



THE CONSTITUTION
of the
LONDON BOROUGH
OF
LEWISHAM

Amended March 2009

Deleted: August 2008

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1	Member code of conduct with protocols	207	<p>Formatted: Outline numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 3.81 cm + Tab after: 4.44 cm + Indent at: 4.44 cm, Tabs: Not at 4.44 cm</p> <p>Formatted: Indent: Left: 5.87 cm, Bulleted + Level: 1 + Aligned at: 0 cm + Tab after: 0.63 cm + Indent at: 0.63 cm, Tabs: Not at 0.63 cm</p> <p>Formatted: Indent: Left: 3.81 cm, Hanging: 1.27 cm, Outline numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 3.81 cm + Tab after: 4.44 cm + Indent at: 4.44 cm, Tabs: Not at 4.44 cm</p>
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PART I

SUMMARY

PART I - SUMMARY

This document summarises the Constitution of the London Borough of Lewisham under Section 37 Local Government Act 2000

1 AIMS AND PURPOSES

This constitution aims to

- i) lead to effective and efficient Council decision making
- ii) make it clear to local people who is making decisions on their behalf
- iii) give Councillors and local people greater opportunity to engage directly
- iv) set out clearly the arrangements for local political governance
- v) separate decision making from scrutiny of those decisions to create greater accountability .

and will be interpreted to give effect to those aims and principles.

THE COUNCIL

There are 54 Councillors who are elected to represent areas of the London Borough of Lewisham called wards. The Council also has a Mayor, who is elected by voters across the whole of the borough. Together they act as one body, the Council of the London Borough of Lewisham.

COUNCILLORS

Councillors are elected for a term of four years. Councillors who are elected to represent local wards must both represent the people of the ward that elected them and act in the interest of the whole area. They are all expected to contribute to the good governance of the area and to encourage community participation. They must respond to their constituents' enquiries fairly and without prejudice.

THE MAYOR

The Mayor is elected to lead the Council. He/she serves for a period of four years. He/she must act in the interests of the borough as a whole. He/she

appoints the political Executive (the Executive) and is responsible for taking most of the main decisions, and for giving the power to others to do so.

THE CHAIR OF THE COUNCIL

The Council will appoint a Chairman, to be known as the Chair of the Council, who will preside at Council meetings and interpret the Constitution at those meetings.

ETHICS

The Council is committed to promoting the highest standards of behaviour amongst its members and staff. To reflect this, it has adopted a Members' Code of Conduct. Every Councillor must comply with it. Similar standards are expected of its staff who must comply with the Council's Employee Code of Conduct.

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ALLOWANCES

The Council has adopted a scheme, which sets out the allowances and expenses which it will pay to Councillors. Councillors will be entitled to receive remuneration in accordance with it.

COUNCIL'S POLITICAL MANAGEMENT STRUCTURE

i) The Council

The Council acts as one corporate body. It holds meetings to which all Councillors including the Mayor are invited. By law, some decisions have to be taken in that forum. The Council is responsible for approving its main policies and budget. More details of the matters, which are reserved for Council decision appear in the Constitution. Provisions relating to the types of Council meeting that may be held and the conduct of business at those meetings are set out in the Council's general procedure rules.

ii) The Executive

By law, the Council also has an Executive, which makes proposals to the Council about its main policies and budget. The Executive is responsible for putting policies, which the Council has approved, into effect within the budget which the Council has also agreed. The Executive is responsible for most day to day Council decisions. The Executive has responsibility for all decisions which are not the responsibility of the Council or any of its committees. The Executive is referred to as the Mayor and Cabinet.

iii) Overview and scrutiny committees

The Council's overview and scrutiny committee helps the Executive to develop policies and budget. It also holds the Executive to account by scrutinising their decisions, examining performance and asking questions of those who make decisions and provide services. There will be one overarching overview and scrutiny committee which will appoint at least three standing sub-committees, known as select committees, and a Business Panel to co-ordinate its business and operate call in on its behalf. The overview and scrutiny committee will appoint at least two other select committees annually, one with the lead on equalities issues, and may appoint joint select committees with other authorities from time to time.

iv) Committees

The Council has established other committees to deal 'for example' with planning and highways matters, alcohol and entertainment licensing (under the Licensing Act 2003), other licensing functions, elections, health and safety and pension investment. Their remit and composition are set out in the Constitution.

v) Standards Committee

The Council's Standards Committee has been set up to promote the highest standards of conduct by members of the Council and to assist and advise on the adoption and application of its Code of Conduct. Details of its composition and remit appear in the Constitution.

vi) Other committees

The Council is entitled to set up other committees as it considers fit to act in relation to matters which are not the responsibility of the Executive.

vii) Working Party

The Council may also set up working parties as it considers appropriate to advise it on matters as it sees fit.

THE EXECUTIVE

The Executive is made up of the Mayor and between two and nine other Councillors appointed by the Mayor. Detail about the way the Executive conducts its business is set out in the Constitution.

DELEGATING DECISIONS

Each year at its Annual Meeting, the Council adopts a scheme of delegation which sets out details of those decisions which the Council makes itself, and those which it delegates to committees, including any area committees, individual ward members, its employees, and joint arrangements it has with other authorities.

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The scheme of delegation also includes a record of those delegations, which the Mayor presents to the Annual Meeting of the Council in each year. During the course of the year, the Mayor is entitled to amend the delegations he/she has made, and any such amendments will be incorporated into the scheme of delegation.

The Council's current scheme of delegation appears in the Constitution. It will be reviewed at each Annual Meeting of the Council. Council delegations may be changed at any time by resolution, and incorporated into the Constitution.

PRINCIPLES OF DECISION MAKING

Whoever makes a decision on behalf of the Council, including executive decisions, the following principles will apply:-

- (a) the decision will be made following an evaluation of options;
- (b) the decision maker will take professional advice (including financial and legal advice where the decision may have legal and/or financial consequences);
- (c) the decision will be taken following a consideration of all relevant matters and disregarding irrelevancies;
- (d) reasons for the decision will be recorded as will details of options considered with reasons for their rejection;
- (e) action taken will be proportionate to the result to be achieved;
- (f) respect for human rights will be balanced with the Council's duty to the wider community;
- (g) a presumption in favour of openness, unless there are compelling lawful reasons preventing the consideration of matters in public;

- (h) consultation appropriate to the matter under consideration;
- (i) clarity of aims and desired outcomes;
- (j) the highest standards of ethical conduct, avoiding actual, potential and perceived conflicts of interest.

MINIMISING CONFLICT

The Constitution recognises that the separation of the executive from the overview and scrutiny function, and the responsibility of the Council for approval of policy and budget creates opportunities for conflict which, if not managed, could undermine effective decision making. To minimise any potential for tension between these roles, the Council has established processes to resolve conflict between them; they are set out in the Constitution.

ACCESS TO COUNCIL MEETINGS AND DOCUMENTS

The Council will draw up and regularly update a forward plan, which sets out key decisions which are likely to be taken over a period of four months. The plan will be available for public inspection and will say how views may be expressed on matters in the plan.

When the Executive meets to make a key decision, then subject to some exceptions such as when confidential matters are under discussion, it will meet in public. Prior to meetings where a key decision is likely to be made, reports about key decisions will be made available to the public.

There are special provisions which apply when urgent matters arise.

FINANCE, CONTRACTS AND LEGAL MATTERS

The Council is subject to an independent audit of all Council accounts and appoints an Audit Panel to advise it on its accounts. The Council carries out its financial affairs in accordance with its Finance Procedure Rules set out in the Constitution. These rules may be amended from time to time as set out in those rules.

The Council has adopted a procedure for the award of contracts. This is set out in the Constitution.

The Council's Head of Law is authorised to take, defend, settle or otherwise participate in legal proceedings where he/she considers it appropriate to protect the Council's interest.

GENERAL RULES OF PROCEDURE

The Council has adopted a set of general rules of procedure which together with this Constitution and its appendices govern the conduct of all Council business. These rules may be changed by Council resolution from time to time and will be operated as flexibly as possible to facilitate free and inclusive debate. They may be augmented by the use of protocols to encourage best practice.

STAFF

Under the supervision of the Head of the Paid Service, Council staff are responsible for translating the objectives of the Council into reality. A brief outline of the Council's current organisational structure appears in the Constitution.

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The following Council employees have special statutory responsibilities:-

Head of Paid Service (the Chief Executive) – who is responsible for the overall corporate management of the Council

Chief Finance Officer (the Executive Director for Resources) – who is responsible for the proper administration of the Council's finances and ensuring that expenditure is lawful and prudent

Monitoring Officer (the Head of Law) – who is responsible for ensuring that decisions are lawful and there is proper access to Council information

Director of Childrens Services (the Executive Director for Children and Young People) – who is responsible for services to children and young people.

Director of Adult Services (the Executive Director for Community Services) – who is responsible for the carrying out of adult social services.

The Council has adopted provisions relating to the recruitment and dismissal of staff and disciplinary matters, which mean that all but the most senior members of staff are appointed by the Chief Executive. Those provisions appear in detail in the Constitution.

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Council employees will be bound to comply with an Employee Code of Conduct which by law is to be part of their employment contract. It is attached to the Constitution.

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PUBLICATION OF CONSTITUTION

Copies of the constitution are available for public inspection at the Town Hall, Catford SE6 4RU. Every Councillor will be given a copy on their first declaration

of acceptance of office, and given a copy of any amendments as soon as practicable after they have been agreed.

REVIEW OF THE CONSTITUTION

The Council will monitor and review the constitution periodically.

PART II

ARTICLES

PART II

THE ARTICLES OF THE CONSTITUTION OF THE LONDON BOROUGH OF LEWISHAM

This document and its appendices make up the constitution of the London Borough of Lewisham (the Council) under Section 37 Local Government Act 2000 and contains a statement of the Council's executive arrangements for the purposes of Section 29 of that Act. It may be amended from time to time in accordance with the law and the provisions contained in this constitution for so doing.

ARTICLE 1 AIMS AND PURPOSES

This constitution aims to

- i) lead to effective and efficient Council decision making
- ii) make it clear to local people who is making decisions on their behalf
- iii) give Councillors and local people greater opportunity to engage directly
- iv) set out clearly the arrangements for local political governance
- v) separate decision making from scrutiny of those decisions to create greater accountability.

and will be interpreted to give effect to those aims.

ARTICLE 2 COUNCILLORS AND ELECTIONS

2.1 The Council

Since 6th May 2002, there have been 54 councillors who are elected to represent areas of the London Borough of Lewisham called wards. The Council also has a Mayor, who is elected by voters across the whole of the borough. Together they act as one body, the Council of the London Borough of Lewisham.

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2.2 Eligibility to stand for election as a Councillor

Only registered voters of the area of the London Borough of Lewisham or those living or working there will be eligible to stand for election as councillor.

2.3 Eligibility to stand for election as Mayor

Only registered voters of the London Borough of Lewisham or those living or working there will be eligible to stand for election as Mayor.

2.4 Timing of elections

The regular election of councillors will be held on the first Thursday in May every four years beginning in 2002. The term of office for all councillors will start on the fourth day after being elected and will end on the fourth day after the date of the next regular election. The mayoral election will be held on the same day as the regular election of councillors and the Mayor's term of office will be four years, beginning and ending as the term of office for all councillors.

2.5 The role of a councillor

Councillors who are elected to represent local wards must both represent the people of the ward which elected them and, when involved in decision making, act in the interest of the whole area. They are all expected to contribute to the good governance of the area and to encourage community participation. They must respond to their constituents' enquiries fairly.

By contrast, the Mayor will not represent a ward, but will represent the whole of the area of the London Borough of Lewisham, in accordance with this Constitution.

Unless stated otherwise, references in the Constitution to councillors will be deemed to include the Mayor.

2.6 Councillors' rights and duties

Councillors will have such rights of access to information, documents, land and buildings of the Council as are necessary for the proper discharge of their duties as a councillor/Mayor, and as accord with the law.

Councillors, including the Mayor, will at all times observe the Council's Code of Conduct in force from time to time. The Member Code of Conduct appears at Part V of this Constitution.

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Councillors, including the Mayor, when making decisions, or taking any action in relation to a Council function, will act in the interests of the area, in accordance with the law and having taken and considered proper professional advice.

Councillors will not divulge confidential information given to them except in accordance with the law.

2.7 Councillors' remuneration

Councillors, including the Mayor, will be entitled to receive allowances in accordance with the Members' Allowances Scheme appearing in Part VI of this constitution, which may be amended from time to time in accordance with the law.

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ARTICLE 3 CITIZENS AND THE COUNCIL

3.1 Citizens' rights in relation to Council business

- (a) To vote in local elections for their representatives as councillors and Mayor
- (b) To be able to find out from the Council's Forward Plan which key executive decisions are likely to be taken by the Council and when
- (c) To have access to information, agendas and papers relating to Council and Executive meetings and decisions in accordance with the law and this constitution
- (d) To attend meetings of the Council and Executive in accordance with the law and this constitution
- (e) To see records of decisions taken by the Council or its Executive and to be given reasons for those decisions, in accordance with the law and the constitution
- (f) To examine the Council's accounts and to make their views known to the Council's auditor

3.2 Citizens' participation in Council decision-making

For example, citizens may respond to consultation through the forward planning process, ask questions at Council Question Time, contribute to investigations by overview and scrutiny panels, participate in their local

ward assembly, and take up one of the many statutory roles, such as becoming a school governor.

3.3 Citizens' complaints

Citizens have the right to complain to:-

- (a) The Council itself under its complaints and whistleblowing schemes
- (b) The Local Government Ombudsman, after using the Council's own complaints scheme
- (c) The independent Standards Board for England if the complaint relates to an allegation that the Member Code of Conduct has been breached.

- (d) The Standards Committee if the complaint relates to an allegation that the Member Code of Conduct has been breached.

3.4 Citizens' responsibilities

Citizens must not be violent, abusive or threatening to councillors or Council staff, and must not wilfully harm assets, funds or anything owned by the Council, councillors or Council staff.

ARTICLE 4 THE COUNCIL

4.1 Full Council

The Council holds meetings to which all councillors including the Mayor have been invited. Such meetings are referred to as full Council.

4.2 Decisions reserved to Council

Some decisions may only be taken by Council. They are:-

- (a) the adoption of the following plans and strategies, which will make up the Council's policy framework:-

Children and Young People's Plan¹
Sustainable Community Strategy²
Crime and Disorder Reduction Strategy³
Youth Justice Plan⁴
Local Development Documents⁵

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¶ Citizens may request their ward member to refer a local government matter of concern in their ward to an overview and scrutiny for consideration ¶

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Transport Local Implementation Plan ⁶
 Housing Strategy ⁷
 Food Law Enforcement Service Plan ⁸
Statement of Licensing Policy (alcohol & entertainment)⁹
Statement of Licensing Policy (Gambling)¹⁰

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- (b) the agreement of any plan or strategy which requires the approval of a Minister of the Crown or a Secretary of State prior to its submission for such approval, whether the plan or strategy is submitted in draft form or not;
- (c) the approval of proposals in connection with the production, alteration or withdrawal of development plan documents¹;
- (d) agreeing the Council's budget - where the term budget includes the budget requirement as set out in the Local Government Finance Act 1992 and the housing revenue account as defined in Part IV Local Government and Housing Act 1989, including all its components such as the budgetary allocation to different services and projects, proposed taxation levels, contingency funds (including any adjustment to contingency funds or reserves) and any plan or strategy for the control of the Council's borrowing or capital expenditure. Virements will be permitted in accordance with the Council's procedure rules at Part IV. The setting of virement limits will be for the Council to decide;
- (e) adopting the Council's Constitution and any subsequent changes to it;
- (f) adopting the Council's Member Code of Conduct and any changes to it;
- (g) making and amending the Council's standing orders;
- (h) taking decisions in relation to functions which are the responsibility of the Executive which are not in accordance with the policy framework or budget agreed by the Council;
- (i) taking decisions in respect of functions which are not the responsibility of the executive and which have not been delegated to committees, sub-committees or officers;
- (j) the delegation of functions to committees;
- (k) the setting of and any amendments to the terms of reference for committees, including a standards committee, overview and

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scrutiny committees and all other committees which the Council lawfully considers necessary for the proper provision of its functions;

- (l) making appointments to committees and making any amendments to their composition;
- (m) the promotion or opposition of a local Bill in Parliament or an Order under the Transport and Works Act 1992;
- (n) making, altering and revoking byelaws;
- (o) power to make appointments to outside bodies save where that power lies with the Executive;
- (p) conferring the freedom of the borough;
- (q) changing the name of the borough;
- (r) approval and/or amendment of a scheme and the amounts of members allowances under prevailing legislation;
- (s) authorising applications to the Secretary of State for the transfer of housing land, whether relating to a programme for disposal under Section 135 Leasehold Reform, Housing and Urban Development Act 1993, or consent to disposal under Section 32 or 43 Housing Act 1985;
- (t) the appointment (and dismissal) of the Head of Paid Service;
- (u) the Statement of Accounts;

(v) the delegation under Section 236 Local Government and Public Involvement in Health Act 2007 of decision-making in relation to non-executive functions to individual ward members

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(w) such other matters as are reserved to the Council from time to time, whether by the constitution or by law, ✓

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1. Section 17 Children Act 2004
2. Section 4 Local Government Act 2000
3. Section 6 Crime and Disorder Act 1998
4. Section 40 Crime and Disorder Act 1998
5. Sections 15 and 17 Planning and Compulsory Purchase Act 2004
6. Section 108(3) Transport Act 2000

Deleted: for example, and not limited to, the Statement of Licensing Policy¹³¹⁰ (alcohol and entertainment) or the Statement of Licensing Policy¹¹ (gambling).

<u>7</u>	CLG Guidance relating to Housing Strategies
<u>8</u>	Health and Safety at Work Act 1974 and Guidance from Food Standards Agency
<u>9</u>	Section 5 Licensing Act 2003
<u>10</u>	Section 154 Gambling Act 2005

4.3 Council meetings

The Council will hold an Annual General Meeting in March, April or May every year. In the year in which there is an ordinary election of local councillors, the Annual General meeting will be within 21 days of the retirement of councillors. There will also be a schedule of ordinary Council meetings to conduct programmed business throughout the year. In addition, extra meetings of the Council may be called to deal with issues as they arise. The business to be conducted at these meetings, their format and the way in which they are run may differ according to the nature of the business to be dealt with at the meeting. More detail appears in the Council's Procedure Rules at Part IV

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4.4 Responsibility for functions

The Council will maintain a schedule of delegation, setting out the responsibility for the Council's functions which are not the responsibility of the Executive and ensure it is kept up to date.

ARTICLE 5 CHAIRING THE COUNCIL

5.1 The Chair and Vice-Chair of Council

The Council will appoint a Chairman, who will be known as the Chair of Council and a Vice-Chairman, known as the Vice Chair of Council. They will be appointed annually at the Council's Annual General Meeting. Neither may be a member of the Council's Executive, nor chair the Council's main overview and scrutiny committee or business panel.

5.2 The role of the Chair of Council

The Chair of Council, and in his/her absence the Vice Chair of Council, will have the following roles:-

- (a) To uphold and promote the purposes of the Constitution of the Council;

- (b) To preside over meetings of the Council so that its business can be carried out efficiently and fairly with regard to the interests of the community and respect for the rights of Councillors;
- (c) To promote public involvement in the Council's activities;
- (d) To ensure that Council meetings are a forum for the debate of matters of public concern to the local community and the place at which members of the Council who do not sit on the Executive are able to hold the Executive to account;
- (e) To attend such civic and ceremonial functions as the Council considers appropriate.

ARTICLE 6 OVERVIEW AND SCRUTINY

6.1 One overview and scrutiny committee

The Council will appoint one overview and scrutiny committee consisting of all members of the Council who are not members of the Executive, provided that this composition complies with the political balance requirements of the Local Government and Housing Act 1989. If that is not possible, or if there is not unanimous agreement at the Annual General Meeting to such arrangements in any year, then the Council will decide on the composition of this committee so as to give the widest possible membership to the committee, but excluding members of the Executive.

6.2 The role of the overview and scrutiny committee

The overview and scrutiny committee will be responsible for the overview and scrutiny of all functions in accordance with Section 21 Local Government Act 2000 as amended, and any other relevant statutory provision. However, the overview and scrutiny committee may not carry out any other functions unless relevant regulations are brought into effect to the contrary.

The law requires that the overview and scrutiny committee must have power to recommend that a decision which is the responsibility of the executive which has been made but not implemented be reconsidered by the decision-maker (or to arrange for the full Council to review such a decision). In this Constitution these powers are referred to as 'call-in'.

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The operation of call in is dealt with under the heading 'Conflict Resolution' at Article 8.

The law also requires that, subject to certain exceptions, any member of the Council may refer to the overview and scrutiny committee, or an overview and scrutiny select committee, any matter which relates to a Council function and affects all or part of the electoral area for which the member was elected, or any person living or working in the area, so long as it is relevant to the functions of that committee or sub committee . This is known as the Councillor Call for Action and is dealt with in Section E of the Council's procedure rules below

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6.3 Overview and scrutiny arrangements

The overview and scrutiny committee will meet at least once per year to appoint the sub-committees set out in Column 1 of Table 1 below, each of which will have membership as set out in the corresponding entry in Column 2. With the exception of the Business Panel, the following sub-committees will be known as select committees. Every member of the overview and scrutiny committee must serve on at least one of its sub-committees.

Table 1.

Column 1	Column 2
Public Accounts Select Committee	At least 7 and no more than 11 members of the Council who are not members of the executive, the number to be determined annually by the Council
Children & Young People Select Committee	At least 7 and no more than 11 members of the Council (to be determined annually by the Council) who are not members of the Executive and 3 parent governor representatives elected in accordance with the Parent Governor Representatives (England) Regulations 2001 and 2 diocesan representatives chosen in accordance with Section 499 Education Act 1996. Parent and diocesan representatives have full voting rights on this select committee

Healthier Communities Select Committee	At least 7 and not more than 11 members of the Council who are not members of the Executive, the number to be determined annually by the Council
Sustainable Development Select Committee	At least 7 and not more than 11 members of the Council who are not members of the Executive, the number to be determined annually by the Council
Safer Stronger Communities Select Committee	At least 7 and no more than 11 members of the Council who are not members of the Executive,
Business Panel	<p>Consisting only of the following members of the Council:-</p> <ul style="list-style-type: none"> • The chair and vice chair of the overview and scrutiny committee • the chair of each of the select committees appointed by the overview and scrutiny committee • 3 or the smallest number higher, of Councillors required to ensure the political composition of the Council is reflected <p>NB Members of the Council's Executive may not sit on the Business Panel or any overview and scrutiny body</p>
Education Business Panel	<p>Consisting of those members of the Council appointed to the Business Panel plus:-</p> <ul style="list-style-type: none"> • 2 x Diocesan Representatives • 3 x Parent governor representatives one for primary schools, special schools and secondary schools

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6.4 The role of the select committees and the Business Panel

In relation to the activities within their remit, the select committees and the Business Panel will all carry out the roles set out in paragraph 6.5 (a) – (f) below.

However nothing in this Article allows the select committees to exercise any power of call in on behalf of the overview and scrutiny committee. Nor are the select committees authorised to take any action permitting the Executive to take urgent decisions without call in procedures applying. These exempted functions may be exercised on behalf of the main overview and scrutiny committee only by its Business Panel (and the chair of that Panel where the law and the Constitution so provide) or the Education Business Panel whose terms of reference are limited to the exercise of call-in powers on matters relating wholly or partly to any education functions which are the responsibility of the Executive.

6.5 Roles common to select committees and the Business Panel

The following roles are common to all select committees and business panel.

(a) General functions

- To review and scrutinise decisions made and actions taken [in relation to executive and non-executive functions](#)
- To make reports and recommendations to the Council or the executive, arising out of such review and scrutiny in relation to any executive or non-executive function
- To make reports or recommendations to the Council and/or Executive in relation to matters affecting the area or its residents
- The right to require the attendance of members and officers to answer questions includes a right to require a member to attend to answer questions on up and coming decisions

(b) Policy development

- To assist the executive in matters of policy development by in depth analysis of strategic policy issues facing the Council for report and/or recommendation to the Executive or Council or committee as appropriate
- To conduct research, community and/or other consultation in the analysis of policy options available to the Council
- To liaise with other public organisations operating in the borough – both national, regional and local, to ensure that the interests of local people are enhanced by collaborative working in policy development wherever possible

(c) *Scrutiny*

- To scrutinise the decisions made by and the performance of the Executive and other committees and Council officers both in relation to individual decisions made and over time
- To scrutinise previous performance of the Council in relation to its policy objectives/performance targets and/or particular service areas
- To question members of the Executive or appropriate committees and executive directors personally about decisions
- To question members of the Executive or appropriate committees and executive directors in relation to previous performance whether generally in comparison with service plans and targets over time or in relation to particular initiatives which have been implemented
- To scrutinise the performance of other public bodies in the borough and to invite them to make reports to and/or address the select committee/Business Panel and local people about their activities and performance
- To question and gather evidence from any person outside the Council (with their consent)
- To make recommendations to the Executive or appropriate committee and/or Council arising from the outcome of the scrutiny process

(d) *Community representation*

- To promote and put into effect closer links between overview and scrutiny members and the local community
- To encourage and stimulate an enhanced community representative role for overview and scrutiny members including enhanced methods of consultation with local people
- To liaise with the Council's ward assemblies so that the local community might participate in the democratic process and where it considers it appropriate to seek the views of the ward assemblies on matters that affect or are likely to affect the local areas, including accepting items for the agenda of the appropriate select committee from ward assemblies.
- To keep the Council's local ward assemblies under review and to make recommendations to the Executive and/or Council as to how participation in the democratic process by local people can be enhanced
- To receive petitions, deputations and representations from local people and other stakeholders about areas of concern within their overview and scrutiny remit, to refer them to the Executive, appropriate committee or officer for action, with a recommendation or report if the committee considers that necessary
- To consider any referral within their remit referred to it by a member under the Councillor Call for Action, and if they consider it appropriate to scrutinise decisions and/or actions taken in relation to that matter, and/or make recommendations/report to the Executive (for executive matters) or the Council (non-executive matters)

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(e) *Finance*

- To exercise overall responsibility for finances made available to it for use in the performance of its overview and scrutiny function.

(f) *Work programme*

- As far as possible to draw up a draft annual work programme in each municipal year for consideration by the overview and scrutiny Business Panel. Once approved by the Business Panel, the relevant select committee will implement the

programme during that municipal year. Nothing in this arrangement inhibits the right of every member of a select committee (or the Business Panel) to place an item on the agenda of that select committee (or Business Panel respectively) for discussion.

- The Council and the Executive will also be able to request that the overview and scrutiny select committee research and/or report on matters of concern and the select committee will consider whether the work can be carried out as requested. If it can be accommodated, the select committee will perform it. If the committee has reservations about performing the requested work, it will refer the matter to the Business Panel for decision.

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6.6 Select committees – specific terms of reference

In addition to the general terms of reference outlined above, the select committees will have the following specific terms of reference:-

Public Accounts Select Committee

- To make reports and recommendations to the Council or the Executive which promote the better custodianship of the Council's finances and to make recommendations for best financial practice across the authority.
- To investigate the possibilities for improving the Council's financial management practice and to make reports and recommendations to Executive or Council as appropriate.
- To encourage the highest standards of financial custodianship where necessary overseeing training activity for all members in this area.
- To consult on and to comment on and make recommendations to the Executive in respect of the actual and proposed contents of the Council's budget and without limiting the general remit of the committee, to hold the Executive to account for its performance in respect of all budgetary matters.
- To receive reports as appropriate from the Audit Panel in respect of their overview of contract procedure rules and financial regulations
- To make recommendations and reports for consideration by the Executive or Council to improve procurement practice.
- To scrutinize the effectiveness of the Audit Panel

Healthier Communities Select Committee

- (a) To fulfil all of the Overview and Scrutiny functions in relation to the provision of service by and performance of health bodies providing services for local people. These functions shall include all powers given to the Council's Overview and Scrutiny Committee by the Health and Social Care Act 2001, NHS Act 2006, Local Government and Public Involvement in Health Act 2007 and regulations made under that legislation, and any other legislation in force from time to time.
- (b) To require the attendance of representatives of health bodies at meetings of the select committee to address it, answer questions and listen to the comments of local people on matters of local concern.
- (c) To fulfil all of the Council's Overview and Scrutiny functions in relation to social services provided for those 19 years old or older including but not limited to services provided under the Local Authority Social Services Act 1970, National Assistance Act 1948, Mental Health Act 1983, NHS and Community Care Act 1990, Health Act 1999, Health and Social Care Act 2001, NHS Act 2006 and any other relevant legislation in place from time to time.
- (d) To fulfil all of the Council's Overview and Scrutiny functions in relation to the lifelong learning of those 19 years or over (excluding schools and school related services).
- (e) To receive referrals from the Patient Involvement Network and consider whether to make any report/recommendation in relation to such referral (unless the referral relates solely to health services for those aged under 19 years of age, in which case the referral from the Patient Involvement Network should be referred to the Children and Young People Select Committee
- (f) Without limiting the remit of this Select Committee, its terms of reference shall include Overview and Scrutiny functions in relation to:-
- people with learning difficulties
 - people with physical disabilities
 - mental health services
 - the provision of health services by those other than the Council
 - provision for elderly people

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- the use of S31 Health Act 1999 [and Section 75 NHS Act 2006](#) flexibilities to provide services in partnership with health organisations
 - lifelong learning of those aged 19 years or more (excluding schools and school related services)
 - Community Education Lewisham
 - Libraries
 - other matters relating to Health and Adult Care and Lifelong Learning for those aged 19 years or over
- (f) Without limiting the remit of the Select Committee, to hold the Executive to account for its performance in relation to the delivery of Council objectives in the provision of adult services and health and lifelong learning.

NB In the event of there being overlap between the terms of reference of this select committee and those of the Children and Young People Select Committee, the Business Panel shall determine the Select Committee which shall deal with the matter in question.

Children & Young People Select Committee

- (a) To fulfil all Overview and Scrutiny functions as they relate to the social care of children and young people up to the age of 19 years including but not limited to the following activities:-
- (i) the social services functions of the Council under the Local Authority Social Services Act 1970, and all functions of the Council under the National Assistance Act 1948, the Mental Health Act 1983, Children Act 1989, the NHS and Community Care Act 1990, and all other relevant legislation in force from time to time
 - (ii) to invite representatives of other service providers to children and young people in the area to give account of their performance and to answer questions.
- (b) To fulfil the Council's overview and scrutiny functions in relation to the implementation of the Children Act 2004
- (c) In so far as they relate to the provision of services for those under the age of 19 years, the exercise of all of the Council's powers under the Education Acts, School Standards and Framework Act 1998, Education Act 2002 and 2005, Education and Inspections Act 2006 and all other relevant Acts from time to time

in force. Without limiting the generality of this, this shall include in particular schools and school related services.

- (d) The exercise of the powers of the Council is so far as they relate to people under 19 years of age in the provision of opportunities for education, training and learning outside the school environment including pre-school services.
- (e) In so far as they relate to children and young people under 19 years of age to make comments and recommendations to the Executive on the contents and proposed contents of the plans making up the Council's policy framework.
- (f) Without limiting the remit of the Select Committee, its terms of reference include the following matters:
 - Child Protection covering provision for vulnerable children including children in need and children looked after, placements, foster care and adoption
 - Early Years provision
 - Special Needs provision
 - Schools and related services
 - Youth Service, including Connexions
 - Youth offending and challenging behaviour
 - Transitional services for those leaving care
 - Other matters relating to children and young people

(g) To receive and consider referrals from the Patient Involvement Network in so far as they relate solely to people under 19 years of age. Otherwise such referrals will be made to the Healthier Communities Select Committee>

(h) Without limiting the remit of the Select Committee to hold the Executive to account for its performance in relation to the delivery of Council objectives in the provision of services to children and young people.

NB In the event of there being overlap between the terms of reference of this select committee and those of the Healthier Communities Select Committee, the Business Panel shall determine the Select Committee which shall deal with the matter in question.

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(a) To fulfil all overview and scrutiny functions in relation to the discharge by responsible and other partner authorities of their crime and disorder function contained in the Police & Justice Act 2006, when implemented and as amended from time to time, and all other relevant legislation. This shall include the power:

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(i) to review or scrutinise decisions made, or other action taken, in connection with the discharge by responsible authorities of their crime and disorder function, and

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(ii) to make reports or recommendations to the local authority or the executive with respect to the discharge of those functions.

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(b) make proposals to the Executive to promote equality of opportunity within the borough, including issues of discrimination based on race, ethnic origin, gender, disability, sexuality, age and/or class;

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(c) to recommend to the Executive, the Council or an appropriate committee proposals for policy development in relation to equalities issues;

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(d) to analyse policy options as necessary to inform the proposals to be made to the Executive or other appropriate committee;

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(e) to advise the Executive or other committee on all matters relating to equality of opportunity both in terms of policy, service provision, employment and/or access to public services;

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(f) to enhance and develop existing and innovative consultative and/or advisory work for equality of opportunity and to consider issues of inequality and discrimination across the borough;

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(g) to consider and recommend to the Executive, ways in which participation by disadvantaged and under-represented sections of the community might be more effectively involved in the democratic processes of local government;

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(h) to pilot methods of consultation and involvement and to report back to the Executive or appropriate committee on their effectiveness with recommendation if appropriate;

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(i) to establish links with and liaise with external organisations in the borough which are concerned with the promotion of equality of opportunity.

Sustainable Development Select Committee

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(a) To exercise all the functions and roles of the overview and scrutiny committee in relation to the following matters:

- to examine issues relating to the protection of the environment including 'green' issues such as the conservation of natural resources, energy efficiency and conservation and/or the reduction of all types of pollution and make recommendations to the Mayor and Cabinet as appropriate;
- to comment and consult on and make recommendations to the Mayor and Cabinet in relation to the following:

i. sustainable development, economic development, business support, employment and training;

ii. the formulation of the Council's planning policies, (including the preparation of the Council's Local Development Framework and other local plans for the use and development of land, but excluding planning control and building control functions;

iii. highways, parking, traffic and transport, urban regeneration and housing;

iv. public health and the environment including waste disposal, environmental health, street and market trading (but not the granting of licences and related matters);

v. public protection, refuse collection and disposal, street cleaning, consumer protection, cemeteries and crematoria;

generally to examine the performance of the Mayor and Cabinet in relation to these matters.

- (b) to make proposals to the Executive to promote equality of opportunity within the borough, including issues of discrimination based on race, ethnic origin, gender, disability, sexuality, age and/or class;
- (c) to recommend to the Executive, the Council or an appropriate committee proposals for policy development in relation to equalities issues;
- (d) to analyse policy options as necessary to inform the proposals to be made to the Executive or other appropriate committee;

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- (e) to advise the Executive or other committee on all matters relating to equality of opportunity both in terms of policy, service provision, employment and/or access to public services;

(i) to enhance and develop existing and innovative consultative and/or advisory work for equality of opportunity and to consider issues of inequality and discrimination across the borough;

(j) to consider and recommend to the Executive, ways in which participation by disadvantaged and under-represented sections of the community might be more effectively involved in the democratic processes of local government;

(k) to pilot methods of consultation and involvement and to report back to the Executive or appropriate committee on their effectiveness with recommendation if appropriate;

(l) to establish links with and liaise with external organisations in the borough which are concerned with the promotion of equality of opportunity.

6.7 Business panel – specific terms of reference

The overview and scrutiny business panel will have the following terms of reference:

- (a) the co-ordination and approval of the work programme of each overview and scrutiny select committee (subject always to the right of a member of an overview and scrutiny committee or select committee to place an item on the agenda) to secure the most effective use of committee time and Council resources and to prevent overlaps;
- (b) where a particular issue would fall within the remit of more than one overview and scrutiny select committee, to decide on the allocation of the issue for consideration;
- (c) the exercise of all powers in relation to call in on behalf of the overview and scrutiny committee (except those which are within the terms of reference of the Education Business Panel) including :-

i) within seven working days of notice of decisions being given, to refer an executive decision made but not yet implemented back to the decision maker for reconsideration in accordance

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with conflict resolution procedures to be adopted by the Council;

ii) within seven working days of notice of decision being given, to refer an executive decision made but not implemented to the Council for a decision as to whether to refer it to the decision maker for reconsideration if (on the advice of the monitoring officer or the chief finance officer) the Business Panel is of the view that the decision is contrary to the policy framework, or contrary to or not wholly in accordance with the budget;

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(d) consideration of whether it is reasonable to take an executive decision which is urgent notwithstanding that it is contrary to the policy framework, or contrary to or not wholly in accordance with the budget, will be for the chair of this committee to decide, or in their absence for the Chair of the Council. The Panel will consider a report about such urgent decisions at least once per quarter and refer that report to full Council;

(e) to make comments and recommendations to the Executive on the contents and proposed contents of the following elements of the policy framework:

- sustainable community strategy
- crime and disorder reduction strategy
- food law enforcement plan
- housing strategy
- transport local implementation plan
- youth justice plan;

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(f) without limiting the general remit of the business panel, to hold the Executive to account for performance in the delivery of each of those strategies and plans listed above;

(g) alternatively, the overview and scrutiny Business Panel may allocate the consultative and developmental role in relation to any of the plans listed above, and the scrutiny of performance against them, to any other overview and scrutiny select committee. If so requested, that select committee will fulfil those roles;

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(h) to consider any referral under the Councillor Call for Action by a ward member which relates to the remit of more than one select committee

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(i) on behalf of the overview and scrutiny committee, to be responsible for overview and scrutiny functions in relation to all activities of the Council where that overview and scrutiny function has not been delegated elsewhere;

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(i) to recommend to full Council any changes which it thinks necessary to the number, terms of reference, composition or membership of the overview and scrutiny committees. Such changes are permitted by the Constitution. Consultation may be necessary if the changes are significant.

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6.8 Education Business Panel – specific terms of reference

The terms of reference of the Education Business Panel shall be limited to the exercise of call-in powers in relation to any matter relating wholly or partly to the education functions which are the responsibility of the Executive. For the avoidance of doubt, all other overview and scrutiny functions in relation to education functions shall be the responsibility of the Children & Young People Select Committee.

6.9 Joint overview and scrutiny committees

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From time to time, the Council may establish and appoint members to joint overview and scrutiny arrangements including but not limited to a joint overview and scrutiny committee with other Council(s) to carry out overview and scrutiny functions in relation to health bodies under Section 245 NHS Act 2006, regulations thereunder, amendments thereto and/or other relevant legislation

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The terms of reference of such joint overview and scrutiny committees as are established from time to time will be appended to this Constitution .

The Council currently appoints members to one joint overview and scrutiny committee. Its composition and terms of reference appear in the table below

<u>Name of joint health select committee</u>	<u>Constitution of joint health select committee</u>	<u>Terms of reference of joint health select committee</u>
<u>INSERT</u>	<u>NEEDED</u>	<u>HERE</u>

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6.10 Changes to the overview and scrutiny arrangements

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From time to time, the Council may want to make changes to its overview and scrutiny arrangements. For example, it may wish to appoint time limited select committees to examine particular issues in depth, alter the terms of reference of existing select committees or the business panel, or change their constitution. Changes to the overview and scrutiny arrangements will not be considered to be a change to the Constitution which would require consultation unless any of the following criteria are met:-

- (a) the number of scrutiny select committees in total would fall to less than four, or rise to more than ten;
- (b) the number of places on any select committee would fall to less than five;
- (c) the terms of reference and or composition of the business panel would change in a manner other than to effect a change which in the opinion of the Monitoring Officer is minor. Changes in the composition of the business panel to reflect changes made under (a) or (b) will not require consultation.

6.11 Membership of the overview and scrutiny committee

Members of the Executive may not be appointed to the overview and scrutiny committee or any of its select committees or the Business Panel or any joint overview and scrutiny committee.

6.12 Proceedings of overview and scrutiny committee

All proceedings of the overview and scrutiny committee, its select committees and the Business Panel will be conducted in accordance with the overview and scrutiny procedure rules appearing at Part IV

6.13 Political balance

The overview and scrutiny committee and its sub committees (as all other Council committees with the exception of the Standards Committee and the Licensing Committee and its sub-committees) must by law comply with the provisions of the Local Government and Housing Act 1989. Subject to procedure rule J1 the Council must ensure that the membership of its committees and sub committees reflects the political composition of the Council

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¶ The Council may from time to time (establish and) appoint members to serve on joint overview and scrutiny committees with one or more other authorities whether required to do so by law, or by choice. The TOR and membership of any such joint overview and scrutiny committee will be appended to this Constitution from time to time.¶

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ARTICLE 7 THE EXECUTIVE

7.1 Composition of the Executive

The Executive consists of:-

- a directly elected mayor; and
- at least two but not more than nine councillors appointed to the Executive by the Mayor

7.2 Executive decisions

- (a) Executive decisions are those which by law, or by this Constitution, do not fall to be made by the Council, or any committee, sub committee or officer, by virtue of decision making powers delegated by the Council. Executive decisions fall to be made by the Mayor, or as delegated by the Mayor, in accordance with the law.
- (b) The Mayor may make decisions alone, or delegate them to the Executive as a whole, to a committee of the Executive, to individual members of the Executive or to Council staff. He/she may also delegate decision making powers to area committees, joint committees or other local authorities in accordance with the law.
- (c) The Mayor will prepare and keep up to date a schedule of mayoral delegations, which will be appended to this Constitution at Part VIII.

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7.3 The Mayor – role and function

The Mayor will carry out the following roles:-

- (a) to be the Council's principal spokesperson
- (b) to give overall political direction to the Council
- (c) to appoint (and dismiss) the Executive
- (d) to decide on a schedule of delegation of executive functions
- (e) to chair meetings of the Executive
- (f) to represent the Council on external bodies that deal with Executive functions
- (g) to be the Council's lead member for Children's Services.

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7.4 The Mayor – as member of the Council

The Mayor is to be treated as a member of the Council unless the law requires otherwise. In particular the Mayor:-

- (a) is subject to the same rules about qualification and disqualification from office as any other councillor;
- (b) must follow the rules about disclosure of interests and comply with the Members' Code of Conduct in place from time to time;
- (c) may be a member of, attend and speak at meetings of the Council, its committees and sub-committees, with the exception of its Standards Committee and overview and scrutiny committee, its select committees and Business Panel. The Mayor may only speak at a meeting of the Standards Committee or an overview and scrutiny committee, select committee, Business Panel or joint overview and scrutiny committee if invited to do so and may not vote at those meetings;
- (d) if a member of a political group, will be taken into account when calculating seat allocations on committees and sub-committees of which he/she is a member, if they have to reflect the political composition of the Council as a whole in accordance with the provisions of the Local Government and Housing Act 1989;
- (e) is subject to the Members' Allowances Scheme in place from time to time;
- (f) is subject to the same rules relating to casual vacancies as apply to all councillors;
- (g) will create a casual vacancy if for any reason the office becomes vacant, which will be filled in the normal way.

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7.5 Mayor – the title

Only the elected mayor may use the title 'Mayor'

7.6 Deputy Mayor

- (a) *Appointment* – At the first meeting of the Council after his/her election, the Mayor will appoint one of the members of the Executive to be the deputy mayor.
- (b) *Term of office* – the Deputy Mayor will hold office until the end of the Mayor's term of office unless he/she resigns as Deputy Mayor, is no

longer a member of the Council, is no longer a member of the Executive or is removed from the office of Deputy Mayor by the Mayor.

- (c) *Absence of Mayor* – The Deputy Mayor must act in the place of the Mayor if the Mayor is unable to discharge his or her duties for any reason, until a new Mayor is elected or the Mayor is again able to act. If the Mayor is unable to act, or the office is vacant at the same time as the Deputy Mayor is unable to act, or the office of Deputy Mayor is vacant, then the Executive must act collectively in the place of the elected Mayor or arrange for a member of the Executive to do so.

However, where the Mayor and Deputy Mayor are unable to act because of suspension from office or because they are unfit to act on health grounds then an interim Mayor will be appointed by the Council and the provisions of Regulation 47 Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (England) Order 2001 will apply.

- (d) *Removal from office* – The Deputy Mayor holds office until he/she resigns as deputy mayor, ceases to be a member of the Council, ceases to be a member of the Executive, the end of the term of the Mayor, or the Mayor decides to remove him/her from office. However before a decision to remove the Deputy Mayor from office will take effect, the Mayor must:-
- inform the Council's Monitoring Officer in writing that he/she has decided to remove the Deputy Mayor from office and the date upon which such removal is to take effect. The date on which it is to take effect may not be less than one month after the date of the notice in writing to the Monitoring Officer. The notice must also state the identity of the new Deputy Mayor, and
 - report his/her decision to a meeting of the full Council at least five working days before the decision is to take effect and at that meeting the Mayor must inform the Council of the identity of the new Deputy Mayor who will succeed the outgoing Deputy Mayor.

7.7 The Executive – generally

- (a) *Composition* – only councillors may be appointed to the Executive. There may be no co-optees, formal deputies nor substitution of executive members. Neither may the Chair nor Vice-Chair of Council be appointed to the Executive. Members of the Executive may not be members of an overview and scrutiny committee.

- (b) *Term of office* – Councillors appointed to the Executive by the Mayor, (unless they resign as a member of the Executive or cease to be a councillor) will hold office until the end of the term of the Mayor except that the Mayor may remove them from office as he/she thinks fit. Any councillor suspended from being a councillor under Part III Local Government Act 2000 will not be a member of the Executive during the period of suspension, though they may resume office at the end of it.
- (c) *Appointment by the Mayor* – Subject to the legal minimum and maximum, the size and composition of the Executive is a matter solely for the Mayor to decide. He/she may choose to appoint councillors from any political group or those not in any political group. The Executive need not reflect the overall political composition of the Council. The Mayor must report his/her appointments to the Monitoring Officer immediately they are made and to the next meeting of the full Council. The appointment of members to the Executive will only be effective when their appointment is reported to a meeting of the Council.
- (d) *Removal from the Executive* - Every member of the Executive will remain a member of the Executive until he/she resigns from the Executive, ceases to be a member of the Council, the end of the term of the Mayor, or the Mayor decides to remove him/her from office. However before a decision to remove a member from the Executive will take effect, the Mayor must:-
- inform the Council's Monitoring Officer in writing that he/she has decided to remove the member from office and the date upon which such removal is to take effect. The date on which it is to take effect may not be less than one month after the date of the notice in writing to the Monitoring Officer. The notice must also state the identity of any newly appointed member of the Executive and if appropriate any amendment to the Mayoral scheme of delegation arising;
 - report his/her decision to a meeting of the full Council at least five working days before the decision is to take effect and at that meeting the Mayor must inform the Council of the identity of the new Executive member who will succeed the outgoing member and if appropriate any amendment to the Mayoral scheme of delegation arising.

7.8 Proceedings of the Executive

Proceedings of the Executive will be conducted in accordance with the Executive Procedure Rules appearing at Part IV of this Constitution.

ARTICLE 8 CONFLICT RESOLUTION

This Constitution recognises that the separation of the executive from the overview and scrutiny function, and the responsibility of the Council for approval of the statutory budget and policy framework creates opportunities for conflict which if not managed could undermine effective decision making. To minimise any potential for tension between these roles, the Council has established processes to resolve conflict between them. These are set out at Part IV.

ARTICLE 9 COMMITTEES

- 9.1** The Council will appoint the committees set out in Column 1 of the table below with the composition set out in Column 2 of that table and the terms of reference listed in Column 3.

Committee	Composition	Terms of reference
3 planning committees A, B and C having no geographical boundaries	10 members of the Council, including no more than 1 member from each Council ward	<p>All non-executive, (except for those local choice functions reserved to the Executive – see table at Part III) –decisions relating to planning and development control under the Town and Country Planning Act 1990 and all other relevant legislation in force from time to time and in relation to building control under the Building Act 1984, regulations thereunder and all other legislation in force from time to time: This includes by way of example but not limitation:</p> <ul style="list-style-type: none"> • Determining applications for planning permission, advertisement consent, listed building and conservation area consents, certificates of lawfulness or lawful development, works to trees, hazardous substances and building control approval • Issuing enforcement notices, stop

		<p>notices and listed building enforcement notices</p> <ul style="list-style-type: none"> • Taking action in relation to unauthorised advertisements • Issuing notices in relation to untidy land • Issuing notices and orders in relation to building control • The exercise of the Council's powers in relation to listed buildings • Commenting on draft planning briefs and plans to the development of land prepared by the Executive • Entering into agreements to regulate the development or use of land • Carrying out any other regulatory enforcement functions contained with town and country planning or building control legislation in force from time to time • Creating, diverting and stopping up highways, footpaths and bridleways • Removal of nuisance deposits on the highway • all non-executive highways and planning functions not reserved to Council by law or this Constitution as set out in the Schedule of relevant statutes in the Scheme of Delegation • to authorise the Head of Law to take any legal action which may be appropriate which relates to any functions of the committee including the taking or defending of legal proceedings and entering into legal agreements as may be required
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Strategic Planning Committee	10 members of the Council who shall be the chairs of each of the other planning committees, five other planning committee members and two members of the Executive	<p>To consider any matter listed within the terms of reference for local planning committees A, B and C, where the Council's head of planning, or the Council's head of transport and engineering in relation to highways matters, is of the view that they would be more appropriate for consideration by the strategic planning committee. Without limiting the discretion of the head of planning or the head of transport and engineering in any way, matters may be considered to be more appropriate for the strategic planning committee in the following circumstances:</p> <ul style="list-style-type: none"> • where the decision relates to a development/matter of strategic importance which will have a significant impact on the borough, or • where legal proceedings in relation to the matter are in existence or in contemplation, or ▪ where three or more members of the planning committees A, B and C are disqualified in some way from participating in the decision
Licensing Committee	Ten members of the Council with up to five sub-committees each consisting of three members of the main Committee. Every member of the main Licensing Committee acts as substitute for any member sitting on any Licensing Sub-Committee	<p>1. To oversee the discharge of all licensing functions of the Council as the licensing authority under the provisions of the Licensing Act 2003, and the Gambling Act 2005, except the determination of the Council's statement of Licensing Policy and the publication of that Statement (pursuant to the Licensing Act 2003), and the determination of the Council's Statement of Licensing Policy, the publication of that Statement and any Policy not to permit casinos (pursuant to the Gambling Act 2005).</p> <p>2. To establish four sub-committees and one urgency sub-committee to determine</p>

		<p>matters pursuant to both the Licensing Act 2003 and the Gambling Act 2005. The Licensing Act 2003 matters are regarding personal licences, premises licenses, club premises certificates, provisional statement, designated premises supervisor, interim authorities temporary event notices and objections as consultee, save for such matters as are reserved to the main Committee and any matters which the Head of Business and Regulatory Services considers more appropriate for consideration by the main Licensing Committee where the decision is considered likely to have a significant impact on the borough or area of it or to people in it. The Gambling Act 2005 matters are regarding premises licences, provisional statements, permits and temporary use notices and objections as consulted, save for such matters as are reserved to the main Committee and any matters which the Head of Business and Regulatory Services considers more appropriate for consideration by the main committee. Without limiting the discretion of the Head of Business and Regulatory Services in any way, matters may be more appropriate for the main Licensing Committee where the decision is considered likely to have a significant impact on the borough or area of it or to people in it.</p> <p>3. To discharge and arrange for the discharge of the functions governed by the Licensing Act 2003 and the Gambling Act 2005 by one or more sub-committees or by officers except where prohibited by either the Licensing Act 2003 or the Gambling Act 2005.</p> <p>4. To make regulations for the conduct of meetings of the committee and sub-committees in accordance with Section 9(d) of the Licensing Act 2003.</p>
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		<p>5. To receive and consider annual reports, where appropriate, on the needs of the local tourist economy, employment and investment in the area and any other matter directly related to the Licensing Act 2003 functions in the borough.</p> <p>6. To direct officers to the planning committee, where appropriate, on the situation regarding licensed premises in the area, including the impact of alcohol related crime and disorder.</p>
Licensing (Supplementary) Committee	The members and the Chair and Vice-Chair of the Licensing (Supplementary) Committee shall be identical to those of the Licensing Committee	To exercise all of the Council's licensing and registration functions as permitted under Paragraph B of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended, and all other relevant law in force from time to time, in so far as those functions are functions of the London Borough of Lewisham, as set out in Schedule of relevant statutes in the Scheme of Delegation but excluding functions under the Licensing Act 2003.
Pensions Investment Committee	8 members of the Council	<p>To exercise all functions of the Council in relation to local government pensions under Section 7, 12 or 24 Superannuation Act 1972 and all other relevant pensions legislation. By way of illustration this includes:</p> <ul style="list-style-type: none"> • review with fund managers of the investment performance of the superannuation fund on a quarterly basis • to examine the portfolio of investments, and its market value, at the end of each quarter for suitability and diversification • to inform the fund managers of the Council's policy regarding investment of its superannuation funds, and to take advice on the possible effect on performance resulting from

		<p>implementing the policy</p> <ul style="list-style-type: none"> • to review from time to time the appointment of the fund manager • to determine the overall investment strategy and policies of the fund on professional advice • responsibility for compliance with the ten Myners principles incorporated in the "CIPFA Pensions Panel Principles for Investment Decision Making" and all other relevant guidance in relation to the Local Government Pension Scheme in force and issued by CIPFA from time to time.
Health and Safety Committee	6 members of the Council	The discharge of functions under relevant statutory provisions within the meaning of Part I of the Health and Safety at Work Act 1974 to the extent that they are discharged other than in the Council's capacity as employer
Elections Committee	6 members of the Council no more than one half of whom may also be members of the Executive	<p>To exercise powers in relation to the holding of elections and the maintenance of the electoral register including:</p> <ul style="list-style-type: none"> • the appointment of an electoral registration officer • the assignment of officers in relation to requisitions of the registration officer • the appointment of a returning officer for local government elections • the provision of assistance at European Parliamentary elections • the division of constituencies into polling districts • the division of electoral divisions into polling districts at local government elections • the exercise of powers in relation to the holding of elections • the exercise of powers to pay electoral registration officers properly incurred

		<p>expenses</p> <ul style="list-style-type: none"> • the exercise of powers to fill vacancies in the event of insufficient nominations in accordance with Section 21 Representation of the People Act 1985 • the declaration of a vacancy in office in circumstances permitted under Section 86 LGA 1972 • the duty to give notice of a casual vacancy • power to determine fees and conditions for the supply of copies or extracts from election documents • the submission of proposals to the Secretary of State for an order under section 10 Representation of the People Act 2000 for a pilot scheme for local elections • power to make submissions to the Local Government Commission in relation to the boundaries of the borough or ward boundaries • the appointment of a proper officer for the purposes of giving various notices in relation to elections and referendums (e.g. in relation to the verification number for petitions for a referendum under LGA 2000)
Appointments Committee	The Chair of Overview & Scrutiny, the Mayor and two such executive members as the Mayor, as Leader of the largest political group, may nominate on a meeting by meeting basis, and two or the smallest higher number of non-executive members	<ul style="list-style-type: none"> • The recruitment and selection of chief officers and deputy chief officers (excluding the head of the paid service) in accordance with regulations relating to such appointments in force from time to time. • To assist the Council in the appointment of the head of paid service as the Council shall request from time to time, save that this appointment is by law a decision for the full Council. • To include the terms and conditions of employment of the Head of Paid Service as well as monitoring of performance targets for the Head of Paid Service by

	required to ensure that the political composition of the Council is reflected. In the event of any member informing the proper officer in writing that they are unable to attend a meeting of the Appointments Committee, then the Council appoints such person as the Leader of the relevant political group shall nominate as substitute in writing to the proper officer to be a member of the Appointments Committee for the purpose of that meeting only.	the Mayor

9.2 The Council will also appoint an advisory working party as set out in the first column of the table below with the composition set out in the second column and the terms of reference set out in the third column of the table below

Working Party	Composition	Terms of reference
Constitution Working Party	<ul style="list-style-type: none"> One representative of each political group and six or the smallest number higher, of councilors required 	To advise the Council on the operation of its executive arrangements under the Local Government Act 2000 and make proposals to the Council for any changes to the Council's Constitution it considers necessary

	to ensure the political composition of the Council is reflected.	
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9.3 The Council will also appoint an advisory Audit Panel as set out in the first column of the table below with the composition set out in the second column and the terms of reference set out in the third column of the table below

Audit Panel	Composition	Terms of Reference
Audit Panel	Consisting of 6 non executive Councillors, one of whom shall serve as chair and up to 4 independent members	<p>(a) To receive, review and where appropriate advise and make recommendations to the Council on the following matters:</p> <ul style="list-style-type: none"> • The review and approval of the Council's Internal Audit's strategy, plans and resources. • Internal Audit progress reports on a quarterly basis summarizing the audit reports issued and performance of the Internal Audit function. • The annual report of the Council's Head of Internal Audit and Inspection Agencies • Reports from Internal Audit on the implementation of agreed recommendations where management have failed to undertake the necessary actions within the planned audit time frame.

