive or staff are in accordance with the budget framework in consultation with the Head of Paid Service and the Monitoring Officer, where appropriate.
- 1.5 To undertake all other financial matters arising within the Council, subject to the following requirements:
  - (a) Authority to incur expenditure being approved or sanctioned by the Council or the Cabinet.
  - (b) Powers of borrowing being exercised within guidelines agreed by the Council and any current codes of practice.
  - (c) All matters being within accepted accounting practice and standards and within statutory requirements.
  - (d) Any necessary reference to the Council's external Auditors.

- (e) An annual report being presented to the Audit Committee by 30 September in each year on the activities undertaken in respect of treasury management powers in the preceding financial year.
  - (f) Reports of the external Auditors and other relevant Inspectorates upon the audit of the Council's activities being considered.
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- 1.6 To manage the Council's loan debt, investments, and temporary investments, pension scheme and pension fund, insurance fund, act as registrar of loan instruments, manage all banking arrangements including numbers and types of accounts and arrange insurance of property and the selecting and accepting of tenders for insurance cover and related services which are considered to offer best value for the Council promoting good risk management practices at all times.
  - 1.7 To set the Council Tax Base and Commercial Rate yield each year unless it involves matters of policy.
  - 1.8 To approve the Financial Procedure Rules and any amendments to them .
  - 1.9 To implement approved fees, charges, rents etc. and to ensure that proper arrangements exist for their collection.
  - 1.10 To advise on and monitor the revenue and capital budgets of the Council, including the Housing Revenue Account, and the determination of Council Tax and housing rent levels.
  - 1.11 To instruct the Council's insurers and, upon their advice, to negotiate and settle insurance claims up to maximum of £145,000 for motor insurance, £147,750 for liability insurance and motor vehicles, and £50,000 for property insurance and to review and, if necessary, amend the limits above on an annual basis, following discussion with the Council's insurers.
  - 1.12 To write off sums which are irrecoverable provided that all write-offs are reported to the Council.
  - 1.13 To make or enter into leasing arrangements for vehicles, plant and equipment.
  - 1.14 In consultation with the relevant SLT Member, to authorise virements.
  - 1.15 To set future inter-authority and standard charges for residential and day-care accommodation, in accordance with the formula recommended by the Local Government Association.
  - 1.16 To advise on, co-ordinate and manage all payroll functions on behalf of the Council.
  - 1.17 To exercise the Council's discretionary powers in relation to writing off amounts due for national non-domestic rate or surcharge on grounds of hardship or general rate on grounds of poverty, up to a maximum level of £10,000.

- 1.18 To exercise the Council's discretionary powers in relation to relief for Council Tax and commercial rates.
- 1.19 To act as statutory officer pursuant to the collection of council tax and commercial rates.

#### *Pensions*

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

#### 2. Miscellaneous

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

#### 3. Public Health

- 3.1 To take responsibility for all the Council's public health functions.
- 3.2 To oversee all services relating to the public health function.
- 3.3 To provide information and advice on public health matters.
- 3.4 To provide services and facilities designed to promote healthy living.
- 3.5 To provide services and facilities for the prevention of illnesses.
- 3.6 The exercise of the local authority function in the National Health Service Act 2006 as amended.
- 3.7 To authorise Patient Group Directions on behalf of the Council

#### 4. Human Resources and Organisational Development

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

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

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

**1. STATUTORY**

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

**2. GOVERNANCE**

- 2.1 To prepare, approve and issue or serve all legal documentation (including statutory notices and licences) on behalf of the Council.
- 2.2 To commence, progress and defend (as appropriate) all legal proceedings on behalf of the Council in any court or tribunal.
- 2.3 To sign, serve, advertise and receive notices and documents (including requisitions) on behalf of the Council in relation to any formal or legal procedures.
- 2.4 To certify as a true and correct record any documents in accordance with section 229 of the Local Government Act 1972.
- 2.5 To sign or endorse any documents on behalf of the borough as required from time to time.
- 2.6 To instruct and/or seek the opinion of legal counsel and/or external solicitors in consultation with the Chief Executive or any Strategic Director and to instruct legal counsel or experts to advise or appear on any matter and to agree fees arising.
- 2.7 In consultation with the Strategic Director of Resources to settle claims in proceedings commenced or about to be commenced against the Council in a court or tribunal up to a limit of £100,000. Settlement of claims that exceed £100,000 require the approval of the relevant individual Cabinet Member or of the Cabinet, unless the decision is required to be made immediately before, at, or during a hearing.
- 2.8 To arrange for the administration of all statutory appeals.
- 2.9 To authorise appropriately qualified Council staff to represent the Council and to conduct legal proceedings in any Court or Tribunal.
- 2.10 To undertake those functions assigned to the Monitoring officer under:
- (a) Part 3, Section 4 of the Constitution: functions not to be the responsibility of an Authority's Executive
  - (b) Part 3, Section 5 of this Constitution: local choice functions
  - (c) Part 3, Section 6 of this constitution: Proper Officer function