		<ul style="list-style-type: none"> • The external auditor's Annual Plan, relevant reports, and reports to those charged with governance. • External inspection reports and specific reports as agreed with the external auditor • The monitoring of the effectiveness of the Council's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements. • An overview of the Council's Constitution in respect of audit procedure rules, contract procedure rules, and financial regulations. • The Council's assurance arrangements including the Statement of Internal Control. • The Council's Annual Statement of Accounts, to consider whether appropriate accounting policies have been followed and whether there are any concerns arising from the financial statements or from the audit that need to be brought to the attention of the Executive. • The external auditor's
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		opinion and reports to members, and monitoring of management action in response to issues raised by external audit.

9.4 General provisions applying to committees

General rules apply to committees as contained in Part I – Committee General Rules attached to this Constitution. Those rules shall also apply to the meetings of the Constitution Working Party.

ARTICLE 10 LOCAL CHOICE

The law provides that in respect of certain functions, the Council may decide whether decisions are to be the responsibility of the Council or the Executive. These functions are referred to as “local choice functions” in this Constitution and are listed in Part III. The Council’s choice is recorded in the table appearing there. This choice may be amended from time to time by full resolution of the Council in which case the table will be amended accordingly.

ARTICLE 11 ETHICS

11.1 Member Code of Conduct

The Council is committed to promoting the highest standards of behaviour ~~by its members, both elected and co-opted. To reflect this, it has adopted a Members’ Code of Conduct which appears at Part V.-~~ Ethics. Every Council member must comply with it and any Member Code of Conduct in place from time to time.

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11.2 Employee Code of Conduct

Similar standards are expected of ~~Council~~ staff. Their contracts of employment require behaviour of the highest calibre and are to include a requirement that employees adhere to an Employee Code of Conduct which appears at Part V - Ethics.

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11.3 A Standards Committee

The Council will establish a Standards Committee consisting of 6 councillors and 6 independent members, one of which independent members will chair the committee. Not more than one member of the Executive may sit on the Council's Standards Committee. All members of the committee are entitled to vote. Its terms of reference appear at Part V – Ethics. The Standards Committee may appoint one or more sub-committees to carry out any of its functions in accordance with the law. Where it does so, unless the law requires otherwise the sub-committees must also be chaired by an independent member.

ARTICLE 12

LocalAssemblies

The Council has established a consultative network of eighteen local assemblies [listed below](#). Though they are not decision making bodies, the local assemblies are an important consultative mechanism and provide a conduit to the Council and other public service providers through which the local community can prioritise local issues and advise the council, including determination of the Locality Fund. The Rules of Procedure at Part IV demonstrate how the views of the assemblies will be brought to the attention of the Council and the Executive.

Local Assemblies

Bellingham
Blackheath
Brockley
Catford South
Crofton Park
Downham
Evelyn
Forest Hill
Grove Park
Ladywell
Lee Green
Lewisham Central
New Cross
Perry Vale
Rushey Green
Sydenham
Telegraph Hill
Whitefoot

ARTICLE 13

JOINT ARRANGEMENTS

13.1 Promoting wellbeing

In order to promote the economic, social or environmental well-being of its area, the Council (or its Executive in relation to executive functions) may:-

- (a) enter into arrangements or agreements with any body;
- (b) co-operate with or facilitate or co-ordinate the activities of any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body,

in accordance with the law and the terms of this Constitution.

13.2 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions of any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with those other local authorities.
- (c) Save where the law provides to the contrary, the Executive may only appoint executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Executive may appoint members to a joint committee from outside the Executive if the law specifically provides and in the following circumstances:-

where the joint committee has functions for only part of the area of the authority and that part is smaller than two-fifths of the authority by area or population. In such cases, the executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area.

In such cases, the political balance requirements do not apply

- (e) Details of joint arrangements in relation to non-executive functions will be found in the Council's scheme of delegation in Part VIII of this Constitution. Details of joint arrangements in relation to executive functions are to be found in the Mayoral scheme of delegation also shown in Part VIII.

13.3 Access to information

- (a) The access to information rules in Part IV of this Constitution apply to joint arrangements.
- (b) If all of the members of a joint committee are members of the executive in each of the participating authorities, then its access to information regime is the same as that applied to the Executive.
- (c) If the joint committee contains members who are not in the Executive of any participating authority then the access to information rules in Part VA Local Government Act 1972 and any amendment thereto shall apply.

13.4 Delegation to and from other authorities

- (a) The Council may delegate non-executive functions to another local authority, and in certain circumstances the Executive of another authority.
- (b) The Executive may delegate executive functions to another local authority, or the Executive of another local authority in certain circumstances.
- (c) The decision whether to accept such a delegation from another authority is to be made by the Council.

13.5 Contracting out

The Council may contract out functions which are not executive functions, and the Executive may contract out executive functions to another body or organisation, if those functions may be exercised by an officer and are subject to an order under Section 70 Deregulation and Contracting Out Act 1994 or there is specific statutory provision allowing the Council to do so. The Council, or the Executive as the case may be, may also enter into contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

ARTICLE 14 STAFF

14.1 General

The Council will employ such employees as it considers necessary to carry out its functions.

14.2 Structure

The Head of Paid Service will determine and publicise the overall departmental structure of the Council showing the management structure and deployment of staff. This is set out as Part VII of this Constitution, and may be amended from time to time.

14.3 Statutory officers

The Council will designate the following posts as shown

Post	Designation
Chief Executive	Head of Paid Service S4 LGHA 1989
Head of Law	Monitoring Officer S5 LGHA 1989
Executive Director for Resources	Chief Finance Officer S114 LGFA 1988
Executive Director for Children and Young People	Director of Children's Services S18 Children Act 2004
Executive Director for Community Services	Director of Adult Social Services S6 LASSA 1970 as amended

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These postholders will have the functions described below.

14.4 Functions of the Head of Paid Service

The Head of Paid Service will have responsibility for:-

- (a) *Overall corporate management*– and operational responsibility (including overall responsibility for all staff);
- (b) *Professional advice* – the provision of professional advice to all parties in the decision making process
- (c) *Representing the authority*- on partnership and external bodies as required by law or the Council

- (d) *Records* – together with the Monitoring Officer, responsibility for appropriate record keeping for all Council decisions.
- (e) *Report to Council* – the Head of Paid Service will report to Council annually on the co-ordination of the discharge of the Council's functions, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (f) *Restriction on functions*- the Head of Paid Service may not also be the Monitoring Officer but may hold the office of Chief Finance Officer if a qualified accountant.

14.5 Functions of the Monitoring Officer

- (a) *Maintaining the constitution*- The Monitoring Officer will maintain an up to date version of the Constitution and will ensure that it is widely available for consultation by members, staff and public.
- (b) *Ensuring lawfulness and fairness in decision making* – After consulting with the Head of Paid Service and the Chief Finance Officer, the Monitoring Officer will report to the full Council (or the Executive in respect of an executive function) if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to mal-administration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) *Supporting the Standards Committee* – The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) *Conducting investigations*- The Monitoring Officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee
- (e) *Receiving reports* – The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals of the Standards Board.
- (f) *Proper officer for access to information* – The Monitoring Officer will ensure that decisions, including executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

- (g) *Advising whether executive decisions are within the policy framework and budget* - The Monitoring Officer will advise whether decisions of the executive are in accordance with the policy framework and budget
- (h) *Providing advice* – the Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and legal and vires issues in relation to budget and policy framework issues to all councillors including the Mayor.
- (i) *Restrictions on functions* -The Monitoring Officer may not also be the Head of Paid Service or the Chief Finance Officer.

14.6 Functions of the Chief Finance Officer

- (a) *Ensuring lawfulness and financial prudence of decision making* – After consulting with the Head of Paid Service and the Monitoring Officer to report to the full Council, or to the Executive in respect of executive functions, and the Council's external auditor, if he/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.
- (b) *Administration of the Council's financial affairs* – The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) *Providing advice* – The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial propriety, probity and budget and policy framework issues to all Councillors including the Mayor and will support and advise Councillors and officers in their respective roles.
- (d) *Give financial information*- The Chief Finance Officer will provide appropriate financial information to the media, members of the public and the community.
- (e) *Restrictions on functions* – The Chief Finance Officer may not also be the Monitoring Officer but may hold the office of Head of Paid Service.

14.7 Duty to provide sufficient resources to the Head of Paid Service, Monitoring Officer and Chief Finance Officer

The Council will provide the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

14.8 Duties of the Executive Director for Children and Young People

The Executive Director for Children and Young People is responsible for all of the functions of Director of Children's Services set out in Section 18 Children Act 2004 and any regulations made under it. This includes, but is not limited to, the functions of the local education authority (excluding further and higher education), children's social services, functions relating to those leaving care, health care services exercised by the Council under S31 Health Act 1999 and interagency co-operation.

The Executive Director for Children and Young People is under a duty, among other things, to promote co-operation between the Council and its partners to promote the wellbeing of children, to ensure that the authority's functions are discharged with regard to the need to safeguard and promote the wellbeing of children. The wellbeing of children may be promoted by using direct services, co-ordinating voluntary and other agencies, or under contract

14.9 Duties of the Executive Director for Community Services

The Director of Adult Social Services shall have responsibility for all social services functions under the Local Authority Social Services Act 1970, save those which relate to Children's Services under S18 Children Act 2004 and which are the responsibility of the Executive Director for Children and Young People.

14.10 Conduct

Council staff are required to comply with any Employee Code of Conduct and the protocol on Officer/ Member Relations appearing at Part V of this Constitution – Ethics, as well as other protocols relating to conduct introduced by the Council from time to time.

14.11 Employment

The recruitment, selection and dismissal of officers will comply with the Employment Rules set out in Part IV of this Constitution.

ARTICLE 15 DELEGATING DECISION MAKING

15.1 Council delegations

Each year at its Annual Meeting the Council adopts a scheme of delegation which sets out details of those decisions which the Council makes itself, and those which it delegates to committees, including area committees, individual ward members, its employees, as well as joint arrangements it has with other authorities. Council delegations may be changed at any time by resolution, and incorporated into this Constitution. Decisions relating to non-executive functions which do not fall within the remit of a specific committee appointed by the Council, and which do not by law require a decision by full Council, are delegated to the Chief Executive or such person as he/she shall nominate unless the Council determines to the contrary.

Deleted: under section 236
Local Government and
Public Involvement in
Health Act 2007

15.2 Mayoral delegations

The Mayor presents to each Annual Meeting of the Council a scheme of delegation in relation to executive functions. Once reported to the Annual Meeting they become effective. During the course of the year, the Mayor is entitled to amend the delegations he/she has made. Amendments will become effective once they have been notified to the monitoring officer by the Mayor and they have been reported by the Mayor to full Council, and any such amendments will be incorporated into the Mayoral scheme of delegation.

15.3 A scheme of delegation

The Council's and the Mayoral current scheme of delegation appear at Part VIII of this Constitution. They will be reviewed at each Annual Meeting of the Council and may be amended from time to time. The record of delegations will be kept up to date at all times.

ARTICLE 16 PRINCIPLES OF DECISION MAKING

16.1 Principles of decision making

Whoever makes a decision on behalf of the Council, including executive decisions, the following principles will apply:-

- (a) the decision will be made following an evaluation of options.
- (b) the decision maker will take professional advice (including financial and legal advice where the decision may have legal and/or financial consequences)
- (c) the decision will be taken following a consideration of all relevant matters and disregarding irrelevancies
- (d) reasons for the decision will be recorded as will details of options considered with reasons for their rejection
- (e) action taken will be proportionate to the result to be achieved
- (f) respect for human rights will be balanced with the Council's duty to the wider community
- (g) a presumption in favour of openness, unless there are compelling lawful reasons preventing the consideration of matters in public
- (h) consultation appropriate to the matter under consideration
- (i) clarity of aims and desired outcomes
- (j) the highest standards of ethical conduct, avoiding actual, potential and perceived conflicts of interest.

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16.2 Key decisions

The following executive decisions will be key decisions:-

- (a) Decisions which will involve expenditure or savings of £500,000 or more (save treasury management transactions taken in accordance with the Council's Treasury Management Strategy as approved by the Council)
- (b) Any decision having an impact in two or more wards, whether the impact is direct (e.g. where the decision relates to a road which crosses a ward boundary) or indirect (e.g. where the decision

relates to the provision or withdrawal of a service which is or would be used by people from two or more wards

Decisions will still be deemed to affect more than one ward even if one or more of the wards affected is outside the borough.

- (c) The Council will also define all executive decisions which relate to matters within the categories listed below as key decisions whatever their financial impact, and irrespective of the number of wards affected by them:-
- (i) Consideration of any report prepared by an external organisation (e.g. Best Value Inspectorate, District Audit or SSI) into the performance of the Council whether in general or in relation to a particular case, including the Council's response to it.
 - (ii) the closure or significant change in the character of a school or other educational facility.
 - (iii) consideration of any report relating to the possibility of the withdrawal of delegation of budget from a school
 - (iv) the giving of any statutory notice to a school or other educational establishment
 - (v) directions relating to the use and occupation of school premises
 - (vi) decisions relating to schools admission policy and standard numbers for schools
 - (vii) the making of instruments of governance for schools
 - (viii) policies relating to special needs, attendance and exclusion, awards, charging and remission
 - (ix) the Council's scheme for the financing of maintained schools
 - (x) closure of, or significant reduction in provision of, any Council service
 - (xi) where the decision is one which will involve a significant change in the manner of Council service provision,

- (xii) the fixing of fees and charges for Council services
- (xiii) granting or withdrawing financial support to any voluntary sector organisation in excess of £10,000 (excluding financial support to any organisation which is funded by government initiatives e.g. Single Regeneration Budget or similar)
- (xiv) writing off any bad debt in excess of £50,000, unless the Council has within the last 3 years already written off debts for the person/organisation concerned totalling that amount in which case any further write off would be a key decision
- (xv) the disposal of any Council property for less than best consideration
- (xvi) the disposal of any interest in Council property with a value of £500,000 or more
- (xvii) the taking by the Council of an interest in land worth £500,000 or more
- (xviii) the granting of any interest in land where the interest is valued at £500,000 or more
- (xix) the exercise of the Council's compulsory purchase powers
- (xx) applications for funding from any external body which if successful would also require Council match funding of £500,000 or more, or entail a revenue commitment of at least £500,000 in total by the Council
- (xxi) consideration of any matter which is to be the subject of a recommendation to full Council
- (xxii) consideration of any matter in which, to the decision-maker's knowledge, the decision-maker (or any member of a committee or sub committee making the decision) has an interest which ought to be declared. An interest includes a family member, friend, employer, or organisation with which the member is associated

- (xxiii) the award of a contract with a total value of £200,000 or more
 - (xxiv) where at least 5 members of the Council request that it be treated as a key decision, provided that in the opinion of the Monitoring Officer, they do so at least 6 weeks before a decision is likely to be taken
 - (xxv) where there is evidence of significant local opposition to proposals made by the Council
 - (xxvi) where the Chair of Council on advice from the Head of Paid Service and/or Monitoring Officer and/or Chief Finance Officer is of the view that the matter is one which ought properly to be treated as a key decision, and informs the proper officer to that effect at least 6 weeks before the decision is in the opinion of the Monitoring Officer likely to be taken
- (d) A decision maker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part IV of this Constitution

16.3 Rules relating to decision making

In Part IV of this Constitution are rules relating to the way in which the Council, the Executive, Council committees, sub-committees and overview and scrutiny committees and individual members to whom decision making power is delegated, will make decisions. Those rules will be followed by the parts of the Council to which they refer.

16.4 Acting as a tribunal

When the Council, the Executive, a committee, sub-committee or officer acts as a tribunal, or in a quasi judicial capacity, or determines/considers the civil rights and/or obligations or criminal responsibility of any person, they will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European convention of Human Rights in so far as it affects local authorities.

ARTICLE 17 FINANCE, CONTRACT AND LEGAL MATTERS

17.1 Financial management

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part IV of this Constitution.

17.2 Contracts

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part IV of this Constitution.

Any contract entered into on behalf of the Council in the course of the discharge of an executive function must be in writing. Such contracts must be:

- signed by an Executive Director if the value is £100,000 or less
- signed by an Executive Director and at least one other officer if the value is between £100,000 and £200,000 or
- for contracts with a value of £200,000 or more executed under the common seal of the Council and attested by the Head of Law or such person as he/she nominates.

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The Common Seal of the Council will be kept in a safe place by the Head of Law. A decision by the Council or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Law ought to be sealed.

17.3 Legal proceedings

The Head of Law is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to the decisions of the Council, or in any case where the Head of Law considers that such action is necessary to protect the Council's interest, and where appropriate, to settle such proceedings, or threatened proceedings

17.4 Authentication of documents

Where any document is necessary for any legal procedure or proceedings on behalf of the Council, the Head of Law is authorised to sign it, or to authorise another officer to sign it, unless any law requires otherwise, or the Council has specifically authorised another employee to sign it.

ARTICLE 18 REVIEW OF THE CONSTITUTION

18.1 Review by monitoring officer

As often as he/she considers appropriate, but at least once in every two years, the Monitoring Officer will review the operation of the Constitution to identify its strengths and weaknesses. The Monitoring Officer will then make recommendations to the full Council as to whether it should be amended or not to give better effect to the purposes set out in Article 1.

18.2 Changes to the constitution

- (a) *Council decision required* – Changes to the Constitution may only be made by the decision of full Council.
- (b) *Mayoral consent* – Changes to the Council's executive arrangements, except in so far as they relate only to the number, terms of reference or composition of overview and scrutiny committees, will not be effective unless the Mayor consents in writing.
- (c) *Change to a different form of executive* – If the Council is considering a move away from a directly elected mayor and cabinet model of executive arrangements, it will take reasonable steps to consult with local stakeholders and electors when drawing up proposals and will hold a binding referendum. The change will not take place until the end of the Mayor's term of office.

ARTICLE 19 PUBLICATION, INTERPRETATION AND SUSPENSION

19.1 Publication

- (a) The Monitoring Officer will give a printed copy of this Constitution to each member of the Council upon delivery to him/her of the that individual's declaration of acceptance of office on the member first being elected to the Council
- (b) The Monitoring Officer will ensure that there are copies of the Constitution available for inspection at Council offices, libraries and other appropriate locations, and that they can be purchased by

members of the local press and the public on payment of a reasonable fee.

- (c) The Monitoring Officer will ensure that a summary of the Constitution is made widely available within the area and is updated as necessary.

19.2 Interpretation

At any meeting of the Council, the ruling of the Chair of the Council as to the construction or interpretation or application of this Constitution may only be challenged in accordance with the Council Procedure Rules at Part IV.

19.3 Suspension

The Articles of this Constitution may not be suspended. The Procedure Rules may be suspended in accordance with the provisions of Part IV unless the Constitution specifically provides that they may not be suspended. A motion to suspend rules may only be taken on notice unless at least one half of all Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved taking account of the purposes set out in Article 1.

Part III

LOCAL CHOICE FUNCTIONS

The following table lists in Column 1 all of those functions where the Council may make a choice about whether they are to be the responsibility of the Executive or the Council. Column 2 sets out the body/person to whom the exercise of that function is delegated, and the limits if any imposed on the exercise of that function:

Function	Executive/non executive function
Functions under local Acts other than Sections 5 and 6 of the London Building Amendment Act 1939 (Naming of Streets)	executive function/non executive (local planning committee)
The determination of appeals against any decision of the Council	executive function
The appointment of review boards under regulations made under Section 34(4) Social Security Act 1998 (determination of claims and review)	executive function
Making arrangements for appeals against exclusion of pupils (Section 67(1) and Sch 18 Schools Standard and Framework Act 1998	executive function
Making arrangements for admissions appeals pursuant to Section 94(1) and(4) Schools Standard and Framework Act 1998	executive function
Making arrangements for appeals by governing bodies pursuant to Section 95(2) and Sch 25 Schools Standard and Framework Act 1998	executive function
Functions relating to contaminated land	executive function
Functions relating to the control of pollution or the management of air quality	executive function
The service of an abatement notice in respect of a statutory nuisance – Section 80 Environmental Protection	executive function

Act 1990	
The passing of a resolution that Schedule 2 Noise and Statutory Nuisance Act 1993 should apply in the area	executive function
The inspection of the area to detect any statutory nuisance (Section 79 EPA 1990)	executive function
Investigation of complaints relating to existence of statutory nuisance	executive function
Obtaining information under Section 330 Town and Country Planning Act 1990 as to interests in land	executive function
Obtaining particulars of persons interested in land under Section 16 Local Government (Miscellaneous Provisions) Act 1976.	executive function
Making agreements for the execution of highways works	executive function
<p>Appointments to any office (save employment with the Council) and to any body (or committee or sub committee of such a body) save the Council itself or a joint committee of two or more authorities</p> <p>The making of all other appointments will be a non-executive responsibility.</p>	<p>It will be the responsibility of the Executive to make the following appointments:-</p> <p>Appointments to the Local Government Association;</p> <p>Association of London Government;</p> <p>Single Regeneration Budget bodies:</p> <p>Thames Gateway London Partnership;</p> <p>LSP; Schools Organisation Committee, SELWDG, Downham Community Partnership, New Deal for Communities, GLE, Lewisham Health Partnership, SELCHP and any other bodies, which in the opinion of the Monitoring Officer, are of a similar nature</p>
The making of agreements with other local authorities for the placing of staff	executive function

at the disposal of those other authorities	
All matters relating to the preparation, submission and modification of the draft Local Area Agreement except final approval of the draft Local Area Agreement for submission to the Secretary of State	executive function
Approval of the draft Local Area Agreement for submission to the Secretary of State	Council function

Part IV

RULES OF PROCEDURE AND STANDING ORDERS

- A - Purpose**
- B - Councillors**
- C - Council Procedure Rules**
- D - Executive Procedure Rules**
- E - Overview and Scrutiny Procedure Rules**
- F - Budget & Policy Framework Procedure Rules**
- G - Access to Information Procedure Rules**
- H - Employment Procedure Rules**
- I - Contract Procedure Rules**
- J - Committee General Rules**
- Appendix – Contract Standing Orders**

A PURPOSE

The purpose of these procedure rules is to regulate the conduct of Council business in accordance with the law and to promote the effective discharge of Council business. They are designed to ensure fair and accountable decision making. Members of the Council and officers are bound to comply with them and they will be interpreted so as to give effect to their spirit. They may only be amended by a resolution of the Council.

B COUNCILLORS

1 Term of office

The term of office for councillors is four years and they retire on the fourth day after the ordinary election when newly elected councillors come into office. The Mayor also serves for a term of four years. Mayoral elections will be held on the ordinary day of election for councillors, and the Mayor will also retire on the fourth day after the newly elected Mayor comes into office. In this Constitution, the terms councillor and member also refer to the Mayor, unless expressly stated to the contrary.

2 Entitled to speak and vote

All councillors are entitled to speak and vote at meetings of the Council.

3 Resignation

A person elected as a councillor under the Local Government Act 1972 or as the Mayor under the Local Government Act 2000 may resign from office at any time by giving written notice to the Chief Executive. The resignation will take effect on receipt of the notice.

4 Vacation of office for non-attendance – all Councillors

Subject to exemptions set out in the Local Government Act 1972, if a councillor fails for a period of six consecutive months from the date of his/her last attendance, to attend any meeting of the Council then he/she shall (unless the absence was due to some reason approved by the Council before the expiry of that period) cease to be a member of the Council.

5 Qualifying attendance- all Councillors

Attendance as a member at any of the following meetings qualifies as attendance for the purpose of Rule 4 above:-

1. a meeting of any committee or sub committee of the Council
2. a meeting of any joint committee, joint board, or other body by whom for the time being any of the functions of the Council are being discharged
3. a meeting of any body appointed to advise the Council in any matter relating to any of its functions
4. attendance as representative of the Council at any body of persons

6 Vacation of office – executive members

If a member of the Executive fails for six months to attend any meeting of the Executive, then (unless the failure was due to some reason approved by the Council prior to the expiry of that period), he or she shall cease to be a member of the Council.

7 Qualifying attendance – executive members

The following actions are deemed to be attendance for the purpose of Rule 4 above:-

1. attendance as a member at a meeting of a committee of the Executive
2. the discharge by a member, acting alone, of any function which is the responsibility of the Executive

8 Declaration of a vacancy

Where a member of the Council:-

1. ceases to be qualified to be a member of the Council; or
2. becomes disqualified from being a member of the Council other than by virtue of an Order under Section 19 Local Government Finance Act 1982, a certificate under Section 20 of that Act, a conviction or a breach of any of the provisions of Part III of the Representation of the People Act 1983;
3. ceases to be a member of the Council by the failure to attend meetings of the Council or the Executive;

the Council shall, except in any case where a declaration has been made by the High Court, forthwith declare his/her office to be vacant, and the duty to declare the office vacant shall be the responsibility of the Chief Executive.

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9 Filling of casual vacancy

Unless the vacancy arises within six months of the date when the councillor would otherwise have retired, an election to fill a casual vacancy will be held within 35 days, calculated in accordance with the Local Government Act 1972, from the date when notice in writing of the vacancy has been given to the proper officer by:-

1. in the case of councillors other than the Mayor, two local government electors for the ward in question or the date of any declaration by the High Court that the office is vacant
2. in the case of the Mayor, 30 electors, or the High Court declares that the office is vacant.

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10 Period of office

The person elected or appointed to any casual vacancy shall hold office until the date upon which the person in whose place he/she was elected would regularly have retired and he/she shall then retire.

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11. Declaration of interests

Within two months of election, councillors are required to declare their interests for inclusion in the register of members interests in accordance with the Code of Conduct attached to this Constitution at Part V (as amended from time to time), and to agree to abide by the Council's Code of Conduct. Failure to do so within two months will mean that the elected member must vacate office. It is the responsibility of individual members to ensure that their entry in the register of members' interests is up to date at all times.

Members are also required to declare interests in relation to particular Council decisions in accordance with the contents of the Code of Conduct appearing at Part V. Failure to do so may result in action by the Council's Standards Committee, or by the Standards Board for England, prosecution if the interest is a financial one and may invalidate the decision.

Council employees are also under a duty to declare their interests in Council matters as set out in the Employee Code of Conduct appearing at Part V. This Code of Conduct is incorporated by law into contracts of employment, and failure to comply may result in disciplinary and/or other action as appropriate (e.g. a referral to the police in the most serious cases)

C COUNCIL PROCEDURE RULES

1 Types of meeting

There will be three types of Council meeting:-

- Annual Meeting
- Ordinary meetings
- Extraordinary meetings

2 The Annual Meeting

2.1 When and where? – The Annual Meeting must be held at a date and time determined in accordance with the Local Government Act 1972; This means that in any year in which there is an election of members of the Council, the annual meeting will take place within twenty one days of the retirement of councillors. In all other years the annual meeting will take place in March, April or May. Annual meetings will take place in such location as is specified in the summons to the meeting.

2.2 The Business – The Annual Meeting will deal with the following business in the order set out below:-

- To elect a person to preside if the Chair of Council is absent
- To elect a Chair of Council
- To appoint a Vice Chair of Council
- To approve the minutes of the last meeting
- To receive announcements or communications, if any, from the Chair, and/or Head of Paid Service
- To receive written notification from the Mayor of the constitution and composition of the Executive including the names of the Deputy Mayor and the other councillors chosen to serve on the executive for the coming year.
- To receive notification in writing from the Mayor of the nature and extent of any decision making powers delegated by him/her in relation to executive functions – which will be incorporated into the Council's scheme of delegation – Part VIII of the Constitution

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- To agree the terms of reference for, size and composition of an overview and scrutiny committee, a standards committee and such other committees as the Council thinks fit to deal with matters which are neither reserved to Council nor executive functions. Details of these delegations are to be included in the Council's Scheme of Delegation at Part VIII of the Constitution

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- To decide the allocation of seats on committees to political groups in accordance with the requirements for political balance set out in the Local Government and Housing Act 1989. To receive nominations to serve on the committees and so far as possible to appoint to them in accordance with the wishes of the political groups to which seats have been allocated

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- To make appointments to outside bodies, where those appointments are not reserved to the Executive, in accordance with political balance requirements if applicable.

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- To fix a programme of Council meetings for the municipal year

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- To consider any business specified in the notice convening the meeting.

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2.3 Notice – The Proper Officer will call the Annual Meeting in each year, and will give notice in accordance with these rules.

3 Ordinary meetings

3.1 When and where? – Ordinary meetings of the Council will take place in accordance with a programme fixed for the year at the Annual Meeting, but they must be held at intervals of no more than three months with the exception of the Standards Committee which shall meet at least twice a year. They will take place in locations determined by the proper officer and notified in the summons to the meeting.

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3.2 Business – Ordinary meetings will deal with the following business:-

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- To elect a person to preside if the Chair and Vice Chair are not present
- To approve the minutes of the last meeting
- To receive any declarations from members
- To receive any announcements from the Chair, the Mayor, members of the Executive or the Chief Executive
- To receive deputations and petitions, if any

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- To receive questions from and provide answers to the public in relation to matters which in the opinion of the Chair are relevant to the business of the meeting
 - To receive Members questions
 - To deal with any business remaining from the last Council meeting
 - To receive reports from the Council's committees and to receive questions and answers on those reports
 - To receive reports about and questions on the business of any joint arrangements and external organisations to which the Council appoints representatives
 - To receive reports from the Mayor (or his/her nominee) in relation to any key decisions which have been taken under the special urgency provisions (Part G Rule 16) and under the general urgency provisions (Part G Rule 15)
 - To consider motions; and
 - To consider any other business specified in the notice convening the meeting including but not limited to:-
 - proposals from the Executive in relation to the Council's policy framework and budget
 - reports referred by overview and scrutiny committees for debate
 - any matters referred to the Council for conflict resolution
- 3.3** Notice – The Proper Officer will call ordinary Council meetings, and will give notice in accordance with these rules.
- 4** **Extraordinary meetings**
- 4.1** When and where? - Extraordinary meetings will take place at such time and location as the proper officer determines and gives notice in the summons.
- 4.2** The business – Extraordinary meetings will deal with the business set out below in that order:-
- To choose a person to preside if the Chair and Vice Chair are not present

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- To approve the minutes of the last meeting of the Council
- To receive members' declarations of interest if any.
- To receive such announcements or communications as the Chair, Mayor or Chief Executive may wish to make.
- To receive Members' questions relevant to the business of the meeting, the relevance or otherwise of a question being a matter to be judged by the Chair on advice from the Chief Executive.
- To receive reports of the Executive or Committee relevant to the business specified in the summons to the meeting.
- To consider motions.
- To consider any business specified in the summons to the meeting.

4.3 Notice and summons The following people may request the proper officer to call a meeting of the Council, and the proper officer will comply:-

- The Council by resolution
- The Chair of the Council or in his/her absence the Vice Chair
- The Mayor
- The Head of Paid Service, Monitoring Officer and/or Chief Finance Officer in a matter of urgency
- Any five members of the Council if they have signed a requisition which has been delivered to the Chair of Council if he/she has refused to call a meeting or has failed to call one within 7 days of the presentation of the petition.

5 **Notice of place of residence or alternative**

The proper officer will give notice to the public of the place and time of any meeting in accordance with Part G (Access to information). At least five clear days before a meeting the proper officer will send a summons signed by him/her by post to every member of the Council or leave it at their place of residence. The summons will state the business to be conducted at the meeting and the date, time and place of the meeting.

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6 Variations in the order of business at a Council meeting

The order of business at any Council meeting may be varied at the discretion of the Chair, or on a motion to do so which shall be moved and put to the vote without discussion

7 Council Urgency Committee

- 7.1** Business – This Rule sets out the procedure for dealing with matters between meetings of the Council which are urgent and cannot be delayed. Council Urgency Committee may only deal with matters which are urgent and cannot be delayed until a quorate meeting of the full Council can be properly convened. It may only deal with matters which can be lawfully delegated by the Council.
- 7.2** Who? A Council Urgency Committee shall be established at the annual meeting of the Council and will consist of the Chair of Council, the Mayor, the Deputy Mayor, the Chair of the Overview and Scrutiny Committee and 2, or the smallest number higher of Councillors required to ensure the political balance of the Council is reflected.
- 7.3** Quorum – The quorum for the Council Urgency Committee shall be three.
- 7.4** Reason for urgency – Where in the opinion of the Chief Executive, a matter to be decided is so urgent that it cannot be delayed until the next meeting of the Council, a statement to this effect and the reason(s) shall be included in the item for decision by the Council Urgency Committee.
- 7.5** Frequency of meeting – The Council Urgency Committee shall meet as often as necessary, subject to the maximum of one meeting per week, to deal with business referred to it by the Chief Executive.
- 7.6** Reports to full Council – Decisions made by the Council Urgency Committee shall be reported to the next meeting of full Council. Copies of all reports and or other papers considered by the Council Urgency Committee in arriving at any decision shall be made available to any member of the Council on request.
- 7.7** Interregnum - During a year in which elections are held, in the period between the elections and the annual meeting of the Council, the Chief Executive is entitled to act in respect of any urgent decision to be made by the Council

- 7.8** Substitutes - The Council may also determine substitutes who may act in the absence of individual members of the Council Urgency Committee in their absence. Executive members may not be named as substitutes.

8. Who Presides at Council meetings?

- 8.1** If the Chair of Council is present at a meeting of the Council then he or she must preside at the meeting.
- 8.2** If the Chair of Council is absent, the Vice Chair will preside if elected to do so by the Council members present at the meeting.
- 8.3** If both the Chair and the Vice Chair of Council are absent from a meeting of the Council, or if the Vice Chair of Council is present but not elected, a councillor elected by the members of the Council present shall preside.
- 8.4** Any power or duty assigned to the Chair of Council by these Rules relating to the conduct of the meeting may be exercised by the person who presides at a meeting in the absence of the Chair of Council.
- 8.5** References to the Chair of Council in these Rules shall include any person presiding at a meeting of the Council.
- 8.6** The ruling of the Chair of Council in relation to the construction or application of these Rules, or to any proceedings of the Council, shall not be challenged at any meeting of the Council, save by a majority of those present at the meeting, and then the matter shall be referred to the Chief Executive for a ruling.

9 The Mayor and Deputies at Council

- 9.1** The Mayor shall speak first, (after any person in whose name a motion or amendment is brought)
- 9.2** The Deputy Mayor and each member of the Executive nominated under Rule D5 and/or D6, within whose portfolio a matter falls, shall have the right to speak after the Mayor.

10 Duration of Council meetings

When any meeting of the Council is still in progress two and a half hours after the time shown in the summons for the start of the meeting, then the Chair will draw the attention of the Council to the time and to the provisions of this Rule and:-

- 10.1** shall specify any remaining business which in his/her opinion, is of such a nature that it ought to be considered at an adjourned meeting, and any further report on that business which is to be presented to the adjourned meeting;
- 10.2** shall ask the members present at the meeting whether in their view there is any other business which ought to be considered at an adjourned meeting. If there is a request that other business should also be adjourned, then the Council shall consider a motion, so long as it is duly proposed and seconded, that such business stand adjourned. This motion will be put to the vote without debate and if passed then the Chair of Council will specify the business as justifying adjournment;
- 10.3** may then deal with any other business on the agenda , including any matter which in the Chair's opinion requires the Council to pass a resolution at that meeting, requiring that those items be put to the vote without debate. No motion or debate shall be permitted on the exercise of the Chair's discretion; and
- 10.4** where he/she has specified any business as justifying adjournment, he/she shall declare the meeting adjourned to such date and time as he/she shall direct, or to a date to be notified. If there is no such business then the meeting shall be closed.

This Standing Order may be suspended, and any motion to do so shall be put before the expiry of two and a half hours from the time published in the summons as the beginning of the meeting.

11 The Quorum for Council Meetings

- 11.1** No business may be conducted at any Council meeting unless one quarter of the entire number of councillors is present. For the purpose of calculating the quorum, the Mayor is deemed to be a councillor.
- 11.2** If, after 15 minutes from the time specified in the summons for the start of the meeting, there is still not a quorum present, the meeting shall not take place and shall be adjourned to a date to be fixed.
- 11.3** If, during any meeting, it appears to the Chair of Council that there may not be a quorum present at the meeting, he/she shall count the number present at the meeting.
- 11.4** Any councillor present at a meeting may ask the Chair of Council to count the number present to establish whether the meeting is quorate, and if so requested, the Chair of Council will conduct the count.

- 11.5** If following the count, the Chair of Council is satisfied that there is not a quorum present, he/she shall declare that there is not a quorum, and the meeting shall be adjourned for ten minutes.
- 11.6** If after that time there is still not a quorum present, then the meeting shall be adjourned
- 11.7** Any business not transacted on account of the absence of a quorum shall be adjourned to a meeting at a time to be fixed by the Chair of Council, or if he/she does not fix a time to the next ordinary meeting of the Council.

12 Political group leaders

Each political group on the Council will nominate a leader and inform the Chief Executive of the identity of that leader, and of any change in the leadership.

13 Questions by the Public at Council Meetings

- 13.1** General - Questions may be asked by the public at ordinary Council meetings. They may be addressed to the Mayor, any member of the Executive or any relevant committee or sub committee chair.
- 13.2** Order of questions - Questions will be asked in the order notice of them was received except that the Chair of Council may group together similar questions.
- 13.3** Notice of questions – A question may only be asked if notice has been given by delivering it in writing or by electronic mail by midnight on the fifteenth working day before the meeting. Each question must give the name and address of the sender. A written response will be provided to the questioner in writing by 5 p.m. on the day before the meeting at which the response will be circulated.

On receipt of a question from a member of the public, officers shall acknowledge the question promptly and explain the process for response, and that the questioner may attend the Council meeting to ask a supplementary question.

13.4 Scope of questions – The proper officer may reject a question if:-

- It does not relate to a matter for which the Council has powers or duties, unless it is a matter which affects the interests of local people.
- It is defamatory, frivolous or offensive

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- It is substantially the same as a question which has been put and answered at a Council meeting within the last three months
- It requires the disclosure of confidential or exempt information
- That responding to the question would entail disproportionate cost
- That the question relates to the circumstances of an individual case.
- It relates to any investigation by the Standards Committee, Standards Board or the Adjudication Panel.

The proper officer may put questions into an appropriate form without affecting the substance of the question and redirect them if necessary.

13.5 Disallowing questions - If any question is disallowed, the proper officer will write to the questioner explaining the reasons for that decision

13.6 Record of questions - So far as possible, printed copies of all questions and answers will be published at the relevant meeting and a copy supplied to each member of the Council and made available to the public at the meeting. A copy of questions asked and replies given will be filed together and kept as an annex to the Council minutes,

13.7 Asking the question at the meeting - The Chair of Council will announce that public questions are to be taken. He/she will state the name and address of the questioner and the name of the councillor who is to answer. The questioner will put the question and the councillor will reply.

13.8 Supplementary questions - If the Chair agrees, a questioner who has put a question may put one supplementary question to the member who has replied. A supplementary question must arise directly out of the original question or the reply given to it.

13.9 Absence of the questioner - If the questioner is not present or represented at the meeting, the question will not be put and shall be answered in writing.

13.10 Time limit on questions - The total time for answering questions at any Council meeting shall not exceed 30 minutes. If there is not enough time to answer all questions, the proper officer will reply in writing to those questions not dealt with after 30 minutes.

13.11 No debate on questions - There will not be any debate on any question save that a member may ask that a matter raised by a question be referred to a committee or to the Executive or to an officer to be dealt with.

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14. Questions by members

- 14.1** General – At a Council meeting members of the Council may ask questions that are relevant to the general work or procedure of the Council.
- 14.2** Notice – Written notice of questions must be received by the proper officer by midnight on the fifteenth day before the meeting. The notice must indicate whether the member requires a written answer only. Copies of the questions will be sent to the Chair of Council, the Mayor, every member of the Executive, the Chair of the Overview and Scrutiny Committee, the Chair of the Business Panel and the Chair of any relevant committee. Written responses to all questions will be circulated by 5 p.m. on the working day prior to the meeting. No questions may be asked without notice except with the consent of the Chair of Council to whom the question will be put, on a matter of urgency of which the Chair of Council will be the judge. In such cases, the content of the question must be given to the Chair in writing at least three hours before the meeting.
- 14.3** Disallowing questions – Questions may be disallowed for the same reasons as those from the public and the proper officer may amend questions in the same circumstances and to the same effect as those from the public. (Rules 13(4) and (5) above.)
- 14.4** Procedure – Questions about the work of the Executive will be replied to by the member of the Executive to whom it is addressed, or otherwise by the Mayor or the Executive member within whose area the subject matter of the question falls. In all other cases questions will be replied to by the Chair of Council, or the Chair of the relevant committee.
- 14.5** Copies – So far as possible printed copies of all questions and answers will be published at the Council meeting and copies supplied to each member of the Council. Questions will not usually be answered orally except where it has not been possible to publish the reply
- 14.6** Discretion not to reply – The form of the answer is at the discretion of the Chair of Council, Mayor, relevant Executive member or committee chair who may decline to reply where to do so would involve excessive labour and/or cost.
- 14.7** Detailed answers – Where a question put at a meeting requires a detailed answer requiring research it will not usually be given at the meeting. At the discretion of the member to whom the question is addressed or the Chair of the Council in other cases, such a question may be the subject of

a written reply within 14 days of the meeting. A copy of the reply will be sent to all members of the Council.

14.8 Joint replies- If a question relates to both executive and non-executive functions, or to the work of more than one committee or falls within the area of more than one member of the Executive, a joint reply may be given

14.9 Supplementary questions – Members who wish to ask a question must classify their question as either one which requires only a written answer with no right to a supplementary question, or one to which they require a written answer and reserve the right to ask up to one supplementary question at the meeting.

Members asking more than one question where they have reserved the right to ask a supplementary question, must number the questions they submit in order of preference (1st question, 2nd question, 3rd question etc.)

At the meeting, the Chair will deal with questions where the right to ask a supplementary question has arisen by asking the questioners if they wish to ask a supplementary question in the following order:-

All 1st preference questions in the order in which they were received by the proper officer.

All 2nd preference questions in the order in which they were received by the proper officer.

All 3rd preference questions in the order in which they were received by the proper officer.

And so on until either all of the questions put have been dealt with or 30 minutes has expired, whichever is the earlier.

14.10 Written questions - There is no limit on the number of questions a member may ask requiring only a written response which will be given in writing before the council meeting.

14.11 Questions on reports – Any member may, without notice, ask a question on a report, which is being presented to the Council when that report is being considered or received.

14.12 Questions on joint authorities/external bodies – Questions about the discharge of the functions of joint authorities constituted under the Local Government Act 1985 or about the business of external organisations may be asked at ordinary meetings of the Council by any member for reply by a member who is a Council nominated member on the joint

authority/external body. Written notice of such questions must reach the proper officer by 10 a.m. on the Monday of the week in which the meeting is to take place. Only one question may be asked by any member at any meeting.

14.13 Questions at extraordinary meetings of the Council - At such meetings, questions will only be asked or considered if they relate to the business of the meeting as specified in the summons

14.14 Record of questions and replies – A copy of all questions asked by the public and by members and replies given, (including supplementary questions and answers) will be filed and annexed to the minutes of the Council as a permanent record.

15. Motions

15.1 Motions on Notice - Except for motions which can be taken without notice under Rule 15.2 below, written notice of every motion shall be given in writing by the Member or Members of the Council giving the notice. It shall be delivered to the proper officer not later than 10 a.m. on the sixth working day before the next meeting of the Council. It shall be dated, numbered in the order in which it is received and entered in a register, which shall be open to inspection by the public.

15.2 Motions without Notice - Those motions which may be moved without notice are:-

- i. _____ the appointment of a Chair at the meeting at which the motion is moved;
- ii. _____ motions which relate to the minutes;
- iii. _____ to change the order of business in the agenda;
- iv. _____ to refer something to an appropriate body or individual;
- v. _____ to appoint a committee or member arising from an item on the summons for the meeting;
- vi. _____ to receive reports or to adopt the recommendation of committees or officers and any resolutions following from them;
- vii. _____ to withdraw a motion;
- viii. _____ to amend a motion;

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- ix. _____ to proceed to next business;
- x. _____ that the question be now put;
- xi. _____ to adjourn a debate;
- xii. _____ to adjourn a meeting;
- xiii. _____ that the meeting continue beyond two and a half hours in duration;
- xiv. _____ to suspend a particular procedural rule;
- xv. _____ to exclude the public and press in accordance with the Access to Information Rules;
- xvi. _____ to not hear further a member named under Rule 29 or to exclude them from the meeting;
- xvii. _____ to give the consent of the Council where consent is required by this constitution.

15.3 Motion to rescind preceding resolution

- i. _____ Notice to be signed by 15 members - No motion to rescind any resolution passed within the preceding three months, and no motion or amendment to the same effect as one which has been rejected within the preceding three months, shall be proposed unless the notice given under rule 15.1 above is signed by at least 15 councillors.
- ii. _____ Only one rescission motion in three months - When any such motion or amendment has been disposed of by the Council, it shall not be open to any Member to propose a similar motion in relation to the same matter within a further period of three months.
- iii. _____ Exception - This Standing Order shall not apply when the Council is considering a recommendation of a Committee.

15.4 Inclusion in Summons - Notice of every motion shall be considered by the Chair of Council. If he/she is of the opinion that it is out of order, he/she will inform the member giving the notice of motion accordingly. Otherwise all notices of motion delivered in accordance with rule 15 (1) above will be set out in the Summons for the next Council meeting in the order in which they have been received, unless the Member when giving notice has intimated in writing that he/she proposes to move it at some later meeting or has since withdrawn it in writing.

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- 15.5** Relevance - Every motion must be relevant to some matter in relation to which the Council has powers or duties or which affects the interests of the people of the Borough.
- 15.6** Motions at extraordinary meetings - At an extraordinary meeting of the Council no motion will be admissible unless it is directly relevant to the business notified in the Summons to the meeting.
- 15.7** Motions not moved - If a motion which is included in the Summons is not moved either by the Member who gave notice, or by some other Member authorised by him/her in writing to the Chair of Council before the start of the meeting, it shall be considered as withdrawn and shall not be moved without fresh notice.
- 15.8** Withdrawal of motion or amendment - A motion or amendment may be withdrawn by the mover with the consent of the seconder and of the Council which shall be signified without discussion and no Member may speak upon it after the mover has asked for its withdrawal unless permission has been refused.
- 15.9** Amendment of motions - Amendments to motions must be received by 5 p.m. on the working day before the meeting. If the amendment requires a detailed assessment on the implications of the amendment which cannot be carried out in the time available, the Chair may rule that the amendment is not put to the meeting.
- 15.10** Time limit to amendments - After 5 p.m. on the day before the Council meeting no further proposed amendments will be allowed, save that the Chair may at his discretion allow amendments to correct errors or make minor or insubstantial changes.
- 16 Rules of Debate**
- 16.1** No speeches until seconded - A motion or amendment shall not be discussed unless it has been proposed and seconded,:
- 16.2** Right to require motion and amendment in writing - Neither motions nor amendments will be debated unless a written copy is available for all members of the Council present at the meeting.
- 16.3** Right to nominate a seconder - The proposer of a motion has the right to nominate a seconder
- 16.4** Secunder's speech – The seconder of a motion or amendment has the right to reserve his/her speech until a later time in the debate but must

declare his/her intention to do so. However, if a closure motion is successfully moved and the right to speak has not been exercised it will be lost.

16.5 Content and length of speeches – Those making speeches must direct their speech to the issue under discussion. No speech may exceed five minutes without the consent of the Chairman.

16.6 When a member may speak again – A member who has spoken may not speak again whilst it is still under discussion except:-

- To speak once an amendment has been moved by another member
- To move further amendment if the motion has been amended since he/she last spoke
- If his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried)
- In the exercise of a right of reply
- On a point of order
- By way of personal explanation

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16.7 Amendments to motions - Amendments must be relevant to the motion and will be either:-

- To leave out words or
- To leave out words and insert or add others or
- To insert or add words
- To refer the issue to an appropriate body or individual for consideration

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and must not have the effect of negating the motion. The ruling of the Chair of Council on the admissibility of an amendment is not open to challenge.

16.8 One motion at a time - Motions will be debated one at a time but the Chair may rule that more than motion may be debated (but not voted on) at the same time, if in his/her view it is likely to mean that Council business is conducted more efficiently.

16.9 One amendment at a time - Only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of.

16.10 If amendment is lost - If an amendment is lost, other amendments may be moved on the original motion.

16.11 If an amendment is carried, - The motion as amended shall take the place of the original motion and shall become the substantive motion upon which any further amendment may be moved.

16.12 One member – one amendment - No Member shall move more than one amendment to any motion.

17. Right of Reply

17.1 The mover's right of reply - The mover of a motion has a right of reply at the close of the debate on the motion, immediately before it is put to the vote.

17.2 Mover of substantive motion has right of reply at end of debate on amendment - If an amendment is moved, the mover of the original motion shall also have a right of reply at the close of the debate on the amendment, but shall not otherwise speak on the amendment.

17.3 Mover of amendment no right of reply - The mover of the amendment shall have no right of reply to the debate on the amendment; but if the amendment is carried and becomes the substantive motion, the right of reply shall transfer to him/her.

17.4 Right of reply restrictions - Any reply shall be strictly confined to answering previous speakers and shall not introduce any new matter into the debate.

17.5 After reply - After the reply the question shall be put without further debate.

17.6 Proceed to next business - The mover of an original motion shall have a right of reply to a motion "that the meeting proceed to next business", but no further debate shall take place.

18 Motions which may be Moved during Debate

When a motion is under debate, no other motion shall be moved, except the following:

- (a) to amend the motion;
- (b) closure motions;
- (c) that a Member be not further heard;

- (d) by the Chair of Council under Rule 29 that a Member leave the meeting;
- (e) a motion under Section 100A of the Local Government (Access to Information) Act 1985 to exclude the public.

19 Closure Motions

19.1 Types of closure motion - A Member may move at the end of a speech of another Member:

- that the meeting proceed to the next business
- that the question be now put
- that the debate be now adjourned, or
- that the Council do now adjourn.

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19.2 No discussion on closure motion - Such motions shall be moved without discussion.

19.3 Procedure on closure motions - If the motion is seconded, the person presiding shall proceed as follows:-

- (a) on a motion to proceed to next business:
subject to paragraph (e) below, he/she shall first give the mover of the original motion a right to reply to the motion to proceed to next business. The person presiding shall then put to the vote the motion to proceed to next business. If it is lost, the mover of the original motion shall retain his/her right of reply on that motion. Otherwise the meeting shall proceed to next business;
- (b) on a motion that the question be now put:
subject to paragraph (e) below, he/she shall first put to the vote the motion that the question be now put. If it is passed the person presiding shall then give the mover of the original motion his/her right of reply on that motion before putting it to the vote; and
- (c) on a motion to adjourn the debate or the meeting:
subject to paragraph (e) below, he/she shall put the adjournment motion to the vote without giving the mover of the original motion his/her right of reply on that occasion. The mover shall however retain his/her right of reply when the debate is resumed.
- (d) A motion to adjourn the debate may specify the time and date to when the debate is to be adjourned. Otherwise the adjournment will be to the next ordinary meeting of the Council, Committee or

Sub-Committee. In the case of a motion to adjourn the meeting, the provisions of Rule 19 (3)(c) above will apply.

- (e) Chair's discretion not to close - If the person presiding is of the opinion that the matter before the meeting has not been sufficiently discussed, he/she shall refuse to accept any closure motion.

20 Point of order

A member can raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Rules or the law. The member must indicate the rule or law and the way in which he/she considers it has been broken. The Chair's ruling on this point is final.

21 Personal explanation

A member may make a point of personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The Chair's ruling as to the admissibility of a personal explanation is final.

22 Voting

- 22.1** Simple majority - Decisions shall be made on a simple majority except as set out in 22.2 below or where the decision in question is subject to a specific statutory requirement (e.g. promotion or opposition of a local Bill in Parliament). However, in the case of an equality of votes the person presiding at the meeting shall be entitled to vote in the first instance and to give a casting vote whether he/she voted in the first instance or not.

- 22.2** When is a two-thirds majority needed? Where the vote relates to a reconsideration by the Council of a proposal made by the Executive in relation to the approval, adoption or amendment of the policy framework or budget, where the Council has previously rejected the proposals put to it by the Executive, then the Council may only reject the Executive's proposals if at least two thirds of those Councillors present and voting vote in favour of doing so. The requirement for a two thirds majority only arises in the circumstances more specifically spelt out in this Part IV at Section F.

- 22.3** Voting method - Voting at Council meetings will either be by a show of hands; or by the use of the electronic voting system if available; or if necessary by a roll-call vote.

22.4 Voting by Show of Hands - The Chair shall first put the question on which a vote is required and shall then take a show of hands, or if there is no dissent by the affirmation of the meeting. The result as announced by the Chair shall be conclusive unless, on the announcement, ten or more Members, by rising in their places, demand a division. In that case the procedure in paragraph 22.3 above shall be followed.

22.5 Voting on a Division - If the Chief Executive declares that a division is called, then after one minute the doors of the Council Chamber shall be closed; the question before the Council shall be put again by the Chair of Council and, when so directed by the Chair each member shall operate one of the voting press buttons on his/her desk marked "For" or "Against" or "Not Voting". The vote counter and recorder shall then be operated. Members shall vote from the seats allocated to them on the seating plan issued by the Chief Executive. The result of the voting, as appearing on the vote indicator panel, shall be announced by the Chair when all votes have been cast and recorded in the minutes in accordance with the information shown on the printed record produced by the vote recorder.

22.6 Ballot Vote - In the event of a failure of the electronic voting system or if it is not available, the vote will be conducted by secret ballot. Paper on which to record votes as "For" "Against" of "Not voting" bearing the name of the councillor to whom it is given will be distributed by the Chief Executive. The question before the Council shall again be put by the Chair, and all members asked to record their votes on the voting papers. The voting papers will then be collected. The Chair shall announce the result of the ballot, which shall be recorded in the minutes.

22.7 Recorded vote – Where any member requests it after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the matter

22.8 Voting on appointments - Where there are more than two people standing for appointment to any position and there is not a clear majority of votes in favour of one person then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

23 Minutes

23.1 Minutes of the proceedings at a Council meeting shall be submitted to the next meeting of the Council, for signature by the Chair of the Council. If this is impractical because the next meeting takes place very soon after the meeting to which the minutes refer, then they shall be submitted to the following meeting.

- 23.2** Before signing the minutes, the Chair of Council must ask the Council whether the minutes are approved as a true record.
- 23.3** No discussion shall take place on the minutes except on their accuracy, and any question of their accuracy shall be raised by way of motion to amend the minutes. If no such question is raised or if it is raised as soon as it has been disposed of, the Chair shall sign the minutes.
- 23.4** A motion on the accuracy of the minutes may only be moved by a member who was present at the meeting to which the minutes relate, and only those who were present at the meeting may vote on the motion.
- 23.5** Where in relation to any meeting the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 Local Government Act 1972 (an extraordinary meeting) then the following meeting (not being an extraordinary meeting) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 (signing the minutes).

24 Notice of Council meetings

24.1 Five clear days before any meeting of the Council:-

- the proper officer shall publish, at the offices of the Council, a public notice of the time and place of the intended meeting. Where the notice relates to a meeting of the Council called by members of the Council pursuant to Rule 4(3) above, the notice shall be signed by those members and shall specify the business proposed to be transacted; and
- a summons to attend the meeting, specifying the business to be transacted and signed by the proper officer shall be left at, or sent by post to, the usual place of residence of every member of the Council.

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- 24.2** If a member gives notice in writing to the proper officer that he/she wishes summonses to attend meetings of the Council to be sent to him/her at an address other than his/her usual place of residence, any summons so addressed and left at or sent by post to that address shall be deemed sufficient service of the summons
- 24.3** No business shall be transacted at a meeting of the Council, other than that specified in the summons, subject to the provisions of Rule 25 (Urgency) below.

25. Urgency

- 25.1** Exceptionally a report on a matter of such urgency arising within a very short period before a Council meeting may be considered at a Council meeting notwithstanding that the report has not been included in the summons to the meeting. This may arise where the matter in question is of such urgency that it cannot be delayed to the next ordinary Council meeting. In such circumstances it may be submitted to the Council as an urgency report.
- 25.2** The subject of an urgency report if known, shall be included in the summons to the meeting even though the report may not be available. In such cases the report may be sent to members separately. The report shall contain a statement of the reasons why it needs to be considered as a matter of urgency.
- 25.3** If the report is sent to members so late that it is generally received less than five clear days before the Council meeting, the Chair of Council shall decide on the grounds of urgency stated, whether or not the report shall be considered or deferred to a later meeting. If it is considered, the reasons for it being considered as a matter of urgency shall be recorded in the minutes.

26 Record of Attendance

The Council will keep an attendance book to record the attendance of members at meetings of the Council. Every member of the Council who attends a meeting of the Council shall sign his/her name in it.

27 Admission of the Public and the Press

- 27.1** All meetings of the Council shall be open to the public, subject to accommodation being available and subject to (4) below.
- 27.2** Duly accredited representatives of the media who attend to report Council proceedings for those organisations will be accommodated to the limit of the capacity set aside for them.
- 27.3** Cameras, including television cameras and video and recording equipment shall not be used in the Council chamber or in any meeting of its committees or sub-committees except with the permission of the Chair of the Council, or the person chairing the meeting on each occasion.
- 27.4** The Council, committee or sub-committee may pass a resolution at any time excluding the public (including press representatives

and friends of members), from any meeting during an item of business whenever it is likely, in the view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosure to them of exempt or confidential information as defined in Section 100A and 100.I of the Local Government Act 1972. These definitions are reproduced as Appendix 1 to these rules.

- 27.5** Where a resolution is passed to exclude the public because of the likely disclosure of exempt information, it shall identify the part of the proceedings to which it applies and the description of the exempt information in terms of Schedule 12A of the Local Government Act 1972 (see Appendix 1).

28 Adjournments

- 28.1** The Council may adjourn any Council meeting to such day and time as it thinks fit. Unless the adjournment is to the next ordinary meeting of the Council the only business to be considered at the adjourned meeting shall be that which appeared in the summons for the meeting that was adjourned, but was not disposed of. However, at the meeting which is adjourned the Council may call for a further report on any matter not disposed of at that meeting.
- 28.2** If an adjourned meeting is not reconvened within three days of the adjournment, a summons to attend shall be sent to each member of the Council. The summons shall specify the place and time of the adjourned meeting and the business to be transacted at it. It shall be signed by the proper officer

29 Disturbance and Misconduct

- 29.1** If a member of the public interrupts the proceedings at any meeting of the Council, the Chair of Council shall warn him/her. If he/she continues with the interruption, then the Chair shall order his/her removal from the Council Chamber. In the case of a general disturbance, the Chair may order that any part of the Chamber be cleared.
- 29.2** In the event of a disturbance which renders the orderly conduct of business impossible, the Chair may at his/her discretion, suspend the meeting of the Council for such period as he/she considers expedient, or adjourn the meeting to a later time or date.
- 29.3** No member of the Council shall persistently disregard the ruling of the Chair of the Council, behave irregularly, improperly or offensively, or

wilfully obstruct the business of the Council. If the Chair considers that a member of the Council has misconducted him/herself in such a way, then he/she shall say so to the Council. Then the Chair or any other member may move that the member should be excluded from further debate. If the motion is seconded, then it shall be taken without debate.

29.4 If the member continues his/her misconduct, after such a motion has been carried, the Chair may move that the Member be required to leave the Council Chamber. In that case the motion shall be taken without seconding or debate. The Chair may also suspend the meeting for such period as he/she thinks fit.

29.5 Public Disturbance - If a member of the public interrupts proceedings, the Chair of Council will warn the person concerned. If they continue to interrupt the proceedings the Chair will order their removal from the meeting room. If there is a general disturbance in any part of the meeting room, the Chair may call for that part to be cleared

30 Vacancies etc not to invalidate proceedings

The proceedings of the Council shall not be invalidated by any vacancy in its membership, or by any defect in the election or qualification of any member.

31 Application of rules to committees, sub committees and executive

The Council procedure rules apply also to proceedings at Council committees and sub committees, unless expressly stated to the contrary or the context does not so permit. References in this rule to the Chair of Council will include references to the chairs of committees and sub committees for that purpose.

Section J of this Part IV - Committees General Rules - apply to committee meetings

Rules 3,4,5,6,9, 14 – 25, 27,28 and 29 of these Council Procedure Rules will apply to meetings of the Executive unless this Constitution expressly provides to the contrary.

D EXECUTIVE PROCEDURE RULES

1 Terms of reference

The Executive will have responsibility for all executive decisions, namely those decisions not reserved to Council or delegated to other parts of the Council or required to be so by law.

2 Constitution

(a) Generally

Subject to a minimum of 2 and a maximum of 9 other councillors as well as the Mayor, the constitution of the Executive will be as decided by the Mayor, reported to Council and set out in the mayoral scheme of delegation for the time being.

(b) Confirmatory hearings

When the Mayor proposes to appoint a councillor to the Executive, he/she will be invited to inform all councillors of his/her proposal/s for appointment, by requesting the proper officer to serve notice on them to that effect. If so requested, and provided the Mayor consents in writing, the proper officer will comply.

The notice will set out details of the Mayor's proposals for the Executive membership, including the names of any councillors proposed for appointment to it, the area for which they will take the lead, and the nature of any proposed delegation to them.

The notice will also contain details of a meeting, to take place at least five clear days after the date of the notice, when each of those proposed for membership will attend to address and answer questions from councillors generally. At these meetings, the Chair of Council, or in his/her absence the Vice Chair, will preside. If neither is present the meeting will nominate a person from amongst those not proposed for membership of the Executive to preside.

The Mayor may address the meeting in respect of each proposed appointment for a period of no more than 2 minutes, though this may be waived by the Mayor. Each proposed appointee to the Executive will address the meeting for a period of no more than 5 minutes.

Immediately after each proposed appointee has spoken, questions may then be put by councillors to the proposed appointee. After questions have been asked of each proposed appointee, the meeting will be asked

to register by show of hands whether they support the appointment of that particular member to the Executive as proposed by the Mayor. The choice will be a simple yes or no.

The Chair will keep a written record of the results and communicate them to the Mayor and to each member of the Council, and the proper officer in writing. Should he/she wish, the Mayor will take account of the outcome of this process before making appointments to the Executive. However, by law, the choice about appointments to the Executive is a choice entirely at the Mayor's discretion.

3 Who may make Executive decisions

By law Executive decisions are the responsibility of the Mayor. The Mayor may also delegate executive functions to the extent he/she wishes to:-

- The Executive as a whole
- A committee of the Executive
- An individual member of the Executive
- To an officer
- To an area committee
- To a joint committee
- An individual ward member, to the extent the function is exercisable within the ward,
- To another local authority

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4 A Mayoral scheme of delegation

At the Annual Meeting of the Council, the Mayor will present a written record of delegations made by him/her in relation to executive functions, for inclusion in the Council's scheme of delegation. The document presented by the Mayor must contain the following information in relation to the ensuing municipal year:-

- (a) The names, addresses and wards of the people appointed to the Executive by the Mayor.
- (b) The nature and extent of the authority delegated to the Executive acting collectively as a whole, including details of any limitation on the delegated authority
- (c) The nature and extent of the authority delegated to committees of the Executive, including the constitution and terms of reference of any such committees appointed, and the names of the Executive members who are to serve on them, and details of any limitation on their delegated authority

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- (d) The nature and extent of any authority delegated to individual members of the Executive, including the names of the people to whom such power has been delegated and details of any limitation on the delegated authority

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- (e) The nature and extent of any authority delegated to individual ward members, including the names of the people to whom such power has been delegated and details of any limitation on the delegated authority

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- (f) The nature and extent of any authority delegated to individual officers, including the names of the people to whom such power has been delegated and details of any limitation on the delegated authority

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- (g) The nature and extent of any authority delegated to area committees, joint committees or other authorities including the name of the body to whom power has been delegated, its composition (where appropriate) and details of any limitation on the delegated authority

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5 Sub-delegation of Executive functions

- (a) If the Mayor delegates functions to the Executive, unless he/she decides otherwise, the Executive may delegate further to a committee of the Executive, to an officer, to any joint arrangements, to another authority or to an area committee (but not to an individual member)
- (b) If the Mayor delegates Executive functions to a committee of the Executive, the Committee may delegate further to an officer of the Council (but not to an individual member or to a sub-committee)
- (c) Where Executive functions have been delegated, that fact does not prevent the discharge of those functions by the person or body who delegated them.

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6 The Council's scheme of delegation and executive functions

- (a) The Council's scheme of delegation is appended to the Constitution at Part VIII. It contains the details set out in Article 15 and may be amended from time to time. This includes details of the mayoral scheme of delegation.

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(b) During the year, amendments to the Mayoral scheme of delegation may be made as follows:-

- The Mayor may amend the mayoral scheme of delegation of executive functions at any time during the year. To do so the Mayor must give written notice to the proper officer and report those changes to the next ordinary Council meeting. When the Mayor seeks to amend or withdraw delegation to a committee, he/she must give notice to all members of that committee.
- The notice to the proper officer will set out the extent of the proposed amendment to the scheme of delegation and whether it entails the withdrawal of delegation from any person, body, committee of the Executive or the executive as a whole. It must also set out details of the nature and extent of any alternative delegations made to any person body, committee of the Executive, or the Executive as a whole. The amendment will take effect on the date when the proper officer gives notice to all councillors to that effect.

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7 Executive spokespersons

If the Mayor decides not to delegate any decision making powers to any individual member of the Executive, he/she may still appoint members from within the Executive to be the Council's spokesperson, with the Mayor, on all matters within such portfolio of activity as the Mayor decides.

Such members will speak on behalf of the Executive in relation to all matters within their allocated portfolio, unless the Mayor decides to the contrary.

Each spokesperson will ensure that reports on matters within their portfolio are considered by the Executive.

Nothing in this rule implies that any executive member is empowered to make any decisions alone unless that power is specifically delegated by the Mayor in accordance with these Rules, and then any such powers will be subject to any limitation placed on them by the Mayor.

8 Assistants

The Mayor may invite non-Executive members of the Council to act as Assistants to the Executive in any year. There may be up to one Assistant for each of the portfolios established within the Executive. The Assistant would be a point of liaison between an Executive portfolio holder and the non-Executive members of the Council in relation to any matter within the portfolio holder's area, but they would have no formal decision making

powers. The Assistant would not be obliged to accept the Mayoral invitation. Holders of the following positions may not become Assistants to the Executive

The Chair of Council
 The Mayor
 Members of the Executive
 The Chair of the Overview and Scrutiny Committee
 The Chair of any Overview and Scrutiny Select Committee
 The Chair of the Strategic Planning Committee
 The Chair of a Planning Committee

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The Mayor will keep under review the role and number of Assistants to the Executive should he/she wish to appoint them.

In the event that the Mayor chooses to appoint any Assistants to the Executive, within 1 month of the appointment, the Mayor will provide a written notification to the Proper Officer of the areas of liaison in which the Assistant is to be involved, and that notification will be sent by the Proper Officer to all members of the Council.

9 Conflicts of interest

Members of the Executive are subject to the same rules relating to ethical matters as all members of the authority. They are bound to comply with the Code of Conduct appearing at Part V of this Constitution. Where decisions are taken collectively by the Executive, an individual member must declare and/or withdraw from consideration of a matter where the Code of Conduct requires that they do so.

If a decision falls to be made by an individual member of the Executive and that member has a declarable interest under the Code of Conduct then that member may not take the decision, or consider the matter further on an individual basis. In such circumstances the decision must be taken by the Executive collectively, or by a committee of it to whom the power to make the decision has been delegated by the Mayor, provided that the committee can take the decision at a quorate meeting at which no member present has an interest which would prevent them participating in consideration of the matter.

Similar provisions apply where an executive decision is to be taken by an individual ward member, save that the decision may also be taken by the Mayor, unless he/she also has a declarable interest in it.

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10 Executive meetings – where and when?

The Executive will meet at least once in each calendar month with the exception of August at times to be determined by the proper officer in consultation with the Mayor. Executive meetings will take place at a location to which the public have access.

11 Executive meetings in public or private

- (a) Except when it considers a matter which if considered in public would entail the disclosure of confidential or exempt information within the meaning of Schedule 12A Local Government Act 1972 the Executive will meet in public if it meets to consider any item in respect of which any key decision may be made at the meeting.
- (b) Subject to the exemptions relating to confidential and exempt information, the Executive may only meet in private in the following circumstances:-

i. it meets to consider a matter which does not involve a key decision

ii. it meets in the presence of an officer, other than a political or mayoral assistant, to consider a matter in respect of which a key decision will be made, but the date for such decision included in the forward plan is more than 28 days after the date of the meeting.

iii. at any time it meets without officers present (save for a political or mayoral assistant) to consider a matter in respect of which a key decision is to be made

iv. it meets with officers for the purposes only of briefing

- (c) The provisions relating to Access to Information for both Executive and other meetings of the Council, and the rules relating to confidential and exempt information are set out in full at G12 - Access to Information Rules.

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12 Quorum

The quorum for a meeting of the executive or a committee of it will be one quarter of the total number of people on the Executive, or 3, whichever is the larger. A meeting of the Executive or a committee of it will not be quorate if the Mayor and Deputy Mayor are not present unless five other members of the Executive are present.

13 How are decisions to be taken by the Executive?

The Executive will adhere to the principles of decision making set out in Article 16 of the Constitution in the same way as the Council itself, its committees and sub committees. When any member(s) make any executive decision, they will do so on the basis of written reports which contain service, legal and financial implications and a consideration of options. Members will only take such executive decisions in the presence of the Head of Paid Service, Chief Finance Officer or Monitoring Officer or their nominee. Each of them has a right to attend any meeting of the Executive and all other Council meetings.

All decisions made by members must be recorded by the proper officer in accordance with Rule G20 (content of record of decisions) and the decision will not be deemed to be made until such a record is made and publicised in accordance with Rule 16 below.

Any reports written by officers for consideration by the Executive, whether by the Executive collectively or an individual member, whether for consideration in public or private, shall contain service, corporate, legal and financial considerations.

14 Who may attend Executive meetings

The Access to Information Rules relating to the Executive are set out in this Part IV at Section G.

15 What business is to be conducted at Executive meetings

At each meeting of the Executive the following business will be conducted:

- (a) consideration of the minutes of the last meeting
- (b) declaration of interests if any
- (c) matters referred to the Executive (whether by the overview and scrutiny committee, its business panel, a select committee, a joint select committee or the Council) for reconsideration or response by the Executive in accordance with the rules relating to call in or the councillor's call for action or any other provisions contained in the Overview and Scrutiny Procedure Rules, or the Budget and Policy Framework Procedure Rules set out in Part IV of this Constitution
- (d) consideration of reports from overview and scrutiny committees;
- (e) consideration of reports from area network forums

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- (f) matters set out in the agenda for the meeting, which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part IV of this Constitution.

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16 A programme of business

- (a) As soon as practical in each year the Executive will establish a programme of business for the remainder of the year to the extent that it is possible to do so.
- (b) Items for consideration by the Executive may be rescheduled as necessary during the course of the year

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17 Publication of decisions

- (a) Within 2 working days of an Executive decision being taken it shall be published by the proper officer at the Town Hall and sent to all members of the Council where possible by electronic means. Decisions will also be recorded in a central register kept by the proper officer which will be available to all members of the Council and the public.
- (b) The period during which any decision may be 'called in' under these Procedure Rules (see Part F Rule 14) will only begin to run when notice of a decision has been published at the Town Hall in accordance with this rule.

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18 Consultation

All reports to the Executive on proposals relating to the budget or policy framework will contain details of the consultation with stakeholders and relevant overview and scrutiny committees that has been carried out. Reports on other matters must set out the details and outcome of consultation as appropriate. The level of consultation required will be as the Council considers appropriate to the matter under consideration.

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19 Who can put items on the agenda for a meeting of the Executive

The following people may place an item on the agenda for consideration by the Executive:-

- (a) The Mayor

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- (b) Any member of the Executive
- (c) The proper officer will ensure that an item is placed on the agenda for the next available meeting of the Executive if so requested by the Business Panel, by the Council or by the Overview and Scrutiny Committee or any relevant sub-committee in response to a councilor call for action. Such items will be placed on the agenda in the order in which the request is made of the proper officer that they be so considered and there may only be two such items on the agenda of any Executive meeting unless the Mayor agrees to the contrary.
- (d) Any member of the Council may request the Mayor to put an item on the agenda for an Executive meeting. If the Mayor agrees the item will be considered at the next available Executive meeting. The agenda will state that the item was referred to the Executive at the request of the individual member and will state the name of the member concerned who will be invited to attend the meeting and to address the Executive on the issue in question.
- (e) The Head of Paid Service, Monitoring Officer or the Chief Finance Officer may include an item for consideration by the Executive.
- (f) Local assemblies. Restricted to a maximum of two such items on any agenda. Items to be prioritized in the order they are received. Any not placed on the agenda will have priority for the next agenda, subject always to the maximum of two such referrals per agenda. Only one referral may be made by any local assembly to the Mayor and Cabinet in any twelve month period, unless the Mayor agrees to the contrary.

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20 No co-optees or substitutes

There may be no formal co-optees or substitutions to the Executive.

21 Attendance of Executive members at overview and scrutiny meetings

The Mayor and Deputy Mayor (in respect of any executive function) and any other Executive member (in respect of any executive function within their portfolio) may be required to attend any meeting of the overview and scrutiny committee, or any of its select committees or the Business Panel. If so required they will attend to give account for Executive action and/or performance as set out in Rule E 13. (OSC power to require attendance). Similar provisions apply to individual ward members to whom the Mayor has delegated decision making powers within their ward.

E - OVERVIEW AND SCRUTINY PROCEDURE RULES

1. Arrangements for overview and scrutiny

The Council will have an overview and scrutiny committee as set out in Article 6 of the Constitution and will appoint to it as it considers appropriate from time to time. The overview and scrutiny committee will appoint the select committees, Business Panel and Education Business Panel as set out in Article 6. The Council may also establish and appoint to joint select committees in accordance with Article 6. The Council may amend its overview and scrutiny arrangements from time to time in accordance with that Article.

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2. Constitution and terms of reference

The constitution and terms of reference for the overview and scrutiny committee and its select committees and Business Panel will comply with the law and will be as set out in Article 6 or as amended from time to time. At its first meeting the overview and scrutiny committee will establish those select committees and Business Panels set out in Article 6.

3. Who may sit on overview and scrutiny committee?

All councillors except members of the Executive may sit on the overview and scrutiny committee. However, no member may be involved in scrutinising a decision which he/she has been involved in making. To do so may amount to a breach of the Council's Code of Conduct.

4. Co-optees

The Council's arrangements for overview and scrutiny do not currently provide for co-optees to be appointed to its overview and scrutiny committee, its select committees or Business Panel. However diocesan and governor representatives are appointed to the Education Business Panel and the Children & Young People Select Committee. The Council will secure the involvement of the local community and other stakeholders by other means such as taking evidence from them, and by a variety of consultative methods. The Council may amend its arrangements to provide for co-optees to be appointed at any time.

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5. Education representatives

The Council will appoint to its Children & Young People Select Committee, the Education Business Panel and to any relevant overview and scrutiny

body dealing with education matters the voting representatives set out in the table appearing in Article 6.3 of the constitution.

6. Meetings – where and when

There will be at least 1 meeting of the main overview and scrutiny committee per year, and at least 3 meetings of the select committees per year. Meetings will take place at such times and locations as the proper officer thinks fit. Meetings of the overview and scrutiny committee, a select committee, Business Panel or the Education Business Panel may be called by:-

- (a) The chair of that committee, select committee or business panel
- (b) Any five members of the relevant committee, select committee or Business Panel
- (c) The Head of Paid Service, Chief Finance Officer or Monitoring Officer

7. Quorum

The quorum for an overview and scrutiny committee, select committee, Business Panel or Education Business Panel is one quarter of the entire membership or three, whichever is the larger.

8. Who chairs overview and scrutiny committees

At the first meeting in the municipal year, the overview and scrutiny committee will appoint a Chair to preside at its meetings for the coming year, and that person shall also chair the Business Panel and the Education Business Panel. The Committee will also appoint a Vice-Chair who will preside in the absence of the Chair. The Vice-Chair will also be Vice Chair of the Business Panel and the Education Business Panel.

The Chairs and Vice Chairs of the Overview and Scrutiny Select Committees will be allocated in accordance with the proportion of seats held by the political groups on the Overview and Scrutiny Committee.

In the absence of the Chair and Vice Chair at any meeting of the overview and scrutiny committee, its select committees or the Business Panels, the meeting will appoint a Chair for that meeting from amongst those members present.

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Neither the Chair of Council nor the Vice Chair of Council may chair the overview and scrutiny committee, a select committee or the Business Panels.

9. Work programme

- (a) At the beginning of the municipal year, each select committee will draw up a draft work programme for that year. In doing so it will specifically take into account the views of members of that select committee who are not members of the largest political group. The select committee will submit the draft to the Business Panel for consideration normally by the end of May each year. Formatted: Indent: Left: 0 cm, Hanging: 1.27 cm, Outline numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0 cm + Tab after: 0.63 cm + Indent at: 0.63 cm, Tabs: 1.27 cm, List tab + Not at 0.63 cm
- (b) The Business Panel will then consider the proposed work programmes of each of the select committees and devise a co-ordinated overview and scrutiny work programme which avoids duplication of effort and facilitates the effective conduct of business. The Business Panel may amend the work programme of any of the select committees but will not normally do so unless it is necessary to ensure the effective conduct of Council business. Once the Business Panel has approved the select committee work programme, the select committee will implement it. Formatted: Indent: Left: 0 cm, Hanging: 1.27 cm, Outline numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0 cm + Tab after: 0.63 cm + Indent at: 0.63 cm, Tabs: 0 cm, List tab + Not at 0.63 cm

10. Agenda items

- (a) Each member of the overview and scrutiny committee, select committee and Business Panels is entitled to require that an item be placed on the agenda for the next available meeting of the overview and scrutiny committee/select committee or Business Panel of which they are a member. Requests for items to be placed on the relevant agenda should be made to the proper officer, who will comply. Formatted: Indent: Left: 0 cm, Hanging: 1.27 cm, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0 cm + Tab after: 0.63 cm + Indent at: 0.63 cm, Tabs: Not at 0.63 cm
- (b) Any 5 members of the Council who are not members of the overview and scrutiny committee, select committee or Business Panels may also request the proper officer to put an item on the agenda of the overview and scrutiny committee, select committee or Business Panel of which they are not a member for consideration. If such a request is made, the proper officer will comply and the matter will appear on the next agenda and the relevant committee, select committee or Business Panel must consider it. Formatted: Indent: Left: 0 cm, Hanging: 1.27 cm, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0 cm + Tab after: 0.63 cm + Indent at: 0.63 cm
- (c) Subject to matters excluded by law, any ward member may refer a local government matter which affects their ward or part of it, or any person living or working in the ward to the overview and scrutiny committee, a relevant select committee or if the matter spans the remit of more than one select committee, to the Business Panel for consideration. This is referred to as the Councillor Call for Action and is set out in detail at Formatted: Indent: Left: 0 cm, Hanging: 1.27 cm, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0 cm + Tab after: 0.63 cm + Indent at: 0.63 cm, Tabs: 1.27 cm, List tab + Not at 0.63 cm

paragraph E11? Below

- (d) The Council and/or the Executive may request that an overview and scrutiny committee/select committee or Business Panels investigate and/or review and report on any particular area of Council activity or matter of concern to local people. The overview and scrutiny committee, select committee or Business Panel will respond to such requests as soon as their work programme permits. Where the overview and scrutiny committee/select committee/Business Panel produces a report to the Executive and/or the Council, the Council and/or the Executive will consider the report within one month of receiving it.

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11 The Councillor Call for Action

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a) Any member of the Council may refer to the overview and scrutiny committee or an overview and scrutiny select committee any local government matter which is relevant to the functions of that committee or select committee.

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b) A matter is a local government matter for the purposes of this paragraph if it relates to a Council function, affects all or part of the electoral area for which the member is elected, or any person who lives or works in that area, and is not an "excluded" matter. Excluded matters are local crime and disorder matters as described in Section 19 Police and Justice Act 2006 and any matter so specified by the Secretary of State.

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c) To date the following matters are excluded from the Councillor Call for Action

- matters relating to planning and licensing decisions;
- matters relating to an individual or entity in respect of which that individual/entity has a right of recourse to a review or a right of appeal under any enactment, and
- any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at a meeting of the overview and scrutiny committee or its sub-committee.

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However, an allegation of systematic failure of an authority to discharge any function may be referred to an overview and scrutiny committee, notwithstanding the fact that it relates to matters which would otherwise be excluded.

d) Referral to an overview and scrutiny committee/sub committee means a requirement that the matter be included in an agenda, and discussed at, a meeting of that committee/sub committee.

e) In deciding whether to make a referral under this paragraph, a member must have regard to relevant guidance for the time being issued by the Secretary of State

f) In response to such a referral, the Overview and Scrutiny committee/select committee may make a report and/or recommendations to the Council and/or Executive as appropriate, but in deciding whether to do so the Overview and Scrutiny committee/select committee may have regard to any power which the member concerned has by virtue of Section 236 Local Government and Public Involvement in Health Act 2007, and any representations which the member makes as to why it would be appropriate for the committee/sub committee to make a report or recommendations to the Executive and/or Council.

g) If the overview and scrutiny committee/sub committee decides not to make a report/recommendations on the matter to the Executive and/or the Council it will notify the referring member of its decision and the reasons for it.

h) If the overview and scrutiny committee/select committee does make a report or recommendations to the Council or the Executive then it must provide the referring member with a copy of the report/recommendations

12 Duty to respond to overview and scrutiny reports

(a) When the overview and scrutiny committee or a select committee makes a report and/or recommendations to the Council or to the Executive, (whether in response to a councilor call for action or otherwise,) the overview and scrutiny

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committee/select committee may publish its report and/or recommendations and must give notice in writing to the Council or the Executive requiring the Council or the Executive, within 2 months of receipt by the Council or Executive of the report/recommendations, or (if later) the notice:-

- 1) to consider the report or recommendations
- 2) to respond to the overview and scrutiny committee/sub committee indicating what (if any) action it intends to take
- 3) if the overview and scrutiny committee/sub committee has published its report/recommendations to publish its response
- 4) if the overview and scrutiny committee provided a copy of its report/recommendations to a member referring a matter to it under the Councillor Call for Action, to provide a copy of the response to that member .

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(b.)It shall be the duty of the Executive or Council served with a notice to respond within 2 months to comply with the requirements of that notice

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(c)The Secretary of State may amend the requirements relating to the referral of matters to the Executive or Council by overview and scrutiny bodies, and the publication of reports and responses. Where such amendments are made, they shall supersede the provisions of the Constitution and shall be deemed to be incorporated into it.

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(d)This paragraph 11 does not apply to crime and disorder matters under Section 19 (1)(b) or (3)(a) Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters)

13 Reports and recommendations relating to improvement targets and partner authorities

If an overview and scrutiny committee/select committee makes a report and/or recommendations about a local improvement target set out in the Local Area Agreement and that target relates to a relevant partner authority, the committee/select committee may give written notice to that partner authority requiring it to have regard to the report/recommendations in exercising their functions. This notice must be accompanied by a

copy of the report and/or recommendations, and it shall be the duty of the relevant partner authority to comply with the notice.

For the purposes of this paragraph, "local area agreement", and "local improvement target" shall have the meaning set out in part 5 Chapter 1 of LGPIHA 2007.

The provisions of this paragraph 12 do not apply to a health body (i.e. an NHS trust, an NHS foundation trust or a Primary Care Trust,) if the report has been made to the health body under Section 244 NHS Act 2006 Neither does it apply to to crime and disorder matters under Section 19 Police and Justice Act 2006 in respect of which separate regulation is to be made.

For the purpose of this paragraph 12, "relevant partner authority" shall have the meaning set out in part 5 Local Government and Public Involvement in Health Act 2007 (other than a police authority of chief officer of police about which separate legal provisions are to be implemented). It includes but is not limited to, a fire and rescue authority, a joint waste authority, a waste disposal authority, TfL, probation board, youth offending team, the Arts Council, English Sports Council, the Environment Agency, the Health and Safety Executive, Learning and Skills Council for England, the Historic Buildings and Monuments Commission, the Museums, Libraries and Archives Council

14 Confidential and exempt information in overview and scrutiny reports and responses

This paragraph applies to any document which is

- an overview and scrutiny committee/select committee report and/or recommendations to the Executive and/or the Council, or
- the Executive and/or Council response to that report/recommendations or

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The overview and scrutiny committee/select committee or Council/Executive in publishing the document must exclude

confidential information and may exclude exempt information when providing it to a relevant partner authority, and may exclude confidential and/or exempt information when providing it to a member of the authority.

If information is excluded on the grounds of it being confidential or exempt, the overview and scrutiny committee/select committee/ Council may replace so much of the document as has been excluded with a summary which does not disclose that information, and must do so if the consequence of excluding the information the published document would otherwise be misleading or not reasonably comprehensible.

For the purpose of this paragraph 13, exempt and confidential information have the meaning set out in Section 21D LGA 2000.

15 Policy review and development

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- (a) The role of the overview and scrutiny committee and its select committees and the Business Panel in relation to the development of the Council's budget and policy framework is set out in detail at Section F of this Part IV, the Budget and Policy Framework Procedure Rules.
- (b) The overview and scrutiny committee, or as appropriate its select committees and/or the Business Panel may also make proposals to the Executive for development of strategic policy matters that do not form part of the policy and budget framework in so far as they relate to matters within their terms of reference.
- (c) Overview and scrutiny select committees and the Business Panel may make enquiries and investigate the options for future direction in policy development and may appoint advisers and assessors to assist them in that process. They may go on site visits, conduct public surveys, hold public meetings commission research and do all other things they reasonably consider to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and pay advisers, assessors and witnesses a reasonable fee and expenses for doing so.
- (d) Once the overview and scrutiny select committee or Business Panel has formed recommendations for development of policy it will submit that report to the Executive for consideration. As soon as reasonably practicable after receiving the report (usually within 6 weeks) the Executive will consider the report together with a report from the relevant Executive Director(s), or their nominee(s), setting out officers' comments

on the recommendations or proposals and their proposed response to the select committee or Business Panel. The referring Select Committee or Business Panel will be advised at their next meeting of the date upon which the Executive is programmed to consider the proposed response. The formal response approved by the Executive will then be referred back to next available meeting of the Select Committee or Business Panel. If the recommendations would entail a change to the policy framework or the budget, then those changes can only be effected with the approval of Council.

- (e) The agenda for each Executive meeting will include an item "Issues referred by Overview and Scrutiny". Reports from the select committees and/or the Business Panel will be included at this point, unless they have been considered in relation to a substantive item on the agenda within one month of the receipt of the report from overview and scrutiny.
- (f) If the Mayor has not delegated powers in relation to the matter which is the subject of an overview and scrutiny report, or where he/she has delegated power to an individual member of the Executive, then the report will be submitted to the Mayor and relevant member and to the proper officer. The relevant individual member / the Mayor will consider their response, taking appropriate advice including service, legal and financial advice and will respond to the report in writing, copies of which will be given to the proper officer and reported to the next available meeting of the Executive.
- (g) The overview and scrutiny committee will in any event have access to the Executive's forward plan in accordance with Rule G 14. Even where an item has not been the subject of a detailed review, a select committee and/or Business Panel may have views which it wishes to express on an up and coming matter. Where this is the case, a copy of those views will be given to the proper officer at
- (h) least 10 days before the Executive is due to make a decision on the matter in question. The proper officer will ensure that those views are brought to the attention of the decision maker before the decision is made. The record of the decision will specifically deal with the decision maker's response to the overview and scrutiny comments.
- (i) Local Assemblies may ask the overview and scrutiny committee to address issues of concern in their locality. Where they do so, the matter will be referred by the Business Panel to the appropriate select committee for response if the Business Panel considers that it is appropriate to do so.

16. Rights of overview and scrutiny committee members to documents

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<#>Individual ward members under the community call for action. See paragraph XXX below may refer Local Government matters of concern to the review and scrutiny committee, where they do so they will be dealt with in accounts with paragraph XXXX below¶

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- (a) In addition to their rights as councillors, members of the overview and scrutiny committee have additional rights to documents, and to notice of meetings set out in the Access to Information Rules at G12.
- (b) Nothing in these Rules prevents liaison between the Executive and select committees/Business Panels as appropriate.

17. Members and officers giving account

- (a) The overview and scrutiny committee, its select committees and Business Panel may scrutinise and review decisions made or actions taken in connection with the discharge of Council functions within their overview and scrutiny remit. They may review documentation and may require the Mayor, Deputy Mayor and any other member of the Executive, ward member exercising delegated decision making powers, or the Chief Executive and/or any Executive Director to attend before it to explain in relation to matters within their remit:-

- any particular decision or series of decisions
- the extent to which actions taken implement Council policy
- their performance

and it is the duty of those persons if requested to attend.

- (b) Where a member or officer is requested to attend under this rule, the relevant chair will inform the proper officer. The proper officer will inform the person concerned in writing giving at least 7 working days notice of the meeting at which they are asked to attend. The notice will give detail of the item on which they are required to attend and whether any papers are required for the committee. If the account to be given requires the production of a report, then the member or officer required to attend will be given enough time to prepare it.

- (c) Where exceptionally the member or officer is unable to attend as required, an alternative date will be arranged

- (d) The overview and scrutiny select committees and the business panels may invite people other than members and officers to address them on matters of local concern and/or answer questions. It may, for example, wish to hear from other service providers, local residents and stakeholders, and may invite them to attend.

18. Call-In

- (a) Executive decisions will be deemed to have been made only when

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- _____ made at a meeting of the Executive at which at least one of the Council's statutory officers was present or represented; or
- _____ if made by an individual member, in the presence of one of the Council's statutory officers or their duly authorised representatives

and in either case, unless the decision is a matter of urgency to which Rule 15 below applies, the decision has been recorded and published. No action may be taken in respect of any decision which has not been made as a matter of urgency in accordance with Rule 15, until it has been published

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(b) _____ When an executive decision is made by

- the Mayor
- the Executive
- a committee of the Executive
- an individual member of the Executive
- an individual ward member
- an officer (if it is a key decision)
- an area committee
- joint arrangements

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the decision will be published by the proper officer, including where possible by electronic means, and will in any event be available at Lewisham Town Hall, within two days of being made. Copies of the decisions will be sent to all members of the Council's Business Panel within the same timescale by the proper officer. If the decision relates wholly or partly to an education function of the Executive such notice will be sent to all Members of the Education Business Panel.

(c) _____ The notice will bear the date on which it is published and will specify that the decision will come into force on the expiry of seven working days after the publication of the decision unless the relevant Business Panel objects to it and cancels it in.

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(d) The proper officer shall convene a meeting of the relevant Business Panel to take place once every 15 working days. He/she will refer executive decisions to the next meeting for consideration if so requested in writing by the Chair or Vice Chair of the relevant Business Panel, any three members of it, or any five members of the overview and scrutiny committee. All such requests must be received by the proper officer by noon on the working day before the meeting. If no such request is made then the arranged meeting of the Business Panel or Education Business Panel will be vacated unless there is other business to be conducted at it. The proper officer will notify members of any vacated meeting by electronic means and arrange for the

publication of a cancellation notice on the council website and at the Town Hall Decisions that are not referred to the relevant Business Panel will automatically become effective on the expiry of the seven working day period. The Mayor (or other decision maker) will be entitled to attend the meeting of the Business Panel at which a decision made by them is under consideration for call in.

- (e) If an executive decision is called in within the seven day period, then the decision shall not be implemented pending the conclusion of the call – in procedure.
- (f) When the relevant Business Panel considers the Executive decision it may either
 - Take no action, in which case the decision becomes effective on the conclusion of the Business Panel meeting at which it was considered; or
 - Refer the matter back to the decision maker for reconsideration.
 - Refer the matter to full Council, if it appears that the decision which the Executive has taken is contrary to the policy framework, or contrary to or not wholly consistent with the budget.
- (g) When the Business Panel meets to consider whether to call-in an executive decision it may request the decision maker to attend to explain the decision. Wherever possible, the decision maker will attend.
- (h) Where the relevant Business Panel refers the matter back to the decision maker or to the Council, it must set out its reasons for doing so in writing. The proper officer will ensure that these reasons are taken into account when the Council or the decision maker then considers the matter.
- (j) If the matter is referred back to the decision maker, they must then reconsider their decision within seven working days of the date on which it is referred back to them in writing by the proper officer. The decision maker may amend the decision or not, before adopting a final decision. The final decision will be recorded by the proper officer and published. This decision is not subject to call-in. The Chair (or in his/her absence the Vice-Chair) of the Business Panel calling in any decision will be entitled to attend and speak at any meeting of the Mayor and Cabinet at which the original decision is being re-considered. If the decision was made by the Mayor acting alone, or by an individual member of the Mayor and Cabinet, or an individual officer, the Chair (or in his/her absence the Vice-Chair) of the relevant Business Panel may attend when that person reconsiders their decision to address them before their further decision is made.
- (k) If the matter is referred to Council, then:-

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- the Council must meet within 10 working days of the decision of the relevant Business Panel to refer it to Council, to consider the matter. If the Council does not meet, then the decision becomes effective on expiry of the 10 day period, unless the Monitoring Officer advises that the decision would be ultra vires, in which case the decision will not be effective until the Executive has formally considered the advice of the Monitoring Officer.

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- If, when the Council meets, it does not object to a decision made by the Executive, (either because it is of the view that the original decision was consistent with the budget and policy framework or it has amended the budget and/or policy framework to accommodate it,) the decision will become effective immediately on the conclusion of the Council meeting at which it is considered

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- If, when the Council meets, it does object to the Executive decision, but it is not contrary to the policy framework or contrary to or wholly inconsistent with the budget, the Council has no power to change the Executive's decision. It must refer the matter back to the decision maker with its comments in writing. The decision will not be effective pending reconsideration by the decision maker, who may amend the original decision in the light of Council comments or not before making a final decision.

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- The Council will put in place call-in arrangements in relation to executive decisions made by area committees if the Council appoints such bodies and the Mayor decides to delegate to them, and those call-in arrangements once agreed will form part of this Constitution.

19. Call-In and Urgency

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- The call-in procedure set out in Rule 14 above shall not apply where the decision being taken is urgent. A decision will be urgent if the delay likely to be caused by the call in process would seriously prejudice the interests of the Council or the public. The Chair of Council, and in his/her absence the Vice Chair, must agree in writing both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair and Vice Chair, the consent of the Chief Executive, or his/her nominee is required. Decisions taken as a matter of urgency under this Rule must be reported to the next ordinary meeting of the Council together with the reason for urgency.

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- The operation of these provisions relating to call in and urgency shall be monitored annually and a report submitted to the Council with proposals for review if appropriate.

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20. The party whip

When considering any matter in respect of which a member of the overview and scrutiny committee is subject to a party whip, members must declare the existence of the whip and the nature of it before the commencement of the deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes of the meeting.

21. Procedure at overview and scrutiny meetings

(a) The business to be conducted at meetings of the overview and scrutiny committee, its select committees and the Business Panels will be:-

- Minutes of last meeting
- Declarations of interest including whipping declarations
- Responses of the Executive to reports from that committee, select committee or panel
- The business set out in the agenda for the meeting.

(b) In addition the Business Panel will consider, immediately after the declarations of interest any matters referred to it for call in.

(c) When the select committees or Business Panel conduct investigations (for example with a view to policy development), the committee may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:-

- That the investigation will be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees and to contribute and speak;
- That those assisting the committee/select committee/panel will be treated with respect and courtesy;
- That the investigation will be conducted so as to maximise the efficiency of the investigation or analysis.

(d) The order of business of the Education Business Panel will be

- Minutes of last meeting
- Declarations of Interest (including whipping declarations)
- The business set out in the agenda for the meeting.

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¶ Any member of the Council may refer to an overview and scrutiny committee or overview and scrutiny select committee any local government matter which is relevant to the functions of that committee or select committee.¶

¶ A matter is a local government matter for the purposes of this paragraph if it relates to a Council function, affects all or part of the electoral area for which the member is elected, or any person who lives or works in that area, and is not an "excluded" matter. Excluded matters are local crime and disorder matters as described in Section 19 Police and Justice Act 2006 and any matter so specified by the Secretary of State.¶

¶ Referral to an overview and scrutiny committee/sub committee means a requirement that the matter be included in an agenda,¶ and discussed at, a meeting of that committee/sub committee.¶

¶ In deciding whether to make a referral under ... [38]

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F – BUDGET AND POLICY FRAMEWORK RULES

This section deals with the way in which the Council will reach agreement on the budget and policy framework. The wording set out below closely follows the wording of the Local Authorities (Standing Orders) (England) Regulations 2001. The section provides that the Executive will make proposals for budget and policy framework, and if the Council objects it may refer the Executive proposals back to it for re-consideration. When the matter comes back to the Council for a second time, the Council may only overturn the Executive proposals, whether or not they have been amended, if two-thirds of the members present vote in favour of doing so. Where there is any discrepancy between this precis and the detailed rules below, the rules prevail.

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1 What is the budget and policy framework?

The budget and policy framework are defined in detail at Article 4.2.a. and 4.2.d. Once the budget and policy framework is in place, it is responsibility of the Executive to make decisions which accord with it.

2 Who decides on the budget and policy framework?

The Council is responsible for the adoption of the budget and policy framework, though the Executive leads in its preparation for submission to Council.

3 Process for developing the framework

- (a) After consulting stakeholders in a manner appropriate to the matter under consideration, the Executive, for each plan or strategy forming part of the policy framework, or budget, will draw up initial proposals for a draft plan or strategy. For the purposes of these rules, 'plan or strategy' means

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A plan of a description specified in Article 4 (2) (a) or

A plan or strategy for the control of the Council's borrowing or capital requirement or

Any other plan or strategy whose adoption or approval is a matter for determination by the Council by virtue of Regulation 5(1) of the Functions Regulations (See Appendix 3)

- (b) Once drawn up, the Executive will provide a copy of such draft plan or strategy to the proper officer who will serve copies of it on the Chair of the Business Panel and the Chair of any relevant select committee, together with details of the date when the Executive

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intends to consider them further, which will normally be at least 4 weeks after the service of the notice by the proper officer.

- (c) The relevant select committee or Business Panel will be convened within 10 working days to consider whether to respond to the Executive's initial proposals and whether any further consultation by it is appropriate. If so the select committee/business panel will conduct a consultation exercise, the scale of which will depend on the amount done already by the Executive. The select committee/business panel will reflect the outcome of any further consultation carried out in the timescales available in any submission it makes to the Executive.

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- (d) The Executive will prepare its draft plan or strategy for the Council to consider having taken into account the views of the select committee/business panel, if any are made known to the Executive in the timescales available.

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- (e) The Council will consider the proposals from the Executive. The Executive report to it will also set out fairly the views of the Business Panel/ select committee and the Executive response to them.

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- (f) Before the Council

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i. amends the draft plan or strategy;

ii. approves for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or

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iii. adopts (with or without modification) the plan or strategy

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it must inform the Mayor of any objections which it has to the draft plan or strategy and where objections are raised, must give him/her instructions requiring the Executive to reconsider the draft plan or strategy in the light of those objections.

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- (g) If the Council does instruct the Mayor in accordance with (f) above, it must give a period of 10 working days beginning with the day after which the Mayor receives the instructions on behalf of the Executive within which the Mayor may:-

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- i. submit a revision of the draft plan or strategy as amended by the Executive (the revised plan or strategy) with the Executive's reasons for any amendments made to the draft plan or strategy, to the Council for consideration; or
 - ii. inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.
- (h) Subject to paragraph (i), when the ten day period referred to in paragraph (f) has expired, the Council must, when
- i. amending the draft plan or strategy, or if there is one, the revised plan or strategy; or
 - ii. approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
 - iii. adopting (with or without modifications) the plan or strategy
- take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the executive's reasons for those amendments, any disagreement that the executive has with any of the Council's objections and the executive's reasons for that disagreement, which the Mayor submits to the Council or informs the Council of within the period specified.
- (i) Where the Council proposes to –
- i. amend the draft plan or strategy or, as the case may be the revised draft plan or strategy;
 - ii. approve, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
 - iii. adopt with modifications the plan or strategy,

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and that plan or strategy (whether or not in the form of a draft), with any proposed amendments or modifications, is not in accordance with the draft plan or strategy, or as the case may be, the revised draft plan or strategy, the question whether to amend, approve or adopt the plan or strategy must be decided by a two-thirds majority of the members of the Council present and voting on the question at a Council meeting.

- (j) Subject to paragraph (o), where before 8th February in any financial year, the Executive submits to the Council for consideration in relation to the following financial year –
- i. _____ estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of Sections 32 to 37 or 43 to 49 of the Local Government Finance Act 1992 (calculation of budget requirements etc),
 - ii. _____ estimates of other amounts to be used for the purposes of such a calculation;
 - iii. _____ estimates of such a calculation, or
 - iv. _____ amounts required to be stated in precept under Chapter IV of Part I of the Local Government Finance Act 1992 (precepts)
- and following consideration of those estimates or amounts the Council has any objections to them it must take the actions set out in (k) below.
- (k) Before making a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in (j) above, or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Mayor of any objections which it has to the Executive's estimates or amounts and must give to him/her instructions requiring the executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
- (l) Where the Council instructs the Mayor in accordance with above, it must specify a period of 10 working days beginning on the day after the date on which the Mayor receives the instructions on behalf of the executive within which the Mayor may:-
- i. submit a revision of the estimates or amounts as amended by the executive (the revised estimates or amounts), which

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have been reconsidered in accordance with the authority's requirements, with the executive's reasons for any amendments made to the estimates of amounts, to the Council for reconsideration; or

- ii. inform the Council of any disagreement that the executive has with any of the Council's objections and the Executive's reasons for any such disagreement
- (m) Subject to (n) below, when the 10 day period set out in paragraph (l) above has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in (j) above, or when issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account –
- i. any amendments to the estimates or amounts that are included in any revised estimates or amounts;
 - ii. the executive's reasons for those amendments;
 - iii. any disagreement that the executive has with any of the Council's objections; and
 - iv. the executive's reasons for that disagreement
- which the Mayor submitted to the Council, or informed the Council of within the specified period.
- (n) If the Council for the purpose of making the calculations or issuing the precept proposes to use estimates or amounts ('the different estimates or amounts") which are not in accordance with the Executive's estimates or amounts or, as the case may be, the Executive's revised estimates or amounts, the question whether to use the different estimates or amounts must be decided by a two thirds majority of the members of the Council present and voting on the question at a meeting of the Council.
- (o) Paragraphs (j) to (n) above do not apply in relation to:-
- i. calculations or substitute calculations which the Council is required to make in accordance with sections 52I, 52J, 52T or 52U of the Local Government Finance Act 1992 (limitation of Council tax and precepts) and

- ii. amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

4 Virement

The Council's Finance Procedure Rules set out virement limits within which the Executive and Council officers may move financial allocations across budget heads in order to maintain a degree of flexibility in the Council's financial arrangements.

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5 Adequacy and Application of Reserves

The Council's Finance Procedure Rules attached at Part K of these Rules set out the way in which the Council's ongoing contingencies and reserves are to be reviewed to ensure that the budget framework provides sufficient reserves to replenish their application.

6 Amending the policy framework

Each of the Council's plans and strategies which go to make up the policy framework will have written into them the extent to which any amendment to it may be agreed by the Executive. The report submitted to Council in relation to the adoption of the plan or strategy will deal with this issue specifically, so that the Council is aware of the proposed extent of discretion to be given to the Executive before agreeing the overall plan/strategy.

7 Decisions contrary to the budget and policy framework

(a) Subject to Rule F4 and F6 above, those making executive decisions may only make decisions which are in line with the budget and policy framework. If any decision maker wishes to make a decision which is "contrary to the policy framework or contrary to or not wholly consistent with the budget" previously approved by the Council then subject to 9 below, that decision can only be taken by the Council.

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(b) A decision by the Mayor will not be contrary to or not wholly in accordance with the budget or capital plan provided any additional costs incurred as a result of the decision can be offset by additional income, contingency funds or savings from elsewhere within the budgetary allocation to executive functions

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- (c) If the Mayor (or any other person or body making an executive decision) wishes to make such a decision they must first take the advice of the monitoring officer and/or the chief finance officer as to whether their proposed decision would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of these officers is that the decision would be "contrary to the policy framework, or contrary to or not wholly consistent with the budget" then the decision must be referred to the Council for decision, unless the decision is a matter of urgency, in which case the provisions of Rule F9 below apply.

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8 Call-in of decisions outside the budget or policy framework

- (a) Where the relevant Business Panel is of the view that an executive decision is, or would if made be, contrary to the policy framework or contrary to or not wholly consistent with the budget, then it shall seek advice from the Monitoring Officer and/or the Chief Finance Officer.
- (b) In respect of functions which are the Executive's responsibility, a report of the Monitoring Officer and/or of the Chief Finance Officer will then be submitted to the Executive with a copy being supplied to every member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the report of the Monitoring Officer and/or the Chief Finance Officer. The Executive must also prepare a report to Council in the event that the Monitoring Officer and/or Chief Finance Officer conclude that the decision was a departure, and to the Business Panel if the Monitoring Officer/Chief Finance Officer decide that it was not.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or Chief Finance Officer is that the decision is, or would be, contrary to the policy framework, or contrary to or not wholly consistent with the budget, the relevant Business Panel may refer the matter to Council. In such cases no further action may be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council will meet within 10 days of the request by the Business Panel. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer.
- (d) The Council may then either:-

- endorse the decision or proposal as falling within the existing policy framework and budget. (In this case no further action is required, save that the decision of the Council be minuted and circulated in the normal way. If the decision has not yet been taken however, it will be for the Executive and not the Council to make it); or
- amend the Council's budget, financial regulations or policy to encompass the decision or proposal and agree to the decision with immediate effect; or
- where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly consistent with the budget, and does not amend the existing framework to accommodate it, require the Executive to reconsider the matter having regard to the advice of the Monitoring Officer and/or Chief Finance Officer.

9 Urgent decisions outside the budget or policy framework

- (a) Executive decisions which are contrary to the policy framework or contrary to or not wholly consistent with the budget may be taken if the decision is a matter of urgency.
- (b) Such decisions may only be taken if:-
- it is not practical to convene a quorate meeting of the Council in sufficient time to make the decision; and
 - if the Chair of the relevant Business Panel agrees that the decision is a matter of urgency
- (c) Both the reasons why it is not practical to convene a quorate meeting of the Council and the consent of the Chair of the relevant Business Panel must be noted on the record of the decision. In the absence of the Chair of the relevant Business Panel, the consent of the Chair of the Council will suffice, and in the absence of both, the Vice Chair of Council.
- (d) Following the decision, the decision maker must provide a report to the next meeting of the Council explaining the decision, the reasons for it and why it was treated as a matter of urgency.

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G - ACCESS TO INFORMATION PROCEDURE RULES

1 Scope

Save as mentioned below, these rules apply to all meetings of the Council, overview and scrutiny committees, area committees if any, the Standards Committee and meetings of any committee or sub committee appointed by the Council, public meetings of the Executive and any committee of it (together called meetings). The rules set out in this Section shall not apply to meetings of the Licensing Committee or sub-committees which shall be governed by Regulations to be made under Section 9 of the Licensing Act 2003 and any future rules determined by the Licensing Committee under that Section.

2 Additional rights to information

These rules do not detract from any more specific right to information contained elsewhere in this constitution or the law

3 Right of public to attend meetings

Any member of the public may attend all meetings of the Council and its Executive subject only to the exceptions in these rules. For the avoidance of doubt, the following meetings of the Executive and its committees will be held in public (except when it considers a matter where confidential or exempt information is likely to be disclosed;)

- (a) when it meets to make a key decision
- (b) when it discusses a matter in the presence of an officer (other than a political or mayoral assistant) in respect of which, according to the forward plan a key decision is to be made within 28 days of the meeting

4 Notices of meeting

The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Town Hall, Catford London SE6 4RU (the designated office) and where possible by electronic means on its web page.

5 Access to agenda before the meeting

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised

agenda will be open to inspection for the time that the item was added to the agenda.

An item of business may only be considered at a public meeting:-

- (a) in accordance with Rule C24 (broadly where a copy of the agenda or part of the agenda including the item has been available for inspection for at least 5 clear days before the meeting) or
- (b) in accordance with Rule C25 – Urgency.

However this provision does not allow a key executive decision to be taken at a public meeting if it has not been included in the Council's Forward Plan unless Rule G15 or 16 applies.

Where reports are prepared after the summons has been sent out, the proper officer will make such report available to the public as soon as the report is completed and sent to councillors

6. Supply of copies

The Council will supply copies of:-

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the proper officer thinks fit, copies of any other documents supplied to councillors and/or the Mayor in connection with an item

to any person on payment of a reasonable charge for and any other costs

7 Access to minutes etc. after the meeting

For 6 years after a meeting, the Council will make available for public inspection, copies of the following:-

- (a) the minutes of the meeting, to include the record of decisions taken, together with reasons, any options considered and rejected and details of any declarations of interest, excluding any part of the minutes of proceedings when the meeting was not open to the public or which would disclose exempt or confidential information.

- (b) a summary of proceedings when the meeting was not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record
- (c) the agenda for the meeting
- (d) reports relating to items when the meeting was open to the public

8 Background papers

The author will set out in every report a list of documents (called background papers) relating to the subject matter of the report which in his/her opinion:-

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in the preparation of the report

This requirement does not apply to published works or those which disclose confidential or exempt information as defined in Rule 10 and Appendix 1 to this Constitution, and in respect of executive reports any advice from a political advisor.

Background reports will be available for public inspection for four years after the date of the meeting at which a report referring to them was considered.

9 Summary of public rights

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Town Hall, Catford, SE6 4RU or such other place as the Council decides from time to time.

10 Exclusion of the public from meetings

- (a) Confidential information

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

Confidential information is information given to the Council by a Government Department on terms which forbid its public disclosure or

information which cannot be publicly disclosed by court order. (see Appendix 1)

(b) Exempt information

The public may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information would be disclosed. (See Appendix 1)

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the European Convention on Human Rights establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

Exempt information is information falling within one of the categories set out in Appendix 1 under the heading "Exempt Information". However, information which would otherwise be exempt will not be exempt if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 Town and Country Planning General Regulations 1992.

11 Exclusion of Access by the Public to Reports

If the proper officer thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items, during which, in accordance with rule 10 (exempt and confidential information) the meeting is not likely to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

12 Application of the access to information rules to the Executive

The following rules 13 to 25 apply to the Executive and its committees in addition to those set out above, in relation to key decisions. If the Executive meets

- (a) to make any key decision, or
- (b) within 28 days of the date set out in the forward plan for a decision to be taken in respect of a key decision, with an officer present (other than a political or mayoral assistant) to consider that matter,

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then subject to Rule 15 (urgency) and Rule 16 (special urgency) it must also comply with rules 13 to 25 below

A key decision is defined in Article 16.2 of the Constitution.

This requirement does not apply to meetings whose sole purpose is for officers to brief members.

13 Procedure relating to key decisions

Subject to Rule 15 (urgency) and Rule 16 (special urgency), a key decision may not be taken unless:-

(a) the matter has been included in the Council's forward plan, with the particulars required to be included by virtue of Regulation 14 The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000

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(b) where the decision is to be taken at a meeting of the Executive, notice has been given in accordance with rule G4 and access to the agenda has been given in accordance with Rule G5.

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14 The Forward Plan

(a) Period of the plan

The Mayor will prepare a forward plan to cover the period of four months beginning with the first day of any month. Forward plans will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered by the previous plan

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(b) Contents of the forward plan

The forward plan will contain matters which the Mayor (or the person to preside at a meeting at which a decision is to be taken if different) has reason to believe will be the subject of a key decision. Such matters must be included whether they are to be taken by the executive, a committee of the executive, individual members of the executive, officers, area committees or under joint arrangements, in the course of the discharge of an executive function during the period covered by the plan. The forward plan will describe the following particulars in so far as the information is available or might reasonably be obtained:-

1. The matter in respect of which the decision is to be made;

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2. Where the decision maker is an individual, his/her name, his/her title if any, and, where the decision maker is a decision making body, its name and a list of all its members;
3. The date on which, or the period within which, the decision is to be made;
4. The identity of the principal groups or organisations whom the decision maker proposes to consult before making the decision;
5. The means by which any such consultation is proposed to be undertaken;
6. The steps that may be taken by any person who wishes to make representations to the local authority executive or to the decision maker about the matter in respect of which the decision is to be made, and the date by which those steps are to be taken; and
7. A list of those documents submitted to the decision-maker for consideration in relation to the matter in respect of which the decision is to be made. (Reg 14)

(c) Annual notice of forward plan

The forward plan will be published at least 14 days before the start of the period covered. Each year, the proper officer will publish a notice in at least one newspaper circulating in the area, stating:-

1. that key decisions are to be taken on behalf of the Council;
2. that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
3. that each plan will be available for inspection at reasonable hours free of charge at the Town Hall, Catford, London SE6;
4. that each plan will contain a list of the documents submitted to the decision makers for consideration in relation to the key decisions in the plan;

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5. the address from which, (subject to any restriction on their disclosure), copies of, or extracts from, any document listed in the forward plan is available;
6. that other documents may be submitted to decision makers;
7. the procedure for requesting details of documents (if any) as they become available; and
8. the dates in each month in the following year on which the forward plan will be published and available to the public at the Council's offices.

Exempt and confidential information will not be included in the forward plan.

15. General Exception

If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 (special urgency) the decision may not be taken unless:-

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the period to which the next forward plan relates; and
- (b) the proper officer has informed the Chair of the Business Panel, or if there is no such person each member of the Business Panel, in writing, by notice, of the matter in respect of which the decision is to be made; and
- (c) the proper officer has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 5 clear days have elapsed since the proper officer complied with (b) and (c) above.

Where such a key decision is taken collectively, it must be taken in public, (subject to the exceptions which apply to exempt and confidential information.).