- 2.11 To authorise activities under the Regulation of Investigatory Powers Act 2000 and to monitor proper use of activities under that Act
- 2.12 To develop and implement the Council's information governance policies and protocols.
- 2.13 To approve arrangements for members' training.
- 2.14 The Chief Executive and the Monitoring Officer are designated by the Secretary of State as qualified persons for the purpose of Section 36 of the Freedom of Information Act 2000. The Monitoring Officer is to be the primary qualified person with the Chief Executive carrying out the function in the Monitoring Officer's absence.
- 2.15 To maintain an up-to-date version of the constitution and ensure that it is widely available for consultation by members, staff and the public.
- 2.16 To make changes to the Constitution pursuant to Article 11 of the Constitution.
- 2.17 After consulting with the Chief Executive and the Strategic Director of Resources, to report to the full Council or to the Cabinet in relation to any function if:
- (a) he or she considers that any proposal, decision or omission would give rise to unlawfulness, or
  - (b) where a Local Commissioner has conducted an investigation to the proposal, decision or omission concerned, any proposal, decision or omission has given rise to maladministration.

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

- 2.18 To consider any complaint made against a Councillor in accordance with the Code of Conduct for Members and the procedure for dealing with complaints against Members as contained within this Constitution at Section 5.1 and 5.2.
- 2.19 To ensure that executive decisions, together with the reasons for those decisions and relevant staff reports and background papers are made publicly available as soon as possible.
- 2.20 To advise whether decisions of the Executive or officers are in accordance with the policy framework in consultation with the Chief Executive and the Strategic Director of Resources, where appropriate.
- 2.21 To give undertakings on behalf of the Council.
- 2.22 To authorise and attest to the Seal of the Council in accordance with Article 10 in Part 2 of Constitution.

### **3. HEAD OF COMMITTEE AND ELECTION SERVICES**

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

#### *Election Services Manager*

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

### **4. FUNCTIONS OF THE SCRUTINY OFFICER**

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

## Appendix A

### Enactments enforceable by Strategic Director of Places

This appendix sets out enactments which the Strategic Director of Place has delegated authority to enforce. **The Strategic Director of Place may authorise 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	
Environment Act 2021	Parts 1 and 4



<b>Enactment</b>	<b>Relevant provisions and notes</b>
<b>Environmental Protection Act 1990</b>	<b>Parts I, II (Sections 33, 34 &amp; 59), IIA, III, IV and VIII (Section 150)</b>
<b>Environmental Permitting (England and Wales) Regulations 2016</b>	
<b>Essex Act 1987</b>	<b>Part IV (Massage and Special Treatment)</b>
<b>European Communities Act 1972</b>	<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>
<b>Factories Act 1961</b>	
<b>Fire Safety and Safety of Places or Sport Act 1987</b>	
<b>Food Act 1984</b>	
<b>Food Hygiene (England) Regulations 2006</b>	
<b>Food Safety Act 1990</b>	
<b>Food and Environment Protection Act 1985</b>	<b>Part III</b>
<b>Gambling Act 2005</b>	
<b>Guard Dogs Act 1975</b>	
<b>Greater London Council (General Powers) Act 1967</b>	<b>(Registration of hairdressers, etc.)</b>
<b>Greater London Council (General Powers) Act 1973</b>	<b>section 31</b>
<b>Greater London Council (General Powers) Act 1979</b>	<b>(control of brown tail moth)</b>
<b>Greater London Council (General Powers) Act 1984</b>	<b>(registration of certain sleeping accommodation)</b>
<b>Greater London Council (General Powers) Act 1986</b>	
<b>Health Act 2006</b>	<b>Part I, Chapter I (smoke- free premises, places and vehicles)</b>
<b>Health and Safety at Work, Etc. Act 1974</b>	<b>(other than in respect of requirements imposed upon the Council as employers)</b>
<b>Highway Act 1980</b>	<b>Part IX</b>
<b>Housing Act 1985</b>	
<b>Housing Act 2004</b>	
<b>Housing &amp; Planning Act 2016</b>	
<b>Housing (Construction and Regeneration) Act 1996</b>	
<b>Hypnotism Act 1952</b>	
<b>Landlord and Tenant Act 1985</b>	
<b>Licensing Act 1964</b>	<b>sections 78 and 79</b>
<b>Licensing Act 2003</b>	
<b>Local Government and Housing Act 1989</b>	