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16 Special Urgency

- (a) If by virtue of the date by which a key decision must be made, Rule 15 above cannot be followed, then the decision may only be taken if the decision maker (if an individual) or the chair of the body making the decision, obtains the agreement of the Chair of the Business Panel that the taking of the decision cannot reasonably be deferred. If there is no Chair of the Business Panel, or if there is but they are unable to act, then the agreement of the Chair of Council, or in his/her absence the Vice Chair of Council will suffice.
- (b) The Mayor will prepare and submit to the Council at quarterly intervals a report containing details of each executive decision taken during the preceding three months where the making of the decision was agreed as urgent in accordance with Rule 16. This report must contain particulars of each decision made, and a summary of the matters in respect of which each decision was made.

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17 Overview and scrutiny rights in relation to the forward plan and urgency decisions

- (a) If the Business Panel thinks that a key decision has been made which was not included in the forward plan or properly decided in accordance with Rule 15 or 16, then the Business Panel may require the Executive to submit a report to the Council within such reasonable time as the Business Panel specifies. The power to require a report rests with the Business Panel but is also delegated to the proper officer, who will also require such a report if so requested by the Chair of the Business Panel, the Chair of Council or any 5 members of the Council. Alternatively the report may be required by a resolution of the Business Panel.
- (b) If an Executive report is required in accordance with (a) above, the Executive will then prepare a report for Council setting out particulars of the decision, the process by which it was made, the identity of the individual or body making the decision, and if the Mayor is of the opinion that it was not a key decision, the reasons for that view.
- (c) The Executive report will be submitted to the next Council meeting, unless the request is made by the Business Panel within 10 working days of that Council meeting, in which case it may report to the following Council meeting.

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18 Choosing to meet in public

Where the Executive or any of its committees meet to consider a decision which is not a key decision, it may choose to meet in public, irrespective of whether the decision is a key decision or not. Where the Mayor, or if the person to preside is not the Mayor, that person decides to hold the meeting in public, the rules that apply to all public meetings (as set out in Part VA Local Government Act 1972) will apply, including the requirement for advance publication of the agenda and papers. However, there will be no need for such decisions to be included in the forward plan.

19 Private meetings of the Executive

(a) When can the Executive meet in private?

The Executive and its committees may meet in private if:-

- 1 it meets to consider a matter which does not involve a key decision
- 2 it meets in the presence of an officer, other than a political or mayoral assistant, to consider a matter in respect of which a key decision will be made, but the date for such decision included in the forward plan is more than 28 days after the date of the meeting.
- 3 at any time it meets without officers present (save for a political or mayoral assistant) to consider a matter in respect of which a key decision is to be made
- 4 it meets with officers for the purposes only of briefing

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(b) Notice of private executive meetings

If the Executive meets in private, all members will be entitled to receive 5 clear days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency. The notice of the meeting and relevant papers will also be served on the Chair of the Business Panel and all select committee chairs at the same time, or if there is no Chair, all members of the relevant Business Panel or select committee.

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All members of the Executive will be served with notice of all private meetings of any committee of the executive, whether or not they are members of that committee.

(c) Right to attend and speak at private meetings of the executive

1. *Members of the Executive* will be able to attend any private meeting of the Executive. Members of the Executive may only attend meetings of any committee of the Executive if they are a member of that committee. Any member of the Executive is entitled to speak at any meeting of a committee of the executive if they are a member of that committee, or invited to do so by the person presiding.

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2. *Any member of the Council* may attend a private meeting of the Executive with the consent of the person presiding and may speak if that person consents.

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3. *The Head of Paid Service, Chief Finance Officer and Monitoring Officer* and their nominees are entitled to attend any meeting of the Executive and its committees. The Executive may not meet unless the proper officer has been given reasonable notice that the meeting is to take place. A private meeting of the Executive may not meet to take any decision unless the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer or their nominee are present. The meeting may only take a decision if there is an officer present with responsibility for recording and publicising the decision.

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4. *People who are neither Councillors nor officers* may attend private executive meetings at the invitation of the person presiding, and may speak with their consent.

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The provisions of para 20 below (record of decisions) apply in relation to private meetings of the Executive and its committees.

20 Record of decisions

After any meeting of the executive or any of its committees, whether held in public or private, the proper officer will produce a record of every decision taken at that meeting as soon as reasonably practicable. Decisions taken at a meeting may only be taken on the basis of a comprehensive written report, setting out key legal, financial, service and corporate implications and may not be taken at any meeting unless the proper officer or their nominee is present. The record will include for each decision made:-

- (a) a statement of the reasons for the decision;

- (b) any alternative options considered and rejected at the meeting;
- (c) any declarations of interest made in relation to the matter
- (d) any dispensation from the Standards Committee

The provisions of Rule D17 in relation to the publication of Executive decisions shall apply.

21 Basis for consideration by executive

- (a) When the Executive makes a decision of any sort, whether collectively, through a committee, or through an individual member, it may only do so on the basis of a written report which deals with a consideration of options available, service, corporate, financial, legal and all relevant considerations.
- (b) When the Executive, whether collectively, through a committee or individual member, seeks to make a decision, it may only do so in the presence of the Head of Paid Service, Chief Finance Officer, or the Monitoring Officer or their nominee(s) and an officer authorised to make a record of, and publish the decision.
- (c) Executive decisions will only be deemed to have been made when they have been recorded and publicised in accordance with Rule D17 and G22 (f).
- (d) When any officer report is submitted to the Executive for consideration at a meeting of the Executive or any of its committees, (whether or not a decision is likely to be the result of considering the report,) that report will contain all service, corporate, financial and legal considerations. Reports submitted to individual members of the Executive with the intention that they should be the basis on which a decision is taken, shall be similarly drafted.

22 Decisions by individual members of the Executive (Reg 9)

- (a) All decisions taken individually by members of the Executive, must be based on written reports. Those reports must contain all service, corporate, legal and financial implications.
- (b) When an officer prepares a report which is to be given to an individual member for decision, he/she must first give a copy of that report to the proper officer.
- (c) The proper officer will submit the report to the individual

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decision maker, and serve a copy on every member of the relevant Business Panel and any other relevant overview and scrutiny committee (or select committee) chair, and make it publicly available as soon as reasonably practicable. At the same time, notice will be served on the Chief Executive, Chief Finance Officer and Monitoring Officer.

- (d) The individual decision maker may not make any key decision unless a period of five clear days has elapsed since the service of the report on the decision maker, the relevant Business Panel and relevant overview and scrutiny committee and select committee chairs and the public
- (e) Individual decisions may only be made by members of the Executive in the presence of the Chief Executive, Chief Finance Officer or Monitoring Officer or their nominee (unless they waive that requirement) and the proper officer whose responsibility it is to record the decision.
- (f) As soon as reasonably practicable after the decision has been made, but in any event within 2 working days of the decision, the proper officer will prepare a written statement of the decision including the following prescribed information:-
- A record of the decision,
 - a statement of the reasons for the decision
 - details of any alternative options considered and rejected at the time by the member when he/she made the decision
 - a record of any conflict of interest declared by any executive member who has been consulted by the member in relation to the decision
 - in respect of any declared conflict of interest, a note of any dispensation granted by the Standards Committee.
- (g) The decision will not be deemed to have been made until the record has been made and publicised in accordance with Rule D17 and G22 (f).
- (h) The provisions of Rule 7 and 8 (access to minutes after meetings and background papers) will apply.

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- (i) Nothing in these rules relating to the taking of decisions by individual members shall require them to disclose confidential or exempt information as defined in Appendix 1 to the public.

23. Decisions by individual ward members

If the Mayor or Council delegates decision making in relation to any executive or non-executive function to any individual member, then the provisions applying to the Executive or the Council, as appropriate in relation to access to information, the principles of decision making, call in if applicable, records of decisions and all other relevant procedural matters will apply equally to those ward members unless the context dictates to the contrary. If regulations are introduced in relation to individual decision making that are more onerous than the requirements in this Constitution they shall take precedence.

24. Executive decisions by individual officers (Reg 9)

- (a) The Mayor, the Executive, or committees of it may delegate decision making to an officer. Where they do so, the officer may only take a key decision on the basis of a written report. That report must contain service, corporate, financial and legal considerations.
- (b) Where an individual officer receives a report which he/she intends to take into account in making a key decision he/she shall not make that decision until the report has been available for public inspection for five clear days.
- (c) The individual officer making the decision must ensure that the proper officer makes a copy of the report referred to in paragraph (b) available to the public as soon as reasonably practicable after that officer receives it.
- (d) The person who supplied a copy of the report to the officer making the decision, as soon as reasonably practicable, must supply a copy to the chair of the Business Panel or where there is no Chair, to every member of the Business Panel.
- (e) The proper officer must ensure that any report which is intended to be taken into account in making a key decision includes a list of background papers and that sufficient copies are available for every member of the public who wants one.
- (f) The officer must inform the proper officer immediately any key decision has been taken and provide to them a written statement of

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the decision for publication containing all the details set out in paragraph 22(f) above.

- (g) The decision will only be deemed to have been made once the record is published.
- (h) The provisions of Rule 7 and 8 (access to minutes after meetings and background papers) will apply.
- (i) Nothing in these rules relating to the taking of decisions by individual members shall require them to disclose confidential or exempt information as defined in Appendix 1 to the public.

25 Overview and scrutiny committee access to documents

(a) After the decision

Subject to Rule 24 (b), any member of the overview and scrutiny committee (including its select committees) will be entitled to copies of any document which is in the possession or control of the Mayor, the executive or any of its committees, if it contains material relating to

- any business which has been transacted at a public or private meeting of the executive; or
- any decision taken by a individual member of the executive
- any decision that has been taken by an officer in accordance with executive arrangements.

Overview and scrutiny committee members shall not be entitled to a copy of a document that contains exempt or confidential information unless it is relevant to an action or decision he/she is scrutinising or reviewing, or is contained in any programme of work of an overview and scrutiny committee or sub-committee. Neither are they entitled to any document or part of a document that contains the advice of a political advisor. An overview and scrutiny member is not entitled to a report that is in draft.

(b) Reports to Council

(1) Where an executive decision has been made and:

- was not treated as being a key decision; and
- a relevant overview and scrutiny committee is of the opinion that the decision should have been treated as a key decision,

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the overview and scrutiny committee may require the decision maker to submit a report to the full Council within a reasonable period.

(2) A report under paragraph (1) shall include details of:

- the decision and the reasons for the decision;
- the decision making body by which, or the individual by whom, the decision was made

(c) Limit on rights

An overview and scrutiny committee member will not be entitled to:-

- any document that is in draft form
- any document or part of a document that contains exempt or confidential information unless the information is relevant to an action or decision they are reviewing or scrutinising or intend to review or scrutinise; or
- the advice of a political assistant or adviser.

26 Additional rights of access for all members

(a) Material relating to business to be transacted

Subject to paragraphs (c) and (d) below, any document which is

- in the possession or under the control of the executive and
- which contains material relating to any business to be transacted at a public meeting

shall be available for inspection by any member of the Council

(b) Material relating to previous business

Subject to paragraphs (c) and (d) below, all members are entitled to inspect any document which is in the possession or under the control of the Mayor, the Executive or any of its committees if it contains material relating to any business transacted at a public or private meeting, or to a matter which was the subject of a decision taken by an individual member of the Executive, or any key decision made by an officer in accordance with executive arrangements.

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(c) Paragraphs (a) and (b) above do not require a document to be available for inspection if it appears to the proper officer that it discloses exempt information of a description falling within Part 1 of Schedule 12A to the Local Government Act 1972 which appears at Appendix 1.

(d) Despite paragraph (c), documents must be available for inspection if the exempt information is information falling within:

- paragraph 3 of Schedule 12A to the 1972 Act (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract) or
- paragraph 6 of Schedule 12A to the Act

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(e) Where it appears to the proper officer that compliance with paragraph (a) or (b) in relation to a document or part of a document would involve the disclosure of the advice of a political adviser or assistant that paragraph shall not apply as regards that document or part.

(f) These rights are additional to any rights a member may have.

H EMPLOYMENT PROCEDURE RULES

1 Declarations

Candidates for appointment as employees of the Council shall be required to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, aunt, uncle, niece or nephew of an existing member or employee of the Council, including the Mayor; or of the partner of such a person.

No candidate so related to a member (including the Mayor) or employee of the Council will be appointed without the authority of the relevant Executive Director or an officer nominated by him/her.

2 Canvassing for appointment

Canvassing of members of the Council (including the Mayor), or of any members of any committee of the Council, directly or indirectly, for appointment by the Council will disqualify the candidate concerned from that appointment. The content of this paragraph will be included in any recruitment information.

No councillor (including the Mayor) shall seek support for any person for any appointment with the Council. However, this does not preclude a member from giving a written reference for a candidate for submission with an application for appointment.

3 Statement of duties for chief officer posts

Where the Council intends to appoint the Head of Paid Service or any chief officer within the meaning of Section 2(6) or 2(7) Local Government and Housing Act 1989 and it is not proposed that the appointment will be made exclusively from among existing officers, the Council will:-

(a) draw up a statement specifying:

- i. the duties of the post concerned; and
- ii. any qualifications or qualities to be sought in the person to be appointed

(c) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it and

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(d) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request

4. **Responsibility for appointment, dismissal and disciplinary action below deputy chief officer**

The Head of Paid Service, or such person as he/she nominates will be responsible for the appointment, dismissal and disciplinary action in respect of all employees with the exception of the following posts:-

- The Head of the Paid Service
- Chief officers as defined in Sections 2(6) and 2(7) Local Government and Housing Act 1989
- Deputy chief officers as defined in Section 2(8) Local Government and Housing Act 1989
- Assistants for political groups
- Assistant to the Mayor

5. **Meaning of disciplinary action**

For the purposes of these Employment Procedure Rules, 'disciplinary action' means any action occasioned by alleged misconduct which, if proved, would according to the usual practice of the Council, be recorded on an employee's personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term, unless the Council has undertaken to renew such a contract

6. **Recruitment and dismissal of Head of Paid Service**

The functions of the appointment and dismissal of the Head of Paid Service are delegated to the Appointments Committee in accordance with Article 9, subject to the approval of the full Council. No letter of appointment or dismissal may be sent until such approval is obtained.

7 **Recruitment of Head of Paid Service, Chief Officers and Deputy Chief Officers**

Subject to (6) above, the appointment of the Head of Paid Service, chief officers and deputy chief officers is delegated to the Appointments Committee in accordance with Article 9. Subject to (6) above in relation to the appointment of the Head of Paid Service, an offer of appointment may not be made until

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- (1) the appointer has notified the proper officer of the name of the person to whom it wishes to make the offer of appointment, and any other particulars which are relevant to the appointment, and
- (2) the proper officer has notified every member of the Executive of:-

- the name of the person to whom the Committee wishes to make an offer;
- any other particulars relevant to the appointment; and
- the period within which any objection to the making of the offer is to be made by the elected mayor on behalf of the executive: and

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- (3) either

i. the Mayor has within the time specified for doing so in the notice served by the proper officer, notified the Chair of the Appointments Committee that neither he/she nor any other member of the Executive has any objection to the making of the offer: or

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ii. the proper officer has notified the appointer that no objection was received by him/her from the Mayor within the period for doing so; or

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iii. the appointer has received an objection from the Mayor but is satisfied that it is not material or well founded

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In this Rule (7) 'the appointer' means the Council in the case of the Head of Paid Service, and the Appointments Committee in respect of the appointment of chief officers and deputy chief officers, or such other committee or sub-committee or officer to whom the appointment of chief officers and deputy chief officers has been delegated.

8 Dismissal of Head of Paid Service, chief officers and deputy chief officers

Subject to (6) above in relation to the Head of Paid Service, and subject to Rule (11) below in relation to disciplinary action against the Head of Paid Service, Chief Finance Officer and Monitoring Officer, the dismissal of chief officers and deputy chief officers will be delegated to the Head of Paid Service, or such other person as he/she shall nominate from time to time.

Notice of dismissal may not be served on the Head of Paid Service, a chief officer or deputy chief officer unless:-

- (1) The dismissor has notified the proper officer of the name of the person whom the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal; and
- (2) the proper officer has notified every member of the executive of:-
 - the name of the person who the dismissor wishes to dismiss
 - any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
 - the period in which any objection to the dismissal is to be made by the Mayor on behalf of the executive to the proper officer; and
- (3) either:-
 - (i) the Mayor has within the period specified in the notice, notified the dismissor that neither he/she nor any other member of the executive has any objection to the dismissal; or
 - (ii) the proper officer has notified the dismissor that no objection was received by him/her within that period from the elected mayor; or
 - (iii) the dismissor is satisfied that any objection received from the Mayor within that period is not material or is not well founded

In this Rule (8), the dismissor means the Council, a committee, sub-committee or officer of the Council discharging the function of dismissal on behalf of the Council.

9 Membership of committees with responsibility for appointment/dismissal of Head of Paid Service, chief officers and deputy chief officers

Any committee or sub committee of the Council which discharges the function of appointing or dismissing the HOPS, chief officer or deputy chief officer, must have at least one member of the Executive among its membership.

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10 Eligibility to sit on appeals committees

Nothing in rule (8) prevents a person from serving as a member of any committee or sub-committee established by the Council to consider an appeal by:-

- another person against any decision relating to the appointment of that other person as a member of staff of the Council; or
- a member of Council staff against any decision relating to the dismissal of, or taking of disciplinary action against, that member of staff.

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11 Disciplinary action in relation to the Head of Paid Service, Chief Finance Officer and Monitoring Officer

- (1) No disciplinary action without independent recommendation

No disciplinary action in respect of the Council's Head of Paid Service, Chief Finance Officer or its Monitoring Officer except the action defined in paragraph (b) below, may be taken by the Council, a committee, sub-committee, a joint committee on which the Council is represented or any other person acting on behalf of the Council, other than in accordance with a recommendation in a report made by a designated independent person (as defined in Reg 7 of the Local Authorities (Standing Orders) (England) Regulations 2001) namely such person as may be agreed between the Council and the officer concerned, or in default of such agreement, nominated by the Secretary of State.

- (2) Suspension

The action referred to in paragraph (a) above is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.

- (3) Rights of the designated independent person

The designated independent person –

(a) may direct –

(i) that the Council terminate any suspension of the relevant officer;

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- (ii) that any such suspension must continue after the expiry of the 2 month period
- (iii) that the terms on which any such suspension has taken place must be varied in accordance with the direction; or
- (iv) that no steps (whether by the authority or any committee, sub committee or officer acting on behalf of the Council) towards disciplinary action or further disciplinary action against the relevant officer, other than steps taken in the presence, or with the agreement of the designated independent person, are to be taken before a report is made under sub paragraph (d) below;

(b) may inspect any documents relating to the conduct of the relevant officer which are in the possession of the Council, or which the Council has power to authorise him/her to inspect;

(c) may require any member of Council staff to answer questions concerning the conduct of the relevant officer;

(d) must make a report to the Council –

- i. stating his/her opinion as to whether (and if so, the extent to which) the evidence he/she has obtained supports any allegation of misconduct against the relevant officer; and
- ii. recommending any disciplinary action which appears to him/her to be appropriate for the Council to take against the relevant officer; and

(e) must no later than the time at which he/she makes his/her report under sub-paragraph (d) send a copy of his/her report to the relevant officer

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12 Involvement of members in disciplinary action below deputy chief officer

Councillors will not be involved in disciplinary action against officers (including dismissal) below the level of deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct. However, the Council's disciplinary, capability and related procedures as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

13 Political assistants

The Council may appoint to the post of political assistant as defined in Section 9 Local Government and Housing Act 1989 from time to time.

These posts must be filled from time to time in accordance with the wishes of the group to which the post has been allocated.

A prohibition is imposed on appointment to any post allocated to a political group until the Council has allocated a post to each political group which qualifies for one.

Political assistants must not be allocated to a political group which does not qualify for one.

No party may have more than one political assistant.

14 Mayor's assistant

The Council may appoint a mayor's assistant in pursuance of regulations made under paragraph 6 of Schedule 1 of the Local Government Act 2000.

I CONTRACT PROCEDURE RULES

1. Introduction

- 1.1 Every contract entered into by the Council must comply with these Contract Procedure Rules which set out the steps which must be taken in relation to contracts of different values; and which provides the framework rules for the Council's procurement of works, goods and services. Following them will ensure value for money, propriety and the proper spending of public money.
- 1.2 The Procurement Code of Practice provides more detail and shall govern Council tendering and contract procedures. The Executive Director for Resources and Head of Procurement shall maintain and issue the Procurement Code of Practice. Any procurement activity shall proceed in accordance with the Contract Procedure Rules and the Procurement Code of Practice
- 1.3 The purpose of procurement activity shall be to achieve best value for local people in accordance with the Council's statutory and approved objectives. This should include an innovative approach to building partnerships with the private and not-for-profit sectors within a robust contractual framework. Officers with responsibility for procurement shall ensure that they are able to demonstrate achievement of best value by having regard to a combination of economy, efficiency and effectiveness.
- 1.4 Every contract or official order for works, goods or services made by the Council shall be for the purpose of achieving the Council's statutory or approved objectives and shall conform to all relevant English and European legislation.
- 1.5 Procurement decisions are among the most important decisions a manager will make because the money involved is public money and the Council is concerned to ensure that high quality goods, works and services are provided. Efficient use of resources in order to achieve best value is therefore an imperative. The Council's reputation is equally important and should be safeguarded from any imputation of dishonesty or corruption.
- 1.6 For these reasons it is a disciplinary offence to fail to comply with Contract Procedure Rules and the Procurement Code of Practice when letting contracts and employees have a duty to report breaches of Contract Procedure Rules to an appropriate senior manager and the Head of Audit.

2. Interests in Contracts

- 2.1 By law, officers are required to give written notice to the Chief Executive of any pecuniary interest they may have in a contract which has been or is to be entered into by the Council, other than a contract to which they are a party. Members too are under a legal duty to declare any personal interest they may have in any contract.
- 2.2 Both Members and officers shall be required to abide by the Member and Employee Code of Conduct (a copy of which is attached at Part V of this constitution) particularly in relation to their personal interests in contracts which have been or are to be awarded by the Council.

3. European Union

- 3.1 All contracts shall comply with the EU Treaty and with any relevant European directives currently in force in the United Kingdom, as well as all relevant national legislation.
- 3.2 Notwithstanding the contents of these Rules, the tendering process must strictly comply with the EU Treaty and directives made under it and nothing contained within these Rules shall override current European and/or domestic legislation

4. Category Values

- 4.1 Executive Directors should, wherever possible, adopt procedures which ensure that the Council obtains maximum value for money and in so far as complies with the law, encourages the use of contractors and suppliers who comply with the Council's Code of Practice for Contractors, Suppliers and Service Providers in force from time to time. A copy of the Code of Practice for Contractors, Suppliers and Service Providers is available from the Executive Director for Resources.
- 4.2 Except where it is otherwise stated, any reference to the estimated value or value of a contract means the total value of the contract (inclusive of any extension period) over its full term and it is not an annual or other periodic value. For annually renewable contracts and Schedule of Rate contracts, the value shall be calculated by reference to methods applicable under the relevant European public procurement directive.
- 4.3 There are three categories of contracts:-
 - 4.3.1 **Category A** - Building construction and engineering works contracts ('works contracts') with an

estimated value of over £1m, other contracts with an estimated value of over £500,000, and contracts that fall within the full provisions of the EU procurement regime (Works, Supplies and Part A Services).

- 4.3.2 **Category B** - Works contracts with an estimated value of between £40,000 and £1m and all other contracts with an estimated value of between £40,000 and £500,000, and those that fall outside the full requirements of the EU procurement regime (Part B Residual Services).
- 4.3.3 **Category C**- All other contracts or arrangements with an estimated value of less than £40,000.

5. Procurement Routes

- 5.1 Unless otherwise agreed by the Executive Director for Resources, for example in the use of Framework and Schedule of Rate arrangements, all contracts for the supply of goods and services must be specific in terms of quantities to be supplied over a given period of time. The estimated value of such contracts over a period of time shall be the total value of the supply over the period including, where appropriate, all associated maintenance costs.
- 5.2 In circumstances considered appropriate by the Executive Director for Resources and subject to the provisions of Paragraph 14 (Award of Contract) below, officers may elect to use pre-existing framework arrangements (such as those operated by the Office of Government Commerce) or Consortium Contracts (such as those operated by the London Centre of Excellence or the London Contract and Supplies Group) to obtain tenders, providing value for money can be demonstrated. Before procuring or entering into a framework or consortium arrangement, the relevant officer shall be satisfied that:

- The term of the arrangement shall be or is for a period of no longer than four years duration;
- The terms and conditions of the arrangement do not compromise the Council's contractual requirements;
- The parties to the arrangement are recognised public bodies or providers from the private sector as approved by the contracting agency

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- Full, open and proper competition in respect of the creation of the framework or consortium arrangement has taken place in accordance with the relevant EU rules and/or relevant standing orders.

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- 5.3 Unless otherwise agreed by the Executive Director for Resources, officers involved in the contracting process will use the best practice identified in the Lewisham Code of Practice for Procurement.
- 5.4 The method of tendering shall similarly apply where a sub-contractor or supplier is to be nominated by the Council in respect of a contract to be performed by the Council for a third party.
- 5.5 The practice of collaborative tendering between local authorities and/or other public bodies is increasing. However, this should only be considered if there is a clear business case for doing so. This process requires additional factors to be resolved by the partner authorities during the planning stages and should be covered by a comprehensive partnering mandate.
- 5.6 Everything from responsibilities to anticipated outcomes should be outlined in the collaboration mandate, which will be approved by the relevant senior officers in all participating authorities. To support this a project team should be established to manage the project using an agreed plan with clear milestones and deliverables.

6. Estimate of Expense Involved

- 6.1 No Tender shall be invited unless there is adequate provision within the appropriate budget heading or other financial provision (e.g. special funding).
- 6.2 Before inviting tenders, the relevant Executive Director shall compile a written estimate of the value of the works or the goods or services for which a tender is to be invited. All such estimates will be kept in a central register by the relevant Executive Director.

7. Authority to Procure

- 7.1 No Tender shall be invited unless Authority to Procure exists either :

- as the result of a 'Best Value' service review;
- resulting from prudential borrowing;
- in implementing the capital and repair and maintenance programmes;

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- _____ prior to the expiry of an existing contract;
- _____ identification of a new corporate contract;
- _____ as a result of external funding opportunities;
- _____ contract failure;
- _____ or as a matter of urgency or expediency;
- _____ or where authority to procure has been properly given in accordance with the Council/Mayoral scheme of delegation in force from time to time.

8. Contracts Register

A register of all tenders despatched and received by each Executive Director will be maintained by that Executive Director, in a format approved by the Executive Director for Resources.

9. Code of Practice for Contractors, Suppliers and Service Providers

- 9.1 In so far as complies with the law, contractors, suppliers and service providers will have to satisfy the Council of their ability to comply with the Code of Practice for Contractors, Suppliers and Service Providers in force from time to time before being invited to tender.
- 9.2 It is the Executive Director for Resources' responsibility for maintaining, amending and updating the Code of Practice for Contractors, Suppliers and Service Providers.

10. Method of Inviting Tenders

10.1 Category A Contracts

- 10.1.1 In the case of Category A contracts, tenders shall be invited by public advertisement and/or Notice as necessary. Prior to invitation to tender, a public advertisement may be placed inviting prospective tenderers to express an interest in tendering. Where such an advertisement attracts so many responses that it would be impractical to invite tenders from all those who respond, then tenders shall be invited from a short list of contractors/suppliers which is approved in accordance with the Council's/Mayoral scheme of delegation as attached to the constitution.

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- 10.1.2 However, if the Executive Director for Resources and the Head of Law determine that there are good reasons for doing so, in the case of Category A works contracts below the current European Union threshold, tenders need not be invited by public advertisement. In such cases, tenders will be invited from at least 5 contractors from the Council's approved list. If the Council does not maintain an appropriate approved list or if the Executive Director of Resources so authorises then tenders may be invited from at least 5 other contractors, suppliers or service providers.
- 10.1.3 In the case of other Category A contracts, tenders need not be invited by public advert if a decision is made to the contrary in accordance with the Council's/Mayoral scheme of delegation which is attached to the Council's constitution. For non-executive functions, such a decision may only be made by the appropriate committee or in accordance with the Council's Scheme of Delegation. For executive functions, the decision will be made in accordance with the Council's/Mayoral scheme of delegation.
- 10.1.4 In the case of any Category A contract, the Council shall not invite less than 5 tenderers, or negotiate with a single tenderer unless there are special circumstances which must first be approved by the appropriate committee (for non-executive functions) and in accordance with the Council's /Mayoral scheme of delegation (in respect of executive functions), in both cases having regard to the advice of the Executive Director for Resources and the Head of Law. See clause 10.4

10.2 Category B Contracts

- 10.2.1 In the case of Category B contracts, tenders shall normally be invited by open advertisement, or with the prior personal written approval of the relevant Executive Director, from a minimum of 5 contractors/suppliers appearing on the Council's approved list.
- 10.2.2 If the Council does not maintain an appropriate approved list or if the Executive Director for Resources so authorises then tenders may be invited from at least 5 other contractors/suppliers.
- 10.2.3 In the case of any Category B contract, the Council shall not invite less than 5 tenderers, or negotiate with a single tenderer unless there are special circumstances which must be approved by the Executive Director for Resources in respect of "non-executive functions", and in respect of "executive functions" in accordance with the mayoral scheme of delegation, in both cases having regard to the advice of the Executive Director for Resources and Head of Law, if the decision is not delegated to either or both of those officers. See clause 10.4

10.3 Category C Contracts

10.3.1 In the case of Category C contracts, written quotations may be sought as follows:

<u>Estimated Value</u>	<u>Minimum Number of Quotations</u>
Under £10,000	One written
£10,001 to £25,000	Three written
£25,001 to £40,000	Four written

Note 1 : the Values for all Category C contracts will be reviewed bi-annually by the Executive Director for Resources and any changes ratified in accordance with the Council and Mayoral Scheme of Delegation.

Note 2 : where it is proposed to use a two stage procurement process [stage 1 : expressions of interest: stage 2 : tender] then authority to agree shortlisted companies has to be obtained from Mayor & Cabinet for Category A Contracts or the relevant Executive Director for Category B Contracts.

10.4 Waiver of Contract Procedure Rules

10.4.1 Waiver of the normal tendering routes identified in the Contract Procedure Rules should only be relied upon in exceptional or unforeseen circumstances. A waiver must be approved by the Executive Director for Resources in respect of “non-executive functions”, and in respect of “executive functions” in accordance with the mayoral scheme of delegation, in both cases having regard to the advice of the Executive Director for Resources and Head of Law. To authorise this delegation the person/committee signing off the report must be satisfied after considering a written report by the appropriate officer that the waiver is justified because:

- the nature of the market for the works to be carried out or the goods and services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of Contract Procedure Rules is justifiable; or
- the contract is for works, goods or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or
-
- it is in the Council's overall interest; or
- there are other circumstances which are genuinely exceptional; and

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- The circumstances of the proposed contract are covered by legislative exemptions (whether under EU or English law);

10.4.2 All waivers need to be properly documented and an audit trail provided for the circumstances and persons involved, including full explanation and sign off.

10.4.3 Where a waiver of Contract Standing Orders is sought for the second time in relation to the same contract, then regardless of the value of the contract, that waiver may only be signed off by the Executive/relevant Committee.

11. Submission of Tenders

11.1 In circumstances where the contract specification can be established with precision and with the agreement of the Executive Director for Resources, the Council may conduct a reverse electronic auction prior to the award of the contract in order to determine the optimum supply arrangements for the Council.

11.2 In circumstances approved by the Executive Director for Resources the Council may use electronic requests for quotations and tenders, Dynamic Purchasing Systems and Competitive Dialogue to determine the optimum supplier for the works goods or service required as any need is established.

11.3 Within the contract notice the Council will specify whether the tender is to be submitted in hard copy and /or via electronic means. Irrespective of the means of tender submission all notices or invitations to tender shall clearly state the closing date and time for their receipt.

11.4 Tenders submitted in hard copy form

11.4.1 The tender notice will clearly specify that no tender shall be received except in a plain sealed envelope/package. Every envelope/package shall have the word 'tender' marked on it followed by the subject and the date by which it is to be returned. However, the envelope/package shall not in any way indicate who the tenderer is. Any envelope/package so marked will be rejected.

11.4.2 Tender envelopes/packages should be addressed in the following manner:-

Category A Contracts - To the Chief Executive.

Category B Contracts - To the Executive Director inviting the tenders.

Category C Contracts – To the Head of Service inviting the tender.

11.4.3 Such tender envelopes/packages shall remain in the custody of the Executive Director inviting the tender or the Chief Executive, as appropriate, until the time appointed for their opening.

11.5 Tenders submitted via electronic means

11.5.1 Where tenders or part of the tender documentation are being submitted electronically, the tenders shall be delivered electronically to the address given in the Invitation to Tender.

11.5.2 Where tenders are being submitted electronically then they shall be kept in a secure environment with all confidential information protected in accordance with instructions issued by the Executive Director for Resources. All such tenders will remain unopened until the time appointed for their opening.

11.5.3 If the Council intends using an electronic auction as part of the tender process this must be clearly stated within any notice published and the auction completed as set out in instruction issued by the Executive Director Resources.

12. Opening and Acceptance of Tenders (Submitted in Hard Copy or Electronic Form)

12.1 Category A Contracts

12.1.1 Tenders shall be opened at the same time and after the deadline set for their return by the Chief Executive or an officer designated by him/her in writing. The tenders shall be opened in the presence of an officer approved by the Executive Director for Resources or Head of Law.

12.1.2 Where Tenders or part of the tender documentation are submitted electronically then they shall be viewed by the Chief Executive or an officer designated by him/her in the presence of an officer approved by the Executive Director for Resources or Head of Law and a record shall be made in an electronic folder or by alternative means.

12.1.3 In the case of electronic reverse auctions then the Chief Executive or an officer designated by him/her in writing will view the final submissions in the presence of an officer designated as above and a record of the result of the auction shall be recorded online or by alternative means. All decisions about acceptance of tenders which relate to non-executive functions shall be reported to the appropriate committee for decision.

12.2 Category B Contracts

- 12.2.1 Tenders shall be opened at the same time and after the deadline set for their return, in the presence of an Executive Director, or an officer designated by him/her in writing and an officer approved by the Executive Director for Resources.
- 12.2.2 Where Tenders or part of the Tender documentation are submitted electronically then they shall be viewed by the Executive Director or an officer designated by him /her in writing in the presence of an officer approved by the Executive Director for Resources and a record shall be made in an electronic folder as appropriate.
- 12.2.3 In the case of an electronic reverse auction the Executive Director or an officer designated by him/her in writing will view the final submissions in the presence of an officer designated as above and a record of the result of the auction shall be recorded on line or by alternative means.

12.3 Category C Contracts

- 12.3.1 Quotations shall be opened at the same time and after the deadline set for their return in the presence of a Head of Service, or an officer designated by him/her in writing and an officer approved by the relevant Executive Director.

13. Late Submissions, Errors, Discrepancies and Alterations

- 13.1 A tender or quotation received after the time and date specified in the invitation shall not be accepted or considered unless at the time of receipt, other tenders have not been opened and the relevant Executive Director authorises to the contrary in writing.
- 13.2 Where there are errors or discrepancies in a tender, the tenderer is to be given details of these and afforded an opportunity of confirming or withdrawing the tender.
- 13.3 No alteration shall be made to any tender after the time fixed for the submission of that tender, save in circumstances approved as appropriate by the Executive Director for Resources and the Head of Law.
- 13.4 Where the Council uses an electronic reverse auction as a procurement procedure enabling suppliers/providers to adjust their tender price in the light of information from the tender prices submitted by competing suppliers/providers, then alterations will be accepted as permitted by the auction process. No procurement shall take place by an electronic

reverse auction unless the Executive Director for Resources and the Head of Law advise that such process is appropriate for the procurement in question.

14. Award of Contract

14.1 **Category A Contracts** - Decisions about the award of a Category A contract can only be made in respect of non-executive functions by the appropriate committee. For executive functions, decisions will be made in accordance with the Mayoral scheme of delegation, in both cases having regard to the advice of the Executive Director for Resources and the Head of Law.

14.2 **Category B Contracts** – A contract may only be awarded to a tenderer who has submitted the most economically advantageous tender. However, where the most economically advantageous tender is not the lowest price, the decision maker or decision making body may only award a contract with a value of £200,000 or more in accordance with the Council's or Mayoral Scheme of Delegation as appropriate and subject to the Executive Director for Resources' written approval. In all cases the reasons for acceptance shall be recorded in the register referred to in paragraph 8 above.

14.3 **Category C Contracts** – A contract may be awarded by the relevant Executive Director or Head of Service, in accordance with the relevant Directorate scheme of delegation.

14.4 **Contracts Exceeding the Written Estimate** - Any contract which exceeds the original written estimate of the scheme cost by more than 10% may only be awarded by an officer to whom the award has been delegated, on the approval of the Executive Director for Resources. If the tender exceeds the written estimate of the value of the contract by £50,000 or more, the tender shall be referred to the appropriate committee (for non-executive functions) or in accordance with the Mayoral scheme of delegation for approval. In both cases, the decision may not be taken without regard to the advice of the Executive Director for Resources.

14.5 Energy Contracts

14.5.1 The privatisation of the energy market has created a volatility that has made the normal award procedures outdated. The Executive Director for Resources is therefore delegated to award energy or water contracts regardless of value. This delegation will exist unless at the date of decision suppliers have not been consistently prepared to hold their prices for at least 30 days.

14.5.2 At the completion of tender opening, officers will complete the tender checks and analysis and then brief the Executive Director for Resources on the outcomes and present a recommendation for approval. If any of the following parameters apply, the delegated powers of the Executive Director will not apply:

- The additional cost of green electricity over brown exceeds 5%
- The overall cost of the contract has risen more than 50% in one year
- The contract length exceeds 3 years

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14.5.3 If these parameters are exceeded the Executive Director for Resources must obtain approval in accordance with the Mayoral Scheme of Delegation.

14.5.4 An information report will be presented to Mayor & Cabinet (Contracts) once each year prior to the autumn budget setting period. The report will summarise the contracts awarded during the previous 12 months and the financial implications for budget holders. Also the parameters for the delegation will be reviewed and agreed at the same time.

14.6 **Private Finance Initiative / Negotiated Contracts**

14.6.1 These contracts are generally covered by EU regulations and are carried out under either the Negotiated Procedure or Competitive Dialogue; both of these tendering routes tends to produce a process that extends over a protracted timescale due to the complexity of the projects.

14.6.2 As the process moves towards completion an 'award' report (Category A contracts – clause 14.1) will be drafted. However, the nature of 'negotiated contracts' means that further clarification of contract terms extend up to actual signing (financial close) of the contract. This factor has made the normal award procedures outdated. The Executive Director for Resources is therefore delegated to agree to the final terms and execution of negotiated contracts regardless of value, once a member decision has been taken on award.

14.6.3 If any of the following parameters apply, the delegated powers of the Executive Director will not apply:

- The additional cost of the contract since the decision to award has risen by more than 5%
- The outcomes of the contract have been changed so as to have altered, in the opinion of the Executive Director for Resources, an agreed position that has a commercial or service significance
- The contract period has been extended by more than 2 years.

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The above parameters can be altered, replaced or added to, on a case by case basis at the formal award stage.

15. Scrutiny / Standstill Period

- 15.1 The contract cannot come into force until a mandatory 'standstill' period (for EU processes) and the internal scrutiny period have elapsed. The former is to allow unsuccessful tenders the opportunity to suspend the process (by judicial interruption) if they have a valid case to challenge the decision. In the latter it allows the Overview & Scrutiny Committee to call-in the decision and ask the Mayor to reconsider the award of contract. The time allowed to cover both of these periods is 10 days from the date of the contract award letter.

16. Written Contracts

- 16.1 All contracts are to be in writing and shall be signed on behalf of the Council or executed in accordance with the following arrangements and with such instructions as may be issued from time to time by the Head of Law.

16.1.1 Property Contracts

This paragraph relates to contracts for the acquisition, sale or grant of any interest in land ("Property Contracts").

Property Contracts up to a value of £250,000 shall be signed by the Head of Law or by the Executive Director or Director of Programme Management & Property (or their duly authorised representatives).

Property Contracts with a value in excess of £250,000, where the transaction is to be effected by a separate transfer, lease or other form of deed, shall be signed by the Head of Law or Executive Director and at least one other officer duly authorised by them.

Property Contracts with a value in excess of £250,000 where no further deed is to be executed shall be sealed with the Council's common seal and signed by the Head of Law (or an officer authorised by him/her to do so).

16.1.2 All other Contracts

Category A Contracts, as defined in these Standing Orders shall be sealed with the Council's common seal and signed by the Head of Law (or an officer nominated by him/her to do so).

Category B Contracts, as defined in these Standing Orders, must be signed by an Executive Director and at least one other officer.

All other contracts or arrangements shall be signed by the Responsible Budget Holder in line with the requirements set out in the Council's Financial Regulations.

17. Variations and Extensions

- 17.1 Subject to any statutory restrictions and compliance with Financial Regulations, Mayor & Cabinet (variation or extension valued as Category A contract) or the Executive Director for Resources (variation or extension valued as Category B contract) may authorise the following extensions and variations to an existing contract:

- An extension for a particular period provided for within the terms of the contract (but subject to satisfactory outcomes of contract monitoring); or
- a single extension of the contract by up to one year, or half the contract term (whichever is less); or
- Any other variation, and if relevant a consequent change in price, determined in accordance with the contract terms.

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18. Liquidated and Ascertained Damages

- 18.1 All service and works contracts with the exception of those contracts which have a value below £40,000, shall provide for liquidated damages, save where the Executive Director for Resources and Head of Law determine that it is not appropriate.

19. Security and Guarantee

- 19.1 The Council shall take such security and/or guarantee for the due performance of every contract as is, in the opinion of the Executive Director for Resources, sufficient in all the circumstances.

20. Schools with Delegated Budgets

- 20.1 Rules relating to schools with delegated budgets are set out in Appendix 1 to this Part I.

APPENDIX 1

CONTRACT STANDING ORDERS FOR SCHOOLS WITH DELEGATED BUDGETS UNDER THE LEWISHAM SCHEME FOR LOCAL MANAGEMENT OF SCHOOLS

1. INTRODUCTION

School Governing Bodies are expected to seek value for money when exercising their powers to spend delegated budgets on supplies, works and services. To achieve this objective they are required to obtain competitive quotations or tenders in accordance with the procedures set out below.

No exception from any of the provisions of these Standing Orders shall be made unless by a decision of the Council.

Definitions of terms used in these documents are set out in Paras, 10(i) to (v).

2. OBJECTIVE OF THESE STANDING ORDERS

- (a) The Orders set out the procedures that school governing bodies must follow when obtaining prices for the purchase of supplies, works and services within a range of estimated values as set out below.

For purchases estimated below £100 there are no provisions set within these Standing Orders. It is for the school's governing body to decide whether any rules should be adopted for use by school itself.

For purchases estimated above £100 the Orders set out the procedures by which prices should be sought for the following range of estimated values:

Estimated value of
purchase (£)

100 - 10,000	by quotations	see section 5
10,000 – 100,000	by tenders	see section 6
over 100,000	by tenders following the Authority's authorisation to invite	see section 7

(b) Contract Standing Orders do not apply to:

- (i) Contracts for the sale, purchase, letting or renting of land
- (ii) Contracts of employment.

3. COUNCIL'S DIRECT LABOUR ORGANISATION

- 3.1 For the purposes of these Standing Orders the Council's Direct Labour Organisation shall be regarded as a contractor
- 3.2 The Direct Labour Organisations can be invited to offer a single price for supplies, works or services within the procedures for quotations and tendering set out in Section 5, 6 and 7 of these Orders and the price must be provided in competition with at least three other firms. Unless the work/service is to be invited through open tender

4. EXCEPTIONS TO THE FOLLOWING QUOTATION AND TENDER PROCEDURES

The procedures set out in sections 5 to 7 below do not apply in the following circumstances:

- (i) For the manufacture and or supply and or installation of goods, or maintenance of or repair to machinery, or equipment available from only one supplier.
- (ii) Urgent works or supplies necessary to avoid serious financial loss, danger, injury or serious hardship to users of the school. An oral quotation as set out in procedures included in section 5(b) should be followed. If there is damage to the structure of the building or a fault in plant or services which are the responsibility of Lewisham Education, a School Governing Body is entitled to spend up to £500 without prior reference to Lewisham Education in order to prevent further damage or risk. The School Governing Body must report its action to Lewisham Education within 24 hours to enable the management of repairs to be taken over. Provided the School Governing Body has acted reasonably, it will be reimbursed for any costs incurred.
- (iii) Where the School Governing Body has determined that it would be more economical to extend the scope of an existing contract to include additional works connected with the original order, providing that this is consistent with the terms and conditions contained in the

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original order and that additions do not exceed 10% of the amount of the original order up to £1,000. Schools may only extend contracts where budgetary provisions exists.

5. PROCEDURES FOR OBTAINING QUOTATIONS FOR SUPPLIES, WORKS AND SERVICES ESTIMATED TO BE BETWEEN £100 AND £10,000

(a) Requirements for quotation

The School Governing Body shall arrange for quotations to be obtained before placing orders for supplies, works and or services (to include consultancy services) as set out below:

Estimated value Quotations of purchase (£s)	Minimum Number of
100 – 1,000	One written
1,001 - £5,000	Three written
£5,001 – 10,000	Four written

For supplies, works and services estimated to cost in excess of £10,000 the tendering process/procedures referred to in section 6 below must be followed.

The financial limits will be reviewed from time to time to take account of increases in price levels.

(b) Recording quotations

Where quotations are initially obtained orally, the quotation must be recorded and then confirmed in writing by the supplier. A record/register must be kept and made available for audit purposes.

In the case of written quotations the School Governing Body shall arrange for quotations to be returned by a stated deadline. All written quotations received must be opened at the same time as soon as possible after the passing of the deadline by the headteachers in the presence of a member of the School Governing Body. All quotations should be date stamped to indicate the date and time of receipt, initialled by those receiving quotations and recorded in a tender register kept for quotations and tenders.

(c) Acceptance of quotations/order of goods

The headteacher will have delegated authority from the School Governing Body to accept quotations up to the value set out in 5(a) above. The lowest quotation should normally be accepted. A higher quotation may only be accepted where the Governing Body is satisfied that it represents better value for money or where justified by special consideration in which case the headteacher must report the matter to the next meeting of the School Governing Body and the full reasons given and the decision for accepting other than the lowest quotation be recorded in the minutes of the Governing Body's meeting.

6. PROCEDURES FOR THE TENDERING OF SUPPLIES, WORKS AND SERVICES ESTIMATED ABOVE £10,000

(a) Application of tender procedures

Formal tenders shall be sought for all cases where the estimated value of supplies works or services exceeds £10,000.

(b) Estimate of Expense Involved

No tender for work in excess of £10,000 shall be invited unless an estimate of the cost of the works has been approved for inclusion within the school's delegated budget by the School Governing Body.

Before inviting tenders, the headteacher shall compile a written estimate of the cost of the works for which the tender is to be invited and enter details of the estimate in a register.

(c) Use of Council's Approved List of Contractors

- (i) Tenders shall be invited from firms on the Council's approved list and wherever possible at least one in four of the firms so invited shall be based in the borough.
- (ii) A School Governing Body may request the Council to vet a new contractor of their choice and if approved may ask the Council's Contracts Compliance Unit to add that contractor to the approved list.
- (iii) Where the headteacher considers that the method outlined in (i) above is not appropriate, tenders shall be invited by open tender (public advertising see section 6(d) below).

- (iv) No firm shall be invited to tender unless the firm can satisfy the Council of their ability to comply with its Code of Practice for Contractors and Suppliers
- (v) The Mayor and Cabinet shall establish procedures to regulate the preparation, management and review of the Approved list and Code of Practice for Contractors and in particular (but not by way of limitation) formulate criteria relating to the admission of firms to and removal of firms from the list.

(d) Open Tenders Advertisements

Where open tenders are to be sought an invitation to tender must be advertised in at least one trade journal and/or local newspaper. A trade journal should be used as the first option. The procedure for advertising the invitation to tender will be as follows:

- (i) Give at least 10 days public notice in one trade journal and or local newspaper.

The advertisement shall:

- express the nature and purpose of the works, goods and/or services required
- state where further detailed specifications can be obtained
- invite tenders from all interested parties
- state the last date and time when tenders will be received
- state that no tenders will be received unless it is enclosed in a sealed envelope bearing the word 'Tender' followed by the subject to which it relates, with no other name or mark to indicate the sender.
- comply with any EU tendering directives.

- (ii) Use a standard tender form and conditions of tender as a basis for the tender.

(e) Receipt and opening of tenders

The School Governing Body shall make arrangements for the receipt and safe custody of all tenders received. Tenders held before date to be opened shall be kept in a special tender box which is secure and lockable. Keys to the tender box should be held by the headteacher. All tenders to be opened together as soon as practicable after the closing date has passed. Tenders shall be opened by the headteacher in the presence of a member of the School Governing Body.

(i) Receipt of tender processes

- the School Governing Body shall arrange for the safe custody of the tenders until the date and time specified for their opening.

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- tenders shall be dated as they are received and time of receipt endorsed on the envelope.

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- tenders shall be opened at the prescribed time in the presence of the headteacher and at least one member of the School Governing Body

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- each tender opened shall be signed and dated and details recorded in a register of tenders.

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- the record shall include the names of the tendering firms, the tender amounts and signed at the conclusion of the opening process by the headteacher and governor present.

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- the record together with the tender envelopes must be retained at the school for audit purposes.

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(ii) Late tenders

shall be normally returned unopened to the tenderer and not considered further.

(f) Tender Evaluation

No alteration shall be made to any tender after the time fixed for submission of that tender.

- Where examination of the tender reveals errors or discrepancies which would affect the tender figure in an otherwise successful tender, the tenderer is to be given details of such errors and discrepancies and afforded an opportunity of confirming or withdrawing the offer. If the tenderer withdraws the next 2 tenders in competitive order are to be examined and dealt with in the same way. Any exceptions to this procedure may be authorised only by the Executive Director of Resources.

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(g) Over Expenditure on Contracts

(i) Pre-Contract – No tender which is received and which is in excess of the Governing Body budget provision shall be accepted without the prior written approval of the Council.

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(ii) In/Post Contract – No expenditure actual or potential shall be incurred above the contract price without the prior written approval of the Council.

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(h) Acceptance of tenders

The School Governing Body may at their reasonable discretion accept a tender on a basis other than price, in which case the headteacher must report the matter to the next meeting of the Governing Body and the full reasons given and the decision minuted for accepting other than the lowest tender.

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(i) Form of Contract

The School Governing Body shall ensure that the acceptance of a tender shall be evidenced by a written contract, legally binding all parties to the requirements of the contract.

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(j) Variations

The School Governing Body shall determine arrangements for dealing with variations to contracts which shall be approved by the Executive Director for Education and Culture.

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(k) Insurance

All contractors and where appropriate, suppliers employed by the School Governing Body must maintain sufficient third party and employer's liability insurance cover with an insurance company approved by the Council. For contractors wishing to tender for work, the cover must be for occurrences involving both property and persons with cover of £2,000,000 for any one incident.

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7. TENDERING PROCEDURES FOR SUPPLIES WORKS AND SERVICES OVER £100,000.

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(a) Schools must have authority from the Mayor and Cabinet before inviting tenders for supplies, works or services estimated above £100,000 in value.

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(b) Schools must be aware of any relevant European Economic Community rules in relation to the tendering process.

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(c) Before inviting tenders a School's Governing Body should confirm with appropriate officers of the Council that the proposed form of tendering and acceptance is in accordance with current Council practice.

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(d) The School Governing Body shall take sufficient security for the due performances of every contract with an estimated value of over £100,000 where payment is made prior to the supply of goods, works or services or where such supply is to be over an extended period of time except where the Council's Direct Labour Organisations are the contractors.

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8. DISPOSAL OF SURPLUS ARTICLES

(a) Delegated budget

The School Governing Body may at their discretion dispose of any surplus article purchased from a delegated budget. However, School Governing Bodies should seek to obtain best value at all times. In addition disposal of some items, eg software, should only be done with the consent of the software company. Failure to

obtain such permission could make School Governing Bodies liable to prosecution.

(b) Other funding from the Authority

For articles purchased from Council funds other than the delegated budget:

(i) Articles valued under £10,000

Where the estimated value of the surplus articles is less than £10,000 the School Governing Body may determine that it be sold by public auction or by inviting competitive quotation. In the case of quotations the same principles and procedures set out in para 2 shall be followed save that the highest quotation is normally to be accepted. All quotations together with details of articles sold are to be recorded for audit purposes.

(ii) Articles valued over £10,000

Where the estimated value exceeds £10,000 the School Governing Body shall arrange for the open tenders to be sought by advertisement in one or more local or national newspapers and one or more professional journals. The same principles and procedures as set out in para 3 shall be followed save that the highest tender is normally accepted and records are kept for audit purposes.

9. STATUTORY PROVISIONS

These Contract Standing Orders shall take effect subject to all relevant statutory provisions and regulations and amendments including in particular the Schools Standards and Framework Act 1998 and Regulations made under this Act and the School Governing Body shall have due regard thereto. Nothing contained in the Contract Standing Orders shall override such provisions.

10. DEFINITIONS SCOPE AND INTERPRETATION

(i) Tender

‘Tender’ means an offer made in writing by one party to another to execute, at an inclusive price or uniform rate, an order for the supply or purchase of goods or for the execution of work, the details of which have been submitted by the other party, which offer shall

be submitted under closed cover and opened simultaneously with other offers relating to the same matter.

(ii) Open Tender

‘Open Tender’ shall mean a tender received as a result of advertisements inviting contractors to take tender for any goods, works or services.

(iii) Quotation

‘Quotation’ means the amount stated whether orally or in writing as the price of supplies, works or services to be supplied. Such statements if made in writing shall be made under closed cover, and opened simultaneously with other offers relating to the same matter.

(iv) ‘Contract’ means an agreement made between the Council and one or more persons which is intended to be enforceable at law, and is constituted by the acceptance by one party of an offer made to them by the other party to do or obtain from doing some act, whether such offer and acceptance is made in writing or orally.

(v) ‘Written Contract’ means a simple contract whose express terms are evidence in writing, whether confirmed in one or more documents.

11. PECUNIARY INTEREST

No member of the School Governing Body or staff shall in anyway be involved in the selection of a tenderer or Contractor if they have a direct or indirect pecuniary interest or any other personal interest in any competing tenderer, or contractor.

12. DISPUTES

Save at a meeting of the Council any dispute or difference as to the interpretation or application of these Contract Standing Orders shall be resolved by the Head of law.

J COMMITTEES GENERAL RULES**1. Political balance**

Save where the law provides otherwise, each committee and sub committee with the exception of the Standards Committee must comply with the political balance requirements of Section 15 and 16 Local Government and Housing Act 1989. Although not required under the 1989 Act, membership of the Licensing Committee (but not its sub-committees) shall also comply with the political balance requirements.

2. Proceedings

Each Committee (with the exception of the overview and scrutiny committee) will have authority to institute, compromise, defend or settle any legal proceedings within their terms of reference. Such committees may also incur the necessary expenditure to do so.

3. Sub committees

Every committee may appoint a sub committee for any purpose within their terms of reference.

4. Chairing Committees

With the exception of the Standards Committee, no person may be elected as Chair or Vice Chair of a Committee or sub-committee unless he/she is a member of the Council

5. Membership of sub committees

With the exception of the Standards Committee, at least a majority of every sub committee must be elected members of the Council.

6. Discontinuance of sub committees

Unless previously discontinued, every sub committee will cease to function at the same time as the committee appointing it.

7. Quorum

- (a) In the case of the Standards Committee or a sub committee of it, no business may be conducted unless at least one independent member of the committee is present (or has had to leave the meeting as a result of a

conflict of interest) and including that member there are at least 3 members of the committee present.

- (b) In the case of all other committees or sub committees, no business may be conducted unless at least one quarter of the entire number of councillors on the committee is present.
- (c) Notwithstanding (a) and (b) above, in no case shall the quorum for any committee (or a sub committee) be less than 3
- (d) If there is no quorum after 15 minutes from the time shown in the summons for the start of the meeting, then no meeting will take place.
- (e) If a meeting becomes inquorate during its proceedings, business must be suspended. If after 5 minutes there is still not a quorum present, the meeting shall terminate.

8 Meetings open to all members of the Council

Any member of the Council wishing to attend any meeting of any committee or sub committee of which he/she is not a member may do so. He/she shall not take part in the proceedings without the consent of the committee or sub committee. He/she may not vote. However, save to the extent permitted by the Member Code of Conduct, no member of the Council may attend a meeting of a committee or sub committee of which he/she is not a member during the consideration of any matter in which the member has a personal or prejudicial interest.

9 Election of Chair and Vice Chair

The appointment of a chair and vice chair shall be the first business at the first meeting of every committee.

10 Absence of Chair

In the absence of the Chair from a meeting, a chair for that meeting shall be elected.

11 Limitation on chair/vice chair and members of the Executive

The Chair or Vice-Chair of a standing committee or sub committee and all members of the Executive shall not be the chair of any other standing committee or sub committee, save that this rule does not prevent the chair of any committee chairing a sub committee of the committee they chair or the Strategic Planning Committee. The Chair of the Constitution working

Party shall not be precluded from chairing any other committee or sub committee of the Council.

12 Limitation on membership of committees

Members of the Executive may not also be members of the overview and scrutiny committee or any of its select committees or the business panel. Executive members may however be members of any other committee or sub committee of the Council subject to any limits set out in law or this constitution.

13 Duties of the Chair and Vice Chair of Committees

The Chair of a committee shall

- (1) preside at every meeting at which he/she is present
- (2) be an ex officio member of every sub committee appointed by the committee of which he/she is chair.
- (3) preside at those sub committees unless the subcommittee decides otherwise.
- (4) be entitled to vote in the first instance and in the case of equality of votes, to give a casting vote, whether he/she voted in the first instance or not.
- (5) if present, sign the minutes.
- (6) if present, submit any report of the committee to the Council and move it under Rule C 3(2)

The Vice Chair of the committee shall

- (1) be ex officio members of all sub committees appointed by the committee of which they are the Vice Chair
- (2) in the absence of the chair, preside at meetings of the committee or sub committee as appropriate. In doing so, the Vice chair will have the same powers and rights as the Chair.

14. Special meetings

- (a) The chair may call a special meeting of the committee at any time. A special meeting may also be called on the requisition of a quarter of the whole number of the committee or sub committee delivered

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in writing to the proper officer stating the business to be considered. However, in no case shall less than 2 members requisition a special meeting of any committee or sub committee.

(b) The summons to a special meeting shall set out the business to be considered and subject to Rule G5 (Urgency) no business other than that set out in the summons shall be considered at that meeting.

(c) The meeting will take place within a maximum of 21 days of the receipt of the requisition by the proper officer.

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15 Joint meetings of Committees

- (a) Two or more committees may meet jointly to consider business of their mutual concern. At such joint meetings a Chair for that meeting shall be elected from the whole membership present.
- (b) Executive decisions at joint meetings shall nevertheless be determined by the particular committees within whose terms of reference the matter to be decided falls. Only the Chair of the committee concerned shall have a casting vote.
- (c) Any report of a joint meeting of committees to the Council shall be submitted by the Chair elected for the meeting.
- (d) The minutes of a joint meeting shall be referred to the next meeting of each of the participating committees for approval and signature under the procedure specified in Rule C23 (minutes)

16 Resignations

Any member may resign from a committee or sub committee by giving written notice signed by him/her to the proper officer. The resignation takes effect immediately on receipt.

17 The proper officer

References in this Constitution to the proper officer shall be to the Chief Executive or such person as he shall nominate in writing to all members of the Council to be the proper officer for any purpose, save in relation to access to information provisions, in which case the proper officer is the Monitoring Officer.

K FINANCIAL REGULATIONS

INTRODUCTION

The Regulations in the following paragraphs lay down the procedures to be followed by officers in discharging their financial duties. They are effective from 31st July 2006. Executive Directors are responsible for ensuring the officers in their directorates comply with these Regulations and any guidance issued by the Executive Director for Resources, from time to time.

Attached to these Regulations are the Financial Procedures issued by the Executive Director for Resources. These are integral to the Regulations and provide further explanation on procedures to be followed by officers in discharging their financial duties. Financial Procedures are re-issued from time to time by the Executive Director for Resources to reflect new and / or changing issues.

The Regulations and Financial Procedures form part of the Council's regulatory framework alongside the Constitution and the annual Scheme of Delegation and must be adhered to by Council officers. Failure to comply with the Regulations and Financial Procedures may constitute misconduct and lead to formal disciplinary action.

In the following Financial Regulations and Procedures the term "Executive" refers to the Mayor, the Mayor and Executive members collectively, or individual executive members insofar as the Mayor has retained executive powers for him/herself or has delegated authority to the Executive collectively or individually for the activity referred to (Council Rules of Procedure & Standing Orders D3). Reference should be made to the current scheme of delegation to ascertain the person or body currently exercising executive power for the activity in question.

Under the Constitution adopted by Lewisham Council with effect from 6 May 2002 the scheme of delegation is adopted annually. The annual scheme of delegation consists of delegations of executive functions and powers from the Mayor (Article 15.2 and Council Rules of Procedure & Standing Orders D3-6) and the delegation of non-executive functions by the full Council (Article 15.1). Financial Regulations and Procedures must be read in conjunction with the scheme of delegation currently in force.

Information on the current scheme of delegation can be obtained from the proper officer.

Where an executive function is delegated to an officer, area committee, joint committee or another local authority (D3) the rules, procedures, financial limits

and reporting of financial matters as set out in Financial Regulations and Procedures shall remain in force, except where another arrangement is specifically set out in the formal delegation of executive authority. In any instance any breach of Financial Regulations and Procedures shall be reported to the Executive Director for Resources.

A: Role and Responsibilities Statement

Chief Finance Officer

- A.1. S151 Local Government Act 1972 requires a named officer, who must be a qualified accountant, to take responsibility for the proper administration of the Council's financial affairs.

S114 Local Government Finance Act, 1988 requires an officer to make a public report in specified cases of actual or anticipated financial misconduct or if there is a potential budget deficit. In Lewisham, these duties are vested in the Executive Director for Resources.

- A.2. The Council's Constitution set out the following as the functions of the Chief Finance Officer:

- (a) *Ensuring lawfulness and financial prudence of decision making.* After consulting with the Head of Paid Service and the Monitoring Officer to report to the full Council, or to the Executive in respect of executive functions, and the Council's external auditor, if he/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.
- (b) *Administration of the Council's financial affairs.* The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) *Providing advice.* The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial propriety, probity and budget and policy framework issues to all Councillors including the Mayor and will support and advise Councillors and officers in their respective roles.
- (d) *Giving financial information.* The Chief Finance Officer will provide financial information to the media, members of the public and the community.

- A.3. The Executive Director for Resources is also specifically responsible for and required to report to the Executive on:

- ◆ The resources required to implement Council policies including financing partnership arrangements.
 - ◆ The level of Council Tax to be levied.
 - ◆ The Council's prudential guidelines, in particular forward projections of revenue commitments and the budget strategy.
 - ◆ The annual borrowing limit.
 - ◆ The capital programme.
 - ◆ Treasury Strategy.
 - ◆ Arrangements for Financial Administration including Accountancy, Audit and Risk Management.
 - ◆ The Annual Statement of Accounts and its publication.
- A.4. The Executive Director for Resources also has a statutory duty to ensure that the accounts and supporting records of the Council are maintained in accordance with proper practices and kept up to date. Also, that the accounts present fairly the financial position and that reasonable steps have been taken for the prevention of fraud and other irregularities.
- A.5. The Executive Director for Resources shall have access to all financial records held in the Council and require explanations from the Council officers as necessary.
- A.6. The Executive Director for Resources shall determine Council procedures regarding debt recovery.
- A.7. The Executive Director for Resources shall receive a report, from the appropriate Executive Director, of any breach of financial regulations or procedures. If deemed to be of a serious nature then the Executive Director for Resources shall submit an appropriate report to the Executive.

Executive Directors

A.8. Executive Directors have overall responsibility for the finances of their directorate and must ensure there are proper systems for financial administration and control. Executive Directors shall consult the Executive Director for Resources on any matter which is liable to affect materially the finances of the Council before any provisional or other commitment is incurred and before reporting to the Executive.

A.9. Executive Directors shall ensure that accounting systems and procedures within their directorates incorporate adequate controls to safeguard against loss and fraud. Executive Directors shall ensure that officers in their directorates have adequate training in order for them to comply with financial regulations.

Heads of Resources

A.10. Under the arrangement for financial devolution, each directorate shall have an officer designated as a Head of Resources to support the relevant Executive Director and Budget Holders in discharging their financial and budgetary responsibility. The Head of Resources shall be accountable to the Executive Director for Resources on all matters pertaining to Section 151 and Section 114 responsibilities as they affect the Council's finances. Where a potential conflict arises between the service considerations and the S151 duties, the S151 duties must prevail.

Decision Making

A.11. Where officers make decisions under delegated authority, they shall record their decisions and the reasoning behind them and shall store those records in such a way as to be accessible for scrutiny, audit and inspection.

A.12. Where officers make a Key Decision under delegated authority they shall only do so on the basis of a written report that contains service, corporate, financial and legal considerations. Officers shall further comply with all other requirements of Key Decisions as set out in Procedure Rules & Standing Orders (G23).

A.13. The Constitution identifies certain executive decisions as being Key Decisions (Article 16.2) and sets out in part IV the procedures that must be followed when Key Decisions are made (Procedure Rules and Standing Orders G12-25). These procedures apply whether a Key Decision is exercised by the Mayor or is delegated to the Executive collectively or an individual executive member, by an Area Committee, Joint Committee or another local authority, or by an officer. The full list of Key Decisions is set out in Article 16.2 of the Constitution. The following paragraphs highlights those Key Decisions most directly related to financial matters:

- ◆ decisions which will involve expenditure or savings of £500,000 or more (save treasury management transactions taken in accordance with the Council's Treasury Management Strategy as approved by the Council)

- ♦ consideration of any report relating to the possibility of the withdrawal of delegation of budget from a school
- ♦ the Council's scheme for the financing of maintained schools
- ♦ closure of, or significant reduction in provision of, any Council service
- ♦ the fixing of fees and charges for Council services
- ♦ granting or withdrawing financial support to any external organization in excess of £10,000
- ♦ writing off any bad debt in excess of £50,000, unless the Council has within the last 3 years already written off debts for the person/organisation concerned totalling that amount in which case any further write off would be a key decision
- ♦ the disposal of any Council property for less than best consideration
- ♦ the disposal of any interest in Council property with a value of £500,000 or more
- ♦ the taking by the Council of an interest in land worth £500,000 in total
- ♦ the granting of any interest in land where the interest is valued at £500,000 or more
- ♦ applications for funding from any external body which if successful would also require Council match funding of £500,000 or more, or entail a revenue commitment of at least £500,000 in total by the Council
- ♦ consideration of any matter in which, to the decision-maker's knowledge, the decision-maker (or any member of a committee or sub committee making the decision) has an interest which ought to be declared. An interest includes a family member, friend, employer, or organisation with which the member is associated
- ♦ the award of a contract with a total value of £200,000
Where there is any doubt as to whether a decision is a key decision, it should be treated as if it were a key decision in any event.

B: Financial Planning and Financial Accountabilities

Annual Revenue Budget and Budgetary Control

Budget Format

- B.1 The general format of the budget will be approved by the full Council and proposed by the Executive on the advice of the Executive Director for Resources. The draft budget should include indicative cash limits to different services and projects, proposed taxation levels and contingency funds.

Budget Preparation

- B.2 The Executive Director for Resources is responsible for issuing guidance on the general content of the budget as soon as possible following approval by the full council, and allocates resources for discharge by the Directorates, who will operate within cash limits.
- B.3 Financial control and administration is devolved to officers in directorates with responsibility for budgetary control and financial monitoring vested in the Budget Holders. Executive Directors shall prepare budgets in accordance with guidance given by the Executive Director for Resources.
- B.4. Officers shall ensure that the Executive and delegated decision makers have the fullest information to enable them to exercise responsibility for the financial and other resources made available. Officers shall further ensure that such information is given in writing and include service, legal and financial implications and a consideration of options. They shall further ensure that such information is made available to executive decision makers within a sufficient timescale to allow them to give the matter proper consideration. Officers shall further ensure that all reports that have financial implications are forwarded to the Executive Director for Resources who shall advise of the financial implications before the report is considered by the executive decision maker.

Budget Monitoring and Control

- B.5. Executive Directors are responsible for ensuring effective budgetary control within their directorates. They shall establish budgets for directorate services, and shall ensure that such budgets are properly and effectively managed by named budget holders. These budget holders shall ensure that their expenditure does not exceed their budget and that any required budget income target is achieved so as to meet their cash limit. Executive Directors are responsible for ensuring that their aggregate

directorate cash limit is not overspent and they comply with the rules governing virements as set out within the Financial Procedures.

- B.6. Budget holders have operational responsibility for budgetary control. They shall record financial commitments against their budgets, monitor their budgets and reconcile their own records to the Council's financial information system on a regular basis and take corrective action promptly to deal with any problems that may arise. In carrying out their budgetary responsibilities they shall comply with any guidelines issued from time to time by the Executive Director for Resources.
- B.7. At the end of the financial year and following closure of the revenue accounts Executive Directors will report to the relevant Committee on the outturn of expenditure and income and the comparison with the approved budget. The Executive Director for Resources will report on the aggregate of the revenue outturn for all services to the Executive and full Council.

Virements

- B.8. All virements shall be in accordance with the Financial Procedure for budgetary control and the limits set by Council. Currently Executive Directors can vire up to £500,000 with the approval of the Executive Director for Resources. Executive approval is required for virements between £500,000 and £1m and full Council approval for virements of £1m and over.

Treatment of Year-End Balances

- B.9 The Executive Director for Resources is responsible for agreeing procedures for carrying forward under and overspendings on budget headings as part of the final outturn.

Resource Allocation

- B.10 The Executive Director for Resources is responsible for developing and maintaining a resource allocation process that ensures due consideration of the full Council's policy framework.

Capital Expenditure

- B.11. The regulations pertaining to revenue expenditure apply to capital with the exception that capital Budgets can only be vired as follows:
 - up to £2.0m on HIP and up to £1m on OSCP delegated to the Executive Director of Resources;

- up to £4.0m on HIP and up to £2m on OSCP delegated to Mayor and Cabinet;
 - over £4.0m on HIP and £2m on OSCP to be referred to the Full Council.
- B.12. For Repairs and Maintenance items Executive Directors may move resources between schemes and divert their Repairs and Maintenance allocation towards any stream of revenue payments due under PFI or PPP Contracts.
- B.13. At the end of the financial year and following closure of the capital accounts the Executive Director for Resources shall report to the Executive on the aggregate of capital expenditure compared to budget and the financing of the expenditure.
- B.14. Capital and revenue projects will be managed in accordance with Lewisham's Standard for Project Management as contained in the Financial Procedures.

Accounting

Accounting Policies and Standards

- B.15 The Executive Director for Resources is responsible for ensuring that the general principles adopted in compiling and presenting the annual audited accounts are in accordance with *THE CODE OF PRACTICE ON LOCAL AUTHORITY ACCOUNTING IN THE UNITED KINGDOM: A STATEMENT OF RECOMMENDED PRACTICE (CIPFA/LASAAC)*. Any deviations must be stated in the accounts.
- B.16. The accounts and accounting records shall be prepared in accordance with Financial Regulations and Procedures as issued by the Executive Director for Resources. Executive Directors shall close down accounts under their responsibility in accordance with the closing timetable and guidance notes issued by the Executive Director for Resources.
- B.17 Budget holders shall ensure that all expenditure and income transactions are recorded accurately on the Council's main financial information system by the use of the correct accounting code.
- B.18. Executive Directors shall ensure that all systems of accounting and financial organisations in their directorates are regularly reconciled with the Council's main financial information system administered by the

Executive Director for Resources and that the financial systems are kept up to date.

- B.19. All financial systems shall be referred to the Executive Director for Resources for agreement before introduction or revision.
- B.20. Executive Directors shall observe the following principles in the allocation of accounting duties:-
- the duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them;
 - officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.

Maintenance of Reserves

- B.21 It is the responsibility of the Executive Director for Resources to advise the executive and/or the full Council on prudent levels of reserves for the authority.

C: Risk Management and Control of Resources

Banking Arrangements

- C.1. The Executive Director for Resources (or an Officer authorised in writing by the Executive Director for Resources) is the only officer who can enter into banking arrangements on behalf of the Council.
- C.2. Payments and Income over £250,000 shall be notified to the Executive Director for Resources' Treasury Team, for treasury management purposes.
- C.3. All cheques drawn and instructions to draw on a bank account shall be made by the Executive Director for Resources or an Officer authorised in writing by the Executive Director for Resources.

Audit Requirements

- C.4. All principal local authorities and other relevant bodies subject to the Accounts and Audit Regulations (Amendment)(England) Regulations 2006, should make provision for internal audit in accordance with this Code of Practice and they must "maintain an adequate and effective

system of internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control”.

- C.5. The Audit Commission is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.
- C.6. The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise and the Inland Revenue, who have statutory rights of access.

Internal Audit Function

- C.7. The Council's internal auditors have access, by law, to all financial and other records. Officers shall allow the Council's internal audit service access to such financial and other records as they may require.

Preventing Fraud and Corruption

- C.8. The Executive Director for Resources is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.
- C.9. Executive Directors shall report promptly any suspected financial irregularity or fraud in their Directorates or otherwise to the Group Manager (Audit and AFACT)
- C.10. It is the responsibility of any employee discovering or having reasonable suspicion of any irregularity, misconduct or fraud to immediately notify the relevant Executive Director or Group Manager (Anti Fraud and Corruption). When so informed, the Executive Director shall appraise the circumstances and shall notify and discuss action to be taken concurrently with the Group Manager (Audit). All information shall be treated in complete confidence.

Contracts, Orders for Works, Goods and Services

- C.11. Officers shall comply with Article 17.2 of the Constitution [Contracts] and the Council's Contract Procedure Rules (Part IV of the Constitution, Section I).
- C.12. Article 17.2 requires that any contract entered into on behalf of the Council in the course of the discharge of an executive function must be in writing. Such contracts must be :-

- ♦ signed by an Executive Director if the value is £100,000 or less
 - ♦ signed by an Executive Director and at least one other officer if the value is between £100,000 and £200,000 or
 - ♦ for contracts with a value of £200,000 or more executed under the common seal of the Council and attested by the Head of Law or such person as he/she nominates.
- C.13. When the Council proposes to enter into any contract, whether it relates to works [construction or engineering contracts] and/or the supply (including the hire and leasing) of all goods and services, the Contract Procedure Rules must be applied.
- C.14. All contracts shall comply with the EEC Treaty and with any relevant European Directives currently in force in the United Kingdom, as well as all relevant national legislation.
- C.15. A number of corporate contracts exist which provide value for money. Officers are not permitted to purchase any commodities covered by these contracts outside of these contracts without the approval of the Executive Director for Resources. A full list of these corporate contracts is contained in the Financial Procedures.

Accounting Treatments

- C.16. Executive Directors shall ensure adequate arrangements for the certification of payments which provide proper verification and authorisation of sums due, including adequate internal division of duties and internal control.
- C.17. Executive Directors are responsible for orders issued from their directorates which should be specific regarding terms and conditions and as a minimum must include the Council's standard terms and conditions. Executive Directors shall maintain up to date lists of authorised signatories and ensure compliance. Orders shall be issued for all work, goods or services to be supplied by the Council.
- C.18. In all matters of payments, orders and payroll officers shall follow the designated internal division of duties and internal control set by the directorate.

Interests in Contracts

- C.19. By law, officers are required to give written notice to the Chief Executive of any pecuniary, personal or prejudicial interest they may have in a contract

which has been or is to be entered into by the Council, other than a contract to which they are a party. Members too are under a legal duty to declare any personal interest they may have in any contract.

- C.20. Both Members and officers shall be required to abide by the Member and Employee Code of Conduct [copies of which are included as Part V of the Constitution] particularly in relation to their personal interests in contracts which have been or are to be awarded by the Council.

Consultants

- C.21. Officers shall follow the Contract Procedure Rules (section I of the Constitution) and the Appointment of Consultants Procedure Rules (Resources intranet page).

Assets and Records

- C.22. Executive Directors shall be responsible for managing their directorate's assets, to include maintaining a full inventory in a form determined by the Executive Director for Resources, ensuring their security and arranging insurance through the Executive Director for Resources. All assets above £20,000 must be logged on the accounting asset management database maintained by the Capital and Treasury group.
- C.23. Executive Directors should ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.
- C.24. Officers, in acquiring and disposing of assets, shall comply with the Council's Financial Procedures.
- C.25. With regard to the acquisition and disposal of land and property, including the granting and taking of leases, licences, wayleaves and easements, all negotiations must be conducted either by or under the supervision of an appropriately qualified officer or advisor. For the purpose of these regulations the appropriately qualified officer or advisor is the Head of Property and Development and he/she shall expressly be required to approve any proposed terms in advance and thereafter the terms tentatively agreed. When disposing of land and property the Head of Property and Development shall comply with Section 123 of the Local Government Act 1972 and if the disposal is at less than best consideration ensure that the necessary Ministerial consents have been obtained.

- C.26. Officers should note the definition of the disposal or write off of assets as a Key Decision in certain instances in Article 16.2c of the Constitution and shall comply with the Council's Rules of Procedure and Standing Orders (ref G12-25) where the disposal is a Key Decision.
- C.27. Executive Directors shall be responsible for keeping and maintaining full financial, staffing and other records necessary for the proper administration of their Directorates' affairs. They shall supply such information on their directorates' assets and records to the Executive Director of Resources on request. All records shall be maintained for the periods specified by the Audit Commission in Circular TR20/98.
- C.28. Executive Directors shall not write off any assets above the financial value set by the Executive scheme of delegation (currently £20,000).

Income

- C.29. All income receivable by the Council, in respect of work done, goods supplied or services rendered, under contracts, leases or other arrangements or agreements, or for any other reason, shall be properly collected, recorded and accounted for. Demands for income due shall be raised and posted/sent promptly. Written or printed receipts shall be issued immediately for cash income received by an officer of the Council. Sufficient information must be obtained to enable allocation of income to the correct outstanding charge or account. All income received, in whatever form, shall be banked without delay.
- C.30. Executive Directors are responsible for assessing the level of bad debt provision in their directorates. Executive Directors shall only write off individual debts against the Directorate bad and doubtful debts provision within the limits of their delegation authority (see table of delegated write off limits in Financial Procedures), after all reasonable steps have been taken to collect the debt. Debts in excess of these limits shall be reported to the Executive.
- C.31. Executive Directors shall note that Article 16.2c of the Constitution defines the write off of debt as a Key Decision where the debt is in excess of £50,000 or the Council has within the last 3 years already written off debts for the person/organisation concerned totalling that amount. In such cases officers shall follow the procedures for Key Decisions as set out in the Rules of Procedure and Standing Orders (G12-25).
- C.32. Executive Directors will prepare a summary of debts written-off under delegated authority and submit this to the Executive Director for Resources on an annual basis.

Treasury Management and Leasing

- C.33. All treasury management and transactions, including investments and borrowings by the Council, shall only be undertaken by the Executive Director for Resources. Also, the Executive Director for Resources shall report these transactions to the Executive in accordance with the CIPFA Treasury Management Code. The Treasury Policy Document approved by the Council specifies the parameters within which all treasury management dealings shall operate.
- C.34. All securities which are the property of or which are in the name of the Council or its nominees shall be held in the custody of the Executive Director for Resources. The registration of the Council's stocks, bond and mortgages and the recording of all borrowing of money by the Council shall be carried out by the Executive Director for Resources or under such arrangements as the Executive Director for Resources may determine. All proposed leasing schemes should first be notified to the Executive Director for Resources' Capital and Treasury Group, who shall appraise them and direct on necessary arrangements.
- C.35. The Executive Director for Resources is responsible for reporting to the Executive not less than twice each financial year on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers. One such report will comprise an annual report on treasury management for presentation by 30 September of the succeeding financial year.

Salaries Wages and Pensions

- C.36. The full Council is responsible for determining how officer support for executive and non executive roles within the authority will be organised. The Chief Executive is responsible for providing overall management to staff. He or she is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- C.37. Executive Directors are responsible for controlling total staff numbers by: advising the Executive on the budget necessary in any given year to cover estimated staffing levels adjusting the staffing to a level that can be funded within approved budget provision; varying the provision as necessary within that constraint in order to meet changing operational needs and the proper use of appointment procedures.

- C.38. The Council shall only pay such salaries, wages and pensions, compensations and other emoluments to employees or former employees as are permissible in law and payment shall only be in a manner approved by the Executive Director for Resources.

Risk Management and Insurance

- C.39. The Executive is responsible for approving the authority's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The executive is responsible for ensuring that proper insurance exists where appropriate.
- C.40. The Executive Director for Resources is responsible for preparing the authority's risk management policy statement and strategy, for promoting it throughout the authority and for maintaining the Corporate Risk Register.
- C.41. The Executive Director for Resources is responsible for advising the executive on proper insurance cover where appropriate and for effecting all insurance cover on behalf of the Council.
- C.42. Executive Directors shall be responsible for identifying and affectively managing all significant risks within their directorate and for maintaining a register of all areas of significant risk within their directorate.
- C.43. Executive Directors or their nominated representative shall notify the Executive Director for Resources in writing immediately upon the occurrence of any event that to their knowledge might give rise to a claim by or against the Council.
- C.44. The Executive Director for Resources shall be responsible for negotiating all insured and self-insured claims in conjunction with claims handlers, legal advisers, loss assessors and loss adjustors as appropriate.

Gifts and Hospitality

- C.45. Employees must follow the code of practice for receipt of gifts and hospitality as contained in the Employee Code of Conduct. Any breach of the Code may result in disciplinary action.

Local Management of Schools

- C.46. These financial regulations also apply to schools and other institutions with delegated budgets under local management arrangements apart from the exceptions detailed in the Scheme of Delegation to Schools.

Definitions

'Budget Holder' means an officer nominated by the Executive Directors, to take responsibility for budgets which have been allocated to them.

'Order' means an instruction from the Council to a contractor or supplier to supply work, goods or services.

'Authorised Signatory' means an employee with delegated authority to sign orders and payments on behalf of the directorate.

'Assets' means land, buildings, plant, equipment, vehicles, furniture, IT hardware and software, fixtures and fittings, materials.

'Inventory' means a list of all assets held above a specified value or by type containing a description of each asset, its location, its value, any service contract and date of acquisition.

'Contract' means an agreement.

'Consultant' means any person or persons engaged to provide a service which cannot be provided by Council employees.

'Authorised Client Officer' means the employee authorised by the Executive Director to take responsibility for managing contracts on the directorate's behalf.

PART V

ETHICS

Standards Committee - Terms of Reference

1. To promote and maintain high standards of conduct within the Council and to assist Members to follow the Council's Code of Conduct.
2. Until a new Member Code of Conduct becomes effective in Lewisham under Part III Local Government Act 2000 to consider any complaints of breach of the Member Code of Conduct referred to it from any source. To ensure that they are investigated appropriately by or on behalf of the Chief Executive who should report his/her findings to the Standards Committee, in such manner as the Committee thinks fit.
3. To advise the Council on the introduction of a new Member and Employee Code of Conduct under Part III LGA, other prevailing law and regulations in place from time to time.
4. To monitor and review the effectiveness of the Member and Employee Codes of Conduct periodically and if necessary to amend them accordingly, to give effect to best practice and to the law.
5. To ensure that all Members of the Council (including co-optees and Independent Members) have access to training in all aspects of the Member Code of Conduct and that they are aware of the standards expected from them under the Code.
6. To consider applications for dispensations from Members of the Council to allow them to participate and/or vote in a matter notwithstanding a personal interest, in accordance with prevailing law and guidance.
7. To investigate matters referred to it by the Standards Board and any other matter where the Monitoring Officer advises it would be appropriate for the Standards Committee to investigate.
8. To have overall responsibility for the Council's whistleblowing arrangements, including the monitoring of referrals and amendment to the Council's arrangements from time to time.
9. To monitor complaints referred to under the Members Code of Conduct and to prepare an annual report on this activity each year.
10. To consider whether members' allowances should be suspended (wholly or partly) if a member is suspended pursuant to Part III Local Government Act 2000 and associated regulations.
11. To investigate and/or adjudicate upon any complaint of breach of the member Code of Conduct which lawfully falls to the Committee to investigate/adjudicate upon from time to time, and if the Committee

considers it appropriate, to impose sanctions in relation to any such breach, in accordance with powers conferred on the Committee to do so by law. When given the legal power to do so, the Committee will also assess whether complaints received fall within the remit of the Code of Conduct and if so whether they ought to be investigated.

12. Where the Committee considers it appropriate to do so to refer any matter coming before it for investigation and/or adjudication, to refer the matter to the Standards Board for England, whether for investigation, adjudication or otherwise.
13. To consider applications for exemption from political restrictions as defined by the Local Government and Housing Act 1989 in accordance with the provisions of the Local Government & Public Involvement in Health Act 2007 when effective, and any amendment thereto from time to time.
14. To do all things necessary or in the opinion of the Committee are appropriate to fulfil the role and remit of a Standards Committee as defined by law or the Council's constitution"

**LONDON BOROUGH
OF
LEWISHAM**

**MEMBER CODE
OF
CONDUCT**

1. Preamble

The Council has introduced this Code under Section 51 Local Government Act 2000 and the Local Authorities (Model Code of Conduct) Order 2007. Its purpose is to promote the highest standards of conduct from all members of the Council. It sets out the standards of conduct expected of all members of the Council. It is written to support the Council's commitment to organisational integrity and not simply to ensure compliance with the law.

This Code and its protocols are designed to promote public confidence in the actions of members and employees. These documents encourage members and officers not only to avoid actual impropriety but at all times to avoid the suspicion or appearance of improper conduct. Members are required not to do anything that they could not justify to the public and to bear in mind that they serve the whole community and not just part of it.

The Code represents the standard against which the conduct of members will be judged by the public, other members, partners, the Standards Board for England and the Council's own Standards Committee.

It is the statutory responsibility of every member to comply with this Code. So every member should make sure that they are familiar with the requirements of the law, the Council's constitution as well as the requirements of this Code and its guidance and protocols.

All members by law are required to sign a declaration that they will comply with the Code. Members should review their personal circumstances with this in mind, particularly as they change, to ensure compliance. If in any doubt, members should seek advice from the Council's Monitoring Officer, but in the end the decisions and the responsibility lie with the individual member.

Though the Code has been drafted to reflect closely the model Code set out in the 2007 Order, it is designed to give effect to the ten principles of public life appearing in Table 1, and the interpretation of it will be guided by those principles and to give effect to them.

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TABLE 1 – THE TEN PRINCIPLES OF PUBLIC LIFE

Selflessness – members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and integrity – members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.

Objectivity – members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability – members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness – members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal judgement – members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for others – members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

Duty to uphold the law – members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship – members should do whatever they are able to do to ensure that the Council uses its resources prudently, and in accordance with the law.

Leadership – members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

The Code of Conduct which follows mirrors the contents of the 2007 Order. The Code is printed in bold type and at the end of each section of the Code there appears, in italics, an explanation of the impact of the section to which it relates, by way of guidance and illustration. This guidance closely follows that issued by the Standards Board.

LONDON BOROUGH OF LEWISHAM MEMBER CODE OF CONDUCT

Part 1

General provisions

Introduction and interpretation

1. (1) This Code applies to you as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code—
 "meeting" means any meeting of:
 - (a) the authority;
 - (b) the executive of the authority;
 - (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;
 "member" includes a co-opted member and an appointed member.
- (5) In relation to a parish council, references to an authority's monitoring officer and an authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

Scope

2. (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—
 - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression you are acting as a representative of your authority,and references to your official capacity are construed accordingly.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of your authority—
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

Paragraph 1 and 2 - Guidance

The Code applies to you whenever you act in your official capacity, including whenever you conduct the business of the Council or act, claim to act, or give the impression that you are acting in your official capacity or as a representative of the Council.

Subject to amendments to Section 52 Local Government Act 2000, which are anticipated very shortly, the Code also applies at any time where your behaviour has led to a criminal conviction, if the conviction relates to:-

- *the intimidation or attempted intimidation of a person who is, or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings in relation to an allegation that a member (including yourself) has failed to comply with this Code of Conduct; or*
- *conduct which could reasonably be regarded as bringing your office or the authority into disrepute; or*
- *the use or attempted use of your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.*

If you act as the representative of the Council on another relevant authority you must, when acting for that authority, comply with their Code of Conduct. If you act as a representative of the Council on another body (for example as a school governor) you must comply with the Council's Code of Conduct, unless it conflicts with the lawful obligations of the other body.

3 General Obligations – paragraph 3 - 7

3. - (1) You must treat others with respect.

(2) You must not-

- (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);**
- (b) bully any person;**
- (c) intimidate or attempt to intimidate any person who is or is likely to be -**

- (i) a complainant,
- (ii) a witness, or
- (iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

- (3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

- (4) You must not -

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

- (i) you have the consent of a person authorised to give it;
- (ii) you are required by law to do so;
- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

- (iv) the disclosure is -

- (aa) reasonable and in the public interest; and

- (bb) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

(5) You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

(6) You -

(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of your authority—

(i) act in accordance with your authority's reasonable requirements;

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986^[15].

7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

(a) your authority's chief finance officer; or

(b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

General obligations - paragraph 3 – 7 - Guidance

A. Treating others with respect – para 3(1)

1. You must treat others with respect
2. *In politics, rival groupings are common, either in formal political parties or more informal alliances. It is expected that each will campaign for their ideas and they may also seek to discredit the policies and actions of their opponents. Criticism of ideas and opinion is part of political debate and does not itself amount to bullying or failing to treat someone with respect.*
3. *However, whilst ideas and policies may be robustly criticised, individuals should not be subject to unreasonable or excessive personal attack. This applies particularly to the public and employees. Chairs of meetings are expected to apply the rules of debate and procedure rules to prevent abusive or disorderly conduct.*
4. *Whilst it is acknowledged that some members of the public may make unreasonable demands on members, members should as far as possible treat the public courteously and with consideration. Rude and offensive behaviour lower public expectations and confidence in elected members.*

B. Complying with equality rules – para 3(2)(a)

1. You must not do anything which may cause the authority to breach equality laws.
2. *Currently, equality laws prohibit discrimination on the grounds of sex, age, race, disability, religion or belief and sexual orientation.*
3. *Though the equality laws are complex, in summary there are 4 types of discrimination:-*
 - *Direct discrimination – treating people differently because of their sex, age, race, disability, religion or belief or sexual orientation*
 - *Indirect discrimination – treatment which does not appear to differentiate between people on the grounds of sex, age, race, disability, religion or belief or sexual orientation but which disproportionately disadvantages them*
 - *Harassment – engaging in unwanted conduct on the grounds of sex, age, race, disability, religion or belief or sexual orientation which violates another person's dignity or creates as hostile , degrading, humiliating or offensive environment*

- *Victimisation – treating a person less favourably because they have complained of or brought proceedings for discrimination, or been involved in complaining about or bringing such proceedings.*

4. *You must not act in a way which may amount to any prohibited form of discrimination. Under equality law, the authority may be liable for any discriminatory act which you commit. This will apply when you do anything in an official capacity in a discriminatory manner.*

5. *Authorities also have positive duties to eliminate discrimination and harassment and to promote equality. You must not do anything to hinder the Council fulfilling its positive duties. Such conduct may cause the Council to break the law.*

C. Bullying and intimidation (para 3(2)(b) and 3(2)(c)

1. *You must not bully any person including other councillors, employees or members of the public.*

2. *Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or group of individuals, is detrimental to their confidence and capability and may adversely affect their health.*

3. *This can be contrasted with the legitimate challenges which a member can make in challenging policy or scrutinising performance. You are entitled to challenge other councillors and officers as to why they hold their views. However, it is important that you raise issues in the correct way and the proper forum. If your criticism amounts to a personal attack or is of an offensive nature, you are likely to cross the line of acceptable behaviour.*

4. *You must not intimidate or try to intimidate any person who is a witness, complainant or involved in the administration of any investigation or proceedings relating to a failure to comply with this Code of Conduct. However concerned you may be about an allegation about yourself or another member, you should let the processes take their natural course.*

D. Compromising the impartiality of officers – para 3(2)(d)

1. *You must not compromise, or try to compromise, the impartiality of anyone who works for, or on behalf of, the authority.*

2. You should not approach or pressure anyone who works for, or on behalf of, the authority to carry out their duties in a biased or partisan way. They must be neutral and should not be coerced in any way that would undermine that neutrality. For example, you should not get officers to help you prepare party political material, or help with matters related to your private business. You should never provide an incentive or reward in return for acting in a particular way.

3. It is acceptable to question officers robustly about why they are acting in a particular way, or on the content of a report they have written, but you cannot try to force them to act differently, change their advice or alter the content of the report, if doing so would prejudice their professional integrity.

E. Disclosing confidential information – para 4(a)

1. The grounds set out in para 4(a) (i-iv) are the only circumstances in which confidential information may be disclosed. The fourth of these requires the disclosure to be:

- reasonable
- in the public interest
- made in good faith and
- in compliance with the Council's reasonable requirements.

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2. For the disclosure to be reasonable requires you to consider such matters as:-

- (a) whether you reasonably believe it to be true – if not, disclosure is likely to be unreasonable;
- (b) whether you make the disclosure for personal gain – if so, disclosure is likely to be unreasonable;
- (c) the identity of the person to whom you disclose – it may be reasonable to disclose to the police but not the media for example;
- (d) the extent of the information disclosed – including unnecessary information may make the disclosure unreasonable (e.g. telephone numbers or addresses);
- (e) the seriousness of the matter;
- (f) the timing of the disclosure and the likelihood of re-occurrence.

3. For the disclosure to be in the public interest it needs to involve one or more of the following matters or something of comparable seriousness, that has

either happened in the past, is currently happening, or is likely to happen in the future:

- (a) a criminal offence is committed.;*
- (b) the Council or some other person fails to comply with any legal obligation to which it is subject;*
- (c) a miscarriage of justice occurs;*
- (d) the health or safety of any individual is in danger;*
- (e) the environment is likely to be damaged;*
- (f) that information tending to show any matter falling within (a) to (e) is deliberately concealed.*

4. The third requirement, that the disclosure is made in good faith, will not be met if you act with an ulterior motive, for example, to achieve a party political advantage or to settle a score with a political opponent.

5. The fourth requirement, that you comply with the reasonable requirements of the authority, means that before making the disclosure you must comply with the Council's policy on whistle-blowing in force from time to time, and any other protocols that may be put in place in relation to confidential information. You must first raise your concerns through the appropriate channels set out in such policies or protocols.

6. In summary, to decide whether the disclosure is reasonable and in the public interest, you will need to conduct a balancing exercise weighing up the public interest in maintaining confidentiality against any countervailing public interest favouring disclosure. This will require a careful focus on how confidential the information is, on any potentially harmful consequences of its disclosure, and on any factors which may justify its disclosure despite these potential consequences.

7. In some situations, it is extremely unlikely that a disclosure can be justified in the public interest. These will include where the disclosure amounts to a criminal offence, or where the information disclosed is protected by legal professional privilege.

F. Preventing access to information - paragraph 4(b)

You must not prevent anyone getting information that they are entitled to by law. This includes information under the Freedom of Information Act 2000, or those

copies of minutes, agendas, reports or other documents to which they have a right of access.

G. Disrepute – paragraph 5

1. You must not bring your office or the Council into disrepute while acting in your official capacity, or at any time through criminal activity that leads to criminal conviction.

2. As a member, your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should act at all times in a manner that inspires confidence in your public office. You should be aware that actions in your public and private life might have an impact on your office or the Council. Dishonest and deceitful behaviour in your role as a member may bring the Council into disrepute, as (subject to changes to s52 Local Government Act 2000) may conduct in your private life that results in a criminal conviction.

H. Using your position improperly - paragraph 6(a)

1. You must not use, or try to use, your position improperly to the advantage or disadvantage of yourself or anyone else. You should not use, or attempt to use, your public office either for your or anybody else's personal gain or loss.

2. For example, your behaviour would be improper if you sought to further your own private interests through your position as a member. In addition to paragraph 6(a), paragraph 12 is also relevant to the proper use of your position.

3. Paragraph 12 supports your role as a community advocate, representing and speaking for the concerns of your community, even where you have a prejudicial interest. This right applies to you at meetings where you have a statutory right to speak or you are provided with the same opportunity to speak as ordinary members of the public would be allowed. If the Council does not allow members of the public to attend the relevant meeting for the purpose of speaking to it, (for example where an item is on the confidential agenda) paragraph 12 will not apply to you unless you have a statutory right to speak on the matter.

4. You must leave the room or chamber immediately after you have made the representations, given your evidence, or answered questions, and make no further attempt to influence the decision. You may not stay to hear or participate in the debate or vote.

5. If the meeting decides that you must stop speaking to the meeting, even if you have more to say, you must stop and leave the room. If you fail to comply with the meeting's direction or paragraph 12 of the Code of Conduct, you may be found to have improperly influenced the decision.

I. The Council's resources – paragraph 6(b)(i)

- 1. You must only use or authorise the use of Council resources in accordance with its requirements. Where the Council provides you with resources (for example telephone, computer and other IT facilities, transport or support from council employees), you must only use these resources and employees for carrying out your Council business and any other activity which the Council has authorised you to use them for.*
- 2. You must be familiar with the rules applying to the use of these resources made by the Council. Failure to comply with these rules is likely to amount to a breach of the Code of Conduct.*
- 3. A protocol relating to the use of IT and electronic resources appears as Appendix 2 appended to this Code of Conduct. Members are required to comply with that protocol and any amendments or additions to it from time to time in force. They are also required to comply with any other rules issued in relation to the use of Council resources from time to time.*

J. Using resources for proper purposes only – paragraph 6(b)(ii) and 6(c)

- 1. You must make sure you use the Council's resources for proper purposes only. It is not appropriate to use, or authorise others to use, the resources for political purposes, including party political purposes. When using the Council's resources, you must have regard, if applicable, to any Local Authority Code of Publicity made under the Local Government Act 1986. A copy is appended to this Code of Conduct at Appendix 4.*
- 2. You should never use Council resources for purely political purposes, including designing and distributing party political material produced for publicity purposes.*

K. Considering advice provided to you and giving reasons – paragraph 7

- 1. You must have regard to advice from the Council's Monitoring Officer and Chief Finance Officer where they give it under their statutory duties.*
- 2. If you seek advice, or advice is offered to you, for example, on whether or not you should register a personal interest, you should have regard to this advice before you make your mind up. Failure to do so may be a breach of the Code of Conduct.*
- 3. You must give reasons for all decisions in accordance with statutory requirements and in accordance with the terms of the Council's Constitution.*

Giving reasons for decisions is particularly important in relation to regulatory decisions and decisions where people's rights are affected. Where members disagree with officer recommendations in making a decision, members will need to take particular care in giving clear reasons for the decision.

Part 2

Interests

Personal Interests – Paragraph 8 -12

- 8. (1) You have a personal interest in any business of your authority where either—**
 - (a) it relates to or is likely to affect—**
 - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;**
 - (ii) any body—**
 - (aa) exercising functions of a public nature;**
 - (bb) directed to charitable purposes; or**
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),**

of which you are a member or in a position of general control or management;

 - (iii) any employment or business carried on by you;**
 - (iv) any person or body who employs or has appointed you;**
 - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;**

(vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

(vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);

(viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

(ix) any land in your authority's area in which you have a beneficial interest;

(x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

(xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—

(i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

(ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or

inhabitants of the Assembly constituency affected by the decision; or

(iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

(2) In sub-paragraph (1)(b), a relevant person is—

(a) a member of your family or any person with whom you have a close association; or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

9. (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

Prejudicial interest generally

- 10. (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business—
 - (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
 - (c) relates to the functions of your authority in respect of—
 - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(iv) an allowance, payment or indemnity given to members;

(v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where -
 - (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
 - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

12.
 - (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
 - (a) you must withdraw from the room or chamber where a meeting considering the business is being held—

- (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
- (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

- (b) you must not exercise executive functions in relation to that business; and
 - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Personal interests – paragraph 8 – 12 – Guidance

A. The register of Members' Interests

1. All members have to provide a record of their interests in a public register of interests. You must tell the Monitoring Officer in writing within 28 days of taking office, or within 28 days of any change to your register of interests, of any interests which fall within the categories in Table 2 below.

Table 2 – Interests that must be registered

- Your membership or position of control or management in:
 - any other bodies to which you were appointed or nominated by the authority
 - any bodies exercising functions of a public nature (described below), or directed to charitable purposes, or whose principal purposes include the

<i>influence of public opinion or policy, including any political party or trade union</i>
• <i>Your job(s) or business(es).</i>
• <i>The name of your employer or people who have appointed you to work for them.</i>
• <i>The name of any person who has made a payment to you in respect of your election, or expenses you have incurred in carrying out your duties.</i>
• <i>The name of any person, company or other body which has a place of business or land in the authority's area, and in which you have a shareholding of more than £25,000 (nominal value) or have a stake of more than 1/100th of the share capital of the company</i>
• <i>Any contracts between the Council and yourself, your firm (if you are a partner) or a company (if you are a paid director or if you have a shareholding as described above) including any lease, licence from the authority and any contracts for goods, services or works. Where the contract relates to use of land or a property, the land must be identified on the register.</i>
• <i>Any gift or hospitality over the value of £25 that you receive as a member and the person you believe to be the source of the gift or hospitality.</i>

1. You need to register your interests so that the public, Council staff and other members know which of your interests might give rise to a conflict of interest. The register is a document that can be consulted when (or before) an issue arises, and so allows others to know what interests you have, and whether they might give rise to a possible conflict of interest.

2. The register also protects you. You are responsible for deciding whether or not you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be declared by you or other members, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

B. What is “a body exercising functions of a public nature”?

1. The phrase “a body exercising functions of a public nature” has been subject to broad interpretation by the courts for a variety of different purposes. Although it is not possible to produce a definitive list of such bodies, here are some of the criteria to consider when deciding whether or not a body meets that definition:

- Does that body carry out a public service?
- Is the body taking the place of local or central government in carrying out the function?
- Is the body (including one outsourced in the private sector) exercising a function delegated to it by a public authority?
- Is the function exercised under legislation or according to some statutory power?
- Can the body be judicially reviewed?

2. Unless you answer ‘yes’ to one of the above questions, it is unlikely that the body in your case is exercising functions of a public nature.

3. Examples of bodies included in this definition: regional and local development agencies, other government agencies, other councils, public health bodies, council-owned companies exercising public functions, arms length management organisations carrying out housing functions on behalf of the Council, school governing bodies.

4. If you need further information or specific advice on this matter, please contact your monitoring officer.

C. Personal interests

1. There are two types of personal interest. You have a personal interest in a matter if it relates to or is likely to affect:-

- an interest which you must register In the Register of Members’ Interests; or
- an interest which is not registerable but where the wellbeing or financial position of you, members of your family, or person(s) with whom you have a close association, is likely to be affected by the matter more than it would affect the majority of the inhabitants of the ward.

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2. *If you have a personal interest in a matter you must declare the existence and nature of the interest before the matter is discussed or as soon as it becomes apparent to you (except in limited circumstances set out below). Even if your interest is on the register of interests, you must declare it in any meeting where matters relating to that interest are discussed unless an exemption arises. Where an exemption arises is set out below.*

D. Exemptions – personal interests

1. *An exemption applies where your interest arises solely from your membership of, or position of control or management on:*

1. *any other body to which you were appointed or nominated by the authority*
2. *any other body exercising functions of a public nature (for example another local authority)*

2. *In these exceptional cases, provided that you do not have a prejudicial interest (see below), you are only obliged to declare your personal interest if and when you speak on the matter.*

3. *Example: if you are attending a council debate on education policy and are also a local education authority appointed governor, you would only need to declare an interest if and when you decided to speak during the debate. If you do not want to speak to the meeting on the decision, you may vote on the matter without making a declaration.*

4. *Though there is no obligation to declare a personal interest where an exemption arises, you should consider each case on its own merits before deciding to rely on the exemption.*

5. *A member with a personal interest is entitled to remain in a meeting, speak and vote on the matter unless the interest amounts to a prejudicial interest.*

E. What does “affecting well-being or financial position” mean? – paragraph 8(1)(b)

1. *The term ‘well-being’ can be described as a condition of contentedness and happiness. Anything that could affect your quality of life, either positively or negatively, is likely to affect your well-being.*

2. *A personal interest can affect you, your family or close personal associates positively and negatively. So if you or they have the potential to gain*

or lose from a matter under consideration, a personal interest would need to be declared in both situations.

F. Who is a member of your family or close associate?

1. A member of your family should be given a very wide meaning. It includes a partner (someone you are married to, your civil partner, or someone you live with in a similar capacity), a parent, a parent-in-law, a son or daughter, a stepson or stepdaughter, the child of a partner, a brother or sister, a brother or sister of your partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece, and the partners of any of these people.
2. A person with whom you have a close association is someone that you are in either regular or irregular contact with over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone whom you know through general social contacts.

G. What if I am not aware of my personal interest?

Your obligation to disclose a personal interest to a meeting only applies when you are aware of or ought to be aware of the existence of the personal interest. Clearly you cannot be expected to declare something of which you are unaware. It would be impractical to expect you to research into the employment, business interests and other activities of all your close associates and relatives. However, you should not ignore the existence of interests which, from the point of view of a reasonable and objective observer, you should have been aware.

H. What is a prejudicial interest?

1. The general principle is that a prejudicial interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
2. However paragraph 10(2) of the Code provides that a prejudicial interest will not arise if the matter falls within one of the following exempt categories. These are:-

- housing: if you hold a tenancy or lease with the authority, as long as the matter does not relate to your particular tenancy or lease.
- school meals or school transport and travelling expenses: if you are a parent or guardian of a child in full-time education or you are a parent governor, unless it relates particularly to the school your child attends.

- *statutory sick pay: if you are receiving this, or are entitled to this.*
- *an allowance, payment or indemnity for members.*
- *any ceremonial honour given to members.*
- *setting council tax or a precept.*

3. *Neither will a prejudicial interest arise if the matter does not affect your financial interests, nor relate to a regulatory matter.*

4. *It follows therefore that for a prejudicial interest to arise, three criteria must be met:*

1. *the matter must not be in an exempt category;*
2. *the matter must affect your financial interests (or those of family etc) or be a regulatory matter; and*
3. *a member of the public who knows the relevant facts would reasonably regard the interest as so significant that it is likely to prejudice your judgement of the public interest.).*

I. *Financial interests and licensing or regulatory matters*

1. *You can only have a prejudicial interest in a matter if it falls into one of the following two categories:*

a) *The matter affects your financial position or the financial position of any person or body through whom you have a personal interest.*

Examples: *an application for grant funding by/to a body on your register of interests; a contract for services between the authority and that body; or leasing a property to or from a close associate or member of your family. Your financial position can be affected directly or indirectly, favourably or unfavourably, substantially or marginally.*

b) *The matter relates to an approval, consent, licence, permission or registration that affects you or any person or body through which you have a personal interest.*

Examples: *considering a planning or licensing application made by you or a body on your register of interests; Licensing Act licences; pet shop and dog breeding licensing; petroleum licences; street trading licences; taxi licensing; consent, approval or permission pursuant to a contractual*

document such as a lease or commercial contract; street collection permit; or lottery registration.

J. What is so significant that it is likely to prejudice your judgement?

- 1. If a reasonable member of the public with knowledge of all the relevant facts would think that your judgement of the public interest might be prejudiced, then you have a prejudicial interest.*
- 2. You must ask yourself whether a member of the public – if he or she knew all the relevant facts – would think that your personal interest was so significant that it would be likely to prejudice your judgement. In other words, the interest must be perceived as likely to harm or impair your ability to judge the public interest.*
- 3. The mere existence of local knowledge, or connections within the local community, will not normally be sufficient to meet the test. There must be some factor that might positively harm your ability to judge the public interest objectively. The nature of the matter is also important, including whether a large number of people are equally affected by it or whether you or a smaller group are particularly affected.*
- 4. Some general principles must be remembered when applying this test. You should clearly act in the public interest and not in the interests of family or close associates. You are a custodian of the public purse and the public interest and your behaviour and decisions should reflect this responsibility.*
- 5. Example:** you would have a prejudicial interest in a planning application proposal if a member of your family lives next to the proposed site. This is because your family member would be likely to be affected by the application to a greater extent than the majority of the inhabitants of the ward affected by the decision and this gives you a personal interest in the issue. The existence of the close family tie means a reasonable member of the public might think that it would prejudice your view of the public interest when considering the planning application. It does not matter whether it actually would or not.*

K. What to do when you have a prejudicial interest

- 1. Even where you have a prejudicial interest, the Code of Conduct supports your role as a community advocate and enables you in certain circumstances to represent your community and to speak on issues important to them and to you.*
- 2. If you have a prejudicial interest in a matter being discussed at a meeting, you must declare that you have a prejudicial interest and the nature of that interest as soon as that interest becomes apparent to you.*

3. *You should then leave the room. You should not participate in the debate, vote on the issue, nor seek improperly to influence the decision.*

4. *There is one exception to this general principle. If members of the public are allowed to make representations, give evidence or answer questions about the matter, by statutory right or otherwise, you may also attend the meeting for that purpose. If you do so, however, you must immediately leave the room once you have finished or when the meeting decides that you have finished (if that is earlier). You cannot remain in the public gallery to observe the debate nor vote on the matter.*

5. *In addition, you remain under a duty not to seek to improperly influence a decision in which you have a prejudicial interest. This rule is similar to your general obligation not to use your position as a member improperly to your or someone else's advantage or disadvantage*

L. *Do I have a statutory right to speak to the meeting?*

The Code of Conduct does not provide you with a general right to speak to a meeting where you have a prejudicial interest. However, in limited circumstances, legislation may provide you with a right to speak (for example, licensing hearings and standards hearings) which the Code of Conduct recognises. If so, you will be allowed to exercise that right to speak. The Monitoring Officer will be able to confirm whether this is relevant to your case.

M. *If I don't have a statutory right, will I be allowed to speak to the meeting?*

The Code of Conduct aims to provide members with the same rights as ordinary members of the public to speak on certain matters in meetings, despite having a prejudicial interest. These rights are governed by the Council's Constitution and the law relating to access to information. If an ordinary member of the public would be allowed to speak to a meeting about an item, you should be provided with the same opportunity. You will be able to make representations, answer questions or give evidence, even if you have a prejudicial interest in the item, but you may not take part in the discussion or observe the vote.

N. *When must I leave the room where the meeting is held?*

You must leave immediately after you have made your representations, given evidence or answered questions, and before any debate starts. If the meeting decides that you should finish speaking, despite your intention to say more, you must comply with the meeting's decision. Although members of the public may be allowed to observe the discussion and the vote on the matter, you are not allowed to do so and must leave the room immediately. Failure to do so may be viewed as an attempt to improperly influence the meeting.

O. *What does improperly influencing a decision mean?*

You must not use your position or attempt to use your position improperly to further your own interests in a way that is not open to ordinary members of the public. Clear examples of improper influence would be using coercion, harassment, inducement or pressure to influence a matter. It may also be improper if you refuse to leave the meeting, or continue to speak to a meeting, on a matter in which you have a prejudicial interest, after the meeting has decided that you must stop speaking and leave.

P. What if the public are not allowed to speak to the meeting on the matter?

1. If an ordinary member of the public is not allowed to speak on the matter, you cannot do so if you have a prejudicial interest. You must leave the room where the debate is being held and not seek to influence the debate in any way. This may be the case, for example, where the Council is discussing a confidential matter in closed session or does not have procedure rules in place that allow members of the public to speak at a meeting. In such circumstances, like the public, you are not allowed to participate if you have a prejudicial interest. However, where the public may be allowed to sit in the public gallery to observe the meeting, you will be required to leave the room during the debate and vote.

Q. If I have a prejudicial interest, how else can I influence the decision?

You can still present your views to the meeting through other means and influence the decision in a way that is not improper. For example, you can:

- make written representations in your private capacity. The Standards Board recommends that the existence and nature of the interest should be disclosed in such representations. You should not seek preferential consideration for your representations. Such written representations should be addressed to officers rather than other members of the authority.*
- use a professional representative to make, for example, a planning application on your behalf.*
- arrange for another member of your authority to represent the views of your constituents on matters in which you have a prejudicial interest.*

R., Prejudicial interests and overview and scrutiny

1. You have a prejudicial interest in any business before an overview and scrutiny committee or sub-committee meeting where both of the following requirements are met:

- that business relates to a decision made (whether implemented or not) or action taken by the executive or one of the Council's committees, sub-committees, joint committees or joint sub-committees.
- you were a member of that decision making body at that time and you were present at the time the decision was made or action taken. If the overview and scrutiny committee is checking a decision which you were involved in making, you may be called to attend the meeting to give evidence or answer questions on the matter. However, you will not be able to attend the meeting in this manner unless the constitution allows members of the public to attend the overview and scrutiny committee for the same purpose. The Mayor and Cabinet are able to attend the meeting to give evidence or answer questions provided they follow the normal rules for executive members who have personal and prejudicial interests.