Enactment	Relevant provisions and notes
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	
Protection from Eviction Act 1977	
Psychoactive Substances Act 2016	

<b>Enactment</b>	<b>Relevant provisions and notes</b>
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	
Building Act 1984	Insofar as it relates to energy performance for public buildings
Business Names Act 1986	section 4

<b>Enactment</b>	<b>Relevant provisions and notes</b>
<b>Cancer Act 1939</b>	
<b>Celluloid and Cinematograph Film Act 1922</b>	
<b>Children and Young Persons Act 1933</b>	section 7 (sale of tobacco etc., to persons under 16)
<b>Children and Young Persons (Protection from Tobacco) Act 1991</b>	
<b>Children and Families Act 2014</b>	tobacco, nicotine products and smoking provisions only
<b>Civil Aviation Act 1982</b>	
<b>Clean Air Act 1993</b>	sections 30 and 32
<b>Consumer Credit Act 1974</b>	
<b>Consumer Protection Act 1987</b>	Parts II and III
<b>Consumer Rights Act 1985</b>	
<b>Control of Pollution Act 1974</b>	section 75 (regulations concerning lead content of motor fuel)
<b>Copyright, Designs and Patents Act 1988</b>	
<b>Crossbows Act 1987</b>	
<b>Development of Tourism Act 1969</b>	section 18 (relating to price displays)
<b>Education Reform Act 1988</b>	sections 214 to 217 (provisions relating to unrecognised degrees)
<b>Energy Act 1976</b>	
<b>Energy Conservation Act 1981</b>	
<b>Enterprise Act 2002</b>	
<b>Estate Agents Act 1979</b>	
<b>European Communities Act 1972</b>	<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>Explosive Acts 1875 and 1923</b>	
<b>Explosives (Age of Purchase) Act 1976</b>	

<b>Enactment</b>	<b>Relevant provisions and notes</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>	<b>Part III</b>
<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>	<b>Part 5</b>
<b>Hire Purchase Act 1964</b>	<b>Part III</b>

<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

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

	( <a href="#">Manufacture and Storage of Explosives Regulations 2005</a> )
Street trading	London Local Authorities Act 1990

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

### Code of practice: disposal of surplus property

This appendix sets out the code of practice for the disposal of surplus property. The Strategic Director of Place is required to comply with this code when exercising the functions delegated in Part 3.3.5 of this constitution.

#### 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 Strategic Director of Resource and the Monitoring Officer.

#### Method of disposal

The Strategic Director of Place 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 Strategic Director of Place decides, in consultation with the applicable Cabinet Member that an alternative method of disposal would be appropriate. Examples of possible exceptions include:

- (a) sale to a sitting tenant
- (b) sale to adjoining owner
- (c) sale of an access which would enable a purchaser to release development value locked up in backland
- (d) sale of a part-interest in a property where amalgamation of interests could enable substantial "marriage value" to be realised
- (e) sale to a party offering other benefits to the Council, such as a housing association.

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

1. Where land is disposed of by auction, it will be subject to a reserve price agreed between the Strategic Director of Place and the auctioneer.

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 Strategic Director of Place, 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 Strategic Director of Place shall state the date beyond which it is not to be regarded as valid without further certification by him or her. 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 Strategic Director of Place or their 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.