S. Interests and membership of the Mayor and Cabinet

1. *The Mayor and Cabinet members must follow the normal rules for members who have personal and prejudicial interests.*
2. *If a member's interest is personal but not prejudicial, they can advise the executive on an issue and take part in executive discussions and decisions as long as they declare the interest. A member of Mayor and Cabinet can also exercise delegated powers in the matter as long as they record the existence and nature of the personal interest.*
3. *Where a member of Mayor and Cabinet has a prejudicial interest in a matter, they may be able to make representations, answer questions and give evidence as long as a member of the public would have the same rights, but they are barred from decision-making about that matter individually or in cabinet. In such circumstances, they should not participate in any early consideration of the matter, or exercise any delegated powers in relation to it. If a member of Mayor and Cabinet has delegated powers in that area, they should refer the consideration and any decisions on the matter to the full Mayor and Cabinet to avoid the perception of improper influence.*

T. If you have a prejudicial interest, can you obtain a dispensation to allow you to take part in the meeting?

1. *You can apply in writing to the Standards Committee for a dispensation on one of the following grounds:*
 - *over 50 per cent of the Council or committee members would be*

prevented from taking a full part in a meeting because of prejudicial interests;

- *the political balance at the meeting would be upset.*

2. *You must apply for a dispensation individually and not as a group. If the Standards Committee approves your application, it must grant the dispensation in writing and before the meeting is held. If you need a dispensation, you should apply for one as soon as is reasonably possible.*

3. *Only the Standards Committee can grant the dispensation and whether to do so is at its discretion. The Standards Committee will need to balance the public interest in preventing members with prejudicial interests from taking part in decisions, against the public interest in decisions being taken by a reasonably representative group of members of the authority. If failure to grant a dispensation would result in an authority or committee not achieving a quorum, this may well constitute grounds for granting a dispensation.*

Part 3

Registration of Members' Interests

Registration of Members' Interests

13. (1) **Subject to paragraph 14, you must within 28 days of:**

- (a) **this Code being adopted by or applied or your authority;**
or
- (b) **your election or appointment to office (where that is later),**

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

Sensitive information

14. (1) **Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be a change to that interest under paragraph 13.**

- (2) **You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring office asking that the information be included in your authority's register of members' interests.**
- (3) **In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.**

U. Registration of Members' Interests – Guidance – paragraphs 13 and 14

1. *"Sensitive information" is defined as information the disclosure of which creates or is likely to create a serious risk of violence or intimidation to you or a person living with you.*
2. *You may be exempt from entering such sensitive information in the Register of Members' Interests. You should provide this information to the Monitoring Officer and explain your concerns regarding its disclosure, including why it is likely to create a serious risk that you or a person who lives with you will be subjected to violence or intimidation. You do not need to include this information in your register of interests, if the Monitoring Officer agrees. Ultimately, you must decide what information to include on the publicly available register of interests.*
3. *If your personal interest in a matter under discussion at a meeting is sensitive information, you will need to declare that you have a personal interest but you will not have to give any details about the nature of that interest.*
4. *Members are referred to the guidance relating to personal interests above for general guidance about registering interests.*

N.B. If you are in any doubt about the application of this Code, you should seek advice from the Council's Monitoring Officer.

APPENDIX 1

OFFICER & MEMBER RELATIONS

Appendix 1

Protocol on Member/Officer Relations

1. An effective working relationship between members and staff is critical to the successful operation of Council business. Excellent working relationships are required to deliver best value services to local citizens and to maintain confidence in local government in Lewisham. This protocol is designed to help members and staff to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other

Respective roles

2. Both Members and Council staff are public servants. They are indispensable to each other. But their responsibilities are distinct. All councillors (including the directly elected mayor) are responsible to the electorate and serve only so long as their term of office lasts. Staff are responsible to the Council as a corporate body, and not to any single councillor, including a directly elected mayor. Their job is to give advice to councillors (including the mayor) and to the authority, and to carry out the authority's work under the direction and control of the Council, its executive and relevant committees.
3. Respect between members and staff, both personally and for their different roles is essential to good local government.

Councillors' roles

4. Councillors have five main areas of responsibility:
 - (a) deciding on overall Council policy and giving the authority political leadership
 - (b) making decisions within overall council policy (for example on planning applications, or on the establishment or closure of a school)
 - (c) monitoring and reviewing performance in implementing policy and delivering services
 - (d) representing the area and the Council externally
 - (e) acting as advocates on behalf of constituents

Depending on whether they are members of the executive or not, and on the committees to which they are appointed, councillors may exercise only some of these roles. However it is not the role of councillors to involve themselves in the day to day management of the Council's services.

- 5 The Mayor, members of the executive and committee chairs and vice chairs have additional responsibilities. Because of this their relationships with employees may be different from and more complex than those of councillors without those responsibilities. This is recognised in the expectations they are entitled to have. However, such councillors must still respect the impartiality of officers and must not ask them to undertake work of a party political nature, or to do anything which will put them in difficulty in the event of a change in the composition of the authority.
- 6 As individual councillors, all councillors have the same rights and duties in their relationship with staff and should be treated equally. Members of overview and scrutiny committees are entitled to officer advice and support in the performance of their roles as executive members are entitled to officer advice and support in the performance of theirs.

Officers' roles

- 7 The role of officers is to give advice and information to councillors to inform their decision making and to implement the policies and decisions of the Council. In giving their advice it is the responsibility of the officer to present his/her professional views and recommendations. Councillors must not pressurise an officer to make a recommendation contrary to their professional view or use undue pressure to seek to persuade an officer to withdraw a report.
- 8 In discharging their role as an officer of the authority, staff must act in a politically neutral way.

- 9 Certain officers, including the head of paid service, monitoring officer, chief finance officer, the director of children's services and the director of adult services have legal responsibilities over and above their obligations to the authority and members of it. Councillors must respect these obligations and must not obstruct them in the discharge of these responsibilities, or victimise them for discharging these legal duties.

Expectations

- 10 Councillors can expect from officers:-

(a) a commitment to the council as a whole and not only to any part of it, or to any political group

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- (b) Respect and courtesy
- (c) The highest standards of integrity
- (d) A working partnership
- (e) An understanding of and support for respective roles, workloads and pressures
- (f) Timely responses to enquiries and complaints
- (g) Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of officers
- (h) Regular up to date information that can be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions they hold
- (i) Awareness of and sensitivity to the political environment
- (j) Training and development in order to carry out their role effectively
- (k) Appropriate confidentiality
- (l) That they will not use their relationship with councillors to seek to advance their personal interests or to influence decisions improperly
- (m) Support for the role of councillors as the local representatives of the authority within arrangements made by the council to do so
- (n) Compliance with the Employee Code of Conduct at all times

11 Officers can expect from councillors:-

- (a) Respect and courtesy
- (b) The highest standards of integrity
- (c) A working partnership
- (d) An understanding of and support for respective roles, workloads and pressures
- (e) Political leadership

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(f) Not to be subject to bullying or to be put under pressure. Councillors must have regard to the seniority of officers in determining what are reasonable requests, having regard to the power relationship between councillors and officers and the potential vulnerability of officers, particularly at junior levels

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(g) That councillors will not use their position or relationship with officers to seek to advance their personal interests or those of others or to influence decisions improperly

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(h) Compliance with the Member Code of Conduct at all times

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Close personal relationships

12 Both members and officers should take care not to give the impression that their distinct roles have become blurred in some way. Maintaining confidence in the separation of these roles, necessarily imposes limitations on behaviour. Close personal relationships between councillors and officers can confuse their separate roles and get in the way of the proper discharge of the authority's functions, not least in creating the perception in others that a particular councillor or officer may secure advantageous treatment.

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Political Groups

13 The operation of political groups is an integral feature of local government. They have an important part to play in the development of policy and the political management of the authority. It is in the interest of the authority to support the effective operation of political groups. However, doing so can create particular pitfalls in terms of the impartiality of officers. This protocol sets out guidance to minimise the risk of that impartiality being compromised.

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14 National Conditions of Service for Executive Directors and JNC officers provide that they "shall not be required to advise any political group of the Council, either as to the work of the Group or as to the work of the Council, neither shall they be required to attend any meetings of any political groups. This should be without prejudice to any arrangements to the contrary which may be made in agreement with any officer which includes adequate safeguards to preserve the political neutrality of the officer in relation to the affairs of the Council"

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15 The NJC for Local Government Services National Agreement on Pay and Conditions of Service provides that codes of practice for the official conduct and obligations of employees shall be locally determined. The

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Council applies a similar provision to those applying to JNC officers, without the exception contained in the last sentence.

- 16 Sometimes, officers may be asked to write reports for a political group. Normally it should only be an Executive Director who is asked to do so. Occasionally, subject to the direction of the Executive Director, other senior employees in his/her Directorate may be asked to write reports for a political group. Neither the Executive Director nor any other officer can be compelled to write reports for (or attend) a meeting of a party political group. Sometimes it will be appropriate for a senior officer to write a report for a political group where they represent an early stage in the decision making process. A report relating to the choices to be made in the budget process might be an example. However, where a senior officer does write such a report for a political group, it should be written as if it was being prepared for the full Council, Executive or the relevant committee. Reports on matters of policy or principle, prior to decisions do not need to be so formally drafted.
- 17 The principles set out in paragraph 16 do not obviate the need for there to be close and regular liaison on matters affecting the council between the Mayor, members of the Executive and committee chairs as appropriate on the one hand and Executive Directors and senior officers on the other.
- 18 Members and officers must always remember that decisions can only be taken in accordance with the Council's constitution and standing orders and that decisions taken by party political groups are not Council decisions. They must only refer matters for decision in accordance with that process.

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Reports to Council, Executive or Committee

- 19 Under the constitution adopted by the Council to comply with the Local Government Act 2000, decisions may be made by a directly elected mayor or an executive or members of it to whom the mayor has delegated decision making power. In other cases, they may also be taken by the full council or committees or sub committees. The Council's constitution provides that member decisions may only be taken on the basis of a written report containing all relevant considerations. Reports to the Mayor, Executive (whether collectively or decision makers drawn from it,) or to a committee or sub committee should be written by the Executive Director or another officer authorised by him or her.
- 20 It is likely that a sensitive report would be discussed with the Mayor, lead member or committee chair and that member may make suggestions for inclusion in the report. However, the report is the officer's and even if the member is unhappy with its contents, it should not be amended by that

member, save with the express approval of the Executive Director. If the report of the Executive Director is thought by the member to be inappropriate, then exceptionally that member should write his or her own report in addition to the report submitted by the Executive Director.

- 21 Where an officer attends a political group, they must inform the monitoring officer who will advise all other groups that the officer has attended and the subject on which they have advised. If a report was prepared by the officer he/she will supply a copy to the other political groups on request. Officers will respect the confidentiality of any matter which they hear in the course of attending a political group meeting.

APPENDIX 2

PROTOCOL ON MEMBER USE OF IT

ACCEPTABLE USE OF ICT EQUIPMENT

- 1.1 Council computers and ICT equipment are provided to assist Members in their role as locally elected representatives.
- 1.2 ICT facilities are very useful tools for research and business. However, they are also full of risk. There are a number of reasons why guidance in respect of computers and ICT equipment is required. For example, any security breach of the Council's ICT network (and the systems and networks held on it), could have an extremely adverse affect on the Council, Members, staff or the public.
- 1.3 Furthermore, while using such facilities, Members could copy information and contravene Copyright law or (without realising) allow someone to use the Internet to attack your computer systems and the Council network. Other risks include:

- the transmission or introduction of computer viruses;
- making defamatory or inappropriate remarks or negligent statements;
- unwittingly making a contract;
- sexual or racial discrimination;
- criminal offences.

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- 1.4 In addition, all Members are bound by the provisions of Lewisham's Member Code of Conduct. Abuse of the Council's facilities, including IT equipment, amounts to a breach of the code. Members' attention is drawn to the contents of the Code of Conduct which appears at Part V of the Council's Constitution both in general and in particular to the requirement set out at paragraph 6, which states:

“ 6. You—

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of your authority—
 - (i) act in accordance with your authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986].”

The Code of Conduct may be amended from time to time and members will also be required to agree to comply with the amended code.

1.5 The following paragraphs (1.6, 1.7, 1.8 and 1.9) are therefore intended to minimise such risks to you and the Council.

1.6 Members must not use Council ICT facilities for:

- 1.6.1 promoting private business activity, personal financial interests or commercial ventures;
- 1.6.2 promoting any political party, group, or campaigning organisation;
- 1.6.3 personal campaigning;
- 1.6.4 engaging in any activity which may result in actions for libel, defamation or other claims for damages;
- 1.6.5 any use which:

(i) contravenes any legislation (such as the Data Protection Act 1998; the Computer Misuse Act 1990; the Copyrights, Designs and Patents Act 1988 (amended 2002); the Obscene Publications Act 1959 and 1964; the Anti-Terrorism, Crime and Security Act 2001; or the Race Relations (Amendment) Act 2000), or other legislation in force from time to time;

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(ii) breaches any of the general obligations set out in the Member Code of Conduct; or,

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(iii) breaches the council’s ICT security policies.

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1.7 ICT facilities are provided to Members in order to assist them in Council related activities. However provided that the terms of the Code of Conduct, and other member Guidance, are not broken, Members may also use Council PCs for lawful personal purposes, for example surfing the Internet to purchase goods and services. In such cases all associated risks and liability, including any costs, remain with the Member.

1.8 Members may download or install software from licensed sources which assists in their role as locally elected representatives (and does not

breach any of the conditions outlined above). In such cases all associated risks and liability, including any costs (other than the costs of restoring the Council's standard software desktop), remain with the Member.

- 1.9 Members should ensure that they have duly licensed any software installed on Council ICT equipment.
- 1.10 Members are also provided with facilities enabling them to conduct their duties from home. When working from home, or remotely, members must not:
 - 1.10.1 allow any other person, including family members, access to the Lewisham ICT network;
 - 1.10.2 allow any other person, including family members, to use their user name and password.
- 1.11 The Council's network has been set up to automatically prevent users from accessing certain types of website including pornographic, homophobic, racist, on-line gaming, terrorist and computer-hacking sites.
- 1.12 However, you may occasionally find that you do encounter sites that contain this sort of material. If so, you must report this to the e-Services Help Desk immediately.
- 1.13 Any material containing child pornography found on any Council computer system must by law be reported to the police.
- 1.14 You are responsible for the content of any email sent from your username and in certain circumstances the Council may also be found liable for the content of such email, in which case action will be taken to recover any resultant penalties.
- 1.15 A disclaimer is automatically added to emails sent out from the Council in case it is wrongly addressed or reaches the wrong person. However, you must take steps to make sure that you address your email correctly. If you find out an email has been received by someone other than the person you meant to send it to, you must take steps to make sure that this does not happen again, and to secure its deletion by the unauthorised recipient if possible.
- 1.16 If you receive an email that breaches the general obligations of the Member Code of Conduct or which breaks the law, you must inform the Monitoring Officer.

- 1.17 Emails and other personal information should be retained only for the minimum period necessary, in accordance with the Data Protection Act 1998. Further details on the Data Protection Act can be obtained from the Corporate Information Manager, based within the Council's Technology and Transformation division.
- 1.18 It is important that you manage the information that you store to ensure its availability, confidentiality and integrity. Therefore Members must regularly review all Council information (including files and Email messages) you hold and delete all redundant or irrelevant data.
- 1.19 Subject to reasonable notice, Members must provide authorised representatives of the Council (for example computer technicians), with access to Council equipment. This access may be required for the resolution of faults, the replacement or upgrade equipment or the removal of equipment (if, for example you cease to be a member of the Council).
- 1.20 Members are also reminded of their duty to comply with investigations by regulatory services, e.g. police, audit, etc., if so required.

APPENDIX 3

**PROTOCOL ON PLANNING
AND LOBBYING**

APPENDIX 3

PROTOCOL ON PLANNING AND LOBBYING

Introduction

1. The planning system involves taking decisions about the use and development of land in the wider public interest having regard, in particular, to the Development Plan. When such decisions are made the requirements of individuals (be they applicant or neighbour) must be balanced against the broader public interest. It is of fundamental importance that the planning system should not only be fair, but should be seen to be fair. So, the Local Government Association has recommended that planning authorities agree a local Code of Practice to guide elected members, officers and developers in the way they go about their business.

Elected Members

2. Elected members set the Council's planning policy and determine planning applications and enforcement issues within the context of that policy. When elected members come to make a decision on a planning matter, they must:
 - act fairly and openly
 - approach each application with an open mind
 - carefully weigh up all relevant issues
 - determine each application on its own merits
 - avoid contacts with interested parties which might be taken to indicate that they were unduly influenced by one party or another
 - ensure that there are clear and substantial reasons for their decisions, and that those reasons are clearly stated.
3. Elected members may delegate certain planning decisions to officers and where this is the case, officers will be bound to act in accordance with the principles set out in this paragraph.

Role of Officers

4. The function of officers is to advise and assist members in matters of planning policy and in their determination of planning applications and enforcement issues by:-

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- providing impartial and professional advice
- making sure that all the information necessary for the decision to be made is given
- providing a clear and accurate analysis of the issues
- setting applications and enforcement issues against the broader development plan policies in the development plan documents, and all other material considerations
- giving a clear recommendation
- carrying out the decisions of councillors in committee or sub-committee.

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Lobbying

5. There are two issues which may arise when a member has been lobbied. They are the issues of pre-determination and prejudicial interest.

Pre-determination

6. Members are under an obligation to determine matters on their merits. That means that they must not make up their minds before receiving and reading any officer report, or before hearing any debate on the matter out of which new information may arise. The important issue is that the member's mind must not be closed to consideration at the point of deliberation on a matter. Whilst a pre-disposition to a particular view may be legitimate, a closed mind at the point of considering a planning application would not be so. The member must be open to persuasion.
7. To avoid compromising their position before they have received all the relevant information, members must:
 - avoid, as far as possible, meeting an applicant or potential applicant alone;
 - avoid making it known in advance whether they support or oppose the proposal;
 - restrict their response to giving procedural advice;
 - not pressurise officers to make a particular recommendation in their report;

- direct lobbyists or objectors to planning officer, who will include reference to their opinions, where relevant, in their report;
 - advise the Head of Planning and the Chair of the appropriate Planning Committee of the existence of any lobbying interest.
8. Where a member has been lobbied he/she should report to the relevant committee that he/she has been lobbied and by whom. However, members must act in the public interest and not at the behest of any individual or interest. If the member feels that he/she no longer retains an open mind on the matter but that his/her impartiality has been compromised, he/she will need to decide whether to withdraw from the meeting.
 9. Where a member decides that he/she wants to act as a representative of their community, reporting and advocating the views of their constituents, it follows that they will no longer be acting impartially. In those circumstances, they should not seek to participate in any consideration of, or vote on the matter.

Personal prejudicial interests

10. If a member has a prejudicial interest in any planning matter, they should declare the nature and extent of it as soon as it becomes apparent. They should then leave the room when the matter is under consideration and not participate in any debate or vote on it. Whether a prejudicial interest arises will depend upon the factors set out in paragraphs 10 and 11 of the Member Code of Conduct. This general requirement to withdraw is subject to an exception where a member wants to act as a representative of their electoral area, reporting and advocating the views of their constituents. It follows then that they would not be acting impartially. Even where a member has a prejudicial interest (for example as a leading member in a lobby group directly affected by a proposal) they will be allowed to make such representations, ask questions and/or give evidence provided that the members of the public are admitted to the meeting for the same purpose.
11. After making representations, the member must immediately leave the room or when the meeting decides if that is earlier, and may not stay to observe the debate or vote (even if the public are allowed to stay). In addition the member must not seek improperly to influence the decision. This applies to any member with a personal prejudicial interest who seeks to rely on this exemption whether they attend a meeting as a member of the committee or otherwise. (e.g. to make representation under standing orders).
12. In short if an ordinary member of the public would be allowed to speak to a meeting about an item, members are provided with the same opportunity. If the public are not allowed to speak (such as when the Council is discussing a

confidential matter in closed session) like the public, a member with a prejudicial interest cannot speak and must leave the room during debate and vote.

13. Members with a prejudicial interest can still present views to the meeting, through other means:
- written representations in a private capacity. Such representations should disclose the existence and nature of the interest. Members must not seek preferential treatment and representatives should be addressed to the officers not members
 - the use of a professional representative to make representations;
 - arranging for another member to represent the views of constituents on matters in which a member has a prejudicial interest.

The advice of the Monitoring Officer should be sought as to whether an interest ought to be declared in cases of doubt.

14. Where a member receives relevant information in respect of an application which is not contained in the Head of Planning's report on the application, the member should secure that that information is made available to other members of the Committee, by advising the Head of Planning directly so that the information can be confirmed, rather than run the risk that the Committee might take a decision on the basis of information which subsequently proves to be incorrect.

Discussions with Potential Applicants

15. Pre-Application meetings with potential Applicants are encouraged to ensure beneficial development and to resolve matters which might otherwise lead to the refusal of planning permission. However, to avoid such meetings being misunderstood, they should normally be at officer level and:

- where meetings are to involve elected members, they will be arranged by and attended by officers and will include the Chair of the relevant Planning Committee or his/her representative
- potentially contentious meetings will be attended by at least two officers, including the Head of Planning or his/her representative
- a note of the discussion will be taken and placed on file and made available for public inspection at the appropriate time

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- it will be made clear at such meetings that only personal and provisional views based upon the policies in the Development Plan documents and any other relevant documents in the local development framework can be given and no commitments can be made which would bind or otherwise compromise the relevant Planning Committee or any member of it.

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The Party Whip

16. Members cannot accept an instruction from anyone to determine an application in a particular way, as they must determine the issue on its merits. So, while they may give appropriate weight to the views of other members whether expressed in the committee meeting or in prior discussions, they must determine the application on its merits and should not take into account any factor, which they are not prepared to state in open Committee. As a result it is not appropriate for any party group to instruct its members to vote in a particular manner on an application or to apply or threaten to apply any sanction to any member who voted contrary to the Group's collective view. Where such a whip has been applied, members should declare it in exactly the same manner as they would declare any other attempt at lobbying.

Decisions Contrary to Officer Recommendation

17. From time to time, members of the relevant Planning Committee will disagree with the professional advice given by the Head of Planning. Development Control is not an absolute science and there can be genuine disagreement about the implications of a particular proposal. The Head of Law or his/her representative will be present at the Committee making the decision and will be able to advise if the facts simply cannot support the conclusion which the members have drawn and the Committee is in danger of acting unreasonably.
18. In cases where the Planning Committee decides for good and valid reason to depart from the Head of Planning's recommendation, the Committee must define the reasons for rejecting the officer's recommendation and those reasons must be recorded in the minutes of the meeting. Where it is not possible for the Committee to define those reasons with sufficient precision at that initial meeting, the Committee should adjourn the determination of the application to permit the appropriate officers to present to a subsequent meeting a Statement of Draft Reasons for Refusal for its approval. Where an appeal arises against such a decision, Officers will give support to the relevant Committee members in preparing evidence for the appeal, but it will be for members of the Planning Committee making the decision, to appear at any appeal hearing and give evidence of the reasons for the Committee's decision.

Site Visits

19. Site visits can be useful to identify features of a proposal, which may be difficult to convey in a written report, but site visits do delay the decision on an application. When a member feels that a site visit is essential he/she can either make a request to the Head of Planning or request the relevant Planning Committee to defer the determination of the matter until a site visit has been held.

20. Site visits are:

- fact finding exercises
- not part of the formal consideration of the application and therefore public rights of attendance do not apply
- to enable officers to point out relevant features
- to enable questions to be asked on site for clarification.

However, discussion on the application will only take place at the subsequent Committee, as all relevant parties may not be in attendance on site.

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Gifts and Hospitality

21. Gifts and hospitality give rise to particular problems in respect of the credibility of the planning process and acceptance of gifts or hospitality by members or officers can be a very serious criminal offence. Members should have particular regard to the provisions of the Council's Member Code of Conduct. In particular they must immediately report to the Monitoring Officer any offer of gifts or hospitality and they should avoid any behaviour which might be taken as indicating that they are open to such offers.

Planning Application by Councillors or Officers

- 18 The impartiality of the planning process requires particular care when dealing with an application by anyone who might ordinarily be involved in the planning process. So, whenever any member or any officer who might be involved in the planning process submits an application to the Authority for himself/herself or on behalf of any other person, they will:

- inform both the Head of Planning and the Council's Monitoring Officer
- take no part in processing or determining the application.

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The Head of Planning will ensure that all such applications are determined at the appropriate committee meeting and no under any delegated powers.

Planning Applications by the Council

19. The Council itself requires planning permission to carry out or authorise development on land it owns. These applications will be treated in the same way as those from private applicants.

Applicant and Public Representations at Planning Committee

20. The Planning Committee will approve procedures to ensure that where they receive representations from or on behalf of the applicant or from members of the public on a particular application, there is an opportunity for advocates both for and against the proposal to be heard in a balanced manner.

Complaints

21. Any issues or concerns arising from the Code of Practice can be raised with the Chair of the appropriate Planning Committee or the Head of Planning. The Council also has a formal complaints system in operation, which can be used if necessary.

APPENDIX 4

LOCAL AUTHORITY CODE ON PUBLICITY

LOCAL AUTHORITY CODE ON PUBLICITY

Subject matter

1. Local authorities have a variety of statutory powers which enable them to produce publicity and circulate it widely, or to assist others to do so. Those commonly used include the powers in sections 111, 142, 144 and 145 of the Local Government Act 1972, sections 69, 88 and 90 of the Local Government (Scotland) Act 1973 and sections 15 and 16 of the Local Government and Planning (Scotland) Act 1982; but there are several others.
2. Some of these powers relate directly to the publishing authority's functions. Others give a more general discretion to publicise matters which go beyond an authority's primary responsibilities. For example, section 142(1A) of the 1972 Act and 88(1) of the 1973 Act authorise local authorities to arrange for the publication within their area of information as to the services available in the area provided by them *or* by other local authorities; and Section 54 of the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication within their area of information on questions relating to health or disease.
3. This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions.
4. In considering the subject areas in which publicity is to be issued, the following matters will be important:
 - (i) the publicity should be relevant to the functions of the authority;
 - (ii) it should not duplicate unnecessarily publicity produced by central government, another local authority or another public authority.

Costs

5. Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure, in the first instance through the audit arrangements.

6. For publicity, as for all other expenditure, the aim should therefore be to achieve the greatest possible cost-effectiveness.
7. To achieve this, there may well be cases where the benefit of higher expenditure to gain better presentation or improve other aspects of publicity will justify the extra cost.
8. Local authorities should therefore always have in mind the extent to which expert advice is needed for publicity.
9. In some cases publicity may justify its cost by virtue of savings which it achieves. More commonly it will be necessary to take a view of the importance of the unquantifiable benefits as compared with other uses to which the resources could be put.
10. In deciding whether the nature and scale of proposed publicity, and consequently its cost, are justified, the following matters will be relevant:
 - (i) whether the publicity is statutorily required or is discretionary;
 - (ii) where it is statutorily required, the purpose to be served by the publicity;
 - (iii) whether the expenditure envisaged is in keeping with the purpose and expected effect of the publicity.

Content and Style

11. Local authorities produce a variety of publicity material. It ranges from factual information about the services provided by the authority, designed to inform clients or attract new ones, to material necessary to the administration of the authority, such as staff recruitment advertising. There will also be publicity to explain or justify the council's policies either in general, as in the annual report, or on specific topics, for example as background to consultation on the line chosen for a new road.
12. Any publicity describing the council's policies and aims should be as objective as possible, concentrating on facts or explanation or both.
13. Where publicity is used to comment on, or respond to, the policies and proposals of central government, other local authorities or other public authorities, the comment or response should be objective, balanced, informative, and accurate. It should aim to set out the reasons for the council's views, and should not be a prejudiced, unreasoning or political attack on the policies or proposals in question or on those putting them forward. Slogans alone will not be an adequate means of justifying or explaining the authority's views or their policy decisions.

14. Publicity relating to the provision of a service should concentrate on providing factual information about the service.
15. In some cases promotional publicity may be appropriate – for example about the local authority's sports and leisure facilities or about tourist attractions.
16. Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the council, is unavoidable, particularly given the importance of wide consultation whenever material issues arise. Such publicity should be handled with particular care. Issues must be presented clearly, fairly and as simply as possible, although councils should not over-simplify facts, issues or arguments. Again, it is unlikely that slogans alone will achieve the necessary degree of balance, or capture the complexities of opposing political arguments.
17. Publicity should not attack, nor appear to undermine, generally accepted moral standards.
18. Publicity campaigns by local authorities are appropriate in some circumstances: for example, as part of consultation processes where local views are being sought, or to promote the effective and efficient use of local services and facilities, or to attract tourists or investment. Publicity campaigns may also be an appropriate means of influencing public behaviour or attitudes on such matters as health, safety, crime prevention or equal opportunities.
19. Legitimate concern is, however, caused by the use of public resources for some forms of campaigns, which are designed to have a persuasive effect. Publicity campaigns can provide an appropriate means of ensuring that the local community is properly informed about a matter relating to a function of the local authority and about the authority's policies in relation to that function and the reasons for them. But local authorities, like other public authorities, should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.

Dissemination

20. The main purposes of local authority publicity are to increase public awareness of the services provided by the authority and the functions it performs; to allow local people to have a real and informed say about issues that affect them; to explain to electors and ratepayers the reasons

for particular policies and priorities; and in general to improve local accountability.

21. Information and publicity produced by the council should be made available to all those who want or need it. Local authorities should not discriminate in favour of, or against, persons or groups in the compilation and distribution of material for reasons not connected with the efficiency and effectiveness of issuing the publicity.
22. Where material is distributed on matters closely affecting vulnerable sections of the community – for example, the elderly – particular care should be taken to ensure that it is unambiguous, readily intelligible, and unlikely to cause needless concern to those reading, seeing or listening to it.
23. Local authority newspapers, leaflets, other publicity distributed unsolicited from house to house and information on websites are able to reach far wider audiences than publicity available on application to the council. Councils should give particular consideration to the use of electronic and other new media communication systems. However, councils should ensure that they do not rely solely on such mechanisms and that they do not exclude those without access or easy access to such systems.
24. Such publicity should be targeted as appropriate for its purposes, taking particular care with material touching on politically controversial issues.
25. There is no paragraph 25.
26. Local authority newspapers or information bulletins are a special case. They are often a cost-effective means of disseminating information, or facilitating consultation and can provide a means for local people to participate in debate on decisions the council is to take. The advantage of using websites and other information technology for consultations should also be considered. Inevitably such publications will touch on controversial issues and where they do they should treat such issues in an objective and informative way, bearing in mind the principles set out in paragraphs 11-19 of the Code.
27. Where it is important for information to reach a particular target audience, consideration should be given to using the communications networks of other bodies, for example those of voluntary organisations, and making use of electronic communication systems.

Advertising

28. Advertising, especially on billboards or on television and radio, is a highly intrusive medium. It can also be expensive. It may however provide a cost-effective, efficient means of conveying public information to the widest possible audience. Advertising on local radio networks has, for example, been used as a relatively inexpensive means of telling potential clients about local authority services. Advertising can also be the most cost-effective means of publicising a local authority's activities on promoting the social, economic and environmental well-being of the area.
29. The primary criterion for decisions on whether to use advertising should be cost-effectiveness.
30. Advertisements are not normally likely to be appropriate as a means of explaining policy or commenting on proposals, since an advertisement by its nature summarises information, compresses issues and arguments, and markets views and opinions.
31. Advertising in media which cover an area significantly wider than that of the authority is not likely to be an appropriate means of conveying information about a local authority's policies as opposed to attracting people to the authority's area or to use its facilities.
32. The attribution of advertising material leaflets and other forms of publicity that reach the public unsolicited should be clearly set out.
33. It is not acceptable, in terms of public accountability, to use the purchase of advertising space as a disguised means of subsidy to a voluntary, industrial or commercial organisation. Such support should be given openly through the normal grant arrangements. However, the conditions attached to a grant may require the provision of publicity, including publicity for the work of the authority.
34. Any decision to take advertising space in a publication produced by a voluntary, industrial or commercial organisation should be made only on the grounds that it provides an effective and efficient means of securing the desired publicity.
35. Local authorities should never use advertising as a means of giving financial support to any publication associated with a political party.

Recruitment Advertising

36. Local authorities have respected in their staff employment policies the tradition of a politically impartial public service. Their recruitment publicity should reflect this tradition, and the fact that local authority staff are expected to serve the authority as a whole, whatever its composition from time to time.
37. The content of recruitment publicity and the media chosen for advertising job vacancies should be in keeping with the objective of maintaining the politically independent status of local authority staff.
38. Advertisements for staff should not be placed in party political publications.

Individual Councillors

39. Publicity about individual councillors may include the contact details, the positions they hold in the Council (for example, member of the Executive or Chair of Overview and Scrutiny Committee), and their responsibilities. Publicity may also include information about individual councillors' proposals, decisions and recommendations only where this is relevant to their to their position and responsibilities within the Council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual councillors as holders of particular positions in the Council, personalisation of issues or personal image making should be avoided.
40. Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to her/his position and responsibilities within the Council, and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals.

Elections, referendums and petitions

41. The period between the notice of an election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members or groups of members. However, it is acceptable for the authority to respond in

appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a member level response to an important event outside the authority's control. Proactive events arranged in this period should not involve members likely to be standing for election.

42. The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000 (which apply under the Local Government Act 2000 to county councils, district councils and London borough councils) prohibit an authority from incurring any expenditure to:

- publish material which appears designed to influence local people in deciding whether or not to sign a petition requesting a referendum on proposals for an elected mayor;
- assist anyone else in publishing such material; or
- influence or assist others to influence local people in deciding whether or not to sign a petition.

Publicity in these circumstances should, therefore, be restricted to the publication of factual details which are presented fairly about the petition proposition and to explaining the council's existing arrangements. Local authorities should not mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view in relation to petitions generally or on a specific proposal.

43. County councils, district councils and London borough councils should ensure that any publicity about a referendum under Part II of the Local Government Act 2000 (the 2000 Act) either prior to or during the referendum period is factually accurate and objective. The referendum period means the period beginning with the date on which proposals under Part II of the 2000 Act are sent to the Secretary of State and ending with the date of the referendum. The publicity should not be capable of being perceived as seeking to influence public support for, or opposition to, the referendum proposals and should not associate support for, or opposition to, the proposals with any individual or group. Local authorities must conform with any specific restrictions on publicity activities which are required by Regulations under section 45 of the 2000 Act.

Assistance to others for publicity

44. The principles set out above apply to decisions on publicity issued by local authorities. They should also be taken into account by local authorities in decisions on assistance to others to issue publicity. In all such decisions local authorities should, to the extent appropriate:
 - (a) incorporate the relevant principles of the Code in published guidance for applicants for grants;
 - (b) make the observance of that guidance a condition of the grant or other assistance;
 - (c) undertake monitoring to ensure that the guidance is observed.
45. It is appropriate for local authorities to help charities and voluntary organisations by arranging for pamphlets or other material produced and paid for by the organisation to be available for collection by the public in public libraries and other suitable locations. Such material should not offend against any legal provision, (authorities may be able to draw on their powers of well-being in section 2 of the Local Government Act 2000) but (subject to this) any such facility should be made available on a fair and equal basis.

APPENDIX 5

**GUIDANCE CODE FOR MEMBERS
ON OUTSIDE BODIES**

A GUIDANCE CODE FOR MEMBERS ON OUTSIDE BODIES

1. Members are appointed formally by the Council annually to serve on a range of outside bodies, including voluntary organisations, local government associations, and companies formed to provide specific local services such as SELCHP.
2. In carrying out that role, Members act both as individuals and as representatives of the Council. What does that entail?
 - a) Positively
 - It entails acting according to the rules, constitution and framework set by the outside body
 - It entails making independent and personal judgments in line with their duty of care to the outside body
 - It entails reporting back, at least annually, to the Council or relevant committee
 - It entails behaving ethically and following as far as applicable the National Code of Local Government Conduct and the Lewisham Code of Conduct for Members and Employees
 - It entails taking an active and informed role in the management of the outside body's affairs.
 - b) Negatively
 - It does not entail representing the political party to which Members owe their political loyalty
 - It does not entail avoiding taking part in the outside body's discussions and decisions
 - It does not entail looking at things simply from the Council's perspective
 - It does not entail being there in name only and merely turning up to meetings.

3. The role of Members on outside bodies may give rise to occasional uncertainty and perhaps to conflicts of interest. The attached Appendix offers a simple legal guide on the responsibilities of Members and officers. Members are asked to read the guide and if there are issues arising from their particular situation at any time, to contact the Head of Law for advice.
 4. Members (and officers) are under a specific obligation as a result of the 1995 Local Authorities (Companies) Order to report back to the Council on their involvement in outside companies to which they have been nominated by the Council. That obligation, to be incorporated in Standing Orders, is best met by an annual report to the relevant committee with an opportunity for questions, and a regular standing item on committee agendas allowing questions by prior notice. While the law now makes this a requirement for involvement in outside companies, it is self-evident that the requirement to report back should apply to involvement in all outside bodies.
 5. Members will appreciate that the guide and also the National and Lewisham Member Codes of Conduct address some of the issues around the possibility of conflicts of interest. In essence, if the outside body comes into conflict with the Council and the Member is a director or on the management committee of the outside body, it is likely that the Member's prime duty would be to the outside body in the conduct of the outside body's affairs. The Member is however, also given specific dispensation in the National and Lewisham Codes of Member Conduct to participate in the Council decision-making affecting the outside body to which he or she has been appointed.
 6. If there is a major dispute between the Council and the outside body, then the Member may be placed in an untenable situation. Before taking precipitate action, the Member is advised to seek the Chief Executive or the Head of Law's advice.
 7. At the end of the day, it is possible that the Member may find they are unable adequately to carry out their responsibilities properly, both as a Member of the Council and as a member or director of the outside body. But that would be an exception, and should not deflect Members generally from being prepared to participate in the management and running of outside organisations.
1. GENERAL
 - 1.1 There are some general provisions which apply to Members and officers who act in the role of company director, trustee or member of an incorporated body, such as the committee of management of an unincorporated voluntary organisation.

- 1.2 Members are under a duty to exercise independent judgement in the interest of the organisation in which they are involved. Whilst it is recognised that Members and officers may have a commitment to representing the Council on the outside organisation, they must be aware that it is their responsibility to decide what view to take on any question before that organisation. Where a Member or officer is partaking in an outside organisation in a representative capacity, he/she must declare that fact to the organisation. There will be a fine line to tread between his/her duty to the organisation and to the Council.
- 1.3 The bottom line is that in the end, the Member or officer in acting as a director/trustee or member of a management committee of an organisation, must act in accordance with the interests of that organisation. A mandate from the Council to vote one way or the other would put the Member or officer in breach of the duty to the organisation. It is permissible to take account of the Council's wishes, but not to vote simply in accordance with them. The overriding duty in considering an item before the outside organisation is to vote in accordance with the interests of that organisation.
- 1.4 Members and officers must also ensure that avoidable loss is not incurred in managing the organisation. They cannot avoid this responsibility by not reading the papers or failing to ask for appropriate reports. They will be expected to seek professional advice where appropriate.

2. COMPANIES

- 2.1 On incorporation a company becomes a separate legal entity which can hold property in its own right, enter into contracts and sue and be sued in its own name. The company is distinct from its shareholders and members. In the case of a limited liability company, the liability of members of the company is limited to the amount they paid or agreed to pay when they joined the company. This can be as little as £1.
- 2.2. Companies limited by shares are those which have a share capital (e.g. 1000 shares of £1 each). Each Member holds shares and receives a share in the profits made by the company according to the value of the shares held. Shares can be sold. Companies limited by guarantee are those where there is no shareholding. Instead each Member agrees that in the event of the company being wound up they will agree to pay a certain amount. This may also be as little as £1. This form of company is the most usual in the public and voluntary sector particularly where charitable status is sought.
- 2.3 The management of a company is generally the responsibility of a board of directors. The powers of the directors are usually set out in the company's Articles of Association (the rules each company has to govern its internal

management). Sometimes even though a company has been incorporated the directors may be referred to as members of the committee of management, governors or even trustees. However, this does not change their status as directors. Conversely, sometimes officials are called directors but they are not members of the board. Again their status will not be affected. Directors are those who are appointed by the company to act in that capacity.

2.4 Directors' Duties

A director is an agent of the company. His/her prime duties are as follows:-

- (1) A fiduciary duty to the company (not individual shareholders) to act honestly and in good faith and in the best interests of the company as a whole. Directors are therefore in the position of "quasi trustees" who must take proper care of the assets of the company. The fiduciary duty of the director towards the company is very similar to the fiduciary duty of Councillors to the Council Tax payers of the borough.
- (2) A general duty of care and skill to the company, but a director requires no greater skill than might reasonably be expected of someone of that individual's particular knowledge and experience. A director is not deemed to be an expert, but is expected to use due diligence and to obtain expert advice if necessary.
- (3) Like a Councillor in respect of Council decisions, the director is under a duty to exercise independent judgement though it is permissible for him/her to take account of the interests of a third party which he/she represents. In such a case the director must disclose that position and tread a fine line between the interests of the company and the party represented (in this case the Council). The director cannot vote simply in accordance with a Council mandate. To do so would be a breach of duty.
- (4) No conflict. There may be actual or potential conflicts between the interests of the Council and the interests of the company. In such circumstances the only proper way for the conflict to be resolved is for the Councillor to resign either from the company or from the Council.
- (5) Directors are not allowed to make a private profit from their position. They must therefore disclose any interests they or their family may have in relation to the company's contracts. Whether they are then allowed to vote will depend on the Articles of Association.

- (6) Directors must ensure compliance with the Companies Acts in relation to the keeping of accounts, and that the relevant returns are made to the Registrar of Companies. Failure to do so incurs fines and persistent default can lead to disqualification as a director.

2.5 Directors' Liabilities

- (1) The company's identity must clearly be shown on its stationery. The company number, place of registration, registered office address and if any of the directors' names are shown then they must all appear. Non-compliance is an offence and the directors and company officers can be fined.
- (2) A company can only act within the scope set out in its Articles of Association (the document which sets out the objects of the company). Those directors knowingly causing the company to act beyond those activities will be liable personally. In very limited circumstances it is possible for the actions of the directors to be ratified by the Members of the company.
- (3) A director may also be liable for breach of trust, if he/she misapplies the money or property of the company. Directors may also be liable if they fail to take action to prevent the breach of a co-director of which they are aware.
- (4) In the event of failure to act in accordance with the best interests of the company, or if a director uses his/her powers improperly or makes a personal profit from his/her position as director, then the director may be personally liable for loss to the company and may be required to give to the company the personal profit made.
- (5) If the level of skill and care shown by a director falls below that which could be reasonably expected and the company suffers loss, the director will be liable for the loss incurred. However, if it believes the director acted honestly and reasonably, a Court may excuse the director the liability.
- (6) If a director knows or ought to know that there is no reasonable prospect of the company avoiding liquidation, a Court may require that director to contribute to the company's assets on liquidation if the company continues to trade. This is known as wrongful trading. No such order will be made if the Court is satisfied that the director took all reasonable steps to minimise the loss to the creditors. If a director has concerns about the company's financial position he/she would be well advised to inform the other

directors and seek advice from the company auditors. He/she should try to ensure that further debts are not incurred.

- (7) A director will also be liable if to his/her knowledge the company carries on business with intent to defraud creditors or any other person, or for any other fraudulent purpose. Fraudulent trading can also lead to disqualification from acting as a director.
- (8) All cheques and similar documents which purport to be signed on behalf of the company must bear the company name. Where they do not, the director signing on behalf of the company may be liable to a fine and may also be liable to the payee if the company fails to honour the cheque. It is therefore wise for directors to make sure that all documents they sign on behalf of the company state very clearly that they act as agent for the company, (e.g. Director, for and on behalf of).
- (9) A third party who enters into a contract on the assumption that a director has power to bind the company, may be able to claim damages against the director if it subsequently transpires that the director had no such power. Directors would be well advised to ensure that contracts are approved by the board and that the authority to enter into any contract has been properly delegated before signing it.
- (10) Though company liability ceases on dissolution the liability of the directors (if any) may still be enforced after dissolution.

2.6 Indemnities

- (1) Directors cannot be indemnified against liability arising out of negligence, default, or breach of duty or trust. However, the company's Articles of Association may allow for directors to be indemnified by the company in respect of the cost of defending such proceedings if the director is granted relief by the Court or acquitted. It is lawful for companies to purchase insurance to protect its directors against claims of negligence, breach of duty, trust, default. Directors would be well advised to ensure that such a policy of insurance is maintained at all times.
- (2) The Council has power to provide indemnity and/or insurance for Councillors acting as directors on the nomination of the Council. Generally it is prudent for Members who act as directors to ensure that the company takes out and maintains an appropriate policy of insurance. However, where appropriate, the Council will consider giving individual Members such indemnity and insurance, having considered all the factors associated with the particular instance.

2.7 Local Authorities (Companies) Order 1995

- (1) This Order, made under the Secretary of State's powers contained in Part V Local Government & Housing Act 1989, sets out rules concerning local authorities' involvement in "regulated companies" which are subject to extensive controls, and their involvement in other companies where a number of rules apply.
- (2) "Regulated companies" are so defined if they are controlled or influenced by the local authority. "Influenced companies", under the effective control of the local authority, will be subject to capital finance regime and special propriety controls. In broad terms, the test as to whether companies are local authority influenced is whether the local authority has the right to or in fact does exercise a dominant influence over the company in question.
- (3) The original concept of controlled, influenced and minority interests in companies were introduced by the 1989 Act. "Influenced" means at least 20% local authority interest plus a business relationship with the company accounting for over 50% of the company's turnover and/or the company was located on local authority land leased or sold for less than best consideration. "Controlled" means over 50% local authority interests, and "minority" less than 20% interest. The concept in the 1989 Act stands, but the Order introduces the term "regulated".
- (4) Councillors who are directors of outside companies to which they have been nominated by the Council are under the following obligations:-
 - (a) that the remuneration they receive from the company should not exceed that received from a local authority, and should be declared;
 - (b) to give information to Councillors about their activities as required by the local authority (save for confidential information); and
 - (c) to cease to be a director immediately upon disqualification as a Councillor.

Under the Local Government & Public Involvement in Health Act 2007, the Secretary of State has power to regulate activity of local authority entities, and at a date yet to be agreed Part V of the 1989 Act will be repealed. Until such time the provisions of the 1995 Order above apply.

3. CHARITIES

- 3.1 To be a charity an organisation must operate for a charitable purpose. There are four:-

the relief of poverty and human suffering

the advancement of education

the advancement of religion

another purpose for the benefit of the community.

It must operate for the public benefit and have exclusively charitable purposes. An organisation which operates for political purposes will not qualify for charitable status.

- 3.2 To register as a charity the organisation must submit its Trust Deed (usually the Articles of Association of a company limited by guarantee) to the Charity Commissioners for approval. If they are satisfied that the organisation is charitable it will be registered as such.
- 3.3 Those who are responsible for the control and administration of a charity are referred to as its trustees, even where the organisation is a company limited by guarantee even though they are not strictly trustees. Trustees of a charity retain personal liability, and can only delegate if the trust deed authorises them so to do.

3.4 Trustees' Duties

- (1) Trustees must take care to act in accordance with the Trust Deed and to protect the charity's assets. They are also responsible for compliance with the Charities Acts.
- (2) Trustees must not make a private profit from their position. They must also perform their duty with the standard of which an ordinary, prudent business person would show. Higher standards are required of professionals, and in relation to investment matters.
- (3) Charitable trustees must ensure that the information relating to the trust and trustees is registered with the Charity Commissioners and that annual accounts and returns are completed and sent.
- (4) If charitable income exceeds £5,000, the letters, adverts,

cheques etc. must bear a statement that the organisation is a registered charity.

- (5) Trustees are under a duty to ensure compliance with all relevant legislation (e.g. in relation to tax matters).

3.5 Trustees' Personal Liability

- (1) If in doubt, always consult the Charity Commissioners. A trustee who does so will avoid personal liability for breach of trust if he/she acts in accordance with the advice given.
- (2) Generally though, a trustee incurs personal liability if he/she:-
 - acts outside the scope of the trust deed
 - falls below the required standard of care
 - makes a personal profit from the trust assets
- (3) In such circumstances the trustee will incur personal liability for losses incurred.
- (4) Trustees can be liable personally to third parties because unlike a company, a trust has no separate identity from the trustees. Trustees are however, entitled to an indemnity from the trust assets, provided they act properly in incurring the liability. Trustees remain personally liable once they retire (e.g. if they have entered into a contract on behalf of the trust) and should therefore seek an indemnity from their successors. If the charity is a company however, the trustees for the time being will be responsible.
- (5) Trustees may be liable to fines if they do not comply with the duty to make returns etc.

3.6 Indemnities

An indemnity can be given from the trust fund provided the trustee has acted properly and within his/her powers. Trustees may take out insurance to protect themselves against personal liability but not for criminal acts, fraud etc. There will be no problem if the trustees themselves pay the premiums but if they are paid out of the charitable funds the trustees will need the consent of the Charity Commissioners unless the trust deed allows it.

4. COMMITTEES OF MANAGEMENT

4.1 Unincorporated Associations

Groups which are not charitable trusts or limited companies are “unincorporated associations” and have no separate legal identity from their members. The rules governing the members’ duties and liability will be set out in a constitution, which is simply an agreement between the members as to how the organisation will operate. Usually the constitution will provide for a management committee to be responsible for the everyday running of the organisation. An unincorporated organisation may be charitable and may register as a charity.

- 4.2 Property will have to be held by individuals as the organisation has no existence of its own.

4.3 Duties

Broadly, Management Committee members must act within the constitution, and must take reasonable care in exercising their powers.

4.4. Liabilities

- (1) Generally, the Management Committee members are liable for the acts of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the Committee members are personally liable for the shortfall.
- (2) If one person is appointed by the constitution to act as the agent of the organisation for certain purposes, then that person acts as the agent of all the members, who have joint liability for the agent’s actions.
- (3) Members of the Committee of Management will have personal liability if they act outside the authority given to them or if they do not comply with statute e.g. the payment of employees’ tax etc.

4.5 Indemnities

Members will be entitled to an indemnity if they act in accordance with the organisation’s constitution and are not at fault. It is possible to obtain insurance but if the organisation is to pay the premium it must be permitted by the constitution.

1 THE EMPLOYEE CODE OF CONDUCT

1.1 INTRODUCTION

This Code sets out the standard of conduct expected of all employees in carrying out their duties for the Council, their relationship with Members and in circumstances where their duties overlap or conflict with their private lives.

The Code takes into account the requirements of legislation and national/regional terms and conditions of employment and supports the Council's wider promotion of organisational integrity.

This Code represents the standard against which employees will be judged by the public, councillors, partners and the Council's Standards Board. It is designed to promote public confidence in the actions of employees and councillors and encourages both members and employees not only to avoid actual impropriety, but at all times to avoid suspicion or appearance of improper conduct.

It is the responsibility of each employee to comply with the Code. Any breaches will be treated seriously and will be dealt with under the Council's Disciplinary Code. If in any doubt employees should seek advice from their line manager or from their directorate HR section.

PRINCIPLES

The principles underlying this Code of Conduct, which must be observed by all employees are:

Selflessness – employees should serve only the public interest and should never improperly confer an advantage or disadvantage on any person

Honesty and integrity – employees should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity – employees should make any decisions on merit, including when making appointments, awarding contracts or recommending individuals for rewards or benefits.

Accountability – employees should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny into their actions.

Openness – employees should be as open as possible about their actions and should be prepared to give reasons for them.

Respect for others – employees should promote equality and diversity by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, gender, age, religion, sexual orientation or disability.

Duty to uphold the law – employees should uphold the law and on all occasions act in accordance with the trust that the public is entitled to place in them.

Stewardship – employees should do whatever they are able to ensure that resources are used prudently and in accordance with the law.

Leadership – employees should promote and support these principles by leadership and example, and should always act in a way that secures and preserves public confidence

1.2 GENERAL OBLIGATIONS

Employees are expected to provide the highest possible standard of service to the public, and to the Council as a whole. An employee must at all times act in accordance with the trust that the public is entitled to place in him

Employees must bring to the attention of management any deficiency in the provision of service and must report any impropriety or breach of procedure.

RESPECT FOR OTHERS

All employees must promote equality and diversity by not discriminating unlawfully against any person and by treating them with respect, regardless of their race, nationality, age, gender, sexual orientation, disability religion or belief.

All forms of discrimination, including bullying and harassment are unacceptable and contravene the Council's Diversity and Equality and Respect at Work policies. Any breach of these policies will be treated seriously and will be dealt with under the Council's Disciplinary Code.

An employee must not do anything which will compromise or is likely to compromise the impartiality of those who work for, or on behalf of, the authority.

An employee must not treat another employee of the authority less favourably than other employees by reason that that other employee has done, intends to do, or is suspected of doing anything under or by reference to any procedure the authority has for reporting misconduct

DISCLOSURE OF INFORMATION

The law required that certain types of information must be made available to Members, auditors, government departments, service users and the public.

An employee must not disclose information given to him/her in confidence by anyone or information which he/she believes is of a confidential nature without the consent of a person authorised to give it, unless he/she is required to do so by law and must not prevent another person from gaining access to information to which that person is entitled by law. If in doubt, advice should be obtained from the directorate HR section.

Employees must never use any information gained in the course of their employment for their personal gain or to advantage or disadvantage anyone known to them, or to disadvantage or discredit the Council.

Only employees authorised by their Executive Director to do so may talk to the Media or otherwise make public statements on behalf of their directorate. Generally an employee contacted by the Press should refer the matter to the Council's Press Office who will deal with it as appropriate.

BRINGING THE COUNCIL INTO DISREPUTE

An employee must not in his/her official or private capacity conduct him/herself in such a manner which could reasonably be regarded as bringing the Council into disrepute.

POLITICAL NEUTRALITY AND ACTIVITY

Employees are required to serve the whole Council and its Members, not just Members of any controlling group and must ensure that the individual rights of all Members, include co-opted Members are respected.

Employees, who as part of their duties are required to provide advice to Members or other employees, must do so impartially and must not allow their own personal or political opinions to interfere with their work.

Some employees are in politically restricted posts and are prevented by law from taking part in certain political activities outside their work. The political activities which are restricted for these officers covers the following:

- Standing as a candidate for election to the House of Commons, European Parliament or a local authority (other than a Parish Council).
- Holding office in a political party at any level, except in limited roles concerned only with the internal membership of the party.

- Canvassing at an election
- Speaking in public or publishing any written or artistic work which appears to be intended to affect public support for a political party.

If an employee is in any doubt about whether any activity is political activity and covered by these rules then advice should be sought from their Executive Director of HR Section.

RELATIONSHIPS AND PERSONAL INTERESTS

Members

An effective working relationship based on mutual respect between employees and Members is essential to good local government in order to delivery efficient and high quality services to the community. However, close personal familiarity between employees and individual Members can damage the relationship and prove embarrassing to other Members and employees and should therefore be avoided.

Employees must not seek to involve Members in personal matters which relate to any aspect of their employment with the Council e.g., pay and grading, grievances etc.

Local Community and Service Users

Employees must ensure that courteous, efficient and impartial services are provided to all groups and individuals within the community.

Employees who provide personal/caring services to vulnerable people within the community, must always act in a professional manner and treat service users with dignity and respect at all times. Employees must never take advantage of the service user by forming inappropriate relationships or seeking/receiving personal favours, loans or gifts, including bequests. The Council's Policy on Receipt of Gifts and Hospitality must be adhered to at all times. Any abuse will lead to disciplinary action against the employee which could result in the employee's dismissal from the service.

In any case of doubt advice should be sought from the line manager or directorate HR section.

Contractors and other service providers

All relationships with contractors, potential contractors or other external service providers must be made known to management. Employees who engage or supervise contractors or have an official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity, must declare that relationship to management.

All contracts must be tendered/awarded in accordance with Council policy.

Personal interests

An employee must not in his official or personal capacity –

- a) allow his personal interests to conflict with the authority's requirements; or
- b) use his position improperly to confer an advantage or disadvantage on any person.

Employees must declare to their line manager any non-financial interests that they consider could bring about conflict with the Council's interests (for example acting as a school governor within schools maintained by the Council, involvement with an organisation receiving grant aid from the Council, membership of an NHS Trust Board, involvement with an organisation or pressure group which may seek to influence the authority's policies). Membership of a trade union is exempted from this requirement.

Employees must declare any financial interests which could conflict with the Council's interests.

Employees must declare to their Chief Officer membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about its rules or membership or conduct, for example freemasons.

Employees who have an interest, financial or non-financial, should not involve themselves in any decision on allocation of Council services or resources from which they, their friends or family might benefit, and should ensure that the matter is referred immediately to their line manager (for example allocation of Council housing or assessment of housing benefit).

Employees may have dealings with the council on a personal level, for example as a Council, tax payer, tenant or applicant for planning permission. Employees should never seek or accept preferential treatment in those dealing because of their position with the Council or put themselves in a position that could bring the Council into disrepute, through for example non declaration or non-payment of monies owing to the Council e.g. Council tax.

Register of Personal Interests

Employees must register any financial interests in the authority's register maintained under S81(1) Local Government Act 2000 by providing written notification as appropriate of:-

- (a) any business carried on by him/her
- (b) the name of any firm in which he/she is a partner and the name of any company for which he/she is a remunerated director
- (c) the name of any corporate body which has a place of business or land in the authority's area where the employee has a beneficial interest in the class of securities of that body which exceeds the value of £25,000 or one hundredth of the total issued share capital of that body.

- (d) A description of any contract for goods, services or works made between the authority and him/herself a firm in which he/she is a partner, a company of which he/she is a director or body of the description in paragraph (c) above
- (e) The address or other description (sufficient to identify the location) of any land in which he/she has a beneficial interest and which is in the area of the authority.
- (f) The address or other description (sufficient to identify the location) of any land where the landlord is the authority and the tenant is a firm in which he/she is a partner, a company of which he/she is a remunerated director, or a body of the description in sub-paragraph (d).

Executive Directors and Heads of Service must register their financial interests or subsequent changes by writing to the Council's Monitoring Officer within 28 days of their appointment or change in their personal position.

All other employees must register any financial interests or subsequent changes in the register maintained by the directorate HR section, within 28 days of their appointment or change in their personal position.

OUTSIDE COMMITMENTS

Employees' off-duty hours are their personal concern but they must not subordinate their duty to their private interests or put themselves in a position where duty and private interests conflict. The Council would not wish to preclude employees unreasonably from undertaking additional work unless that work breaches employment legislation, conflicts with or detrimentally affects the Council's interests or in any way weakens public confidence in the conduct of the Council's business, or in any other way affects their ability to undertake their Council work.

Employees must not engage in any other business or take up any other additional appointment for financial gain without the agreement in advance of their Chief Officer.

If agreement is given employees must be made aware that no outside work of any sort should be undertaken in the workplace, and use of facilities, for example telephones and photocopying for this, is forbidden.

DISCLOSURE OF CRIMINAL CONVICTIONS

Employees are required to disclose to the Council such details as it may require of any criminal conviction, caution or bindover that are received during their employment with the Council. Failure to do so, for whatever reasons, may be regarded as gross misconduct under the Council's Disciplinary Code which could lead to dismissal from the Council's service.

APPOINTMENT OF STAFF AND OTHER EMPLOYMENT RELATED MATTERS

(1) An employee must not be involved in the appointment or any other decision relating to the discipline, promotion, pay or conditions of another employee, or prospective employee, who is a relative or friend.

(2) In this paragraph –

- a) “relative” means a spouse, partner, parent, parent-in-law, son, daughter, step-son, stepdaughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and
- b) “partner” in sub-paragraph (a) above means a member of a couple who live together.

Employees involved in appointments must ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the work. In order to avoid any possible accusation of bias, employees must not be involved in an appointment where they are related to an applicant, or have a personal relationship outside work with them.

Similarly, employees must not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or close friend.

DECISION MAKING

There are vital legal principles which employees must adhere to at all times when making decisions on behalf of the Council. Decisions must be taken in accordance with the terms of the Council’s constitution and its Standing Orders.

Employees must ensure that they use any public funds entrusted to them in a responsible and lawful manner, ensuring value for money to the local community and avoiding legal challenge to the Council.

Employees must have regard to the council’s obligations under the Human Rights Act 1998.

USE OF COUNCIL FACILITIES

Employees must use any equipment or facilities provided by the Council for use in the course of their employment in a proper and responsible manner.

Employees must not make personal use of Council’s property or facilities unless properly authorised to do so.

Employees must adhere to the Council’s Wired Working Policy at all times. Failure to follow the Wired Working Policy will lead to disciplinary action under the Council’s Disciplinary Code.

GIFTS, HOSPITALITY AND SPONSORSHIP – GIVING AND RECEIVING

Corruption

It is a criminal offence for an employee to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour to any person in their official capacity. It is for the employee to demonstrate that any such rewards have not been corruptly obtained.

An employee should notify the Monitoring Officer, Executive Director or other nominated representative, as appropriate, of any offer of any gift or hospitality, whether or not accepted, which a member of the public with knowledge of the relevant facts might reasonably regard as intended to influence his/her discharge of his/her duties.

Employees are required to adhere to the Council's Fraud and Corruption Policy. Failure to do so will lead to disciplinary action under the Council's Disciplinary Procedure.

Receipt of Gifts and Hospitality

An employee must treat with caution any offer, gift, favour or hospitality offered to him/her. Gifts or hospitality shall include any opportunity to acquire goods or services at a price or on terms at which they are not readily available to the public.

Employees should accept offers of hospitality only if there is a genuine need to impart information or to represent the Council in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. It must be properly authorised and recorded.

When hospitality has to be declined the person should be courteously but firmly informed of the procedures and standards operating within the Council.

Employees must not accept personal gifts from contractors and outside suppliers/providers, other than insignificant tokens such as pens or diaries. When considering whether or not to accept hospitality employees must be sensitive to the timing of decisions for letting contracts for which the provider may be bidding, and must never accept hospitality from a contractor during a tendering period.

Acceptance by employees of hospitality whilst in attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the Council gives consent in advance and where the Council is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment are required, employees must ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

Employees must adhere to the Code of Practice for Receipt of Gifts and Hospitality issued by Lewisham Personnel in December 1991, and must ensure that any hospitality received is entered in the Hospitality Register maintained by their directorate HR section.

SPONSORSHIP - GIVING AND RECEIVING

Where an outside organisation wishes to sponsor or is sought to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

Where the authority wishes to sponsor an event or service, neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the Council, through sponsorship, grant aid, financial or other means, gives support in the community, employees must ensure that impartial advice is given and that there is no conflict of interest involved.

A CODE OF CORPORATE GOVERNANCE

A What is a Code of Corporate Governance?

A Code of Corporate Governance might be defined as a statement of the system by which a local authority directs and controls the exercise of its functions and relates to the local community. This definition is founded on that used in the Cadbury Report on the Financial Aspects of Corporate Governance which related to the governance of private companies. However it also recognises the key role of local government in community leadership, by placing emphasis on relationships with local people.

B The Purpose of a Code of Corporate Governance

Aspects of corporate governance find expression in the everyday practices and procedures of a local authority. However an overarching Code of Corporate Governance fulfils the following purposes:-

- It stimulates confidence in the activities of local government, its politicians and employees, and the way it goes about business
- It focuses the minds of those involved in local government on making decisions in a proper way and engaging local stakeholders
- It assists with continuous improvement in the delivery of services, and serves to minimise the authority's exposure to risk.

C Fundamental principles

Cadbury identified three fundamental principles for corporate governance. They are:-

- Openness
- Integrity
- Accountability

These are as relevant in the public sector as the private – possibly more so. These fundamental principles were expanded by the Nolan Committee on Standards in Public Life, and further strengthened as the guiding principles underpinning the statutory model code of conduct for members. These principles are readily accepted by the Council as underpinning all local government activity. They appear as an Appendix to the Council's Member Code of Conduct but are endorsed as applicable to all Council activity. They are:-

- **Selflessness** - members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person
- **Honest and integrity** - members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
- **Objectivity** - members should make decisions on merit, including when making appointments, awarding contract, or recommending individuals for rewards or benefits
- **Accountability** - members should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their particular office
- **Openness** - member should be as open as possible about their actions and should be prepared to give reasons for them
- **Personal Judgement** - members must take account of the views of others (and this may include their political groups) but should reach their own conclusions on the issues before them and act in accordance with those conclusions
- **Respect for Others** - members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, gender, sexual orientation or disability. They should respect the integrity and impartiality of the authority's statutory officers, and its other employees and not do anything to compromise that impartiality
- **Duty to uphold the law** - members should uphold the law and on all occasions act in accordance with the trust that the public is entitled to place in them
- **Stewardship** - members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law
- **Leadership** - members should promote and support these principles by leadership, and by example, and should always act in a way that secures or preserves public confidence.

D The decision making process

Decisions will be taken in accordance with the following:-

- a) the decision will be made following an evaluation of options
- b) the decision maker will take professional advice (including financial and legal advice where the decision may have legal and/or financial consequences)
- c) the decision will be taken following a consideration of all relevant matters and disregarding irrelevancies
- d) reasons for the decision will be recorded as will details of options considered with reasons for their rejection
- e) action taken will be proportionate to the result to be achieved
- f) respect for human rights will be balanced with the Council's duty to the wider community
- g) a presumption in favour of openness, unless there are compelling lawful reasons preventing the consideration of matters in public
- h) consultation appropriate to the matter under consideration
- i) clarity of aims and desired outcomes
- j) the highest standards of ethical conduct, avoiding actual, potential and perceived conflicts of interest
- k) consideration of business by Council members will be on the basis of written reports containing all relevant service, corporate, legal and financial considerations
- l) all executive decisions may be subject to scrutiny by the Overview and Scrutiny Committee in accordance with the Council's constitution
- m) decisions will be taken in accordance with the Council or Mayoral Scheme of Delegation as appropriate, and these schemes will be maintained, kept up to date and made available to the public

E Ethics

1. The Council will maintain and promote a Member Code of Conduct, which complies in all respects with all legal requirements.
2. The Council will maintain an Employee Code of Conduct, which complies with all legal requirements and promotes the highest standards of behaviour among employees.
3. Training will be provided for members and staff on the operation of the Codes of Conduct.
4. The Council will maintain a Members' Register of Interests in accordance with the law, and inform members of their duty to keep it up to date.
5. Key senior staff will be requested to disclose any interests which they have, which if they were a member they would be required to disclose, and a register kept of those interests declared.
6. The Council will maintain a protocol relating to the relationship between members and staff, promoting professional and effective relations between staff and all members, whether members of the Cabinet or overview and scrutiny.
7. The Council will adopt and maintain a whistleblowing policy, which is made widely available, and will report on referrals under it each year.

F Members' roles

1. The Council will document the roles of all members of the authority including the relative roles of the Mayor and Cabinet and non-executive members of the authority. Officers will support all members in the performance of these roles.
2. Members will maintain appropriate schemes of delegation and in particular define those matters reserved for collective decision by the full Council.
3. Members will put in place clearly documented processes for policy development, implementation and review and for decision making, monitoring and control, as well as procedural and financial regulations relating to the conduct of Council business.
4. Members will recognise that although within the Council they may fulfill different roles (for example as scrutineer or member of the political Executive) the Council remains a single corporate entity and can only function effectively if there is an appropriate balance between this corporate

approach and the need to ensure that executive decisions are made appropriately and scrutinised constructively.

5. As required by law, members will put in place the terms of their remuneration and arrangements for review by an Independent Remuneration Panel.
6. Each year the Council will publish details of remuneration paid to each member of the Council.

G Officers' roles

1. The Council will maintain the post of Head of Paid Service (Chief Executive - responsible for the management of the Council's workforce and overall corporate management of the authority) separate from the political executive of the authority.
2. The Council will maintain the post of Chief Finance Officer to advise on the proper administration of the Council's financial affairs, keeping proper financial records and maintaining effective systems of financial control.
3. The Council will maintain the post of Monitoring Officer who will be the person responsible to the authority for ensuring that procedure, legislation and good practice are complied with.
4. The Head of Paid Service, the Monitoring Officer and the Chief Finance Officer shall be entitled to attend any meeting of the Council, the Mayor and Cabinet or any committee.
5. When considering any matter members must have regard to the advice of the Council's statutory officers.
6. All staff will have job descriptions which clearly define their roles, responsibilities and remuneration.
7. Council employees will support and advise all members of the Authority irrespective of whether they are executive or non-executive members.

H Accountability and Community Focus

1. The Council will record its decisions in writing and make those written records and the reasons for a decision available to the public.
2. All decisions made by the Mayor or delegated by him will be available for scrutiny by the overview and scrutiny committee in accordance with the Council's constitution.

3. The Mayor, members of the Cabinet and Executive Directors may be required to give account for their performance to the relevant overview and scrutiny committee.
4. The Council will publish annual performance targets in its Best Value Performance Plan and report on performance against those targets annually.
5. The Council will adopt a performance management framework to analyse key performance indicators and make information about performance against those indicators publicly available periodically.
6. The Council will put in place mechanisms to encourage participation in the affairs of the Council by individuals and groups from a broad cross section of the community, and will monitor their effectiveness.
7. In consultation with the local community will develop a vision for the local community and other stakeholders and will ensure that that vision is expressed clearly and publicised.
8. The Council will co-operate fully with external inspectors and respond positively to their findings, making arrangements to implement agreed actions effectively.

I Financial matters

- In addition to those financial matters raised elsewhere in this [draft]
- code, the Council will:-
 - put in place a process by which resources are allocated to priorities
 - adopt a financial reporting process to ensure that members receive financial monitoring reports at appropriate intervals
 - maintain an objective and professional relationship with external auditors
 - publish an annual statement of accounts in a timely manner

J Risk Management

1. The Council will put in place a robust system for identifying and evaluating significant risks to the authority
2. The Council will put in place effective risk management systems, including systems of internal control as well as effective arrangements for an objective review of risk management and internal control

3. Annually the Council will publish an objective balanced and understandable statement and assessment of the authority's risk management mechanisms and their effectiveness.

K Review

The Council will monitor compliance with this Code annually. The Head of Paid Service, Chief Finance Officer and the Monitoring Officer will present a joint report to the Standards Committee on the extent of compliance, and the Council's annual statement of accounts will contain a statement explaining the extent of compliance. The officers will also present any proposals for amendment to the Code for consideration.

PART VI

MEMBERS' ALLOWANCE SCHEME



MEMBERS' ALLOWANCES

***Scheme for Basic and Special
Responsibility Allowances
(2008)***

Chief Executive
1 April 2008
(Amended by Council 26 July 2006)



Produced by
GOVERNANCE SUPPORT

LONDON BOROUGH OF LEWISHAM**SCHEME FOR BASIC AND SPECIAL
RESPONSIBILITY ALLOWANCES**1. General

Allowances may only be paid for duties specified in the Local Authorities (Members' Allowances)(England) Regulations 2003, which have been made in part under Section 18 of the Local Government and Housing Act 1989.

Provision is made for the following allowances:-

(a) allowances which are both to meet expenses and to provide remuneration

(i) **basic allowance**

(ii) **special responsibility allowance**

(b) allowances solely to meet expenses incurred

travelling and subsistence allowances

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MEMBERS' ALLOWANCES SHOULD GO UP BY LAST YEARS INFLATION –
SHOULD WE JUST INCLUDE HERE?

LONDON BOROUGH OF LEWISHAM

MEMBERS' ALLOWANCES SCHEME

1. This scheme may be cited as the London Borough of Lewisham Members' Allowances Scheme, and shall have effect from 1 April 2008 and subsequent financial years.

2. In this scheme

“councillor” means a member of the London Borough of Lewisham who is a councillor;

“total estimated allowances” means the aggregate of the amounts estimated by the Executive Director for Resources, at the time when a payment of basic allowance or special responsibility allowance is made, to be payable under this scheme in relation to the relevant year, and for this purpose any election under paragraph 6 shall be disregarded;

“year” means the 12 months ending with 31 March.

3. **Basic Allowance**

Subject to paragraph 7, for each year a basic allowance shall be paid to each councillor. For the period commencing 1 April 2008 to 31 March 2009 this allowance is £9,812 per annum. In accordance with the decision of the Council on 30 June 2008 these allowances will be upgraded in April 2009/10 by a percentage equal to the inflation pay award made to JNC officers in the previous year.

4. **Special Responsibility Allowances**

- (1) A special responsibility allowance shall be paid to those councillors who hold the special responsibilities in relation to the authority that are specified in Schedule 1 to this Scheme.
- (2) Subject to paragraph 7, the amount of each such allowance shall be the amount specified against that special responsibility in that schedule.
- (3) Only one special responsibility allowance is payable to a member.

5. **Financial Limits**

Any payment(s) under this scheme is subject to the amounts in respect of basic allowances and special responsibility allowances not exceeding that amount included in the revenue estimates for the relevant year.

6. **Renunciation**

A councillor may by notice in writing given to the Chief Executive elect to forego any part of his/her entitlement to an allowance under this Scheme.

7. **Part-year Entitlements**

- (1) The provisions of this paragraph regulate the entitlements of a councillor to basic and special responsibility allowances where, in the course of a year, this Scheme is amended or that councillor becomes, or ceases to be, a councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.
- (2) For councillors who join or leave the authority part way through a financial year, or who take-up or relinquish special responsibilities in the course of the year, their entitlements are to be the appropriate proportion of the full-year entitlement. Likewise, if the Scheme is amended in the course of the financial year, the entitlements for basic and special responsibility allowances are to be the appropriate proportions of the full-year entitlements for the periods before and after the amendment comes into effect.

8. **Subsistence Allowances**

These allowances may be paid only in respect of an 'approved duty' if it involves an absence from home exceeding four hours and expenses on subsistence is necessarily incurred in connection with that duty. **It follows that a member must have incurred expense before a claim can be made and a receipt should accompany the claim.**

8.1 **Day Subsistence**

A flat rate allowance of £5.20 is payable.

If the Council provides a meal for a member, the cost of the meal:-

- (a) will be deducted from any subsistence allowance payable to the member; or
- (b) will be charged at the time if no subsistence allowance is payable to the member.

8.2 **Overnight Subsistence**

In the case of an absence overnight from home the rate is £79.82.

9. **Travel Allowance**

The Office of the Deputy Prime Minister lays down the maximum rates and conditions of payment to members when using either public transport, their own private car, a taxi or a hired car for an approved duty. However, the Council has agreed that a flat rate mileage allowance of 36p per mile be paid when members use their private car for those 'approved duties' set out in Schedule 2.

It is expected that members will always use public transport if possible. The conditions and rates of travelling allowance for the use of private vehicles, hire cars and taxis are set out in detail in Appendix A. **Receipts should be provided to support claims.**

Members are advised to ensure that their personal car insurance covers them for Council business use if they use their vehicle to travel to approved duties.

First class fares are payable for travel by public transport where more than one class of fare is available.

The Council cannot provide official transport for members except when they accompany officers, or where it is considered reasonable and economic to do so for a group of members travelling together.

10. **Carer's Allowance**

A carer's allowance is payable to elected members and voting and non-voting co-opted members for the duties specified in the list of approved duties as follows:-

- (i) childcare by a qualified childcare worker provided by the Margaret Sandra Nursery at actual cost; and

- (ii) care arranged by members on an 'ad-hoc' basis at the rate of £5.35 per hour, plus travelling expenses.

Claims should be made on the appropriate forms which are available from the Head of Committee Business at the appropriate meeting, or the Members' Room.

11. **Telephone Charges**

Every member will be supplied with an ASDL telephone line which can be used exclusively for enquiries by constituents and for Council business, if this is the case the cost of this line will be paid in full by the Council. However, if you do not wish to take advantage of this you will be reimbursed the cost of the basic rental charge for the telephone at your home address, plus the VAT on the basic rental charge. In this case an additional payment of £50 per annum will be made to each member as a contribution towards the cost of telephone calls. An amount of £12.50 will be added to each claim for payment of a quarterly telephone rental charge.

Claims should be made on a quarterly basis on the appropriate forms which are available in the Members' Room. Claims for more than one quarter will not be paid.

12. **National Insurance Contributions/Statutory Record and Statutory Sick Pay (SSP)**

The Social Security Act 1973 requires national insurance contributions to be paid on allowances, provided the amounts reach the lower earnings limit, regardless of the fact that members may also be contributing by reason of their normal employment. Under the Act, each employment or office is to be considered separately for contribution purposes.

The lower earnings limit in 2006/07 is £364 in any one month. National insurance contributions will be payable if the allowances due to a member in respect of any one month reaches this figure.

The Social Security Act 1973 makes provision for the deduction of national insurance contributions to be related to the 'income tax year', hence the reference to the term 'tax week'. In each year commencing 6 April it is necessary to analyse claims made; to allocate payments for each duty to the tax week in which it occurred; and to aggregate all such payments for each week in order to apply the weekly earnings rule.

For further details see Appendix B.

13. **Tax and Benefits**

A rough guide to the rules in respect of social security benefits and income taxation is set out in Appendix C. It explains which allowances are taxable and how being a councillor can affect the benefits which you or your partner claim.

The information contained in the Appendix has been abbreviated and if you require further detailed information please contact the Head of Business and Committee on extension 49327.

14. **Claims for Allowances**

A claim for travel and subsistence allowances under this scheme shall be made in writing within six months of the date of the meeting in respect of which the entitlement to the allowance arises. Therefore any claims which relate to an attendance at a meeting which is not held within the preceding six months will not be paid. Any claim shall be made monthly in arrears and on the official forms. A simple form for claims for travel and subsistence is used and a supply is available in the Members' Room.

Responsibility for inserting details of any 'approved duty' during the period in question rests with individual members. Every claim shall include a statement that the member is not entitled to receive remuneration in respect of the matter to which the claim relates otherwise than under the Scheme.

Any claims received shall be subject to a check to ensure they fall within the list of Approved Duties. Any regarded as not admissible will be deleted and members will be informed.

Completed forms should be submitted to the Head of Committee Business, Governance Support, who will deal with any queries a member may wish to raise.

15. **Payments in respect of Basic and Special Responsibility Allowances**

Payments in respect of basic and special responsibility allowances shall be made in instalments of one-twelfth of the amount specified in this Scheme on the 18th day of each month.

Members should retain this document and the accompanying lists so that reference may be made to them when preparing claims.

16. **Register of Allowances**

Particulars of all allowances paid to, or on behalf of, a member have by law to be entered in a Register which is open to inspection by any elector for the Borough. This register is maintained by the Head of Business and Committee, Governance Support. Furthermore, the Council is required to publish details of the allowances scheme and to publish after the year end the total sum paid under the scheme to each member in respect of each of the allowances paid i.e. basic and special responsibility allowances.

17. **Local Government Pension Scheme**

All members of the Council under the age of 75 years are entitled to admission to the Local Government Pension Scheme without any qualifying period, and both basic and special responsibility allowances will be counted as pensionable pay.

Lewisham Town Hall
Catford
SE6 4RU
April 2008

Barry Quirk
Chief Executive

SCHEDULE 1**SPECIAL RESPONSIBILITY ALLOWANCES**

1. The following are specified as the special responsibilities in respect of which special responsibility allowances are payable, and the amounts of those allowances:

	£
Mayor	67,910
Deputy Mayor	40,600
All other Executive members	15,298
Chair of Council	6,130
Chair of Overview & Scrutiny Committee	12,260
Chairs of Overview & Scrutiny Select Committees	6,130
Chairs of Planning Committees (3)	6,130
Chair of Licensing Committees	6,130
Leaders of Political Groups with 15 or more members	5,275
Leaders of Political Groups with less than 15 members	3,165
Co-optees on the Council's Standards Committee, Audit Panel and parent governors and diocesan representatives who sit on the Overview & Scrutiny Education Business Panel and the Children and Young People Select Committee	577

SCHEDULE 2

APPROVED DUTIES

The activities set out are 'approved duty' for the purposes of payment of travel and subsistence allowances.

Ackroyd Community Centre Management Committee

Adoption and Permanency Panel

Adult Strategic Partnership Board

Age Concern Lewisham

Age Exchange Reminiscence Theatre

Albany 2001 Council of Management

Appointments Committee

Audit Panel

Beckenham Place Park Working Party

Blackheath Concert Halls - Board of Management

Blackheath Joint Working Party

Children & Young People Select Committee

Children and Young People Stakeholders Forum

Community Operations Service for Mental Health

Constitution Working Party

Corporate Parenting Group

Council Meeting

Council Urgency Committee

Elections Committee

Forest Hill and Sydenham Voluntary Service Association

Greater London Enterprise

Greater London Provincial Council

Green Chain Joint Committee

Groundwork South East London

Healthier Communities Select Committee

Health and Safety Committee

Housing Joint Partnership Board

Housing Select Committee (time limited)

Ladywell Centre

Lewisham Citizen's Advice Bureau Management Committee

Lewisham Disability Coalition

Lewisham Education Partnership Board

Lewisham Environment Trust

Lewisham Health Partnership

Lewisham Homes Board

Lewisham Local History Council/Society

Lewisham Park Housing Association

Lewisham Pensioner's Forum Management Committee

Lewisham Community/Police Consultative Group

Lewisham Schools for the Future Holdings Ltd. (HOLDCO)

Lewisham Schools for the Future SPV Ltd.

Licensing Committee

Licensing (Supplementary) Committee

Local Authorities Action for South Africa - National Steering Committee

Local Government Association - General Assembly

Local Government Association - High Ethnicity Authorities Special Interest Group

Local Strategic Partnership

London Accident Prevention Council

London Councils

- (i) Leader's Committee
- (ii) Culture & Tourism and 2012 Forum
- (iii) Children Young People and Families
- (iv) Transport & Environment Committee
- (v) Economic Development Forum
- (vi) Housing Panel
- (vii) Health & Social Care Forum
- (viii) Community Safety & Policing Forum
- (ix) Grants Committee

London Youth Games

Marsha Phoenix Memorial Trust

Mayor and Cabinet

Mayor and Cabinet (Contracts)

New Deal for Communities Board

Overview & Scrutiny Committee

Overview & Scrutiny Business Panel

Overview & Scrutiny (Education) Business Panel

Overview & Scrutiny Sub-Committee(s)

Pensions Investment Committee

Phoenix Community Housing Association

Planning Committee (A)

Planning Committee (B)

Planning Committee (C)

Public Accounts Select Committee

Race Equality Action Lewisham

Race Equality Action for Lewisham Management Committee

SACRE

Safer & Stronger Communities Select Committee

Silwood SRB Management Board

Social Services (Access to Personal Files) Panel

Social Services Complaints and Representations Panel

South East Enterprise Ltd.

South East London Combined Heat and Power (SELCHP) Board

South East London Transport Strategy Group

South East London Waste Disposal Group

Standing Advisory Council on Religious Education

St Mary's Centre Management Committee

Strategic Planning Committee

Standards Committee

Sustainable Development Select Committee

Thames Gateway London Partnership

Urban Renaissance in Lewisham SEB Board

Voluntary Action Lewisham

Wide Horizons Education Trust

Works Council

TRAVEL ALLOWANCE - CONDITIONS AND RATES

1. Mileage

- 1.1 The mileage to be paid for is from home (i.e. the normal place of residence) to the place where the approved duty takes places; and the return journey home.
- 1.2 If a member travels to the approved duty from another place (e.g. their place of work), this mileage can be paid for, provided it is less than it would be from home.
- 1.3 Exceptionally, if the member travels to the place of the duty from a place other than home and necessarily returns to the same place after the duty, the actual mileage for both journeys can be paid.
- 1.4 Again exceptionally, if the cost of the fare by public transport between the other place of the duty is greater than the cost to the member would have been in travelling to and from home, the cost can be paid.

2. Taxis

- 2.1 Taxi fares to allow women members travelling late at night from an 'approved duty' will be reimbursed. Otherwise taxis should not be taken when public transport is available.
- 2.2 If a taxi is used the fare will have to be paid at the time and a claim submitted to the Head of Committee Business giving details of the journey and the approved duty involved. Members are reminded that waiting time is charged for and should consider whether it will be cheaper to pay on arrival and re-hire for the return journey.

3. Self-Drive Hire Cars

The rate payable is the same as that payable for the use of a member's private car.

4. Rates

The rates per mile payable for travel by private car or motor cycle are:-

4.1 Motor Cycles

- | | | |
|-----|------------------------------|-------|
| (a) | Solo M/C not exceeding 150cc | 7.3p |
| (b) | Solo M/C from 151-500cc | 10.7p |
| (c) | Over 500cc | 14.5p |

(Note: the cc is shown in the Vehicle Licensing Document)

4.2 Motor Cars

A flat rate of 35 p per mile is payable.

4.3 Passengers

An additional 1.0p per mile may be paid for each passenger to whom travel allowance would otherwise be payable, up to 4 passengers.

4.4 Tolls, Ferries or Parking Fees

The actual cost may be paid.

APPENDIX B**NATIONAL INSURANCE CONTRIBUTIONS**
STATUTORY RECORD AND STATUTORY SICK PAY (SSP)

1. The Social Security Act 1973 requires national insurance contributions to be paid on attendance allowances, provided the amounts reach the lower earning limit, regardless of the fact that members may also be contributing by reason of their normal employment. Under the Act, each employment or office is to be considered separately for contribution purposes.
2. The lower earnings limit in 2006/07 is £364 when paid monthly. National insurance contributions will be payable if the attendance allowance due to a member in respect of any one tax week (month) reaches this figure. The Social Security Act 1973 makes provision for the deduction of national insurance contributions to be related to the 'income tax year' hence the reference to the term 'tax week'. In each year commencing 6 April it is necessary to analyse claims made, to allocate payments for each duty to the tax week in which it occurred and to aggregate all such payments for each week in order to apply the weekly earnings rule.
3. Where liability arises, Primary Class 1 contributions will be payable by the member at the rate of 11% and secondary Class 1 contributions by the Council at the rate of 12.8% above the earnings limit.
4. Members in the following groups are not liable to pay any contributions:-
 - (1) Men over age 65, and women over age 60 who have retired for National Insurance purposes.
 - (2) Men over age 65 and women over age 60 who have not retired for National Insurance purposes, and at age 65(60) did not qualify for retirement pension on their own contributions.
5. A certificate of non-liability (for persons making no contributions) must be obtained from the Department of Social Security at 9-19 Rushey Green or 110-114 Norman Road, SE10 and lodged with the Council. In the absence of such a certificate the primary deductions have to be made from members allowances at the standard rate of 11% until a certificate is produced, otherwise the Council could be held responsible for any deficiency in contributions. It is important that members who can claim 'non-liability' should apply to the Department of Social Security for the appropriate certificate for submission to the Council.

6. The Social Security Act 1973 requires the Council to keep records of National Insurance contributions showing members' National Insurance numbers and it is necessary to know in which cases reduced contributions or exemption from contributions apply. It has been agreed that such information as is required in this respect should be given to the Executive Director for Resources .
7. Part 1 of the Social Security and Housing Benefits Act 1982 introduced with effect from 6 April 1983 the Government's scheme called Employer's Statutory Sick Pay (SSP). The definition of 'employee' in relation to SSP includes Councillors insofar as they receive basic allowance and special responsibility allowance, all of which attract liability for National Insurance contributions. Accordingly, for the purposes only of SSP, Councillors are deemed 'employees' of their local authority.

APPENDIX C**TAX AND BENEFITS**

Most of the allowances you receive as a councillor count as 'earnings' or 'remuneration' for both tax and social security purposes. You should therefore declare this income on your tax return and to any office where you claim benefits.

The system of allowances introduced in April 1991, particularly the basic allowance, has affected how your payments as a councillor are calculated for tax and benefit purposes.

Payments from the Council that are taxable

The following allowances are taxable:

- ◆ the **basic flat rate allowance** paid to all councillors;
- ◆ **special responsibility allowances**, e.g. for the Mayor, Deputy Mayor, Deputies and the Chair of the Assembly

These allowances are taxable because the Inland Revenue considers they are primarily to provide remuneration for duties undertaken, even if they include an amount to cover some expenses. If you choose not to accept any of the above allowances, there will be no liability for income tax but your social security benefits may still be affected.

All the above allowances are treated as a form of remuneration known as 'emoluments'. An emolument includes all salaries, wages, fees, perquisites or profits from your office or employment. Emoluments are taxable under Schedule E and you must also pay Class 1 national insurance contributions in any week when their value exceeds the national insurance threshold. In most cases, the council will deduct income tax and national insurance from your allowances through the PAYE scheme before you receive them.

Benefits in kind

The Council provides members WITH EQUIPMENT, SUCH AS ANSWER MACHINES OR COMPUTERS TO USE OUTSIDE THE COUNCIL OFFICES. These are classed as taxable 'perks', equivalent to company cars. However, you will not have to pay tax on them if your total annual income from the council (including the value of these benefits) is less than £8500; the Council requires you only to use the facility or equipment for Council business. Reimbursement of telephone rental also comes into this category.

Calculating Net Income

In calculating how much of your income from any of these allowances is taxable, you are allowed to offset some expenses which have not already been reimbursed by the Council. You must show that the expenses have been wholly, exclusively and necessarily incurred in the performance of your duties. It is therefore very important for you to keep receipts and invoices and some kind of running account of what you spend. It is worth keeping a monthly record of all your expenditure showing which costs were and were not reimbursed by the Council. You then have a basis for proving to the Inland Revenue how much you have spent on necessary expenses which have not been reimbursed.

Expenses for political purposes such as electioneering or campaign meetings cannot be offset against taxable income. In addition, if you choose to pay for items such as stationery or photocopying when you could have used Council facilities free of charge, you cannot deduct these expenses when calculating your income tax.

Payments which are not taxable

The following payments and allowances are usually not taxable:

- ◆ **travel allowances** reimbursement of expenditure on travel (eg public transport or taxis) should not be taxable. Whether you will have to pay tax on a mileage allowance will depend on the reason for the journey and the mileage rate paid. The Inland Revenue publishes tax free mileage rates, related to engine size each year and broadly speaking, only payments in excess of these rates will be treated as 'profit' and will therefore usually be taxable.

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- ◆ **subsistence allowances** day subsistence allowances are not taxable unless they cover attendance at the offices where the council's meetings or committees normally take place.

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Self assessment for income tax

Self assessment is a new system, brought in during 1997/98, for informing the Inland Revenue about your annual income and working out how much tax you have to pay.

Self assessment makes it more important than ever for councillors to:

- ◆ keep detailed records of all their income and expenditure for at least two years (six years, if they have any self employed earnings);

- ◆ tell the Inland Revenue about all forms of income received even if they think it might not be taxable;
- ◆ return the self assessment form by the deadline that means the Inland Revenue will calculate how much tax they have to pay. Otherwise they will have to work it out for themselves which could be very complicated and could result in being asked to pay money back or being accused of fraudulently paying too little;
- ◆ ensure they get a Form P11D which provides information on all taxable payments from the Council, which have not gone through PAYE, in the previous year.

Income tax for councillors on benefits

If your only income comes from members' allowances and any of the benefits listed below in column B, you will have to pay income tax if your taxable income from the Council is above your personal tax allowance.

A. Benefits which are taxable

Industrial Death Benefit
Invalid Care Allowance
Retirement Pension
Widowed Mother's Allowance
Widow's Pension
Contributory Job Seeker's Allowance
Means-tested Job Seeker's Allowance
Statutory Sick Pay
Statutory Maternity Pay
Incapacity Benefit after 28 weeks

B. Benefits which are tax-free

Disability Living Allowance
DSS Attendance Allowance
Child Benefit/One Parent Benefit
Family Credit
Housing Benefit and Council Tax Benefit
Income Support
Maternity Allowance
Incapacity Benefit (first 28 weeks)
Severe Disablement Allowance
Disability Working Allowance
Industrial Disablement Benefit and
Reduced Earnings Allowance

Claimants who paid no tax before becoming a councillor

If you were getting one of the taxable benefits (column A) before becoming a councillor, you were probably paying no income tax. This is because the annual value of your benefit was less than your tax allowance. However, once you become a councillor the value of your taxable allowances will be added to your taxable benefits. This will usually take your income into tax.

Claimants who were paying tax on their benefits before becoming a councillor

If you have other taxable income, such as an occupational pension or part-time earnings, as well as any of the benefits in column A, you would probably have been paying tax each year, whether or not you were a councillor.

If you were paying income tax before becoming a councillor, any taxable payments you receive from the council will simply increase your income tax bill for the year. Depending on your total taxable income, the extra income from the council may take you into a higher tax bracket. For example, if you were only paying 10p in the pound in tax before becoming a councillor, you may find that you have to pay 23p on some of the extra income.

Liability for National Insurance contributions

Women under 60 and men under 65 must pay a Class 1 National Insurance contribution if their income from allowances is above the weekly national insurance threshold. This is called the national insurance lower earnings limit and in 2006/07 is £364 per month. Members will have national insurance deducted if the payment exceeds the monthly national insurance threshold. National Insurance, like income tax, is deducted through PAYE.

SOCIAL SECURITY BENEFITS

Benefits unaffected by councillors duties or allowances

The following benefits should be unaffected by being a councillor or by any payments you receive for undertaking your duties:

- ♦ child benefit and one parent benefit
- ♦ retirement or widow's pension
- ♦ disability living allowance or DSS attendance allowance
- ♦ industrial disablement or war disablement benefit paid because you have been assessed as having a percentage disability

If you receive a married woman's retirement pension or if your partner claims benefits which include an amount for you as their dependant, these benefits can be affected by your members allowances.

Occupational pensions

Many councillors get an occupational or works pension. These pensions are not social security benefits but arranged by your previous employer. They are private schemes and each will have slightly different terms and conditions. Councillors who receive one

of these pensions will need to find out what the terms are for their particular scheme and whether their income from the Council will affect their pension rights.

Claiming benefits - the basic rules

The following rules apply if:

- ◆ you claim any benefit, other than those listed above, or
- ◆ your partner claims a means-tested benefit, or
- ◆ your partner claims an extra amount of retirement pension, incapacity benefit, severe disablement allowance, maternity allowance or invalid care allowance for you as his or her dependant.

You must notify the office from which you receive the benefits that you are an elected councillor. If your partner claims a means-tested benefit or claims for you as his or her dependant, he or she must also tell the relevant benefit offices about your council duties.

Choosing not to accept members' allowances

Some members think that if they refuse to accept their allowances, this will mean their benefits will not be affected. This is not true. In most cases, the social security rules take into account any income that is available to you, even if you choose not to take advantage of it. This applies to benefits, such as incapacity benefit as well as to means-tested benefits like income support. Even if you decide not to accept your members allowances, the Benefit Agency or the housing benefit/council tax benefit department can treat you as though you had been paid and cut your benefit accordingly.

Providing accurate and up to date information

As an elected councillor, you are expected to act more responsibly and with more probity than the average citizen so it is doubly important that you keep the benefit office(s) informed. If you provide incorrect information or do not tell the benefit office everything about your circumstances, you may receive more benefit than you are entitled to.

Unemployed councillors

Since 7 October 1996, people who become unemployed claim job seekers allowance (JSA). There are two components to JSA:

◆ contributory JSA for up to six months if you have paid enough national insurance contributions

◆ means-tested JSA (which is similar to income support) instead or on top of contributory JSA, if your income and capital are low enough.

There are two ways in which being a councillor can affect your right to claim:

◆ the Employment Service may decide your council duties interfere with your job search or you have put too many restrictions on the jobs or the hours you would take because of being a councillor. If so, you may be disqualified from signing on

◆ your JSA may be reduced or you may lose benefit altogether in weeks when your net income from the council is more than £5.

It is important not to give the impression that your council duties are restricting either the time you spend seeking work or the kind of paid work you would be prepared to take.

This ought not to be a problem for backbench members. However, you may have more difficulty once you take on extra responsibilities, such as being Chair of a committee, Deputy Leader or Leader. If the Employment Service decides that your work as a councillor is affecting your job search they could have you disqualified from benefit.

The information contained in this guide has been necessarily abbreviated. If you would like further detailed information, please contact the Head of Business and Committee on extension 49327.

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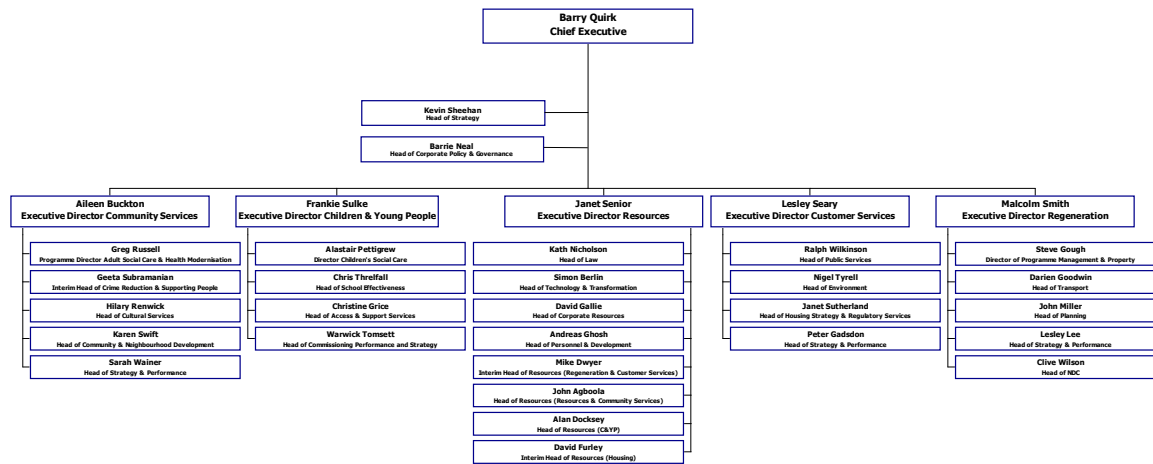
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PART VII

COUNCIL STRUCTURE CHART

Lewisham's Organisational Arrangements



PART VIII

COUNCIL & MAYORAL SCHEME OF DELEGATION

Schedule of Delegation to Officers in Relation to Non-executive Planning and Highways Matters

Delegated Functions:

To the Executive Director for Regeneration or such officers as he/she may nominate

Authority to deal with all town and country planning, development control, high hedges and highway and road traffic functions under all existing and future relevant legislation, and as amended from time to time, including (without limitation) the Acts set out in the Schedule below, save for those local choice functions reserved to the Executive and those matters reserved to the planning committees A, B or C or the strategic planning committee. This includes by way of example but not limitation: -

- Determining applications, (or declining to determine applications where applicable), for planning permission, advertisement consent, listed buildings and conservation area consent, certificates of lawfulness or lawful development, works to trees, hazardous substances, environmental impact assessment screening and scoping opinions, decisions in respect of the prior approval procedure for telecommunication development.
- Issuing planning contravention notices, breach of condition notices, enforcement notices, stop notices, temporary stop notices, untidy land notices and other similar notices and questionnaires
- Making and confirming tree preservation orders and enforcing their provisions
- Taking action in relation to unauthorised advertisements, placards or posters
- Entering into agreements to regulate the development or use of land (including the approval of the detailed terms for inclusion in such agreements whether the agreement is to be entered into under delegated authority or following a resolution of members)
- Approving the details of conditions to be imposed on planning permissions (whether the permission is to be granted under delegated authority or following resolution to grant by members)

- Utilising the powers contained within planning, high hedges and highways legislation to gain entry to premises for the purpose of carrying out surveys and establishing whether there has been a breach of legislation including applying to the magistrates' court for a warrant of entry
- Carrying out any other regulatory enforcement functions contained in town and country planning, high hedges, road traffic or highways legislation in force from time to time
- Authorising the Head of Law to take any legal action which may be appropriate which relates to any function of the Executive Director including the taking or defending of legal proceedings and entering into legal agreements as may be required
- Creating, diverting and stopping up footpaths, highways and bridleways
- The making and enforcement of road traffic regulation and highways orders
- Dealing with applications for street works licences
- Exercise of non-executive powers under local legislation (including without limitation, names of streets under Sections 5 and 6 London Building Acts (Amendment) Act 1939)
- Exercise of powers under Part 8 of the Anti-social Behaviour Act 2003 in relation to high hedges

Schedule (non-exhaustive) of relevant statutes (in so far as they relate to non-executive highways and planning matters)

- Planning and Compulsory Purchase Act 2004
- Anti-Social Behaviour Act 2003, Part 8
- Town & Country Planning Act 1990,
- Planning & Compensation Act 1991,
- Planning (Listed Buildings & Conservation Areas) Act 1990,
- Planning (Consequential Provisions) Act 1990,
- Planning (Hazardous Substances) Act 1990
- Caravan Sites and Control of Development Act 1960,
- Ancient Monuments & Archaeological Areas Act 1979,
- Local Land Charges Act 1975,
- Noise and Statutory Nuisance Act 1993,
- Environmental Protection Act 1990,
- Environment Act 1995,
- Local Government (Miscellaneous Provisions) Act 1976,
- London Building Acts 1930 to 1978,
- Building Act 1984,
- Greater London Council (General Powers) Act 1982,
- Highways Act 1980,
- New Roads and Street Works Act 1991
- Cycle Tracks Act 1984,
- Road Traffic Acts 1972, 1988 and 1991,
- Road Traffic Regulation Act 1984,
- Road Traffic (Temporary Restrictions) Act 1991,
- Transport and Works Act 1992,
- Road Traffic Regulation (Special Events) Act 1994,
- Greater London Authority Acts 1999,
- Local Government Planning and Land Act 1980,
- Transport Act 2000,
- Countryside and Rights of Way Act 2000
- Wildlife and Countryside Act 1987
- Housing Act 1981
- And all other relevant legislation in place from time to time

Nothing in this Schedule of Delegation prevents any Planning Committee or the Strategic Planning Committee exercising any function within their terms of reference.

The Committee may from time to time delegate to officers such functions as it considers appropriate.

Matters reserved to planning committees A, B and C and strategic planning committee

Town and country planning and development matters where:

- 1 there are three or more valid planning objections; or
- 2 there is one or more objection from a recognised residents' association or community/amenity group; or
- 3 the application is for development which is not in accordance with the approved development plan documents or other approved planning policies or
- 4 in the opinion of the Council's Head of Planning the matter would be more appropriately dealt with by the relevant committee.

Schedule of Delegation to Officers in Relation to Non-executive Building Control Matters

Delegated Functions:

To the Executive Director for Customer Services or such officers as he/she may nominate:-

Authority to deal with all non-executive building control functions under existing and future relevant legislation, and as amended from time to time, including (without limitation) the Acts set out in the Schedule below, save for those local choice functions reserved to the Executive and those matters reserved to the planning committees A, B or C or the strategic planning committee. This includes by way of example but not limitation: -

- Determining applications, (or declining to determine applications where applicable), for building control approval.
- Issuing enforcement notices, and other similar notices and questionnaires
- Issuing notices and orders in relation to building control
- Using the powers contained within legislation to gain entry to premises for the purpose of carrying out surveys and establishing whether there has been a breach of legislation including applying to the magistrates' court for a warrant of entry
- Carrying out any other regulatory enforcement functions and building control contained in legislation in force from time to time
- Authorising the Head of Law to take any legal action which may be appropriate which relates to any function of the Executive Director including the taking or defending of legal proceedings and entering into legal agreements as may be required
- Removal of nuisance deposits on the highway
- Dealing with applications for street works licences

Schedule (non-exhaustive) of relevant statutes (in so far as they relate to non-executive building control matters:

- Noise and Statutory Nuisance Act 1993,
- Environment Act 1995,
- London Building Acts 1930 to 1978,
- Greater London Council (General Powers) Act 1982
- Local Government (Miscellaneous Provisions) Act 1976,
- Building Act 1984,
- Local Government Planning and Land Act 1980,
- Housing Act 1981
- Greater London Authority Act 1999,
- Countryside and Rights of Way Act 2000
- Wildlife and Countryside Act 1987
- And all other relevant legislation in place from time to time

Nothing in this Schedule of Delegation prevents any Planning Committee or the Strategic Planning Committee exercising any function within their terms of reference.

The Committee may from time to time delegate to officers such functions as it considers appropriate.

Matters reserved to planning committees A, B and C and strategic planning committee

Building control matters where:

1. there is one or more objection from a recognised resident's association or community/amenity group; or
2. in the opinion of the Council's Head of Housing Strategy & Regulation the matter would be more appropriately dealt with by the relevant committee

**Schedule of Delegation
From Licensing (Supplementary) Committee**

Delegated Function

- 1 To the Executive Director for Customer Services or such officer as he/she may nominate:-

Authority to exercise all of the Council's licensing and registration functions under all existing and future relevant legislation, and as amended from time to time, including (without limitation) the Acts set out in the Schedule below, save for those local choice functions reserved to the Executive and those matters reserved to the Licensing Committee and save for any licensing functions under the Licensing Act 2003. This includes by way of example but not limitation: -

Schedule (non-exhaustive) of relevant statutes

- Animal Boarding Establishments 1963
- Betting, Gaming and Lotteries Act 1963
- Breeding of Dogs Act 1973
- Breeding and Sale of Dogs (Welfare) Act 1999
- Children and Young Persons Act 1933
- Consumer Protection Act 1987
- Customs and Inland Revenue Act 1883
- Dangerous Wild Animals Act 1976
- Fire Precautions Act 1971
- Fire Safety and Safety of Places of Sport Act 1987
- Explosive Act 1875
- Food Safety Act 1990
- Game Act 1831
- Game Licences Act 1860
- Gaming Act 1968
- Greater London (General Powers) Act 1976
- Hypnotism Act 1952
- London Government Act 1963
- Local Government Acts 1985 and 1972
- Local Government (Miscellaneous Provisions) Acts 1976 and 1982

- London Local Authorities Acts 1990, 1991, 1994, 1995 and 2000
- Lotteries and Amusements Act 1976
- Marriage Act 1949
- Nurses Agencies Act 1957
- Pet Animals Act 1951
- Poisons Act 1972
- Public Health Acts Amendment Act 1907
- Rag, Flock and Other Filling Materials Act 1951
- Riding Establishments Act 1964
- Safety of Sports Grounds Act 1975
- Scrap Metal Dealers Act 1964
- Slaughterhouses Act 1974
- Theatres Act 1968
- Town Police Clauses Act 1847
- Weights and Measures Act 1985
- Zoo Licensing Act 1981
- and all relevant legislation in place from time to time

2 To the Executive Director for Regeneration or such officer as he/she may nominate

Authority to exercise all of the Council's licensing and registration functions under existing and future relevant legislation, and as amended from time to time, including (without limitation) the Acts set out in the Schedule below, save for those local choice functions reserved to the Executive and those matters reserved to the licensing committee and save for any licensing functions under the Licensing Act 2003, which are delegated to the Executive Director for Regeneration. This includes by way of example but not limitation: -

Schedule (non-exhaustive) of relevant statutes

- Caravan Site and Control of Development Act 1960
- Highways Act 1980
- and all relevant legislation in place from time to time

Nothing in this schedule prevents the Licensing (Supplementary) Committee exercising functions within their terms of reference.

The Committee may also from time to time delegate such functions to officers as it considers appropriate.

Record of Delegations

The Executive Director for Customer Services and the Executive Director for Regeneration shall maintain an up to date list of all delegations made to other officers from time to time and a copy shall be provided to the Proper Officer.

Matters reserved to Licensing (Supplementary) Committee

- 1 Determination of any appeals against a decision made by the authorised officers under powers delegated to them to refuse or revoke licences, permits or registration.
- 2 Determination of any opposed applications for licences, permits or registration.
- 3 The review and determination of the charges to be imposed in respect of the licensing function.
- 4 where the chair or vice chair of the committee indicates that the nature or circumstances of the matter are such that the matter should be determined by the committee

Delegated Function

Nothing in this schedule prevents the Licensing (Supplementary) Committee exercising functions within their terms of reference.

The Committee may also from time to time delegate such functions to officers as it considers appropriate.

Schedule of Delegation to Officers by Licensing Committee

Delegated Function

To the Executive Director for Customer Services or such officer as he/she may nominate authority to exercise all of the Council's licensing functions under the Licensing Act 2003, as amended from time to time, save for those matters reserved to the Licensing Committee or sub-committees

The functions to be reserved to the Licensing Committee, sub-committees and those to be delegated to officers are as follows:

Matter to be dealt with	Licensing Committee	Licensing Sub-Committee	Officers
Application for Personal Licence	Any matter which the Head of Regulatory Services considers to be more appropriate for consideration by the main Committee	If a police objection	If no objection made
Application for Personal Licence with unspent convictions	Ditto	All cases	
Application for Premises Licence / Club Premises Certificate	Ditto	If a relevant representation made	If no relevant representation made
Application for Provisional Statement	Ditto	If a relevant representation made	If no relevant representation made
Application to vary Premises Licence / Club Premises Certificate	ditto	If a relevant representation made	If no relevant representation made
Application to vary Designated Premises Supervisor	Ditto	If a police objection	All other cases

Request to be removed as Designated Premises Supervisor	Ditto		All cases
Application for transfer of Premises Licence	Ditto	If a police objection	All other cases
Application for Interim Authorities	Ditto	If a police objection	All other cases
Application to review Premises Licence / Club Premises Certificate	Ditto	All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc	Ditto		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	ditto	All cases	
Determination of a police objection to a Temporary Event Notice	Ditto	All cases	

Nothing in this Scheme of Delegation shall prevent the Licensing Committee from exercising functions within its terms of reference.

The Committee may also from time to time delegate such functions to officers as it considers appropriate

Schedule of delegation to officers in relation to the functions of the Elections Committee

Delegated Functions

To the Chief Executive, Proper Officer or such officers as he/she may nominate, authority to deal with all arrangements in connection with Electoral Registration and Elections and all responsibility under existing and future legislation, and as amended from time to time, (without limitation) the Acts set out in the Schedule below, save for those local choice functions reserved to the Executive. This includes by way of example but not limitation:-

- **Boundary Changes** – Periodic Review imposed by the Boundary Commission in connection with Parliamentary, European, Greater London and Borough boundaries.
- **Polling Districts** – Any changes in connection with the polling district boundaries.
- **Polling Places** – Any proposals to change polling places.
- **Voting Methods** – Proposals to apply for pilot status to adopt voting methods or to trial variations in election practice.

Schedule (non-exhaustive) of relevant statutes

- Parliamentary Elections Act 1695 (s.7)
- Act of Settlement 1700 (s.3)
- House of Commons (Clergy Disqualification) Act 1801
- Roman Catholic Relief Act 1829 (s.9)
- Forfeiture Act 1870 (s.2)
- Public Bodies Corrupt Practices Act 1889 (ss. 1,2,7-9)
- Trade Union Act 1913 (ss.2,3,6,6A,7)
- Welsh Church Act 1914 (s.2(4))
- Parliament (Qualification of Women) Act 1918
- Defamation Act 1952 (s.10)
- Banking and Financial Dealings Act 1971 (ss.1,5 and Sch.1)
- Local Government Act 1972 (Extracts)
- House of Commons Disqualification Act 1975
- Recess Elections Act 1975
- European Parliamentary Elections Act 1978
- Magistrates' Courts Act 1989 (s.32)
- Representation of the People Act 1981
- Forgery and Counterfeiting Act 1981 (Extracts)

- Criminal Justice Act 1982 (s.37)
- Representation of the People Act 1983
- Representation of the People Act 1985
- Parliamentary Constituencies Act 1986
- Representation of the People Regulations 1986
- European Community (Amendment) Act 1986
- Representation of the People Act 1989
- Local Government and Housing Act 1989
- Boundary Commissions Act 1992
- Local Government Act 1992 (Extracts)
- Representation of the People Act 2000
- Political Parties Elections & Referendums Act 2000
- Representation of the People (England and Wales) Regulations 2001
- Electoral Administration Act 2006
- And all other relevant legislation in place from time to time.

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Nothing in this schedule of delegation shall prevent the Council or the Elections Committee from exercising functions within its terms of reference. .

**Schedule of delegation to officers in relation to the
functions of the Pensions Investment Committee**

To the Executive Director for Resources such functions as the Pensions Investment Committee lawfully delegates from time to time.

**Schedule of delegation in relation to the functions
of the Health & Safety Committee**

To the Chief Executive or such officers as the Committee decides such functions as it lawfully delegates from time to time.

General

All non-executive functions not reserved to members, shall be delegated to the Chief Executive or such officer as he shall nominate in writing, unless there is a statutory requirement that the function be carried out by another officer, for example the personal statutory responsibilities of the Director of Childrens Services and the Director of Adult Services)

THE MAYORAL SCHEME OF DELEGATION

A CONTENTS

This scheme of delegation sets out:-

- 1) the names of those councillors whom the Mayor has decided shall be members of the Executive with him
- 2) the names of committees of the executive which the Mayor has decided should be appointed, together with their terms of reference and the extent and limit of delegation to them
- 3) those executive decisions which the Mayor has not delegated to anybody else to take and those which he/she has delegated to the Executive to take collectively
- 4) those executive decisions which the Mayor has delegated to officers to take
- 5) details of the appointment of members to joint committees exercising executive functions, together with the extent and limitation of executive delegation

B PURPOSES

The purposes of this Mayoral scheme of delegation are to

- 1) be clear about who can make which executive decisions
- 2) facilitate the smooth running of Council business to produce better decisions
- 3) to ensure so far as possible that the Mayor, in leading the Executive, is concerned with the overall direction of the Council, and with the establishment and maintenance of effective partnership working with other agencies and bodies in the borough. This should ensure that officers assume responsibility for operational matters and policy implementation

C THE CONSTITUTION

Once reported to Council, this Mayoral scheme of delegation will form part of the Council's Constitution and will be appended to it. Its provisions apply in addition to the contents of the Council's Constitution, including its Rules of Procedure and Access to Information provisions.

D AMENDMENTS TO THE MAYORAL SCHEME OF DELEGATION

This Scheme of Delegation remains in force for the term of office of the Mayor unless and until it is amended or revoked by the Mayor in accordance with Part IV D 6 of the Constitution.

E NON-EXECUTIVE DECISIONS

Nothing in the Scheme of Delegation applies to any decision which is not an Executive decision, whether by law or under the Constitution (local choice matters).

F THE COMPOSITION OF THE EXECUTIVE

The Executive shall consist of 8 people, namely the Mayor and 7 other Councillors as set out below:

Name	Address	Ward	Spokesperson for...
Mayor Steve Bullock	Garden Flat, 9 Tyson Road, SE23 3AA	N/A	Mayor
Councillor Heidi Alexander	Flat 1 10b Manor Park London SE13 5RN	Evelyn	Deputy Mayor, spokesperson for Regeneration
Councillor Robert Massey	Flat 1 5 Eliot Hill Lewisham SE13 7EB	Catford South	Children & Young People
Councillor Chris Best	52 Bishopsthorpe Rd Sydenham London SE26 4NY	Sydenham	Community Services
Councillor Susan Wise	85 Kilmore Road London SE23 2SP	Perry Vale	Customer Services
Councillor Helen Klier	15 Davenport Road London SE6 2AY	Rushey Green	Resources
Councillor Peggy Fitzsimmons	21 Blagdon Road London SE13 7HL	Rushey Green	Older People

Councillor Crada Onuegbu	10 Arbury Terrace Sydenham London SE26 6AP	Evelyn	Community Safety

None of the councillors appointed by the Mayor to the Executive has any decision making power delegated to them individually. Details of those decisions which are delegated to the Executive to exercise collectively as a whole are set out below.

G DELEGATIONS TO THE EXECUTIVE ACTING COLLECTIVELY

The Mayor has delegated to the Executive acting collectively the functions set out in Appendix 1 relating to contracts and grants. When they act collectively they shall be referred to as Mayor and Cabinet.

In addition the Mayor, in accordance with Part IV D 6 of the Constitution, may appoint such other committees of the Executive as he considers appropriate from time to time, but he does not create any such committees at this time.

H GENERAL

- 1) This Scheme of Delegation is structured to ensure that the Mayor leads the Executive on proposals for policy, the budget and partnership working. It then goes on to state that authority to exercise executive functions and make executive decisions is delegated to officers save where there is a specific exemption to the contrary. Where such a specific exemption is made, the general rule is that those decisions will be made by the Mayor individually, in consultation with his colleagues in the Executive.
- 2) Where an executive decision is exempted from delegation to an officer, the Mayor may take it alone or at a meeting of the Executive, of which notice has been served as if the Executive were collectively responsible for making a key decision at the meeting. At that meeting the Mayor will take the decision having consulted those members of the Executive present. Access to information provisions which would apply to an executive meeting at which a key decision is to be taken apply.
- 3) If the Mayor does not attend a quorate meeting of the Executive convened to consider a matter exempted from officer delegation, then that quorate meeting of the Executive acting collectively as a whole has authority to make decisions in relation to those matters appearing on the agenda, and any matters properly arising as a matter of urgency for consideration at the meeting, under Regulation 15 or 16 of the Local Authorities

(Executive Arrangements) (Access to Information) (England) Regulations 2000.

- 4) Where the Mayor is of the opinion that a matter for consideration at a meeting of the Executive under this paragraph H is of such a nature that the Executive should not exercise any delegated authority in relation to it in his absence, he will inform the proper officer in advance of the meeting. The proper officer will ensure that such notification is brought to the attention of the meeting of the Executive, and once the notification has been brought to the attention of the meeting, the Executive will not have power to exercise authority in relation to that matter at that meeting.
- 5) Where power is delegated to officers under this Scheme of Delegation, the power will be exercised in a manner that decisions are not made in isolation and that the decision maker takes into account the broader corporate implications for the Council. If officers take key decisions, the law requires them to comply with the Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2000. In addition for key executive decisions which are to be taken by officers individually the Chief Executive shall put in place a procedure to ensure that officer decision making is exercised in a manner which reflects corporate considerations. Officers may only exercise delegated authority in relation to key executive decisions by complying with the procedure approved by the Chief Executive.
- 6) Where authority to make an executive decision is delegated to an officer, that authority may also be exercised by the nominee of that officer, provided that notification of the nomination has previously been given in writing to the Monitoring Officer or their nominee.
- 7) Unless the power to make an executive decision has been specifically reserved to members, the Executive Director with responsibility for the service area in which the subject matter of the decision falls, or their nominee, shall normally exercise the delegated power. However unless the officer acts in pursuance of a personal statutory duty, the delegated authority may also be exercised by the Chief Executive at his discretion. Where a decision straddles the remit of more than one Directorate, the decision shall be exercised by the Chief Executive or their nominee

I MATTERS NOT DELEGATED TO OFFICERS

The decisions set out in Table 1 below are not delegated to officers unless a specific written delegation from the Mayor to that effect in relation to the particular matter has been given to the proper officer in writing. The specific delegations to officers set out in this Scheme of Delegation are all subject to

these general exemptions. If specific delegations and the contents of Table 1 contradict each other then Table 1 shall prevail.

**TABLE 1
EXECUTIVE MATTERS RESERVED TO MEMBERS
GENERAL**

1. Approval of proposals to be made by the Mayor in relation to the following plans:- <ul style="list-style-type: none"> • Best Value Performance Plan • Children and Young People's Plan • Sustainable Community Strategy • Crime and Disorder Reduction Strategy • Youth Justice Plan • Local Development Documents • Transport Local Implementation Plan • Housing Strategy • Food Law Enforcement Service Plan • Licensing Statement (Alcohol and entertainment and Gambling)
2. Approval of all other policy plans and strategy.
3. Approval of the Mayor's proposals to the Council for the budget (capital and revenue)
4. Decisions relating to the joint provision of a service by the Council and external agencies, where the value of that service is at least £500,000 per annum
5. Decisions relating to the introduction of new services or the cessation of a service where the value of the service concerned is or would be if introduced at least £500,000 per annum
6. Decisions relating to the options for future service delivery, including whether the service should be externalized, taken in house or commissioned jointly with another agency, where the value of the service is at least £500,000 per annum
7. Consideration of and action to be taken as a result of the District Audit Management Letter or any other external report on Council performance and the consideration of all other external reports and/or enquiries into council performance and/or administration
8. Any matter in which the officer who would otherwise have delegated authority to act is aware that a councillor (or a person, company or organisation with which the councillor is involved,) has a personal interest under the Council's Member

Code of Conduct.
9. Any matter in which the officer who would otherwise have delegated authority to act has an actual or potential interest.
10. Approval of any application for external funding which would either:- (i) require match funding from the Council in excess of £250,000, or (ii) have revenue implications in excess of that amount per annum, or (iii) exceed £1 million
11. Any matter which in the opinion of the relevant Executive Director, the Chief Executive or the Head of Law because of the scale of the decision, its potential impact, the sensitivity of the decision or for any other reason would more appropriately be dealt with by members
12. Appointment of members or officers to outside bodies, save to relevant professional associations.
13. The appointment of members to the Executive or any committee of it, or to any joint committee, or to any body or panel appointed by the Executive

J EXECUTIVE DIRECTOR CHILDREN & YOUNG PEOPLE

Subject to those matters reserved to members in Table 2 below, unless the law, the Constitution or this Scheme of Delegation requires otherwise, the following executive powers are delegated to the Executive Director for Children and Young People:

- (a) Authority to exercise the Council's executive functions in relation to children's services under Section 18 Children Act 2004 and any other functions delegated to the Executive Director for Children and Young People from time to time. This includes, but is not limited to, decisions made in relation to those matters defined as social services functions in Section 1 Local Authority Social Services Act 1970. By way of example only this includes matters under the National Assistance Act 1948, Chronically Sick and Disabled Persons Act 1970, Children Act 1989, National Health Service and Community Care Act 1990, Health Act 1999, Health and Social Care Act 2000, Children Act 2004 and all other relevant legislation in force from time to time.

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For the avoidance of doubt this includes, but is not limited to, executive decisions in relation to the following matters in so far as they relate to children:-

- Residential and day care placements
- Family placements

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- Fostering and adoption services
 - Family support and intervention
 - Respite care
 - Social work with children and young people
 - Children with disabilities
 - Children with mental health problems and/or learning difficulties
 - Children with special needs
- (b) Authority to exercise the Council's executive education functions including but not limited to those matters contained or referred to in the Education Act 1996, School Standards and Framework Act 1998, Special Educational Needs and Disability Act 2001, Education Act 2002, Children Act 2004, Education Act 2005 and the Education and Inspections Act 2006 and all relevant legislation in force from time to time
- (c) The exercise of executive functions in relation to education outside the school environment including pre-school learning.
- (d) All other executive functions relating to the internal management of the Directorate of Children and Young People which are not otherwise reserved to members.
- (e) Delegation to the Executive Director for Children and Young People does not include the matters referred to in Table 2 below

TABLE 2
EXECUTIVE MATTERS RESERVED TO MEMBERS
CHILDREN AND YOUNG PEOPLE

1.	Approval of the Mayor's proposals to be submitted to the Council in relation to the statutory policy framework as set out in Paragraph 1 of Table 1
2.	Other policy matters including agreeing the overall strategy for the service, in particular the approval of the Children and Young People Plan. This would include but not be limited to the schemes of delegation to schools.
3.	Approval of the Mayor's proposals for the budget for the service to be submitted to the Council (including revenue and capital) for approval
4.	Decisions relating to the provision, commissioning or purchasing of services, which in the opinion of the Executive Director would lead to major changes in service delivery methods or service levels
5.	Receipt and consideration of inspection reports and reports from external

	bodies, on any elements of children's services and/or particular cases and decisions arising out of that consideration which are pertinent to the Council.
6.	Appointments to the Fostering Panel and Adoption and Permanence Panel. In so far as they operate exercise executive functions, those functions are delegated to the Panels directly.
7.	The receipt and consideration of and report relating to the death, serious injury, abuse, allegations of abuse or any other matter of serious concern in respect of a child, student, school, establishment or of any other matter which in the opinion of the Executive Director for Children and Young People gives rise to serious concern in relation to the conduct of any element of children's services.
8.	Decisions relating to the setting or amendment of eligibility criteria for children's services, whether social services or otherwise, and charges in respect of those services
9.	Decisions relating to the joint commissioning of services with health organisations or other external bodies which would have financial implications for the Council in excess of £500,000
10.	Decisions relating to the publication of any statutory notice in relation to schools or other educational units
11.	Directions as to the occupation and use of school premises
12.	Matters relating to the schools admissions policy including admissions criteria and the fixing of standard numbers for school admissions.
13.	School reorganisation - decisions relating to whether to issue a notice in respect of an establishment, discontinuance or alteration of schools, including decisions about whether to consult on such matters
14.	Decisions relating to the instruments of government of any school
15.	Appointment of LEA governors and LEA appointments to outside bodies save where such appointments are reserved to Council in accordance with the law or the Constitution. Appointments to the Education Appeals Panel are reserved to members. See Appendix 2
16.	Decisions relating to the Council's charging and remissions policy under Section 457 Education Act 1996

17.	Decisions relating to policy about attendance and/or exclusion
18.	Decisions relating to the approval and amendment of policy relating to students scholarships or pupil grants within the remit of children's services
19.	Decisions relating to the Council's scheme for Fair Funding.
20.	Decisions to issue a closure notice in respect of any school under any power of intervention relating to schools causing concern. All decisions relating to schools causing concern prior to authorization of the issue of a closure notice are delegated to the Executive Director for Children and Young People.
21.	Decisions relating to the approval and amendment of policy for children and young people with special needs
22.	To the extent that it remains a legal requirement the scoping of best value reviews of services for children and young people and consideration of the result of the review and decisions arising out of them, including their implementation
23.	All of those matters listed in Table 1.

K. EXECUTIVE DIRECTOR COMMUNITY SERVICES

Adult Social Services

Unless the law, the Constitution or this Scheme of Delegation requires otherwise, the following powers are delegated to the Director of Community Services, subject to the matters reserved to members in Table 3 below.

- (a) Authority to exercise all the executive functions of the Director of Adult Social Services as defined by Section 6 Local Authority Social Services Act 1970, as amended by Section 18 and Schedule 2 of the Children Act 2004. This shall include but not be limited to the following matters:-

- Residential and day care for adults
- Family placements for adults,
- Respite care for adults
- Services for elderly people
- Services for people with learning disabilities, mental health problems and/or learning disabilities
- Home care
- Domiciliary care
- Hospital social workers
- Adult social work
- Funerals under the National Assistance Act 1948
- Youth offending services
- Joint care planning, liaison and management with health organisations and other external bodies
- Administration of the Supporting People Grant

- (b) Authority to exercise all of the Council's executive functions in relation to further and higher education and the provision of education, training and learning including adult and community learning.

- (c) Authority to exercise all of the Council's executive functions in relation to leisure, culture, arts, sports, recreational activities, libraries museums, art galleries, theatres, archives, local history activity, leisure centres, parks and open spaces, allotments and any other such facilities.

- (d) All executive decisions relating to the internal management of these functions which are not otherwise reserved to members.

- (e) All executive functions in relation to community engagement and support including the enhancement of citizen participation at a neighbourhood level.

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- (f) The delegation to the Executive Director Community Services does not include the matters listed in Table 3 below.

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TABLE 3
MATTERS RESERVED TO MEMBERS

1.	Approval of the Mayor's proposals to be submitted to the Council in relation to the statutory policy framework as set out in Paragraph 1 of Table 1
2.	Other policy matters including agreeing the overall strategy for the service, in particular the approval of a plan for adult social services and other plans
3.	Approval of the Mayor's proposals for the budget for the service to be submitted to the Council (including revenue and capital) for approval
4.	Decisions relating to the provision, commissioning or purchasing of services, which in the opinion of the Director would lead to major changes in service delivery methods or service levels
5.	Receipt and consideration of inspection reports on any elements of any part of the service within the remit of the Director of Adult Social Services and decisions arising out of that consideration
6.	Appointments to the Representation Panel. In so far as they exercise executive functions, those functions are delegated to the Panel directly. See Appendix 3
7.	The receipt and consideration of reports from any external body into the performance of the Council or the conduct of particular cases
8.	The receipt and consideration of any report relating to the death, serious injury, abuse, allegations of abuse of a client or any other matter of serious concern which in the opinion of the Director of Adult Social Services gives rise to serious concern in relation to the conduct of any element of the service
9.	The receipt and consideration of any report relating to the death, serious injury, abuse, allegations of abuse of a client or any other matter of serious concern which in the opinion of the Director of Adult Social Services gives rise to serious concern in relation to the conduct of any element of the service

10.	Decisions relating to the setting or amendment of eligibility criteria for adult social services or other services within the remit of the Director of Adult Services, and charges in respect of those services
11.	Decisions relating to the joint commissioning of services with health organisations or other external bodies which would have financial implications for the Council in excess of £500,000
12.	Decisions relating to the provision of community education which would entail the cessation of the service, decisions relating to the level of charges to be made in respect of those services and any decision which would in the opinion of the Director entail a significant change in the level of service provision, and any other matter which the Director is of the opinion is more appropriate for member decision.
13.	Decisions relating to the approval and amendment of policy relating to student awards within the remit of the Director of Adult Social Services
14.	The scoping of best value reviews of services within the remit of the Director of Adult Social Services and consideration of the result of the review and decisions arising out of them, including their implementation
15.	All of those matters listed in Table 1.

L EXECUTIVE DIRECTOR CUSTOMER SERVICES

Unless the law, the Constitution or this Scheme of Delegation require otherwise, the following executive powers are delegated to the Executive Director Customer Services:

- a) subject to b) below, in so far as they are the responsibility of the Executive, all executive functions in relation to matters within the remit of the Executive Director Customer Services, including but not limited to:-
 - (i) responsibility for the management of housing properties in the Council's ownership whether that function is carried out by the Council itself or through a third party under contract, including but not limited to:-
 - The clienting, monitoring and reporting on all contracts for the provision of housing management services to the Council
 - the maintenance and management of all land and property held by the Council for housing purposes;
 - the provision of garden, open spaces and land for housing purposes,

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• decisions in relation to the right to buy under the Housing Act 1985 (or other relevant legislation in force from time to time, (but not decisions relating to market value and sale prices which are delegated to the Executive Director of Resources),

• responsibility for setting charges for heat, light and power to Council properties served by a communal supply in accordance with policy approved by the Mayor

• dealings with housing associations, save to the extent that such decisions relate to housing development or capital schemes.

(ii) all executive functions relating to the administration of revenues and benefits (both Council Tax and Housing Benefits), its one stop shop service, call centre services and internal communications.

(iii) all executive functions relating to licensing and gambling, street trading, environmental issues including environmental and public health, consumer protection, building control, building works, cemeteries and crematoria.

(iii) registration of births, deaths and marriages

(iv) Responsibility for the corporate emergency planning and business continuity functions

(v) all executive functions relating to housing strategy and development, housing need and homelessness including private sector housing, housing partnerships and environmental health (housing).

(vi) all regulatory and enforcement functions that are the responsibility of the executive, including, but not limited to;

- environmental health,
- public health,
- trading standards
- building control,
- consumer protection,
- licensing,
- street trading,

(vii) the environment function, which shall include, but not be limited to;

- all environmental matters, including enforcement
- parks and community facilities (green scene)

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- waste management (collection, disposal, recycling etc)
- burial and cremation
- animal welfare and pest control

(viii) responsibility for the management, maintenance and operation of the Councils vehicle fleet

(ix) responsibility for the management and operation of the in-house building services function

b) Delegation to the Executive Director Customer Services does not include the executive matters listed in Table 4 below, which are reserved to Members

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**TABLE 4
EXECUTIVE MATTERS RESERVED TO MEMBERS
CUSTOMER SERVICES**

1. Approval of the Mayor's proposals for submission to the Council in relation to the statutory policy framework as set out in paragraph 2 of Table 2 in so far as they relate to the remit of the Customer Services Directorate
2. Approval of all other policies and overall strategy in so far as they relate to the remit of the Customer Services Directorate, including housing policy and all other plans and priorities, including those relating to lettings and allocations, tenancy agreements and rent arrears collection
3. Approval of the Mayor's proposals for submission to the Council in relation to the budget relating to the remit of the Customer Services Directorate, including but not limited to the proposals for housing expenditure, Housing Revenue Account estimates, rent and charges.
4. Approval of proposals, for consideration by the Council prior to submission for ministerial consent (including any drafts of these proposals).
5. Monitoring of expenditure by the Council or other body where funds have been obtained externally (e.g. Single Regeneration Budget) where the Council is the accountable body
6. Decisions relating to charges for services
7. Decisions to write off debts arising out of rent arrears in excess of £10,000
8. All of those matters listed in Table 1.

M EXECUTIVE DIRECTOR RESOURCES

Unless the law, the Constitution, or this Scheme of Delegation require otherwise, the following executive powers are delegated to the Executive Director for Resources:-

- (a) Subject to (b) below, in so far as they are the responsibility of the Executive, all those matters which are necessary properly to exercise the administration of the Council's finances including but not limited to:-

1) Day to day control and regulation of the Council's finances

2) Virements in accordance with Part K of the Constitution and Paragraph T of this Scheme of Delegation

3) Contracts award and variation - Those delegated powers set out in Part IV I of the Constitution and Paragraph Q of this Scheme of Delegation

4) Property - those powers relating to property set out in Paragraph R of this Scheme of Delegation in so far as they are stated to be delegated to the Executive Director for Resources.

5) Insurance arrangements - Power to agree insurance arrangements where either

- (i) the value of the premium payable does not exceed £2.5 million or
- (ii) the renewal premium payable does not exceed the last year's premium by more than 10%

6) Treasury Management In so far as they are executive decisions, matters delegated to the Executive Director for Resources in accordance with the Council's Treasury Management Strategy from time to time.

7) Grants Those powers set out in relation to grants and assistance to voluntary and other external bodies set out in Paragraph P of this Scheme of Delegation.

8) Allocation The approval of allocation of items of expenditure to the General Fund and Housing Revenue Account, subject to the submission of an information report to the Overview and Scrutiny Public Accounts Select Committee each year to inform them of the allocation.

9) Subscriptions Affiliations to and payment of subscriptions to outside bodies up to a maximum of £25,000 per annum.

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- 10) **Bad debt** The approval of the write off of bad debt in accordance with Paragraph S of this Scheme of Delegation.
- (b) Delegation to the Executive Director for Resources does not include the executive matters listed in Table 5 below

**TABLE 5
EXECUTIVE MATTERS RESERVED TO MEMBERS
RESOURCES**

1. Approval of the revenue and capital budget proposals for submission to the Council
2. Approval of proposals for medium term financial planning and budget strategy for submission to the Council
3. Approval of proposals for the borrowing and investment strategy for submission to the Council
4. The approval of any loan to any person, company or other organisation save in accordance with the Treasury Management Strategy in force from time to time, or to employees in accordance with a scheme previously approved by the Executive
5. Virements across budgets may only be made by members where the virement is outside the limits set out in Part IV.I of the Constitution. In effect, virements of revenue budget up to £500,000 may be made by the Executive Director for Resources and relevant Executive Director. Virements over £500,000 and up to £1 million are reserved to executive members. Budget virements above that level are for the Council to make.
6. Contracts – decisions relating to the tendering, award and variation of contracts for executive functions may only be taken by the Executive Director in the circumstances permitted in Section I of the Procedure Rules contained in Part IV of the Constitution, and Paragraph Q of this Scheme of Delegation
Decisions relating to the letting of building construction and engineering works contracts with a total value of £1 million or more may only be taken by members. In the case of all other contracts those decisions may only be taken by members if the estimated value exceeds £500,000.

Decisions relating to the variation of building, construction and engineering contracts may only be taken by members if the estimated value of the variation is 10% of the original contract price or £500,000 whichever is the greater. In all other cases decisions relating to variations of contracts may be taken by the Executive Director for Resources or his nominee.
7. Property - The Executive Director for Resources may only exercise delegated authority in relation to the disposal or acquisition of property in accordance with paragraph R of this Scheme of Delegation. Decisions relating to property transactions which do not fall within that paragraph shall not be exercised by officers.
8. Insurance arrangements not falling within the criteria set out in paragraph M5 of this Scheme of Delegation
9. Grants falling outside the categories set out in paragraph P of this Scheme of Delegation
10. Affiliation to and the payment of subscription to external organisations in relation to executive functions where the subscription is more than £25,000 per annum
11. Bad debt - the write off of bad debt which falls outside the criteria set out in paragraph S of this Scheme of Delegation for decision by the Executive Director for Resources
12. All of those matters listed in Table 1.

N EXECUTIVE DIRECTOR REGENERATION

Unless required otherwise by the law, the Constitution, or this Scheme of Delegation, the following executive powers are delegated to the Executive Director for Regeneration:-

- (a) Subject to (b) below, all executive functions in relation to those matters within the remit of the Directorate of Regeneration including but not limited to:-

- (i) urban regeneration (in so far as initiatives do not fall within the remit of another Executive Director), economic development, town planning, public health, traffic management, parking control, highways, transport planning, energy management and the provision of and provision and estate management of travellers' sites
- (ii) the encouragement and development of employment and training opportunities and facilities

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(iii) the management and implementation of urban regeneration initiatives including single regeneration schemes and housing regeneration schemes which have been approved by the executive including management of the housing investment programme and other capital programmes and resources ensuring effective financial control of resources and the achievement of value for money, subject always to the approval of the Executive Director for Resources in relation to decisions about the allocation of funds and expenditure

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(iv) application for external funding for schemes or projects relating to urban regeneration or other activities up to £1 million, save where such external funding would require match funding by the Council of £250,000 or involve revenue expenditure of that amount per annum.

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(vi) Estate management of Council assets including all assets but not schools (which is within the remit of Children & Young People) nor housing HRA (which is within the remit of Customer Services)

(b) Delegation to the Executive Director for Regeneration does not include the executive matters listed in Table 6 below.

**TABLE 6
REGENERATION
EXECUTIVE MATTERS RESERVED TO MEMBERS**

1. Approval of the Mayor's proposals for submission to the Council in relation to the statutory policy framework as set out in paragraph 2 of Table 2 in so far as they relate to the remit of the Regeneration Directorate
2. Approval of delivery plans for Single Regeneration Budget Housing Capital programmes and similar programmes.
3. Monitoring of expenditure by the Council or other body where funds have been obtained externally (e.g. Single Regeneration Budget) where the Council is the accountable body
4. The approval of any proposal relating to the adoption or amendment of the local development framework to be referred to Council, including any draft for consultation
5. Decisions relating to charges for services
6. All of those matters listed in Table 1.

O DELEGATION TO THE HEAD OF LAW

- (1) The following have delegated authority to initiate, conduct and defend all legal proceedings brought by or against the Council in any Court, Tribunal or Arbitration and may make representations in the interests of the inhabitants at any public inquiry held by or on behalf of any Minister or public body:
 - (a) the Head of Law;
 - (b) any individual holding the position of Principal Lawyer, Senior Lawyer or Lawyer within the Legal Services Department.
- (2) The Head of Law has delegated authority to settle proceedings for up to £500,000 subject to budgetary provision being available if she is of the opinion that it would be in the interests of the Council to do so. Subject to the same financial limit, the Head of Personnel & Development, Head of People Management Services, Strategic Advisors (Human Resources) and Human Resources Business Manager may also sign form COT3 in relation to potential claims arising out of the National Agreement on Pay & Conditions commonly known as the Single Status Framework Agreement on the advice of the Head of Law.
- (3) The Head of Law has delegated authority to settle proceedings up to £1 million if she is satisfied that it is in the interests of the Council to do so, has consulted with the Executive Director for Resources and she agrees with the terms of the proposed settlement. Decisions to settle proceedings for a sum above £1 million shall be taken by the Mayor.
- (4) Power to enter into financial settlement of up to £1 million in respect of any matter where legal proceedings are threatened against the Council where she has consulted the Executive Director Resources and is satisfied that it is in the Council's overall interest to do so.
- (5) The Head of Law has delegated authority to act as the proper officer for those purposes listed in Table 7 below.
- (6) In the absence of the Head of Law, the functions delegated under Paragraph (2)-(5) above may be exercised by any person holding the position of Principal Lawyer with the Council.

TABLE 7

1. The certification of photographic and other copies of documents held in the custody of the Council and byelaws (Section 229 and 238 Local Government Act 1972)

2.	To receive and retain documents deposited with the Council. This provision is without prejudice to the powers of any other person so authorised for this purpose. (Section 225 Local Government Act 1972)
3.	To sign Forms 53 relating to the discharge of advances made pursuant to the Housing (Financial Provisions) Act 1958, the Housing Purchase and Housing Act 1959 and the Housing Act 1985
4.	To sign on behalf of the Council any contract, deed or document including those for the purchase or sale of land, in accordance with the Council's procedure rules for the signing of contracts, as set out in Part IV I of the Constitution
5.	To issue Notices pursuant to the making of any compulsory purchase order under statutory powers available to the Council; and Notices to Treat and Notices of Entry under any compulsory purchase order which has been approved by the appropriate government department.
6.	Without prejudice to any powers delegated to other officers of the Council, to issue on behalf of the council all Notices, orders and/or similar documents pursuant to legislation in force from time to time
7	To determine applications in relations to Town Greens

P GRANTS AND ASSISTANCE TO VOLUNTARY ORGANISATIONS

- (1) Unless the law, the Constitution, or this Scheme of Delegation requires otherwise, the following executive powers are delegated to the Chief Executive and to each Executive Director in relation to grants and assistance to voluntary organisations:-

(a) the power to make a grant or to give other assistance to a voluntary organisation within their area of responsibility, where the total value of the assistance in money or moneysworth does not exceed £10,000

(b) the power to reduce or withdraw a grant or other assistance, and the power to make a grant or give other assistance to a voluntary organisation (irrespective of the value of the grant or assistance) within their area of responsibility if the value of the grant or assistance is smaller or larger than that awarded in the previous year by no more than 10% or £5000 whichever is the larger

- (2) The decisions set out in Table 8 below are not delegated to officers in relation to grants and assistance to voluntary organisations .

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TABLE 8
EXECUTIVE MATTERS RESERVED TO MEMBERS
GRANTS AND ASSISTANCE TO VOLUNTARY ORGANISATIONS

1. Making a grant or giving assistance to a voluntary organisation where the total value of the grant and/or assistance exceeds £10,000
2. Making a grant or giving assistance to a voluntary organisation where the grant and/or assistance (irrespective of the amount) is smaller or larger than that awarded in the previous year by 10% or £5000, whichever is the larger
3. Decisions to suspend or withdraw funding completely from a voluntary organisation, where the annual funding given exceeds £10,000
4. The consideration of monitoring reports on voluntary organisations' activity and decisions to be taken as a result of that consideration
5. Approval of the criteria for voluntary sector funding and/or assistance
6. Decisions in relation to grants and/or assistance below £10,000 per annum where the Mayor or Executive requests that the matter be reserved to members, or where in the opinion of the relevant Executive Director, the Chief Executive or the Head of Law the matter would more appropriately be dealt with by members.

Q CONTRACTS

- (1) The extent to which the letting of contracts (other than those relating to property which are set out at Section R below) is delegated to officers in relation to executive functions is set out below:-
- decisions relating to the tendering, letting and award of contracts for building, construction and engineering works, where the estimated total value is under £1 million shall be taken by the appropriate Executive Director or his/her nominee;
 - in the case of all other contracts, where the estimated total value is under £500,000, decisions shall be taken by the appropriate Executive Director or his nominee;
 - all such decisions shall be taken in accordance with the contract procedure rules set out in Part 1 of the Council's Constitution.

- (2) To the extent that the letting of contracts is not delegated to officers, in so far as they relate to executive functions, it is delegated to the Executive acting collectively in accordance with the terms of reference at Appendix 1.

R PROPERTY

Unless the law, the Constitution, or this Scheme of Delegation require otherwise, the following executive powers are delegated to the Executive Director for Regeneration on advice from the Executive Director for Resources in relation to property matters:-

(1) Acquisition

The acquisition of freehold and/or leasehold interest in land and property or other interest in land including the payment of Home Loss and Disturbance Payments, subject to the necessary financial provision having been made.

(2) Property Management

In relation to all properties save dwelling houses let on secure tenancies, to take the following actions, provided where applicable, that the necessary financial provision has been made.

- a) The grant (including renewal) of leases, licences or tenancies, easements or wayleaves of all Council owned land and property for a rental or licence fee reflecting market value.
- b) The grant (including renewal) of wayleaves or easements over or affecting Council owned land and property, including licences of advertisement hoardings.
- c) Authority for the Council to take leases, licences, tenancies, wayleaves or easements (including renewal) of land and property .
- d) The approval of rent or fee reviews of leases, licences, tenancies, wayleaves or easements granted or held by the Council.
- e) The alteration or waiver of terms and conditions of leases, licences, tenancies, wayleaves or easements granted or held by the Council.
- f) The approval of terms for the waiver, variation or amendment of covenants in transfer documents including

those in respect of properties sold under the Right to Buy.

- g) The approval of the terms for the assignment, subletting, surrender or operation of a break clause of any lease, licence, tenancies, wayleaves or easements granted or held by the Council in any land or property.
- h) The approval of the terms for the settlement of any claim for dilapidations or other breaches of covenants in respect of land and property.
- i) The authorisation of service of notices under all legislation relating to Council land ownership.
- j) Authority to instruct the Head of Law to instigate court proceedings for the recovery of all monies owing to the Council and possession of land and property, including authorisation of the enforcement of a Court Order for Possession.
- k) The authorisation of the levying of distress against occupants of land and property in arrears where the Executive Director Resources is of the opinion that it is appropriate to do so

(3) Declaring Property Surplus

- a) Upon being advised by the Executive Director for the Directorate using a property that it is surplus to the requirements of that Directorate, the Executive Director for Regeneration may, following consultation with other Directorates as to any alternative use for the property, and having first informed the ward members in which the property is situated, declare the property surplus to corporate requirements and authorise its disposal, if no alternative use is identified by Directorates, provided that the estimated value of the property does not exceed £500,000.
- b) If a property no longer required for use by a Directorate is required for an alternative use, the Executive Director for Regeneration on the advice of the Executive Director for Resources may authorise its appropriation to the new use and the value at the time of change of use, for capital charge purposes
- c) If in the view of the Executive Director for Regeneration, a property ought to be disposed of notwithstanding a proposed alternative use, the matter shall be referred to the Executive for decision.

(4) Disposal

A Disposal is defined as the sale of the Council's freehold interest or the grant of a lease exceeding 7 years in length in consideration of a premium and/or ground rent. Disposals will be effected in such a way to ensure that the Council receives the best consideration reasonably obtainable and in accordance with the Property Disposal Procedures approved by the Executive from time to time. Any proposed disposal at less than the best consideration reasonably obtainable will be referred to the Executive for approval. All disposals will be subject to any necessary Ministerial Consents being obtained.

- a) Subject to any limitations set out elsewhere in this scheme of delegation, the valuation of properties and the decision to dispose, and the approval of the terms for the disposal of land or property which has previously been declared surplus to requirements and approved for disposal either by the Executive or by the Executive Director for Regeneration acting under delegated authority.
- b) The disposal of residential dwellings where there is a legal obligation on the Council to sell.
- c) The approval of terms for the disposal of mortgage repossession properties, subject to the other relevant provisions of this paragraph 4 .
- d) The approval of terms for the disposal of vacant land and property in charge to the Council, subject to the other relevant provisions of this paragraph 4.
- e) The approval of the terms for the disposal of any residual freehold interest in a block/building to all leaseholders jointly, subject to all other relevant provisions of this paragraph 4. This is also subject all units having previously been sold and suitable arrangements being entered into by all parties regulating the future management of the whole block/building.
- f) Authority to take such action as is necessary in accordance with agreed procedures concerning the disposal of land or property.

(g) The approval of the terms for the assignment, subletting, surrender or operation of any break clause of any lease, licence, tenancies, wayleaves or easements granted or held by the Council in any land or property which has been declared surplus to requirements.

(5) Capital Finance Regulations

The Executive Director for Resources may make decisions to earmark the proceeds of sale from asset disposals for expenditure on in/out schemes under the Local Authorities (Capital Finance and Accounting) Regulations 2003 and any amendments thereto, including (without limitation) regeneration projects and replacement of asset schemes subject to the schemes themselves having previously been approved by the Executive or as delegated by the Mayor.

(6) Property - General

a) In accordance with the provisions of Part IV I of the constitution, authority to sign property related documentation for or on behalf of the Council in relation to all powers delegated by this Scheme of Delegation save for documents to be entered into by way of deed.

b) Authority to agree terms and enter into agreements for any matter of a minor or urgent nature affecting land or property either owned or leased by the Council.

c) Authority to undertake and sign valuations for statutory or other Council purposes.

d) The submission of planning applications.

e) To approve the terms of such other agreements or transactions as may be in the best interests of the Council of a minor or urgent nature

f) to take such actions and incur such expenditure as is necessary to ensure the proper management of council owned property.

(7) The executive decisions set out in Table 9 below are not delegated to officers but are reserved for decision by members

TABLE 9
EXECUTIVE MATTERS RESERVED TO MEMBERS
PROPERTY

1. Any decision relating to the use of the Council's compulsory purchase powers
2. Any decision to declare as surplus to requirements, market, acquire or dispose of property where the value of the property exceeds £500,000
3. Any decision where conditions on the exercise of delegated authority by the Executive Director for Regeneration or Resources have not been fulfilled

N.B. Delegated authority is given to the Mayor and Cabinet (Contracts) acting collectively in relation to property matters to the extent set out in Appendix 1 to this Mayoral Scheme of Delegation.

S WRITING OFF DEBT

Unless the law, the Constitution, or this Scheme of Delegation require otherwise, the following executive powers are delegated to officers in relation to bad debt:-

- (1) Save in relation to housing rent arrears, the Executive Director for Resources has delegated authority to write off bad debt up to £50,000. However if debts of the person or organisation to that total have been written off by the Council in the previous three years, the decision shall not be delegated to the Executive Director for Resources. In such cases the power is reserved to members.
- (2) Authority is delegated both to the Executive Director for Customer Services and the Executive Director Resources to write off bad debt in relation to housing rent arrears up to £10,000. Above that threshold, the authority to write off bad debt in respect of housing rent arrears may only be exercised by members.

T VIREMENTS

Unless the law, the Constitution, or this Scheme of Delegation requires otherwise, the following executive powers are delegated in relation to virements:-

- (1) Up to £500,000 authority is delegated to the relevant Executive Director, with the approval of the Executive Director for Resources

- (2) Decisions relating to virements of £500,000 up to £1 million are reserved to members.

U EMPLOYMENT MATTERS

Save as required by law, the Council's Constitution or this Scheme of Delegation decisions relating to all employment procedures and processes are delegated to the Executive Director for Resources or such person as he may nominate, in so far as they are executive functions, unless they are specifically reserved to members.

The matters contained in Table 10 below are reserved to members.

**TABLE 10
MATTERS RESERVED TO MEMBERS
EMPLOYMENT**

Re-organisations involving at least 200 staff.
Appointment of members of, and membership of, the Council's two local joint committees (Teachers and Staff) and Works Council whose terms of reference are appended at Appendix 4.

V BEST VALUE

- (1) The conduct of best value reviews is a local choice function. In Lewisham the responsibility for best value is split. The Council approves the Best Value performance plan, whilst the scoping of the reviews is defined as an executive function. Overview and scrutiny committee is responsible for the overview of the conduct of best value reviews, receiving a report on the outcome of the review, and submitting their comments if any with the review outcome to the Executive. Decisions relating to the outcome of the review and their implementation are an executive function.
- (2) Unless the law, the Constitution or this Scheme of Delegation require otherwise, and subject to paragraph (3) below, to the extent that best value reviews are an executive function, all matters in relation to them are delegated to the Chief Executive or such officer as he/she shall nominate.
- (3) The decisions set out in Table 11 below shall not be delegated to the Chief Executive. They are reserved to members.

TABLE 11
EXECUTIVE MATTERS RESERVED TO MEMBERS
BEST VALUE

1. Decisions to approve proposals to be recommended to the Council in relation to the Best Value Performance Plan
2. Decisions relating to the scope of any best value review to be conducted
3. Decisions relating to action proposed as a result of a best value review, and implementation of those decisions
4. Consideration of any report arising from a best value inspection and any decision relating to action to be taken in response to such a report

W BIDDING FOR EXTERNAL WORK

Decisions about whether the Council should bid for, and if successful, perform work or provide services to external bodies is delegated to the Chief Executive, to the extent that the proposed contract would relate to executive functions. Before exercising this function, the Chief Executive must first consult with the Head of Law and Executive Director for Resources. However, where the estimated value of the work exceeds £1 million per year, or £3 million in total whichever is the smaller, the Chief Executive shall not exercise this delegated power.

X CRIME AND DISORDER

Decisions relating to the implementation of the Council's Crime and Disorder Strategy are delegated to the Chief Executive or such person as he shall nominate.

Y MAYORAL DECISIONS

The powers delegated by the Mayor in this Scheme of Delegation may be exercised by the Mayor at any time.

Z JOINT COMMITTEES

The Council participates in joint committees which exercise executive functions. They are SELWDG - South East London Waste Disposal Group, Joint Committee with the London Borough of Croydon on Street Lighting and the Association of London Government bodies shown as joint committees below. The Mayor has agreed to continue participation in these bodies and has appointed the following members to serve on them:

- a) South East London Waste Disposal Group (SELWDG) – Councillor Muldoon
- b) Joint Section 101 Committee with the London Borough of Croydon on Street Lighting – Councillors Alexander & Klier
- c) London Councils Committee and Panels

Committee/Panel	Membership	Appointee
Leaders' Committee (s101 Joint Committee)	Boroughs nominate one voting member (usually Leader, but not necessarily) and up to two named deputies. All three members will receive papers for meetings	The Mayor (Steve Bullock) Deputy: Councillor Alexander
Health & Social Care Forum	Boroughs make nomination (usually lead member for social services or health). Appointments, including steering group, made by Leaders' Committee	Councillor Fitzsimmons Deputy: Councillor Fitzsimmons
Housing Panel	Boroughs make nomination (usually lead member for housing). Appointments, including steering group, made by Leaders' Committee	Councillor Wise Deputy: Councillor Alexander
Children & Young People and Family Forum	Boroughs make nomination (usually lead member for education). Appointments, including steering group, made by Leaders' Committee	Councillor Massey Deputy: Councillor Nisbet
Culture & Tourism Forum and 2012 Forum	Boroughs make nomination (usually lead member for culture, tourism or sport).	Councillor Best Deputy: Councillor Alexander

	Appointments, including steering group, made by Leaders' Committee	
Community Safety and Policing Forum	Boroughs make nomination (usually lead member for community safety/policing matters). Appointments, including steering group, made by Leaders' Committee	Councillor Onuegbu Deputy: Councillor Nisbet
Economic Development Forum	Boroughs make nomination (usually lead member for economic development, Europe or regeneration). Appointments, including steering group, made by Leaders' Committee	Councillor Alexander Deputy: Councillor Cross
Transport and Environment Committee)	Boroughs nominate directly (usually lead member for transport and/or environmental issues). One voting member and up to four named deputies	Councillor Alexander Deputy: Councillor Paschoud
Grants Committee)	Boroughs nominate directly one voting member and up to four named deputies	Councillor Klier Deputy: Councillor Alexander
Sectoral Joint Committee (London Housing Unit Committee - LHUC)	22 member boroughs nominate directly (usually Leader)	Councillor Wise Deputy: Councillor Alexander
London Housing Unit Executive Sub-Committee (LHUCESC)	22 member boroughs nominate directly (usually lead member for housing)	Councillor Wise

Those members appointed may represent the Council within the terms of reference of the relevant Committee/Panel.

Those members appointed may represent the Council within the terms of reference of the relevant Committee/Panel.

AA HEALTH AND SAFETY AT WORK

Executive decisions relating to Health & Safety at Work in relation to the Council's role as employer be delegated to the Chief Executive or such officer as he may nominate.

Appendix 1**1. CONTRACTS**

To approve tender strategy in relation to the setting of contracts, and all decisions relating to the contract letting process including approval of tender process, specification, shortlist if any, invitation to tender and contract documentation, as well as decisions about whether to award and if so to whom, contract monitoring and approval of clienting arrangements. Notwithstanding this delegatory, the Mayor may at any time exercise any of these functions alone.

2. GRANTS

Decisions relating to the giving or withdrawal of grants and/or other financial assistance to voluntary organisations, including:

- decisions relating to the criteria for such grant/assistance;
- consideration of applications for grant/assistance, and all decisions in relation to them;
- the monitoring of performance of voluntary organisations in receipt of grant/other assistance;
- all decisions relating to the granting withdrawal or reduction of funds/assistance to voluntary organisations.

3. PROPERTY

Where in the opinion of the Head of Law, a property transaction is integral to a contractual arrangement to be considered by Mayor and Cabinet (Contracts), Mayor and Cabinet (Contracts) shall have delegated authority to make all decisions about the disposal of property associated with the contractual matter under consideration by them (including whether to dispose, and the terms of any such disposal).

4. Notwithstanding these delegations, the Mayor may at any time exercise any of these functions alone. Attention is drawn to the delegation to officers set out in Paragraph R of this Scheme of Delegation. Notwithstanding the contents of that paragraph, the Executive acting collectively, or the Mayor alone may exercise any of those delegated functions at any time.

Appendix 2**EDUCATION APPEALS PANELS****Terms of Reference**

To consider appeals from parents or carers in accordance with the Code of Practice on School Admission Appeals produced by the DfES; and separately on Permanent Exclusion Appeals.

Composition

Each panel must consist of three members (non-councillors) at least one of whom must be a lay member (someone who has not worked in a school in any paid capacity).

For admission appeals there must be at least one panel member who is experienced in education matters. For exclusion appeals the Chair must be a lay member, and the panel must also consist of one governor and one head teacher.

Appendix 3**SOCIAL SERVICES REPRESENTATIONS PANEL**Constitution

The Panel consists of up to three people, none of whom are employees of the Council. The Panel will consist of an independent chair, a Councillor representative and a third independent person. The councillor representative will be drawn from the membership of the Children and Young Persons Select Committee.

Terms of Reference

1. To implement the provisions of Section 7b of the Local Authority Social Services Act 1970 (as amended) and the regulations issued thereunder.

- To consider representations (including any complaints) made by or on behalf of a qualifying individual with respect to the discharge of the Council's Social Services functions or any failure to discharge those functions.

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Representations will include inquiries about the availability and comments on the delivery and nature of services and will not necessarily be critical.

- A person is a qualifying individual if:

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- a local authority a power or a duty to provide or secure the provision of, a social service for him and
- if his need or possible need for such a service has (by whatever means) come to the attention of the authority.
- Complaints and representations will be presented to the Panel in accordance with the Directorate's complaints and representations procedure.

2. To implement the provisions of Section 26 of the Children Act 1989 and the Representations Procedure (Children) Regulations 1991.

- To consider representations (including any complaints) made by:

- any child who is being looked after by the local authority or who is not being looked after by them but is in need;
- a parent of his

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- any person who is not a parent of his but who has parental responsibility for him
 - any local authority foster parent
 - such other person as the authority consider has a sufficient interest in the child's welfare to warrant his representations being considered by them about the discharge by the authority of any of their functions in relation to the child
- | - those children to whom the local authority owes continuing functions pursuant to the Children (Leaving Care) Act 2000.
- Complaints and representations will be presented to the Panel in accordance with the Directorate's complaints and representations procedure.

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SOCIAL SERVICES FOSTERING PANEL

Constitution

No more than ten Members in all to include:

- as Chair: a senior member of the Fostering Service with no day to day management responsibility for the assessment of foster parents OR
- a person independent of the fostering service with appropriate skills or experience to chair the Panel and
- two social workers within the employment of the Foster Service:
 - one social worker with child care expertise
 - one social worker with fostering expertise and
- at least one elected Member and
- at least four other independent members at least one of whom is or within the previous two years has been a foster parent for another foster service provider.

All members of the Fostering Panel shall hold office for a term not exceeding three years in accordance with the Fostering Services Regulations 2000.

Quorum

At least five members including the Chair/Vice-chair, one social worker employed by the Fostering Service and at least two of the independent members.

Terms of Reference

To consider each application for approval as a foster parent and to recommend whether or not a person is suitable to act as a foster parent.

- Where it recommends approval of an application, to recommend the terms on which the approval is to be given.
- To recommend whether or not a person remains suitable to act as a foster parent and whether or not the terms of his approval remain appropriate.
 - i. on the first review and
 - ii. on the occasion of any other review when requested to do so by the fostering service provider.
- To consider any case referred to it in the event that the fostering service provider does not consider that a person is suitable to act as the foster parent or
- To consider any case referred to it in circumstances where a fostering service provide is no longer satisfied that the foster parent and his household continue to be suitable to act as foster parents and the foster parents wish to make representations upon the matter.

The Fostering Panel shall also:

- a) advise on the procedures under which reviews in accordance with Regulation 29 of the Fostering Services Regulations 2000 are carried out by the fostering service provider and periodically monitor their effectiveness,
- b) to oversee the conduct of assessments carried out by the foster service provider and
- c) to give advice and make recommendations on such other matters or cases as the fostering service provider may refer to it.

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SOCIAL SERVICES PERMANENCE AND ADOPTION PANEL

Constitution

Three elected Members of the Council.

Two independent members

One adoptive parent

One adopted adult

One medical adviser

One group manager

One practice manager from the Children and Families' Service

Quorum

At least six members, including the Chair/Vice-chair and one social worker employed by the local authority.

Terms of Reference

- To consider the cases of specific children, prospective adoptive parents and the placement of children with prospective adoptive parents and to make appropriate recommendations to the Agency, in accordance with the Adoption Agencies Regulations 1983 (as amended).
- To consider the cases of specific children and placement of children with prospective foster parents where the long-term care plan includes a foster placement in accordance with the Arrangements for Placement of Children Regulations 1991 (as amended).
- | • To consider the cases of every child referred to the panel and make a recommendation to the agency as to whether the child should be placed for adoption.
- | • To consider the cases of prospective adopters referred to the panel and make a recommendation to the agency as to whether the prospective adopter is suitable to adopt a child.
- | • To consider proposed placements referred to the panel and make a recommendation to the agency as to whether the child should be placed for adoption with that particular adopter.
- | • To consider the matching of children under 12 with long term foster carers and offer advice to the agency on the match.

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- | • To consider the arrangements the adoption agency proposes to make for allowing contact with the child; and
- | • Whether the parental responsibility of any parent or guardian or prospective adopter should be restricted and if so the extent to the restriction.
- | • To consider the arrangements for permanent placement of all children under 12 and in certain circumstances (e.g. sibling groups) older children, to include Special Guardianship Orders.

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COUNCIL MEETING**26 OCTOBER 2005**
APPENDIX
ITEM NO. 8**LONDON BOROUGH OF LEWISHAM
INDEPENDENT REMUNERATION PANEL
TERMS OF REFERENCE & RULES OF PROCEDURE****Terms of reference**

The Independent Remuneration Panel (the Panel) appointed by the London Borough of Lewisham (the Council) shall consider and make recommendations to the Council on all matters which relate to allowances to be paid to the members of the Council, members' pensions, travel and subsistence and all other matters which by law the Panel has power to advise the Council on from time to time.

Membership

The Independent Remuneration Panel shall be appointed annually at the Council's Annual General Meeting and consist of at least 3 and no more than 6 members.

Appointment of Chair

The Panel will appoint one of its members to be the Chair of the Panel at its first meeting in any municipal year

Meetings

The Panel shall meet as and when required at least once a year, but more frequently if there is business to be considered.

Quorum

The quorum for a meeting of the Independent Remuneration shall be 2.

Notice of meetings

Usually all members will be given at least 5 days notice of a meeting by the proper officer of the Council, and the notice of the meeting will set out the business to be conducted, with supporting documentation.

Place of meetings

Meetings may take place in such place as the proper officer of the Council shall determine following consultation with the Chair of the Panel.

Conduct of meetings

The conduct of the meetings of the Panel shall be at the discretion of the Chair who will use his/her best endeavours to ensure that all members of the Panel are given the opportunity to contribute to debate, and that proceedings are conducted fairly.

Decision making

The Council will make sure that there is sufficient information before the Panel in relation to any matter under discussion to enable the Panel to exercise its discretion and reach a decision on the matter under consideration. This information will include a written report which may be supplemented by oral presentation. The Panel may call for further information should it so wish.

Simple majority voting

Decisions will be taken by the Panel by simple majority vote. In the event of equality of votes the Chair shall have the casting vote.

Minutes

The proper officer of the Council will take minutes of proceedings at meetings of the Panel and provide copies to all members of the Panel. Those minutes will be publicly available

Publicity

Recommendations made by the Panel to the Council shall be publicised in at least one newspaper circulating in the area.

THE CONSTITUTION OF THE LONDON BOROUGH OF LEWISHAM

APPENDIX 1

APPENDIX 1**ACCESS TO INFORMATION: EXEMPT INFORMATION****PART 1****DESCRIPTION OF EXEMPT INFORMATION: ENGLAND**

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

PART 2**QUALIFICATIONS: ENGLAND**

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:
 - (a) the Companies Act 1985;
 - (b) the Friendly Societies Act 1974;
 - (c) the Friendly Societies Act 1992;

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(d) the Industrial and Provident Societies Acts 1965 to 1978;

(e) the Building Societies Act 1986; or

(f) the Charities Act 1993.

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

10. Information which:

(a) falls within any paragraphs 1 to 7 above; and

(b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

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

PART 3

INTERPRETATION: ENGLAND

11. (1) In Parts 2 and 2 and this Part of this Schedule:

“employee” means a person employed under a contract of service;

“financial or business affairs” includes contemplated, as well as past or current, activities;

“Labour relations matter” means:

(a) any of the matters specified in paragraph (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or

(b) any dispute about a matter falling within paragraph (a) above; and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to

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office-holders under the authority as they apply in relation to employees of the authority;

“office-holder”, in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;

“registered” in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).

- (2) Any reference in Parts 1 and 2 and this Part of this Schedule to “the authority” is a reference to the principal council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference:
- (a) in the case of a principal council, to any committee or sub-committee of the council; and
 - (b) in the case of a committee, to:
 - (i) any constituent principal council;
 - (ii) any other principal council by which appointments are made to the committee or whose functions the committee discharges; and
 - (iii) any other committee or sub-committee of a principal council falling within sub-paragraph (i) or (ii) above; and
 - (c) in the case of a sub-committee, to:
 - (i) the committee, or any of the committees, of which it is a sub-committee, and
 - (ii) any principal council which falls within paragraph (b) above in relation to that committee.

PARTS 4, 5 AND 6 APPLY ONLY IN WALES

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16. The Community Call for Action

Any member of the Council may refer to an overview and scrutiny committee or overview and scrutiny select committee any local government matter which is relevant to the functions of that committee or select committee.

A matter is a local government matter for the purposes of this paragraph if it relates to a Council function, affects all or part of the electoral area for which the member is elected, or any person who lives or works in that area, and is not an "excluded" matter. Excluded matters are local crime and disorder matters as described in Section 19 Police and Justice

Act 2006 and any matter so specified by the Secretary of State.

Referral to an overview and scrutiny committee/sub committee means a requirement that the matter be included in an agenda, and discussed at, a meeting of that committee/sub committee.

In deciding whether to make a referral under this paragraph, a member must have regard to relevant guidance for the time being issued by the Secretary of State

In response to such a referral, the Overview and Scrutiny committee/select committee may make a report and/or recommendations to the Council and/or Executive as appropriate, but in deciding whether to do so the Overview and Scrutiny committee/select committee may have regard to any power which the member concerned has by virtue of Section 236 Local Government and Public Involvement in Health Act 2007, and any representations which the member makes as to why it would be appropriate for the committee/sub committee to make a report or recommendations to the Executive and/or Council.

If the overview and scrutiny committee/sub committee decides not to make a report/recommendations on the matter to the Executive and/or the Council it will notify the referring member of its decision and the reasons for it.

If the overview and scrutiny committee/select committee does make a report or recommendations to the Council or the Executive then it must provide the referring member with a copy of the report/recommendations

Duty to respond to overview and scrutiny reports

When the overview and scrutiny committee or a select committee makes a report and/or recommendations to the Council or to the Executive, the overview and scrutiny committee/select committee may publish its report and/or recommendations and must give notice in writing to the Council or the Executive requiring the Council or the Executive, within 2 months of receipt by the Council or

Executive of the report/recommendations, or (if later) the notice.

to consider the report or recommendations
to respond to the overview and scrutiny committee/sub committee indicating what (if any) action it intends to take
if the overview and scrutiny committee/sub committee has published its report/recommendations to publish its response
if the overview and scrutiny committee provided a copy of its report/recommendations to a member referring a matter to it under the Community Call for Action referred to at **XXX above**, to provide a copy of the response to that member .

It shall be the duty of the Executive and/or Council served with a notice to respond within 2 months to comply with the requirements of that notice

The Secretary of State may amend the requirements referring to the referral of matters to the Executive and/or council by overview and scrutiny bodies, and the publication of reports and responses. Where such amendments are made, they shall supersede the provisions of the Constitution and shall be deemed to be incorporated into it.

This paragraph does not apply where an overview and scrutiny committee/select committee makes a report in relation to the scrutiny of crime and disorder matters by virtue of Section 19 (1)(b) or (3)(a) Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters)

Reports and recommendations relating to improvement targets and partner authorities

If an overview and scrutiny committee/select committee makes a report and/or recommendations relating to a local improvement target set out in the Local Area Agreement and relates to a relevant partner authority, the committee/select committee may give written notice to that partner authority requiring it to have regard to the report/recommendations in question in exercising their functions. This notice must be accompanied by a copy of the report and/or recommendations, and it shall be the duty of the relevant partner authority to comply with the notice.

The provisions of paragraph **yyy** above does not apply to an NHS trust, and NHS foundation trust or a Primary Care Trust,

or to a report/ recommendations relating crime and disorder matters under Section 19 Police and Justice Act 2006

For the purposes of this paragraph, “local area agreement”, and “local improvement target” shall have the meaning set out in part 5 Chapter 1 of LGPIHA 2007, and relevant partner authority shall have the meaning set out in that part of the Act other than a police authority of chief officer of police.

Confidential and exempt information in overview and scrutiny reports and responses

This paragraph applies to any document which is

an overview and scrutiny committee/select committee report and or recommendations to the Executive and/or the Council, or

the Executive and/or Council response to that report/recommendations or

The overview and scrutiny committee/select committee or Council in publishing the document must exclude confidential information and may exclude exempt information when providing it to a relevant partner authority, and may exclude confidential and/or exempt information when providing it to a member of the authority.

If information is excluded on the grounds of it being confidential or exempt, the overview and scrutiny committee/select committee/ Council may replace so much of the document as has been excluded with a summary which does not disclose that information, and must do so if the consequence of excluding the information the published document would otherwise be misleading or not reasonably comprehensible.

For the purpose of this paragraph exempt and confidential information have the meaning set out in Section 21D LGA 2000.

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Page 142: [52] Formatted	richardv	17/03/2009 14:04:00
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Page 142: [53] Formatted	richardv	17/03/2009 14:04:00
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Page 156: [55] Formatted	richardv	17/03/2009 14:04:00
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Page 186: [56] Formatted	richardv	17/03/2009 14:04:00
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Page 242: [58] Formatted	richardv	17/03/2009 14:04:00
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Page 242: [62] Formatted	richardv	17/03/2009 14:04:00
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Page 242: [63] Formatted	richardv	17/03/2009 14:04:00
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Page 242: [64] Formatted	richardv	17/03/2009 14:04:00
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Page 242: [65] Formatted	richardv	17/03/2009 14:04:00
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Page 242: [66] Formatted	richardv	17/03/2009 14:04:00
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Page 242: [67] Formatted	richardv	17/03/2009 14:04:00
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Page 242: [68] Formatted	richardv	17/03/2009 14:04:00
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Page 355: [69] Formatted	richardv	17/03/2009 14:04:00
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Page 355: [70] Formatted	richardv	17/03/2009 14:04:00
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Page 382: [71] Formatted	richardv	17/03/2009 14:04:00
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